

*Minutes of a Meeting of the Regulatory Committee held in the Council Chambers,  
101 Bank Street, Te Awamutu on Monday 30 April 2007 commencing at 9.00am*

## **1 PRESENT**

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Councillor D Sharpe, Chairperson

### **Committee**

His Worship the Mayor A Livingston (except for item 8.2), Councillors GC Flay, EC Newlands (from 9.08am), BJ Taranaki, GRP Webber, Committee Member G Roberts

### **Others**

Deputy Chief Executive – G Dyet; Environmental Safety Manager – J McFarlane (to item 7.2); Environmental Health Officers – B Faris & K Tutty (item 7.2); Building Control Manager – G Boys (to item 8.1); Enforcement Officer – B Howell (item 8.1 only); Planning Officer A McLellan (item 8.2 only); Consultant Planner – L Bourke (item 8.3 only); Consultant Planner – C Dawson (item 8.4 only); Secretary – C Shaw.

## **2 APOLOGIES**

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### **RESOLVED**

4/07/22

*That the apology for lateness from Cr Newlands be received.*

Cr Taranaki/Committee Member Roberts

## **3 LATE ITEMS**

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A request to include the Findlay Plan Change and the requirement for a Commissioner to be appointed was accepted.

## **4 CONFIRMATION OF ORDER OF MEETING**

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File: 01-89-04

### **RESOLVED**

4/07/23

*That the order of the meeting be confirmed.*

Cr Webber/Cr Taranaki

## **5 CONFIRMATION OF PREVIOUS MEETINGS**

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File: 01-89-04

5.1 **Ordinary Meeting of Regulatory Committee held on 26 March 2007**

**RESOLVED**

4/07/24

*That the Minutes of the Regulatory Committee held on 26 March 2007, having been circulated, be taken as read and confirmed as a true and correct record.*

Cr Flay/Committee Member Roberts

**6 WAIPA DISTRICT LIQUOR LICENSING AGENCY**

6.1 **Monthly Schedule of Liquor License Applications Considered by Staff Under Delegated Authority**

File: 01-85-10

**RESOLVED**

4/07/25

*That the monthly schedule of Liquor License Applications Considered by Staff Under Delegated Authority for March 2007 be received.*

Cr Webber/Mayor Livingston

**7 GENERAL**

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7.1 **Matters Considered by Staff Under Delegated Authority – Resource Management Act 1991**

File: 01-52-01

**RESOLVED**

4/07/26

*That the schedule of Matters Considered by Staff Under Delegated Authority for March 2007, be received, a copy of which is attached to and forms part of these minutes.*

Cr Taranaki/Cr Flay

7.2 **Parachute Music Festival Debrief**

File: 01-52-01

Environmental Safety Manager Jenny McFarlane and Environmental Health Officer Brian Faris gave an report on the recent Parachute Music Festival. They said that there were no major incidents on site but the noise levels were breached on Tarr Road and this will need to be rectified for next year's festival.

**RESOLVED**

4/07/27

*That the report on the Parachute Music Festival for 2007 be received.*

Mayor Livingston/Committee Member Roberts

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**8 HEARINGS**

**8.1 9.15am – 9.25am**

**Application for Exemption from the Fencing of  
Swimming Pools Act 1987**

File: P12995

Applicant	Henk and Nienke Smit
Appearing for Council	G Boys – Building Control Manager

Mr Boys presented his report to the Committee and outlined that there were no issues around this just that the owners had changed.

Discussion on the automatic cover was held in regard to the life and maintenance requirements along with the fact that there were more children in the house the chance for drownings has increased.

**RESOLVED**

4/07/28

*That the application for an exemption from the Fencing of Swimming Pools Act 1987 by Henk and Nienke Smit be approved subject to the following conditions:*

- 1) The exemption is granted only to the present owners of the property as long as they reside at 899 Kaipaki Road.*
- 2) The pool cover is to be locked closed when the pool is not in use.*
- 3) The pool cover and closing mechanism are to be kept in a sound condition and maintained so that they comply with the manufacturer's specifications.*
- 4) The applicants provide an annual certificate from an appropriately qualified person to confirm compliance with Condition 3) to ensure it is meeting the requirements and that an inspection by an authorised dealer, prior to the consent being given.*

- 5) *The owners of the property shall be responsible for compliance with the conditions of this exemption.*

Cr Flay/Mayor Livingston

[Crs Newlands and Webber asked that their vote against be recorded]

REASONS FOR DECISION

- 1) There has been a previous exemption and the only change to the previous situation is that of new owners; and
- 2) The distance from public access of the Applicants' property, the surrounding natural barriers, and the security system in place for the property make it unlikely that 'at risk' children will have unsupervised access to the property; and
- 3) The use of the "Pool Saver Automatic Pool Cover" which has won a safety award from the Accident Compensation Corporation, combined with the compliance conditions imposed, will not increase the risk to young children.

**8.2 9.30am – 10.50am**

**Section 357 Objection to the Decision to Decline an Application  
for an Existing Use Rights Certificate  
File: 04560/020.00**

**DECISION OF THE REGULATORY COMMITTEE ON AN OBJECTION (S357) TO  
THE DECISION TO DECLINE AN APPLICATION FOR AN EXISTING USE  
RIGHTS CERTIFICATE FOR A SAWMILL PURSUANT TO SECTION 113 OF THE  
RESOURCE MANAGEMENT ACT 1991**

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**1 THE HEARING**

The hearing was held on 30<sup>th</sup> April 2007 and was attended by the following:

<b>Applicant</b>	Kelvin Williams
<b>Appearing with the Applicant</b>	Peter Kelk
<b>Appearing for Council</b>	Anna McLellan, Bob Howell and Karl Tutty

**2 SITE VISIT**

The Regulatory Committee undertook a site visit on Tuesday, 1<sup>st</sup> May 2007. Mr Williams attended this site visit and provided additional information (verbal) to

the Committee in regards to how the activity operates and the history of the activity.

### **3 THE RELEVANT STATUTORY PROVISIONS**

The application was considered under the following provisions of the Resource Management Act 1991 (RMA):

Section 16 - Duty to avoid unreasonable noise;  
Section 10A - Certain existing activities allowed;  
Section 139A - Consent authorities to issue existing use certificate;  
Section 357A - Right of objection to consent authority against certain decisions or requirements.

### **4 OTHER RELEVANT PROVISIONS CONSIDERED**

#### **4.1 OPERATIVE WAIPA DISTRICT PLAN & RAGLAN COUNTY COUNCIL DISTRICT SCHEME**

The application was considered under the Raglan County Council District Scheme and under the Operative Waipa District Plan.

Under the Raglan County Council District Scheme sawmills are provided for under Ordinance 0907.5, Rural Industries, which states that rural industries such as sawmills are predominant activities in the Rural Zone.

The sawmill operation demonstrated non-compliance with Rule 2.4.9, Size of Activities and Rule 2.4.23, Noise under the Operative Waipa District Plan. Complaints have been received from a neighbouring party in regards to the air pollution, however no tests have been undertaken to assess compliance with Rule 2.4.25, Smoke, Fumes, Dust and Odour. The Operative Waipa District Plan also provides for existing uses under Rule 1.4.1.2, Permitted Activities.

