

Minutes of a Regulatory Committee Meeting held on Monday 28 May 2007 in the Council Chambers, 101 Bank Street, Te Awamutu commencing at 8.30am

1 PRESENT

Councillor D Sharpe, Chairperson

Committee

His Worship the Mayor A Livingston (except item 8.4), Councillors GC Flay, EC Newlands, BJ Taranaki, GRP Webber, Committee Member G Roberts (from 8.51am)

Others

Planning Services Manager – W Allan, Deputy Chief Executive – G Dyet; Consultant Planner - K Drew (item 8.1), Consultant Planner - S Bigwood (item 8.4), Planner - A Bron (items 8.2 and 8.3), Secretary – C Shaw

2 APOLOGIES

There were no apologies.

3 LATE ITEMS

There were no Late Items.

4 CONFIRMATION OF ORDER OF MEETING

File: 01-89-04

RESOLVED 4/07/33

That the order of the meeting be confirmed.

Cr Taranaki/Cr Webber

5 CONFIRMATION OF PREVIOUS MEETINGS

File: 01-89-04

Ordinary Meeting of Regulatory Committee held on 30 April 2007 would be considered at the June Regulatory Committee Meeting.

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

4/07/34

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

Mayor Livingston/Cr Webber

7 GENERAL

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

File: 01-52-01

RESOLVED

4/07/35

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

Cr Taranaki/Cr Newlands

7.2 Appointment of Commissioner: Findlay Hearing

File: 01-89-04

At the meeting on 30 April 2007, the Regulatory Committee resolved to appoint Commissioner Withy to hear the Findlay application. The applicant has requested that this decision be amended to include at least one or two Commissioners from the Regulatory Committee. The applicant was advised that Commissioners were not available until after the National Fieldays and he has accepted this and is prepared to wait.

RESOLVED

4/07/36

That Pursuant to Section 34A(1) of the Resource Management Act 1991, Crs Sharpe and Webber be appointed as Commissioners to assist Commissioner Withy 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 No. 41) to create a rural residential policy area in Houchens Road.

Cr Flay/Cr Newlands

[The meeting adjourned at 8.51am and reconvened at 10.30am]

8 HEARINGS

8.1 10.35am – 11.28

Non-Complying Subdivision Application to Create Two Additional Allotments: M B Bryant, 114 St Leger Road, Te Awamutu

File: 04651/020.21

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

1 THE HEARING

The hearing held on 28th May 2007 was attended by the following:

Applicant	<i>M B Bryant</i>
Appearing for Applicant	<i>Beverly Bryant & Darrel Bryant</i>
Appearing for Council	<i>Kathryn Drew – Consultant Planner, Lawrence Cross & Chapman.</i>

2 SITE VISIT

The Regulatory Committee undertook a site visit on 28 May 2007 to consider whether there was a specific topographical separation along the boundary between proposed Lot 2 and Lot 3 to enable the applicants to create Lot 2 under the provisions of Rules 10.3.2.2(d) and 10.6.1.4(d) Dwelling on Land with Little or No Productive Value and Topographical Restraints.

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.

Rules

- Rule 10.3.2.2(f) and 10.6.1.4(f) Environmental and Heritage Protection Lots
- Rules 10.3.2.2(d) and 10.6.1.4(d) Dwelling on Land with Little or No Productive Value and Topographical Restraints
- Rule 10.6.1.5 Relevant Assessment Criteria

Objectives and Policies

- Objective SU2, HG5, SU3
- Policies SU22, HG4, SU15A, SU3, SU10, SU13

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:

- Compliance with the Dwelling on Land with Little or No Productive Value and Topographical Restraints subdivision provisions of the operative Waipa District Plan.
 - The proposal is a Non-Complying Activity as it is unable to comply with the provisions of Rule 10.6.1.4(d), fourth bullet point.

- Specifically this subdivision provision requires that the balance area (proposed Lot 3) will be totally separated and inaccessible from other land within the subdivision by a permanent watercourse not less than 3 metres in width, a formed road, or a railway, or a severe or substantial natural landform feature such as a cliff, ravine or the like.
- In this circumstance it is not considered that the allotment to be created and the balance area will remain totally separated and inaccessible by one of the specific topographical circumstances under which this type of subdivision is considered appropriate.

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

Evidence on behalf of the applicant was given by:

Darrel Bryant

Mr Bryant provided the following comments on the application:

Background

- The land underlying proposed Lot 1 and 2 used to have a farm house, piggery buildings, cattle yards, metalled yard, concrete pad, barns, water tank and pine trees. Mr Bryant's father dismantled all these features, apart from barns, and made a 1 metre high retaining wall along the boundary of proposed Lot 2.
- Up to 2001 the whole property was farmed as a deer farm with a few sheep.
- After 2001 the majority of the property was leased to adjacent landowner (dairy farmer).

