

Minutes of a meeting of the Regulatory Committee held in the Committee Room, Cambridge Service Centre, 23 Wilson Street, Cambridge on Monday 24 September 2007 commencing at 9.00am.

1 PRESENT

Councillor D Sharpe, Chairperson

Committee

His Worship the Mayor A Livingston, Councillors GC Flay, BJ Taranaki, GRP Webber, Committee Member G Roberts

Other

Deputy Chief Executive (GD Dyet), Consultant Engineer (G Weichern) – until item 8.2, Planner (J McLellan) – until item 8.2, Planner (A Bron) – from item 8.2, Secretary (C Plowright)

2 APOLOGIES

RESOLVED

4/07/71

That an apology for absence be received from Councillor Newlands.

Mayor Livingston/Cr Taranaki

3 LATE ITEMS

Nil.

4 CONFIRMATION OF ORDER OF MEETING

File: 01-89-04

RESOLVED

4/07/72

That the order of the meeting be confirmed.

Cr Webber/Cr Flay

5 CONFIRMATION OF PREVIOUS MEETINGS

File: 01-89-04

5.1 Ordinary Meeting of Regulatory Committee held on 27 August 2007 was included in the agenda.

RESOLVED

4/07/73

That the Minutes of the Regulatory Committee meeting held on 27 August 2007, having been circulated, be taken as read and confirmed as a true and correct record.

Cr Flay/Cr Taranaki

6 WAIPA DISTRICT LIQUOR LICENSING AGENCY

- 6.1 Monthly Schedule of Liquor License Applications Considered by Staff Under Delegated Authority was included in the agenda.**
File: 01-85-10

RESOLVED

4/07/74

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

Cr Taranaki/Mayor Livingston

Deputy Chief Executive, Garry Dyet, said the only matter arising from the last meeting that Mr Firth is making an appeal to the Environment Court concerning his resource consent processing charges.

7 GENERAL

- 7.1 Matters Considered by Staff Under Delegated Authority – Resource Management Act 1991 – were included in the agenda**
File: 01-52-01

RESOLVED

4/07/75

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

Committee Member Roberts/Cr Flay

7.2 Appointment of Hearing Commissioner to Consider and Determine Karapiro domain Resource Consent Applications related to the World Rowing Championships, High Performance Centre and Permanent Infrastructure

File: 60-06-30

RESOLVED

4/07/76

That

- a) *The report of Terrena Kelly – Senior Planner 3 September 2007 titled “Appointment of Hearing Commissioner to consider and determine Karapiro Domain resource consent applications related to the world rowing championships, high performance centre and permanent infrastructure” be received; and*
- b) *Pursuant to Section 34A(1) of the Resource Management Act 1991 Alan Watson be appointed as a Hearing Commissioner for the purpose of considering and determining the following resource consent applications for the Karapiro Domain:*
 - *The construction and operation of a High Performance Centre and refurbishment of existing Rowing Building;*
 - *The World Rowing Event 2010*
 - *Other permanent infrastructure and buildings*

Mayor Livingston/Cr Flay

7.3 Appointment of Three Hearing Commissioners for Joint Hearing with Environment Waikato, Piggery Consent, 29 October 2007

File: 01-52-01

RESOLVED

4/07/77

Pursuant to Section 34A(1) of the Resource Management Act 1991 Chairperson Sharpe and Councillors Flay and Webber be appointed as Hearing Commissioners for a Joint Hearing with Environment Waikato for the purpose of considering and determining a resource consent application for a Piggery operation in Mangare Road.

Mayor Livingston/Cr Taranaki

8 HEARINGS

8.1 9.15am – 10.17am

Section 357 Objection to the Delegated Decision to Decline the Application for Subdivision Consent: Fammorne Limited, Arapuni Road, Pukeatua

File: 04652/030.00

Applicant Fammorne Limited

Appearing for Council J McLellan - Planner

The Chairperson welcomed John and Robyn Watson and David Latham to the meeting. Council's Planner, Jaime McLellan, presented his report and described the situation that exists with entranceways to this and other properties on Arapuni Road.