#### **4.2 OTHER LEGISLATION**

No other legislation was applicable in the assessment of this application.

#### **4.3 OTHER POLICY STATEMENTS**

No provisions in any National Policy Statement, New Zealand Coastal Policy Statement, Waikato Regional Policy Statement or Proposed Regional Policy Statement were applicable to the assessment of this application.

### **5 THE PRINCIPAL ISSUES OF CONTENTION**

The principal issues that were in contention were:

- The definition of a commercial activity, in respect to Rule 2.4.9, Size of Activities, under the District Plan and whether the activities undertaken by Mr Williams constituted a commercial activity.
- Whether there was sufficient evidence to establish continuous use of the operation and ascertain whether the effects of the use are the same or similar in character, intensity and scale to those which existed before the use become non-complying under the District Plan.
- The noise generated as a result of this activity and effects on surrounding neighbours.

## **6 SUMMARY OF THE EVIDENCE HEARD**

### **Anna McLellan - Council's Planner**

Mrs McLellan presented her report and gave details of the activity, the site and surrounding area, the relevant legislation and the reasons for declining the original decision. Mrs McLellan emphasised that the original decision was declined as there was insufficient evidence to establish whether there is an existing use right in the context of Section 10a of the Resource Management Act 1991. In particular, the lack of available information in regards to the scale and intensity of the activity prior to the notification of the current District Plan (notified 1994) and through to the present day. Furthermore she commented that the relocation of the activity within Waikoha Station may have resulted in a change in the level of effects associated with the activity, with particular regard to the noise effects.

### **Mr Williams – The applicant**

Mr Williams provided a brief history of the site and gave details of the activity in question. Mr Williams questioned how his operation constituted a commercial activity. He also commented on the letters from surrounding neighbours. Mr Williams indicated that he was reluctant to undertake any noise mitigation measures until he had confirmation that he continue operating.

### **Peter Kelk – Appearing in support of the applicant**

Mr Kelk stated his support for the applicant and commented on the contribution that Mr Williams and the sawmill operation makes to the community. He also stated that he had been a long time resident of the Te Pahu area and that the mill had been operating in its current location for a number of years.

### **Karl Tutty – Council's Environmental Health Officer**

Mr Tutty commented briefly on the noise issues relating to the activity. When questioned whether he could recommend noise mitigation measures, Mr Tutty commented that this would result in a conflict of interest as he may be called upon at a later date to undertake enforcement action in regards to noise issues at this site. Mr Tutty recommended that Mr Williams engage the services of an independent suitably qualified Acoustic Engineer to provide guidance on noise issues.

### **Mrs McLellan's - Right of Reply**

Mrs McLellan reiterated the key tests that a 'use' must meet in order to claim existing use rights pursuant to Section 10a of the Act being that the activity must have been lawfully established under a previous scheme; and that the effects of the use must be the same or similar in character, intensity and scale to those which existed before the use become non-complying under the District Plan.

## **7 THE MAIN FINDINGS OF FACT:**

The Regulatory Committee have considered the application, the evidence presented at the hearing and on the site visit by the applicant, the planning assessment report prepared by the planner, the relevant statutory and planning provisions, and the principal issues that were in contention. The main findings of fact determined by the Regulatory Committee, which have led to the following decision and the reasons for that decision are as follows.

- Based on the written evidence provided by Mr Williams, the evidence presented at the hearing (verbal) and on the site visit (verbal) the Committee was satisfied that an Existing Use Right in accordance with Section 10a of the Resource Management Act 1991 exists and had been sufficiently proven.
- The Committee defined the scope of the existing use right of the activity in terms of the character, intensity and scale as follows:
  - Operation of the sawmill equipment extends to no more than 80 hours per year. This 80 hour limit does not extend to the hours in which Mr Williams may occupy the site or the use of other heavy machinery onsite.
  - The hours of operation are within standard working hours, being 8am – 6pm, excluding Sunday and public holidays.
  - The main historical use of the site was for the processing and milling of trees grown on Waikoha Station with limited commercial use.
- That any replacement, upgrade or installation of new equipment and the relocation of the equipment relating to the milling activity within the site

has not resulted in a change to the character, intensity or scale of effects.

- That the activity has operated continuously, to varying degrees, since the activity became non-complying under the District Plan (1994).
- The decision to approve an existing use rights certificate does not supersede or circumvent Section 16 of the Resource Management Act 1991. There remains an obligation for the applicant to ensure adopt the best practicable option to ensure that the emission of noise from the activity does not exceed a reasonable level. A reasonable level is considered to be the levels adopted under the District Plan under Rule 2.4.23, Noise.

## **8 RESOLVED**

4/07/29

*That:*

- a) The report of A McLellan, planner for the Waipa District Council, dated 11 April 2007 be received; and*
- b) Pursuant to Sections 10A, 139A and 357A of the Resource Management Act 1991, the Waipa District Council upholds the Objection by the applicant to the decision to decline an existing use rights certificate for a sawmill operation undertaken at the property legally described as Part Allotment 136 Karamu Parish.*

Cr Webber/Cr Taranaki

### **Reasons for Decision**

1. The applicant has demonstrated that the activity is able to satisfy the two part test of Section 10A in that the activity must have been lawfully established under a previous scheme; and that the effects of the use must be the same or similar in character, intensity and scale to those which existed before the use become non-complying under the District Plan.
2. That any replacement, upgrade or installation of new equipment and the relocation of the equipment relating to the milling activity within the site has not resulted in a change to the character, intensity or scale of effects.
3. That the activity has operated continuously, to varying degrees, since the activity became non-complying under the District Plan (2004).

### **Advisory Notes for the Applicant**

#### **Existing Use Right**

The scope of the existing use right of activity has been defined by the Regulatory Committee as follows:

- Operation of the sawmill equipment extends to no more than 80 hours per year. This 80 hour limit does not extend to the hours in which the applicant may occupy the site or the use of other heavy machinery onsite.
- The hours of operation are within standard working hours, being 8am – 6pm, excluding Sunday and public holidays.
- The main historical use of the site was for the milling and processing of trees grown on Waikoha Station. Therefore any the timber milled or processed on site must be predominantly grown on Waikoha Station with restricted commercial use. Commercial use, in this instance, is the milling, processing or storing of logs on the site, that were not grown on Waikoha Station and are used by Waikoha Station.

The applicant shall keep a log book detailing the hours of operation, when and for how long the sawmill equipment has been operated. The applicant shall also keep a record of the origin of all logs milled, stored or handled on the site and their intended purpose is i.e. for use on Waikoha Station or for use off site. These details shall be made available to Council's Enforcement Officer within two working day notice. Any departure from the parameters of the existing use right as defined above may result in enforcement action being taken from Council.

The applicant is responsible for any costs relating to the monitoring of this activity.

