

Notification Report: Land Use Consent Application



Application Number:	LU-2018-1538-00
Applicant:	Harmac Concrete Limited
Consent Sought:	Land Use
Address of Activity:	Kowhai Ford Road, Kaikoura
Legal Description:	Lot 2 DP 10194
Valuation Number:	21070*182*00*

1. Description of the proposal

Land use consent is sought to extend the existing activity on the site, granted through consent Application Number 08052. The established activity is a concrete batching plant and landscape supplies depot covering approximately 7000m². The key purpose of the extension is provide working space for the North Canterbury Transport Infrastructure Alliance ('NCTIR') for storage and pre-cast concrete manufacturing.

The applicant has provided a comprehensive description of the activity as part of the application material which is adopted and summarised below.

The material forming the application includes:

- Application material received 10 August 2018
- Further Information and Variation to Resource Consent received 2 April 2019
- Response to further information clarification received 21 June 2019

1.1 The location and surrounding environment

The site is located on the southern side of Kowhai Ford Road approximately 700m west of the intersection with Red Swamp Road. Access to the site is off Kowhai Ford Road with two accessways onto the site from Kowhai Ford Road. The site includes an existing berm surrounding part of the site, that was required through the previous consent.

The surrounding area is rural in nature with a mixture of grazing, visitor accommodation and residential activities in the vicinity. The site is also located near an existing Downers EDI yard, and gravel extraction activities take place further down Kowhai Ford Road. The further information material identifies that the area has been established as a 'haul route' by NCTIR.

At the time of the site visit, it was noted that Kowhai Ford Road was potholed. Kowhai Ford Road could be described as a typical rural metal road.

1.2 Council records

There is nothing held in the property file that would prevent this application from being granted.

1.3 The proposal

The size of the area to be utilised for the activity is proposed to be increased from approximately 7000m² to approximately 3.5 hectares.

The activities to take place on the site are:

- the existing landscape supplies and concrete batching plant
- storage, laydown and material fabrication, including pre-casting of concrete
- approximately 220m² of office space including amenities such as toilet, showers and kitchen facilities
- supplies of concrete, pre-cast concrete structures, non-structural concrete, and shingle and cement storage
- storage of hazardous substances
- space for vehicle manoeuvring

Mitigation is proposed through the utilisation of earth bunds on part of the site.

Further information was sought as to the operating hours. This was identified in the initial application material as 5am-7pm, with night work required 5 days per month from 6pm to 5am. This was further modified in the response received from the applicant dated 21 June 2019 seeking to operate up to 3 nights per month in the event of an emergency situation.

As part of the activities on the site, vehicle movements will increase from 140 vehicle movements per day as allowed by Consent 08052 to a total of 924 vehicle movements per day.

2. Reasons for application – District Plan requirements

2.1 Zoning

Kaikōura District Plan: Rural

2.2 Activity Status and Relevant Rules

Kaikōura District Plan	
Relevant Rule	Proposal
9.4 hazardous Substances Activities	
9.4.1 Permitted Activities 2. The use and/or storage of hazardous substances identified in Schedule 1 in quantities not exceeding those specified in Schedule 1, except where exemption 9.6.2 applies.	Does not comply. Proposal requires consent as a Discretionary Activity under Rule 9.4.2 as 10,000L of fuel storage is proposed, which exceeds the permitted standard of 3000L.
9.5 Hazardous Substances Performance Standards	
9.5.1 Primary and secondary containment	Does not comply. 110% secondary containment is proposed whereas 120% secondary containment is required under Rule 9.5.1.3. This requires resource consent as a Restricted Discretionary Activity.
9.5.3 All hazardous substance sites shall be adequately signposted according to the Code of Practice for "Warning Signs for Premises Storing Hazardous Substances" of the New Zealand Chemical Industry Council	Complies – can be covered by condition.
12.8 Transport Performance Standards	
12.8.1 Parking and loading a. Minimum Parking Space requirements Pump area plus; 1 space for visitors per 100m ² Gross Floor Area; plus 1 space for staff per 100m ² Gross Floor Area	Complies – the applicant has indicated that there is sufficient room to ensure all parking complies with design standards and the proposal will not breach the parking requirements (Application Page 9).
12.8.1 Parking and loading b. Car parking for disabled persons	
12.8.1 parking and loading g. Surface of parking and loading area	
12.8.2 Vehicle crossings formed and drivable surface of between 4.5m and 6m	Complies – existing accesses utilised.
12.8.4 High Traffic Generating Activities An activity that generates more than 100 vehicle movements per day is a restricted discretionary activity.	Does not comply. Up to 924 vehicle movements per day are proposed.
22.7 Rural Zone Activities	
Unrestricted discretionary – Industrial and commercial activities are listed as unrestricted Discretionary Activities	Applies – the proposal is for a commercial and industrial activity in a rural zone.
22.8 Rural Zone Performance Standards	
1. Lighting - Exterior lights shall be shielded or directed away from adjacent sites and roads and shall not result in lux spill which exceeds 3 lux maximum (horizontal and vertical) onto adjoining residential sites, measured at any point more than 2m inside the boundary of the adjoining site.	Complies – not identified as a reason for consent and can be addressed by way of condition.