DECISION OF REGULATORY COMMITTEE ON A SECTION 357 OBJECTION TO A DELEGATED DECISION TO DECLINE A NON-NOTIFIED RESOURCE CONSENT APPLICATION TO SUBDIVIDE IN THE RURAL ZONE PURSUANT TO SECTION 113 OF THE RESOURCE MANAGEMENT ACT 1991

1 THE HEARING

The hearing held on 24 September 2007 was attended by the following:

Applicant	J. Watson and R. Watson on behalf of Fammorne Limited
Appearing for Applicant	D. Latham of CKL Surveys Ltd.
Appearing for Council	J. McLellan (Planner) Greg Weichern (Consultant Rooding Engineer)

2 SITE VISIT

The Regulatory Committee undertook a site visit on 24 October 2007 to consider; the application, the access arrangement, the suitability of the existing site for residential development, and to gain a general appreciation of the traffic environment and the topography.

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

The application was considered under the provisions of the Resource Management Act 1991 (RMA). 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
(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 (Part 2, Section 10, Rule 10.5.1.2(c))
- Objectives SU2, SU3, TR1, and TR5.
- Policies SU3, SU16, TR 2, TR3, and RU4

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:

- Traffic and Access
- Permitted Baseline

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

Evidence on behalf of the Council was given by:

- J. McLellan
- G. Weichern

Mr McLellan began by briefly explaining the proposal and in doing so addressed a number of points for clarification, which were raised by the Members of the Committee.

Furthermore, Mr McLellan noted that the existing dwelling on the adjoining property at Lot 1 DPS 33621, belonging to A. Meikle, gained informal access via 1745 Arapuni Road.

It was noted by Gary Dyet – Deputy Chief Executive that Council have approved a new vehicle crossing place to be constructed to the Meikle property, which could provide legal access to Lot 1 DPS 33621.

Mr McLellan noted that the permitted baseline was a matter that the Committee should pay particular consideration to, in particular the question of whether it is feasible to build, and service residential development on the rear lot.

Greg Weichern provided a brief history of the site. He noted that 2 other consents have been recently granted on adjacent sites. In particular, he noted that:

- There was only one potential access point along this section of Arapuni Road that could achieve Council's sight distance standards.
- The speed environment of traffic travelling in an east to west direction operates at 100k/hr and therefore sight distances of 250m were required to the east of the access. The speed environment of traffic travelling in the opposite direction from west to east operates at 90k/hr and therefore sight distances of 210m were required to the west of the access.
- He was not aware of any crash history associated with the entrance to 1745 Arapuni Road.

Evidence on behalf of the applicant was given by:

- David Latham; and,
- Mr J. Watson

Mr Latham gave a brief background of the existing parcel and site layout. He then described the proposed layout, noting that no additional lots would be created. He submitted that the subdivision would rationalise the land use, which was encouraged under Policy SU16 of the Operative Waipa District Plan.

He explained the reason for the proposed subdivision is to provide a new title so that the applicant's son and family can build a house in reasonably close proximity to the existing dwelling, to facilitate assistance on the family farm. It was noted that the applicant's son and family already live on the property, and currently share the existing dwelling. Therefore, in terms of traffic, the car movements already exist.

He added that there are numerous places on the rest of the farm that would provide suitable building platforms, but all that would be permitted would be 70m² dwelling. In addition, the rear lot being 80ha is entitled to subdivided into 3 titles.

The evidence provided by Greg Weichern regarding the technical aspects, including sight distances, was not disputed and it was accepted that the sight distances at the existing access did not meet the Council requirements. However it was noted that the subdivision could otherwise meet all the requirements for boundary relocations.

In addition to the above, Mr Latham noted that, to the best of his knowledge, there had been no crashes or incidents associated with the existing residential access. Accordingly, he considered that the existing access was unsatisfactory rather than unsafe.