### **Noise**

The decision to uphold the objection and approve existing use rights certificate does not supersede or circumvent Section 16 of the Resource Management Act 1991. There remains an obligation for the applicant to ensure adopt the best practicable option to ensure that the emission of noise from the activity does not exceed a reasonable level. A reasonable level is considered to be the levels adopted under the District Plan under Rule 2.4.23, Noise.

In order to meet the obligations under Section 16 of the Resource Management Act 1991, an independent qualified acoustic engineer will need to be engaged in order to provide technical advice to the applicant. The applicant will also be required to implement mitigating measures to ensure that the noise generated as a result does not exceed a reasonable level.

The Abatement Notice, currently imposed due to the non-complying noise levels, will be lifted when Council's Environmental Health Officer is satisfied that the applicant has meet the obligation under Section 16 of the Act. The activity may not continue until this Abatement Notice has been lifted. It is the responsibility of the applicant to ensure that the activity does not exceed reasonable noise level on an ongoing basis.

All costs relating to the contracting of the acoustic engineer, the implementation of mitigating measures and the ongoing maintenance of the measures are the sole responsibility of the applicant.

8.3 11.09 – 12.18

**Non-Complying Application to Create Three Additional Allotments in the Rural Zone: Maungakawa Properties Ltd, 102 Maungakawa Road, Cambridge**  
File: 04445/505.01 SP4106

**DECISION OF REGULATORY COMMITTEE ON A NON-NOTIFIED RESOURCE CONSENT APPLICATION TO CREATE THREE ADDITIONAL ALLOTMENTS IN THE RURAL ZONE PURSUANT TO SECTION 113 OF THE RESOURCE MANAGEMENT ACT 1991**

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**1 THE HEARING**

The hearing held on 30 April 2007 was attended by the following:

<b>Applicant</b>	<i>Don Bate</i>
<b>Appearing for Applicant</b>	<i>Grant Nicklin, Nicklin Surveying and Resource Management</i>  <i>Tanya Running, Opus International Consultants</i>
<b>Appearing for Council</b>	<i>Louise Bourke, Consultant Planner, Planning Professionals Limited</i>
<b>Submitters in Opposition</b>	<i>None</i>
<b>Submitters in Support</b>	<i>Alistair Osmond, on behalf of Trident Trust</i>

**2 SITE VISIT**

The Regulatory Committee undertook a site visit on Tuesday 1 May 2007.

**3 THE RELEVANT STATUTORY PROVISIONS**  
*(RMA Section 113(1) (aa))*

The application was considered under the provisions of the Resource Management Act 1991 (RMA).

It was assessed as a **non-complying** activity and thus, was considered in accordance with sections 104, 104B, 104D and Part 2 of the RMA.

**4 OTHER RELEVANT PROVISIONS CONSIDERED**  
*(RMA Section 113(1) (ab))*

#### **4.1 OPERATIVE WAIPA DISTRICT PLAN**

The following provisions in the Operative Waipa District Plan (District Plan) were considered in the assessment of the application.

- *Subdivision Rules 10.3, 10.4, 10.5 and 10.6*
- *Subdivision Objectives SU2 and SU3*
- *Subdivision Policies SU3, SU13, SU14, SU15, SU15A, SU16, and SU22*
- *Rural Objective RU1*
- *Rural Policies RU31, RU39, RU40, and RU52*
- *Residential Objective RS1*
- *Residential Policies RS67, RS69, RS69A, RS69B, RS70, and RS71*

#### **4.2 OTHER LEGISLATION**

No other legislation was applicable in the assessment of this application.

#### **4.3 OTHER POLICY STATEMENTS**

No provisions in any National Policy Statement, New Zealand Coastal Policy Statement, Waikato Regional Policy Statement or Proposed Regional Policy Statement were applicable to the assessment of this application.

### **5 THE PRINCIPAL ISSUES THAT WERE IN CONTENTION: (RMA Section 113(1) (ac))**

The principal issues that were in contention were:

- Non-Compliance with Rule 10.6.1.1.A) – Minimum Net Lot Area for Lots in the Rural Zone.

### **6 SUMMARY OF THE EVIDENCE HEARD (RMA Section 113(1) (ad))**

**Evidence on behalf of the applicant was given by:**

**Grant Nicklin, Nicklin Surveying and Resource Management**

Mr Nicklin described the application site and the proposal.

**Tanya Running, Opus International Consultants**

Ms Running presented her evidence which addressed the following matters:

- (a) Overview of the site and its context.
- (b) Overview of the proposal.
- (c) The assessment framework for non complying activities.
- (d) Assessment of the effects on the environment.
- (e) Relevant District Plan matters.
- (f) Statutory assessment.
- (g) Comment on the Council Planner's report.
- (h) *Conclusions.*

**Evidence on behalf of the Council was given by:**

**Louise Bourke, Consultant Planner, Planning Professionals Limited**

Miss Bourke spoke briefly to the planner's report, outlining;

- (a) further information requested;
- (b) interdepartmental and agency comments;
- (c) Waipa District Plan assessment;
- (d) assessment of environmental effects;
- (e) Resource Management Act 1991 assessment;
- (f) notification process;
- (g) submissions received;
- (h) financial contributions;
- (i) conclusion; and
- (j) the recommendation.

Miss Bourke advised that due to the new evidence presented by the applicant's at the hearing, the effects on the proposed subdivision on the loss of prime agricultural land as defined in the Waipa District Plan, could no longer be considered to be more than minor.

**Right of Reply on behalf of the applicant was given by:**

**Tanya Running, Opus International Consultants**

Ms Running advised that she had nothing further to add and that her view differed from Miss Bourke's.

**Grant Nicklin, Nicklin Surveying and Resource Management**

Mr Nicklin reiterated the evidence presented by himself and Ms Running and advised that the stormwater issue would be addressed at the time of applying for Building Consent.

**7 THE MAIN FINDINGS OF FACT:  
(RMA Section 113(1) (ae))**

The Regulatory Committee have considered the application, the evidence presented at the hearing, the planning assessment report prepared by the planner, the relevant statutory and planning provisions, the principal issues that were in contention and visited the site. The main findings of fact determined by the Regulatory Committee, which have led to the following decision and the reasons for that decision are as follows.

- After receipt of detailed report the Committee considered that the proposal does not compromise elite soils.
- The proposal adds to an existing rural residential settlement.
- The Committee could not identify any reverse sensitivity issues associated with the subdivision now that neighbouring chicken rearing sheds have been removed.
- The Committee is satisfied that the imposition of conditions will mitigate and address that of the subdivision especially on the stormwater drainage system.

