

BEFORE THE ARATAKI EXPERT PANEL – FTAA-2506-1083

Under the Fast-Track Approvals Act 2024 (FTAA)

In the matter of the deliberations and final decision of the Expert Panel appointed under section 50 and Schedule 3 of the FTAA for the Arataki project requiring resource consents under sections 9, 11, 14, 15 of the Resource Management Act 1991 to develop and subdivide land at Arataki Road, Havelock North for a 171-lot residential subdivision.

Expert Panel

Jennifer Caldwell
(Chair)

Michael Parsonson
(Member)

Matt Lindenberg
(Member)

Comments received under Section 53 of the FTAA: 13 November 2025

Details of any hearing under Section 57 of the FTAA: No hearing was held.

**Record of Decision of the Expert Consenting Panel
under Section 87 of the
Fast-Track Approvals Act 2024**

Dated [insert date]

Decision: Approval is granted subject to conditions

Date of Decision:

[insert date]

Date of Issue:

[insert date]

PART A: EXECUTIVE SUMMARY	1
PART B: OVERVIEW OF THE APPLICATION AND PROCEDURE	1
APPLICATION	1
PROCEDURE.....	4
PART C: LEGAL CONTEXT	8
Referral to Panel.....	8
Decisions on approvals	8
Approvals relating to the Resource Management Act 1991	9
Section 85 (when approvals must or may be declined)	10
Section 87 Content of panel decision documents	10
PART D: IWI AUTHORITIES, TREATY SETTLEMENT ENTITIES AND OTHER RELEVANT MĀORI GROUPS.....	10
Substantive application information	10
Comments	11
Statutory requirements.....	11
PART E: EVALUATION OF EFFECTS	15
Transportation effects.....	28
PART F: REGIONAL OR NATIONAL BENEFITS OF THE PROJECT	45
PART G: STATUTORY DOCUMENTS	47
National Policy Statements	47
National Environmental Standards	51
PART H: REGIONAL AND DISTRICT PLANNING FRAMEWORK	52
Regional Policy Statement	52
Regional Plan.....	52
Operative District Plan	53
Future Development Strategy	56
<i>Conclusion regarding consistency with the regional and district planning framework</i>	56
Planning documents recognised by a relevant iwi authority and lodged with the Council.....	56
Treaty settlements.....	57
PART I: PRINCIPAL ISSUES IN CONTENTION	58
PART J: OTHER CONSIDERATIONS	59
PART K: CONDITIONS	59
FTAA general requirements for conditions.....	59
FTAA requirements for conditions	60
Project conditions	60
PART L: RMA 1991	61
PART M: FTAA, SECTION 3	62
PART N: OVERALL ASSESSMENT	63
PART O: FINAL DECISION	63

APPENDIX A: CONDITIONS OF CONSENT
APPENDIX B: CONSENTS REQUIRED

DRAFT

REASONS FOR DECISION MADE BY THE PANEL: ARATAKI FTAA-2506-1083

PART A: EXECUTIVE SUMMARY

- 1 This is an application by CDL Land New Zealand Ltd (**the Applicant**) for resource consents to undertake residential development on a rural-zoned Site comprising 3 lots at Arataki Road, Havelock North (**Application**). In summary, the Application encompasses the following activities:
 - (a) Subdivision into 171 residential lots (Phase 1), along with the development of 171 dwellings (Phase 2);
 - (b) Land development activities including vegetation clearance, bulk earthworks, internal roading and access construction;
 - (c) Installation of infrastructure for stormwater management, wastewater and potable water supply and power reticulation;
 - (d) Landscaping, including planting and fencing; and
 - (e) All associated and incidental activities at the Site.¹
- 2 The Application was included as a listed project in Schedule 2 of the FTAA. On 24 September 2025 an expert panel was appointed to determine the Application (**Panel**).
- 3 The Panel has assessed the Application applying the relevant statutory criteria within the purpose and context of the FTAA.²
- 4 The Panel received comments from a range of commenters, including Hastings District Council and Hawke's Bay Regional Council, and a response to those comments from the Applicant. The Panel has carefully reviewed all of that information in evaluating the Application.
- 5 In determining and approving this Application, the Panel has applied the statutory tests in Schedule 5, clause 17, which sets out the criteria and other matters for assessment of resource consent applications.
- 6 Having considered all relevant matters, the Panel finds that the Project meets the purposes of the FTAA and RMA.
- 7 The Panel therefore grants approval for the Application subject to the conditions in **Appendix A**.
- 8 This decision is made in accordance with section 87 FTAA. This decision covers all the approvals sought under the substantive application. This decision document includes:
 - 8.1 The decision – throughout and summarised in Part N;

¹ Lot DP 546439, Section 105 Te Mata Sett, Lot 2 DP 540945.

² Legislation Act 2019, s 10; and FTAA, ss 10 and Schedule 5.

- 8.2 The reasons for the decision – throughout and summarised in Part N;
- 8.3 A statement of the principal issues in contention and the Panel's findings on those issues – Part E, Part I and summarised in Part N.

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PART B: OVERVIEW OF THE APPLICATION AND PROCEDURE

APPLICATION

Applicant

- 1 CDL Land New Zealand Limited (CDL) is the authorised person for the Arataki Project as set out in Section 42 of the FTAA.

Site and surrounding environment

- 2 The Site comprises an area of approximately 11ha in three separate title records located at 86, 108 and 122 Arataki Road, Havelock North. CDL owns all three titles. The Site is located at the eastern edge of the existing urban area of Havelock North, approximately 2.5km from Havelock North Village.



Figure 1: Site location and boundaries (Source: AEE Figure 2)

- 3 The Site is currently grazed, with two of the three properties containing individual residential dwellings. The southern boundary of the Site is adjacent to an established olive grove (the **Olive Grove**), while the western and northern boundaries abut Arataki Road and Brookvale Roads. Part of the eastern boundary is adjacent to land used for various light industry / commercial purposes separated by a 10m wide public reserve strip. The southern extent of the eastern boundary abuts an existing daycare facility for dogs (the **Shaggy Range** site). The driveway access to the Shaggy Range site bisects the Site.
- 4 There is no stormwater infrastructure within the site. The nearest stormwater network is at the Arataki Road and Brookvale Road intersection. There are two watercourses to

the east of the site (as shown in Figure 6 of the Applicant's Planning Report.³) They flow from south to north, crossing Brookvale Road, via two culverts, and discharge to Crombie and Taco Drains located downstream. The site lies within two sub-catchments, with the Arataki sub-catchment (generally the western portion of the site) draining northwest to the intersection of Arataki Road/ Brookvale Road, and the Brookvale sub-catchment (generally the eastern portion of the site) discharging northeast to the watercourse located to the east of the development.

- 5 The Applicant provides a detailed description of the Site, the surrounding environment, existing land uses and adjacent sites in Section 6 of its Planning Report. That Report also provides an overview of the geology and topography of the site, soils and groundwater, transport network and roading environment, vegetation and existing infrastructure, as well as the ecology, flooding, contamination, heritage and archaeological features of the Site.
- 6 Following its inspection of the Site and surrounding area and its review of the Application documents and supporting technical reports, the Panel agrees with the descriptions provided and adopts them for the purpose of this decision.
- 7 The Site is wholly within the Hawke's Bay Region and Hastings District, and is subject to the relevant statutory planning documents, in particular the Heretaunga Hastings District Plan (**HDP**). The Site is zoned Plains Production under the HDP. The following HDP matters are also relevant:
 - The Site is located within 400m of an Intensive Rural Production Activity (the former Te Mata Mushroom operation, a scheduled activity in the HDP, though this activity is no longer operating);
 - Arataki Road and Brookvale Road (to the north of the Site) are Access Roads;
 - The stormwater discharge location proposed for the Project is located adjacent to an unnamed tributary of the Karamū Stream and lies within a Flood Risk Area on the GIS.
- 8 Under the Hawke's Bay Regional Resource Management Plan (**Regional Plan**) the Site is within a number of mapped areas listed in Section 6.3.2 of the Planning Report. The most important of these for the purposes of the Application are:
 - Aquifer System and Schedule IV Productive Aquifer Systems
 - Groundwater Management Zone
 - Indicative Residential Greenfield Growth Area.
- 9 Approximately 80% of the site is within the drinking water Source Protection Zone, an aquifer area servicing Hasting Urban Area, including Havelock North, Bridge Pā and

³ Planning Report for Arataki Project by Woods & Partners dated 18 July 2025

Pakipaki. This has been identified and associated controls imposed through the TANK Plan Change.⁴

- 10 The Site has also been earmarked for development in the Heretaunga Plains Urban Development Strategy 2017 (**HPUDS**) and the Draft Hastings and Napier Future Development Strategy (**FDS**):
- Under the HPUDS, the Site was given a Reserve Residential Growth Area status due to the former Te Mata Mushrooms operation located adjacent to the Site contributing to a reverse sensitivity environment. While Reserve Residential Growth Area status generally acts as a replacement area where other greenfield growth does not proceed, the HPUDS confirms that Arataki may be reintroduced ahead of other growth areas should it overcome the reverse sensitivity issue.⁵ The Applicant confirmed in its Planning Report that the reverse sensitivity issue identified in the HPUDS has been resolved as the Te Mata Mushroom operation has now ceased, and the property is unlikely to be used for high odour generating activities;⁶
 - The FDS, which replaces the HPUDS, identifies the Site as a "New / Expanded Residential Area" with an indicative capacity of 200 dwellings. The Site was also included within the FDS' short to medium-term development timeframe.

Overview of the application

- 11 As described in the Application documents, the Applicant seeks resource consents to undertake the following activities:
- The subdivision of the Site into 171 residential lots, on approximately 11ha of land at an average lot size of 450m², followed by construction of 171 dwellings;
 - Land development activities including bulk earthworks, roading construction, pedestrian and active mode construction, landform modification, and vegetation clearance;
 - Installation of infrastructure services and utilities including a new public stormwater network, wastewater network and potable water supply;
 - Vesting of a drainage reserve, seven roads, two accessways and 10 jointly owned access lots (**JOALS**);
 - Landscaping, buffer planting and external boundary fencing.

Resource consents

- 12 The Panel has reviewed all the documentation and the further information provided by the Applicant and the participants and confirms that the Application requires land use,

⁴ Regional plan change seeking integrated management of land and water resources in the Tūtaekurī, Ahuriri, Ngaruroro and Karamū (TANK) catchments.

⁵ HPDUS page 5.

⁶ Planning Report at 6.3.3.

subdivision, water take, water diversion and discharge consents under sections 9, 11, 14 and 15 of the RMA.

- 13 The Panel agrees with the Applicant that, in terms of the HDP and Regional Plan, the overall status of the Application is non-complying.⁷
- 14 The Panel also notes the potential need for an additional consent to authorise the use (discharge) of chemical treatment (flocculation) to be used in the sediment retention ponds during construction. The Panel is satisfied that such consent can be sought at a later time if required and is not determinative of the overall development approval. The additional consent would not change the overall non-comply status of the proposal that is before the Panel.
- 15 The Applicant has identified the specific reasons for consent in Section 8 of the Planning Report. Both HDC and HBRC confirmed through their responses to Minute 2 that they were in agreement with the stated reasons for consent. The Panel is satisfied that the Applicant has appropriately identified the relevant reasons for consent relating to the Application.

PROCEDURE

- 16 The following matters of procedure are relevant for this decision. These matters are also recorded in the various Minutes issued by the Panel.

Appointment and site visit

- 17 The Panel was appointed on 24 September 2025 and undertook a Site visit on 10 October 2025 with two representatives of the Applicant and a locally based EPA administrator.
- 18 The Site visit included a walkover of the Site, including along the southern and eastern boundaries, the location of the stormwater detention basin in the north-western corner of the Site, and the stormwater discharge location in Brookvale Road. The Panel also drove around the immediate site surrounds, including along Arataki and Brookfield Roads and Meissner Drive, and to the former Te Mata Mushrooms site.
- 19 Following the Site visit, the Panel considered that an Applicant briefing session was not required.

Section 18 Report

- 20 The Panel was provided with a detailed report under section 18 of the FTAA, prepared for the Panel Convener by the Ministry for the Environment and dated 1 September 2025. The Section 18 Report provided the following information:
- Identification of relevant iwi authorities, Treaty settlement entities and other Māori groups with interests in the Project area; and

⁷ Clause 17(b) of Schedule 5 of FTAA excludes from consideration section 104D of the RMA with effect that one of the 'gateway' tests for non-complying activities does not have to be passed for the application to be considered for approval under section 104B of the RMA.

- The relevant principles and provisions in relevant Treaty settlements and other arrangements.

21 The Section 18 Report made the following key points:

- The list of relevant Māori groups included two iwi authorities (Ngāti Kahungunu Iwi Inc., Tamatea Pōkai Whenua), one Treaty settlement entity (Hawkes Bay Regional Planning Committee) and three other groups with relevant interests (Te Taiwhenua o Heretaunga, Ruahāpai Marae (Ngāti Hāwea, Ngāti Hori) and Matahiwi Marae (Ngāti Hāwea, Ngāti Kautere))
- There is one relevant Treaty settlement for the Project area, legislated through the Heretaunga Tamatea Settlement Act 2018 and the Hawke's Bay Regional Planning Committee Act 2015
- The statutory acknowledgement over nearby Karamū Stream, provided under the 2018 Settlement Act, is relevant to the Panel's consideration of the Application, since it appears that the proposed activities for which approvals are being sought may affect this waterway. This is particularly relevant in relation to providing notification of and information regarding the application to the holder of the statutory acknowledgement, in this case Tamatea Pōkai Whenua
- No Mana Whakahono ā Rohe or joint management agreements have been entered into with local authorities under the RMA that are relevant to the Project area.

Invitations to comment (section 53 FTAA)

22 The Panel invited comments on the Application in accordance with Minute 2, dated 15 October 2025. Responses to this invitation were due on 13 November 2025.

23 Comments were received on time from the following:

- a. Heretaunga Hastings District Council;
- b. Hawke's Bay Regional Council;
- c. Minister of Conservation and Minister for Māori Development;
- d. Minister for the Environment;
- e. Associate Minister of Transport;
- f. Minister for Infrastructure;
- g. Arataki Honey Ltd;
- h. Forest & Bird;
- i. Nine comments from individuals / owners and occupiers of land, who had been invited to comment by the Panel. These included S&J Johnston, owners of the Shaggy Range site, and M&C Mackenzie, owners of the Olive Grove site.

24 The Panel would like to thank all parties who commented for their contributions.

25 The broad topics raised in the comments included:

- Reverse sensitivity effects;
- Flooding and water quality effects (stormwater)
- Transport effects on Arataki Road and the surrounding network;
- Effects on neighbourhood character and amenity of existing residents;
- Density of proposed development and adequacy of infrastructure;
- Effects on groundwater and drinking water;
- Noise effects

26 Minute 2 also attached a short list of questions to which the Panel sought answers from the two Councils as part of their comments. These questions should be regarded as requests for further information pursuant to section 67 FTAA.

Applicant's response to comments

27 On 20 November 2025 the Applicant provided a comprehensive response package to the comments received on the Application. The Panel has considered the Applicant's responses, and, where appropriate, refers to those responses within Section E of this decision report.

Special or technical advisers

28 The Panel did not appoint any special or technical advisers.

Further information

29 The Panel issued three further requests for further information under section 67 of the FTAA as follows:

- Minute 3 (dated 25 November 2025), seeking information on reverse sensitivity issues from both Councils and several specific commenting parties
- Minute 4 (dated 28 November 2025), on various topics including stormwater/sediment management, traffic calming measures and conditions
- Minute 6 (dated 19 December 2025), seeking the Applicant's views on the application of new and amended national direction instruments.

30 These requests were responded to comprehensively by all those from whom information was sought, and we refer to key aspects of the requests and responses, as necessary, in Section E of this decision report.

Conditions

- 31 The Application included a detailed set of draft conditions for the resource consents sought in the Application. Following the Panel's request for comment from invited parties, feedback was received from HDC, HBRC as well as a number of other adjoining landowners which sought amendments to a number of the draft conditions set out in the Application.
- 32 In its response to comments received, the Applicant indicated various amendments that it intended to make to the draft conditions to accommodate matters raised by commenting parties. As part of its response to Minute 2, a revised and updated set of the Applicant's draft conditions was provided to the Panel on 20 November 2025.
- 33 In accordance with section 70 FTAA the Panel reviewed and amended these conditions and provided draft conditions to the Applicant and persons invited to comment on [23 January 2026], requiring responses by [insert]. The Panel received [insert number of responses] responses on the draft conditions from:
- a. The Applicant;
 - b. The Councils;
 - c. [insert]; and
 - d. [insert].
- 34 The Panel has considered all comments received on the draft conditions as is required under section 70 FTAA and amended the conditions where appropriate. The Panel has addressed these comments throughout this decision report, and in Part K: Conditions below.

Comments from the Minister for Māori Crown Relations: Te Arawhiti and Minister of Māori Development

- 35 Under section 72 FTAA the Panel invited comment from the Ministers for Māori Crown Relations: Te Arawhiti and Māori Development on [insert date].
- 36 [insert reference to any comments received or note that no comments were received. Note that the Ministers have 10 working days to make comment from the date they were invited].

Hearing

- 37 The Panel is mindful of the emphasis on time-limited decision-making in the present process, the purpose of the FTAA in section 3 and the procedural principles in section 10 FTAA that require the Panel to take all practicable steps to use timely, efficient, consistent, and cost effective processes that are proportionate to the Panel's functions, duties or powers.
- 38 The Panel has exercised its discretion not to require a hearing on any issue under section 56 FTAA. The Panel was able to adequately consider all issues based on the information available including the Application, comments received, responses to comments and the further information provided by the Applicant, the Councils and invited persons. The material issues in contention were comprehensively addressed in

the documentation provided. There were no unresolved differences of expert opinion, and residual issues were sufficiently clear for the Panel to consider.

