

*Minutes of a meeting of the Regulatory Committee held in the Council Chambers, Waipa District Council, 101 Bank Street, Te Awamutu on Monday 22 February 2010 commencing at 9.00am.*

## **1 PRESENT**

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Councillor D Sharpe, Chairperson

### **Committee**

Councillors EC Newlands, BJ Taranaki, GRP Webber.

### **Public**

There were no members of the public in attendance.

### **Others**

Manager Planning & Regulatory, W Allan; Senior Planner, T Kelly; Environmental Services Team Leader, K Tutty; Planner, D Murphy; Consultant, A McFarlane; Property Services (Team Leader), C Windleborn; Committee Secretary, S King.

## **2 APOLOGIES**

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### **RESOLVED**

4/10/01

*That the apology for non attendance 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**

4/10/02

*That the order of the meeting be confirmed.*

Councillor Webber / Councillor Taranaki

## **5 CONFIRMATION OF PREVIOUS MEETINGS**

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File: 01-89-04

**5.1 Ordinary Meeting of Regulatory Committee held on 30 November 2009.**

**RESOLVED**

4/10/03

*That the Minutes of the Regulatory Committee held on 30 November 2009, as presented, be confirmed as a true and accurate record.*

Councillor Taranaki / Councillor Webber

Environmental Services Team Leader, K Tutty provided a brief verbal update on the recently held Parachute Music Festival.

Councillor Newlands joined the meeting at 9.05am.

## **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**

4/10/04

*That the monthly schedule of Liquor License Applications Considered by Staff Under Delegated Authority for December 2009 & January 2010 be received.*

Councillor Taranaki / Councillor Newlands

Environmental Services Team Leader, K Tutty advised of a delay in the hearing of the ten applications currently before the Liquor Licensing Authority due to a new chair being appointed. He said the applications should be heard during March/April.

Mr Tutty said following the staff restructure, he would remain as the Inspector whilst Manager Planning & Regulatory, W Allan and Manager Legal & Corporate Support, J McFarlane would remain as Secretaries.

## **7 GENERAL**

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

File: 01-52-01

**RESOLVED**

4/10/05

*That the schedule of Matters Considered by Staff Under Delegated Authority for December 2009 & January 2010, be received, a copy of which is attached to and forms part of these minutes.*

Councillor Newlands / Councillor Taranaki

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

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This item was not required.

**9 ENVIRONMENTAL COURT APPEALS & ENFORCEMENT PROCEEDINGS**

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

**RESOLVED**

4/10/06

*That the information be received.*

Councillor Taranaki / Councillor Newlands

**10 HEARINGS**

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**10.1 9.15am to 9.44am.**

**APPLICATION FOR REMISSION OF DEVELOPMENT CONTRIBUTIONS LEVIED PURSUANT TO THE DEVELOPMENT CONTRIBUTION POLICY & THE LOCAL GOVERNMENT ACT 2002 (LGA)**

File Reference: 04471/521.09 DC/0198/09

Applicant TL, PJ & J Davies (Davies Whare Trust)

Appearing for T Kelly

Council

**Applicant**

Mr Tom Davies said the property was owned by a family trust. He tendered an apology from Mrs Jill Davies who was unable to attend. Mr Davies said this was the first time he had applied for an alteration that was required to go through a council process, noting he was naïve about requiring approval from different parts of Council.

Mr Davies commented the house was the smallest of the Golden Homes range, being 130sqm however, the previous owners had converted the internal access garage into a bedroom and added a standalone garage at the rear. He wished to reinstate the internal access garage and add a reasonable size master bedroom with ensuite and a guest room. The guest room was seen as a big part of the life of the property over the next 20/30 years. The project commenced in 2004 with a view to complete to the closed in stage. Later in the year, Mr Davies was made redundant and subsequently put the project on hold. Now, with a reliable income the project has been reconsidered.

The house is located back on the site facing north and east, limiting what can be done on the site. He said it was not practical to add onto the lounge, with the only option adding the master bedroom and guest room onto the eastern end. As it was not ideal to have the guest room access through the master bedroom, the only option was to have external access to the guest room and in the process to make a reasonable ensuite.

