

1 MEMBERS

Councillor D Sharpe, Chairperson.

Committee

Councillors GH Jull [from Item 10.4], BJ Taranaki, GRP Webber.

Others

Deputy Chief Executive & Group Manager – Environmental Services, G Dyet [until 10.15am]; Planning Services Manager, W Allen; Senior Planner, T Kelly [for Item 10.1]; Planning Officer, A McLellan [for Item 10.3]; Planning Officer, J McLellan [for Items 10.2 & 10.5]; Consultant Planner, J Brown [for item 10.4]; Environmental Health Officer and Liquor License Inspector, K Tutty [for Items 1 to 7.1 & Item 10.5]; Committee Secretary, S King.

2 APOLOGIES

RESOLVED

4/08/58

That the apologies from Mayor Livingston and Councillor Newlands for non attendance be received.

Cr Webber / Cr Taranaki

3 LATE ITEMS

There were no late items.

4 CONFIRMATION OF ORDER OF MEETING

File: 01-89-04

RESOLVED

4/08/59

That the order of the meeting be confirmed.

Cr Taranaki / Cr Webber

5 CONFIRMATION OF PREVIOUS MEETINGS

File: 01-89-04

- 5.1 **Ordinary Meeting of Regulatory Committee held on 14 July 2008 were included in the agenda.**

- 5.2 **Ordinary Meeting of Regulatory Committee held on 29 July 2008 were included in the agenda.**

RESOLVED

4/08/60

That the Minutes of the Regulatory Committee held on 14 July 2008 & 29 July 2008, be received.

Cr Webber / 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

4/08/61

That the monthly schedule of Liquor License Applications Considered by Staff Under Delegated Authority for 2008 be received.

Cr Sharpe / Cr Webber

- 6.2 **Opposed Special Licence Application – Aotearoa Breweries Limited**

File: P10064

Environmental Health Officer and Liquor License Inspector, K Tutty provided an overview of the report.

RESOLVED

4/08/62

That

- a) *The report of the Liquor Licensing Inspector dated 9 September 2008 be received; and,*
- b) *That the District Licensing Agency convene a public hearing to consider the above application; and,*
- c) *That the application be refused as it does not meet the criteria of section 73 of the Act.*

Cr Taranaki / Cr Webber

- 6.3 **Annual Report to the Liquor Licensing Authority was included in the agenda.**

File: 33-25-18

Environmental Health Officer and Liquor License Inspector, K Tutty provided the background to this item.

RESOLVED

4/08/63

That the Annual Report to the Liquor Licensing Authority dated 11 September 2008 be received.

Cr Sharpe / Cr Webber

7 GENERAL

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

File: 01-52-01

RESOLVED

4/08/64

That the schedule of Matters Considered by Staff Under Delegated Authority for 2008, be received, a copy of which is attached to and forms part of these minutes.

Cr Webber / Taranaki

8 APPOINTMENT OF HEARING COMMISSIONERS TO REGULATORY COMMITTEE FOR THE PURPOSE OF HEARING RESOURCE CONSENT APPLICATIONS

RESOLVED

4/08/65

*That PURSUANT to Section 34 and Section 34A of the Resource Management Act the Regulatory Committee in exercise of the functions powers and duties delegated to it by the District Council **DOES HEREBY APPOINT** the following persons to be Hearing Commissioners to sit with the Regulatory Committee to hear the following hearings:*

- a) *Councillor Jull to sit for hearings 10.4 and 10.5; and,*
- b) *Councillors Hoverd & Thomas to sit for hearing 6.1 on 1 October 2008.*

Cr Taranaki / Cr Webber

9 ENVIRONMENTAL COURT APPEALS & ENFORCEMENT PROCEEDINGS

An update on the status of Appeals and Enforcement proceedings was provided at the meeting.

RESOLVED

4/08/66

That the information be received.

Cr Sharpe / Cr Webber

10 HEARINGS

10.1 9.45am – 10.10am

Application for Remission of Financial Contributions Levied Pursuant to the Development Contribution Policy & the Local Government Act 2002 (LGA)

File Number – 04581/550.01

Council's Regulatory Committee resolved on 29 June 2008 that the application for remission of the Development Contribution be upheld, and the Development Contribution Notice DC/0075/2008 be remitted.

RESOLVED

4/08/67

That:

- a) *The report from Terrena Kelly, Senior Planner dated 20 June 2008 be received; and,*
- b) *The application for remission of the Development Contribution DC/0075/2008 **be approved**, and the Development Contribution of \$5,670.00 (GST Inclusive) be dismissed.*

Cr Taranaki / Cr Webber

Reason for Decision

- 1) The Committee considers that the dwelling is temporary because it does not have permanent foundations of any sort (rather it has stabilising "pins"); and the dwelling is similar to a caravan in nature. In making this decision, the Committee notes the presence of wheels and blocks which stabilise the dwelling (as shown in the photos provided by the applicant at the hearing). Accordingly, the Committee considers that the Development Contributions should not apply.

Should Council officers become aware that the dwelling is sited on permanent foundations, Development Contributions will be payable at the rate applicable at the time of inspection. Council may undertake compliance checks any time in the future to determine whether permanent foundations have been installed.

The meeting adjourned for the morning tea break at 10.15am and recommenced at 10.35am.

10.2 10.35am – 11.01am

Section 357 Objection to Resource Consent Processing Charges Levied Pursuant to Section 36 of the Resource Management Act 1991

File Number – 04482/450.00

DECISION OF REGULATORY COMMITTEE ON A SECTION 357 OBJECTION TO RESOURCE CONSENT PROCESSING CHARGES LEVIED PURSUANT TO SECTION 36 OF THE RESOURCE MANAGEMENT ACT 1991.

1 THE HEARING

The hearing held on 29 September 2008 and was attended by the following:

Applicant	Len Hatwell
Appearing for Council	Jaime McLellan

2 SITE VISIT

As this was an objection to cost, 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 (RMA).

Pursuant to Section 357B of the RMA, there is a right of objection for a person required by a local authority to pay an additional charge under section 36(3) or costs under section 149B(2) to the local authority.

Section 36 (3) of the RMA provides that where a charge fixed in accordance with subsection (1) is, in any particular case, inadequate to enable a local authority to recover its actual and reasonable costs in respect of the matter concerned, the local authority may require the person who is liable to pay the charge, to also pay an additional charge to the local authority.

4 OTHER RELEVANT PROVISIONS CONSIDERED

Section 100 of the RMA empowers; consent authorities the ability to hold hearings, and submitters or the applicants with the right to be heard with respect to the resource consent application.

Section 36(1)(b) of the RMA, enables territorial authorities to charge the applicant for carrying out the particular functions in processing the resource consent application.

4.1 OPERATIVE WAIPA DISTRICT PLAN

Being an objection to costs, the provisions in the Operative Waipa District Plan (District Plan) are not considered.

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 issue that was in contention was the additional charges for the Planner and the Planning Services Manager of \$2,212.00 and \$75.00, respectively.

6 SUMMARY OF THE EVIDENCE HEARD

Jaime McLellan – Council’s Planner

Evidence on behalf of Council was given by Mr Jaime McLellan. Mr McLellan presented his report and outlined the relevant statutory framework under the RMA.

Mr McLellan also noted the background and application process that contributed to the additional charges.

Len Hatwell – The Applicant

Evidence in support of the objection was given by Mr Len Hatwell. Mr Hatwell contended that the hearing process was unnecessary and the application could have been decided by Council staff. Mr Hatwell noted that the Council’s delegated staff took an adversarial position to his application, without fully appreciating the intent and merit of the application. This approach contributed to what he considers to be poor decision making. Accordingly, and on this principle, the additional cost are considered to be unreasonable.

7 THE MAIN FINDINGS OF FACT:

The Regulatory Committee have considered the objection to costs, the evidence presented at the hearing, the planning assessment report prepared by the planner, the relevant statutory and planning provisions, and the principle issue that was 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 hearing process was necessary to determine the resource consent application, as Council staff have only limited delegation in respect to applications in the front yard.
- The applicant has been charged the actual and reasonable costs in carrying out the receiving, processing and granting of the application for resource consent.

8 RESOLVED

No 4/08/68

Date 29/09/08

That

- a) *The report from the Jaime McLellan dated 28 August 2008 be received; and,*
- b) *Pursuant to Section 357 of the Resource Management Act 1991, the Waipa District Council dismiss the objection to costs from Len Hatwell.*

Cr Webber / Cr Taranaki

REASONS FOR DECISION

1. The resource consent processing fees reflected actual and reasonable time spent on receiving, processing and granting of the resource consent. Thus, the charges payable for the carrying out of Council's functions, have been charged to the applicant in accordance with Section 36 of the Resource Management Act 1991.
2. The application was determined by the Regulatory Committee to expedite the process and provide a decision with clarification on policy matters.

Councillor Sharpe left the meeting at 11.09am and rejoined the meeting at 11.12am.