Meetings and Panel deliberations

39 The Panel met on 1 October, 19 November, 10 December, and 19 December 2025, and on 16 and 22 January 2026 and [insert]. These meetings were associated with our review of Application documents, discussion regarding the invitation to comment, review of comments received, preparation of requests for further information, discussion of responses received to those requests, final deliberations and decision drafting matters, including those related to conditions.

40 Further Panel interactions, deliberations and decision-making occurred via email.

Timing of the Panel decision

41 In accordance with the Panel Convener minute dated 24 September 2025 the time frame for the Panel to issue its decision documents under sections 79 and 88 of the FTAA was set as 20 February 2026.

42 However, the Application was briefly suspended, as recorded in Minute 5, for a period of 2 working days. Processing of the Application resumed from (and including) 3 December 2025. As a result of this suspension the Panel's final decision must be issued by 24 February 2026.

PART C: LEGAL CONTEXT

Referral to Panel

43 The Applicant lodged the substantive application on 23 July 2025. The Application was deemed complete and within scope on 12 August 2025. The EPA also confirmed the absence of competing applications or existing resource consents for the same activity on 25 August 2025.⁸ The Application was referred to Panel Convener on 26 August 2025 and at the same time the EPA requested a report from the Ministry for the Environment under section 18 FTAA. The section 18 report was provided to the Panel Convener on 1 September 2025.

Decisions on approvals

44 Section 81 of the FTAA, together with the FTAA schedules cross-referenced in that section, provide the Panel with a clear pathway to making its decision. That section provides, relevantly:

81 Decisions on approvals sought in substantive application

- (1) A panel must, for each approval sought in a substantive application, decide whether to—
 - (a) grant the approval and set any conditions to be imposed on the approval; or
 - (b) decline the approval.
- (2) For the purpose of making the decision, the panel—

⁸ FTAA, section 47

- (a) must consider the substantive application and any advice, report, comment, or other information received by the panel under section 51, 52, 53, 55, 58, 67, 68, 69, 70, 72, or 90:
 - (b) must apply the applicable clauses set out in subsection (3) (see those clauses in relation to the weight to be given to the purpose of this Act when making the decision):
 - (c) must comply with section 82, if applicable:
 - (d) must comply with section 83 in setting conditions:
 - (e) may impose conditions under section 84:
 - (f) may decline the approval only in accordance with section 85.
- (3) For the purposes of subsection (2)(b), the clauses are as follows:
- (a) for an approval described in section 42(4)(a) (resource consent), clauses 17 to 22 of Schedule 5:
 - ...
- (4) When taking the purpose of this Act into account under a clause referred to in subsection (3), the panel must consider the extent of the project's regional or national benefits.
- ...

45 Section 81(2) directs the Panel to the matters that we must consider, apply and comply with, and what we may impose. It also notes the application of section 85, discussed further below. Section 81(3) directs the Panel to the relevant clauses of the FTAA schedules (for this Project, Schedule 5 only).

Approvals relating to the Resource Management Act 1991

46 The relationship of the FTAA with the RMA is outlined in Schedule 5 which provides the consent application process that applies instead of the standard RMA consent application process.

47 Clauses 17 to 22 of Schedule 5 advise the Panel of the matters we must take into account and advise what weight must be given to the purpose of the FTAA in our decision making. Finally, they set out the provisions of the RMA that we must apply.

48 For completeness, we set out clause 17 in full:

17 Criteria and other matters for assessment of consent application

- (1) For the purposes of section 81, when considering a consent application, including conditions in accordance with clauses 18 and 19, the panel must take into account, giving the greatest weight to paragraph (a),
 - (a) the purpose of this Act; and
 - (b) the provisions of Parts 2, 3, 6, and 8 to 10 of the Resource Management Act 1991 that direct decision making on an application for a resource consent (but excluding section 104D of that Act); and
 - (c) the relevant provisions of any other legislation that directs decision making under the Resource Management Act 1991.
- (2) For the purpose of applying any provisions in subclause (1),—
 - (a) a reference in the Resource Management Act 1991 to Part 2 of that Act must be read as a reference to sections 5, 6, and 7 of that Act; and
 - (b) if the consent application relates to an activity that is the subject of a determination under section 23 of this Act, the panel must treat the effects of the activity on the relevant land and on the rights or interests of Māori as a relevant matter under section 6(e) of the Resource Management Act 1991; and
 - (c) to avoid doubt, for the purposes of subclause (1)(b), when taking into account section 104(1)(c) of the Resource Management Act 1991, any Mana Whakahono ā Rohe or joint management agreement that is relevant to the approval is a relevant matter.
- (3) Subclause (4) applies to any provision of the Resource Management Act 1991 (including, for example, section 87A(6)) or any other Act referred to in subclause (1)(c) that would require a decision maker to decline an application for a resource consent.

- (4) For the purposes of subclause (1), the panel must take into account that the provision referred to in subclause (3) would normally require an application to be declined, but must not treat the provision as requiring the panel to decline the application the panel is considering.
- (5) In the case of an application for a coastal permit for aquaculture activities, if the panel makes a reservation under clause 20 in relation to recreational fishing or customary fishing or commercial fishing in relation to stocks or species not subject to the quota management system, the panel must not grant the coastal permit in respect of the areas covered by the reservation.
- (6) For the purposes of subclause (1), the provisions referred to in that subclause must be read with all necessary modifications, including that a reference to a consent authority must be read as a reference to a panel.
- (7) Sections 123 and 123A of the Resource Management Act 1991 apply to a decision of the panel on the consent.

Section 85 (when approvals must or may be declined)

- 49 Section 85 FTAA sets out the limited circumstances when approvals must or may be declined.
- 50 For the reasons set out later in this decision report, the Panel is satisfied that none of the circumstances in section 85 apply to the Application or the Project. In particular, the Panel has formed the view that, after taking account the conditions offered by the Applicant and subsequently modified by the Panel, any adverse impacts are not sufficiently significant to be out of proportion to the Project's regional or national benefits. The Panel has therefore concluded that the approvals sought should be granted.
- 51 It follows that no further comment about section 85 of the FTAA is required.

Section 87 Content of panel decision documents

- 52 Section 87 of the FTAA provides that we must prepare a decision document for each approval sought, and that the decision document must state our decision, the reasons for that decision, include a statement of the principal issues that were in contention and include our main findings on those issues.
- 53 This Project only requires approvals under the RMA (outlined in Part L).

PART D: IWI AUTHORITIES, TREATY SETTLEMENT ENTITIES AND OTHER RELEVANT MĀORI GROUPS

- 54 The iwi authorities, Treaty settlement entities and other relevant Māori groups identified in the section 18 report are recorded in paragraphs 20-21 above.

Substantive application information

- 55 The Application documents included a Consultation Report⁹, which records engagement undertaken throughout the project development and pre-lodgement phases with Ngāti Kahungunu and Tamatea Pōtai Whenua being the relevant iwi authorities and Treaty

⁹ Appendix 6 and attachments. Attachment 5 also provides copies of relevant email and hui correspondence with mana whenua.

settlement entities with historic and territorial rights in the Hawke's Bay Region, including connection to the Karamū Stream. The Applicant does not appear to have engaged with the Hawke's Bay Regional Planning Committee, established by Treaty settlement legislation of the same name in 2025. However, due to the conclusion we reach in paragraph 66 of this decision report, the lack of engagement does not give rise to any specific concern.

56 The Applicant also engaged with two local marae, Matahiwi Marae and Ruahāpia Marae, and held an onsite hui with representatives from both marae in November 2024, and a further hui with Ruahāpia Marae in April 2025 following the Applicant's decision to switch from a plan change proposal to the fast-track consenting pathway under the FTAA.

57 Over the course of engagement, mana whenua provided important feedback on the Project that the Applicant has addressed through design and conditions, particularly in relation to the following matters:

- Stormwater treatment standards and use of rain gardens
- Improvement of water quality and monitoring
- Landscape species selection and use of culturally preferred native species
- Cultural protocols, including accidental discovery protocols and associated training of construction staff
- Further opportunities for engagement

58 The Applicant provided various updates on the Project to mana whenua in May and June 2025 and received some positive verbal commentary from Ruahāpia Marae. The Panel understands that no issues of significant concern have been identified by mana whenua to date. No Cultural Impact Assessment has been prepared.

Comments

59 Pursuant to section 53(2)(b)-(g), the Panel invited comments from all relevant Māori groups identified in the section 18 report, including all those with whom the Applicant engaged. No comments were received from any of those groups.

Statutory requirements

Treaty settlements and recognised customary rights

60 Section 7 requires all persons performing functions and exercising powers under the FTAA to act in a manner that is consistent with the obligations arising under existing Treaty settlements and customary rights recognised under the Marine and Coastal Area (Takutai Moana) Act 2011 and the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019.

61 The Arataki Project is not within or adjacent to the common marine and coastal area and accordingly there are no relevant Customary Marine Title Groups. Further, the Project area is not within ngā rohe moana o ngā hapū o Ngāti Porou.

62 However, there are two Treaty settlements that are relevant to the Application¹⁰:

- Heretaunga Tamatea Claims Settlement Act 2018
- Hawke's Bay Regional Planning Committee Act 2015

Effect of treaty settlements and other obligations

63 Because two Treaty settlements apply, section 82 becomes relevant to our decision making. That section provides:

82 Effect of Treaty settlements and other obligations on decision making

- (1) This section applies if a Treaty settlement, the Marine and Coastal Area (Takutai Moana) Act 2011, or the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019 is relevant to an approval.
- (2) If the settlement or Act provides for the consideration of any document, the panel must give the document the same or equivalent effect through the panel's decision making as it would have under any relevant specified Act.
- (3) The panel must also consider whether granting the approval would comply with section 7.
- (4) In this section, **document**—
 - (a) means any document, arrangement, or other matter; and
 - (b) includes any statutory planning document amended as a result of the settlement or Act referred to in subsection (1).

Heretaunga Tamatea Claims Settlement

64 The Heretaunga Tamatea Claims Settlement Act 2018 provides for a statutory acknowledgement over Karamū Stream and its tributaries. The Application includes a proposed treated stormwater discharge to an unnamed tributary of Mangateretere Stream, which is itself a tributary of the Karamū Stream. The discharge point is located a short distance to the north-east of the Project area. Other discharges will occur to the Council's existing reticulated stormwater network in Arataki and Brookvale Roads, which discharges into the Karituwhenua Stream, another tributary of the Karamū Stream. Tamatea Pōkai Whenua are holders of the statutory acknowledgement and also have a deed of recognition with relevant Crown agencies over Karamū Stream and its tributaries.

65 There are procedural requirements¹¹ arising out of the statutory acknowledgement that apply to a consent authority when considering a resource consent for a proposed activity within, adjacent to or affecting the statutory area. In particular, a summary of the application must be provided to the holder of the statutory acknowledgement as soon as reasonably practicable after the authority receives the application prior to a notification decision being made. Regard must be had to the statutory

¹⁰ We note that the Planning Report does not address Treaty settlements at all, nor are they or their provisions referred to in the consultation report.

¹¹ [See extract from Settlement Act at back of s18 report]

acknowledgement when deciding whether the holder is an "affected person" for the purpose of notification decisions under the RMA.

- 66 The Panel considers that these requirements have been met by virtue of the direct application of section 53(2)(c) and clause 5, Schedule 3 of the FTAA. Tamatea Pōkai Whenua have been identified as a relevant iwi authority and Treaty settlement entity, provided with information regarding the Application and invited to comment by the Panel.
- 67 The settlement includes Crown acknowledgements and an apology as part of redress, including the following matters:
- The lakes, rivers, springs and wetlands of Heretaunga Tamatea are central to the well-being of the hapū of Heretaunga Tamatea
 - Loss of traditional lands has limited the ability of the hapū to access these waterways, gather traditional foods and provide manaakitanga
 - Modification and degradation of the Heretaunga Tamatea environment have severely damaged traditional food resources and mahinga kai.
- 68 These matters are relevant to our evaluation of the Project's effects on the unnamed tributary of the Karamū Stream, discussed later in this decision report, in particular with respect to surface water, groundwater and ecological effects.

Hawke's Bay Regional Planning Committee

- 69 The purpose of the Hawke's Bay Regional Planning Committee Act 2015 is to improve tāngata whenua involvement in the development and review of statutory planning documents prepared in accordance with the RMA for the region. The Committee includes two members appointed by Tamatea Pōkai Whenua but has no role in resource consenting under the RMA, and therefore there are no procedural requirements arising out of this settlement legislation that the Panel must comply with under clause 5, Schedule 3 of the FTAA.¹²

Conditions relating to Treaty settlements and recognised customary rights

- 70 Section 84 provides:

84 Conditions relating to Treaty settlements and recognised customary rights

- (1) For the purposes of section 7, the panel may set conditions to recognise or protect a relevant Treaty settlement and any obligations arising under the Marine and Coastal Area (Takutai Moana) Act 2011 or the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019.
- (2) This section applies in addition to, and does not limit, any other powers to set conditions under this Act.

¹² See section 18 report, paragraphs 45-47.

71 Section 84 is relevant to our decision making and development of conditions, particularly those applying to the stormwater discharge approval. Conditions that address the matters in section 84(1) are discussed later in this decision report.

Conduct of hearings and other procedural matters in the context of Treaty settlements and other arrangements

72 Schedule 3, clause 5 of the FTAA provides:

- (1) This clause applies if any Treaty settlement Act, the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019, or any other iwi participation legislation, or any Mana Whakahoā a Rohe or joint management agreement, includes procedural arrangements relating to the appointment of a decision-making body for hearings and other procedural matters, such as the following:
 - (a) a requirement for iwi or hapū to participate in the appointment of hearing commissioners to determine resource consent applications or notice of requirement lodged under the Resource Management Act 1991;
 - (b) a requirement that notice be given to any person or specified class of person of any steps in a resource management process;
 - (c) any consultation requirements with iwi or hapū;
 - (d) any other matter of procedure for determining a matter granted under a specified Act that corresponds to an approval under this Act.
- (2) The panel convener or panel must—
 - (a) comply with the arrangements in the legislation, arrangement, or agreement referred to in subclause (1) as if they were a relevant decision maker (such as a local authority, department, Crown entity, or board of inquiry); or
 - (b) obtain the agreement of the relevant party under the legislation, arrangement, or agreement to adopt a modified arrangement that is consistent with achieving the purpose of this Act and the other legislation, arrangement, or agreement referred to in subclause (1).
- (3) The party referred to in subclause (2)(b) may not unreasonably withhold their agreement to a modified arrangement (as described in that subclause).
- (4) If the panel convener or panel are unable to obtain agreement under subclause (2)(b) (in circumstances where that agreement is not unreasonably withheld) they must stop processing the substantive application and must direct the EPA to return the application to the applicant immediately.
- (5) The panel must also direct the EPA to give written notice to the following that processing of the substantive application has stopped:
 - (a) the relevant local authorities; and
 - (b) if advice or a report has been requested from a person under section 51 and is yet to be provided to the EPA, that person; and
 - (c) if a recommendation has been requested from the relevant chief executive under section 48 and is yet to be made, the relevant chief executive; and
 - (d) if persons or groups have been invited to provide comments under section 35 or 53, those persons or groups.
- (6) The panel and a person referred to in subclause (5)(b) or (c) must stop processing the substantive application if they receive notice of the stoppage.

73 As discussed in the foregoing paragraphs, the Heretaunga Tamatea Settlement Act 2018 does include some procedural requirements. For the reasons outlined, the Panel considers that these requirements have been complied with by virtue of the relevant FTAA provisions requiring all relevant iwi authorities and Treaty settlement entities to be invited to comment on the Application. No comments were received by the Panel from these parties.

74 The Panel is satisfied that all the relevant Māori entities have been sufficiently notified and provided with an opportunity to make their views known on the Application. The Applicant's engagement with mana whenua appears to have provided valuable

feedback which has been integrated into the Application and proposed conditions to the satisfaction of mana whenua.

- 75 Overall, the Panel considers that it has complied with all applicable procedural requirements in relation to Treaty settlements and has therefore met its obligations under section 7 and clause 5, Schedule 3 of the FTAA.

PART E: EVALUATION OF EFFECTS

- 76 Clause 5(4) of Schedule 5 to the FTAA requires a consent application to provide an assessment of an activity's effects on the environment covering the information in clauses 6 and 7. The Application provides a full assessment of these matters (in the Planning Report, Section 13, and in the technical reports attached as appendices). Parties who commented also raised a range of actual and potential effects.

Approach to effects evaluation

- 77 The Panel has identified the following categories of actual and potential effects on the environment that require more detailed discussion. These relate to the principal issues in contention, which we identify in Part I of this decision report. The discussion of these effects is set out in detail later in this section:

- Reverse sensitivity effects
- Stormwater effects (flooding and water quality)
- Transportation effects
- Neighbourhood character effects

- 78 Other actual and potential effects of the Application are not generally in dispute and, subject to appropriate conditions, appear to be acceptable on the basis of the information provided to us, whether via the Application, invited comments, or responses to further information requests. These effects include: positive effects, rural land use effects, social effects, visual & landscape effects, infrastructure servicing effects, noise & vibration effects, contaminated land effects, geotechnical effects, natural hazards, construction effects, heritage & archaeological effects. We address some of these effects briefly in this section of the decision report. Others are not discussed.

- 79 Where this decision report does not discuss a particular effect on the environment, we record that the Panel has nevertheless carefully considered all information provided to us. Unless stated otherwise, we are satisfied that the conclusions offered by the Applicant's technical experts are acceptable. We have also had regard to the relevant planning provisions in considering the effects of the Project, as noted in Part H: Planning Framework.

- 80 Some of these matters are the subject of conditions on which the Panel provides further commentary in Part K of this decision report, in some cases proposing amendments to address minor technical matters.