In 2006, an advisor suggested the entire project should be put before Council. He apologised that he didn't do his homework at the beginning. He said in 2009, he was advised that to obtain approval it wasn't practical to close in as Council would require the toilet and shower to be closed off.

He said in the future his children/grandchildren may stay with them and noted his daughter-in-law was diagnosed in December with multiple sclerosis which resulted in wheelchair access being incorporated. His mid-term plans included humanitarian work when the guest room would be used for storage whilst others lived in the house. He said in the long-term they would like to stay in their home and the guest room could act as somewhere for a live-in carer.

He noted the size was small, being 31sqm and believed it has very little impact on Council's infrastructure and asked that they are given remission on the development contribution fees.

Councillor Sharpe commented that it was unfortunate the plan shows an area which could have a microwave or stove which gives the impression of an independent flat.

Councillor Taranaki queried the existing bedrooms and Mr Davies replied it was not practical to make the rooms longer and couldn't be made wider without rebuilding the whole house.

Councillor Taranaki then asked why the additional rooms couldn't go to the north. Mr Davies said this would put another room in front of the bedrooms and means cutting off those rooms from the northern and eastern aspects. This would also make them rather cold. He felt the cost of making changes on that side would be considerably more than the planned extension. He said the proposed increase in value would be around \$100,000 which is 30% higher and Council would ultimately receive higher rates.

Councillor Webber asked if he paid the normal fees for building consent in 2004 and Mr Davies said it was not until he came back that other costs were mentioned.

Councillor Sharpe commented on the temporary wall in the guest room and Mr Davies said there was every chance the wall would be removed entirely.

Councillor Taranaki noted the sink in the living area and queried stove/fridge facilities. Mr Davies said the plan was to have the ability to make a cup of tea. In response to a further question, he said there was no facility for washing clothes and the house would have to be used.

### **Senior Planner**

T Kelly said Mr Davies had adequately summarised his reasons for applying for a remission, and referred the Committee to Section 6 of her staff report.

She commented on the layout of the building, noting the kitchen as a factor but that the main point was the room's external access. She said a future owner could rent it out and the key factor of not being accessible internally meant it was capable of being lived in independently.

Ms Kelly reiterated the conclusion contained within the planner's report.

Councillor Sharpe queried an alteration to allow internal access. Ms Kelly said if the last bedroom was shifted and the wall was moved to allow the creation of a hallway then it could become an integrated part of the house. A development contribution fee may not be imposed in that case. Councillor Sharpe asked Mr Davies if he had considered such an alteration, and Mr Davies said they had. However, he commented that to have access through the master bedroom was not practical; and to gain the best benefit of the aspect, the only possible way would be to take the hallway through on the south side which was considered unpractical. He noted the disadvantage of walking under the eaves for access and the advantage of internal access.

Councillor Sharpe then queried if guests would access the house off the front deck to enter the kitchen/living room areas and Mr Davies replied affirmatively.

The hearing ended at 9.44am and was followed by the deliberations.

### **Deliberations**

Councillor Sharpe indicated her readiness to agree with Ms Kelly's recommendation.

Councillor Taranaki commented the intended future use of the bedroom would be a call on Council's infrastructure.

Councillor Sharpe noted the Committee had the ability to reduce the fees. Ms Kelly reminded the Committee following such a decision, staff would look to apply the same policy to other situations.

Councillor Webber felt the guest room could be used as an independent residence. Councillor Sharpe observed the original size of 130sqm would be increased by another 31sqm with a block wall.

Councillor Webber noted the applicant did not come to Council at the beginning, has blundered through the process and was now coming for a remission. Councillor Sharpe commented that even if the applicant had approached Council at the commencement, the Development Contribution Policy was not in effect at that time.

**RESOLVED**

4/10/07

*That:*

- a) *The report from Terrena Kelly, Senior Planner dated 12 January 2010 be received; and*
- b) *The application for remission of the Development Contribution DC/0198/09 be **dismissed**, and the Development Contribution be upheld; and*
- c) *An additional charge be invoiced to the application for the staff time spent processing the remission application which is calculated as 3 hours at \$125 per hour, being a total of \$375.00 (GST Inclusive).*

Councillor Newlands / Councillor Webber

**Reason for Decision**

- 1 The development contributions that have been levied reflect the actual demand on Council's infrastructure generated by this development.
- 2 In order to be fair and equitable, Council must ensure that additional household units 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 Granting the remission requested would result in an unsustainable precedent effect, whereby all other like proposals would require the same consideration.
- 5 The independent residence is capable of being lived in independently. The applicant had the opportunity to revise the proposed layout of the extension to obtain an integrated development, and has chosen not to.