10.3 11.14am – 12.14pm

Application to Subdivide and Create 28 Residential Lots in Two Stages

File Number – 04530/220.01

DECISION OF REGULATORY COMMITTEE ON A NON-NOTIFIED RESOURCE CONSENT APPLICATION TO SUBDIVIDE IN THE RESIDENTIAL ZONE PURSUANT TO SECTION 113 OF THE RESOURCE MANAGEMENT ACT 1991

1 THE HEARING

The hearing held on 29th September 2008 was attended by the following:

Applicant	Phillip Webb and Tim Goodson on behalf of PTP Developments Limited
Appearing for Applicant	Dave Timms of Churchill Timms Limited
Appearing for Council	Anna McLellan - Planner

2 SITE VISIT

The Regulatory Committee were familiar with the site and therefore 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 **discretionary** activity and thus, was considered in accordance with sections 104, 104B 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.

- *Rule 10.6.2 – Residential Zone Subdivision Standards;*
- *Rule 10.3.14 – Road to Vest;*
- *Policies RS6, RS17, RS18, RS19, SU3, SU4, SU5, SU7, SU8, SU9, SU10, SU11, SU17, SU19, SU20 and SU21; and*
- *Objectives SU2 and SU3.*

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:

- Entering into a cost share agreement for the formation of part of Shadbolt Drive;
- The occupation of part of the Town Belt by proposed lots 7, 8, 9, 17, 18, 25, 26, 27 and 28;
- Extension of the sewer main beyond the Town Belt and consideration of the subdivision in accordance with the standards for sewered areas in the Residential Zone.

6 SUMMARY OF THE EVIDENCE HEARD

Evidence on behalf of the applicant was given by Dave Timms of Churchill Timms Limited. Mr Timms provided a full description of the subdivision and addressed areas of concern with the recommended conditions of consent. Mr Timms requested that Council enter into a cost share agreement with the developer to re-form part of Shadbolt Drive.

Evidence on behalf of Council was given by Anna McLellan, who addressed the concerns raised by Mr Timms.

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 subdivision is in accordance with the provisions for subdivision in the Residential Zone;
- The proposed subdivision is of an appropriate layout and design;
- All lots can be adequately serviced;
- A 50/50 cost share agreement for the re-formation of an existing part of Shadbolt Drive as per that plan referenced 8016-CS and prepared by Churchill Timms Limited is appropriate; and
- Any fencing of the proposed lots that adjoin the Town Belt must occur on the common boundary with the Town Belt.

8 RESOLVED

No 4/08/69

Date 29/09/08

That

- a) The report from the Planner, Anna McLellan dated 17 August 2008 be received; and*
- b) In consideration of Section 104, and pursuant to Sections 104B, 108 and 220 of the Resource Management Act 1991, the Waipa District Council **approves** the subdivision consent by PTP Developments Limited to subdivide the property at 127 Milton Street, Leamington legally described as Lot 1 DP 383097 subject to the following conditions:*

Cr Taranaki / Cr Webber

STAGE 1 CONDITIONS

General

1. That the Land Transfer Plan to give effect to this subdivision consent must be generally consistent with the approved plans prepared by Churchill Timms Ltd reference 8016-04 dated April 2008 submitted with application SP/00283/07, unless otherwise altered by the consent conditions.
2. Prior to commencement of any site works, the consent holder must notify Council in writing of the consent holders representative for all matters concerning the resource consent. All communications with the Council must be via the Consent Holders representative.

Power

3. The consent holder must arrange with a local network electricity operator for the underground 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

4. The consent holder must arrange with a telephone company for the underground 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.

Amalgamation

5. That Lot 33 hereon (legal access) be held as to five undivided one fifth shares by the owners of Lots 23, 24, 25, 26 and 27 hereon as tenants in common in the said shares and that individual Certificates of Title be issued in accordance therewith. **See Request 759909.**

Reserves

6. The consent holder must vest Lot 35 in Council as Local Purpose (Wastewater Management) Reserve, and show this reserve on the Section 223 Resource Management Act 1991 survey plan.

Easements

7. Where any sanitary sewerage, stormwater or water pipes or cable or power lines are required to cross another Lot or Lots or pass across the boundary of another lot or Lots, a 2-metre minimum width easement must be created and registered against the certificates of title of those lots affected. Where existing or proposed Council sewer, water or stormwater lines are located within Lots a 3-metre minimum easement in gross in favour of Council must be provided. Easements for pipes and cables must be placed centrally over the pipe or cable location and must be contained wholly within the lots. All costs in connection with the easements must be met by the consent holder. Easements in gross must be approved by the Council's solicitors at the cost of the consent holder.
8. That the easements labelled AF, AG & AH (for right of way, right to convey water, gas, electricity and telecommunications, and right to drain water) as shown on the plans prepared by Churchill Timms Ltd reference 8016-08 dated May 2008 be created and duly granted.

Roading

9. The consent holder must construct a figure 14 type urban vehicle crossing to Lot 33. The crossing 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 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 formed with 30mm asphaltic concrete from the edge of the road to the property boundary.
10. The consent holder must construct the proposed Right of Ways AF, AG & AH (Lot 33) to Lots 23, 24, 25, 26 & 27 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 5 metre wide concrete surface.
11. Two producer statements from a suitably qualified and experienced professional must be submitted to Council. The first must include pavement design and drainage of the Right of Ways AF, AG & AH (Lot 33) and the second must cover the construction of the right-of-ways AF, AG & AH (Lot 33). 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 S 224 certificate.

Water

12. The consent holder must arrange for Council to install separate water connections to Lots 23, 25, 26, 27 & 35. The consent holder must meet all

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

13. The consent holder must provide a new water service line, from the existing water connection to service the existing dwelling on Lot 24. The existing service line must be disconnected from the existing water connection. A written and signed letter from the consent holder must be submitted to Council to confirm that this work has been completed. All work must be to the satisfaction of Council's Engineering Manager, and be at the consent holder's expense.
14. 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 Engineering Manager.

Design Drawings

15. The consent holder must submit drawings for approval to Council's Engineering Manager for a sewerage reticulation system and sewer pump station to service all Lots within the subdivision. The design drawings must be designed in accordance with Council's standards as set out in the code of Practice for Land Development and Subdivision, and must incorporate but not be limited to.
 - A sewerage reticulation system design that drains all Lots by gravity to a new wastewater pump station within lot 35 and rising main connection into Council reticulation in Rowling Place. The design of the gravity reticulation system must include provision for gravity sewage connections, complying to appropriate standards and good engineering practice. This will require sewer connections of sufficient capacity and depth to be provided to all lots that join the proposed development.

Sewer

16. The consent holder must provide a sewerage reticulation system and connections to service Lots 23 to 27. This system must be designed, constructed and recorded in accordance with the Council's standards as set out in the Code of Practice for Land Development and Subdivision and must connect into the existing sewer reticulation system. All work must be to the satisfaction of the 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. This information is a statutory requirement.

17. The consent holder must locate the existing sewer drainage and septic tank from the existing dwelling on Lot 24. These drains must be re-laid to connect into the new reticulation system and be contained within the boundaries of the new Lot 24. The abandoned septic tank must be emptied and backfilled with compacted sand. This work must be subject to a building consent and a Code of Compliance must be obtained for all private drainage works carried out within the private property. Council's Building Control Officers must inspect this work. All work must be at the consent holder's expense.

Stormwater

18. The consent holder must provide a Stormwater Management Plan to the satisfaction of the Council's Engineering Manager for Stage One.

The stormwater management plan must be provided at the consent holder's expense and must include but not be limited to the following:

- Information on existing stormwater systems, if applicable
 - Details of connection from and to existing stormwater systems and existing stormwater design calculations
- Geotechnical engineering investigation, if applicable
- Information for on site soakage and percolation tests, if applicable
- Stormwater run-off design calculations from proposed development
 - Stormwater from roads
 - Stormwater from car parks
 - Stormwater from right-of-way
 - Stormwater from lots
- Preliminary assessment & layout of proposed stormwater system for development.
- Identification of overland flow paths and easements, if applicable.

The stormwater design must be based on the approved Stormwater Management Plan and must be designed in accordance with Council's Code of Practice for Land Development and Subdivision.

All work must be to the satisfaction of Council's Engineering Manager, and must be at the consent holder's expense.

CCTV Survey

19. The consent holder must pressure test all sewer & water reticulation and conduct a CCTV survey of all sewer & stormwater reticulation to assess, but

not be limited to, pipe condition, pipe jointing, connections and gradient variations. CCTV survey of sewer & stormwater reticulation are to be recorded onto DVD format and submitted for approval to the Council's Engineering Manager. All work shall be to the satisfaction of Council's Engineering Manager and be at the consent holders expense.

Producer Statements

20. The consent holder must provide to Council's Engineering Manager four producer statements prepared by a suitably qualified and appropriately experienced professional on the approved Engineering plans and all the wastewater, stormwater and water reticulation to be vested in Council. The first must cover the design criteria. The second must cover design review of specific Engineering assets identified by Council for further review. The third must confirm that construction and installation of services is as per the approved design drawings. The fourth must cover construction monitoring of specific Engineering structures or assets identified by Council for further review.