- 81 Finally, we record that the commentary offered by HDC and HBRC in response to proposed conditions, and the high level of agreement reached between the councils and the Applicant on the conditions, has been very helpful to the Panel.

Existing environment

- 82 In terms of the relevant receiving environment, the Panel finds the test in *Hawthorn*¹³ to be of limited assistance. That test refers to the environment as it presently exists, but also to:

... the future state of the environment as it might be modified by the utilisation of rights to carry out a permitted activity under a district or regional plan or by the implementation of resource consents which have been granted at the time a particular application is considered, where it appears likely that those resource consents will be implemented.¹⁴

- 83 The present environment is governed by the Plains Production Zone, which renders residential activity non-complying, while the Site is identified in various statutory and non-statutory documents as being suitable for future expansion of the existing Havelock North urban area. The District Council has, in various comments and responses to the Panel's requests, confirmed that it is comfortable with urbanisation of the Site. While the traditional method of pursuing urban development in this situation would be a private plan change, the FTAA offers a new opportunity to the Applicant to develop the Site in advance of zoning change. This is also consistent with policy direction in the National Policy Statement: Urban Development (**NPSUD**) which requires decision makers to consider responsive planning processes that would help to deliver housing capacity.
- 84 We discuss the Applicant's assessment of the Project against the objectives and policies relevant to the existing zoning later in this decision report, but note at this point that the Panel considers a "real world" approach to the existing environment is required in this situation.
- 85 The Panel adopts the description of the existing environment included in Section 6 of the Planning Report.

Reverse sensitivity effects

- 86 The Site is zoned Plains Production in the District Plan and shares boundaries with rural-zoned land to the east and south. However, the Site is also identified in the HPUDS, RPS and FDS for future residential development, being a logical extension to existing development on the other side of Arataki Road that currently forms the urban edge of Havelock North.
- 87 As acknowledged by the Applicant's Planning Report,¹⁵ this dual status raises the potential for reverse sensitivity effects, particularly regarding existing rural production activities currently taking place on neighbouring sites. Those activities comprise:

¹³ *Queenstown Lakes District Council v Hawthorn Estate Ltd* [2006] NZRMA 424 at [84].

¹⁴ *Queenstown Lakes District Council v Hawthorn Estate Ltd* [2006] NZRMA 424 at [84].

¹⁵ Planning Report, Section 13.3

- Olive Grove site, located at 70 Arataki Road to the south, comprising @3.9ha and used for small-scale olive production.
 - Shaggy Range, located at 104 Arataki Road to the southeast (with an access driveway bisecting the Project Site), currently used for a dog daycare facility, a Christmas tree growing operation and a native tree nursery.
 - Brookvale Business Park, located at 174 Brookvale Road to the east (formerly the location of Te Mata Mushrooms, a scheduled activity in the District Plan with a long consenting history, now accommodating a range of small-scale industrial and service-based businesses enabled by a temporary resource consent).
- 88 The Applicant's legal counsel helpfully provided a memorandum addressing legal aspects of reverse sensitivity in response to the RFI in Minute 3¹⁶. On the basis of established case law, the following principles are relevant:
- Reverse sensitivity is the legal vulnerability of a lawfully established activity to complaints from a new land use. Ultimately, those complaints may result in constraints being placed upon the established activity to ensure that it does not adversely impact the new activity.
 - Reverse sensitivity is a secondary, rather than a direct, effect.
 - New activities can be expected to accept impacts on amenity that arise from existing activities – the Environment Court has described this as "a measure of robust realism"¹⁷.
- 89 In light of these principles and the relevant case law, it is useful when considering whether a potential reverse sensitivity effect is likely to arise to evaluate firstly the extent of direct effects likely to be experienced by the new activity. For this Project, the Applicant has incorporated a series of design features and mitigation measures, including conditions, to ensure that new residents will experience a level of direct effects from the adjacent rural activities that is acceptable and realistic. On that basis, the potential for secondary reverse sensitivity effects to arise should be minimised.
- 90 The direct effects identified and assessed in the Planning Report are spray drift, noise and effects associated with general operations (eg odour, smoke, truck movements etc that differ from typical residential expectations). The Applicant's position is summarised in the following paragraphs.
- Spray drift*
- 91 Regional Plan rules require the application of agricultural chemicals to achieve compliance with a range of standards. In respect of the Olive Grove and Shaggy Range sites, a Spray Plan is required before spraying on land within 50m of adjacent private

¹⁶ Memorandum of Counsel for the Applicant, 3 December 2025

¹⁷ *Blueskin Bay Forest Heights Ltd v Dunedin City Council* [2010] NZEnvC 177 at [34] and [35], as discussed in the Memorandum of Counsel for the Applicant, 3 December 2025.

properties that occurs more than twice per year and may cause unavoidable spray drift.¹⁸

- 92 Shelter belts are recognised in the relevant NZ standard¹⁹ as mechanisms for reducing spray drift. The Olive Grove site contains shelter belts along both the Arataki Road frontage and the boundary with the Site, and the Project design proposes a no-build area and buffer planting along the common boundary to a total depth of 10m (within the Site) to augment the existing mitigation function of the Olive Grove shelter belt. A proposed 5m planting strip is proposed along the Shaggy Range site boundary, since the nature of rural activity on that site is not intensive horticulture expected to result in the same level of agrichemical use as the Olive Grove. According to the Applicant, the proposed buffer treatments along both boundaries will adequately address spray drift concerns. The buffer planting and no-build requirements were reflected in the Applicant's original conditions, to be secured by covenants registered on the relevant titles.

Noise

- 93 The Acoustic Report prepared to accompany the Application²⁰ notes that permitted rural noise limits in the relevant District Plan rule (Standard 25.1.6D) are slightly higher than those in residential zones, as measured from the notional boundary on adjacent properties in rural zones. While the Project will establish new notional boundaries closer to the rural activities on the adjacent properties, the Acoustic Report concludes that the new residential activity can coexist with existing rural activities without generating reverse sensitivity effects. On the basis of the Acoustic Report, no additional setbacks, bunding or acoustic fencing were considered by the Applicant to be required to ensure a reasonable noise environment for new residents. That position changed following consultation with the Site's close neighbours, as discussed below.
- 94 Noise-generating activities on the Olive Grove site include crop management, mechanical harvesting and bird management; the bird scarer generates the highest noise levels but that is controlled by a specific District Plan standard which already requires compliance along the existing residential boundary to the west (Arataki Road). The proposed residential development on the Site is not expected to materially change the noise environment or result in any additional constraints on Olive Grove operations.
- 95 However, in recognition of potential noise effects (and in response to issues discussed with the Olive Grove owners), additional mitigation measures were incorporated into the Project design prior to lodgement, including a 2m high acoustic-grade fence along the common boundary with the Olive Grove and proposed no-complaints covenants on each residential title.
- 96 Potential noise effects from the Shaggy Range site are specifically addressed in the Acoustic Assessment, which notes that Shaggy Range operates under an existing resource consent (refer to 104 Arataki Road RMA 20170139) that requires compliance

¹⁸ Planning Report section 13.3.1, referring to Rules 9 and 10 of the Hawke's Bay Regional Plan.

¹⁹ New Zealand Standard for the Management of Agrichemicals: NZS8409:2021 – this replaces the earlier 2004 standard referred to in the Application Planning Report, as drawn to our attention by the Olive Grove comments.

²⁰ Appendix 23, Acoustic Report Arataki Road Project, CDL Land Ltd, 16 July 2025

with a Noise Management Plan. Shaggy Range is subject to consent conditions and management practices that, in the opinion of the author of the acoustic assessment, will "assist its compatibility with residential development on the site". Those conditions relate to operating hours, prevent overnight boarding, require the facility be closed for drop offs and pick-ups from 9.30am to 3.15pm, and require a Noise Management Plan to be approved by HDC.

- 97 The Brookvale Business Park located to the east lies on land at a lower elevation to the Site which is also separated by the intervening Council reserve strip. These features will provide a degree of acoustic screening from the new residences. Noise emissions from this site are consistent with permitted activity standards or are otherwise authorised by resource consents that specify operational parameters and require the District Plan noise limit to be complied with at the site boundary. This site will not give rise to reverse sensitivity effects from noise, and no additional acoustic mitigation is necessary as a result. As noted previously, the Te Mata Mushroom business is no longer operation on this site, so odour related to that activity is no longer a concern.

General operations

- 98 Other effects from rural activities that could give rise to reverse sensitivity concerns include odour (from composting or livestock), smoke from permitted burning, use of farm machinery, early morning or late night (and frequent) truck movements, all of which differ from typical residential expectations. As the Applicant acknowledges in the Planning Report²¹, these are a recognised and anticipated part of rural production environments.
- 99 In fact, the interface between rural and residential activity in relation to these effects is already established along Arataki Road, with the existing residential development. None of the commenters from Arataki Road raised concerns about the effects of existing rural activities, and the Applicant considers that the mitigation measures built into the Application (buffer treatments, design controls on new houses and the imposition of no-complaints covenants) will be sufficient to appropriately manage the interface between land uses so as to avoid new reverse sensitivity issues arising.

Comments received

- 100 Comments relating to reverse sensitivity effects, and in particular the adequacy of the planted buffer proposed along the eastern and southern boundaries, were received from the following invited commenters:
- HDC and HRBC: Surprisingly, neither the District nor Regional Councils commented expressly on reverse sensitivity issues, which is principally what led to the Panel's comprehensive RFI on reverse sensitivity set out in Minute 3. The responses from both Councils to those requests are discussed further below.
 - Olive Grove owners (C & M McKenzie): Bay Planning on behalf of the Olive Grove sought a 30m buffer along the common boundary with the Site, pointing to other districts which required a buffer of that width to mitigate the effects of adjacent rural activities on residential development. The comment advised that the shelter

²¹ Planning Report, Section 13.3.3

belt currently located on the Olive Grove site was planted for aesthetic reasons, not to act as a buffer to spray drift, and that the Applicant's proposed planted 10m buffer should comprise species with needle-like leaves (as recommended in NZS8409:2021). Concerns were expressed about the adequacy of the proposed no-build and buffer planting covenants. Bay Planning also identified a range of relevant objectives and policies from both the District and Regional Plans that it considered not to have been adequately assessed by the Applicant, and drew our attention to email correspondence from the Council's Team Leader Environmental Policy to the Applicant in June 2025, prior to lodgement, expressing continued concern about the Project's ability to address reverse sensitivity concerns to the east and south of the Site.²²

- Shaggy Range site owners (JW & SL Johnston): the Shaggy Range site hosts a number of rural activities in addition to the dog daycare facility, with the Arataki Site providing a useful buffer, protecting the dogs (and their barking) from adverse reaction from Arataki Road neighbours. Shaggy Range is concerned that neighbouring activity from domestic animals, children or curious adults might upset the dogs, resulting in increased barking (and the risk of complaints), regardless of the no-complaints covenant proposed by the Applicant. A key issue for Shaggy Range is their access driveway; discussions with the Applicant about potential relocation of the driveway have yet to result in an agreed solution (discussed further below under Transportation effects and the context of the RFI responses). There is, however, potential for reverse sensitivity to arise in respect of the driveway in its existing location, with Shaggy Range expressing concern that the unsealed surface could give rise to noise and dust concerns from residents on both sides of the driveway. Shaggy Range also urged the imposition of a 30m buffer along their eastern boundary with the Site.
- Arataki Honey: the Arataki Honey site at 66 Arataki Road has operated as a beekeeping and honey packing facility for over 80 years. They consider a 30m planted buffer should separate the Arataki Project from adjacent rural properties. Other concerns included matters of general operation that could be impacted by the Project or by reverse sensitivity concerns, such as seasonal heavy traffic and tourist bus movements, late night truck movement of hives for spring pollination purposes, and operation of a registered fire pit for hive disease control purposes.
- Susan Doughty: Ms Doughty (a resident in Arataki Road) raised compatibility issues between residential development and nearby rural activities (specifically dog kennels, machinery workshop and noise/odour from Te Mata Mushrooms).

Applicant response to comments

- 101 The Applicant's comprehensive response to comments dated 20 November 2025 made a series of changes to the Project. The following changes are directly relevant to reverse sensitivity issues:

²² Bay Planning - Submission on Arataki Project on behalf of C&M McKenzie, 29 October 2025, referring to correspondence included at page 166 of Appendix 7a to the Application.

- Replacement of the buffer interface no-build, planting and fencing covenant conditions with consent notices (but retaining the no-complaints covenant condition).
- Amend buffer planting species from Mexican Alder to Layland Cypress to address spray drift feedback from Olive Grove.
- Update to the conditions suite to enable an alternative concept plan to be approved if the Applicant and Shaggy Range are able to reach an agreement on relocating the Shaggy Range driveway to the southern boundary of the Site.

Requests for further information

- 102 Given the silence of both Councils on reverse sensitivity, coupled with continued requests from the Olive Grove and Shaggy Range to require a 30m buffer along the relevant Site boundaries, the Panel sought further information from those parties and the Applicant on a range of reverse-sensitivity related questions set out in Minute 3.
- 103 HDC's response was helpful, identifying the specific objectives, policies and rules in the District Plan that address reverse sensitivity and confirming that a 30m buffer requirement has been incorporated via rezoning processes in the provisions for new Urban Development Areas.²³ However, the Council also acknowledged that site context is an important consideration in setting a buffer, and that efficient use of land on the fringe of urban areas may require alternative approaches. Objective SLDO5 and Policy SLDP16 appear to allow for this flexibility to be applied.
- 104 In relation to the Council's correspondence on 24 June 2025 expressing concern about the Applicant's ability to address reverse sensitivity issues, HDC made the following comments:
- While the concerns expressed by the Council were not addressed by the Applicant prior to lodgement the Council acknowledges that a 30m buffer could have significant implications for site efficiency and layout and appreciates the Applicant's concern about the unnecessary loss of developable land in a defined growth area where housing supply is a priority.
 - The Application has demonstrated several measures that, collectively, provide a level of protection from reverse sensitivity effects, including the proposed planted buffer, fencing and landscaping and no-complaints covenants.
 - The Council would prefer the covenants to be reflected in consent notices that would be enforceable by Council.
- 105 The HBRC response focused on the use of agrichemicals, since noise is controlled by the District Plan, and acknowledged that the Applicant had not assessed RRMP provisions that relate to managing conflicting land uses.²⁴ The Council provided helpful discussion of the rules relating to the use of agrichemicals, noting that they do not

²³ HDC response dated 1 December 2025, referring to performance standard 7.2.5G(b) Special Building Setbacks for Urban Development Areas

²⁴ We note our concern that the Regional Council did not identify this as a gap in its initial comment on the Application.

direct setbacks from neighbouring private properties but indicate that a 10-30m buffer can be appropriate. There are no recorded complaints of spray drift originating from the Olive Grove by residential dwellings on the opposite side of Arataki Road, approximately 24m from the Olive Grove site at the closest point.

- 106 To summarise, the Regional Council concluded that a combination of adherence to Rule 10 requirements and spraying best practice, use of a planted buffer, shelter belts and an appropriate setback should be sufficient to reduce the potential for off-site spraying effects.²⁵
- 107 Both the Olive Grove and Shaggy Range parties continue to seek a 30m buffer, but have accepted the amended species for the buffer planting. Bay Planning on behalf of the Olive Grove did not support the use of consent notices instead of covenants (in relation to maintenance of the buffer), and recommended both mechanisms, with the covenants relevant to its own boundary to be registered in favour of the Olive Grove to enable it to take enforcement action. The Olive Grove does not support the relocation of the Shaggy Range driveway to the southern Olive Grove boundary, which was an alternative proposed by Shaggy Range. Shaggy Range considers that option was not actively considered by the Applicant during pre-lodgement consultation.
- 108 As noted earlier in this section, Shaggy Range also raised a concern about the potential for dust and noise associated with their use of the existing unsealed driveway to lead to reverse sensitivity effects by virtue of complaints from adjacent owners of the subdivided lots.
- 109 The Applicant provided the following response to our requests:
- An alternative scheme plan was prepared, showing that a relocated Shaggy Range driveway to an alignment adjacent to the Olive Grove boundary would maintain a buffer and only marginally increase the minimum distance between the houses and that boundary. The key mitigation measures (no-build buffer, shelterbelt planting as amended, acoustic fence and no-complaints covenants) would remain in place;
 - Both the options (ie the Application and the alternative scheme) would result in acceptable levels of effects being experienced by the new residents in the Arataki Project, and would appropriately mitigate the potential for reverse sensitivity effects;
 - An Acoustic Memorandum comparing the effects of a 10m and 30m buffer (with an acoustic fence) concludes that, while a larger buffer would result in a noticeably quieter environment for future receivers, increasing the buffer distance beyond 10m is not required to achieve compliance with the District Plan provisions or to ensure an appropriate and quiet acoustic environment, given ambient daytime noise measurements;²⁶
 - Introduction of a 30m buffer would therefore be unduly onerous.

²⁵ Hawke's Bay Regional Council Memo dated 1 December 2025

²⁶ Acoustic Memo dated 3 December 2025 by Dcibel Ltd

- 110 In relation to the matter of dust, the Applicant did not propose to seal the existing driveway and responded that it would not seal any alternatively located driveway for cost reasons.