## **8 RESOLVED**

4/07/30

*That*

- a) That the report from Louise Bourke, Consultant Planner for Planning Professionals Ltd dated 5 February 2007 be received; and*
- b) That in consideration of Section 104, and pursuant to Sections 104B, 104D, 108 and 220 of the Resource Management Act 1991 and the Operative Waipa District Plan the Waipa District Council grants consent to Maungakawa Properties Limited to subdivide 102 Maungakawa Road, Cambridge, described as Lot 2 DP 312337 as shown on the plan of subdivision SP/0041/06 subject to the following conditions:-*

Mayor Livingston/Cr Newlands

### **CONDITIONS**

#### **General**

- 1. That the Land Transfer Plan to give effect to this subdivision consent must be generally consistent with the approved plan prepared by Nicklin Surveying and Resource Management reference 3047 Sheet CP 1 dated March 2006 submitted with application SP/0041/06, unless otherwise altered by the consent conditions. A copy of the approved plan is attached.*

#### **Amalgamation Conditions**

- 2. That Lot 5 hereon (legal access) be held as to six undivided one sixth shares by the owners of Lots 1, 2, 3 and 4 hereon, Lot 1 DP*

*351938 (CT 213133) and Lot 2 DP 351938 (CT 213134) as tenants in common in the said shares and that individual Certificates of Title be issued in accordance therewith.*

- 3. That Lot 6 hereon (legal access) be held as to three undivided one third shares by Lots 2, 3 and 4 hereon as tenants in common in the said shares and that individual Certificates of Title be issued in accordance therewith.*

### **Easements**

- 4. That all necessary easements must be duly granted and reserved to ensure that Lots 1 to 4 (inclusive) have vehicle access to Maungakawa Road, have the right to convey water, electricity and telecommunications, and the right to drain effluent and stormwater where appropriate.*

### **Effluent Disposal**

- 5. That for subsequent development of Lots 1 to 4 an effluent disposal system shall be installed and continually maintained in accordance with that designed by a suitably qualified engineer to the satisfaction of the Council's Building Control Manager.*

*This being a condition to be complied with on a continuing basis by the subdividing owner and subsequent owners, before the deposit of the survey plan the Council shall issue a consent notice pursuant to Section 221 of the Resource Management Act 1991 specifying the above conditions.*

*Such consent notice shall be either prepared or checked at the cost of the subdividing owner by the Council's solicitors and shall be registered against the titles to Lots 1 to 4 (inclusive).*

### **Geotechnical**

- 6. That for subsequent development of Lots 1 to 4 a suitably qualified and experienced Geotechnical Engineer will be required to inspect the site and submit to Council for approval, at the time of building consent, design details on the foundations of the buildings.*

*This being a condition to be complied with on a continuing basis by the subdividing owner and subsequent owners, before the deposit of the survey plan the Council shall issue a consent notice pursuant to Section 221 of the Resource Management Act 1991 specifying the above conditions.*

*Such consent notice shall be either prepared or checked at the cost of the subdividing owner by the Council's solicitors and shall be registered against the titles to Lots 1 to 4 (inclusive).*

### **Stormwater Disposal**

7. *That for subsequent development of Lots 1 to 4 a stormwater disposal system shall be installed and continually maintained in accordance with that designed by a suitably qualified engineer to the satisfaction of the Council's Building Control Manager.*

*This being a condition to be complied with on a continuing basis by the subdividing owner and subsequent owners, before the deposit of the survey plan the Council shall issue a consent notice pursuant to Section 221 of the Resource Management Act 1991 specifying the above conditions.*

*Such consent notice shall be either prepared or checked at the cost of the subdividing owner by the Council's solicitors and shall be registered against the titles to Lots 1 to 4 (inclusive).*

### **Minimum Floor Levels**

8. *That for subsequent development of Lots 1 and 2 the floor level shall be established at a minimum of 48.20 metres to be above the flood level based in the scenario of the drain blocking and the basin filling to overflow the bund.*

**NOTE:** *The datum point is the top of the green electricity transformer in the right of way serving the site at RL 50.00.*

*This being a condition to be complied with on a continuing basis by the subdividing owner and subsequent owners, before the deposit of the survey plan the Council shall issue a consent notice pursuant to Section 221 of the Resource Management Act 1991 specifying the above conditions.*

*Such consent notice shall be either prepared or checked at the cost of the subdividing owner by the Council's solicitors and shall be registered against the titles to Lots 1 and 2.*

### **Entrances**

9. *That the right of ways shown as Areas A and B on the Application Plan submitted with Subdivision Application SP/0041/06 must be created and duly granted or reserved.*

10. *That the consent holder must construct a Figure 4 type Medium Commercial Rural vehicle entrance to Lots 1 to 4 (inclusive). The entrance must be constructed to the Council's standards as set out in the Code of Practice for Land Development and Subdivision. All work must be completed to the satisfaction of the Council's Engineering Manager and must be at the consent holder's expense. The following issues must also be addressed:*
  - *The entrance must be sealed from the edge of the road to the property boundary.*
  
11. *That The consent holder must upgrade the existing right of ways to Lots 1 to 4 (inclusive) to the Council's standards as set out in the Code of Practice for Land Development and Subdivision. All work must be carried out to the satisfaction of the Council's Engineering Manager and must be at the consent holder's expense. The following issues must also be addressed:*
  - *The right of way shown as Area A on the Application Plan submitted with Subdivision Application SP/0041/06 must have a 5.0 metre wide sealed surface.*
  - *The right of way shown as Area B on the Application Plan submitted with Subdivision Application SP/0041/06 must have a 3.0 metre wide sealed surface.*
  - *The right of ways must be sealed from the edge of seal of Maungakawa Road to the property boundary of Lot 4.*
  
12. *That two producer statements from a suitably qualified and appropriately experienced professional must be submitted to Council. The first must include pavement design and drainage of the right of ways and the second must cover the construction of the right of ways. In addition the Confirmation form ROW 1 and Confirmation form ROW 2 must be filled out and submitted to Council, prior to issuing of the S224 certificate.*

### **Electricity and Telecommunications**

13. *That the consent holder shall arrange with a local network electricity operator for the reticulation of electricity to serve all lots and pay all costs attributable to such work. The consent holder shall submit to the Council written confirmation from the local network operator that satisfactory arrangements have been made for the reticulation of the service to all lots in the subdivision. This is to include if necessary the resiting, repositioning or removal of any electric power lines which exist on the land being subdivided.*

*Where electric power lines are crossing the boundary of any lots registered easements shall be created for such services.*

14. *That the consent holder shall arrange with a telephone company for the reticulation of telephone cables to serve all lots and pay all costs attributable to such work. The consent holder shall submit to the Council written confirmation from the telephone company that satisfactory arrangements have been made for the reticulation of the service to all lots in the subdivision. This is to include if necessary the resiting, repositioning or removal of any telephone cables which exist on the land being subdivided.*

*Where telephone cables serving any lot are required to cross the boundary of any other lot or lots registered easements shall be created for such services.*

### **REASONS FOR DECISION**

1. After receipt of the Soil and Land Evaluation Ltd Report dated 27 March 2007 the Committee considered that the proposal does not compromise elite soils.
2. The proposal adds to an existing rural residential settlement.
3. The Committee could not identify any reverse sensitivity issues associated with the subdivision now that neighbouring chicken rearing sheds have been removed.
4. The Committee is satisfied that the imposition of conditions will mitigate and address that of the subdivision especially on the stormwater drainage system.

