

Minutes of a meeting of the Regulatory Committee held in the Council Chambers, 101 Bank Street, Te Awamutu on Monday 31 August 2009 commencing at 8.58am.

## **1 PRESENT**

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Councillor D Sharpe, Chairperson

### **Committee**

Councillors EC Newlands, BJ Taranaki, GRP Webber.

### **Public**

There was one member of the press and twenty two members of the public present.

### **Staff**

Acting Group Manager Environmental & Community Services, W Allan; Senior Environmental Health Officer & Liquor Licensing Inspector, K Tutty [for item 6]; Senior Planner, T Kelly [for item 10.1]; Planning Officer, K Sullivan [for item 10.2]; Project Manager Heritage Development & Reserves Planning, T Roxburgh [for item 11]; Committee Secretary, S King.

## **2 APOLOGIES**

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### **RESOLVED**

4/09/54

*That the apology from His Worship the Mayor, AD Livingston be received.*

Councillor Taranaki / Councillor Webber

## **3 LATE ITEMS**

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There were no late items.

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

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File: 01-89-04

### **RESOLVED**

4/09/55

*That the order of the meeting be confirmed.*

Councillor Taranaki / Councillor Webber

## **5 CONFIRMATION OF PREVIOUS MEETINGS**

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File: 01-89-04

**5.1 Ordinary Meeting of Regulatory Committee held on 27 July 2009 was included in the agenda.**

### **RESOLVED**

4/09/56

*That the Minutes of the Regulatory Committee held on 27 July 2009 be received.*

Councillor Taranaki / Councillor Sharpe

**6 WAIPA DISTRICT LIQUOR LICENSING AGENCY**

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

File: 01-85-10

**RESOLVED**

4/09/57

*That the monthly schedule of Liquor License Applications Considered by Staff Under Delegated Authority for July 2009 be received.*

Councillor Newlands / Councillor Taranaki

**7 GENERAL**

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

File: 01-52-01

**RESOLVED**

4/09/58

*That the schedule of Matters Considered by Staff Under Delegated Authority for July 2009, be received, a copy of which is attached to and forms part of these minutes.*

Councillor Newlands / Councillor Webber

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

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**RESOLVED**

4/09/59

*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** Councillor LWE Hoverd to be Hearing Commissioners to sit with the Regulatory Committee to hear item 10.2.*

Councillor Newlands / Councillor Taranaki

**9 ENVIRONMENTAL COURT APPEALS & ENFORCEMENT PROCEEDINGS**

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

**RESOLVED**

4/09/60

*That the information be received.*

Councillor Newlands / Councillor Webber

## 10 HEARINGS

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### 10.1 9.15am to 9.28am.

**Application for Remission of Development Contributions Levied Pursuant to the Development Contributions Policy and the Local Government Act 2002 (LGA)**

File Number – 04525/261.00 SP/0241/08

Appearing for the Mr P Cogswell on behalf of Trelawney Stud Applicant

Appearing for Terrena Kelly  
Council

The Chairperson welcomed Mr Cogswell to the hearing and outlined the procedure which would be followed.

Council's Senior Planner, T Kelly outlined the essence of the remission application and noted the development contributions were applied in accordance with Council's policy. Ms Kelly said that the original subdivision had lapsed; and as there was no valid consent to rely on, it was appropriate to require the development contributions which were levied. The issue of who was liable for payment of the development contributions was a civil matter between the applicant and the applicant's agent. Ms Kelly pointed out that the applicant is responsible for ensuring time frames were complied with.

Mr Cogswell said Ms Kelly had summarised the essence of the remission application well. He said the applicant's intention was for future estate planning and was therefore not seeking to proceed quickly. The applicant instructed Mr Cogswell to proceed in May 2007 and work began however, staff working on the file did not notice the date the consent was due to lapse. Mr Cogswell said discussions with Senior Planner, S O'Rourke to gain a short term extension were rejected by a legal opinion which indicated a new consent application would need to be lodged. He said since the original consent was issued and the new consent was applied for, an increase occurred in the development contribution levy. He requested the Regulatory Committee look at a full or partial remission on compassionate grounds.