Panel findings

- 111 The potential for reverse sensitivity effects to arise and adversely impact lawfully existing rural production activities, and the mitigation measures proposed to address those effects, was the most contentious issue before us.
- 112 After careful consideration of all relevant material before us (which took some time to elicit, particularly from the Councils), we make the following findings:
- The direct effects that might be experienced by new residents from adjoining rural activities (noise, spray drift and general operational effects) should not be unexpected. To date, those effects have complied with relevant District Plan or resource consent requirements and have not resulted in complaints from nearby residents that might give rise to constraints being placed on those rural activities;
 - With the Applicant's proposed mitigation measures in place, we think the risk of reverse sensitivity effects arising in respect of the Arataki Project is low;
 - We accept the Applicant's proposed change to conditions to replace the buffer interface covenants with consent notices to secure the primary obligations. This is the District Council's preference and will enable HDC to monitor compliance and undertake enforcement action if required. The Olive Grove's request for covenants in its favour in addition to consent notices is not accepted. Any person is entitled to take enforcement action for non-compliance with a consent condition if the Council fails to do so;
 - We do not consider that a 30m buffer between the residential dwellings and the adjacent rural property boundaries is justifiable, having regard to the context of the Site, the absence of complaints to date, the mitigation measures proposed to support a 10m buffer and the lack of specific set back requirements in the District Plan.
- 113 The Shaggy Range concern regarding use of its existing unsealed driveway warrants a brief discussion.
- 114 The Applicant has proposed 1.8m high closed boarded fences along each boundary of the existing driveway that bisects the site (Lots 83 to 151 and 90 to 152), and a 10m no build set-back and planting along the eastern boundary with Shaggy Range, where the driveway is several metres from that boundary (Lots 152²⁷ to 161). The Applicant has not offered to seal the existing driveway. Potential reverse sensitivity noise and dust effects generated by vehicles using the driveway have not been technically addressed in the Application.
- 115 Proposed lot sizes adjacent the north side of the driveway that passes through the site are 424m² (Lots 84 to 89), 501m² (Lot 83) and 803m² (Lot 151). On the south side

²⁷ Noting that proposed Lot 151 is a corner lot requiring the fence on its northern boundary and the 10m no build setback on its eastern boundary.

lots are 455m² (Lots 91 to 97) and 554m² (Lot 90). Lots along the adjacent eastern boundary (Lots 152 to 161) range from 452m² to 499m², including the 10m no build set-back within each lot.

- 116 As currently proposed, dwellings constructed within Lots 81 to 97, 151 and 152 could be located relatively close to the Shaggy Range driveway boundary. Those dwellings, or users of rear amenity areas within each lot, may experience disturbance from noise or dust generated by vehicles on the driveway. Despite such disturbance requiring validation as exceeding some reasonable level before action might be taken by Council, we nevertheless consider it to be a reasonable concern for Shaggy Range that has not been the subject of specific assessment by the Applicant.
- 117 In the context of the scale of the proposed development, we do not consider the cost of sealing that section of the existing formed driveway to be unreasonable or prohibitive. It will ensure a level of amenity (in terms of noise and dust) equivalent to that of the proposed internal road network and minimise the risk of traffic-related reverse sensitivity effects on Shaggy Range. We have therefore proposed a new condition requiring the Applicant to seal that section of the driveway to the relevant standard (to be advised by HDC), subject to obtaining the agreement of Shaggy Range, as follows:

Subject to obtaining the agreement of and approval by the owners of 104 Arataki Road (Lot 1 DP 13265) the Consent Holder must seal to [insert relevant standard] the formation width of the existing driveway of Lot 1 DP 13265 between Arataki Road and the eastern boundaries of proposed Lots 151 and 152. If such agreement and approval is not provided by the owners of Lot 1 DP 13265, the consent holder is not required to implement this condition.

- 118 Once sealed, the future maintenance of the driveway would be the responsibility of Shaggy Range, consistent with its responsibility for maintaining the existing driveway surface.
- 119 Other conditions proposed by the Applicant specifically to address the mitigation and management of reverse sensitivity effects include those relating to set backs and no-build areas, buffer and interface maintenance matters (conditions 54 to 62) and consent notices to ensure compliance with those conditions (conditions 65B to 65E). Subject to those conditions, we are satisfied that reverse sensitivity effects can be appropriately managed.

Stormwater effects (flooding and water quality)

- 120 There is no stormwater infrastructure within the site. The nearest stormwater network is at the Arataki Road and Brookvale Road intersection. Potential impacts of stormwater associated with the Project relate to:
- Flooding risk due to increased runoff volumes and peak flows;
 - Water quality and impacts on receiving waters.
- 121 These issues were raised during engagement with the community, particularly in relation to potential flooding impacts on Brookvale Road, and the need to improve water quality outcomes, which was a primary concern expressed by mana whenua.

- 122 The Project Site comprises two primary sub-catchments which drain northward to roadside drainage at Brookvale Road, and then via a watercourse that continues northward to the Crombie Drain. Both those watercourses are tributaries of the Karamū Stream. The western margin of the Site that abuts Arataki Road drains via roadside swales to that same northern drainage system.
- 123 At section 13.8 the Planning Report considers stormwater effects and concludes that the proposal will appropriately minimise potential flood risks on the Site and on the wider environment. It also acknowledges that potential water quality effects were raised by mana whenua and have been an integral component of the development of the Project. In that regard, stormwater quality treatment is proposed that overall will exceed the 75% minimum removal target of the regional guideline. The Planning Report also notes the pre- and post-development monitoring that is proposed to confirm the efficiency of the proposed treatment system, which is a matter of particular interest to mana whenua.
- 124 The proposed stormwater management approach is described in detail in the *Stormwater Management Plan, Version 2, 20 November 2025*, prepared by Woods (**SMP**). The principal features of the approach are:
- A separate, stand-alone consent under the Regional Plan for the diversion and discharge of stormwater from the development. The proposed discharge point for stormwater from the development is outside the boundary of the district-wide stormwater network discharge consent previously held by HDC. That consent has expired and an application for a replacement consent is being prepared.
 - The Project stormwater system might be incorporated into the future network discharge consent once obtained by HDC but will otherwise stand-alone under the site-specific consent.
 - Stormwater management for the development has been designed to meet the requirements of HDC code of practice and the HBRC stormwater guideline.
 - Based on the final Site layout, contours and grades, the stormwater sub-catchment boundaries have been modified so that the majority of the Site will be within the Brookvale sub-catchment and will drain via a proprietary treatment device (baffle box or similar) and a lined stormwater dry basin. The basin will discharge via upgraded reticulation to a new outfall adjacent to the culvert opposite 174 Brookvale Road, and then to the northern watercourse. The dry basin will include an extended detention volume (EDV) to avoid downstream erosion of waterways.
 - The significantly reduced area of the Arataki sub-catchment will drain via raingardens located within kerb buildouts and will continue to discharge to the existing HDC reticulation system. The works within this sub-catchment will comprise the upgrade of the roadside drainage and interface with the eastern side of Arataki Road, including the removal of the roadside swale and replacement with piped reticulation. Modelling has been undertaken to confirm the acceptability of this change to ensure adverse flooding effects on other properties is avoided. No widening of the Arataki Road carriageway is proposed.
 - All roofs within the development are to use inert cladding materials. This is to be required by Condition 168.

- Pre-development baseline monitoring and up to 3 years of post-development monitoring of the water quality, including upstream and downstream of the discharge points from the development, to confirm the efficiency of the proposed treatment system. Details of the sampling locations, parameters and procedures are included in the SMP. The draft approach to monitoring is outlined in the Mana Whenua Collated Correspondence provided in Appendix 7b of the Application. The detailed requirements are to be specified through a Water Quality Management Strategy required through proposed condition 142.
- 125 The Applicant has confirmed that the dry basin is to be lined to prevent infiltration of contaminants into the groundwater aquifer, part of which is a municipal drinking water supply within the Source Protection Zone.
- 126 The stormwater treatment system has been designed on the basis of an impervious coverage limit of 60% which is to be imposed via Condition 65A as a consent notice for each lot. The consent notice is to include a process to achieve a higher impervious coverage subject to additional on-site stormwater mitigation measures in accordance with the SMP.
- 127 The overall implementation of the stormwater management system is proposed through conditions 38 to 41²⁸ and regional discharge consent conditions 137, 138, 143, and 153 to 173.

Comments received

- 128 Comments relating to the effects and management of stormwater from the Project were received from:
- Hastings District Council: HDC confirmed that satisfactory engagement with the Council had occurred during the development of the SMP, and that it is satisfied with the stormwater treatment system proposed in the SMP, including protection of the Source Protection Zone aquifer, to appropriately manage effects subject to the proposed conditions of consent. No amendments were proposed to the conditions.
 - Hawke's Bay Regional Council: HBRC confirmed acceptance of the stormwater treatment system proposed in the SMP. The Regional Council was satisfied with the conditions but sought an increase in working days provided for the review and certification of detailed design, in line with similar timeframes sought for other management plans.
 - Barry Keane: Mr Keane is the owner of a property in Brookvale Road through which the downstream receiving channel passes between the Brookvale Road culvert and the Crombie Drain. His property was significantly flooded during Cyclone Gabriel and he is concerned that no works have been undertaken to alleviate flooding in the area since that time. He expressed concern that the proposed development would further exacerbate flooding, and considered that flood protection works, including stop bank repairs, should be completed before additional inputs occur.

²⁸ Those conditions reference to the Civil Drawings but do not reference the SMP. We comment on that later.

- C & M McKenzie (owners of the Olive Grove), Arataki Honey, Te Mata Estate Winery: these commenters supported the development of the subdivision in line with the current HDC Engineering Code of Practice, NZS4404 and other relevant engineering requirements to manage flooding and ponding on site.
- Darrel and June Hall: these commenters requested a lower density than proposed for the Project, in part to reduce impervious area and potential adverse stormwater effects.

Applicant response to comments

- 129 In its response to comments the Applicant submitted an updated SMP with minor modifications but otherwise consistent with the original stormwater management proposal. The Applicant noted that:
- A consent notice (Condition 65A) is proposed to manage stormwater for the development, in lieu of applying the underlying HDP provisions. The HDP stormwater rules do not provide for the overall outcomes for the development as they do not account for the additional storage capacity provided within the subdivision's retention ponds or the integrated stormwater solution implemented for the wider site.
 - The subdivision has been designed for a 60% impervious area threshold, and sites that exceed this limit will be required to provide on-lot mitigation such as detention tanks or, where preferred by the lot owner, water-reuse systems to offset additional runoff. These options are identified in the SMP, including a flow diagram illustrating the required mitigation pathway for sites exceeding the threshold to assist future lot owners with their stormwater management design and Council engineers to assess each proposal exceeding 60% site coverage.
- 130 With respect to the comments received from Mr Keane, the Applicant confirmed that it had met with Mr Keane and, while his concerns were understood and respected, Section 13.8 of the Planning Report and the supporting expert assessments confirm that:
- the stormwater system has been designed to avoid increasing flood risk on downstream properties, including 163 Brookvale Road; and
 - the discharge regime, treatment approach and attenuation will not exacerbate existing drainage issues within the Brookvale catchment.

Responses to Requests for Information

- 131 In Minute 4, the Panel requested further information from HDC and HBRC in relation to the lining of the dry basin:
- The Applicant confirmed that the stormwater dry basin will be lined with a HDPE or Geosynthetic liner or a capping layer of low-permeability cohesive engineered fill.
 - HDC responded that the Council's 3 Waters Growth & Development Manager has confirmed that given the history of this area, previous stream works and the

subsequent Havelock North contamination event due to seepage of the surface water to the aquifer, it would be preferable to have the dry basin lined.

- HBRC confirmed its understanding that the stormwater basin would be lined prior to construction. On that basis, and following the Applicant's confirmation, HBRC recommended the following addition to Condition 137:

(g) Details of the method of impermeable lining to be implemented for the Dry Basin, in general accordance with the recommendations of the approved Geotechnical Investigation Report (GIR) prepared by CMW Geosciences and referenced in Schedule 1.

Panel findings

- 132 The Panel is satisfied that the Applicant has appropriately responded to comments received and has modified its proposal to ensure that the potential adverse effects of stormwater discharges from the Project will be avoided or appropriately mitigated.
- 133 The stormwater dry basin will be lined to prevent ingress of contaminants into the underlying aquifer, and the Panel accepts the HBRC recommendation to add a clause to Condition 137 to expressly require lining.
- 134 The matters of particular concern raised by mana whenua have been addressed and incorporated into the design of the stormwater management system, including pre-and post-development water quality monitoring.
- 135 The Panel finds that the management of stormwater is based on recognised best-practice, the regional guideline and relevant codes of practice. Implementation of the SMP in accordance with the conditions should ensure that potential flood risks are minimised both on the Site and on the wider environment.

Transportation effects

- 136 The proposed transport design and effects assessments are described in the Planning Report and the Integrated Transport Assessment (**ITA**) - Appendix 18 of the application.
- 137 The proposed Roding Layout and Design are described in Section 7.6 of the Planning Report. Access to the Site will be via four internal dual carriageway roads creating seven connections to Arataki Road. Road AR01 road will be a cul-de-sac. Roads AR02, AR03 and AR04 will comprise three separate crescents.
- 138 An additional Lot 3006 is proposed as a 19m² portion of land denoted as road to vest adjacent to the Brookvale Road boundary. This will facilitate a potential future minor realignment of Brookvale Road, which is not part of the current proposal.
- 139 The majority of lots within the development will be accessed from the internal roads or joint owned access lots (JOALs). Some lots will be accessed directly from Arataki Road. The proposed internal roads will be vested with HDC, while the JOALs will be held in shared ownership by adjoining lot owners.
- 140 Internal roads will include traffic calming measures and footpaths on both sides. Pedestrian links will be provided between Road AR01 and the greenspace to be created

around the stormwater dry pond, and footpaths within the JOALS will link roads AR01, AR02 and AR03. This pedestrian spine will contain landscaping and play along the way spaces. The existing driveway access to 104 Arataki Road (Shaggy Range) will be maintained. There will be no access to lots or pedestrian access to the development from that driveway.

- 141 The interface of the site with Arataki Road will be upgraded with stormwater reticulation (including rain gardens) to replace the existing swale drain, road and driveway connections, and the formation of a 2.5m wide shared path along Arataki Road to a point opposite the intersection with Meissner Road. Beyond that a 1.5m wide footpath will be formed to the southern end of the development.
- 142 Kerbside parking will be provided throughout the development, with a target allocation of 0.75 spaces per lot. Final layout will be confirmed at the Engineering Approval stage and on-site parking on individual lots will be addressed at the time of dwelling construction. While there is no requirement to have minimum parking standards, the lots have been sized with sufficient space to accommodate at least two off-street parking spaces.
- 143 Two potential future bus stop locations have been identified along Arataki Road, adjacent to the intersections with Meissner Road and the proposed road AR04.
- 144 The ITA assesses the site to have good transport accessibility and that the proposal will have negligible effects on the surrounding transport environment. It also concludes that the anticipated construction traffic can be adequately managed by a Construction Traffic Management Plan. The proposed conditions in Appendix 9 to the Planning Report (updated in the Applicant's response to comments) address the implementation of mitigation and management requirements to address any transport effects arising from the proposed development, including during construction.
- 145 Section 13.9 of the Planning Report acknowledges that the wider community raised concerns relating to access and egress, street parking and road widths, and additional traffic volumes. The Planning Report concludes that the traffic and transportation effects of the proposal will be acceptable for the following reasons:
- accommodation of peak hour traffic being generated by the development;
 - no adverse road safety effects having been identified;
 - general compliance with adopted residential zone transport performance standards;
 - no adverse carparking effects, opportunity to incorporate bus stop in the future;
 - provision of walking and cycling connections;
 - accommodation of essential services including waste collection and emergency services;
 - appropriate urban gateway treatment; and
 - management of construction traffic through a CTMP.

Comments received

- 146 HDC was generally satisfied with the proposal and the conclusions of the ITA.

- 147 In relation to the specific question put by the Panel in Minute 2, HDC agreed that the ITA did not provide comment on the use of Meissner Road or the potential impacts on Meissner Road of traffic generated by the development. The Council noted that in the context of access to the schools, there is easy pedestrian and cycle access in the area from the development via Meissner Road, and via a walkway at the end of Te Heipora Place to the schools. HDC further commented:

It could be expected that there would be an increase in traffic using Meissner Road at school times with the development. Given the AADT on Meissner Road and the extent of the development, the potential increase in traffic using Meissner Road is unlikely to create any issues on both Meissner Road and at the Meissner Road / Russell Robertson Drive roundabout. The challenge is to determine the potential traffic volumes where the purpose is school related.

It may be appropriate that the applicant be asked to provide an assessment of the question raised by the panel with that provided as an addendum to their ITA.

- 148 Arataki Honey has operated at 66 Arataki Road for over 80 years. The comments outlined its operations, with truck use of Arataki Road, including at times outside normal work hours (such as between midnight and 4:00a.m.). Arataki Honey sought that the width and function of Arataki Road should not be compromised by pedestrian crossings and speed humps.
- 149 Susan Doughty, G & P Kidd, Hayden Senior, Jeremy & Lyn White, Christine & Clive Brown are all Arataki Road residents. Their comments raised a number of general transport concerns including: the sufficiency of internal roads for emergency vehicles and waste collection trucks; increased traffic volumes and construction traffic effects on the surrounding roads; overdevelopment and inadequacy of transport infrastructure; traffic congestion; traffic noise; safety; lack of public transport services; insufficient parking provision within the Site; potential adverse effects of spill-over parking on Arataki Road, and consequential traffic congestion.
- 150 Shaggy Range (S & J Johnston): With respect to transportation matters, their primary concern related to reverse sensitivity to noise and dust effects generated by use of their aggregate driveway. These effects are addressed in the Reverse Sensitivity section of this decision report.