### **ADVICE NOTES**

#### ***Earthworks***

1. All earthworks associated with any subdivision or development of land must be undertaken in accordance with the following matters :
  - a) All earthworks must be carried out so as to provide sound foundations as required under NZS 4431:1989 and avoid any hazard to persons or property;
  - b) All earthworks must be carried out so as to avoid or mitigate any detrimental effect on the environment particularly with regard to the unnecessary destruction of vegetation, the contamination of natural water or the diversion of surface or ground water flows

- c) The existing landform must not be altered in such a manner that adjoining properties will be detrimentally affected particularly through changes in drainage systems or abrupt changes in ground level
- d) All earthworks must be carried out in accordance with the Waipa District Council Code of Practice for Land Development and Subdivision for formation and construction standards.

***Discovery of Archaeological or Culturally Significant Finds***

- 2. Where during earthworks, any archaeological features, artefact or human remains are accidentally uncovered or are suspected to have been discovered, the following protocol must apply:
  - (i) All works within the vicinity must cease immediately.

In cases other than suspected human remains:

- (ii) The contractor must immediately secure the area and advise the NZ Historic Places Trust of the occurrence.
- (iii) The consent holder must consult with a representative of the relevant Iwi authority and the NZ Historic Places Trust to determine what further actions are appropriate to safeguard the site or its contents.

Where human remains are suspected:

- (iv) The contractor must take steps immediately to secure the area in a way that ensures human remains are not further disturbed.
- (v) The consent holder must notify the NZ Police of the suspected human remains as soon as is practicably possible after the remains have been disturbed. The consent holder must notify the relevant Iwi authority and the NZ Historic Places Trust within 12 hours of the suspected human remains being disturbed or otherwise as soon as practicably possible.
- (vi) Excavation of the site must not resume until the NZ Police, NZ Historic Places Trust and relevant Kaumatua have each given the necessary approvals for excavation to proceed.

**8.4 1.00pm – 2.06**

**Plan Change 43: Kihikihi Residential**  
File: 65-07-43

**KIHIKIHI RESIDENTIAL PLAN CHANGE – PLAN CHANGE 43 DECISION**

**RESOLVED**

4/07/31

*That the Waipa District Regulatory Committee has considered the Plan Change No. 43 – Kihikihi Residential Zone to the Waipa District Plan and has made decisions on that application and the submissions received, which are attached to this Resolution.*

*That Council resolves pursuant to Clause 10 of the First Schedule of the Resource Management Act 1991 that the Committee approves Plan Change 43 – Kihikihi Residential Zone pursuant to these decisions.*

Cr Taranaki/Cr Newlands

<b>Plan Change 43 - Kihikihi</b>	
<b>Plan Reference</b>	<b>Decision Report 1 – Historic Heritage</b>
<b>File No</b>	<b>65-07-43</b>

<b>SUBMITTER NAME</b>	<b>NUMBER</b>	<b>FURTHER SUBMITTER NAME</b>	<b>FURTHER SUBMISSION</b>	<b>OPPOSE/SUPPORT</b>
NEW ZEALAND HISTORIC PLACES TRUST	43/2/3 43/2/4			

**SUMMARY OF SUBMISSION:**

- The New Zealand Historic Places Trust (NZHPT) has submitted neither in support nor in opposition to the proposed Plan Change. The NZHPT considers that Kihikihi is an archaeologically sensitive area and that there remains the possibility of some archaeological resources to be discovered in the area during earthworks. Section 6(f) identifies the protection of heritage from inappropriate subdivision, use and development.
- The NZHPT recommends that an archaeological assessment be carried out over the plan change area before the final decisions are made on the plan change.

**DECISIONS:**

REJECT	43/2/4 – New Zealand Historic Places Trust
ACCEPT PART	IN 43/2/3 – New Zealand Historic Places Trust

By retaining the provisions of the Kihikihi Plan Change as notified.

**REASONS FOR DECISION:**

1. Council has developed objectives, policies and rules relating to its functions and these are set out in the Waipa District Plan. The Operative Waipa District Plan already contains provisions relating to Historic Heritage. Under section 3.2 Environmental Results in the Residential Zone rules, an anticipated result is the “*Avoidance of likely adverse effects on Maori ancestral land, water sites, waahi tapu and other taonga.*”
2. Further direction is contained under Rule 10.5.1 Subdivision Design Standards where rule 10.5.1 (2) (d) states the following:  
  
*Any subdivision shall have regard to maintaining natural and significant features and avoiding, remedying or mitigating any adverse effects of land subdivision and subsequent development on heritage resources, including:*
  - *Any heritage resource, particularly waahi tapu, listed in Appendices 10, 11 and 12;.....*
  - *Any archaeological site under Historic Places Act 1993;...”*
3. Rule 10.5.1 (2) (d) provides specific direction that both listed and unlisted archaeological resources on sites subject to subdivision are protected and must be taken into account when designing subdivision layouts. Applicants for subdivision along with Council staff processing these applications are required to ensure these issues are appropriately addressed in any application. Conditions on subdivision consents consistently include a condition requiring specific actions (such as stopping work and notifying the correct agencies) should any cultural heritage items be discovered during earthworks.
4. Given the protective measures that are already included in the Operative District Plan it is not recommended that an archaeological survey be undertaken over the Proposed Plan Change area. Sufficient mechanisms already exists to ensure that archaeological resources are appropriately protected during any subdivision process.
5. The intent of submission 43/2/3 is accepted however it is considered that there is already sufficient protection within the existing District Plan rules to ensure that any archaeological sites will be protected during any development process.

<b>Plan Change 43 – Kihikihi Residential Plan Change</b>	
<b>Plan Reference</b>	<b>Decision Report 2 - Traffic</b>
<b>File No</b>	<b>65-07-43</b>

<b>SUBMITTER NAME</b>	<b>NUMBER</b>	<b>FURTHER SUBMITTER NAME</b>	<b>FURTHER SUBMISSION</b>	<b>OPPOSE / SUPPORT</b>

TRANSIT NEW ZEALAND	43/5/12 43/5/13 43/5/14	GRANT WELLS	V43/11/F28	SUPPORT
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**SUMMARY OF SUBMISSIONS:**

- Transit New Zealand opposes the entire plan change on the basis that it contains insufficient traffic impact information to adequately assess the effect on the highway in terms of conflicting traffic movements between the development and the through traffic on State Highway 3.
- Transit also considers that the proposal is contrary to the Objectives and Policies of the Waipa District Plan and if approved is likely to affect the administration and the integrity and certainty of the Plan in particular Objectives TR1 and TR2 and Policies TR1 and SU24.
- There is a need to insure that alternative travel modes, such as walking and cycling are made attractive.

***Summary of Further Submissions***

- Grant Wells supports the primary submission of Transit New Zealand and considers that the close proximity of this land to the Speedway and Equestrian Park make it undesirable to encourage the development of residential housing in close proximity. The submitter also considers that Dick Street and Grey St already become congested before and after major events at the Speedway and Equestrian facilities.