Regarding the subdivision of the adjacent site on the opposite side of Arapuni Road, belonging to J. Sutton; Mr Latham noted that this subdivision had introduced additional lots, which required an additional crossing onto Arapuni Road. Conversely, the Fammorne will utilise an existing crossing, which sets it apart from the Sutton subdivision.

Mr Latham concluded by stating that the applicant does not seek any additional entrances, and that the subdivision provided an opportunity for Council to improve on an existing situation. His client has offered to have a consent notice placed on the titles to ensure that only one dwelling is able to be established on each title. Mr Latham stated that this would address Council's traffic safety concerns.

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 Council's Planner, the relevant statutory and planning provisions, the principal issues that were in contention, and have 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 boundary relocation will not create any additional lots.
- The proposal will remove a title from within the Maungatatauri Special Landscape Area.
- A dwelling up to 70m² could be constructed on the land proposed as lot 1.

- It was considered to be unlikely that any additional development (or subdivision) would occur on the rear Lot, on the basis that the construction of an access, and the provision of services would be cost prohibitive, due to the topography and the distance involved. To this extent, the Committee considered that it is somewhat 'fanciful' that a dwelling would be constructed on the rear lot, being lot 3 DPS 52747.
- The titles are reliant upon access to a primary road, being Arapuni Road.
- The existing entrance fails to achieve minimum sight distances standards set out in the Code of Practice for Subdivision and Development and as required under Rule 10.5.1.2(c) of the Operative Waipa District Plan.
- The actual traffic generation under the existing access arrangement is equivalent to two residential dwellings.
- The potential traffic generation will be the equivalent of up to four dwellings. The associated traffic generation, which in turn would contribute to potential adverse traffic effects.
- The size of the existing holding would potentially allow an additional dwelling for a farm worker, subject to a resource consent being applied for, and granted (if appropriate).
- The existing holding is eligible to subdivide the rear title into three lots, on the basis of the "minimum 25-hectare rural lot size" under Rule 10.6.1.1 of the Operative Waipa District Plan.
- Any entitlement to further subdivide Lot 2 would be subject to Council's access and traffic safety requirements, being a matter that Council has reserved its discretion.
- As the site cannot achieve Council's minimum access standards, the Committee noted that any entitlement to further subdivide Lot 2 may need to be transferred elsewhere within the Rural Zone; subject to an application for resource consent pursuant to Rule 10.6.1.4(e) "Transferable Development Rights" of the Operative Waipa District Plan.

8 RESOLVED

4/07/78

That

- a) The report of Jaime McLellan, Planner dated 12 September 2007 be received; and*
- b) Pursuant to Section 357 of the Resource Management Act 1991, the Waipa District Council uphold the objection, in whole, to the decision to decline the application for subdivision consent; and,*
- 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 grants consent to Fammorne Limited to subdivide at the property located at 1745 Arapuni Road, legally described as Lot 2 DPS 90482 and Lot 3 DPS 52747, subject to the following conditions:-

Cr Taranaki/Mayor Livingston

CONDITIONS

1. *That the Land Transfer Plan to give effect to this subdivision consent must be generally consistent with the approved plan prepared by CKL Surveying and Planning reference J2161:S2 dated July 2007 submitted with application SP/0108/07, unless otherwise altered by the consent conditions. A copy of the approved plan is attached.*

Power

2. *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.

Telecommunications

3. *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.

Access

4. *That the Right-of-Way easement shown as "A" on the approved plan must be duly granted and reserve. All costs in connection with the easement must be met by the consent holder.*

