HAWKE'S BAY
REGIONAL COUNCIL
TE KAUNIHERA Ā-ROHE O TE MATAU-A-MĀUI

MEMO

To:	Jennifer Caldwell (Panel Convenor) and the Expert Panel on the Arataki Project
From:	Brandon Baillie (Senior Planner Hawke's Bay Regional Council)
Date:	1 December 2025
Subject:	**MINUTE 3 OF THE EXPERT PANEL** **REQUEST FOR INFORMATION – REVERSE SENSITIVITY** **ARATAKI [FTAA-2506-1083]**
File Ref:	APP-131332

This memorandum has been prepared by Hawke's Bay Regional Council (**HBRC**) to assist the Expert Panel in relation to the Fast-Track application being **Arataki, referenced by the EPA as FTAA-2506-1083]**. Minute 3 of the Expert Panel requests information in relation to Reverse Sensitivity. Item 10 specifically asks HBRC to provide commentary in response to section 5.3 of the Bay Planning report filed on behalf of C&M McKenzie, which identifies a range of Regional Plan objectives and policies that it considers are relevant to reverse sensitivity issues.

This memorandum provides comment on the extent to which the application is consistent with or has had regard to the relevant Regional Resource Management Plan (**RRMP**) objectives and policies relating to reverse sensitivity, with particular regard to the provisions identified in section 5.3 of the Bay Planning report. It should be noted that the Regional Policy Statement (**RPS**) is contained within chapters 1 to 4 of the RRMP.

Relevant Objectives and Policies

Based the comments provided by Bay Planning, we interpret the key concern from C&M McKenzie as being around noise and use of agrichemicals (spraying) on a rural property impacting on nearby residential properties. Noise is controlled by the District Plan, and our focus is on the potential reverse sensitivity effects from use of agrichemicals.

The following objectives and policies of the RRMP are considered relevant to consideration of reverse sensitivity issues for the project: OBJ UD1, OBJ UD2, POL UD1, POL UD4.3, OBJ 16, POL, 5, POL 6 and OBJ 19. The application has considered the objectives and policies set out in Chapter 3.1 of the RPS, which relates to managing the built environment (for example UD4.3)[1], but other provisions that relate to managing conflicting land uses appear not to have been specifically assessed in the application.

OBJ UD1 (b) reads as follows:

> "*Establish compact, and strongly connected urban form throughout the Region, that:*
>
> *(b) avoids, remedies or mitigates reverse sensitivity effects in accordance with objectives and policies in Chapter 3.5 of this plan*."

The relevant provisions of Chapter 3.5 of the RRMP are OBJ 16, Pol 5 and Pol 6.

[1] Planning Report, section 11.3

OBJ 16 reads as follows:

> *For future activities, the avoidance or mitigation of off site impacts or nuisance effects arising from the location of conflicting land use activities*.

POL 5 *Role of non-regulatory methods* reads as follows:

> *To use non-regulatory methods as set out in Chapter 4, in particular liaison with territorial authorities, as the primary means of preventing or resolving problems arising from incompatible land use activities and implementing the problem-solving approaches set out below.*

POL 6 *Problem-solving approach – Future land use conflicts* reads as follows:

> *To recognise that the future establishment of potentially conflicting land use activities adjacent to, or within the vicinity of each other is appropriate provided no existing land use activity (which adopts the best practicable option or is otherwise environmentally sound) is restricted or compromised. This will be primarily achieved through liaison with territorial authorities and the use of mechanisms available to territorial authorities, which recognise and protect the ongoing functioning and operation of those existing activities.*

OBJ 16, POL 5 and POL 6 do not identify a specific setback distance, instead they seek the use of the non-regulatory measures in chapter 4 of the RRMP to achieve problem solving through liaising with territorial authorities. The applicant has liaised with Hastings District Council (**HDC**) (Application Appendix 7a) regarding reverse sensitivity (particularly at the southern boundary) where the HDC officer commented:

> "*In summary, and preferred method for dealing with conflict between the urban/rural interface is to provide appropriate buffers through greater distance, preferrable 30m, rather than relying on no complaints covenants and planting which in some circumstances have limited effect, and may put at risk future rural uses for neighbouring sites.*"

Section 13.3.1 of the substantive Arataki Project Planning Report speaks to reverse sensitivity relating to spray drift and discusses the 10 m and 30 m setback distance taking into consideration the relevant permitted activity rules (being Rules 9 and 10, see Appendix 1 below) of the RRMP, relating to application of agrichemicals.