Earthworks

21. All earthworks must be carried out in accordance with the standards set out in the Code of Practice for Land Development and Subdivision in accordance with NZS 4404:2004, and the following:
 - a) Ground conditions, including general fill must be assessed by a suitably qualified Geotechnical Engineer during the earthworks stage and, should conditions be seen to vary from the geotechnical and soakage design assumptions (Maunsell Limited, reference 60044317 and dated 9th June 2008), then geotechnical and soakage design must be reviewed and where necessary altered;
 - b) Good engineering practice;
 - c) Any earthworks be carried out so as to provide sound foundations and avoid any hazard to persons or property;
 - d) Any earthworks be carried out so as to avoid or mitigate any detrimental effect on the environment particularly with regard to the contamination of natural water or the diversion of surface or ground water flows, dust, sediment and vibration;
 - e) The existing landform may 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.
 - f) Reference should be made to the Waipa District Council Code of Practice for Land Development and Subdivision for formation and construction standards.

Waikato Regional Council (Environment Waikato)

22. The consent holder must either:

- a) Obtain both an earthworks and/or discharge permit from Waikato Regional Council (Environment Waikato). Any earthworks and/or discharge permits must be given effect to prior to the issue of the Section 224c Certificate. Any ongoing requirements that arise as a result of giving effect to the earthworks and/or discharge permits, in particular during the construction phase, must be registered on the affected Certificates of Title by way of a Section 221 Consent Notice to the satisfaction of Council's Planning Manager;

or

- b) Provide written evidence from Waikato Regional Council (Environment Waikato) that an earthworks and/or discharge permit is not required.

Sewer Pump Station

23. The consent holder must construct along the common boundary of Lot 35 (Sewage Pump Station) and Allotment 83 Town Belt, a 1.2m high fence. The fence must have a minimum height of 1.2m above finished ground level. The fence type must be submitted for approval and be constructed to the satisfaction of Council's Development Engineering Manager.

Transpower – Consent Notice

24. **(Transpower's Corridor Management Policy – Red Zone: Trees/Vegetation)** All newly planted trees/vegetation (exceeding a maximum height of 2 metres and over at full maturity) on Lot 13 shall be setback by a horizontal distance of at least 12 metres either side (total of 24 metres) from the centre of the Otahuhu – Whakamaru A transmission line. For advice please contact Transpower.

(Transpower's Corridor Management Policy – Red Zone: Building/Structures) All new buildings and structures on Lot 13 shall be setback by a horizontal distance of at least 12 metres either side (total of 24 metres) from the centre line of the Otahuhu – Whakamaru A transmission line.

(Transpower's Corridor Management Policy – Orange Zone: Buildings/Structures) Prior approval must be obtained from Transpower before the construction of any new buildings/structures on Lots 13, 14 and 15 within a horizontal distance of between 12-32 metres from the centre line of the Otahuhu - Whakamaru A transmission line. Please contact Transpower for the provision of appropriate setback distances.

(NZECP 34:2001 Land Use Activity Safe Distances) All Land use activities, including the construction of new buildings/structures, earthworks, operation of mobile plan and/or the construction of fences on Lots 13, 14 and 15 must comply with the New Zealand Cod of Practice for Electrical Safe Distances (NZECP 34:2001).

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 title to Lot 1000.

Geotechnical – Consent Notice

25. That for subsequent development of Lots 24-27, inclusive, 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 foundation of the buildings.

Reason

The Geotechnical & Stormwater Report prepared by Maunsell Limited, reference 60044317 and dated 9th June 2008 sets out preliminary foundation designs. Site specific investigations will need to be undertaken to determine which foundation design is suitable for each site.

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 24-27, inclusive.

Stormwater – Consent Notice

26. That for subsequent development of Lots 24-27, inclusive, a stormwater disposal system shall be installed and continually maintained in accordance with that designed by Maunsell Limited, reference 60044317 and dated 9th June 2008 to the satisfaction of Council's Building Control Manager.

Reason

The Geotechnical & Stormwater Report prepared by Maunsell Limited, reference 60044317 and dated 9th June 2008 sets a preliminary design for individual lot soakage.

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 24-27, inclusive.

Consent Notice - Town Belt

27. Allotment 83 Cambridge Town Belt is identified as Recreation Reserve (244) under the Operative Waipa District Plan. Waipa District Council manage this reserve in accordance with the Cambridge Town Belt Management Plan which includes the use of this reserve for grazing and recreation activities.

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 25-27, inclusive.

Fencing Covenant

28. The consent holder must enter into a fencing covenant with the Council which is to be registered against the title of Lots 25-27, inclusive, to the effect that the Council will not be liable nor called on to erect or repair or contribute to the cost of work as defined in the Fencing Act 1978 on any dividing or boundary fence between the said Lot and Allotment 83 Cambridge Town Belt. Such covenant must be either prepared or checked at the cost of the subdividing owner by the Council's solicitors.
29. The consent holder must enter into a fencing covenant with the Council which is to be registered against the title of Lots 23-27, inclusive, to the effect that the Council will not be liable nor called on to erect or repair or contribute to the cost of work as defined in the Fencing Act 1978 on any dividing or boundary fence between the said Lot and Lot 35 (sewage pump station). Such a covenant must be either prepared or checked at the cost of the subdividing owner by the Council's solicitors.

STAGE 2 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 Churchill Timms Ltd reference 8016-05 dated April 2008 submitted with application SP/0283/07, unless otherwise altered by the consent conditions. A copy of the approved plans is attached.
2. Prior to commencement of any site works, the consent holder must notify Council's in writing of the consent holders representative for all matters

concerning the resource consent. All communications with the Council shall be channeled via the Consent Holders representative.

Power

3. The consent holder must arrange with a local network electricity operator for the underground 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

4. The consent holder must arrange with a telephone company for the underground 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.

Amalgamation

5. That Lot 29 hereon (legal access) be held as to four undivided one quarter shares by the owners of Lots 9, 16, 17 and 18 hereon as tenants in common in the said shares and that individual Certificates of Title be issued in accordance therewith. **See Request 759909.**
6. That Lot 30 hereon (legal access) be held as to two undivided one half shares by the owners of Lots 14 and 15 hereon as tenants in common in the said shares and that individual Certificates of Title be issued in accordance therewith. **See Request 759909.**
7. That Lot 31 hereon (legal access) be held as to two undivided one half shares by the owners of Lots 21 and 22 hereon as tenants in common in the said shares and that individual Certificates of Title be issued in accordance therewith. **See Request 759909.**
8. That Lot 32 hereon (legal access) be held as to two undivided one half shares by the owners of Lots 19 & 20 hereon as tenants in common in the said shares and that individual Certificates of Title be issued in accordance therewith. **See Request 759909.**

Easements

9. Where any sanitary sewerage, stormwater or water pipes or cable or power lines are required to cross another Lot or Lots or pass across the boundary of another lot or Lots, a 2-metre minimum width easement must be created and registered against the certificates of title of those lots affected. Where existing or proposed Council sewer, water or stormwater lines are located within Lots a 3-metre minimum easement in gross in favour of Council must be provided. Easements for pipes and cables must be placed centrally over the pipe or cable location and must be contained wholly within the lots. All costs in connection with the easements must be met by the consent holder. Easements in gross must be approved by the Councils solicitors at the cost of the consent holder.
10. That the easements labelled A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S, T, U, V, W, X, AA, AC, AD & AE (for right of way, right to convey water, gas, electricity and telecommunications, and right to drain water) as shown on the plans prepared by Churchill Timms Ltd reference 8016-08 dated May 2008 be created and duly granted.

Reserves

11. The consent holder must vest Lot 36 in Council as Local Purpose (Access Way) Reserve, and show this reserve on the Section 223 Resource Management Act 1991 survey plan.
12. The consent holder must vest Lot 34 in Council as Road, and show this road on the Section 223 Resource Management Act 1991 survey plan.

Shadbolt Drive Extension

13. Construction drawings and specifications must be submitted for approval prior to any work being carried out.

Where necessary, new roads, kerb and channel, street lighting and footpaths must be extended beyond the boundaries of the subdivision to link up with existing council assets on Shadbolt Drive and Milton Street.

That the proposed road (Lots 34) must be designed and constructed to the Council's standards as set out in the Code of Practice for Land Development and Subdivision. All work must be carried out and completed to the satisfaction of Council's Engineering Manager.

All costs associated with these works must be met by the consent holder, with the exception of 50% of the costs associated with design and reconstruction of part of Shadbolt Drive shown as the hatched area on the plan prepared by Churchill Timms and referenced 8016-CS. The consent holder must provide a final quote to Council prior to commencing works, 50% of the total cost will be deducted from the Development Contributions payable for Stage 2.

Two producer statements from a suitably qualified and experienced professional must be submitted to Council. The first must include pavement design and drainage of the road and the second must cover the construction of the road. In addition the Confirmation form ROW 1 and ROW 2 must be filled out and submitted to Council prior to the issuing of the section 224 certificate.

14. The consent holder must provide to the satisfaction of the Council, engineering as-built drawings of the proposed road to vest, and the structures located within the proposed road to vest at the completion of construction. The applicant must demonstrate that all assets are located within the designated easement and that a plan showing assets within the designated easements must be provided prior to the issuing of the section 224 certificate.
15. RAMM forms of road infrastructure assets, to be vested in Council, must be provided prior to the final inspection. Note: A suitably qualified RAMM technician must complete RAMM update forms for the construction site. The forms are available in the manual entitled "*Transfund New Zealand Local Authority RAMM Database Operation Manual*" (PFM7). Update sheets shall also be provided for any adjustments necessary to the RAMM information of an intersecting existing public road.