The meeting adjourned for the morning tea break at 10.00am and recommenced at 10.18am.

10.2 10.18am to 10.29am

56 - 189

**PLAN CHANGE APPLICATION BY THE WAIPA  
DISTRICT COUNCIL TO UPLIFT RESERVE  
NOTATION (RV 39) ON LOTS 1 AND 2 DP 33439  
BLK X111 CAMBRIDGE SD AND REVERT TO  
UNDERLYING RURAL ZONE STATUS**

File Reference: 65-07-64

Applicant Andrew McFarlane & Colin Windleborn  
representing Waipa District Council

Appearing for D Murphy  
Council

February 2010

File No: 65-07-64

**IN THE MATTER of the Resource Management Act 1991  
AND**

**IN THE MATTER of Proposed Plan Change 64 to the Waipa District Plan to  
Uplift Reserve Notation RV39 on Lots 1 and 2 DP 33439 BLK  
X111 Cambridge SD and Revert to Underlying Rural Zone  
Status.**

**DECISION OF THE  
REGULATORY COMMITTEE**

**1.0 INTRODUCTION AND SUMMARY OF DECISIONS**

This decisions report identifies the decision that the Regulatory Committee have made on behalf of the Waipa District Council in relation to Proposed Plan Change 64 to the Waipa District Plan (“**the District Plan**”).

The report provides an account of the process leading through to the overall decision; to the decisions on the submissions; and, to the modifications to the Proposed Plan Change 64.

The decision is that the Proposed Plan Change 64 be approved, and that the submission in support of the Plan Change be accepted, in line with that overall decision.

**2.0 BACKGROUND**

Proposed Plan Change 64 (“**the plan change**”) is a Waipa District Council initiated plan change that applies to the Roto-O-Rangi Road ‘Gravel Reserve’ (“**the**

**reserve**”). The reserve has been incorrectly classified as ‘local purpose reserve’ and has been quarried, used as a gravel reserve and recently as an unofficial clean fill dump site. The reserve has ceased to provide any functional purpose for the Waipa District Council. For these reasons, the reserve notation has been approved by the Regulatory Committee for removal. The plan change seeks to alter the District Plan by removing the reserve notation RV 39 from Planning Map 7 and Appendix 2.

The Waipa District Council is both the proponent (or applicant) for the plan change and the regulatory authority responsible for reporting on it. In this decisions report it is referred to as “**WDC**” or “**Waipa District Council**” in its role as proponent for the plan change and as “**the Council**” in its role as the regulatory authority.

A report addressing details of the plan change and the submissions was prepared by Councils planner in accordance with section 42A of the RMA (“**planning report**”). The planning report includes a summary of the plan change, a discussion of the statutory provisions that relate to plan changes, a brief discussion of the submission received, and a recommendation to the Regulatory Committee.

The plan change was notified in accordance with the Resource Management Act 1991 and subsequent amendments (“**the RMA**”) notification process. This is summarised as:

Date of public notification for submissions:	18 November 2009
Closing date for submissions:	16 December 2009
Number of submissions received:	1 received
Date of public notification for further submissions:	13 January 2010
Closing date for further submissions:	10 February 2010
Number of further submissions received:	nil.

### **3.0 APPOINTMENT**

The Regulatory Committee acting under delegated authority pursuant to section 34 of the RMA heard and determined the plan change and the submission to it.

### **4.0 THE HEARING**

The hearing took place on 22 February 2010 at the Council’s chambers in Te Awamutu.

Appearances were from:

**4.1 Applicant and Agent Appearing for Applicant:**

Colin Windleborn, Council's Property Manager  
Andrew McFarlane, Consultant Planner, BBO.

Mr McFarlane introduced the plan change, identifying the site had been incorrectly identified in the District Plan as a local purpose reserve. The proposed plan change more appropriately signaled Council's Long term intention for the site.