Current Situation

- The lessee of the majority of property has indicated that they do not want to lease this portion of land on the basis that it will not add to production and is awkward to manage.
- Mrs Bryant has difficulty moving sheep to graze them in this paddock due to the current lease arrangement and number of vehicle un-gated entrances along St Leger Road.
- The paddock is sandwiched between two other houses (Webster and Van der laan).

- Neighbours say its an 'eyesore' and would prefer no animals.
- Trees have not been removed but the land still has little productive value.

Proposal

- Plan to create two additional allotments to build environmentally sustainable homes.
- Proposed Lot 1 based on Environmental Protection Lot provisions. Appears to be a general consensus that this is a good idea.
- Proposed Lot 2 based on Dwelling on Land with Not Productive Value and Topographical Constraints. The site clearly has no productive value.

Effects

- Key concerns for Waipa District Council is the effect on resources and the environment. These environmental issues are identified in Policy AD6, and we can demonstrate that this proposal will not generate these effects.
- Other environmental effects include visual effects and loss of productive land. Both these effects will be minor.

Contrary to Objectives and Policies

- It appears the proposal cannot comply with SU13, SU22 on the basis that we are unable to comply with Rule 10.6.1.4(d). The words "inaccessible from other land within the subdivision" in Rule 10.6.1.4(d) are not clear to us. The rule is therefore considered to be ambiguous, and we have subsequently referred to the policies.
- There is nothing in the policy that contains the word 'and' (Dwelling on Land with Little or No Productive Value AND Topographical restraints). We feel we fit with the policy and explanation – yes it is difficult to manage, it does have poor soils and it is separated from the main activity of the property. Yes it could be used for a more productive purpose and no it is not on prime agricultural land.
- The proposed creation of two allotments is in keeping with the intent of the relevant policies of the District Plan and that in the context of the existing development of St Leger Road will have no adverse impact.

Unique Site

- Although the land affected is in a Rural Zone this site is unique for the following reasons:
 - Land sandwiched between two existing sections.
 - Area has already been heavily subdivided.
 - Rear house will not be seen from road.
 - This subdivision will not add to impression of ribbon development.

Evidence on behalf of the Council was given by:

Kathryn Drew – Consultant Planner – Lawrence Cross Chapman & Co Ltd.

Ms Drew read through her planners report, outlining the proposal, Council staff's assessment of the application, an assessment of the application against the Resource Management Act, and the operative Waipa District Plan, including an interpretation of the proposal against the operative Waipa District Plan Rules.

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

The Regulatory Committee have considered the application, the evidence heard at the hearing, the 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.

- The proposal seeks to create two additional allotments. Lot 1 is proposed using Rules 10.3.2.2(f) and 10.6.1.4(f) Environmental and Heritage Protection Lots. Lot 2 is proposed using Rules 10.3.2.2(d) and 10.6.1.4(d) Dwelling on Land with Little or No Productive Value and Topographical Restraints.
- The proposal is able to comply with all of the provisions of Rules 10.3.2.2(f) and 10.6.1.4(f) Environmental or Heritage Protection Lots, but is unable to comply with the provisions of Rules 10.3.2.2(d) and 10.6.1.4(d) Dwelling on Land with Little or No Productive Value and Topographical Restraints. The proposal was therefore assessed as a non-complying activity.
- Specifically, proposed Lot 2 is unable to meet the topographical restraint provision of the rule which requires that the balance area (proposed Lot 3) will be totally separated and inaccessible from other land within the subdivision by a permanent watercourse not less than 3 metres in width, of a formed road, or a railway, or a severe or substantial natural landform feature such as a cliff, ravine or the like.
- Section 104(D) of the Resource Management Act 1991 sets out the particular restrictions for non-complying activities. A consent authority may grant consent for a non-complying activity only if it is satisfied that either the adverse effects of the activity on the environment will be minor; or that the activity will not be contrary to the objectives and policies of the District Plan.

- The above assessment has demonstrated that the proposal in part is able to satisfy both of the tests. The proposal to create Lot 2, however is considered to not satisfy either test. On this basis, proposed Lot 2 has not been approved.