Applicant's response to comments

- 151 The Applicant addressed transport-relevant comments in a memo prepared by Flow Transportation²⁹ and in its Planning Overview Response report³⁰ prepared by Woods.
- 152 Meissner Road is identified as an Access Road in the HDP, intended to accommodate up to 1000 vehicles per day. The Flow memo reiterates that the proposed development is well connected to nearby schools, including by walking and cycling. The road access

²⁹ *Arataki Project Fast-Track Substantive Application: Response to Hastings District Council Comments; Flow Transportation Specialists, 17 November 2025*

³⁰ *Planning Overview Response Report, Arataki Project, CDL Land New Zealand Limited, 86, 108 & 122 Arataki Road, Havelock North; Woods, 20/11/2025*

routes are described as “direct, safe, and convenient active-mode routes to each school”. It concludes that:

“While some school-related drop-offs could occur via Meissner Road, this is expected to be a low volume of trips. Using Meissner Road for drop-offs would only shorten the total travel distance by approximately 460 metres, with students still required to walk another 500 metres or more to reach their respective school buildings. In practice, parents are likely to drop students directly at the schools’ on-site parking areas, and children walking or cycling are likely to do so entirely from within the Arataki Project, given its strong and safe active-mode connections.”

- 153 Based on an analysis of school-related traffic generation, the memo states that even under an “extreme and unrealistic scenario in which all school drop-off and pick up trips used Meissner Road”, the increase in traffic would be significantly less than the road capacity.
- 154 In response to Shaggy Range, the Applicant acknowledged the concerns expressed and provided a record of post-lodgement correspondence between the parties. The Applicant stated that its preferred option is to relocate the Shaggy Range driveway to the southern boundary of the site but had not been able to reach agreement with Shaggy Range on that option. It stated that if relocation could be agreed, for cost reasons the driveway would not be sealed. To facilitate this option, the Applicant proposed additional consent condition 14A:

Alternative Concept Plan Implementation (Relocation of 104 Arataki Road (Shaggy Range) Driveway)

14A If the Consent Holder and the owner of 104 Arataki Road (Lot 1 DP 13265) reach a written agreement to relocate the existing driveway to 104 Arataki Road to the southern boundary of the Arataki Project site, the Consent Holder may implement the Alternative Masterplan for the Arataki Project, prepared by Urban Acumen and referenced in Schedule 1.

To implement the Alternative Masterplan, the Consent Holder must:

(a) For information purposes, submit an updated Scheme Plan to the HDC Environmental Consents Manager (or nominee) confirming the alternative access arrangement for Lot 1 DP13265, and any consequential amendments to the Arataki Project lot layout, roads, infrastructure, and reserve areas; and

(b) Apply for and obtain a change of consent conditions under Section 127 of the Resource Management Act 1991 to incorporate the updated scheme plan and any consequential changes to the conditions of consent.

The Applicant’s responses to other reverse sensitivity matters raised by Shaggy Range are addressed elsewhere in this decision report.

- 155 In response to points raised by other commenters, the Applicant reiterated the conclusions of its effects assessment provided in Section 13.9 of the Planning Report and in the ITA, confirming that the road network can safely accommodate expected traffic volumes, and that road widths and layouts have been designed to maintain safe vehicle movements, including for heavy vehicles.

Responses to Requests for Information

- 156 In Minute 4, the Panel requested HDC to confirm that it does not anticipate traffic calming platforms being required along Arataki Road. In response, HDC stated that Council's Transportation Policy & Planning Manager has confirmed that HDC would not install traffic calming platforms in Arataki Road given that it will be on a bus route from late January 2026.

Panel findings

- 157 Having considered all comments received, the Panel has not identified any likely adverse impact of the Project on the function and safety of the local roading network that would be unacceptable.
- 158 With specific reference to Meissner Road and access to local schools and facilities, the Panel accepts the Applicant's additional analysis. The predicted traffic volumes are well within the road capacity and safe alternative modes (walking and cycling) are available.
- 159 The internal roading layout is appropriate for the development and provides for walking and cycling connections between internal roads and to the greenspace of the stormwater dry basin reserve. A shared path and pedestrian path are to be provided along the Arataki Road boundary of the development.
- 160 The Panel finds that the Applicant has proposed an appropriate roading and access design that will provide for a range of transport modes and appropriately minimise associated effects on the adjacent road network, including during construction. No expert evidence has been received to contradict that finding.
- 161 The matters raised by Shaggy Range have been given specific consideration in the earlier discussion and findings on Reverse Sensitivity. As described in that section of this decision report, the Panel now includes a condition requiring the sealing of the Shaggy Range driveway (subject to that landowner's agreement and approval) as a response to a reasonably anticipated potential indirect effect of the proposed development.

Neighbourhood character effects

- 162 The Site is zoned Plains Production in the HDP and shares boundaries with rural-zoned land to the east and south. Land on the western side of Arataki Road marks the eastern edge of the currently zoned urban area for Havelock North. While the Site sits to the immediate east of the existing urban zoned footprint, it has been identified in the HPUDS, RPS and FDS for future residential development, being a logical extension to existing residential development on the western side of Arataki Road.
- 163 As acknowledged in the Applicant's Planning Report,³¹ the Project provides for a residential subdivision that is effectively an extension of the existing Havelock North

³¹ Section 13.4

urban residential area. The Planning Report identifies and assesses the following potential neighbourhood character effects:

- The Project's integration with the existing residential area to the west; and
- The resulting neighbourhood character effects within the Arataki Project Site.

- 164 The Applicant's assessment of these effects in the Planning Report has sought to address early feedback and concerns raised by existing adjoining residents regarding issues relating to the final density and built form / urban outcomes which the Project would enable.
- 165 Two key documents were prepared to inform the design of the proposal in a way which could consider and address neighbourhood character effects and these are provided with the Planning Report:
- The Urban Design Assessment (**UDA**), (Appendix 13)
 - The Residential Development Framework (**RDF**), (Appendix 14).
- 166 The UDA identified a suite of design objectives to guide the Project (as well as a number of design responses to address identified key site and interface constraints.³² These design objectives and design responses were utilised to inform the design of the subdivision layout for the Site. Following the completion of the subdivision design process, the RDF was then prepared to assist in informing the final built form outcomes for the site.³³
- 167 Given the Site's current Plains Production zoning, the provisions of the zone do not enable residential development at the scale proposed by the Project. To provide certainty for future owners and developers of the proposed lots, resource consents were sought as part of the Application that apply the development standards outlined in the RDF. The RDF provisions would be imposed as a land use consent condition and secured through a consent notice on the Record of Title of the residential lots created by the Project.
- 168 The RDF document establishes a set of Design Outcomes and Development Standards which seek to enable urban residential development on the Site, in lieu of urban zoning. The RDF provides a planning framework for establishing urban residential development and was intended for use by future house builders and owners to inform their residential development designs. Compliance with the RDF would be assessed by HDC at the time of Building Consent, providing a consistent mechanism for implementation. The RDF framework was intended to provide certainty as to the range of potential built outcomes that could be achieved on the Site and also enabled the assessment of potential amenity and neighbourhood character effects of future development (set out in Section 13.4 of the Planning Report.)

³² Summarised at Sections 7.1.1.1 and 7.1.1.2 of the Planning Report.

³³ Section 7.3 of the Planning Report.

169 The subdivision design identified two 'Lot Types', discussed and assessed through the UDA as well as the RDF. These include:

- Lot Type 1: applies to the majority of sites in the Project and includes those lots that are 400m² and greater in size. These lots tend to be located around the site perimeter / boundary interfaces to the north, south, east and west; and
- Lot Type 2: applies to a small number of sites located internally within the Site. These sites are sized below 400m² and situated in areas where a more compact built form can be appropriately integrated into the development.

170 In terms of the design outcomes and development standards proposed in the RDF, 'Type 1' lots would seek to achieve built form and character outcomes similar to the Havelock North General Residential Zone (**HNGRZ**) in the Operative District Plan, while the smaller number of 'Type 2' lots would seek to achieve built form outcomes similar to those anticipated through the 'Medium Density Residential Standards' (**MDRS**) regulations (which applied to Tier 1 territorial authorities identified under the NPSUD).

Integration with the Existing Residential Area

171 The UDA concludes that the Project will contribute to maintaining continuity in the built form and structure to the existing residential area, while enhancing accessibility and housing diversity.

172 The Planning Report also acknowledges that the Proposal's integration with the wider area will occur over time as the different stages of the development are completed, delivered and developed.

Arataki Neighbourhood Character Effects

173 Section 13.4.2 of the Planning Report assess that the Project is considered to have positive neighbourhood character outcomes overall for the following reasons:

- Through the RDF, a cohesive urban character will be created through the use of consistent rules relating to building heights, setback requirements, orientation requirements and landscaping requirements.
- The Project includes a range of lot sizes to enable different housing typologies to establish within the site and support the needs of different household types.
- The proposed street layout provides for good connectivity throughout the site.
- Street trees and amenity landscaping will be included as part of the overall Project to soften the built form and provide vegetated streetscapes and accessways.
- Green areas and the stormwater dry basin local purpose reserve will contribute to providing additional greenspace and an informal recreation space to meet the recreational needs of the future residents.

Distribution of Medium Density Sites

174 The Planning Report notes (Section 13.4.3) that early feedback provided by the District Council on the location and distribution of the smaller 'Type 2' lots suggested that

clustering these smaller lots adjacent to the stormwater reserve and / or the northern end of the development would better leverage the amenity and outlook opportunities offered by that open space.

- 175 The proposed distribution of lots across the site was determined by a number of fixed physical and design constraints that have shaped the final layout. In particular, the Planning Report discusses how the internal road network needed to align with the existing intersections at Meissner Road and Grooby Place. These connection points dictated the placement of key internal roads, which in turn set the overall block structure for the development.
- 176 As a result, the subdivision design sought to locate the 'Type 2' lots internally within other more conducive blocks within the Site, away from rural zone boundaries and the interface with the existing low-density neighbourhood on the western side of Arataki Road. This positioning is intended to support a graduated density transition while ensuring these smaller lots receive good solar access, with private outdoor living spaces to the north or west and no overshadowing from adjoining development.
- 177 The Planning Report concludes that, overall, the distribution of lot types responds directly to site-specific constraints and masterplanning objectives for the Project. The subdivision design and masterplanning for the Site seeks to enable an appropriate mix of densities while maintaining visual coherence, managing interface effects, and ensuring quality urban outcomes. These matters are considered to be further supported by the RDF, which seeks to establish built form, landscape and amenity controls across all lots.
- 178 As will be seen by the discussion below, the Applicant has made some key changes to the role of the RDF in response to comments from and further engagement with HDC.

Comments received

- 179 Comments relating to neighbourhood character and amenity effects were received from the following invited parties:
- HDC and HRBC: Comments received from the District Council outlined how the Applicant and the Council were continuing to have conversations in relation to the detail and workability of the proposed RDF approach for the future consenting of the residential land use / development itself. HDC's feedback confirmed that the Applicant, following discussions within the Council, was now proposing to replace the RDF approach with a simpler process where the 'Type 1' lots would apply the existing provisions of the HNGRZ set out in the District Plan, while the 'Type 2' lots would similarly apply the existing District Plan provisions relating to the Medium Density Residential Zone (**MDRZ**). Overall, the District Council considered this revised approach to represent a more streamlined and practical mechanism that reduces the likelihood and number of future consent notice variations, while maintaining an appropriate level of design control and alignment with the District Plan framework. The Regional Council provided no commentary in relation to neighbourhood character and amenity matters.
 - Olive Grove owners (C & M McKenzie): Bay Planning on behalf of the Olive Grove confirmed the owners' understanding that the Project would result in built form outcomes akin to those already existing on the western side of Arataki Road. No

specific comment was provided in relation to lot sizes, however it was noted that owners welcomed the inclusion of the UDA as a component of the application.

- D & J Hall (Arataki Road residents): Provided a range of comments specifically relating to matters of residential amenity and neighbourhood character. A range of amendments / design changes were requested to be considered by the Applicant, in particular a request to amend the subdivision design layout to increase the total amount of proposed lots sized 700m² or greater (sought between 20-30% of all lots created be 700m²+). These larger lots were considered to provide more sensitive edge interfaces and assist to act as a buffer between the smaller 'Type 2' lots proposed internally within the Site. The feedback also addressed matters relating to overlooking and privacy consideration within the site.
- C & C Brown; P & G Kidd; H Senior; J & L White (Arataki Road residents): Provided feedback in relation to proposed lot sizes and community character, noting they considered the proposed density and lot sizes for the Project were too small and entirely inconsistent with the established character and lot sizes in the Arataki area.
- Susan Doughty: Ms Doughty (a resident in Arataki Road) raised compatibility issues between residential character / amenity in the context of the nearby rural activities (specifically dog kennels, machinery workshop and noise/odour from Te Mata Mushrooms) and also sought that consideration be given to reducing the total number of lots and ensuring each lot had adequate open space / garden provision.

Applicant response to comments

- 180 The Applicant's comprehensive response to comments dated 20 November 2025 made a series of changes to the Project. As foreshadowed by the HDC comments, the change that is directly relevant to neighbourhood character and amenity issues is the replacement of the RDF approach with application of the HNGRZ and MDRZ District Plan provisions through consent notices to be placed on each title. Draft conditions 68B and 68E initially sought to apply consent notices to relevant lots requiring compliance with the RDF. The amendments proposed by the Applicant in their response to comments sought to delete the references within these conditions to the RDF, and instead reframe draft conditions 68B and 68E to specifically relate to the need for future dwelling construction to comply with the relevant District Plan provisions for the HNGRZ and the MDRZ.
- 181 The Applicant's Appendix 2 (RDF Background Documentation), provided as part of their comprehensive response to comments, assessed the potential change in approach between utilisation of the initially proposed RDF against the Council's suggested approach of reliance on the existing zone provisions of the District Plan. This assessment confirmed that whilst the Applicant was comfortable with reliance on the majority of the existing provisions of the District Plan, they also continued to seek to apply bespoke consent notices where the provisions of the applied zoning would not achieve the intended design outcomes.

Requests for further information

- 182 Minute 3 sought specific feedback from HDC and HBRC in relation to the Applicant's proposed amendments to conditions and, in particular, replacement of the RDF approach.

183 HDC provided the following comments in response to Minute 4:

- In terms of the proposed condition changes relating to the RDF, HDC's preference is for the proposal to simply have consent notice conditions requiring the development to meet the relevant provisions of the District Plan. HDC noted this feedback was shared with the Applicant during early engagement and consider that this approach is generally clearer, aligns more closely with the outcomes the District Plan seeks to achieve, and is easier to administer and implement over the long term.
- Given the Site is currently zoned for rural use, utilising an approach which simply refers to the existing District Plan provisions for HNGRZ and MDRZ (via consent notice conditions) would likely make any future rezoning process for the Site simpler, since it would not need to reflect a range of bespoke development standards for a limited number of lots.
- If the Applicant did wish to retain some bespoke development standards, HDC considered that this could be achieved through private covenants, rather than replacing the District Plan requirements through bespoke consent notices.

Panel findings

184 After careful consideration of all relevant material before us, the Panel make the following findings in relation to neighbourhood character and amenity effects:

- The proposed density / lot sizes to be delivered by the Project are not likely to create a built form outcome which is at odds with the existing residential character of the surrounding Arataki area. Generally, the Project will enable standalone, two-storey dwellings on lots ranging from 400m² – 950m² (for the 'Type 1' lots) in a similar context to that enabled by the operative HNGRZ which applies to those existing residential properties on the west side of Arataki Road.
- An urban use of the land, while not consistent with the general purpose and outcomes sought by the operative Plains Production Zone, will deliver an outcome which is aligned with HDC's long anticipated and planned urban built form outcome, identified for some time in the Council's long-term strategic / spatial planning documents, including the HPUDS and the more recent FDS 2025. While there is a degree of inconsistency between the Project and some objectives and policies of the District Plan (in relating to the Rural Resource Strategy and the Plains Production Zone), there is alignment with a wider range of objective and policies across the District Plan.
- HDC's feedback and request for reliance on the existing HNGRZ and MDRZ provisions of the Operative District Plan, rather than the originally proposed RDF approach is appropriate. Amendments to the draft conditions to align with HDC's feedback in this regard have been included in the decision.
- With the Applicant's proposed conditions (with amendments proposed by both the Applicant and the Panel) and mitigation measures in place, the Project will not give rise to adverse effects regarding neighbourhood character and amenity.

The Panel's findings on other effects on the environment

185 The remaining effects on the environment, which are discussed below, have been appropriately assessed by the Applicant and, with the conditions imposed, can be adequately addressed, will be acceptable, and do not preclude or count against a grant of consent. For that reason, and as signalled earlier in this decision report, the discussion of these effects is brief.

Rural land use effects

186 Urban development of the Arataki Road Site will result in the loss of approximately 11ha of rural zoned land identified as containing Land Use Capability (**LUC**) Class 3 soils which, on the face of the relevant definition, are considered to be highly productive under the National Policy Statement: Highly Productive Land (**NPS:HPL**). The need to protect the productive capacity of the Heretaunga Plains is emphasised in both the Hawke's Bay RPS and the District Plan.

187 A legal memorandum lodged with the Application sets out the Applicant's view that the Site does not meet the definition of "highly productive land" in the NPS:HPL because it was identified as suitable for future urban development in a strategic planning document within the relevant time period. Nevertheless, out of an abundance of caution, the Applicant's Planning Report assessed³⁴ the loss of the Site from rural production against the requirements of the NPS:HPL, concluding that it meets the exemption test set out in Clause 3.10. The reasons can be summarised as follows:

- Significant physical site constraints, including poor drainage and shallow topsoils, small size and irregular shape, fragmentation by existing shelter belts and driveways, limited or no access to irrigation water.
- Proximity to residential activity and encroachment by residential development to the west and north, limiting operational flexibility.
- Given these constraints, the Site's existing identification as a residential expansion area, and the fact that it is not part of a wider cohesive area of rural production, residential development is an appropriate use that will avoid more dispersed residential expansion that could result in greater cumulative loss of productive land.

188 None of the commenters raised the loss of productive land as an effect of concern, although HDC in response to Minute 3 did express concern about the Applicant's lack of detailed assessment against the relevant objectives and policies of the Plans Production Zone. It also took issue with some of the conclusions of the Fruition Horticulture report but ultimately acknowledged that the Council was "fundamentally supportive of the urbanisation of this land". The Council's frustration was clearly directed at the nature of the FTAA process in situations where re-zoning would be a more logical approach.