**4.2 Council Representatives:**

Demelza Murphy, Council Planner

Ms Murphy spoke to the objectives and policies of the District Plan and Proposed Change No. 2 (Future Proof) of the Regional Policy Statement. The maximum development potential was consistent with the surrounding environment and would naturally integrate with existing development.

**5.0 SUBMISSIONS**

One submission was received in support of the plan change from the Cambridge Community Board citing Resolution 5/09/231: "That the Cambridge Community Board supports Plan Change No.64".

**6.0 STATUTORY CONTEXT**

Section 74 of the RMA sets out the matters to be considered by a territorial authority in preparing or changing its district plan. These include doing so in accordance with its functions under section 31, the provisions of Part 2 and its duty under section 32. Further, also having regard to other documents, including regional planning documents, management plans and iwi management plans, to the extent that their content has a bearing on resource management issues of the district.

Section 75 of the RMA, in addressing the contents of district plans, requires that a district plan must give effect to any regional policy statement and must not be inconsistent with a regional plan.

Section 31 addresses the functions of territorial authorities under the RMA and includes:

*(a) the establishment, implementation, and review of objectives, policies, and methods to achieve integrated management of the effects of the use,*

- development, or protection of land and associated natural and physical resources of the district;*
- (b) the control of any actual or potential effects of the use, development, or protection of land,...*

Section 32 RMA provides for the consideration of alternatives, benefits, and costs and requires that an evaluation must be carried out and that an evaluation must examine:

- (a) the extent to which each objective is the most appropriate way to achieve the purpose of this Act; and*
- (b) whether, having regard to their efficiency and effectiveness, the policies, rules, or other methods are the most appropriate for achieving the objectives.*

Part 2 of the RMA, being the purpose and principles of the statute, is the overarching part of the RMA. Regard is to be given to all matters within it.

Clause 29 states that after considering a plan change a local authority may decline, approve or approve with modifications that plan change and shall give reasons for its decision. Clause 10 of the First Schedule states a local authority shall give its decisions which shall include the reasons for accepting or rejecting any submissions.

## **7.0 STATUTORY CONSIDERATIONS**

In relation to section 74 and section 75 RMA considerations, regard is to be given to the Waikato Regional Policy Statement (“**RPS**”) and the regional plans. The RPS provides an overview of resource management issues in the region. Of particular relevance is Proposed Change No. 2 (Future Proof) to the RPS. The key objective of the Future Proof strategy is to manage growth in an integrated, planned and sustainable manner that directs urban and rural-residential development away from high quality, unfragmented farmland. The plan change site sits outside of the urban limit identified by the Future Proof strategy. The proposed plan change was deemed not inconsistent with any of the provisions in the regional planning documents.

The plan change documentation includes a section 32 RMA evaluation, which addresses the relevant matters. Options considered are preserving the status quo, classify the site as reserve, or remove the District Plan notations. The Regulatory Committee were satisfied that the evaluation addressed this section of the RMA including having considered alternatives and showing that the plan change is the most appropriate means of achieving the objectives of what is sought by it.

As regards Part 2 of the RMA, being its purpose and principles, the Regulatory Committee deem that the plan change is in accordance with its sustainable management purpose. It will enable people and communities to provide for their social wellbeing and for their health and safety whilst sustaining the potential of the land and property resource to meet the reasonably foreseeable needs for future generations and will avoid, remedy, or mitigate any adverse effects of related activities on the environment.

The section 7 RMA matters of relevance relate to the efficient use and development of natural and physical resources and to the maintenance and enhancement of amenity values and the quality of the environment. The Regulatory Committee found that the plan change is consistent with these principles.

## **8.0 MAIN FINDINGS OF FACT**

The Regulatory Committee have considered the plan change application and evidence presented at the hearing, the planning assessment report prepared by the Council planner, the relevant statutory provisions of the Resource Management Act 1991; in particular Section 74, Section 75, Section 31 and Section 32. The main findings of fact determined by the Regulatory Committee have led to the following decision and the reasons for that decision in accordance with Clause 10 to the First Schedule are as follows:

The Regulatory Committee are satisfied that the plan change is consistent with all the RMA provisions that are to be applied to the consideration of it, with particular emphasis on the efficient and sustainable use of the physical land resource. A Section 32 consideration of the potential benefits and costs of allowing the plan change has been undertaken.