<p>2. Noise</p> <p>All activities shall be conducted so that the following noise limits are not exceeded during any time period for assessment within the following time frames:</p> <p>Monday to Saturday 7am to 11pm 50dBA Leq At all other times 40dBA Leq On any day between 11pm and 7am the following day 70dBA Lmax</p> <p>For the purpose of this rule, the measurement and assessment position shall be at any point within any other site in the Rural Zone, or at any point within any residential site within the Settlement Zone, or at any point with the Residential Zone.</p>	<p>Does not comply – Noise limits will exceed the 40dBA night time noise permitted on the site:</p> <ul style="list-style-type: none"> • between the hours of 5am to 7am, any day of the month; and • between 11pm and 7am up to three nights per month in relation to an emergency
<p>3. Height of buildings - 10m maximum.</p>	<p>Complies</p>
<p>4. Residential unit separation</p>	<p>N/A – no applicable activities proposed</p>
<p>5. Density</p>	<p>N/A – no applicable activities proposed</p>
<p>6. Ancillary Residential Unit</p>	<p>N/A – no applicable activities proposed</p>
<p>7. Residential curtailage</p>	<p>N/A – no applicable activities proposed</p>
<p>8. Road boundary separation</p>	<p>Complies</p>
<p>9. Sewage disposal separation distances</p>	<p>Complies – not identified as a reason for consent and can be addressed by way of condition.</p>
<p>10. Gravel extraction</p>	<p>N/A – no applicable activities proposed</p>
<p>11. Intensive farming</p>	<p>N/A – no applicable activities proposed</p>
<p>12. Commercial, conservation and protection forestry</p>	<p>N/A – no applicable activities proposed</p>
<p>13. Indigenous forest clearance</p>	<p>N/A – no applicable activities proposed</p>
<p>14. Indigenous vegetation clearance</p>	<p>N/A – no applicable activities proposed</p>
<p>15. Riparian management</p>	<p>N/A – no applicable activities proposed</p>
<p>16. Separation distance from High Voltage Electricity Transmission Lines</p>	<p>N/A – no applicable activities proposed</p>

<p>17. Drinking water All residential units and visitor accommodation units shall be connected to a potable water supply in accordance with “NZ Drinking Water Standards 2000” or any subsequent amendment or replacement to those standards</p>	<p>N/A – no residential units or visitor accommodation proposed.</p>
<p>18. Waste disposal All activities to comply with the Waste Management Protocol in Appendix G</p>	<p>Complies – not identified as a reason for consent and can be addressed by way of condition.</p>

The activity complies with all other standards of the District Plan and National Environmental Standards (NES).

Resource consent is therefore sought for the following activities:

- The proposal requires consent under Rule 12.8.4 as it is a high traffic generating activity, which exceeds the permitted threshold of 100 vehicle movements, requiring 924 vehicle movements per day. This is a **restricted discretionary activity** with the matters of discretion restricted to:
 - effects on traffic, pedestrian and cyclist safety
 - effects of vehicle movements on amenity values of any residential units
 - effects of vehicle movements on any surrounding land uses
 - efficiency of roads and state highways
- The proposal requires consent under Rule 22.7 as it involves an industrial/commercial activity in a rural zone. This is a **discretionary activity**.
- The proposal requires resource consent under Rule 22.8.2, as the noise emitted from the site will exceed the permitted levels. Noise levels will exceed the permitted level of 40dBA L_{eq} between the hours of 5am and 7am Monday to Saturday, and for up to 3 nights per month in the event of an emergency. Under Rule 22.7.e. this requires resource consent for a **restricted discretionary activity**, with the matters of discretion restricted to
 - the standard not being complied with, which is noise effects.
- The proposal requires consent under Rule 9.4.2 as it involves the storage of hazardous substances which exceed the specified quantities in Schedule 1, which sets a permitted threshold of 3000L for diesel storage, where 10,450L storage is proposed. This is a **discretionary activity**.
- The proposal requires resource consent under Rule 9.5.1.3 as 110% secondary containment is provided for fuel storage where 120% is required. Under rule 9.4.2 this requires resource consent for a restricted discretionary activity, with the matters of discretion restricted to
 - the standard not being complied with, which is secondary fuel storage containment volume

Overall, the activity proposed on the site is a **discretionary activity**.

3. Notification

In deciding if the adverse effects will have or likely to have effects that are more than minor (Section 95D) for the purpose of notification Council:

1. Must disregard any effects on people:
 - who own or occupy the land in, on or over the activity
 - any land adjacent to that land
 - who have given written approval
2. Must disregard any effects that do not relate to:
 - matters under control or for which discretion is restricted to
 - restriction of national environment standard reserves control or restricts discretion to
3. Must disregard trade competition and the effects of trade competition
4. May disregard the effects of the activity if rule or national standard permits activity with that effect

[95A] Public notification of consent applications

(1) A consent authority must follow the steps set out in this section, in the order given, to determine whether to publicly notify an application for a resource consent.

Step 1: mandatory public notification in certain circumstances

(2) Determine whether the application meets any of the criteria set out in subsection (3) and,—

- (a) if the answer is yes, publicly notify the application; and
- (b) if the answer is no, go to step 2.

(3) The criteria for step 1 are as follows:

- (a) the applicant has requested that the application be publicly notified;
- (b) public notification is required under section 95C;
- (c) the application is made jointly with an application to exchange recreation reserve land under section 15AA of the Reserves Act 1977.

Step 2: if not required by step 1, public notification precluded in certain circumstances

(4) Determine whether the application meets either of the criteria set out in subsection (5) and,—

- (a) if the answer is yes, go to step 4 (step 3 does not apply); and
- (b) if the answer is no, go to step 3.

(5) The criteria for step 2 are as follows:

- (a) the application is for a resource consent for 1 or more activities, and each activity is subject to a rule or national environmental standard that precludes public notification;
- (b) the application is for a resource consent for 1 or more of the following, but no other, activities:
 - (i) a controlled activity;
 - (ii) a restricted discretionary or discretionary activity, but only if the activity is a subdivision of land or a residential activity;
 - (iii) a restricted discretionary, discretionary, or non-complying activity, but only if the activity is a boundary activity;
 - (iv) a prescribed activity (see section 360H(1)(a)(i)).

(6) In subsection (5), **residential activity** means an activity that requires resource consent under a regional or district plan and that is associated with the construction, alteration, or use of 1 or more dwellinghouses on land that, under a district plan, is intended to be used solely or principally for residential purposes.

Step 3: if not precluded by step 2, public notification required in certain circumstances

- (7) Determine whether the application meets either of the criteria set out in subsection (8) and,—
(a) if the answer is yes, publicly notify the application; and
(b) if the answer is no, go to step 4.

(8) The criteria for step 3 are as follows:

- (a) the application is for a resource consent for 1 or more activities, and any of those activities is subject to a rule or national environmental standard that requires public notification;
(b) the consent authority decides, in accordance with section 95D, that the activity will have or is likely to have adverse effects on the environment that are more than minor.

Step 4: public notification in special circumstances

(9) Determine whether special circumstances exist in relation to the application that warrant the application being publicly notified and,—

- (a) if the answer is yes, publicly notify the application; and
(b) if the answer is no, do not publicly notify the application, but determine whether to give limited notification of the application under section 95B.

[95B] **Limited notification of consent applications**

(1) A consent authority must follow the steps set out in this section, in the order given, to determine whether to give limited notification of an application for a resource consent, if the application is not publicly notified under section 95A.

Step 1: certain affected groups and affected persons must be notified

(2) Determine whether there are any—

- (a) affected protected customary rights groups; or
(b) affected customary marine title groups (in the case of an application for a resource consent for an accommodated activity).