### **RESOLVED**

4/09/61

*That*

- a) *the report from Terrena Kelly, Senior Planner dated 3 August 2009 be received; and,*
- b) *the application for remission of the Development Contribution DC/0045/09 be **dismissed**, and the Development Contribution be upheld.*

Councillor Newlands / Councillor Webber

**Reasons for Decision:**

- 1) The development contributions that have been levied reflect the actual demand on Council's infrastructure generated by this development.
- 2) The original subdivision has lapsed, and therefore there is no existing use right for the property. In order to be fair and equitable, Council must ensure that new applications pay development contributions in accordance with the Development Contribution Policy.
- 3) Any reduction in the development contribution required will have the net effect of transferring the growth related infrastructure costs to Waipa ratepayers.
- 4) The issue of liability for the difference between the Development Impact Fees (DIF's) levied (pursuant to the Resource Management Act 1991) and the Development Contributions levied in the current application is a civil matter between the applicant and the applicant's agent – Cogswell Surveys Limited.

**The meeting adjourned for the morning tea break at 9.35am and recommenced at 9.59am.**

**10.2 9.59am to 10.30am.**

File Number – 04351/934.00 LU/0123/09

**DECISION OF REGULATORY COMMITTEE ON A LIMITED NOTIFIED RESOURCE CONSENT APPLICATION TO ESTABLISH A HORSE ARENA AND TACK SHED ON THE CAMBRIDGE TOWN BELT (RESIDENTIAL ZONE) PURSUANT TO SECTION 113 OF THE RESOURCE MANAGEMENT ACT 1991**

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**1 THE HEARING**

The hearing held on Monday 31<sup>st</sup> August 2009 was attended by the following:

<b>Applicant</b>	<i>Appearing on behalf of Riding for the Disabled Association (RDA): Sue Duncan – President Angela Geddes – Treasurer Carol Henman – Coach</i>
<b>Appearing for Council</b>	<i>Kim Sullivan – Planner</i>

A Bell, J & D Ward and S Anderson were unable to attend the hearing and tabled evidence in support of their submissions.

**2 SITE VISIT**

The Regulatory Committee undertook a site visit to familiarise themselves with the site and the surrounding area prior to the commencement of 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 provisions of the Operative Waipa District Plan and the Town Belt Management Plan. No other statutory provisions were relevant in the assessment of this application.

#### **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 RC1, RC3, TR1, TR4, NS1 & NS2 and Policies RS1, RS3, RS4, RS5, TR3 TR6, NS1 & NS2*
- *Rule 3.0 - Residential Zone*

#### **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:

- Whether ongoing management issues associated with the keeping of horses on the site such as disposal of manure and overgrown grass, in particular from the top paddock, were matters that could be considered as part of the landuse consent.
- Timing for the construction of the roof of the arena.
- Parking of vehicles associated with the activity on Vogel Street

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

#### **Sue Duncan on Behalf of the Applicant**

Ms Duncan generally concurred with the Planner's Report and did not have anything to add other than to confirm that the roof of the arena would be completed at a later date once RDA has acquired the necessary funds.

When questioned by Councillor Sharpe, Ms Duncan confirmed that the top paddock is generally avoided and used only during the summer when there is a shortage of feed for the horses. With regard to disposal of manure in this paddock she stated that the paddock was harrowed to break up the manure. She also stated that parties involved with the activity parked at the Gas Light Theatre, not Vogel Place.

### **Submitters in Opposition**

Council's Planner, Kim Sullivan, read the evidence submitted by A Bell, J & D Ward and S Anderson.

### **Kim Sullivan –Planner for Waipa District Council**

Ms Sullivan summarised her report including her assessment of environmental effects and the relevant objectives and policies.

She noted that the riding activity and the grazing of horses is lawfully established onsite and was not a matter for consideration as part of this Landuse Consent.

Overall she considered the proposal to be an appropriate form of development subject to the implementation of conditions of consent and recommended approval.

### **Sue Duncan on Behalf of the Applicant – Right of Reply**

Ms Duncan commented that she had been the President for RDA for four years and had not received any complaints from residents in Vogel Place.

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

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

- The actual and potential adverse effects of the proposed activity will be no more than minor subject to mitigation. In particular, compliance with the consent conditions will ensure that the activity does not detract from the visual amenity of the area, and will ensure safe traffic practices are adhered to.
- Matters such as maintenance of pasture and disposal of manure do not directly relate to the proposed activity (to establish an arena and tack shed) considered under the Landuse Consent. These matters are more appropriately captured through the lease agreement between the applicant and Council.