The Regulatory Committee are satisfied that the plan change is consistent with the District Plan and RPS including proposed changes to the RPS.

The Regulatory Committee are satisfied that any potential for adverse environmental effects would be of no more than minor probability and consistent with anticipated outcomes in the rural zone.

The Regulatory Committee have considered the submission in support of the plan change and note that no submissions in opposition.

**9.0 RESOLVED**

4/10/08

*That:*

- a) *The report from Demelza Murphy, Planner for the Waipa District Council dated 28<sup>th</sup> January 2010 be received; and*
- b) *That in accordance with Clause 10 of the First Schedule to the Resource Management Act 1991, Plan Change 64 – Uplifting a Reserve Notation from a Former Gravel Reserve on Roto-O-Rangi Road be approved;*
- c) *That pursuant to Clause 10 of the First Schedule to the Resource Management Act 1991, Plan Change 64 – Uplifting a Reserve Notation from a Former Gravel Reserve on Roto-O-Rangi Road, a resolution be passed to accept the submission in support of the plan change; and,*
- d) *That the Operative Waipa District Plan is amended as per the Schedule of Changes attached below.*

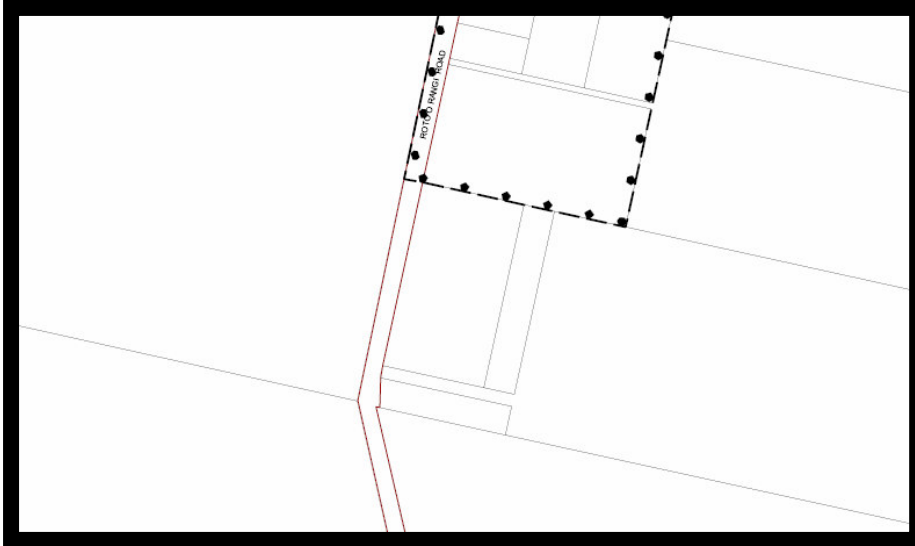
Councillor Taranaki / Mayor Livingston

**Reasons for Decision:**

- 1 The plan change is consistent with the objectives and policies of the Operative Waipa District Plan.
- 2 The potential for any adverse environmental effects arising from the plan change (including any site remediation works) are outweighed by the positive environmental gains to the wider community.
- 3 The plan change promotes the sustainable management and efficient use of the land resource that is consistent with the Resource Management Act 1991.
- 4 That a full analysis has been undertaken in respect of the proposal, including the scoping of any alternate potential use of the site. The potential benefits and costs associated with allowing the proposed plan change have been weighed in accordance with Section 32 of the Resource Management Act 1991.