189 It is worth noting here that the recent changes to national direction instruments have made some changes to the NPS:HPL. We discuss the application of those changes to

³⁴ Planning Report, Sections 11.2.2 and 13.2. See also Appendix 17, a report by Fruition Horticulture.

this Application later in this decision report, having sought comment from the Applicant's legal adviser.

- 190 Overall, the Panel finds that the loss of the Site from productive use does not constitute an effect that would preclude the grant of consent for residential development purposes.

Ecological effects

- 191 The Applicant's ecological assessment is provided in the Ecology Report³⁵ and summarised in the Planning Report.³⁶ The description of the site provided in the Ecology Report is uncontested and is adopted by the Panel. In summary, that assessment concluded that the Proposal will not result in the loss of any significant terrestrial or aquatic ecological values.
- 192 The downstream receiving environment for stormwater from the Site comprises modified sections of rural stream that are unnamed tributaries of the Karamū Stream. The outlet structure for the stormwater system will be located outside of the stream bed adjacent to the Brookvale Road culvert, with rip rap armouring to provide erosion protection.
- 193 Based on the proposed construction and permanent stormwater mitigation and proposed consent conditions, the Ecology Report concludes that "the potential ecological effects of this project have been identified, investigated and assessed and will be avoided or managed to a level of Very Low or Negligible".
- 194 In its comments, HBRC did not identify any information gaps and accepted the methodology used to assess ecological effects. HBRC considered that the Applicant's characterisation of ecological effects as 'very low' to be "slightly optimistic, given that the stream continues to support taonga species (longfin eel, īnanga, kōura) that remain vulnerable to cumulative stressors such as sedimentation, low dissolved oxygen, high instream temperatures, and potential contaminant loading". HBRC would characterise the effects as 'low' but acknowledges that that difference is not material to the overall conclusion. No significant ecological issues have been identified, subject to the proposed monitoring and management conditions being implemented.
- 195 HBRC considered the suite of conditions offered by the applicant to be comprehensive, with particular strengths in:
- Sediment and erosion control during construction.
 - Stormwater treatment design as it relates to water quality and ecological outcomes.
 - Detailed water quality monitoring requirements (including nutrients, metals, hydrocarbons, E. coli, and TSS).

³⁵ Appendix 19 to the Application.

³⁶ At section 13.12.

- 196 HBRC recommended improved linkages between conditions that require water quality monitoring and responses (Conditions 142 and 170). The Applicant has provided a minor addition to Condition 170 to improve that linkage.

Infrastructure effects

- 197 The applicant's Infrastructure Report³⁷ describes the provision of public infrastructure for the development.
- 198 At present the existing wastewater trunk mains do not have capacity to cater for the Site. However, HDC has confirmed that its wastewater capacity augmentation project is programmed for delivery in the 2025/2026 financial year. Upon completion, that wastewater upgrade project "will provide adequate system capacity to accommodate the proposed development, ensuring no adverse impacts on the performance or operation of the existing wastewater network"³⁸.
- 199 The existing watermain on the western side of Arataki Road will be extended into the Site to provide water supply connections. A report detailing the water supply design and modelling for the Site was provided with the Application.³⁹ From the modelling undertaken over the Site (modelled with 171 dwellings) the proposed reticulation complies with the HDC Eng CoP and the Firefighting Water Supplies Code of Practice (SNS PAS 4509:2008) requirements. HDC has also confirmed that water supply is available.
- 200 The Site will be supplied by extending power reticulation within Arataki Road. Any reticulation extension or upgrades required for the development will be undertaken following reticulation design by Unison. A Power Availability Letter from Unison has been provided.⁴⁰
- 201 The Site will be supplied by extending telecommunications reticulation within Arataki Road. Any reticulation extension or upgrades required for the development will be undertaken following reticulation design by Tuatahi First Fibre. A Conditional Clearance Letter from Tuatahi First Fibre has been provided confirming telecommunications access.
- 202 Natural gas is not proposed to be available for this subdivision.
- 203 Stormwater and transportation services have been addressed earlier in this decision report.
- 204 The Panel finds that there is sufficient infrastructure capacity, either existing, to be upgraded (by HDC) or provided by the Applicant to service the Arataki Project.

Earthworks effects

³⁷ Appendix 11 of the Application.

³⁸ RE: *Arataki Project Fast-Track Substantive Application Hastings District Council : Comments on Substantive Application*; 13 November 2025, Section 2.

³⁹ Appendix F Water Supply Report, attached to Appendix 11 Infrastructure Report

⁴⁰ Appendix C, attached to Appendix 11 Infrastructure Report

- 205 Bulk earthworks will be required to regrade the 11.6ha site for building platforms, retaining walls, roads and services, and the permanent stormwater dry basin. These works might be staged. A second phase of earthworks will occur during house construction on each lot.
- 206 The Applicant has provided draft erosion and sediment control plans for the bulk earthworks stages, and a suite of conditions to address the management of earthworks during construction. Those conditions are supported by HBRC.
- 207 The works will be implemented in accordance with the following management plans that are to be submitted to HBRC for certification.
- Construction Environmental Management Plan (a template has been submitted with the Application);
 - Erosion and Sediment Control Plan (draft erosion and sediment control drawings have been provided with the Application);
 - Chemical Treatment Management Plan; and
 - Spill Management Plan.
- 208 Other management plans are also to be submitted and implemented, including:
- Bulk Earthworks Plan / Construction Staging Methodology; and
 - Dust Management Plan.
- 209 The above plans can be submitted in stages.
- 210 The overall approach to construction management is uncontested. Dust suppression water will be sourced from the on-site sediment retention pond or alternative supply agreed by HDC or HBRC. The primary sediment retention pond will have a clay liner to prevent infiltration of sediment laden water into the underlying water supply aquifer. HBRC has reviewed and accepted that approach, with the proviso that an additional consent may be required for the use of chemical treatment (flocculants) to enhance the settlement efficiency of the sediment retention pond. In its responses to comments, the Applicant disagreed with HBRC, stating that "[flocculant use would be] limited to the construction period and for construction of the stormwater management pond and therefore does not trigger any additional resource consents".
- 211 We find that the Applicant is likely wrong on that point and that an additional discharge consent for the use of flocculants may be required. However, we find that such a consent is incidental to construction and is not determinative of the overall outcome of the Application before us. Such a consent can be obtained separately if necessary.
- 212 Construction traffic effects have been addressed earlier in this decision.
- Noise and vibration Effects**
- 213 An acoustic assessment was submitted as Appendix 23 to the Application. HDC did not comment on noise effects, but some comments were received from Arataki Road

residents⁴¹ regarding additional noise that might be generated by the occupation and use of the development. Others⁴² raised concern about construction noise, and reverse sensitivity effects of their operations.

- 214 Noise effects have been discussed to some extent in the context of reverse sensitivity issues earlier in this decision report.

Construction Noise

- 215 Construction Standards NZS6803:1999 Acoustics Construction Noise and DIN 4150-3:2016 Structural Vibration – Effects of Vibration on Structures are to apply though conditions. Hours of construction are to be limited to 7.30am and 6.00pm, Monday to Saturday and no works are to be undertaken at any time on Sundays or on public holidays. Temporary acoustic screening is to be implemented at the boundary of 96 Arataki Road, 104 Arataki Road, Lot 1 DP 13265 and 160 Arataki Road. Occupants of all adjacent properties are to be notified at least five days before earthworks begin on each stage (or combination of stages). Noise complaint and response procedures are to be imposed.
- 216 Appendix D of the acoustic assessment contains a draft Construction Noise and Vibration Management Plan. An updated version of that must be submitted with the Construction Environmental Management Plan.
- 217 The Panel finds that the construction activities will be consistent with those typically expected for residential subdivision. Associated temporary noise effects will be acceptably minimised. Vibration effects are considered to be acceptable and comply with the relevant standard to be imposed through conditions.

Operational Noise

- 218 The Acoustic Assessment considered the potential environmental noise impacts of the new residential dwellings and surrounding living environments. The evaluation included a site visit, acoustic survey, and observations of neighbouring residential, commercial, and rural sites during both day and night. It specifically addressed potential reverse sensitivity noise sources from surrounding sites including Brookvale Business Hub, Arataki Honey, Olive Grove, Residential Homes (Adjacent Residential Zone), and Shaggy Range Doggy Day Care. No other significant noise sources were identified.
- 219 The Assessment concluded that “the noise levels received at the proposed site from neighbouring sites are expected to be reasonable, provided they comply with the boundary noise limits set out in the Hastings District Plan or any applicable resource consent conditions for adjacent commercial sites” and that “ the noise levels that will be generated by non-residential or commercial sites in the area are reasonable for the proposed residential site, both day and night”.

⁴¹ Susan Doughty; G & P Kidd

⁴² C & M McKenzie; Arataki Honey; Te Mata Estate Winery; S & J Johnston (Shaggy Range)

- 220 The Assessment also concluded that “no special acoustic mitigation measures, such as bunding or [permanent] acoustic fencing, are required for day-to-day operational noise to ensure that the noise levels at the site remain reasonable at all times”.
- 221 Shaggy Range raised particular concern regarding reverse sensitivity of new residents being annoyed by barking dogs. This matter is discussed in detail in the reverse sensitivity section of this decision report.

Social effects

- 222 The Applicant’s Planning Report (Section 13.6) sets out an assessment of the potential social effects associated with the Project. This assessment acknowledges the initial consultation and engagement undertaken by the Applicant with key stakeholders, mana whenua as well as neighbouring landowners and how consideration of the feedback received has been incorporated into the design process for the Project.
- 223 Key findings outlined in the Planning Report with regard to potential social effects include:
- The Project will deliver a range of section sizes (including smaller sections) to support housing choice within the Havelock North market on an area of land that is identified for future housing in key strategic planning documents.
 - The site adjoins the existing urban area of Havelock North and represents a logical and efficient extension of the township. Its location enables the provision of new housing close to existing social infrastructure (i.e. schools), reducing pressure on services and limiting the need for significant new transport or community facility upgrades.
 - Initial discussions with the Ministry of Education confirmed that local schools have sufficient capacity to accommodate the expected population growth associated with the Project.
 - The proposed stormwater reserve acts as a dual space, providing for stormwater management as well as a passive recreation space, including a walking track. These public spaces and features, along with the wider landscaping concept for the development, will contribute to both physical health and mental wellbeing of future residents.
- 224 The Applicant’s assessment concludes that the Project will have positive social effects by contributing to a well-functioning, inclusive, and resilient community. While the Panel acknowledges various commenters' opinions that the proposed development density is incongruous with the adjacent residential typology, it prefers the conclusions of the Planning Report. The Panel finds that the Project will not result in adverse social effects. Other related effects have been adequately assessed in other sections of this decision report.

Landscape and visual effects

- 225 The Applicant's Planning Report (Section 13.7) provides a summary of the findings from the Landscape Effects Assessment⁴³. The Application confirms that the Site has not been identified as having any landscape overlays or significant ecological features. There are also no Outstanding Natural Landscapes or Features within the immediate vicinity of the Site.
- 226 With regards to potential landscape and visual effects, the Landscape Effects Assessment concludes:
- The Project provides for varied lot sizes, a no-build and landscape strip along rural boundaries and a carefully designed planting and streetscape outcome that will create a natural differentiation between the urban and rural landscape. These are considered to contribute to a high level of amenity, provide for a logical visual extension to the Havelock North urban area while being respectful to the existing rural area.
 - While the Project will increase density comparative to the existing suburban area, lot sizes are distributed to broadly reflect surrounding character. Larger lots align with Arataki Road and rural boundaries, supported by landscape buffers and no-build areas, while smaller lots are concentrated centrally. The average lot size is 450m², and overall landscape character effects are assessed as Low-Moderate. It is noted that the permitted density within the HNGRZ provides for one building per 350m² and the Project outcomes would therefore not be inconsistent with the enabled outcomes of the Hastings District Plan if that zone were to be applied.
 - The Landscape Effects Assessment made recommendations to facilitate the long-term landscape outcomes for the site, which have been included within the resource consent conditions.
- 227 Overall, the Application assesses that the Project will represent a quality, well considered development that responds appropriately to its landscape context. The Panel accepts the Applicant's assessment and conclusions with regard to the potential visual and landscape effects associated with the Project and finds that any such effects have been appropriately assessed and addressed through the recommended consent conditions relating to the proposed no-build areas and landscape buffers.

Heritage and archaeology effects

- 228 The Applicant's Planning Report (Section 13.18) provides a summary of the findings from the Archaeological Assessment⁴⁴. The Application confirms that no recorded archaeological sites exist within the Site and no archaeological features were identified during the field survey.
- 229 Two mid-20th century heritage features were noted: a packing shed and three stone culverts, but these were not considered to qualify as an archaeological site. The packing shed was identified as having moderate historical and social values as a

⁴³ Appendix 15a of the Application.

⁴⁴ Appendix 22 of the Application.

remnant of the region's orcharding history but is in poor condition and not considered worthy of retention.

- 230 The Archaeological Assessment recommends recording the packing shed to HNZPT Level III standard prior to demolition and applying an Accidental Discovery Protocol during earthworks. In response to feedback received from mana whenua, construction staff will also receive training to ensure cultural awareness and the ability to recognise potential archaeological finds. Conditions of consent are proposed by the Applicant to give effect to these recommendations.
- 231 The Application concludes that no significant archaeological or heritage constraints exist, and potential effects can be appropriately managed through the implementation of the above measures. The Panel agrees with the Applicant's assessment in relation to potential heritage and archaeology effects associated with the Project and finds that any potential effects can be appropriately managed and mitigated by the consent conditions proposed by the Applicant.

Contaminated land and geotechnical effects

- 232 Contaminated land effects and geotechnical effects have been addressed in the Planning Report and corresponding technical assessments.⁴⁵ The Councils and other parties have not provided any specific comments on these matters. The Planning Report confirms that there are some areas of contamination on the site that will be managed through the Remediation Action Plan. The Detailed Site Investigation concludes that the potential risk of direct discharges to groundwater and to surrounding properties or nearby surface bodies is unlikely and that the proposal can comply with the permitted activity criteria of rules 47-49 of the Regional Plan.
- 233 The Geotechnical Investigation Report does not raise significant geotechnical risks or challenges. It provides typical recommendations for slope stability, earthworks, final landforms, foundation design, roads and pavements, and retaining walls. In particular, it provides recommendations on the stormwater dry basin design, including impermeable lining. This has been addressed earlier in this decision report and has been integrated into a consent condition.
- 234 Overall, the Panel finds that the Project will appropriately manage potential adverse contamination and geotechnical effects such that they will be avoided or otherwise be less than minor.

PART F: REGIONAL OR NATIONAL BENEFITS OF THE PROJECT

- 235 Section 3 of the FTAA states that the purpose of the Act is to facilitate the delivery of infrastructure and development projects with *significant regional or national benefits*.
- 236 We note that, in making his decision to include the Project in Schedule 2 of the FTAA, the Minister for Infrastructure has determined that the Project meets the criteria for significant regional or national benefits as set out in section 22(1). However, as noted above in Part C, section 81(4) FTAA specifically requires the Panel to consider the

⁴⁵ Appendices 16, 20, 21 of the Application.

extent of the Project's regional or national benefits.

- 237 There is no specific definition of significant regional or national benefits in the context of listed projects. However, section 22(2) FTAA, which relates to the criteria for assessing a referral application, provides the following guidance:
- (2) For the purposes of subsection (1)(a), the Minister may consider—
 - (a) whether the project—
 - (i) has been identified as a priority project in a central government local government, or sector plan or strategy (for example, in a general policy statement or spatial strategy), or a central government infrastructure priority list:
 - (ii) will deliver new regionally or nationally significant infrastructure or enable the continued functioning of existing regionally or nationally significant infrastructure:
 - (iii) will increase the supply of housing, address housing needs, or contribute to a well-functioning urban environment (within the meaning of policy 1 of the National Policy Statement on Urban Development 2020):
 - (iv) will deliver significant economic benefits:
 - (v) will support primary industries, including aquaculture:
 - (vi) will support development of natural resources, including minerals and petroleum:
 - (vii) will support climate change mitigation, including the reduction or removal of greenhouse gas emissions:
 - (viii) will support climate change adaptation, reduce risks arising from natural hazards, or support recovery from events caused by natural hazards:
 - (ix) will address significant environmental issues:
 - (x) is consistent with local or regional planning documents, including spatial strategies
- 238 The Planning Report provided with the Application included a brief assessment of the Application against the purpose of the FTAA (at Section 9.0) together with a more detailed assessment of economic impacts in the Economic Impact Assessment by Property Economics⁴⁶. This key conclusions of this Assessment are that:
- The additional housing capacity of 171 units in Havelock North represents a significant boost to housing supply for the Hawke's Bay region and contributes to short-medium term residential capacity
 - Increased housing supply to meet demographic needs, with associated market competition, is consistent with the National Policy Statement on Urban Development (NPS-UD)
 - The development will contribute to significant one-off economic benefits for local GDP, jobs and wage growth to an estimated value of \$78million over a five-year period, with an employment multiplier of 230 FTEs during peak development and a total of 629 FTEs over the five-year development period
 - The quantitative and qualitative economic benefits to the regional economy would significantly outweigh the limited economic costs associated with the Project.
- 239 Neither the nature of the economic impact nor the significance of economic benefits were the subject of criticism or challenge in the invited comments. The most relevant comment was made by HDC in its response to Minute 3. In the context of a discussion about consistency of the Project with the relevant District Plan provisions, the Council

⁴⁶ Appendix 26.

queried whether the level of demand for housing warrants the take up of productive land at this time, in the following terms:

The demand assessment does not provide a detailed assessment as to whether there is actual demand for 170 dwellings in the Havelock environment at this time. The amount of current supply for Havelock North is as follows:

Brookvale 550 dwellings

Iona 350 dwellings

Orderings 35 dwellings

Brookvale Extension 125 dwellings

Total dwellings: 1060

It is noted that only 30 of the estimated 900 lots in Brookvale and Iona developments have progressed to building consent stage. Council has concerns at the potential for a predominantly Havelock North centred supply of housing growth for the wider Hastings urban area. While we do not consider this to be detrimental to the development of additional land it does influence future growth decisions within the district.