- A delay in the construction on the roof of the arena will have no more than minor effects on visual amenity.
- While a consent condition is recommended to restrict parking in Vogel Place this can only be extended to those parties involved with the RDA activity as proposed in the subject application. Council is unable to restrict the general public from lawfully parking in Vogel Place.

**8 RESOLVED**

4/09/62

*That*

- a) The report of K Sullivan, Planner for the Waipa District Council, dated 18 August 2009 be received; and*
- b) In consideration of Section 104, and pursuant to Sections 104B, 104D and 108 of the Resource Management Act 1991, the Waipa District Council **grants** consent to Cambridge Riding for the Disabled to erect a horse arena and tack storage shed on the Town Belt (Reserve Land) and dispense with Rule 3.4.12 Maximum Size of Buildings and Structures, Rule 3.4.16 Signs, Rule 3.4.31 Residential Character, and Rule 3.4.36 Shipping Containers, at the property located at Vogel Place Cambridge, legally described as Allotment 2 Cambridge Town Belt, subject to the following conditions:*

Councillor Taranaki / Councillor Newlands

**General**

1. That the site activities authorised by this consent shall be managed and operated in general accordance with the plans and information submitted with the application LU/0123/09 received on 10<sup>th</sup> June 2009, unless otherwise altered by the consent conditions.

**Monitoring**

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

**Signage**

3. Any sponsorship signage within the arena must be positioned so as to not be visible from Vogel Place, until such a time as the roof of the arena is erected.

**Outdoor Storage**

4. That all outdoor storage of material must be within a screened outdoor storage area.

#### **Dust**

5. That as a result of activities authorised by this resource consent, there must be no discharge of dust to air that causes an objectionable or offensive effect beyond the boundary of that land defined by Allotment 2 Cambridge Town Belt which in the opinion of the Council's Senior Enforcement Officer is creating an unacceptable nuisance.

#### **Odour**

6. That as a result of activities authorised by this resource consent, there must be no objectionable odour discernible beyond the boundary of that land defined by Allotment 2 Cambridge Town Belt which in the opinion of the Council's Senior Enforcement Officer is creating an unacceptable nuisance.

#### **Glare and Lighting**

7. That outdoor lighting on the site must be so selected, located, aimed, adjusted and screened so as to ensure that glare resulting from the lighting does not cause any level of discomfort to any occupants of properties beyond the boundary of that land defined by Allotment 2 Cambridge Town Belt which in the opinion of the Council's Senior Enforcement Officer is creating an unacceptable nuisance.

#### **Noise**

8. 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 or within the notional boundary of any rural dwelling do not exceed the following limits:

**Monday to Friday**

7:00am - 10:00pm 50dBA(L10)

**Saturday**

7:00am - 6:00pm 50dBA(L10)

**At all other times including public holidays** 35dBA (L10)

No single event noise level L<sub>max</sub> must exceed 65dBA between 10:00pm and 7:00am.

*Note: Notional boundary means a line 20 metres from the most exposed external wall of a dwellinghouse, or the legal boundary of the site on which the dwellinghouse is located where the boundary is closer to the dwellinghouse than 20 metres.*

The noise levels must be measured and assessed in accordance with the requirements of NZS 6801:1991 Measurement of Sound and NZS 6802:1991 Assessment of Environment Sound.

### **Town Belt Colour Palette**

9. The exterior of the structures must be finished in a colour, or combination of colours, which comply with Section 5.0 (Exterior Colours) of the Town Belt Management Plan. The colours must be approved by the Council's Planning Manager prior to the commencement of works on site. Compliance with this condition must be carried out within three (3) months of the buildings being erected.

### **Parking and Access**

10. The consent holder must ensure club members utilise the existing parking facility beside the Gaslight Theatre and that vehicles relating to the Riding for the Disabled activities must not be parked on Vogel Place, except for vehicles attending to livestock.

### **Removal of Existing Buildings**

11. The existing storage shed on Lot 4 DP 338342 must be removed within three (3) months of completion or occupation (which ever occurs first) of the new tack shed.