Road Naming

16. The consent holder must submit a request for names for the proposed road prior to the issue of a certificate pursuant to Section 223 of the Resource Management Act 1991.
NB. If a request for names is not submitted the Council may name the roads without reference to the consent holder.
17. That the request for names for the proposed road must be approved by Council prior to the issue of a certificate pursuant to Section 224 of the Resource Management Act 1991.
NB. A property numbering plan must be submitted to the Council prior to the final inspection and to the satisfaction of Council's Engineering Manager.

Entrances

18. That the consent holder must construct a figure 14 type urban vehicle crossing to Lots 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 28, 29, 30, 31 and 32. The crossings are 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 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 formed with concrete from the edge of the road to the property boundary.

Right of Ways

19. The consent holder must construct the proposed right of ways 'AA, AB & J (Lot 29)' 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 5 metre wide concrete surface.
20. The consent holder must construct the proposed right-of-ways 'O & AC (Lot 30), S & AD (Lot 31), V & AE (Lot 32)' 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 concrete surface.
21. Two producer statements from a suitably qualified and experienced professional must be submitted to Council. The first must include pavement design and drainage of the right-of-ways 'AA, AB & J (Lot 29), O & AC (Lot 30), S & AD (Lot 31), V & AE (Lot 32)' and the second must cover the construction of the right-of-ways 'AA, AB & J (Lot 29), O & AC (Lot 30), S & AD (Lot 31), V & AE (Lot 32)'. 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 S 224 certificate.

Design Drawings

22. The consent holder must submit drawings for approval to Councils Engineering Manager for a sewerage reticulation system, sewer pump station and water reticulation system to service all Lots within Stage 2 and a stormwater reticulation system to service the roading network. The design drawings must be designed in accordance with Council's standards as set out in the Code of Practice for Land Development and Subdivision, and must incorporate but not be limited to.
 - A sewerage reticulation system design that drains all Lots by gravity to a new wastewater pump station within lot 35 and rising main connection into Council reticulation in Rowling Place. The design of the gravity reticulation system shall include provision for gravity sewage connections, complying to appropriate standards and good engineering practice. This will require sewer connections of sufficient capacity and depth to be provided to all lots that join the proposed development.
 - A water reticulation system to service Stage 2 connecting with the existing reticulation in Shadbolt Drive. Reticulation to include principle

water mains, 63 mm MDPE ridermains, and connections to service individual lots.

- A stormwater reticulation system design for the roading network, that includes soakage systems, overland flow paths, a primary reticulated piped system. The soakage systems must be designed in accordance with the Stormwater Management Plan as required by Condition 23 of this consent and the draft Maunsell Ltd Geotechnical Investigation & Stormwater Management Plan dated 9th June 2008 ref 60044317.

Water Connections

23. The consent holder must provide a water reticulation system and connections to service Lots 1 to 22, inclusive, and 28. This system must be designed, constructed and recorded in accordance with the Council's standards as set out in the Code of Practice for Land Development and Subdivision. The consent holder must arrange for Council to connect to the existing public mains. All work must be to the satisfaction of the 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. This information is a statutory requirement.

Sewer Connections

24. The consent holder must provide a sewerage reticulation system and connections to service Lots 1 and 22, inclusive and 28. This system must be designed, constructed and recorded in accordance with the Council's standards as set out in the Code of Practice for Land Development and Subdivision and must connect into the existing sewer reticulation system. All work must be to the satisfaction of the 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. This information is a statutory requirement.

Stormwater Management Plan

25. The consent holder must provide a Stormwater Management Plan to the satisfaction of the Council's Engineering Manager for the complete subdivision. The stormwater management plan must be provided at the consent holder's expense and must include but not be limited to the following:
- Information on existing stormwater systems, if applicable

- Details of connection from and to existing stormwater systems and existing stormwater design calculations
- Geotechnical engineering investigation, if applicable
- Information for on site soakage and percolation tests, if applicable
- Stormwater run-off design calculations from proposed development
 - Stormwater from roads
 - Stormwater from car parks
 - Stormwater from right-of-way
 - Stormwater from lots
- Preliminary assessment & layout of proposed stormwater system for development.
- Identification of overland flow paths and easements, if applicable.

The stormwater design must be based on the approved Stormwater Management Plan and must be designed in accordance with Council's Code of Practice for Land Development and Subdivision.

All work must be to the satisfaction of Council's Engineering Manager, and must be at the consent holder's expense.

CCTV Survey

26. The consent holder must pressure test all sewer & water reticulation and conduct a CCTV survey of all sewer & stormwater reticulation to assess, but not be limited to, pipe condition, pipe jointing, connections and gradient variations. CCTV survey of sewer & stormwater reticulation are to be recorded onto DVD format and submitted for approval to the Council's Engineering Manager. All work shall be to the satisfaction of Council's Engineering Manager and be at the consent holders expense.

Producer Statements

27. The consent holder must provide to Council's Engineering Manager four producer statements prepared by a suitably qualified and appropriately experienced professional on the approved engineering plans and all the wastewater, stormwater and water reticulation to be vested in Council. The first must cover the design criteria. The second must cover design review of specific Engineering assets identified by Council for further review. The third must confirm that construction and installation of services is as per the approved design drawings. The fourth must cover construction monitoring of specific Engineering structures or assets identified by Council for further review.

Earthworks

28. All earthworks must be carried out in accordance with the standards set out in the Code of Practice for Land Development and Subdivision in accordance with NZS 4404:2004, and the following:
- a) Ground conditions, including general fill must be assessed by a suitably qualified Geotechnical Engineer during the earthworks stage and, should conditions be seen to vary from the geotechnical and soakage design assumptions (Maunsell Limited, reference 60044317 and dated 9th June 2008), then geotechnical and soakage design must be reviewed and where necessary altered;
 - b) Good engineering practice;
 - c) Any earthworks be carried out so as to provide sound foundations and avoid any hazard to persons or property;
 - d) Any earthworks be carried out so as to avoid or mitigate any detrimental effect on the environment particularly with regard to the contamination of natural water or the diversion of surface or ground water flows, dust, sediment and vibration;
 - e) The existing landform may 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.
 - f) Reference should be made to the Waipa District Council Code of Practice for Land Development and Subdivision for formation and construction standards.

Waikato Regional Council (Environment Waikato)

29. The consent holder must either:
- a) Obtain both an earthworks and/or discharge permit from Waikato Regional Council (Environment Waikato). Any earthworks and/or discharge permits must be given effect to prior to the issue of the Section 224c Certificate. Any ongoing requirements that arise as a result of giving effect to the earthworks and/or discharge permits, in particular during the construction phase, must be registered on the affected Certificates of Title by way of a Section 221 Consent Notice to the satisfaction of Council's Planning Manager;
- or*
- b) Provide written evidence from Waikato Regional Council (Environment Waikato) that an earthworks and/or discharge permit is not required.

Access Lot and Street Trees

30. Council's Asset Manager – Recreation must approve the design standards for the paved pedestrian access lot (Lot 36), the planting placement within the access lot and the street trees intended to be planted, including the setback

from roads and footpaths/cycle ways prior to any works being undertaken. All approved work must be completed to the satisfaction of the Asset Manager – Recreation prior to the issuing of the Section 224(c) certificate.

31. Council's Asset Manager – Recreation must approve the design standards for lighting of the pedestrian access lot prior to any works being undertaken. All work must be completed to the satisfaction of the Asset Manager – Recreation prior to the issuing of the Section 224(c) certificate.
32. The consent holder must construct along the common boundaries of Lot 36 (Local Purpose Reserve) and Lots 7 & 8, a 1.2m high fence. The fence must have a minimum height of 1.2m above finished ground level. The fence type must be submitted and be constructed to the satisfaction of Council's Asset Manager – Recreation.

Transpower – Consent Notice

33. At the consent holder's expense Councils' solicitors must give an undertaking to cancel consent notice imposed under Condition 24 of Stage 1 from Lot 1000. Cancellation must be conditional upon the terms and parameters of the existing consent notice being re-registered on proposed Lot 1-22, inclusive, and 28.

Geotechnical – Consent Notice

34. That for subsequent development of Lots 1-22, inclusive, and 28 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 foundation of the buildings.

Reason

The Geotechnical & Stormwater Report prepared by Maunsell Limited, reference 60044317 and dated 9th June 2008 sets out preliminary foundation designs. Site specific investigations will need to be undertaken to determine which foundation design is suitable for each site.

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 1-22, inclusive, and 28.

Stormwater – Consent Notice

35. That for subsequent development of Lots 1-22, inclusive, and 28 inclusive, a stormwater disposal system shall be installed and continually maintained in

accordance with that designed by Maunsell Limited, reference 60044317 and dated 9th June 2008 to the satisfaction of Council's Building Control Manager.

Reason

The Geotechnical & Stormwater Report prepared by Maunsell Limited, reference 60044317 and dated 9th June 2008 sets a preliminary design for individual lot soakage.