- 240 In light of the Panel's findings regarding the adverse impacts of the Project, there is no need to inquire more deeply into the significance of the regional benefits claimed, particularly given the absence of any challenge to the Applicant's assessment. To the extent necessary, the Panel accepts that the Project has sufficient regional benefits.

PART G: STATUTORY DOCUMENTS

- 241 The Applicant's Planning Report (Section 11) addressed the relevant statutory documents and identified relevant provisions. To avoid repetition, this section of the decision report focuses on the documents and provisions of particular relevance to the Application and the comments received. The Panel also relies on the findings we have made earlier in this decision report in relation to effects and the conditions we have decided to impose in support of the conclusions reached on relevant planning provisions (including Part H: Regional and District Planning Framework as relevant to the topic area).

National Policy Statements

- 242 The relevant National Policy Statements include:

- National Policy Statement for Freshwater Management 2020 (**NPSFM**);
- National Policy Statement on Urban Development 2020 (**NPSUD**);
- National Policy Statement for Indigenous Biodiversity 2023 (**NPSIB**); and
- National Policy Statement on Highly Productive Land (**NPSHPL**).

National Policy Statement for Freshwater Management 2020

- 243 The NPSFM sets out a framework under which local authorities are to manage

freshwater (including groundwater).⁴⁷ The objective of the NPSFM is to ensure that natural and physical resources are managed in a way that prioritises the:⁴⁸

- health and well-being of water bodies and freshwater ecosystems;
- health needs of people (such as drinking water); and
- ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.

244 This objective reflects the hierarchy of obligations in Te Mana o te Wai.⁴⁹

245 The Applicant assessed the Project against the objective and policies of the NPSFM and concluded that any adverse effects generated by the proposed works and discharge on freshwater resources will be low and thus will be consistent with outcomes anticipated under the NPSFM. The Panel has considered and agrees with this assessment.

National Policy Statement on Urban Development

246 The NPSUD sets out a framework which requires councils to plan well for future growth and ensure a well-functioning urban environment for all people, communities and future generations. The objectives and high-level policies of the NPSUD apply to all councils that have all or part of an urban environment within their district or region. The NPSUD identifies Hastings District Council as a Tier 2 local authority, and as such the specific policy direction within the NPSUD regarding Tier 2 local authorities is relevant to consideration of this Application.

247 Section 11 of the Planning Report identifies and assesses the Application against the relevant provisions of the NPSUD. The Panel has considered and agrees with this assessment.

248 The Panel notes HDC's stated position in its initial comments on the Application, which agreed with the statutory assessment undertaken by the Applicant as set out in the Planning Report. While HDC's further response (in relation to Minute 3) did raise some issues of inconsistency relating to the policy direction contained within the District Plan (noting the Site's currently operative zoning as Plains Production, discussed in further detail below), the Council did not raise any concerns with regard to the Application's ability to assist the Council in giving effect to their requirements under the NPSUD.

249 Policy 6 of the NPSUD applies to 'planning decisions that affect urban environments', requiring that councils have regard to, among other things:

- a. that the planned urban built form in those RMA planning documents may involve significant changes to an area, and those changes:

⁴⁷ NPSFM clause 1.5.

⁴⁸ NPSFM clause 2.1.

⁴⁹ NPSFM clause 1.3.

- (i) may detract from amenity values appreciated by some people but improve amenity values appreciated by other people, communities, and future generations, including by providing increased and varied housing densities and types; and
 - (ii) are not, of themselves, an adverse effect;
- b. ... the benefits of urban development that are consistent with well-functioning urban environments (as described in Policy 1);
 - c. any relevant contribution that will be made to meeting the requirements of this National Policy Statement to provide or realise development capacity; ...
- 250 As the Application is for a resource consent for residential development, it is considered a 'planning decision' for the purposes of the NPSUD.⁵⁰ The Applicant has stated that the Project will assist the Council to fulfil its functions and responsibilities with respect to providing for urban growth and is consistent with the outcomes anticipated by the NPSUD.⁵¹ The Panel agrees with the Applicant's overall assessment of the NPSUD, noting the Council's comments and general comfort regarding the Application.
- 251 The Panel considers that the Project will increase housing supply and potentially assist in improving housing affordability by supporting competitive land and development markets (Objective 2). It will contribute to a well-functioning urban environment by enabling a variety of homes and is located with good access to public open spaces, schools, transport as well as community and commercial services (Policy 1). It will also provide urban development benefits and assist to realise additional development capacity (Policy 6).

National Policy Statement for Indigenous Biodiversity 2023

- 252 The objective of the NPSIB is:
- (a) to maintain indigenous biodiversity across Aotearoa New Zealand so that there is at least no overall loss in indigenous biodiversity after the commencement date; and
 - (b) to achieve this:
 - (i) through recognising the mana of tangata whenua as kaitiaki of indigenous biodiversity; and
 - (ii) by recognising people and communities, including landowners, as stewards of indigenous biodiversity; and
 - (iii) by protecting and restoring indigenous biodiversity as necessary to achieve the overall maintenance of indigenous biodiversity; and
 - (iv) while providing for the social, economic, and cultural wellbeing of people and communities

⁵⁰ NPSUD, 1.4 interpretation, definition of 'planning decision'.

⁵¹ Planning Report, Section 11.2.

now and in the future.

253 The Applicant assessed the Project against the objective and policies of the NPSIB, and concluded that it will be consistent with outcomes anticipated NPSIB for the following reasons⁵²:

- Mana whenua have been consulted throughout the development of the Project as set out in the Consultation Report (Appendix 6). Mana whenua recommended that locally sourced native plants be considered in the landscape strategy;
- The Site does not present any features, fauna or flora habitats that present significant ecological values as referred to in the Ecology Report (Appendix 19). The Site is currently in pasture and has been for many years. All past existence of indigenous vegetation has long since been removed; and
- The proposal will result in ecological gains through a proposed comprehensive planting strategy across the development, including within the proposed vegetated buffer, the Local Purpose (Drainage) Reserve and the streetscape. A mix of primarily native and exotic species are proposed to support biodiversity goals.

254 The Panel agrees with this assessment.

255 In their initial comments on the Application, the Regional Council reviewed the draft conditions and considered that the specific conditions regarding freshwater quality and ecology (draft conditions 118-176) were comprehensive and appropriate. The Regional Council recommended one minor amendment to the draft suite of conditions to improve cross-referencing between the conditions provide clarity. The Panel agrees with this minor amendment to conditions proposed by the Regional Council.

256 The Panel considers that the conditions are necessary and appropriate to avoid outcomes for indigenous biodiversity on the Site that would otherwise be contrary to the objective of the NPSIB. In light of the above, the Panel is satisfied that the Application is consistent with the NPSIB.

National Policy Statement on Highly Productive Land 2022

257 The NPSHPL has an overarching objective to protect highly productive land for use in land-based primary production.

258 As discussed earlier in this decision report, the Applicant has assessed the Project against the relevant provisions of the NPSHPL, concluding that:

- While the Site is defined as “highly productive land” it is identified for future urban development within the HPUDES and the RPS. Therefore, it is not subject to the requirements of the NPSHPL.
- The Applicant is of the view that the District Council considered the Site to be subject to the requirements of the NPSHPL and must therefore meet the exemption test outlined in Clause 3.10 of the NPSHPL in relation to land that is subject to

⁵² Planning Report, Section 11.2.4.

permanent or long-term constraints.

- The analyses and supporting assessment (provided as Appendix 17) demonstrate that the Project satisfies the requirements of Clause 3.10 and the land can therefore be considered for subdivision.

- 259 The Panel notes the District Council's stated position in its initial comments on the Application, which agreed with the statutory assessment undertaken by the Applicant. While HDC's further response (in relation to Minute 3) did raise some issues of inconsistency relating to the policy direction contained within the District Plan (noting the subject site's currently operative zoning as Plains Production and the associated policy direction with regards to productive / versatile soils, discussed in further detail below), the Council did not raise any concerns with regard to the Application's ability to satisfy the requirements under the NPSHPL.
- 260 In December 2025, the NPSHPL was amended in a number of respects, one of which is directly applicable to this Application. Clause 3.5(7) (the definition of *highly productive land*) has now been amended so that land subject to a resource consent application for subdivision, use or development on LUC 3 land for any activity other than rural lifestyle is exempt from the definition. On the basis of this amendment, the Arataki Site clearly falls outside the definition. The Panel records its thanks to the Applicant's legal adviser for confirming the impact of this amendment promptly in response to Minute 6.
- 261 As a result of the amendment to the NPSHPL, the Panel is satisfied that the Application is not subject to the requirements of the NPSHPL.

National Environmental Standards

- 262 The Planning Report identified that the Project requires restricted discretionary consent under Regulation 10 of the NESCS. The Application is supported by a Remediation Action Plan (RAP) on the basis that a desktop study identified four potential historical HAIL activities on the Site as follows:
- Historic horticultural activities (HAIL item A10);
 - Burning of building material and/or refuse (HAIL item I);
 - Deterioration and/or improper demolition of historic structures (HAIL item I/E.1);
and
 - Stockpiling of potentially contaminated material of unknown origin (HAIL item G.3).
- 263 The RAP sets out a range of remediation actions and associated site management controls to make the land safe for human use and thereby meet the requirements of the NESCS.
- 264 The Panel has considered the Applicant's conclusions that the actual and potential adverse effects on the environment and human health can be appropriately managed via the Applicant's RAP and associated draft conditions such that they will be less than minor.⁵³ Both the District and Regional Councils have reviewed the Applicant's
-

proposed conditions and raised no concerns nor sought any amendments in relation to the draft conditions proposed to manage potential effects regarding potential site contamination.

- 265 The Panel therefore concludes that the Project will not generate adverse contaminated land effects or be at odds with the intent and purpose of the NESCS.

PART H: REGIONAL AND DISTRICT PLANNING FRAMEWORK

- 266 An assessment of the relevant statutory plans has been included within the Planning Report as is required by Schedule 5, clause 5(1)(h).
- 267 The Panel has reviewed and considered the Applicant's assessment and the comments provided by the Council. The key matters are discussed in the following sections (as well as adding further considerations and assessment where necessary).

Regional Policy Statement

- 268 The Hawkes Bay Regional Policy Statement (**RPS**) sets out the overall strategic statutory framework to achieve integrated management of the natural and physical resources of the Hawkes Bay Region. It identifies nine significant resource management issues of regional significance.
- 269 The Application considers that the Project primarily engages with the provisions set out in Chapter 3.1B of the RPS in relation to 'Managing the Built Environment'. These provisions seek to manage urban development and strategic integration of infrastructure by avoiding the effects of sporadic and unplanned urban development, particularly in the Heretaunga Plains sub-region.
- 270 Overall, the Planning Report concludes that the Project is a well-considered, planned greenfield development that supports the objectives of the RPS in providing for growth while protecting the region's valuable rural land and infrastructure networks.

Panel Finding

- 271 The Panel notes the Regional Council's stated position in its initial comments on the Application, which concurred with the Applicant's statutory assessment.
- 272 The Panel finds that the Application is not contrary to the relevant provisions of the RPS.

Regional Plan

- 273 The Hawkes Bay Regional Resource Management Plan (**RRMP**) is the key resource planning document for all resource users in Hawke's Bay. It includes the RPS provisions (discussed above) and sets out a policy framework for managing resource use activities in an integrated manner across the whole of the Hawke's Bay region.
- 274 Section 11.4 of the Planning Report assesses the Project against the following identified relevant provisions contained in Chapter 5 of the Regional Plan:
- 5.1 – Environmental Objectives and Policies;
 - 5.2 – Land;

- 5.4 and 5.5 – Surface Water Quality; and
- 5.8 – Beds of Lakes and Rivers.

275 The Planning Report also notes that the Application has assessed the Project against the provisions of Plan Change 9 (TANK) to the RPS, even though those provisions are not yet operative.

Panel Finding

276 Again, the Panel notes the Regional Council's stated position in its initial comments on the Application, which concurred with the statutory assessment undertaken by the Applicant in the Planning Report.

277 The Panel finds that the Application is not contrary to the relevant provisions of the RRMP. The Panel considers that the Project will assist to support the sustainable use of land and water resources, will avoid adverse effects on freshwater quality (through recommended consent conditions to manage and mitigate any potential effects), and generally aligns with the principles of integrated management and efficient urban growth.

Operative District Plan

278 The Hastings District Plan (**District Plan or HDP**) provides the means for the people of the Hastings District to manage the effects of the use, development and protection of the natural and physical resources within the Hastings District. It guides and controls how land is used, developed or protected in order to avoid or mitigate the impact of any adverse effects on the environment.

279 The Application assesses the Project against the following identified relevant provisions contained in the District Plan:

- Section 2.4 – Urban Strategy;
- Section 2.5 – Transport Strategy;
- Section 2.8 – Rural Resource Strategy;
- Section 3.1 - Tangata Whenua and Mana Whenua;
- Section 6.2 – Plains Production Zone;
- Section 15.1 – Natural Hazards;
- Section 25.1 – Noise;
- Section 26.1 – Transport & Parking;
- Section 30.1 – Subdivision & Land Development; and
- Section 27.1 – Earthworks.

280 Section 11.5 of the Planning Report provides a summary assessment of the Project

against each of these sections of the District Plan. Appendix 8 provides a more detailed assessment of the Project against the identified relevant objectives and policies of each of the identified sections of the District Plan noted above.

- 281 In summary, the Planning Report concludes that the Project aligns with the strategic direction and relevant provisions of the District Plan as it will enable a well-integrated urban extension to Havelock North while appropriately managing effects on rural character, infrastructure, and the environment through a tailored suite of consent conditions and supporting technical assessments.
- 282 The Panel notes the District Council's stated position in its initial comments on the Application, which agreed with the Applicant's statutory assessment.
- 283 However, the District Council's response to Minute 3 contained further detailed commentary, highlighting concerns with the assessment set out in the Planning Report relating specifically to the assessment of the Project against the objectives and policies of the Plains Production Zone. The District Council's commentary highlighted the following concerns:
- Broadly speaking, the type of activity proposed would not be considered consistent with the rules, performance standards or objectives and policies of the Plains Production Zone. The Project would likely be considered to be contrary to these provisions, given the proposed development will remove the subject site as a primary production rural resource
 - The Planning Report's assessment regarding Section 2.8 Rural Resource Strategy of the District Plan raises concerns that the evaluation relies heavily on the site being a small portion of Plains Production/Highly productive land and the soils constraints, rather than meaningfully assessing the outcomes, objectives and policies of Section 2.8 of the District Plan which sets out the strategic direction for managing rural productive lands
 - The Council considers that the Rural Resource Strategy set out in the District Plan is centred on retaining rural character, supporting the ongoing viability of the wider productive environment, and carefully managing the pressure that incremental urban expansion places on rural activities. The Council noted these matters need to be considered even where a specific site appears less versatile
 - The Applicant's assessment against Section 6.2 Plains Production Zone of the District Plan also raises concerns. The Council considers the assessment in the Planning Report relies on the site being identified for future growth, not currently being in intensive or productive use, and that the project is well designed as reasons alone for the application being consistent with the objectives, policies and outcomes sought for the Plains Production Zone
 - While the assessment briefly touches on the residential development and subdivision not being anticipated in the Plains Production Zone, it simply reasons that the land is identified as a future growth area. Without any substantial assessment of the outcomes, objectives and policies of the Plains Production Zone, the Council considered it would be difficult to conclude that the proposal is in "accordance with the relevant objectives and policies of the district plan" as stated in the Planning Report.

Panel Findings

- 284 The District Council is correct in noting there is a degree of inconsistency between the Project (being a residential subdivision and development) and a number of the identified outcomes, objectives and policies of the Rural Resource Strategy and the Plains Production Zone. The Project is consistent with some provisions, but not others.⁵⁴ However, the Project is largely consistent with the wider suite of District Plan provisions which have been identified and assessed in Section 11.5 (and Appendix 8) of the Planning Report.
- 285 Notwithstanding the concerns raised, the Council made clear in its response to Minute 3 that it is fundamentally supportive of urbanisation of the Arataki land. Most of the issues arise from the inability of the consenting pathway to meet the objectives and policies of the Plains Production Zone that a rezoning of the site (via a Plan Change, prior to resource consent being sought) would likely resolve.
- 286 The Project would enable an urban residential subdivision and development of rurally zoned land, however it is not considered that the Project would be contrary to Objective PPPO1 and Policy PPP7 (which seek to ensure that the Plains Production Zone is not fragmented by development and that defined urban limits are established to prevent ad hoc urban development).
- 287 While the Panel acknowledge the site is currently zoned Plains Production under the District Plan, it has long been signalled for future urbanisation by the Council in both the HPUDS 2017 as well as the more recent NHFDS (dated August 2025). Urban development of the site cannot be considered to be 'ad hoc', and nor is it considered to fragment the Plains Production Zone or rural land resource. Urban development of the site would instead form the logical extension of the currently operative 'urban zoned footprint' under the District Plan in a manner which would be consistent with the Council's own long-term growth planning for Havelock North.
- 288 The Panel is also mindful of the currently proposed Private Plan Change 9 (Brookvale East) to the District Plan, which was lodged on 4 October 2025 (with further submissions closing on 28 November 2025). This private plan change relates to an area of land to the immediate north of the Arataki site and seeks a rezoning of the land from Plains Production to a mix of residential and open space zones. This private plan change also appears to be seeking an urban rezoning to achieve an outcome which aligns with the Council's long-term growth planning as identified in the NHFDS. If Private Plan Change 9 were to be approved, alongside an approval of this current Project, both sites would achieve an urban outcome which aligns with the Council's FDS. If either PPC9 or the Arataki Project were to be approved on their own, independent of each other, the Panel considers such an outcome would still be consistent with the Council's long term growth planning and would not be contrary to Objective PPPO1 and Policy PPP7 of the Plains Production Zone.