Two amendments are proposed to the Waipa District Plan:

1. To remove the reserve notation RV39 from Planning Map 7; and,



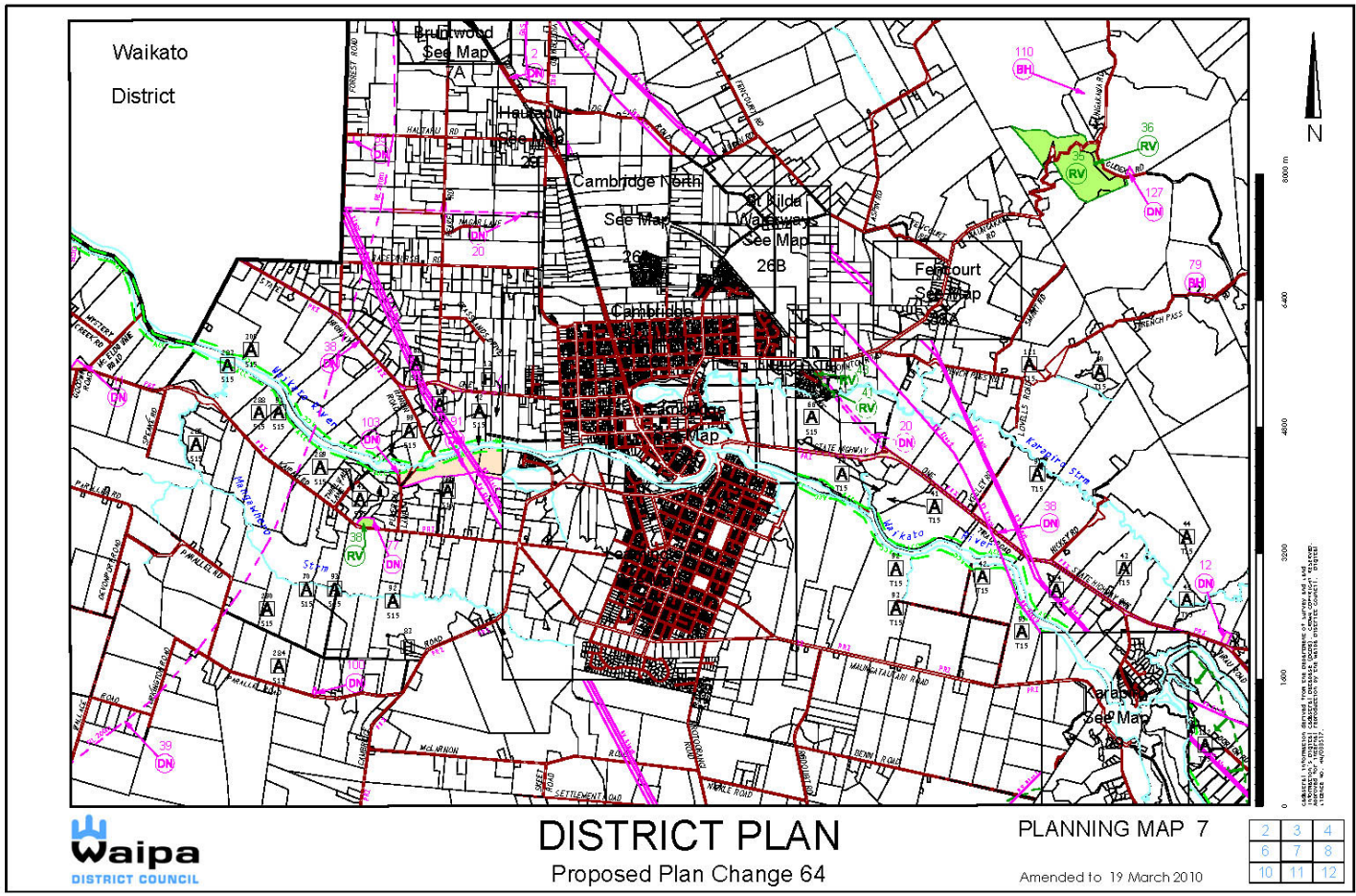
2. To remove the reserve notation RC39 from Appendix 2.

Map #	Ref#	Name	Underlying Zone	Legal Description	Classification	Control Authority
7	39	Gravel Reserve	Rural	<del>Lots 1, 2 DP 33439 Blk XIII Cambridge SD</del>	Local Purpose	WDC

## APPENDIX:

### Amended Waipa District Planning Maps Planning Map 7

**REGULATORY COMMITTEE  
MINUTES 22 FEBRUARY 2010**



There being no further business the meeting closed at 10.48am.

**CONFIRMED AS A TRUE AND ACCURATE RECORD**

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

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