8 RESOLVED

4/07/37

That:

- a) *The report from Kathryn Drew, Consultant Planner for Lawrence Cross Chapman & Co Ltd. dated 14 May 2007 be received; and*
- b) *That in consideration of Section 104, and pursuant to Section 104B and 104D of the Resource Management Act 1991, the Waipa District Council approves consent to M B Bryant, to create only Lot 1 and Lot 3 (1 additional allotment) at 114 St Leger Road, Te Awamutu, legally described as Lot 2 DPS 62963 and Lot 1 DPS 44117 (SA 51A/837), as shown on the plan of subdivision SP/0013/06 subject to the following conditions:*

Land Transfer Plan

1. *That the Land Transfer Plan to give effect to this subdivision consent shall be generally consistent, subject to changes detailed in condition 3, with the approved plan prepared by CKL Surveying and Planning, reference: F2001: S1, dated May 2003 submitted with the application SP/0013/06.*
2. *That the consent holder must implement the Leger Farm Gully Restoration Plan, prepared by Kessels & Associates Ltd. This work must be completed to the satisfaction of the Council's Planning Services Manager prior to the signing of the Section 224 RMA certificate.*
3. *The Land Transfer Plan submitted must only show the following lots:*
 - *Lot 1 (Environmental or Heritage Protection Lot);*
 - *Lot 1 may be increased in area, but shall be no greater than the size of Lot 1 and 2 combined as shown of the subdivision scheme plan submitted with the application (i.e. no greater than 6,750m²)*
 - *Lot 3 (Balance Lot).*

Electricity

4. *The consent holder must 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 must 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 must be created for such services.

Telephone

- 5. The consent holder must 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 must 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 must be created for such services.

Utilities

- 6. The consent holder must submit to Council written and signed confirmation that, either, there are no water supply pipelines crossing boundaries between lots or, that all pipelines, that do exist, have been severed on a permanent basis to the satisfaction of the Council's Utilities Services Manager.*

Roading

- 7. That the consent holder must construct a Figure 3 Rural Residential type vehicle entrance to Lot 1. The entrance is to be constructed to the Council's standards as set out in the Code of Practice for Land Development and Subdivision. All work is to be completed to the satisfaction of Council's Engineering Manager and must be at the consent holder's expense. The following issues must also be addressed:*
 - The entrance must be located at the northern most point of proposed Lot 1 so as to achieve the required minimum sight distance of 105 metres in both directions. Reference shall be had to Council's Guideline of Visibility At Driveways (Standard RST6).*
 - The entrance must be sealed from the edge of the road to the property boundary.*
- 8. That the consent holder must upgrade as required the existing vehicle entrance to Lot 3 to a Figure 4 Medium Commercial type complying with Council's standards as set out in the Code of Practice for Land Development and Subdivision. The work must be carried out and 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.*

No Further Subdivision Consent Notice

9. *That pursuant to Section 221 of the Resource Management Act, 1991 the consent holder must enter into an agreement of an ongoing nature and registered on the title of proposed Lot 3 that no further subdivision of Lot 3 must be permitted pursuant to Rules 10.3.2.2(f) and 10.6.1.4(f) (Environmental or Heritage Protection Lots) of the operative Waipa District Plan.*

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 must issue a consent notice pursuant to Section 221 of the Resource Management Act 1991 specifying the above condition.

Such consent notice must be either prepared or checked at the cost of the subdividing owner by the Council's solicitors and must be registered against the title of Lot 3.

Natural Feature Preservation and Protection Consent Notice

10. *That the consent holder must enter into an agreement of an ongoing nature and register on the title of proposed Lot 3 that:*

- a) The natural feature covenant area marked as 'Landscaped Area Walkways and Planting' on Lot 3 on the plan prepared by CKL Surveying and Planning, reference: F2001:S1, dated May 2003 must be protected and preserved. The agreement must identify that every person who owns Lot 3 take every reasonable step to ensure that the natural feature is protected and preserved and that no person must carry out any activity in, on, under or over the natural feature, or in the vicinity of the natural feature that endangers or is likely to endanger it, or in any way detracts from the interest or significance of the natural feature.*
- b) The perimeter fence for the natural feature covenant area must be maintained in good repair to prevent stock access into the natural feature.*
- c) Ongoing weed control and maintenance must be undertaken within the natural feature covenant area as specified in the Leger Farm Gully Restoration Plan, prepared by Kessels & Associates Ltd.*

Reasons for Decision

1. *The proposed subdivision is able to meet the criteria for further subdivision set out in Rules 10.3.2.2(f) and 10.6.1.4(f) Environmental or Heritage Protection*

Lots. The application has demonstrated that it will be preserving a gully containing indigenous and exotic plantings and wetland areas. The application and supporting information has demonstrated that, subject to an ecological restoration plan being implemented, these areas are worthy of protection and warrant the approval of an Environmental or Heritage Protection Lot.