⁵⁴ For example, while the Project is not considered to be consistent with certain provisions (for instance Policies PPP3, PPP5, PPP13 as examples) of the Plains Production Zone, there is consistency with other provisions (eg Policies PPP14, PPP15 and PPP16).

- 289 Put simply, the Panel finds that the concerns raised by the District Council do not relate to any 'in principle' issue with an urban outcome being achieved for the site – but rather an aspect of inconsistency with some provisions of the District Plan by virtue of the statutory process being utilised in this instance (being a consent approval being sought through the FTAA process, prior to seeking any plan change).
- 290 The Panel has considered the assessment provided by the Applicant, alongside the comments provided by the Council, and finds that – on balance - the Application is not contrary to the overall relevant provisions of the Hastings District Plan. Whilst the Panel acknowledges there is a degree of inconsistency with some District Plan objectives and policies (relating to the Rural Resource Strategy and Plains Production Zone), the Project is consistent with other objectives and policies of the Plains Production Zone as well as wider objectives and policies of the District Plan relating to transport, noise and the management of any potential adverse amenity or reverse sensitivity effects

Future Development Strategy

- 291 The Application also included an assessment (Sections 11.6 and 11.7 of the Planning Report) of the Project against both the Heretaunga Plains Urban Development Strategy 2017 (the 'Operative FDS' at the time the Application was lodged), as well as the Draft NHFDS (the 'Draft Replacement FDS' at the time of lodgement). The Panel notes that the NHFDS was adopted in August 2025 and now represents the Council's current FDS, in accordance with the Council's requirements under the NPSUD.
- 292 The FDS is the long-term spatial plan for the Napier and Hastings which looks ahead to 2054. The FDS identifies an overall vision for the future growth of both districts, as well as a number of principles and strategic directions to assist in achieving the stated vision. The FDS identifies the Arataki site as a 'New / Expanded Residential Area' (the site identified as 'HN2b' on Figure 20, age page 80, of the FDS).
- 293 The Planning Report assesses that the Project is consistent with the FDS by enabling well-functioning, resilient urban growth in a strategically identified location, with supporting infrastructure and housing supply to meet future demand.

Panel Finding

- 294 The Panel agrees with the assessment set out in the Planning Report that the Project is aligned with the FDS and will assist to realise the unlocking of a new residential area which has long been considered and identified for urban use through both the previous HPUDS 2017 as well as the recent NHFDS 2025.

Conclusion regarding consistency with the regional and district planning framework

- 295 For the reasons outlined above, the Panel finds that the Application is consistent with the regional and district planning framework.

Planning documents recognised by a relevant iwi authority and lodged with the Council

- 296 An application for a resource consent must include an assessment of the activity against any relevant provisions of a planning document recognised by a relevant iwi

authority and lodged with a local authority.⁵⁵

- 297 A number of planning documents recognised by relevant iwi authorities have been lodged with the District and Regional Councils. Section 12.1 of the Planning Report summarises and assesses these documents and their respective status and relevance in relation to the site.
- 298 The Planning Report states that the proposed development can be constructed and operated in a manner that is consistent with the environmental and cultural outcomes sought by the relevant iwi authorities and expressed within the relevant Management Plans. Furthermore, the Planning Report notes that the Applicant has committed to ongoing engagement with mana whenua. This is further addressed in the Consultation Report included in Appendix 6.
- 299 Overall, the Panel accepts the Applicant's assessment. No issues or concerns have been raised by either Council in relation to that assessment, nor by the relevant iwi authorities or Treaty settlement entities who were identified in Minute 2 and invited to provide comments on the Application.

Treaty settlements

300 As noted in Part D sections 7 and 8 FTAA state:

7 Obligation relating to Treaty settlements and recognised customary rights

- (1) All persons performing and exercising functions, powers, and duties under this Act must act in a manner that is consistent with—
- (a) the obligations arising under existing Treaty settlements; and
 - (b) customary rights recognised under—
 - (i) the Marine and Coastal Area (Takutai Moana) Act 2011;
 - (ii) the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019.
- (2) To avoid doubt, subsection (1) does not apply to a court or a person exercising a judicial power or performing a judicial function or duty.
- (3) In this section, **existing Treaty settlements** means Treaty settlements that exist at the time the relevant function, power, or duty is performed or exercised (rather than only those that exist at the commencement of this Act).

8 Te Ture Whaimana

- (1) Te Ture Whaimana is intended by Parliament to be the primary direction-setting document for the Waikato and Waipā Rivers and activities within their catchments affecting the rivers (see the legislation referred to in subsection (3)).
- (2) Te Ture Whaimana—
- (a) prevails over any inconsistent provision in a national policy statement, New Zealand coastal policy statement, or national planning standard; and
 - (b) in its entirety is deemed to be part of the Waikato regional policy statement; and any regional plan or district plan that affects the Waikato River or the Waipā River or activities within their catchments must give effect to Te Ture Whaimana.
- (3) In this section, **Te Ture Whaimana** means the vision and strategy set out in—
- (a) Schedule 2 of the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010; and
 - (b) Schedule 1 of the Ngāti Tuwharetoa, Raukawa, and Te Arawa River Iwi Waikato River Act 2010; and

⁵⁵ Schedule 5, clause 5(1)(h) and clause 5(2)(g).

(c) Schedule 1 of the Nga Wai o Maniapoto (Waipa River) Act 2012.

- 301 The Panel's understanding of the relevant Settlement Acts (and associated Treaty settlement deeds) considered to be of relevance to the Application area has been discussed above in Part D of this decision report.
- 302 The Panel is satisfied that the Applicant has considered the relevant Treaty settlements and iwi planning document for the site. Further, the Panel has considered the relevant Treaty settlements in our decision making and is satisfied section 82 of the FTAA has been given effect to.
- 303 A number of conditions proposed by the Applicant recognise matters raised in the relevant Treaty settlements and statutory acknowledgement, including as to accidental discovery protocols, monitoring of water quality, ongoing engagement and education of contractors.⁵⁶ The Panel is not aware of any additional conditions that may be required in order to recognise or protect any relevant Treaty settlement under section 84 of the FTAA.
- 304 As noted in Part B the Panel directed the EPA to seek comment from the Minister for Māori Crown Relations: Te Arawhiti and the Minister for Māori Development under section 72 FTAA. [insert comments received here].

PART I: PRINCIPAL ISSUES IN CONTENTION

- 305 As will be evident from earlier sections of this decision report, the principal issues in contention are largely effects-related. These issues, together with cross references to our earlier findings on the issues, are set out below:
- Reverse sensitivity, in particular the likelihood that complaints from future residents of the Arataki development about noise and other effects generated by existing rural production business on adjacent land might result in constraints being placed on the operation of those lawfully established activities. This issue includes discussion of what constitutes acceptable mitigation of the potential for reverse sensitivity effects, including:
 - (a) adequacy of proposed mitigation measures (planted buffers and acoustic fencing) to manage the interface between the residential and rural activities;
 - (b) No-complaints covenants;
 - (c) Use of consent notices to impose buffer maintenance obligations on future residential owners; and
 - (d) Issues associated with operation of the Shaggy Range driveway.

Findings: see Part E, paragraphs 111-118

- Adequacy of the Stormwater Management Plan to appropriately manage flooding

⁵⁶ See conditions 11-12, 142.

and water quality effects.

Findings: see Part E, paragraphs 131-134

- Transport effects, in particular the potential relocation of the Shaggy Range driveway that would result in an amended masterplan for the residential development on the Applicant's Site.

Findings: see Part E, paragraphs 156-160

- Effects on existing residential character.

Findings: see Part E, paragraph 183

- Adequacy of the Applicant's assessment of the Project against the District Plan provisions applicable to the Plains Production Zone.

Findings: see Part G, paragraphs 283-289

PART J: OTHER CONSIDERATIONS

306 [Placeholder for any additional considerations].

PART K: CONDITIONS

FTAA general requirements for conditions

307 Section 81 provides that the Panel must set any conditions to be imposed on the approval. The statutory requirements for conditions being set are determined by what approvals are being sought.

308 Section 83 must be complied with and provides:

83 Conditions must be no more onerous than necessary

When exercising a discretion to set a condition under this Act, the panel must not set a condition that is more onerous than necessary to address the reason for which it is set in accordance with the provision of this Act that confers the discretion.

309 How the Panel has complied with this section is discussed below in relation to the conditions that have been set.

310 If a Treaty settlement, the Marine and Coastal Area (Takutai Moana) Act 2011, or the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019 is relevant to an approval then section 82 applies. This section provides:

82 Effect of Treaty settlements and other obligations on decision making

- (1) This section applies if a Treaty settlement, the Marine and Coastal Area (Takutai Moana) Act 2011, or the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019 is relevant to an approval.

- (2) If the settlement or Act provides for the consideration of any document, the panel must give the document the same or equivalent effect through the panel's decision making as it would have under any relevant specified Act.
- (3) The panel must also consider whether granting the approval would comply with section 7.
- (4) In this section, **document**—
 - (a) means any document, arrangement, or other matter; and
 - (b) includes any statutory planning document amended as a result of the settlement or Act referred to in subsection (1).

FTAA requirements for conditions

311 For a resource consent the following clauses of Schedule 5 apply:

18 Conditions on resource consent

When setting conditions on a consent, the provisions of Parts 6, 9, and 10 of the Resource Management Act 1991 that are relevant to setting conditions on a resource consent apply to the panel, subject to all necessary modifications, including the following:

- (a) a reference to a consent authority must be read as a reference to a panel; and
- (b) a reference to services or works must be read as a reference to any activities that are the subject of the consent application.

312 Other legal requirements for conditions have been well established by case law and do not require repeating in full, but generally speaking, a resource consent condition must:⁵⁷

- be for a resource management purpose, not an ulterior one;
- fairly and reasonably relate to the development authorised by the resource consent or designation; and
- not be so unreasonable that a reasonable planning authority, duly appreciating its statutory duties could not have approved it.

313 The underlying purpose of the conditions of a resource consent is to manage environmental effects by setting outcomes, requirements or limits to that activity, and how they are to be achieved.⁵⁸ Conditions must also be certain and enforceable.⁵⁹

314 Section 220 specifies the conditions that may be imposed on a subdivision consent.

Project conditions

315 The Applicant provided an updated set of conditions to the Panel on 20 November 2025, responding to a number of specific matters raised in comments received from invited parties pursuant to Minute 2. The Panel used this updated condition set as a base to develop the draft conditions circulated on [insert date] for comments.

⁵⁷ *Newbury District Council v Secretary of State for the Environment* [1980] 1 All ER 731 (HL), at 739.

⁵⁸ *Summerset Village (Lower Hutt) Ltd v Hutt City Council* [2020] MZEnvC 31 at [156].

⁵⁹ *Bitumix Ltd v Mt Wellington Borough Council* [1979] 2 NZLR 57. Also, a condition must also not delegate the making of any consenting or other arbitrary decision to any person, but may authorise a person to certify that a condition of consent has been met or complied with or otherwise settle a detail of that condition. See *Turner v Allison* (1970) 4 NZTPA 104.

316 The Applicant has advised on [insert date] that the minor amendments proposed by the Panel are acceptable [amend as required once Applicant comment received].

317 The Panel also received comments on the draft conditions from:

a. [insert].

318 The Panel has accepted most of the proposed amendments for the reasons outlined by the commentators. The main outstanding issues related to:

a. [insert].

319 The Panel has considered the views and generally accepted the suggested wording and reasoning of one or other party as relevant, subject to some drafting refinements. In particular, the Panel advises it has made the following decisions with respect to the different views presented.

[insert if relevant]

Consent notices pursuant to s221 of the RMA

320 Consent notices are necessary to require conditions 65-68 to be complied with on an ongoing basis:

- Site-wide geotechnical, stormwater management and fencing requirements.
- Buffer interface landscaping and fencing requirements (along the south-eastern boundaries of the Site)
- Reserve boundary fencing requirements (along the northern boundary)
- Onsite vehicle manoeuvring and access
- Application of the Hasting District Plan Havelock North General Residential Zone (for Lot Type 1) and Havelock North Medium Density Residential Zone (for Lot Type 2) provisions.

321 The consent notices are targeted and appropriate to ensure that there is ongoing compliance with these requirements beyond the completion of the relevant stages of subdivision and that all future owners of each residential lot are fully informed as to their obligations with respect to these matters.

Conclusion regarding conditions

322 [insert].

323 To the extent the final set contains minor errors, the Panel notes it has powers under section 89 of the FTAA to make minor corrections.

PART L: RMA 1991

324 As noted in Part C, Schedule 5, clause 17 sets out how the application is to be accessed under various provisions of the RMA. The substantive provisions of relevance

to the Application are Part 2, and the various matters that must be considered under section 104.

- 325 It is important to record that clause 17(1) gives express direction to the Panel regarding the weighting to be applied to the various matters it must take into account when considering a consent application. The greatest weight must be given to the purpose of the FTAA so that, if the Application achieves that purpose, that matter will be determinative even in the face of Panel findings as to adverse impacts (assuming they are not sufficiently significant as to warrant a decline under section 85 FTAA) or inconsistency with national, regional or local policy direction. Even failure to achieve the purpose of the RMA would be insufficient, on its own, to displace the weight to be given to the purpose of the FTAA.
- 326 The Applicant addressed Part 2 of the RMA in the Planning Report,⁶⁰ concluding (in summary) that:
- The Project is complementary to the objectives set out in section 5 by providing for the social and economic wellbeing of people and communities, increasing expenditure, employment and income within the local economy and providing capacity for 171 new, healthy homes to assist with local housing supply.
 - Relevant matters of national importance (section 6) have been recognised and provided for, including by engagement with mana whenua in relation to cultural values, management of stormwater and water quality of local waterways, and by assessing and managing site-specific natural hazards.
 - The Project is consistent with the other matters in section 7, providing for an efficient extension of the existing Havelock North urban area with support from existing infrastructure networks in a manner that will not compromise amenity and will mitigate effects on local natural water resources.

Panel finding

- 327 As a result of the conclusions reached on the effects of the Application and in the context of the relevant planning provisions and the conditions, the Panel finds that the Application is consistent with Part 2.

PART M: FTAA, SECTION 3

- 328 The Panel's decision is subject to the purpose of the FTAA, contained in section 3, namely to: facilitate the delivery of infrastructure and development projects with significant regional or national benefits.
- 329 As noted earlier in this decision report, the Panel accepts the Applicant's assessment, in the absence of any challenge to that assessment, that the Project will deliver development with sufficiently significant regional benefit. The Project will therefore meet the purpose of the FTAA.

⁶⁰ Section 10.

PART N: OVERALL ASSESSMENT

- 330 As noted in Part C the Panel may decline an approval if, in complying with section 81(2), the Panel forms the view that:
- (a) there are 1 or more adverse impacts in relation to the approval sought; and
 - (b) those adverse impacts are sufficiently significant to be out of proportion to the project's regional or national benefits that the panel has considered under section 81(4), even after taking into account—
 - (i) any conditions that the panel may set in relation to those adverse impacts; and
 - (ii) any conditions or modifications that the applicant may agree to or propose to avoid, remedy, mitigate, offset, or compensate for those adverse impacts.⁶¹
 - (4) To avoid doubt, a panel may not form the view that an adverse impact meets the threshold in subsection (3)(b) solely on the basis that the adverse impact is inconsistent with or contrary to a provision of a specified Act or any other document that a panel must take into account or otherwise consider in complying with section 81(2).
- 331 This test is different from the test developed over the years under the RMA which culminated in the decision of *Environmental Defence Society v The New Zealand King Salmon Company Limited & Ors (King Salmon)*⁶². The King Salmon case was clear – the approach by the Courts and local authorities of adopting an overall judgement approach to environmental decision making under the RMA was incorrect.
- 332 In contrast the FTAA clearly envisages an overall judgment or balancing approach to decision making. The Panel must balance the adverse impacts against the regional or national benefits of the project.
- 333 With reference to our evaluation of the effects of the Project (which themselves comprised the principal issues in contention) the Panel is satisfied that there are no adverse impacts of such significance as to be out of proportion to the Project's regional benefits. There is therefore no basis for the approvals sought to be declined.

PART O: FINAL DECISION

- 334 The Panel has considered the Application and supporting information as well as the comments received on it and on the draft conditions, as well as the further information provided as a result of comments received from other participants and the subsequent refinement of the Application. We thank all those who commented for their contributions.
- 335 Overall, the Panel is satisfied that the matters set out in section 81 of the FTAA have been addressed appropriately and that purposes of the FTAA is achieved by this Decision. In reaching that view, the Panel has had regard to the actual and potential effects on the environment of allowing the activity as set out above. The Panel has also had regard to the relevant planning documents.
- 336 The Panel determines to grant the approvals sought subject to the Conditions attached as Appendix A to this Decision.

⁶¹ Section 82 FTAA

⁶² [2014] NZSC 38

337 As required by section 99 of the FTAA the persons listed in that section are entitled to appeal and must commence any appeals within the 20-working day period from the day this Decision is published under section 88(3).

Jennifer Caldwell
(Chair)

Michael Parsonson
(Member)

Matt Lindenberg
(Member)

DRAFT

APPENDIX A: CONDITIONS OF CONSENT

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APPENDIX B: CONSENTS REQUIRED

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