### **Review Condition**

12. That the Waipa District Council may give notice pursuant to Section 128(1) of the Resource Management Act (RMA) 1991 of its intention to review, one year following the commencement of the consent and every two years thereafter, 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 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. Any adverse environmental effects resulting from the proposal are deemed to be no more than minor, or can be mitigated by the imposition of appropriate consent conditions.
- b. Subject to the above conditions the proposal is not contrary to the relevant objectives and policies of the Operative Waipa District Plan.
- c. Pursuant to section 94 of the Resource Management Act 1991 the application has not been publicly notified as the adverse effects of the proposal are deemed to be minor. Accordingly, the application was processed on a limited notified basis.
- d. Conditions 3 and 4 have been imposed to ensure the visual amenity enjoyed by neighbouring dwellings is protected.
- e. Conditions 5 – 8 have been imposed to ensure dust, odour, glare and noise do not have an adverse effect on neighbouring dwellings.
- f. Condition 12 will ensure that any adverse effects that may arise from the exercise of this consent can be addressed by reviewing the adequacy of the conditions of consent.
- g. The Riding for the Disabled activity, including horse riding and grazing is lawfully established under the Resource Management Act 1991 and is consistent with the Town Belt Management Plan. Existing management issues with this aspect of the activity will be addressed under the lease agreement with Council's Property Department and the applicant.
- h. The Regulatory Committee considered granting the proposal is consistent with the sustainable management of the Town Belt and will have positive social effects for the community.

**11 APPLICATION TO DETERMINE THE NUMBERS OF ENVIRONMENTAL PROTECTION LOTS FOR PROTECTING AND MANAGING LAKE MANGAHIA**

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File Number – 60-16-06

**Report of Project Manager Heritage Development and Reserves Planning dated 19<sup>th</sup> August 2009 was included in the agenda.**

The Project Manager Heritage Development & Reserves Planning, T Roxburgh outlined his report and noted the Committee cannot consider Environmental Protection Lots (EPL) for the two existing covenants.

Mr Roxburgh said that floating mats of vegetation of up to 5-6m are visible around the lake margins. He said a possibility existed to reroute water from the inlet drain to the outlet during times of high flow to reduce excessive enrichment entering the lake.

Mr Roxburgh did not know the status of the road used as access to the dairy shed and said that defining and legalising the road would be required once an application for subdivision was lodged.

Mr Roxburgh said there existed different scenarios for the provision of EPLs but conservation of peat lakes was seen as a priority and both Environment Waikato and Council were providing resource and guidance. He said two mechanisms would likely operate to ensure development and management of the lake would continue. The lake and surrounds would be subject to a QEII covenant and Council may consider imposing conditions or a bond to give effect to the NIWA report. He said the NIWA report needed to be slightly adjusted to ensure the landowner would not be bound by experimental requirements such as filters in drains.

The ongoing management of the area was raised by members and the acting Group Manager Environmental & Community Services said should a subdivision application be lodged the Committee could ensure that capital works relating to the lake were completed prior to the final signoff and a bond mechanism could be used whereby the sub divider pays for the planting and fencing.

The Project Manager Heritage Development & Reserves Planning said an indication was required for the number of allotments that could be allocated in recognition of the environmental protection works undertaken and proposed before the applicant invested time and money in an application. Acting Group Manager Environmental & Community Services said any entitlement indication would be subject to the normal subdivision processes.

## **RESOLVED**

4/09/63

*That*

- a) *The report from the A J Roxburgh Project Manager Heritage Development and Reserves Planning dated 19<sup>th</sup> August 2009 be received; and,*
- b) *The Regulatory Committee will consider the application of up to four allotments based on legally securing the lake and implementing the recommendations, or variations thereof, made in the NIWA report subject to normal subdivision process.*

Councillor Taranaki / Councillor Newlands

## **REASONS FOR DECISION**

- 1 Lake Mangahia is an ecologically significant natural heritage asset.
- 2 The land owner has met all the thresholds required to receive several EPL's.

- 3 The number of applications Council could receive for EPL's based on privately owned peat lakes is limited. Most of those lakes are contained with one or two land titles.

There being no further business the meeting closed at 11.27am.

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

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

**CONFIRMED AS A TRUE AND CORRECT RECORD OF PROCEEDINGS.**

Completed and Dispatched: 31<sup>st</sup> August 2009