2. Condition 7 has been imposed to ensure that the entrance for Lot 1 is constructed in accordance with the Council's standards as set out in the Code of Practice for Land Development and Subdivision, as so as to achieve the required minimum sight distances of 105 metres in either direction in accordance with Council's Guideline of Visibility at Driveways (Standard RSTT6). Furthermore the condition removes the need to remove any vegetation on properties contiguous to proposed Lot 1.
3. A consent notice condition (condition 11) imposed will ensure that the natural feature is preserved for perpetuity. Additionally condition 2 ensures that future restoration of the natural feature is fulfilled the consent holder by implementation of the Leger Farm Gully Restoration Plan, prepared by Kessels & Associates Ltd prior to the release of the Section 224 RMA certificate.
4. The proposed subdivision is unable to meet the criteria for further subdivision set out in Rules 10.3.2.2(d) and 10.6.1.4(d) Dwelling on Land with Little or No Productive Value and Topographical Restraints. The proposal is unable to comply with the fundamentals of this rule which requires that the balance area (proposed Lot 3) will be totally separated and inaccessible from other land within the subdivision by a significant topographical feature. On this basis, proposed Lot 2 has not been approved.

8.2 11.56am – 12.01am

**Section 357 Objection to Conditions Imposed on a Unit Title
Subdivision in the Industrial Zone: Marwin Holdings Ltd, 215
Hannon Road, Hautapu**
File: 04445/222.02

**DECISION OF REGULATORY COMMITTEE ON A 357 OBJECTION TO
CONDITIONS IMPOSED ON A UNIT TITLE SUBDIVISION IN THE INDUSTRIAL
ZONE**

1 THE HEARING

The hearing held on 28 May 2007 was attended by the following:

Applicant	B Unwin on behalf of Marwin Holdings Ltd
Appearing for Applicant	Murray Osmond
Appearing for Council	Angela Bron (Planner) Wayne Allan (Planning Manager)

2 SITE VISIT

The Regulatory Committee did not undertake a site visit.

3 THE RELEVANT STATUTORY PROVISIONS

The objection was considered under the provisions of the Resource Management Act 1991. Specifically section 357 A (i) (e) provides the right of objection to a resource consent decision made under delegated authority.

This decision on the objection is made in accordance with section 357 D of the Resource Management Act 1991.

4 OTHER RELEVANT PROVISIONS CONSIDERED

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 Objectives and Policies (Part 1, Section 8)
- Subdivision Rules (Part 2, Section 10)
- Industrial Activities Objectives and Policies (Part 1, Section 4)
- Industrial Zone Rules (Part 2, Section 7)
- Definitions (Part 2, Section 13)

4.2 OTHER LEGISLATION

Other legislation applicable in the assessment of this application is the Unit Titles Act 1972.

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:

The principal issues that were in contention were:

- The definition of a site, and whether this includes unit site areas created under a unit title subdivision.
- The appropriateness of placing conditions on a unit title subdivision relating to the servicing of and access to the individual unit site areas.

6 SUMMARY OF THE EVIDENCE HEARD

Evidence on behalf of the Council was given by Wayne Allan. Mr Allan advised that legal advice had been received from Council's solicitor advising that as the definition of a site in the Operative Waipa District Plan does not include unit site areas created pursuant to the Unit Titles Act 1972, conditions relating to the provision of services and access to unit site areas created through a unit titles subdivision are not appropriate. Mr Allan stated that based on this advice, it was recommended that the objection be upheld.

Evidence on behalf of the applicant was given by Murray Osmond. Mr Osmond agreed that the conditions objected to were inappropriate for this type of subdivision, and also noted that although not included in the original objection, conditions relating to the provision of electricity and telephone cables to serve all lots are also inappropriate as no new sites are being created.

7 THE MAIN FINDINGS OF FACT:

The Regulatory Committee have considered the objection to conditions 4 to 10, the evidence presented at the hearing, 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.

- The imposition of conditions relating to the provision of services, including power and telephone services, and access to individual unit site areas is inappropriate.

8 RESOLVED

4/07/38

That

- a) *The report of Angela Bron, Planner dated 11 April 2007 be received.*
- b) *Pursuant to Section 357D of the Resource Management Act 1991, the Waipa District Council uphold the objection to conditions 4, 5, 6, 7, 8, 9 and 10 and accept the staff decision to approve the subdivision for Marwin Holdings Limited at 215 Hannon Road, Cambridge legally described as Lot 1 DP 361005.*
- c) *That in consideration of Section 104, and pursuant to Sections 104B, 108 and 220 of the Resource Management Act 1991 and the Operative Waipa District Plan the Waipa District Council approves the unit title subdivision of the site under the Unit Titles Act 1972 by Marwin Holdings Limited being the property located at 215 Hannon Road, Cambridge legally described as Lot 1 DP 361005 subject to the following conditions:*