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 1-22, inclusive, and 28.

Town Belt – Consent Notice

36. Allotment 83 Cambridge Town Belt is identified as Recreation Reserve (244) under the Operative Waipa District Plan. Waipa District Council manage this reserve in accordance with the Cambridge Town Belt Management Plan which includes the use of this reserve for grazing and recreation activities.

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 7, 8, 9, 17, 18 & 28, inclusive.

Fencing Covenants

37. The consent holder must enter into a fencing covenant with the Council which is to be registered against the title of Lots 7, 8, 9, 17, 18 & 28 to the effect that the Council will not be liable nor called on to erect or repair or contribute to the cost of work as defined in the Fencing Act 1978 on any dividing or boundary fence between the said Lot and Allotment 83 Cambridge Town Belt. Such covenant must be either prepared or checked at the cost of the subdividing owner by the Council's solicitors.
38. The consent holder must enter into a fencing covenant with the Council which is to be registered against the title of Lots 7-8 to the effect that the Council will not be liable nor called on to erect or repair or contribute to the cost of work as defined in the Fencing Act 1978 on any dividing or boundary fence between the said Lot and Lot 36 (access lot). Such a covenant must be either prepared or checked at the cost of the subdividing owner by the Council's solicitors.

Advisory Notes

Transpower

- It is Transpower's preference that all mobile plant operated on site maintain a horizontal distance of at least 12 metres from the centre of the transmission line and support structures.
- All trees and vegetation planted on Lots 13, 14 & 15 must comply with the Electricity (Hazards from Trees) Regulations 2003.
- Contact must be made with Transpower prior to the construction of any future buildings/structures on Lots 13, 14 and 15 and for the provision of appropriate setback distances from the existing transmission line.

Earthworks

- That all earthworks and sediment control measures be carried out in general accordance with the principles outlined in Environment Waikato's Technical Publication "Design Guidelines for Earthworks, Tracking and Crossings. A Practitioner's Technical Guide to Minor Effects Based Activities – Revised Edition September 2003".
- 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:
 - (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.

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 or the purpose and principles of the Resource Management Act 1991..
- 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) Engineering requirements will ensure that the subdivision is adequately provided with services when the area is developed.
- e) The consent notices will advise future owners of the special and continuing circumstances of the site.
- f) The sites residential zoning verifies that the land is suitable for residential land use and subdivision.
- g) The subdivision will provide connections to all urban services.
- h) The proposed lots are suitably designed and sized to ensure that they can accommodate future residential development.
- i) Pedestrian access links are provided between the Cambridge Town Belt and between the Shadbolt Drive extension. This link will enable easy pedestrian movement between Shadbolt Drive extension and Milton Street.

- j) Good earthwork practices will ensure that sediment run off is controlled and effects on water bodies are avoided, remedied and mitigated.
- k) The proposed roading layout will ensure that safe physical and legal access will be available to each lot created.
- l) The subdivision will not adversely affect any heritage or otherwise protected sites.

The meeting adjourned for the lunch break at 12.25pm and recommenced at 1.02pm.

10.4 1.02pm – 1.56pm

**Application to Subdivide Pursuant to Rule 10.3 as a Non-Complying Activity
Application for Landuse Consent to Locate a Milking Shed Within the Sideyard Setback Requirement from Proposed Lot 1 as a Non-Complying Activity
File Number – 04611/130.00**

DECISION OF REGULATORY COMMITTEE ON A NON-NOTIFIED RESOURCE SUBDIVISION CONSENT APPLICATION TO SUBDIVIDE AS A DISCRETIONARY ACTIVITY PURSUANT TO RULES 10.3.2.2(d) AND 10.6.1.4(d) (DWELLING ON LAND WITH LITTLE OR NO PRODUCTIVE VALUE AND TOPOGRAPHICAL RESTRAINTS) AND LANDUSE CONSENT TO ENCROACH THE INTERNAL SITE BOUNDARY AS A NON COMPLYING ACTIVITY PURSUANT TO SECTION 113 OF THE RESOURCE MANAGEMENT ACT 1991

1 THE HEARING

The hearing held on 29th September 2008 was attended by the following:

Applicant	Kathryn Drew – Applicant’s Agent (Bloxam Burnett & Olliver) Andrew Dyer – Surveyor (Bloxam Burnett & Olliver) Mrs O Clements – Applicant Linda Izzard – Applicants Daughter
Appearing for Council	Jonathan Brown – Consultant Planner

2 SITE VISIT

The Regulatory Committee undertook a site visit on Sunday 28th September 2008.

3 THE RELEVANT STATUTORY PROVISIONS

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

Subdivision Consent

The subdivision consent was assessed as a Discretionary Activity pursuant to Rules 10.3.2.2(d) and 10.6.1.4(d) and thus, was considered in accordance with sections 104, 104B and Part 2 of the RMA.

Landuse Consent

The proposal will result in an existing cowshed within Lot 2 being located approximately 17.8m from the Lot 1 and 2 common boundary. Rule 2.4.14(b) requires buildings housing animals, including milking sheds and shearing sheds to be located 30m from internal site boundaries.

The landuse consent was assessed as a Non-Complying Activity pursuant to Rule 2.4.14 and thus, was considered in accordance with sections 104, 104B, 104D and Part 2 of the RMA.

Overall, the application is assessed as a Non Complying Activity.

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.

- Objectives SU2, SU3,
- Policies RU39, RU40, RU63, SU3, SU13, SU22,
- Rule 2.4.14(b) Building internal setback requirements,
- Rule 10.5 Subdivision Standards for all Subdivision,
- Rule 10.10 Construction Standards,
- Rule 10.3.2.2(d) and 10.6.1.4(d) Dwelling on Land with Little or No Productive Value and Topographical Restraints

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 issue that was in contention was whether or not the proposed subdivision could be undertaken pursuant to Rules 10.3.2.2(d) and 10.6.1.4(d) (Dwelling on Land with Little or No Productive Value and Topographical Restraints).

Specifically, whether it had been established that;

- the land could not be usefully amalgamated with the neighbouring allotment,
- that the subject land is totally separated by a permanent watercourse not less than 3m wide, and
- that the subject land is not considered to be comprised of prime agricultural land.

6 SUMMARY OF THE EVIDENCE HEARD

Kathryn Drew - The Applicant's Agent

Evidence in support of the application was provided by Ms Kathryn Drew from Bloxam Burnett and Olliver. Ms Drew submitted the following new and additional information at the beginning of her evidence;

- An amended scheme plan indicating amended:
 - lot sizes and boundaries,
 - location of the building platform within Lot 1
 - separation distance between the new Lot 1 and 2 common boundary and the existing cowshed within Lot 2.
- A letter from David Stewart (Agricultural Consultant), of David Stewart and Associates Ltd, providing an expert opinion of the productive value of Lot 1.
- Topographical Survey plans indicating the accurately measured cross section widths of the stream separating Lot 1 from Lot 2.
- Stated that the cowshed within Lot 2 is disused and has not been in used since the 1970's.

Ms Drew's evidence included an overall assessment of the proposal, an assessment of the application against relevant objectives, policies and rules of the Operative Waipa District Plan and an overview of the actual and potential effects in contention.

Ms Drew addressed the several areas of contention in terms of compliance with the required standards of Rule 10.6.1.4(d) particularly in regards to, if the land could not be usefully amalgamated with the neighbouring allotment, that the subject land is totally separated by a permanent watercourse not less than 3m wide, and that the subject land is not considered to be comprised of prime agricultural land.

Ms Drew considered that due to the size of Lot 1 it could not be usefully amalgamated with the adjoining property and that the potential cost of surveying and re-fencing would not warrant the amalgamation.

Ms Drew conceded that while the subject land was comprised 85% of prime agricultural land as defined by the Waipa District Plan, it did not necessarily fail the provision of Rule 10.6.1.4(d) requiring the subject land to have '*little or no productive value for normal farming use because of physical characteristics (topography, soils, drainage etc.) render it unsuitable*'. Ms Drew considered that the watercourse that dissects the property had dictated the size of the land and that this coupled with drainage deposits on the side of the watercourse have resulted in the productive potential of the land being negligible. Therefore Ms Drew considered that Lot 1 is unable to be classified as prime agricultural land.

Ms Drew noted the difference in opinion between her assessment and the Council planner in regards to the definition of a watercourse. Ms Drew considered that the Resource Management Act definition of a river 'bed' should be used and that this relates to the space of land which the water covers without overflowing its banks,

Ms Drew considered that the application complied with all of the required standards of Rule 10.6.1.4(d) and therefore should be assessed as a Discretionary Activity.

Jonathan Brown – Council Consultant Planner

Evidence on behalf of Council was given by Mr Jonathan Brown of Opus International Consultants. Mr Brown presented his report and outlined the relevant rules of the Operative Waipa District Plan and the relevant statutory framework under the Resource Management Act 1991. Mr Brown identified the actual and potential effects of the activity, including cumulative effects of loss of prime agricultural land, reverse sensitivity effects, and visual effects. Mr Brown concluded that the actual and potential effects arising from the proposed activity will be no more than minor subject to conditions of consent.