These rules require adherence to specific sections (i.e. *Use of Agrichemicals*) the New Zealand Standards 8409:2004. Although not directly referenced, regard has been had to the outcomes sought by OBJ 16, POL 5 and POL 6 and chapter 3.5 of the RRMP and therefore, OBJ UD1(b), but the proposed measures are not consistent with the territorial authority's comments on the matter.

OBJ UD2 and **POL UD1** are relevant in providing for residential growth and urban activities.

OBJ UD2 seeks to provide for residential growth through higher density development in suitable locations. The site is situated within the Future Development Strategy (FDS) 2025-2054 as a site for intensification to enable more housing growth in select areas. This provision is relevant, however reverse sensitivity was not considered as part of the FDS process. The application is not inconsistent with this provision.

POL UD1 states that in providing for urban activities, territorial authorities must place priority on particular items, one of which being the retention of the versatile land of the Heretaunga Plains for existing and foreseeable future primary production. In this instance, POL UD1 is relevant as appropriately managing reverse sensitivity through careful design of the proposal will help to retain the lawfully established activities that are currently utilising versatile land for food production.

POL UD4.3 sets out *appropriate residential greenfield growth areas* and includes the Arataki site. The application is consistent with this provision.

POL UD12(l) set out the matters that territorial authorities are to have regard to when preparing or assessing urban development of land, including:

> *(l) Avoidance, remediation or mitigation of reverse sensitivity effects arising from the location of conflicting land use activities;*

The application includes consideration of **POL UD12(l)** being the territorial authority's considerations relating to reverse sensitivity.

OBJ 19 being *the avoidance of any significant adverse effects on human health, property or the environment from agrichemicals use* is relevant to reverse sensitivity as there may be an increased risk of an effect on human health or property as a result of intensification of residential activities. Section 13.3.1 of the Arataki Project Planning Report recognises spray drift can have adverse human health and odour effects and further notes that "*shelter belts that are greater than 3 metres in height and 1 metre thick are recognised in the New Zealand Standard for the Management of Agrichemicals (NZS 8409:2004) as reducing spay drift hazards*. *The Olive Grove at 70 Arataki Road contains such shelter belts along both Arataki Road and the common boundary with the subject site.*" The applicant also proposes additional buffer planting as shown in Figure 17 of section 7.4.2 (sourced from Appendix 24) of the Arataki Project Planning Report. Regard has been had to effects on human health from application of agrichemicals.

Rules Relating to Use of Agrichemicals

Permitted activity rule RRMP Rule 9 for small *scale application of agrichemicals* attached below (see appendix 1) item *(b) requires there be no discharge or drift of any agrichemical beyond the boundary of the subject property*. Noting that this rule is for *small scale* (further described in Rule 9, included in Appendix 1 below) applications, it is assumed the scale of C&M McKenzie's operation may exceed "small scale" which is restricted to smaller scale domestic use of agrichemicals (for example using handheld spraying devices).

Therefore, RRMP permitted activity Rule 10 for *Widespread application of agrichemicals* (see Appendix 1) would be the applicable permitted activity rule. Rule 10 standards/terms relate to the use of agrichemicals, but no specific setback distance is stated within Rule 10 or within the New Zealand Standards referenced within these rules. Instead, the rule sets out performance standards and measures that must be undertaken to lessen the risk of spray drift. For example, notifying neighbours, applying spray at the correct concentrations and in suitable wind and weather conditions. Even though Rule 10 does not specifically require that there is *no spray drift beyond all boundaries*, spray activities must be managed to ensure that adverse effects of spray drift are avoided, as sought by POL10. Rule 10 does provide some guidance on suitable setback distances and recognises that shelter belts can be effective at mitigation the effects of spray drift. The rule requires that warning signage is displayed if spraying occurs within 30 m of public land, or within 10 m of public land if a shelter belt is in place. Provision of a live shelter belt (more than 3m in height and 1 m thick) is identified in rule 10 as a factor that can reduce the risk of spray drift effects. While not directive of setbacks from neighbouring private property, it does indicate the benefits of shelterbelts and the setbacks indicated are consistent with what is sought through the Bay Panning comments for C&M McKenzie.