(3) Determine—

- (a) whether the proposed activity is on or adjacent to, or may affect, land that is the subject of a statutory acknowledgement made in accordance with an Act specified in Schedule 11; and
(b) whether the person to whom the statutory acknowledgement is made is an affected person under section 95E.

(4) Notify the application to each affected group identified under subsection (2) and each affected person identified under subsection (3).

Step 2: if not required by step 1, limited notification precluded in certain circumstances

(5) Determine whether the application meets either of the criteria set out in subsection (6) and,—

- (a) if the answer is yes, go to step 4 (step 3 does not apply); and
(b) if the answer is no, go to step 3.

(6) The criteria for step 2 are as follows:

- (a) the application is for a resource consent for 1 or more activities, and each activity is subject to a rule or national environmental standard that precludes limited notification;
(b) the application is for a resource consent for either or both of the following, but no other, activities:
(i) a controlled activity that requires consent under a district plan (other than a subdivision of land);
(ii) a prescribed activity (see section 360H(1)(a)(ii)).

Step 3: if not precluded by step 2, certain other affected persons must be notified

(7) Determine whether, in accordance with section 95E, the following persons are affected persons:

- (a) in the case of a boundary activity, an owner of an allotment with an infringed boundary;
and

(b) in the case of any activity prescribed under section 360H(1)(b), a prescribed person in respect of the proposed activity.

(8) In the case of any other activity, determine whether a person is an affected person in accordance with section 95E.

(9) Notify each affected person identified under subsections (7) and (8) of the application.

Step 4: further notification in special circumstances

(10) Determine whether special circumstances exist in relation to the application that warrant notification of the application to any other persons not already determined to be eligible for limited notification under this section (excluding persons assessed under section 95E as not being affected persons), and,—

(a) if the answer is yes, notify those persons; and

(b) if the answer is no, do not notify anyone else.

The following table assesses the proposal in terms of section 95 of the Resource Management Act in matters relating to notification.

Assessment of notification in accordance with sections 95A, 95C and 95D of the RMA	
RMA requirements	Assessment of proposal
Step 1: mandatory public notification in certain circumstances	
<p>Determine if any of the following apply, and if yes notify the application:</p> <p>(a) the applicant has requested that the application be publicly notified:</p> <p>(b) public notification is required under <u>section 95C</u>:</p> <p>(c) the application is made jointly with an application to exchange recreation reserve land under <u>section 15AA</u> of the Reserves Act 1977.</p>	<p>(a) No request made</p> <p>(b) Yes – in order to determine the scale of effects resulting from approximately 924 vehicle movements per day from the site, a request was made for a traffic engineers assessment of the additional 700vpd over that approved by the previous consent. This is an important factor in determining the scale of effects that are specified under Rule 12.8.4 i. to iv., including what the traffic counts are in relation to the site, both in terms of vehicles passing the site and generated by the activities on the site.</p> <p>The noise report provided by the applicant indicates that noise generated by vehicle movements from the site will in turn impact on amenity.</p> <p>Provision of a report from a suitably qualified expert (a traffic engineer) was refused.</p> <p>Under s95C, public notification of the application is required.</p> <p>(c) N/A</p> <p>Result: Public notification required.</p>
Step 2: if not required by step 1, public notification precluded in certain circumstances	