CONDITIONS

1. *Condition 1 of SP/0053/07 has been amended as follows:
That the Land Transfer Plan to give effect to this subdivision consent must be generally consistent with the approved plan prepared by McPherson Goodwin reference 14540 dated April 2007 submitted with the objection to subdivision consent SP/0053/07. A copy of the approved plan is attached.*
Cr Taranaki/Cr Webber

REASONS FOR DECISION

- a. Any adverse environmental effects resulting from the proposal are deemed to be no more than minor.
- b. The proposal is not contrary to the relevant objectives and policies of the Operative Waipa District Plan.
- c. Pursuant to section 94 of the Resource Management Act 1991 the application has not been publicly notified as the adverse effects of the proposal are deemed to be minor and all parties that were considered potentially adversely affected by the granting of this consent have provided their written approval. Accordingly, the application was processed on a non-notified basis.
- d. Conditions 2 to 10 of the original subdivision approval are not required as the unit title subdivision is not creating any additional sites, in accordance with the definition of a site in the Operative Waipa District Plan. Accordingly, no additional services are required to be provided as a result of the unit title subdivision. Any specific requirements relating to services for future development of the site can be dealt with at the time of building consent for any additional buildings on the site. Conditions 2 to 10 have therefore been cancelled.

ADVISORY 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.

[The Meeting adjourned for lunch at 12.01pm]

8.3 12.42pm – 1.46pm

Application to Relocate Three Units onto the Property and Subdivide into Three Non-complying Residential Lots in the Residential Zone. Bartlett Investments Ltd, 43 King Street, Cambridge

File: 04351/138.00

DECISION OF REGULATORY COMMITTEE ON A LIMITED NOTIFIED RESOURCE CONSENT APPLICATION TO RELOCATE THREE UNITS ONTO A PROPERTY AND SUBDIVIDE INTO THREE NON-COMPLYING RESIDENTIAL LOTS IN THE RESIDENTIAL ZONE PURSUANT TO SECTION 113 OF THE RESOURCE MANAGEMENT ACT 1991

1 THE HEARING

The hearing held on 28 May 2007 was attended by the following:

Applicant	Paul and Noeleen Bartlett on behalf of Bartlett Investments Ltd
Appearing for Applicant	Grant Nicklin of Nicklin Surveying and Resource Management Gareth Moran and Tanya Running of Opus International Consultants
Appearing for Council	Angela Bron (Planner)
Submitters in Opposition	A & L Rohrbeck, D & L Newlands

2 SITE VISIT

The Regulatory Committee undertook a site visit on 28 May 2007 to consider the effects of the proposed development on the site, and surrounding properties.

3 THE RELEVANT STATUTORY PROVISIONS

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

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.

- Residential Activities Objectives and Policies (Part 1, Section 3)
- Subdivision Objectives and Policies (Part 1, Section 8)
- Residential Zone Rules (Part 2, Section 3)
- Subdivision Rules (Part 2, Section 10)

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:

The principal issues that were in contention were:

- Density of development
- Noise
- Traffic
- Visual Impact
- Effect on Residential Amenity
- Precedent Effects of Approving the Application

6 SUMMARY OF THE EVIDENCE HEARD

Evidence on behalf of the applicant was given by Mr Bartlett of Bartlett Investments Limited, and Mr Moran of Opus International Consultants Limited.

Mr Bartlett outlined the background to the application, including the historical significance of Valmai House to Cambridge.

Mr Moran outlined the application. He stated that he was supportive of the planners report and proposed conditions.

Evidence on behalf of the submitters was given by:

A Rohrbeck – 45A King Street
D Newlands – 41 King Street.

Mr Rohrbeck was in opposition to the proposed subdivision and site development due to the number of rules in the District Plan that the proposal was unable to comply with. In particular, concerns raised related to the potential noise effects from associated vehicle movements, concerns with vehicles being able to manoeuvre onto and within the right of way, the effects of the boundary encroachment of the proposed units on their property compared to a single dwelling, and subsequent effects on the value of his property.

Mr Newlands stated that he shared Mr Rohrbeck's concerns, and was also in opposition to the proposal as it was moving the problem (being the negative visual impact of the units on Valmai House) across the road.

Applicants Right of Reply:

With regard to the density concerns of Mr Rohrbeck, it was noted that a complying dwelling could be erected on the site, up to 1.5 m from Mr Rohrbeck's boundary, along the entire length of that boundary. It was also noted that a bond to ensure that the units were renovated to a suitable standard would be a condition of resource consent.

Mr Bartlett stated that he would be prepared to investigate either a consent notice or a covenant on the titles to ensure only one person could live in each of the units. Mr Moran stated that the traffic noise from residents and visitors would not be greater than that which would be expected from a 5 bedroom house with teenagers.