For effects between private land, Rule 10 and if a landowner must spray in circumstances where drift beyond the property boundary cannot be entirely avoided and it happens within 50 m of an adjacent property more than once in 12 months, then a written spray plan is required at the start of each season. This spray plan (following Appendix M4 of NZS 8409) must be made available to

neighbours on request. The intent is to inform neighbours in advance on what will be sprayed, when, and the precautions that will be taken, so they can take any necessary actions (like shutting windows etc.). This requirement helps to address and lessen the risk of reverse sensitivity effects by promoting communication between neighbouring parties.

We are aware of other examples where setbacks are specified to manage the effects from rural/residential reverse sensitivity effects:

- The Central Hawke's Bay District Plan review (part operative 2024) sets varying setbacks based on lot sizes:
    - For rural sites larger than 2.5 ha, buildings must be at least 15 m from all boundaries. If a small lot (≤2.5 ha) borders a larger lot (>2.5 ha), it still must maintain 15 m from that boundary.
    - For small lots that abut other small lots or residentially zoned land, a smaller 5 m yard can apply. This effectively ensures that where a lifestyle lot sits next to a working farm/orchard in Central Hawke's Bay, the house will be 15 m back on its side and likely the farm sheds or activities similarly set back on their side, yielding about 30 m total separation.
- Also, Northland Regional Council's Proposed Regional Plan for Northland sets out spray buffer requirements for different types of spray applications and wind speeds. Although addition requirements apply to how spray is applied, for ground-based applications in lower wind speed conditions (<5 m/s), a 10 m buffer distance with *effective shelter* is an appropriate buffer distance. Without effective shelter, a 30 m buffer distance is required. There are a number of other defining characteristics that apply to an *Effective shelter* including a minimum height of 3.5m and having a width to height ratio of 1:3.5. In the Northland Regional Council instance, effective shelter belts are a recognised measure for mitigating spray drift.

It is noted that there is currently a dwelling within about 6 m of the property boundary shared with C&M McKenzie (the dwelling at 86 Arataki Road). Dwellings on the opposite side of Arataki Road (western side) appear to be as close as approximately 24 m to the property boundary (and approximately 38-40 m from the olive grove itself). There are no previous recorded complaints of spray drift recorded in HBRC's complaint register originating from activities at the olive grove site (70 Arataki Road).

Appendix 24 of the Arataki Project Planning Report identifies a combined separation distance of 40 m (proposed 10 m building setback from the shared boundary plus the existing 30 m olive tree setback from the shared boundary)[2] that appears to be consistent with the above existing combined separation distances.

A combination of adherence to Rule 10 requirements and best practice spraying, use of a vegetative buffer and an appropriate setback between the rural and residential properties is likely to adequately address the risk of reverse sensitivity effects. HBRC supports the approach of providing a suitable buffer and a vegetative shelterbelt, and there is merit in expanding the proposed buffer strip width by realigning the accessway to Shaggy Range if possible.

Conclusion

The RRMP provisions aim to ensure that new activities avoid creating reverse sensitivity effects between conflicting land uses that impacts on existing lawful activities. Guidance can be taken from RRMP Rule 10, which indicates a 10 m to 30 m buffer can be appropriate, with shelterbelts considered effective in reducing the risk of offsite spray drift. Consistent with the RRMP provisions, a suitable setback and shelterbelt should be established and maintained between the Project and neighbouring Olive Grove property. With a suitable shelterbelt and setback in

[2] Appendix 24, Southern Boundary Interface (c)

place, the requirement to apply agrichemicals in accordance with Rule 10 best practice measures further reduces the potential for offsite effects from spraying.