5. *That the consent holder must upgrade as required the existing vehicle entrance to Lots 1 & 2 to a figure 5 standard heavy commercial rural vehicle entrance 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. Prior to undertaking any works the applicant must submit detailed design plans of the proposed works. The following issues shall be addressed in the detailed design plan, but not limited to:*
- *The entrance must be sealed from the edge of the road to the property boundary.*
 - *Undertake works to widen the carriageway opposite 1745 Arapuni Road to provide a minimum 6m seal-width from the centreline to the edge of seal. The localised shoulder widening shall be designed in accordance with the "Guide to Traffic Engineering Practice Part 5: Intersections at Grade: "AUSTROADS 1991" as amended by Transit New Zealand Road Design Guidelines RD1 –Intersections At Grade.*
 - *Stormwater drainage.*
6. *The consent holder must construct the proposed right-of-way to lots 1 & 2 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 must be at the consent holder's expense. The following issues must also be addressed:*
- *The right-of-way must have a 3 metre wide sealed surface.*
7. *The access to Arapuni Road currently used on an informal basis by the occupier of Lot 1 DPS 33621 is to be discontinued, and a suitable fence or barrier constructed on the property being subdivided to prevent such use in the future. The work shall be completed at the consent holders expense to the satisfaction of the Planning Services Manager.*

Consent Notices

8. *There may be no more than one dwelling on the land of Lots 1 and 2.*
- This condition will apply notwithstanding –*
- (1) any future subdivision or boundary adjustment of either lot on the subdivision plan; or,*
 - (2) what may be a permitted, controlled or discretionary activity under any Rule of the 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 conditions.

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 titles to Lots 1 & 2.

9. *That Lot 2 must not be subdivided further than into 3 lots (2 additional) pursuant to Rule 10.6.1.1 '25-hectare minimum lot size' 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 conditions.

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 titles to Lot 2.

10. *The subject property is located within the Special Landscape Character Area. Pursuant to Rule 2.5.2 of the Waipa District Plan any future structures on the subject site may require a resource consent.*

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 conditions.

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 titles to Lot 2.

REASONS FOR DECISION

- A. Any adverse environmental effects resulting from the proposal are deemed to be no more than minor, or can be mitigated by the imposition of appropriate consent conditions.
- B. Subject to the above conditions 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. Accordingly, the application was processed on a non notified basis.
- D. Condition 5 will; remedy the substandard access formation, and ensure that the approach to the access is perpendicular to the adjacent carriageway. The localised shoulder widening will provide following traffic the opportunity to manoeuvre around stationary vehicles turning right into 1745 Arapuni Road.
- E. Condition 6 will ensure that the right-of-way access is suitably formed to a durable all-weather standard.
- F. The conditions have 7 & 8 have been imposed for road safety reasons. The subdivision by way of a boundary relocation does not comply with Rule 10.5.1.2(c) of the Operative Waipa District Plan, but restricting the number of dwelling houses to no more than one per Lot, and by ensuring that the occupier of Lot 1 DPS 33621 uses the legal and physical access on to Arapuni Road, which is available to that property, the traffic effects on Arapuni Road will be minor.
- G. The consent notice(s) will advise future owners of the special and continuing circumstances of the site.
- H. Rule 10.5.1.2(c) of the Operative Waipa District Plan, reserves Council the discretion to consider matters of traffic safety relating to subdivision. Accordingly, any subdivision that increases traffic generation at the existing access, or any other point along the frontage of Lots 1 or 2, may be declined, due to the non-complying sight distances. Notwithstanding, any entitlements to subdivide lot 2 pursuant to 10.6.1.1 '25-hectare rule' may be transferred to a suitable site within the rural zone, according to Rule 10.6.1.4(e) 'Transferable Development Right'.

ADVISORY NOTES

- Any driveways and/or tracks created in association with the construction of the dwelling and attached garage must be compliant with the guidelines in Appendix 21 of the Operative Waipa District Plan (Special Landscape Character Area Colours).
- Pursuant to Rule 12.3.1.3 of the Waipa District Plan, all reticulation of services such as power and telephone must be underground in the Special Landscape Character Area.

Earthworks

- 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

- 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:
 - a) 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 at 10.17am and reconvened at 10.33am.]

8.2 10.33am – 10.47am

Section 357 Objection to Decision to Decline Subdivision Consent: BW & JE Ross, Paerahi Farms Ltd, Puahue Road, Te Awamutu

File: 04631/222.01

Applicant BW & JE Ross
Appearing for Angela Bron - Planner
Council

The Chairperson welcomed Barry Ross and Murray Hislop to the meeting. Mr Hislop explained that Mr Ross's property is in two titles and he has a transferable title on the second lot which is was transferred in April 2007.