7 THE MAIN FINDINGS OF FACT:

The Regulatory Committee have considered the application, the evidence and submissions 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.

The proposed residential density and subdivision development is considered :

- A Non Complying Activity which breaches a number of land use and subdivision rules of the Waipa District Plan;
- Not consistent with the density requirements of the Cambridge Residential Character Area;

- Out of character with the surrounding residential development;
- Not maintaining or enhancing the amenity values and the quality of the surrounding residential environment;
- The development will result in difficult on site manoeuvring;
- Will have precedent effects if approved in maintaining a density of development more consistent with the requirements of the Cambridge Character Area and Plan Change 26 (Subdivision and Development Standards in Residential Areas)
- The Committee also considered that the proposed development will result in positive effects for Valmai House but this was outweighed by the potential adverse effects on the surrounding residential environment where the units are proposed to be relocated.

8 RESOLVED

4/07/39

That

- a) The report of Angela Bron, Planner dated 11 May 2007 be received.*
- b) That in consideration of Section 104, and pursuant to Sections 104B, 104D and 108 of the Resource Management Act 1991 and the Operative Waipa District Plan the Waipa District Council declines land use consent to Bartlett Investments Ltd to relocate three units from Valmai Estate onto the site at the property located at 43 King Street, Cambridge legally described as Lot 2 DP 379912.*
- c) 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 declines subdivision consent to Bartlett Investments Ltd to subdivide the property located at 43 King Street, Cambridge legally described as Lot 2 DP 379912, as shown on the plan of subdivision SP/0084/07.*

Cr Newlands/Mayor Livingston

REASONS FOR DECISION

1. The proposed residential density and subdivision development is considered a non-complying activity which breaches a number of land use and subdivision rules of the Operative Waipa District Plan.
2. The proposed subdivision is contrary to the objectives and policies of the Operative Waipa District Plan.
3. The proposed residential development is not consistent with the requirements of the Cambridge Residential Character Area. Particularly when compared with the required lot size of 450m².
4. The Committee considered the number of units proposed is considered to be out of character with the Cambridge Residential Character Area. It is

considered that an application to relocate two units onto the property may be more appropriate.

5. The Committee considered covenants restricting the number of residents occupying each unit would be difficult to enforce.
6. While it is recognised by the Committee that the relocation of the units would have positive effects on Valmai House, this was outweighed by the potential adverse effects on the amenity value of the surrounding residential environment where the units are proposed to be relocated.
7. The Committee considered there are no unique characteristics or special circumstance that would set this application apart from others within the Residential Zone and Cambridge Residential Character Area that would warrant approval. Granting consent to this proposal would have an adverse cumulative effect, in that Council would have difficulty declining consent to future similar applications.
8. The Committee considered that a large amount of the site is required to be used for right-of-way access to the units, and it is considered that manoeuvring within the site will be difficult.

8.4 2.00pm – 2.25pm

Application for Non-Notified Land Use Consent Application and Application for Non-Notified Subdivision Consent: DWT & LM Julian, 26 Williams Street, Cambridge

File: 04351/196.00 RC4953 & SP5107

SP: 5107	Non-notified subdivision to create two residential lots of 422m ² and 544m ² (450m ² net site area) within the Cambridge Residential Character Area.
File No: 04351/196.00	
Date: 31 May 2007	

1 THE HEARING

The hearing held on 28 May 2007 was attended by the following:

Applicant	LM Julian
Appearing for Applicant	G Nicklin (Nicklin Surveying and Resource Management)
Appearing for Council	S Bigwood (Bloxxam Burnett & Olliver Ltd)

2 SITE VISIT

The Regulatory Committee did not undertake a site visit.

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, 108, 220 and Part 2 of the RMA.

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

The application was considered under the following relevant provisions:

4.1 OPERATIVE WAIPA DISTRICT PLAN

The following provisions in the Operative Waipa District Plan were considered in the assessment of the application:

- Subdivision Rules 10.3, 10.3.3, 10.4, 10.5, 10.6, 10.7, 10.8, 10.9 and 10.10
- Residential Zone Rules 3.4
- Objectives SU2 and RS1
- Policies SU2, SU7, SU10, SU20, RS1, RS2, RS4, RS77, RS78, RS85, and RS86.

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 or the Waikato 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:

- Lot sizes and configuration
- Effect on amenity, especially the Cambridge Residential Character Area
- Urban service provision and capacity

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

1.1 The Chairperson outlined the procedures for the hearing.

2.1 Applicant

Verbal evidence on behalf of the applicant was given by G Nicklin. Mr Nicklin outlined the subdivision and advised that the conditions of the staff report were acceptable to the Applicant.