Mr Brown considered the main issues of contention were that the proposed subdivision did not fully comply with the provisions of Rule 10.6.4.1(d), specifically not being able to be usefully amalgamated with an adjoining property, being comprised of prime productive land, and not being totally separated by a permanent watercourse not less than 3m wide. In regard to this matter, Mr Brown advised that while the subdivision has been assessed as a Non-Complying Activity in order to fully assess the application, Council's interpretation of subdivision under this Rule is that it must meet all the criteria.

Mr Brown considered that the definition of 'permanent watercourse' not less than 3m wide should be referring to the actual width of water in the stream for its total length, not the average width of the stream as referred to within Ms

Drew's evidence. Mr Brown highlighted the fact that the cross section survey data plans supplied by Ms Drew indicated several areas below the 3m requirement, around 2.5m and also noted that the measurements had not included the narrowest sections of the stream that were presumably 2m wide.

Mr Brown therefore considered that in light of the additional information the subdivision could still not be granted as a Discretionary Activity pursuant to Rules 10.3.2.2(d) and 10.6.4.1(d), and must be assessed as a Non Complying Activity pursuant to Rule 10.3 of the Waipa District Plan.

Mr Brown identified that as a Non-Complying Activity, the proposed subdivision is considered pursuant to Section 104D of the Resource Management Act 1991. As such, consent can only be granted if the effects of the proposed subdivision are no more than minor, or the proposed subdivision is consistent with the relevant Objectives and Policies of the District Plan. Mr Brown advised that the proposed subdivision was contrary to Policies RU39, RU40, RU63, SU3, SU22 and Objectives SU2 and SU3 which are considered relevant to the type of subdivision proposed.

Mr Brown concluded that by granting a Non Complying Activity for which there are no special or unique circumstances that it could impair the public confidence in the consistent administration of the District Plan.

7 THE MAIN FINDINGS OF FACT:

The Regulatory Committee have considered the application, the evidence presented at the hearing, including the additional information, the planning assessment report prepared by the Council 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 can be considered as a Discretionary Activity pursuant to 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 site is suitable for rural residential development and it is considered that the subject site could not be usefully amalgamated with the adjoining site.
- The proposal complies with the objectives and policies relevant to this type of development.

8 DEVELOPMENT CONTRIBUTIONS

Financial Contributions for this subdivision are now collected under the Local Government Act 2002 pursuant to Council's Development Contribution Policy.

A Development Contribution of \$11,340.00 is payable for this development (one additional lot), which comprises of:

- Roading and Transport: \$6,264.00
- Community Infrastructure: \$4,316.00
- Parks and Reserves: \$760.00

The Development Contributions are required to be paid prior to the Section 224 Certificate being signed. A Development Contribution Notice will be attached to the decision letter which outlines the amount payable.

9 RESOLVED

4/08/70

That:

- a) The report of Jonathan Brown, Consultant Planner for the Waipa District Council, dated 12th September 2008 be received; and*
- b) In consideration of Section 104, and pursuant to Sections 104B of the Resource Management Act 1991, the Waipa District Council grants consent to O Clements to subdivide the property located at 690 Frontier Road, Pirongia, legally described as Lot 1 DPS 89644 and Section 9 Survey Office Plan 61587 and grants landuse consent to encroach the internal site boundary.*

Cr Jull / Cr Taranaki

Conditions of subdivision consent

General

1. That the Land Transfer Plan to give effect to this subdivision consent shall be generally consistent with the approved plan prepared by Bloxam Burnett & Olliver reference 137430 dated 25 September 2008 submitted as additional information at the Committee Hearing held 29th September 2008 unless otherwise altered by the consent conditions. A copy of the approved plan is attached.

Fencing

2. Prior to Council signing the certificate pursuant to S.224(c) of the Resource Management Act 1991 the consent holder must construct along the common boundary of Lots 1 and 2 a fence of one of the types described at items 6 - 9 of the Second Schedule of the Fencing Act 1978.

Power

3. 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.

Telephone

4. 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.

Roading

5. That the consent holder must construct a figure 3 type rural residential 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 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.
6. That the consent holder must upgrade the existing vehicle entrance to Lot 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. The following issues must also be addressed:
 - The entrance must be sealed from the edge of the road to the property boundary.

Effluent and Stormwater Disposal

7. That for subsequent development of Lot 1 an effluent and stormwater disposal system shall be designed, installed and continually maintained 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 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 to Lot 1.

The above condition is required as the site contains unstable and steep land comprised of soft soils.

Geotechnical

8. That for subsequent development of Lot 1 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. These shall be undertaken in accordance with the recommendations of the geotechnical report, prepared by Bloxam Burnett and Olliver, dated July 2008, ref 137430 submitted with SP/0166/08.

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 to Lot 1.

The above condition is required as the site contains unstable and steep land comprised of soft soils.

9. All buildings shall be setback a minimum of 5m, and all effluent fields shall be setback a minimum of 20m, from the watercourse.

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 to Lot 1.

10. Any future dwelling within Lot 1 must be located a minimum of 35m from the nearest point of the cowshed within Lot 2.

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 to Lot 1.

Advice Note:

No conditions for the landuse consent are required and all of the above consent conditions relate solely to the subdivision consent.

Reasons for Decision

- A. Any adverse environmental effects resulting from the proposal are deemed to be no more than minor.
- 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 and no parties were considered to be potentially adversely affected by the granting of this consent. Accordingly, the application has been processed on a non notified basis.
- D. The proposal is consistent with the existing and surrounding rural and rural residential development, and will not detract from the amenity of the surrounding area.
- E. Council is satisfied that any reverse sensitivity effects resulting from the cowshed encroachment will be no more than minor subject to the conditions of consent.
- F. Council requires the new lot boundary to be fenced to ensure the two differing land uses are sufficiently separated.
- G. Council's Building Control Officer has inspected the site and is satisfied the proposed building platform located within the identified flood zone is located in excess of the 0.5m above the 100 year return floodplain.
- H. Council's Roding Engineer has reviewed the proposal and is satisfied that the proposal will not adversely affect traffic safety in the surrounding area. Council are satisfied that the effects on the surrounding roading network from any increase in traffic numbers are only minor.

- I. The proposal will result in one additional allotment therefore Development Contributions have been calculated and imposed on the consent. Water Supply Development Contributions have not been charged as Council reticulation is unavailable at the subject site.

Advisory Notes

Water Supply

- Should Council water reticulation become available within the vicinity of the property in the future and any dwelling within Lot 1 or 2 connects, then Development Contributions will be charged at the applicable rate at the time of connection.

Building Consent

- The consent holder shall obtain the necessary building consents prior to the commencement of works on site.

Earthworks

- All earthworks associated with any 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:
 - (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.

Cr Sharpe left the meeting at 2.01pm and rejoined the meeting at 2.02pm.

10.5 2.03pm to 3.34pm

**Application to Establish and Operate a Childcare Centre for 47
Children in the Residential Zone**
File Number – 04482/450.00

**DECISION OF REGULATORY COMMITTEE ON A NOTIFIED RESOURCE
CONSENT APPLICATION TO ESTABLISH AND OPERATE A CHILDCARE
CENTRE IN THE RESIDENTIAL ZONE PURSUANT TO SECTION 113 OF THE
RESOURCE MANAGEMENT ACT 1991**

1 THE HEARING

The hearing held on 29 September 2008 was attended by the following:

Applicant	Sarah Doggart
Appearing for Applicant	Tim Gisler – Gisler Architects Kerry Shoat - Gisler Architects Dorothy Thresher – Swarbrick Dixon

Appearing for Council	Jaime McLellan
Submitter in Opposition	James Parlane

2 SITE VISIT

The members of the Regulatory Committee undertook a site visit prior to the hearing.

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 (District Plan) were considered in the assessment of the application.

- Section 3.0 – Residential Zone Rules;
- Objectives; RS1, Policies; RS1, RS3, RS4, RS5, RS20, RS26, RS30, RS78 & RS 81 Objectives; TR1 & TR4, Policies; TR3 & TR6, Objectives NS1 & NS2, Policies NS1 & NS2, Objectives; CO1, & CO3, Policies CO1, CO8, CO9, CO16 & CO18.
- The following assessment criteria:
 - Rule 3.4.6 – Separation of Structures from Internal Boundaries,
 - Rule 3.4.9 - Vehicle Parking,
 - Rule 3.4.14 – Manoeuvring Space,
 - Rule 3.4.16 - Signage,
 - Rule 3.4.23 - Sale and Hire of Goods and Services,
 - Rule 3.4.31 - Residential Character,
 - Rule 3.6.3 - Reduction of Separation Distance from Internal Site Boundaries,
 - Rule 3.6.4 - Variation in Parking Requirements,
 - Rule 3.6.7 - Signage Criteria,
 - Rule 3.6.9 - Commercial Services.

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 MATTERS OF CONTENTION

The principal issues that were in contention were:

- Residential amenity
- Signage
- Stormwater drainage
- Outdoor recreation

6 SUMMARY OF THE EVIDENCE HEARD

Ms Dorothy Thresher

Evidence on behalf of the applicant was given by Ms Dorothy Thresher. Mr Thresher listed the reasons why her client had made the application. Ms Thresher described the proposal in the context of the broader social, economic, and political environment. Mrs Thresher noted that there is significant demand for additional childcare facilities in Te Awamutu.