Ms Bron presented her report.

RESOLVED

4/07/79

That

- a) *The report from Angela Bron, Planner dated 5 September 2007 be received; and*
- b) *Pursuant to Section 357 of the Resource Management Act 1991, the Waipa District Council dismiss the objection to the decision to decline the application for subdivision consent and accept the staff decision to decline the subdivision consent for a Transferable Development Right to B & J Ross to subdivide at 214 Puahue Road, Te Awamutu legally described as Lot 2 DP 384942 being the Transferee property and to Paerahi Farm Limited at Ellicott Road, Puahue legally described as Maungatautari 4E4 being the Transferor property as shown on the plan of subdivision SP/0219/07.*

Cr Sharpe/Cr Webber

Reasons for Decision

- 1 The proposed subdivision is contrary to the provisions of the Operative Waipa District Plan, in particular, Rule 10.6.1.4(e)(v) which states that the Transferable Development Rights Rule may be used only once in respect of a holding to which an entitlement to create an additional allotment is to be transferred.

As stated in Part 2, Section 13 – Definitions of the Operative Waipa District Plan, ‘Holding’ means a property or a collection of properties under common occupancy or in a single certificate of title which are farmed in conjunction with one another, and are contiguous.

At the time of application, the subject property was under common occupancy and farmed in conjunction with the adjoining property (held in the same certificate of title), on which a transferable development rights subdivision was approved by Council on 4 April 2007 (SP/0069/07). Accordingly, no further subdivision pursuant to this rule may be undertaken on this holding.

- 2 Having regard to the criteria in Section 104, 104B and 104D of the RMA it is considered that the proposed development is contrary to Part II of the RMA, in particular, 104.D.1(b)(i) – that the application is contrary to the policies and objectives of the Operative Waipa District Plan.
- 3 Consent to the proposal would have an adverse effect on the integrity of the District Plan and public confidence in the consistent administration of the Plan.
- 4 Approval of this Non-Complying subdivision (that is void of unique or special features to justify approval) could lead to further applications for similar subdivisions in the Rural Zone in Waipa District.
5. The objection states that Council planning staff had advised that there were no issues with the proposed subdivision. Any information provided verbally to persons prior to the lodgement of an application is without prejudice, and is subject to the information provided by the person at that time. Until an application is lodged, Council staff are unable to fully assess a proposal against the policies, objectives, and rules of the District Plan to assess its compliance; make an assessment against the relevant provisions of the Resource Management Act 1991; or undertake detailed property and file checks. It is standard practice where enquiries are made to staff that general guidance is provided regarding compliance with District Plan rules (subject to the information provided); and copies of the District Plan rules are made available.

It is incumbent upon any applicant (and surveyor) to undertake their own assessment of the District Plan rules prior to lodging applications. This assessment must be provided with any application, and it is noted that an accurate assessment of the TDR rule was not provided in this instance with either applications. Had an accurate assessment been undertaken by the

applicant (or surveyor) during the preparation of these applications, the issue of non compliance would have been obvious. The applicant (or surveyor) at that time was able to contact Council staff to discuss this issue prior to lodgement.

8.3 11.20am – 11.30am

Application to Locate a Water Tank within 15 Metres of an Internal Site Boundary in the Rural Zone

File: 04445/414.00

Ms Bron presented her report and also read out a fax received from Mrs Bourke (the adjoining landowner) commenting on the landscaping that has been suggested to mitigate the visual effects of the water tank.

DECISION OF REGULATORY COMMITTEE

Consent No: LU/0194/07	LIMITED NOTIFIED RESOURCE CONSENT APPLICATION TO LOCATE A WATER TANK WITHIN 15 METRES ON AN INTERNAL SITE BOUNDARY IN THE RURAL ZONE
File No: 04445/414.00	
Date: 28 September 2007	

1 THE HEARING

The hearing held on 24 September 2007 was attended by the following:

Appearing for Council	Angela Bron
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2 SITE VISIT

The Regulatory Committee did not undertake a site visit.