1.1.1 Council Staff

Mr Bigwood addressed his staff report highlighting the unusual qualities of the application.

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

The Regulatory Committee have considered the application, the evidence heard at the hearing, the 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.

- The subdivision will provide connections to all urban services without the need for any unplanned capacity upgrade to the services.
- The site's residential zoning verifies that the land is suitable for residential land use and subdivision.
- The proposed lots are suitably designed and sized to ensure that they can accommodate future residential development.

- The subdivision will comply with the Cambridge Residential Character Area density (i.e. the site at 966m² exceeds that required and anticipated by the District Plan for two allotments).
- The relocation of the existing character dwelling to the front of the site allows for the 'character' façade features of the street to be retained.
- The 'non-character' development of immediately adjoining sites are not character homes.
- The vacant allotment (Lot 2) will be of a complying size.

8 RESOLVED

4/07/40

That:

- (a) The report of SG Bigwood, senior planner for Bloxam, Burnett & Olliver Ltd dated 10 May 2007 be received.*
- (b) In consideration of Sections 104 and 104D, and pursuant to Sections 104B, 108 and 220 of the Resource Management Act 1991, the Waipa District Council approves the application by DWT & LM Julian to subdivide the property at 26 Williams Street, Cambridge, legally described as Lot 4 DPS 8621, comprised in Certificate of Title SA2D/1057, subject to the following conditions:*

General

- 1. That the Land Transfer Plan to give effect to this subdivision consent must be generally consistent with the approved plan reference 3072 Sheet CP Issue 1F dated 24 April 2007 by Nicklin Surveying and Resource Management submitted with application SP5107, unless otherwise altered by the consent conditions. A copy of the approved plan is attached.*

Power

- 2. That the consent holder must arrange with the local network electricity operator for separate underground reticulation of electricity to serve Lots 1 and 2 as required, and pay all costs attributable to such work. The consent holder must submit to the Council's Planning Services Manager written confirmation from the local network operator that satisfactory arrangements have been made for the reticulation of the service to Lots 1 and 2. This is to include if necessary the resiting, reposition or removal of any electric power lines which exist on the land being subdivided.*

Telecommunications

- 3. That the consent holder must arrange with the local telecommunications company for separate underground reticulation of telephone cables to serve Lots 1 and 2 as required, and pay all costs attributable to such*

work. The consent holder must submit to the Council's Planning Services Manager written confirmation from the telecommunications company that satisfactory arrangements have been made for the reticulation of the service to Lots 1 and 2. This is to include if necessary the resiting, repositioning or removal of any telephone cables which exist on the land being subdivided.

Water

- 4. The consent holder must arrange for Council to install separate water connections to Lots 1 and 2. The consent holder must meet all costs incurred.*

Advisory Note: *The location of the water connections must comply with all aspects of Waipa District Council Water Supply Bylaws 1995; Clause 1.3.3.*

Sewerage

- 5. The consent holder must provide a separate sewer connection to Lot 1. The connection must be constructed and recorded in accordance with the Council's standards as set out in the Code of Practice for Land Development and Subdivision. All work must be to the satisfaction of Council's Engineering Manager and be at the consent holder's expense. An application and construction drawings must be submitted for approval prior to any work being carried out. **An inspection is required prior to any backfill being placed.** As-built plans and information of all infrastructure assets, which are to be vested in Council, must be provided prior to the final inspection.*
- 6. The consent holder must locate the existing Lot 2 sewer connection and divert the pipe wholly into the access leg of the said lot. The pipe must be 0.5 metres clear of the front boundary corner of Lots 1 and 2. The connection must be constructed and recorded in accordance with the Council's standards as set out in the Code of Practice for Land Development and Subdivision. All work must be to the satisfaction of Council's Engineering Manager and be at the consent holder's expense. An application and construction drawings must be submitted for approval prior to any work being carried out. **An inspection is required prior to any backfill being placed.** As-built plans and information of all infrastructure assets, which are to be vested in Council, must be provided prior to the final inspection.*

Stormwater

- 7. That the relocated house shown on Lot 1 of the approved plan must have installed an on-site stormwater disposal system in general accordance with the design by GA Hughes & Associates (2005) Ltd reference 053957 dated 17 January 2007 and drawing references 6888A/1 and 6888A/2*

submitted with subdivision consent SP5107. All work must be to the satisfaction of Council's Building Advisory Officer and be at the consent holders expense.