**DECISIONS:**

REJECT	43/5/12 – Transit New Zealand 43/5/13 – Transit New Zealand 43/11/F28 – Grant V Wells
ACCEPT PART	IN43/5/14 – Transit New Zealand

By retaining the provisions of the Kihikihi Plan Change as notified:

**REASONS FOR DECISION:**

1. The development of the Kihikihi Residential zone as detailed in this plan change will result in approximately 45 additional residential lots, should all of the properties be subdivided to the maximum density permissible under the Residential Zone rules. Generally a daily traffic volume of 10 vehicle

movements per day is assumed for residential development, resulting in an additional 450 vehicles movement on a daily basis.

2. The advice from Councils roading engineer is that the existing road network is capable of handling the additional traffic generated by the rezoning proposal. Site-specific subdivision consents would include conditions relating to entranceways and any frontage upgrades. Slow vehicle speeds and flat, straight roads surrounding the rezoning area means that visibility and safety standards will not be compromised by any development in the rezoning area.
3. The rezoning from Rural to Residential Zone is appropriate when considering the reticulated sewage that now supplies the area, its location adjacent to the existing residential zones and the existing road network and its location adjacent to the Kihikihi – Arapuni Road which is noted as a Primary Road in the District Plan. Primary Roads are defined in Appendix 18 of the District Plan as routes, which are of strategic regional importance, a significant element in the regional economy and a significant element in the local economy. This means that the additional vehicle movements derived from the rezoned block of land will have either direct or easy access to a Primary Road and which will provide easy access in both directions. This location is preferable to land fronting directly onto the State Highway or land that only has access via collector routes or local roads.
4. Given the alignment of the existing intersection of the Kihikihi-Arapuni Road and State Highway 3 and the relatively small number of additional vehicle movements that will result from the rezoned land, it is considered that the rezoning will be appropriate.
5. Submission 43/5/14 relating to the need to ensure that there are alternative travel modes available is recommended to be accepted in part. There are already sufficient facilities to allow pedestrians and cyclists to travel within Kihikihi, therefore the intent of this submission is accepted. Any additional facilities would be addressed through Councils LTCCP and Annual Plan process.
6. A letter was received from Transit New Zealand on the day of the hearing withdrawing their submission. The letter concluded with the following statement: *“While Transit’s concern in respect of the adequacy of the assessment of traffic effect was well justified, the Planner’s Report recommendations seem reasonable to the extent that additional traffic generation is unlikely to result in a significant adverse effect on SH 3. Therefore and under the circumstances, Transit does not wish to present evidence at this hearing.”*

<b>Private Plan Change 43 – Kihikihi Residential</b>	
<b>Plan Reference</b>	<b>Decision Report 3 – Reverse Sensitivity and overall zone change</b>
<b>File No</b>	<b>65-07-43</b>

SUBMITTER NAME	NUMBER	FURTHER SUBMITTER NAME	FURTHER SUBMISSION	OPPOSE / SUPPORT
TE AWAMUTU COMMUNITY BOARD	43/1/1 43/1/2			
KIHIKIHI DOMAIN USERS	43/3/5 43/3/6	Grant Valentine Wells	43/11/F31	Support
MURRAY BURN INVESTMENTS LTD	43/4/7 43/4/8 43/4/9 43/4/10 43/4/11	Grant Valentine Wells	43/11/F29	Support
GRANT WILLIAM REDSHAW	43/6/15 43/6/16	Grant Valentine Wells	43/11/F33	Support
LKM GUNN	43/7/17			
DAVID BRUCE AND SUSAN JEAN GRACE	43/8/18	Grant Valentine Wells	43/11/F34	Support
MARY FRANCES PEMBERTON	43/9/19 43/9/20 43/9/21 43/9/22 43/9/23 43/9/24 43/9/25	Grant Valentine Wells	43/11/F32	Support
LYNETTE CHRISTINE HOWE AND BRODIE DOUGLAS HOWE	43/10/26 43/10/27	Grant Valentine Wells Dean Jones and Jones	43/11/F30 43/12/F35	Support Support

**SUMMARY OF SUBMISSIONS:**

- The Te Awamutu Community Board and the Kihikihi Domain Users both supported the plan change with amendments. Both raised concerns regarding the potential for increased reverse sensitivity issues associated with the increasing the density of residential houses in close proximity to the Domain and then the increased possibility of complaints over horse, speedway or other domain events. Noise arising from these events was mentioned. The Community Board has suggested that the average lot size within the plan change area be increased and that the minimum lot size be increased to 2000 m<sup>2</sup> or that larger lots be located around the edge of the area closest to the Domain.
- Murray Burn Investments, Grant Redshaw, David and Susan Grace, Mary Pemberton and Lynette and Brodie Howe all oppose the plan change. Concerns raised in these submissions included adverse effects on businesses already established in the area that may be sensitive to close neighbours, a desire for larger lots if the proposal does proceed, concerns over reverse sensitivity complaints and higher value placed on the existing large sections and rural amenity. Some submissions raised concerns about possible restrictions that would be placed on the types of activities that could take place if the zoning changed. Concerns were also raised about the negative impact on the space and atmosphere of the change in zoning.
- LKM Gunn supported the plan change and considered it would be an appropriate use of the land and would remove any existing anomalies.

**SUMMARY OF FURTHER SUBMISSIONS:**

- Grant Valentine Wells submitted in support of the submissions of Murray Burn Investments, Lynette and Brodie Howe, the Kihikihi Domain Users, Mary Frances Pemberton, Grant Redshaw and David and Susan Grace.
- Dean and Nadia Jones submitted in support of the submission of Lynette and Brodie Howe.

**DECISIONS:**

ACCEPT	43/7/17 – LKM Gunn
ACCEPT IN PART	43/1/1 – Te Awamutu Community Board 43/3/6 – Kihikihi Domain Users

REJECT	<p>43/1/2 – Te Awamutu Community Board  43/3/5 – Kihikihi Domain Users  43/11/F31 – Grant Valentine Wells  43/4/7 – Murray Burn Investments Ltd  43/4/8 – Murray Burn Investments Ltd  43/4/9 – Murray Burn Investments Ltd  43/4/10 – Murray Burn Investments Ltd  43/4/11 – Murray Burn Investments Ltd  43/11/F29 – Grant Valentine Wells  43/6/15 – Grant William Redshaw  43/6/16 – Grant William Redshaw  43/11/F35 – Grant Valentine Wells  43/9/22 – Mary Frances Pemberton  43/8/18 – David Bruce and Susan Jean Grace  43/11/F34 – Grant Valentine Wells  43/9/19 – Mary Frances Pemberton  43/9/20 – Mary Frances Pemberton  43/9/21 – Mary Frances Pemberton  43/9/22 – Mary Frances Pemberton  43/9/23 – Mary Frances Pemberton  43/9/24 – Mary Frances Pemberton  43/9/25 – Mary Frances Pemberton  43/11/F32 – Grant Valentine Wells  43/10/26 – Lynette and Brodie Howe  43/10/27 – Lynette and Brodie Howe  43/11/F30 – Grant Valentine Wells  43/12/F35 – Dean and Nadia Jones</p>
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By retaining the provisions of the Kihikihi Plan Change as notified.