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Appendix 1 – Regional Resource Management Plan Rules

RRMP - Rule 9

Rule	Activity	Classification	Conditions/Standards/Terms	Matters for Control/Discretion	Non-notification
9 **Small scale application of agri-chemicals** *Refer POL 10*	The discharge of contaminants into air or onto land arising from the use or disposal of: • any agrichemicals for domestic purposes[35] • any licensed animal remedies, or • any agrichemicals using a hand-held appliance[36] excluding the use of any agrichemicals approved for aquatic use.	**Permitted**[37]	a. The discharge shall be undertaken in a manner which does not exceed any rate, or contravene any other requirement, specified in the agrichemical manufacturer's instructions. b. There shall be no discharge or drift of any agrichemical beyond the boundary of the subject property. c. The discharge shall not result in any agrichemical entering a water body. d. Where the agrichemical is used for non-domestic purposes, the discharge shall be undertaken in accordance with all mandatory requirements set out in Sections 2, 5 and 6 of the New Zealand Standard for the Management of Agrichemicals (NZS 8409:2004)[38].		

RRMP - Rule 10

Rule	Activity	Classification	Conditions/Standards/Terms	Matters for Control/Discretion	Non-notification
10 **Widespread application of agrichemicals** *Refer POL 8, 10, 17, 47*	The discharge of contaminants into air or onto land, or into water, arising from the use or disposal of any agrichemical[39], except as provided for by Rule 9.	**Permitted**[40]	a. The discharge shall be undertaken in a manner which does not exceed any rate, or contravene any other requirement, specified in the agrichemical manufacturer's instructions. b. The discharge shall be undertaken in accordance with all mandatory requirements set out in Sections 2, 5 and 6 of the New Zealand Standard for the Management of Agrichemicals (NZS 8409:2004). c. For the ground based application of agrichemicals the following qualifications shall be held at all times: i. Every commercial user shall hold a qualification that meets the requirements of Schedule XI for commercial user or be under direct supervision of a person holding the qualification. ii. Every contractor shall be a GROWSAFE® Registered Chemical Applicator. iii. Every employee of a contractor shall hold or be under training for a valid qualification that meets the requirements of Schedule XI for contractor employees. d. Every pilot undertaking the aerial application of agrichemicals shall hold a GROWSAFE® Pilot Agrichemical Rating Certificate. e. The discharge shall not result in any agrichemical being deposited on any roof or other structure used as a catchment for water supply other than in compliance with condition (f). f. Where the discharge is onto land or onto water for the purpose of eradicating, modifying or controlling unwanted aquatic plants: i. Only agrichemicals approved for aquatic use by the Environmental Risk Management Authority may be used. ii. The applications shall not exceed the quantity and concentration required for that purpose. iii. The discharge shall not include disposal to water of any agrichemical. iv. The discharger shall notify: ▪ every person taking water for domestic supply within 1 km downstream of the proposed discharge, and		

Rule	Activity	Classification	Conditions/Standards/Terms	Matters for Control/Discretion	Non-notification
			▪ every holder of a resource consent for the taking of water for public water supply purposes downstream of the proposed discharge at least 1 week before commencing the discharge. g. For aerial discharges, all reasonable measures shall be taken to prevent any discharge of agrichemicals within 20 m of: i. any continually flowing river which has a bed width of 3 m or more, and ii. any lake or wetland[41]. h. Aerial and ground based discharges shall be notified by the property owner, manager or contractor in accordance with the following requirements[42]: i. Where the application is on private land, occurs on any land within 50 m of an adjacent property twice in any 12 month period, and occurs in circumstances where spray drift beyond the property boundary cannot be avoided, a property spray plan shall be prepared at the beginning of each year, or spray season, in accordance with Appendix M4 of the New Zealand Standard for the Management of Agrichemicals (NZS 8409:2004). The plan shall be given upon request to the owner or occupier of any adjacent property, or to a Council officer. ii. Where the application is on private land, signs shall be used to clearly indicate the use of any agrichemicals: • within 10m of public land where there is a shelter belt giving effective protection between the application and the public land, or • within 30m of public land where there is no shelter belt giving effective protection between the application and the public land.		

Rule	Activity	Classification	Conditions/Standards/Terms	Matters for Control/Discretion	Non-notification
			iii. Where the application is on public land notification shall be given in newspapers or by door-to-door advice to land occupiers adjacent to the intended application at the beginning of the spray season, not more than six months prior to application and in any case not less than one month prior to application; and signs shall be used to clearly indicate the agrichemical use. iv. Where the application may affect bee keeping, prior notification shall be given to the affected parties.		