Vehicle Crossing

8. *That the consent holder must construct a vehicle crossing to Lot 1 to the Council's standards as set out in the Code of Practice for Land Development and Subdivision. All work is to be carried out and completed to the satisfaction of the Council's Engineering Manager and shall be at the consent holder's expense.*

Reasons for Decision

- (a) This application was processed as a non-notified application because it will have only minor effects on adjacent and adjoining properties.
- (b) The application is not in conflict with the Objectives and Policies of the Waipa District Plan and the potential adverse effects on the environment will be minor. The statutory tests imposed by Sections 104B and 104D of the Resource Management Act 1991 for non-complying activities can therefore be satisfied. A decision has therefore been made that the application meets the requirements of Sections 104B and 104D of the Resource Management Act 1991 and approval can be granted.
- (c) The application has demonstrated that future development of the land for residential purposes is not compromised. Furthermore, any potential adverse effects that may arise from the application will be no more than minor or will be mitigated by appropriate conditions of consent.

RC: 4953	Non-notified land use consent for an infringement of separation of structures from internal site boundaries.
File No: 04351/196.00	
Date: 31 May 2007	

1 THE HEARING

The hearing held on 28 May 2007 was attended by the following:

Applicant	LM Julian
Appearing for Applicant	G Nicklin (Nicklin Surveying and Resource

	Management)
Appearing for Council	S Bigwood (Bloxam Burnett & Olliver Ltd)

2 SITE VISIT

The Regulatory Committee did not undertake a site visit.

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 **discretionary activity** and thus, was considered in accordance with sections 104, 104B, 108 and Part 2 of the RMA.

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

The application was considered under the following relevant provisions:

4.1 OPERATIVE WAIPA DISTRICT PLAN

The following provisions in the Operative Waipa District Plan were considered in the assessment of the application:

- Residential Zone Rules 3.3.1, 3.4, 3.6.1 and 3.6.3.
- Objective RS1
- Policies RS1, RS2, RS4, RS6, RS17, RS19, RS85 and RS86.

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 or the Waikato 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:

- Day-lighting and sun-lighting.
- Separation of activities.
- Effect on visual amenity in regard to the Cambridge Residential Character Area.
- Traffic effects.

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

3.1 The Chairperson outlined the procedures for the hearing.

4.1 Applicant

Verbal evidence on behalf of the applicant was given by G Nicklin. Mr Nicklin outlined the application and advised that the conditions of the staff report were acceptable to the Applicant.

1.1.1 Council Staff

Mr Bigwood addressed his staff report.

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

The Regulatory Committee have considered the application, the evidence heard at the hearing, the 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.

- The side yard infringement adjoins a vehicle accessway providing access to a dwelling to be located on the rear of the subdivided site. The location of the infringement adjoining the driveway will ensure that a buffer is maintained between residential dwellings.
- Rule 3.6.3 of the District Plan sets out situations where Council may approve an application for a building to be erected closer to an internal site boundary than specified in Rule 3.4.6. With regard to those rules, the building is able to comply with height in relation to boundary rules, and the length of the infringing wall will be less than 30% of the boundary length, and less than 10 metres. Pedestrian access will also remain available to the rear of the dwelling.

- The proposed infringement will not adversely effect the provision of daylight and sunlight into neighbouring buildings, visual and aural privacy, the general appearance of the street scene, and traffic safety. The proposed infringement will also not result in the loss of views from neighbouring properties.

8 RESOLVED

4/07/41

That:

- (a) The report of SG Bigwood, senior planner for Bloxam, Burnett & Olliver Ltd dated 10 May 2007 be received.*
- (b) In consideration of Section 104, and pursuant to Sections 104B and 108 of the Resource Management Act 1991, the Waipa District Council approves the application by DWT and LM Julian for a side yard infringement on the property at 26 Williams Street, Cambridge, legally described as Lot 1 being a subdivision of Lot 4 DPS 8621, subject to the following conditions:*

General

- 1. That the relocation of the dwelling and the site development proceed in general accordance with the application (WDC reference: RC4953), plans accompanying the application (Nicklin Surveying and Resource Management, reference 3072 Sheet CP Issue 1F dated 24 April 2007), and all further information received by Council on 14th March 2007 and 29th March 2007.*

Administration and Monitoring Charges

- 2. That charges set out in accordance with Section 36 of the Resource Management Act 1991 shall be paid to the Waipa District Council for carrying out of its functions in relation to the processing, administration, monitoring and supervision of this resource consent.*

Reasons for Decision

- (a) The application is considered by Council to satisfy Sections 104 and 104B of the Resource Management Act 1991 in respect of the land use consent.
- (b) The application is in accordance with the relevant objectives and policies of the Waipa District Plan.

- (c) The activity has demonstrated that it will not potentially cause any adverse effects on the local environment.

There being no further business the meeting closed at 4.25pm

CONFIRMED AS A TRUE AND ACCURATE RECORD

CHAIRPERSON: _____

DATE: _____