By amending the information provided to recipients of Land Information Memorandums (LIM) for any property within 500 metres of the boundary of the Domain Reserve and that the LIM include a copy of the Kihikihi Speedway Club race calendar for that year along with the resource consent for the activity.

By inserting a new Policy RS 40a in the Residential Zone provisions at page 1-57 of the District Plan: *“To encourage lower density residential development in the land bordered by Oliver St, Whitmore St, Grey St and Dick St.”* and insert an associated explanation:

*Low density residential development is encouraged in the block bounded by Oliver St, Whitmore St, Grey St and Dick St to recognise the location of this land on the edge of the Kihikihi Residential Zone and opposite the Kihikihi Domain. This will provide a small area of larger residential lots with greater spacing between dwellings, which will retain a feeling of spaciousness in this residential edge location adjacent to the Kihikihi Domain.*

By inserting additional text in Rule 3.4.1 (2) (a) after the words “minimum average lot size shall be 700 m<sup>2</sup>” by adding: *“And further that the minimum lot size exclusive of access within the land bordered by Oliver St, Whitmore St, Grey St and Dick St in Kihikihi shall be 1000 m<sup>2</sup>.”*

By inserting additional text in Rule 3.4.1 (2) (b) after the words “Cambridge North Residential Zone – 600 m<sup>2</sup>” to read: *“except within land bordered by Oliver St, Whitmore St, Grey St and Dick St in Kihikihi – 1000 m<sup>2</sup>.”*

By inserted additional text in Rule 10.6.2 (2) a) after the words; ... “Character Area 3 - 550 m<sup>2</sup> with a minimum average net lot area on a plan of subdivision of 750 m<sup>2</sup>” to read: “**And Further That in the Kihikihi Residential Zone bounded by Oliver St, Whitmore St, Grey St and Dick St the minimum net lot area shall be 1000 m<sup>2</sup>**”

By inserting an additional **Rule 10.6.2 – 3D Kihikihi Residential Zone** (Oliver St, Whitmore St, Grey St and Dick St area) Subdivision and development that does not comply with Rule 10.6.2 (2) a) shall be a **Non-Complying activity**.

By amending Planning Map 36 of the Operative Waipa District Plan by adding Residential Zone shading to the block of land bounded by Oliver St, Whitmore St, Grey St and Dick St and adding a special notation referring plan users to the different density provisions applying to this area.

#### **REASONS FOR DECISION:**

1. THE RESOURCE MANAGEMENT ACT 1991 (“RMA”) AND THE LOCAL GOVERNMENT ACT AMONGST OTHERS, SET OUT THE LEGISLATIVE PARAMETERS UNDER WHICH THE DISTRICT COUNCIL MUST WORK. THE FUNCTIONS OF TERRITORIAL AUTHORITIES ARE SET OUT IN SECTION 31 OF THE ACT:

“Functions of Territorial Authorities under this Act – Every territorial authority shall have the following functions for the purpose of giving effect to this Act in its district:

- a) *The establishment, implementation, and review of objectives, policies and methods to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district;*
  - b) *The control of any actual or potential effects of the use, development, or protection of land, including for the purpose of:*
    - (i) *the avoidance or mitigation of natural hazards; and*
    - (ii) *the prevention or mitigation of any adverse effects of the storage, use, disposal or transportation of hazardous substances; and*
    - (iii) *the prevention or mitigation of any adverse effects of the development, use, disposal, subdivision or use of contaminated land*
    - (iv) *the maintenance of indigenous biodiversity*
  - c) *The control of the emission of noise and the mitigation of the effects of noise:*
  - d) *The control of any actual or potential effects of activities in relation to the surface of water in rivers and lakes:*
  - e) *Any other functions specified in this Act.*
2. THE PRIMARY INVOLVEMENT OF COUNCIL IN THE DEVELOPMENT PROCESS IS TO ENSURE THAT THE EFFECTS OF THE USE OF LAND AND NATURAL AND PHYSICAL RESOURCES ARE APPROPRIATELY MANAGED. THIS IS ACHIEVED THROUGH THE CONTROLS EMBEDDED IN THE DISTRICT PLAN SUCH AS OBJECTIVES, POLICIES, RULES AND OTHER METHODS.
  3. Zoning is a planning mechanism to manage the environmental effects of activities. Generally zones set out the range of permitted activities that can

occur within certain permitted activity standards, then lists those activities that will require resource consent for either a controlled, discretionary or non-complying activity to establish. Objectives and policies give a broad perspective on how key environmental issues in the Waipa District Council area will be addressed.

4. The objectives and policies relating to the Rural Zone generally relate to the managing of natural resources, environmental protection and refer to managing (amongst other things) issues such as landscape character areas, areas of significant bush, controlling land development, protecting prime agricultural land, avoiding farming practices that generate significant adverse environmental effects and preserving the rural and urban character of the District. More specific objectives and policies relate to mining operations and signs. Specific policies also relate to the form of urban and rural settlements and the containment of those settlements using significant landscape features.
5. The objectives and policies of the Residential Zone refer to the sustainable management of residential activities so as to minimize adverse effects on natural and physical resources, maintaining social and physical well-being and health of the residents and avoiding significant adverse effects on the quality of the environment. More specific policies refer to:
  - a. maintaining and enhancing amenity values of residential areas,
  - b. providing for non-residential activities where they are generally compatible,
  - c. allowing for further housing development in existing towns and settlements,

6. A number of specific policies relate to Kihikihi and are reproduced below in full:

*Policy RS32 – To confine the extent of the township to the raised land on which it is presently located.*

*Policy RS 33 – To preserve, and if possible, improve, the views from the town of surrounding rural landscape and distant volcanic cones.*

*Policy RS 34 – To allow for further rural residential development in the vicinity of the township.*

*Policy RS 35 – To encourage the development of a historic park on the Domain at the corner of Grey and Rolleston Streets.*

*Policy RS 36 – To improve the overall appearance and amenity values of the township.*

*Policy RS 37 – To recognize the areas previously zoned Residential in the Waipa County District Scheme as potential housing areas in the township.*

*Policy RS 38 – To obtain further housing in the township by the subdivision of large sites and more intensive development of small sites when a suitable sewage disposal system is available.*

*Policy RS 39 – To avoid the development of land for housing between Te Awamutu and Kihikihi.*

*Policy RS 40 – To avoid housing and other urban development in areas which*

*are contaminated by leachates and other harmful residues from old rubbish tips.*

7. The *Explanation* for Kihikihi on page 1-57 of the District Plan provides some background to the issues associated with the township and the reasons for the adoption of the above policies. The issue of obtaining more land for houses is mentioned specifically in Policy RS 38 above. In the *Explanation* this is expanded by noting that dwellings in the township are well spread out and many undeveloped allotments remain and that; *“In order to obtain the best service at the least cost for each unit of sewer reticulation, more dwellings are required in the existing residential area.”* The last part of the explanation states that *“In addition encouragement for more intensive development will be given in similar ways to that for Cambridge as referred to in Policy RS 19”*. Policy RS 19 on page 1-54 is: *“To encourage further residential development in Leamington.”* This points to Council encouraging further residential development in Kihikihi as well.
8. Residential expansion in Kihikihi to date has been limited by the lack of a reticulated wastewater scheme. This situation was rectified in 2005 – 2006 with the construction of the Kihikihi Sewerage Upgrade project, which has provided most areas within the township with reticulated wastewater. This upgrade project has also provided reticulated wastewater disposal for the area of Rural Zone subject to this Plan Change proposal.
9. The proposed plan change seeks to change the zoning of the land in question from Rural Zone to Residential Zone. This is in line with the overall policy framework in the District Plan and in particular for Kihikihi which sets the direction for growth and development in Kihikihi. The District Plan promotes the provision of additional residential housing in Kihikihi and the recent wastewater upgrade has removed the limitation of wastewater disposal. The plan change area is surrounded by Residential Zoned land to the south and west, Recreation Reserve land (with an underlying zoning of Residential) to the north and Rural land to the east. It is therefore already well confined by the surrounding landuse and zoning.