<p>Determine if either of the following apply, and if yes go to step 4 (skip step 3):</p> <p><i>(a) the application is for a resource consent for 1 or more activities, and each activity is subject to a rule or national environmental standard that precludes public notification:</i></p> <p><i>(b) the application is for a resource consent for 1 or more of the following, but no other, activities:</i></p> <p><i>(i) a controlled activity:</i></p> <p><i>(ii) a restricted discretionary or discretionary activity, but only if the activity is a subdivision of land or a residential activity:</i></p> <p><i>(iii) a restricted discretionary, discretionary, or non-complying activity, but only if the activity is a boundary activity:</i></p> <p><i>(iv) a prescribed activity (see <u>section 360H(1)(a)(i)</u>).</i></p>	<p>Public notification required under Step 1.</p>
<p><i>Step 3: if not precluded by step 2, public notification required in certain circumstances</i></p>	
<p>Determine whether the application meets either criteria, and if yes publicly notify the application:</p> <p><i>(a) the application is for a resource consent for 1 or more activities, and any of those activities is subject to a rule or national environmental standard that requires public notification:</i></p> <p><i>(b) the consent authority decides, in accordance with <u>section 95D</u>, that the activity will have or is likely to have adverse effects on the environment that are more than minor.</i></p>	<p>Public notification required under Step 1.</p>
<p><i>Step 4: further notification in special circumstances</i></p>	
<p>Determine whether special circumstances exist in relation to the application that warrant the application being publicly notified</p>	<p>Public notification required under Step 1.</p>
<p>Conclusion</p>	<p>Public notification required under Step 1.</p>
<p style="text-align: center;">Assessment of affected parties (sections 95E –G) and limited notification in accordance with sections 95 and 95B of the RMA</p>	
<p><i>Step 1: certain affected groups and affected persons must be notified</i></p>	
<p>Determine whether there are any—</p> <p><i>(2a) affected protected customary rights groups; or</i></p> <p><i>(2b) affected customary marine title groups (in the case of an application for a resource consent for an accommodated activity).</i></p> <p>Determine—</p> <p><i>(3a) whether the proposed activity is on or adjacent to, or may affect, land that is the subject of a statutory acknowledgement made in</i></p>	<p>N/A</p> <p>Public notification required under Step 1. Section 95B (1) states that limited notification only applies if the application is not publicly notified under Section 95A.</p>

<p>accordance with an Act specified in <u>Schedule 11</u>; and (3b) whether the person to whom the statutory acknowledgement is made is an affected person under <u>section 95E</u>.</p>	
<p><i>Step 2: if not required by step 1, limited notification precluded in certain circumstances</i></p>	
<p>Determine whether the application meets either of the criteria (a) the application is for a resource consent for 1 or more activities, and each activity is subject to a rule or national environmental standard that precludes limited notification: (b) the application is for a resource consent for either or both of the following, but no other, activities: (i) a controlled activity that requires consent under a district plan (other than a subdivision of land): (ii) a prescribed activity (see <u>section 360H(1)(a)(ii)</u>).</p>	<p>N/A Public notification required under Step 1. Section 95B (1) states that limited notification only applies if the application is not publicly notified under Section 95A.</p>
<p><i>Step 3: if not precluded by step 2, certain other affected persons must be notified</i></p>	
<p>Determine whether, in accordance with <u>section 95E</u>, the following persons are affected persons: (a) in the case of a boundary activity, an owner of an allotment with an infringed boundary; and (b) in the case of any activity prescribed under <u>section 360H(1)(b)</u>, a prescribed person in respect of the proposed activity. (8) In the case of any other activity, determine whether a person is an affected person in accordance with <u>section 95E</u>.</p>	<p>N/A Public notification required under Step 1. Section 95E is not relevant, as it applies only to limited notified applications.</p>
<p><i>Step 4: further notification in special circumstances</i></p>	
<p>Determine whether special circumstances exist in relation to the application that warrant notification of the application to any other persons not already determined to be eligible for limited notification</p>	<p>No special circumstances exist</p>
<p>Conclusion</p>	<p>Public notification is required under Step 1, pursuant to Section 95A(3)(b) and Section 95C. No determination is made as to the scale of effects or who is adversely affected to a minor or more degree.</p>

4. Having considered the application, and taking into account the analysis set out above, it is recommended that the application be processed on a **notified basis**.

5. Summary and Recommendation

- It is considered that information required for determination of the scale of effects in relation to traffic has not been provided. A traffic report to address the restricted discretionary matters relating to traffic has been requested from the applicant in relation to the proposed 924 vehicle movements per day, and the request was refused.
- Section 95A(3)(b) requires that where a request for information is refused, that the application is publicly notified.
- No determination is required regarding affected persons, or the scale of effects. This can be considered through the Section 104 process and Section 42A report, and request for a further report made under Section 92(2) prior to the hearing.

Having regard to all matters discussed above it is recommend that application LU-2018-1538-00 for a retrospective resource consent for commercial and industrial storage and construction be processed on a notified basis in accordance with Section 95A of the Resource Management Act 1991.

Report By:



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Marcus Langman
Planning Consultant

Date: 13 August 2019

Decision made under delegated authority to notify the application:



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Nirosha Seelaratne
Planning Officer



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Matt Hoggard
Strategy, Policy and District Plan Manager

Date: 14 August 2019