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

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.

- Rural Activities Objectives and Policies (Part 1, Section 2)
- Rural Zone Rules (Part 2, Section 2)

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 in the assessment of this application.

5 THE PRINCIPAL ISSUES THAT WERE IN CONTENTION:

The principal issue that was in contention was the visual impact of the water tank.

6 SUMMARY OF THE EVIDENCE HEARD

Angela Bron - Council's Planner

Dr Bron summarised her report focusing on the non-complying aspect of the proposal being the location of the water tank in relation to the boundary of the adjoining property at 567 Fencourt Road, Cambridge. She concluded that while the proposed location was within the required 15m setback for structures within the rural zone, the visual impact of the tank, situated beside a large existing farm shed, was no more than minor.

Evidence on behalf of the submitters was provided through a written statement from Mary Bourke of 567 Fencourt Road. Mrs Bourke stated that the landscaping condition recommended in the Planner's Report would result in adverse effects on her property which would be more than minor. She stated that the area between the water tank and the boundary was insufficient for the planting of trees unless they were continually maintained to ensure they never extended beyond the boundaries of the property at 559 Fencourt Road.

7 THE MAIN FINDINGS OF FACT:

The Regulatory Committee have considered the application, the evidence and submissions presented 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 visual impact of the water tank on the adjoining property is considered to be minor.
- Landscaping along the boundary is not considered appropriate, particularly given the concerns of the adjoining landowners.
- The appearance of the water tank can be improved through painting in a dark colour consistent with the Special Landscape Character Area colours.

8 RESOLVED

4/07/80

That

- a) The report of Angela Bron, Planner dated 3 September 2007 be received; and*
- 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 grants land use consent to Anibo Holdings Ltd to locate a water tank within the required internal site boundary set-back at the property located at 559 Fencourt Road, Cambridge legally described as Lot 2 DP 385446 (being Lot 2 of the subdivision of Lot 1 DPS 67881), subject to the following conditions:-*

Committee Member Roberts/Mayor Livingston

General

- 1. The proposed activity must proceed in general accordance with the plans and details prepared by R McQueen titled 'Diagram 4 Location of Shed, Tank to Boundary' submitted with the application.*
- 2. The consent holder must pay all reasonable costs associated with monitoring of this consent.*

Distance from Boundary

- 3. The water tank must be sited at least 2.1m from the boundary of Lot 1 DP 340454.*

Painting of Water Tank

4. *The exterior of the water tank must be finished in a dark colour which complies with Appendix 21 of the Operative Waipa District Plan (Special Landscape Character Area Colours). The colour must be approved by the Council's Planning Services Manager prior to the commencement of works on site. Compliance with this condition must be carried out within 3 months of the issue of resource consent.*

Advisory Notes

Earthworks

- *All earthworks associated with any development of land must be undertaken in accordance with the following matters :*
 - d) *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;*
 - e) *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*
 - f) *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

- *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:*

(ii) All works within the vicinity must cease immediately.

In cases other than suspected human remains:

(vii) The contractor must immediately secure the area and advise the NZ Historic Places Trust of the occurrence.

(viii) 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:

(ix) The contractor must take steps immediately to secure the area in a way

that ensures human remains are not further disturbed.

- (x) *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.*
- (xi) *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.*

Reasons for Decision

- a). Any adverse environmental effects resulting from the proposal are deemed to be no more than minor, or can be mitigated by the imposition of appropriate consent conditions.
- b). Subject to the above conditions 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. All parties that were considered potentially adversely affected by the granting of this consent have not provided their written approval. Accordingly, the application was processed on a limited notified basis.
- d). Painting of the water tank will assist with maintaining visual amenities in the Rural Zone.

There being no further business the meeting closed 1.04pm.

CONFIRMED AS A TRUE AND ACCURATE RECORD

CHAIRPERSON: _____

DATE: _____