### **Reverse Sensitivity**

10. The Te Awamutu Community Board, the Kihikihi Domain Users, Murray Burn Investments Ltd, Grant Redshaw and Mary Pemberton all raised concerns in their submissions over the potential for reverse sensitivity. This concern has been expressed as a concern that a higher density of residential houses in the Plan Change area may result in additional complaints over the activities on the Kihikihi Domain, primarily the Kihikihi Speedway and the horse events on the remainder of the Domain.
11. Reverse sensitivity is an environmental effect recognized in case law as being the situation where sensitive landuses (such as residential housing) move into an area where an adverse effect is already being generated (such as noise from Domain events) and then complain about the generation of those effects. The result of that complaint in some instances can be pressure to curtail or limit the original activity.
12. The Kihikihi Speedway was authorized by consent granted by the then Waipa County Council in August 1988. The consent was issued subject to conditions controlling the number, duration, time and noise levels associated with each speedway race meeting. Council issued a section 127 amendment to the consent in January 2007 to change several of the conditions to provide greater flexibility for races but without any increase in the number of races. The controls contained in the amended conditions are as follows:
  - Condition 1** – No more than 10 race meetings per Speedway season (Sept – May)*
  - Condition 2** – Race meetings including practices (on Saturdays or public holidays) shall not start before 1.00 pm and shall not continue after 9.00 pm with all spectators cleared by 9.15 pm.*
  - Condition 3** – A speedway season calendar shall be submitted to Council for approval prior to each racing season.*
  - Condition 4** – Club shall adopt the best practicable means of keeping noise and dust pollution to a minimum and shall comply with the Council requirements.*
  - Condition 5** – Any vehicle which exceeds a noise level of 95 dBA measured at a point 25 metres on the infield side of the track shall not be permitted to race.*
13. The Speedway activity is tightly controlled and race meetings occur on a maximum of 10 occasions per year, and then only for 7 hours at a time. The presence of the speedway and the adjacent activities on the Domain are also well known and promoted through the local community and papers. Existing and future residential occupiers of land in the Plan Change area are therefore well informed as to the nature, extent and potential adverse effects of the activity. In addition the adverse effects of the Speedway activity and the Domain usage occur on an infrequent basis and do not have the same level of impact as an adjacent neighbour such as a quarry, piggery, freezing works or other activity

with a constant presence and level of activity.

14. Council will increase the amount of information provided to recipients of Land Information Memorandums (LIM) for any property within 500 metres of the boundary of the Domain Reserve. The LIM will also include a copy of the Kihikihi Speedway Club race calendar for that year, the original and amended conditions of consent for the activity. This will ensure that prospective purchasers of land are well informed as to the consented activities that occur in the vicinity. It is considered that with the implementation of this change, that the potential for reverse sensitivity complaints will be minimal. Council already follows a similar LIM procedure for properties in close proximity to Mystery Creek and the Hamilton International Airport.

### **Section Sizes**

15. Several of the submitters (Murray Burn Investments Ltd, David and Susan Grace, Mary Frances Pemberton and Lynette and Brodie Howe) requested that if the plan change was to proceed, that the rules be amended to provide for larger section sizes such as half acre (2000 metres), particularly along the boundary of the plan change area with the Domain. Rezoning the land to Residential will provide the opportunity for those landowners who want to, to subdivide their land under the Residential Zone rules. Now that the constraint of wastewater disposal has been removed, there is no impediment to full development of the land. However landowners can choose to keep their land in its current size.
16. Imposing a rule requiring larger section sizes will ensure that a lower density of development occurs in this area. This will provide a suitable feeling of spaciousness and recognize the location on the edge of the residential location bordering the recreational grounds of the Domain.

### **Rural Landscape Character**

17. Several submitters (Lynette and Brodie Howe, Mary Frances Pemberton, Murray Burn Investments Ltd) have stated that local residents value the rural landscape character of the area. The landscape character of the area needs to be viewed in the context of the zoning on the land, which in turn sets out the policy expectations for that land. Certainly the policy expectations, planning controls and environmental outcomes for the plan change area will be different under a Residential Zone as opposed to a Rural Zone. Council must weigh up the expectations of the residents to an unaltered rural character against the logical extension of the Residential Zone into this area and the boundaries provided by the Domain and the roads surrounding the area. In the long term the existing zoning for this area is still to be rezoned for Residential purposes.

### **Restrictions on Existing Activities**

18. Three submitters (Murray Burn Investments Ltd, Grant Redshaw and Mary Pemberton) expressed concerns that restrictions will be put in place on the types of activities that can occur on the land and that business operations already in place may be restricted. Any activities that are legitimately in existence within the plan change area will be able to continue under existing use rights, should the plan change proceed. The change to a Residential Zone will now alter the policy and rule framework that will apply to the land.
19. The key change will be from a Rural emphasis on the protection of natural resources and the environment to Residential emphasis on the protection of residential amenity. Some additional restrictions would apply when subdivision or landuse activity changes are proposed however, given the number and location of existing houses, it is considered that existing activities are already limited to some degree, due to the proximity of other residential houses in the area.

### **Sewerage Upgrade Concerns**

20. Murray Burn Investments and Mary Pemberton both expressed concern over the sewerage upgrade and requested further explanation on how the residents of Herbert St and Flat Road intend on having sewerage. This issue is not related to the plan change and is a technical issue relating to the implementation of the Kihikihi Wastewater Upgrade Project. It does not require further comment.

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## **9 APPOINTMENT OF A HEARING COMMISSIONER: FINDLAY HEARING**

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File: 01-52-01

### **RESOLVED**

4/07/32

*That pursuant to Section 34A(1) of the Resource Management Act 1991, Mr Alan Withy be appointed as a Hearing Commissioner for the purposes of considering the submissions lodged and to make a decision on the proposed private plan change application by P Findlay (Plan Change 41) to create a rural residential policy area in Houchens Road.*

Cr Newlands/Cr Taranaki

There being no further business the meeting closed at 3.16pm but would reconvene for site visits at 1.00pm on Tuesday 1 May 2007 at Te Awamutu.

**CONFIRMED AS A TRUE AND ACCURATE RECORD**

**CHAIRPERSON:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