Mrs Thresher noted that the applicant has undertaken consultation with the affected parties, including neighbouring landowners and occupiers. Written approvals have been obtained from the adjoining landowners and several of the adjacent properties on the opposite side of Alexandra Street. Ms Thresher noted that the owner of the adjacent land, on the opposite side of Alexandra Street, has withheld their written approval. This landowner has raised concerns regarding the height and appearance of the proposed fence

Ms Thresher discussed the general issues that were raised in the Planner's report. Ms Thresher also discussed the matters raised by the submission by James Parlane.

Mr Tim Gisler

Mr Gisler presented evidence of behalf of the applicant. Mr Gisler outlined the application in terms of the building renovation and the site development.

Mr Gisler noted that legal requirements for childcare applications that are contained in the Education (Early Childhood Centres) Regulations 1998. Mr Gisler added that the applicant has undertaken consultation with the Ministry of Education and the proposal can comply with the specific requirements for early leaning centres, including; indoor and outdoor recreation areas and the level of supervision (ratio of staff to children).

Mr Gisler also advised that the proposed building works will need to comply with the requirements of the Building Act 2004. A fire-safety plan will be submitted as part of the building consent application. It is anticipated that the childcare conversion will be able to comply with the fire safety regulations.

In response to questioning by the Committee, Mr Gisler provided further clarification on the proposed; parking, outdoor recreation areas, type of landscaping, boundary treatment and the acoustic design features.

Mr James Parlane

Mr James Parlane presented evidence in support of his submission in opposition to the proposed childcare centre. Mr Parlane raised a number of concerns regarding; parking, amenity, and fire safety.

Mr Parlane stated that he considers that proposed parking area to be excessive. He added that the parking area would further reduce the open space available for outdoor recreation. Mr Parlane noted that alternative street parking was available along North Street. Mr Parlane advised that if on-site parking is required, then it should allow for convenient access and provide a safe point for parents and guardians to drop-off and collect children.

Regarding landscaping and vegetation, Mr Parlane noted that as many of the trees should be retained as possible to maintain the residential amenity and to provide shade for the children enrolled at the proposed centre.

Mr Parlane noted that the proposal is inconsistent with the Objectives and Policies of the District Plan, and will have a more than minor adverse effect on the environment.

Mr Parlane noted that there is merit in having early learning and childcare facilities in residential areas, provided that any development is suitable designed to incorporate appropriate mitigation measures. Mr Parlane stated that the application should be revised to address the above mentioned issues. Mr Parlane added that if the application were to be approved, then the consent should limit the number of children to reduce the pressure on amenities and services.

Jaime McLellan

Mr Jaime McLellan presented a summary of the planner's report. Mr McLellan noted that the scale and intensity of the proposed activity had contributed to a number of non-compliances with the performance standards contained in the District Plan. Mr McLellan explained that the main points of contention were the potential adverse effects on residential amenity and the demand on Council stormwater infrastructure.

Regarding the potential mitigation measures, Mr McLellan noted that the potential adverse effects on residential amenity could not be readily mitigated considering the inherent conflict between site-area and the scale of the activity.

Mr McLellan noted that he had discussed the proposal with Council's engineering and environmental health staff, with particular regard to the numbers of staff and children. In response to questioning by the Committee, Mr McLellan advised that a reduction in the student numbers, may reduce the level of traffic and noise that is generated, although a thorough assessment has not been undertaken. Mr McLellan noted a reduction in the number of children would not affect the parking requirements, which is based on the gross floor area of the building. Mr McLellan added that further mitigation is required to overcome the potential adverse visual effects on the residential amenity.

The Committee sought clarification on the landscaping restrictions that apply to the Te Awamutu College. Mr McLellan advised that the college is designated by the Ministry of Education, and as such it is not restricted by planning regulations in the same way as the proposed site. Mr McLellan noted that the College has a wide planting strip along the road frontages, which has a landscaped garden that is planted in roses. The College provides on-site parking for staff and visitors.

Applicant's Right of Reply

Ms Thresher, in representing the applicant, provided further comments on the potential effects of the proposal on the residential amenity in general, and the neighbouring properties in particular.

Ms Thresher advised that her client was prepared to reduce the number of children to 35 to further mitigate the effects on the residential amenity and to address any outstanding concerns that may be held by the Committee or the submitter. Ms Thresher added that the visual effects could be addressed through a landscaping plan.

Mr Thresher, in closing, concluded that the adverse effects could be satisfactorily mitigated through the imposition of appropriate conditions by Council. This would ensure that the adverse effects are no more than minor.

In response to questioning by the Committee, Ms Thresher noted that a reduction in children in care at the centre would have a corresponding reduction in the staff numbers.

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. 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 Committee considered that the intensity of the development would detract from the amenity of the surrounding Residential zone.
- The Committee considered that a reduction in the number of children would reduce the intensity of the development to a level that is comparable with the adjacent land uses, and on this basis the application could be approved, subject to conditions.
- It is considered that Council should exercise its control over the type landscaping and boundary treatment that is provided, to avoid the potential adverse effects of the development, on the residential amenity that is enjoyed by the occupants of the adjacent residential dwelling at 1123 Alexandra Street.
- Suitable landscaping and planting will soften the appearance of the existing structures and the proposed hard surfaces.
- The proposed signage may detract from the residential amenity and traffic safety in the vicinity. The location of the signage should be placed on the fence and in close proximity to the vehicular and pedestrian entrances. Moreover, there is no compelling reason to consent to oversized (non-complying) signage for this activity.
- The fire evacuation and emergency requirements can be assessed as part any building consent application submitted pursuant to the Building Act 2004.
- All stormwater run-off, below a 1 in 50 year event, can be satisfactorily disposed of on-site. A revised stormwater management plan is required.
- The internal boundary fence consists of a 1.6 metre high close-boarded wooden fence. The acoustic report has assessed the effects of noise, and found that the potential adverse noise on the basis that this fence is maintained.
- The proposed three (3) metre-wide central access will control the rate of egress and ingress to the parking area, which will in turn allow vehicle manoeuvring into the parking spaces.
- The proposal can provide for outdoor recreational activities for the students.
- The owner-occupier of the adjacent land on the opposite side of 1123 Alexandra Street has withheld their written approval as a potentially affected party.
- The adverse effects have not been considered in regards to those persons, on adjoining and adjacent land, who have provided the written approval.

8 RESOLVED

No. 4/08/71

Date 29/09/08

That

- a) *The report from Jaime McLellan dated 17th September 2008 be received; and,*
- b) *That in consideration of Sections 104, 104B and 104D of the Resource Management Act, the Waipa District Council Regulatory Committee grant land use consent for the application to establish and operate a childcare centre for 35 Children at 1 North Street legally described as Part Lot 47 DP 3314, subject to the following conditions:-*

Cr Jull / Cr Webber

CONDITIONS

General

30. The proposed activity must proceed in general accordance with the approved plans and details prepared by Gisler Architects (reference: 3933-08 sheets AL100 & 102 dated 4 June 2008 and sheet AL150 dated 13 March 2008) submitted with the application LU/0067/08.
31. The centre may only care for a maximum of 35 children at any one time.
32. All physical works, stated in the conditions, must be completed prior to the commencement of the land use approved under resource consent LU/0067/08, unless otherwise stated in the specific conditions.

Monitoring

33. The consent holder must pay all reasonable costs associated with monitoring of this consent.

Hours of Operation

34. The hours of operation will be as follows:
 - a) The general opening hours for staff and owners will be between 7:00am and 6:30pm.
 - b) The childcare site may only operate between the hours of 7:30am and 6:00pm, Monday to Friday (excluding public holidays). For the purpose of clarification, the 'childcare' activities is defined as those activities undertaken within the site that involve the; supervised care, or the drop-off and collection, of children.

Roading - Entrances

35. That the consent holder must construct a figure 14 type urban vehicle crossing to the proposed car park into 1 North Street. The crossing is to be constructed to the Council's standards as set out in the Code of Practice for Land Development and Subdivision. All works must be completed prior to the commencement of the land use, and be to the satisfaction of the Council's Engineering Manager. All works shall be undertaken at the consent holder's expense. The following issues must also be addressed:

- The entrance must be formed with concrete from the edge of the road to the property boundary.

Remove Existing Vehicle Crossing

36. The existing entrance is to be permanently closed to all vehicular traffic to the satisfaction of Council's Engineering Manager. The following issues must also be addressed:

- The kerb, berm, and footpath must be reinstated.

Remove Existing Driveway

37. The existing concrete driveway shall be removed and replaced with suitable permeable surfacing.

Footpath

38. The consent holder must construct in concrete a 1.5 metre wide footpath, as shown on the approved site plan for application LU/0067/08. The width may be reduced in to 1.0m to accommodate landscaping along the northern wall of the existing dwelling. The footpath is to be constructed to the Council's standards as set out in the Code of Practice for Land Development and Subdivision. All works must be completed prior to the commencement of the land use, and be to the satisfaction of the Council's Engineering Manager. All works shall be undertaken at the consent holder's expense. The following issues must be addressed:

- The footpath shall have a raised barrier-kerbing along the northern edge, between the parking spaces 1 and 6, to demarcate the car park and the pedestrian footpath.
- The footpath must be extended to connect to the existing footpath that runs along North Street to ensure continuity of pedestrian access.

Car Parking

39. The consent holder must construct the proposed car parking and manoeuvring areas to a formed and sealed standard. Reference should be had to the Council's standards as set out in the Code of Practice for Land Development and Subdivision as a guide to

satisfactory standards. 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. The following issues shall also be addressed:

- The car-park must incorporate provision for eleven (11) parking spaces.
 - The car-park design must incorporate provision for on-site disposal of stormwater, subject to condition 12, below.
 - Individual vehicle stops must be installed at parking spaces 1-6, and set-back a distance of 0.5 metres from the footpath, to prevent vehicles overhanging the footpath and interfering with the pedestrian access.
 - Parking spaces 1, 6 & 7 must be reserved for staff parking only, and each space must be marked with the appropriately signage or road marking.
40. Two producer statements from a suitably qualified and experienced professional must be submitted to Council. The first must include pavement design and drainage of the proposed parking and manoeuvring areas and the second must cover the construction of the proposed parking and manoeuvring areas. In addition the Confirmation form ROW 1 and Confirmation form ROW 2 must be filled out and submitted to Council prior to the commencement of the proposed land use.
41. Provide for a disabled person car park on site in the general position located on the approved scheme plan for LU/0067/08. The size of the park must comply with the District Plan requirements. A sign indicating the location must be erected in addition to the standard pavement marking requirements.

Stormwater Management Plan

42. The consent holder must provide a revised Stormwater Management Plan to the satisfaction of the Council's Engineering Manager. The stormwater management plan must be provided at the consent holder's expense and must include but not be limited to the following:
- The Stormwater Management Plan must provide comprehensive plan for entire site.
 - Information on existing stormwater systems, if applicable
 - Details of connection(s) from and to existing stormwater systems and existing stormwater design calculations
 - Geotechnical engineering investigation, if applicable
 - Information for on site soakage and percolation tests, if applicable

- Stormwater run-off design calculations from proposed development of the car parking area, footpaths, and any other hard surfaced areas.
- Preliminary assessment & layout of proposed stormwater system for the development.

The stormwater design must be based on the approved Stormwater Management Plan and must be designed in accordance with Council's Code of Practice for Land Development and Subdivision.

Please note: Any stormwater disposal system, designed for the car parking area, must be appropriately designed to accommodate a minimum 1 in 50 year event.

All work must be to the satisfaction of Councils Engineering Manager, and must be at the consents holder's expense.

Waste

43. That all waste from the operation must be stored in suitable containers, with appropriate lids, and be removed from the site when full. All waste must be transported to approved refuse disposal sites.

Signage

44. Any signage that is associated with the approved activity must be positioned within three (3) metres of the proposed pedestrian entrance in accordance with conditions one (1) and nine (9) of this consent, and must comply with the requirements of Rule 3.4.16 of the Operative Waipa District Plan.

Water Supply

45. The consent holder must arrange for Council to install a water meter to the existing water connection to the satisfaction of Council's Engineering Manager. The consent holder must meet all costs incurred.

Noise

46. All activities must be conducted and buildings located, designed and used to ensure that noise levels within the boundaries of any site which is zoned Residential do not exceed the following limits:

Monday to Friday

7:00am - 10:00pm

50dBA(L10)

Construction noise

47. Noise from construction activities shall not exceed the limits recommended in, and shall be measured in accordance with New Zealand Standard NZS 6803P:1984 *“The Measurement and Assessment of Noise from Construction, Maintenance and Demolition Work”*.

Use of Amplified Audio Equipment

48. No amplified audio devices or equipment, of any kind, may be used in the outdoor recreation areas or the parking area, as shown on the plans submitted with the application and approved by Waipa District Council reference: LU/0067/08. This prohibits the use of amplified musical instruments, audio sound systems, PA systems, outdoor telephone systems, and any other amplified device.
- The use of amplified audio devices or equipment shall be restricted to indoor areas, only, and is subject to condition 17 above.

Fencing

49. Any fence erected along the frontages to Alexandra Street and North Street must:
- a) Not exceed 1.8 metres in height; and,
 - b) Be constructed; to the same standard, and of the same materials as required for swimming pools to maintain visual permeability and ensure that at least 50 percent of the fence area is not obstructed by the materials that make up the fence.
50. The consent holder shall maintain 1.6 metre high solid fence along all internal site boundaries.

Landscaping

51. The consent holder must plant; a minimum one (1) metre strip of vegetation along all road boundaries with frontage to a road, and provide plantings in the area shown on the approved site plan prepared by Gisler Architects reference 3933-08 sheets AL100 dated 4 June 2008 submitted with the application LU/0067/08. The following points must be addressed:
- a) A landscaping plan must be submitted for approval by the Councils Planning Services Manager within three (3) months of the date of the building consent being issued. The landscape plan must show the species, locations and expected heights of each proposed plant.
 - b) All plants must be no less than 1.0m in height at the time of planting.

- c) Landscaping must be carried out within six (6) months of the approval of the landscape plan.
- d) Once the plants have grown to the final desired height, they must be maintained to ensure their visually aesthetic qualities.
- e) Any plants that die or are diseased must be removed and replaced within three (3) months.

Review Condition

52. That the Waipa District Council may, from time to time, give notice pursuant to Section 128(1) of the Resource Management Act (RMA) 1991 of its intention to review, at the consent holders expense, the conditions of this consent for the following purposes:

- a) To review the effectiveness of the conditions of this consent in avoiding or mitigating any adverse effects on the environment from the exercise of this resource consent (in particular; noise, parking, and landscaping) and if necessary to avoid, remedy, or mitigate such effects by way of further or amended conditions; or,
- b) To address any adverse effect on the environment which has arisen as a result of the exercise of this consent; or,
- c) If necessary and appropriate, to require the holder of this resource consent to adopt the best practicable option to remove or reduce adverse effects on the surrounding environment; or,
- d) To review the adequacy of and the necessity for monitoring undertaken by the consent holder.

Reasons for Decision

- a) The nature of the activity has been envisaged in the residential zone.
- 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 been publicly notified as the potential adverse effects of the proposal on the residential amenity are deemed to be more than minor.
- d) Any adverse environmental effects resulting from the proposal can be mitigated by the imposition of appropriate consent conditions.
- e) The proposal meets the statutory test for non-complying activities.
- f) The scale and intensity of the activity will be controlled by restricting the; number of children that are taken care of on the site, and hours that the activity operates. Condition 3 has been imposed to mitigate the potential adverse effects, arising from increased traffic generation and noise, on the residential amenity of the surrounding area. Condition 5 will ensure that

- the activity operates during business hours to minimise the disruption to surrounding residential activities and avoid the adverse effects on the residential amenity in the Residential Zone.
- g) Engineering requirements will ensure that when the site is developed it has adequate provision for; parking, safe and convenient access, manoeuvring, and suitable on-site disposal of stormwater.
 - h) Condition 15 will ensure compliance with Rule 3.4.16 (“*Signs*”) and maintain the residential amenity.
 - i) Condition 17, 18 & 19 will ensure compliance with Rule 3.4.17 (“*Noise*”) of the Operative Waipa District Plan.
 - j) Condition 21 will ensure that the acoustic properties of the existing boundary treatment is maintained.
 - k) Landscaping will assist with maintaining visual amenity in the Residential Zone. It is considered that the amenity planting will soften the appearance of hard surfaces and structures within this open streetscape, and mitigate the potential adverse effects on the amenity within the Residential Zone. The landscaping will off-set the loss of vegetation that will be removed to make way for the parking area.
 - l) The boundary treatment that is required in conditions 20 and 22 will assist in maintaining the open streetscape and avoid potential adverse effects on the amenity of the Residential Zone.
 - m) The review condition provides Council with the flexibility to review the exercise of the consent and address any significant adverse effects that might arise during the exercise of the consent.

Advisory Notes

Assessment of Noise

- The noise levels shall be measured and assess in accordance with the requirements of New Zealand Standard NZS 6801:1991 “*Measurement of Sound*” and New Zealand Standard NZS 6802:1991 “*Assessment of Environmental Sound*”.

Development Contributions

- The Development Contributions must be paid prior to the commencement of this landuse consent. This means that no building works may be undertaken until the development contribution is paid.

Building Consent

- The consent holder shall obtain the necessary building consents prior to the commencement of works on site.

Earthworks

- All earthworks associated with any development of land must be undertaken in accordance with the following matters :
 - e) 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;
 - f) 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
 - g) 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
 - h) 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:
 - All works within the vicinity must cease immediately.

In cases other than suspected human remains:

- The contractor must immediately secure the area and advise the NZ Historic Places Trust of the occurrence.
- 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:

- The contractor must take steps immediately to secure the area in a way that ensures human remains are not further disturbed.
- 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.

- 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.

There being no further business the meeting closed at 4.36pm.

CONFIRMED AS A TRUE AND CORRECT RECORD

CHAIRPERSON: _____

DATE: _____