

Minutes of a meeting of the Regulatory Committee held in the Council Chambers, Waipa District Council, 101 Bank Street, Te Awamutu on Monday 31 May 2010 commencing at 10.00am.

1 PRESENT

Councillor D Sharpe, Chairperson

Committee

His Worship the Mayor A Livingston, Councillors EC Newlands, BJ Taranaki, GRP Webber.

Others

Manager Planning, W Allan; Planner, J McLellan; Manager Community Facilities, T Roxburgh; Committee Secretary, S King.

2 APOLOGIES

RESOLVED

4/10/23

That the apology for non attendance from His Worship the Mayor A Livingston be received.

Councillor Newlands / Councillor Taranaki

3 LATE ITEMS

There were no late items.

4 CONFIRMATION OF ORDER OF MEETING

File: 01-89-04

RESOLVED

4/10/24

That the order of the meeting be confirmed.

Councillor Webber / Councillor Taranaki

5 CONFIRMATION OF PREVIOUS MEETINGS

File: 01-89-04

5.1 Ordinary Meeting of Regulatory Committee held on 26 April 2010.

RESOLVED

4/10/25

That the Minutes of the Regulatory Committee held on 26 April 2010, be received.

Councillor Taranaki / Councillor Sharpe

6 WAIPA DISTRICT LIQUOR LICENSING AGENCY

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

File: 01-85-10

RESOLVED

4/10/26

That the monthly schedule of Liquor License Applications Considered by Staff Under Delegated Authority for April 2010 be received.

Councillor Webber / Councillor Newlands

7 GENERAL

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

File: 01-52-01

RESOLVED

4/10/27

That the schedule of Matters Considered by Staff Under Delegated Authority for April 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

This item was not required.

9 ENVIRONMENTAL COURT APPEALS & ENFORCEMENT PROCEEDINGS

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

Manager Planning & Regulatory, W Allan updated the Committee on the NZTA appeal to the Airport plan change.

RESOLVED

4/10/28

That the information be received.

Councillor Taranaki / Councillor Newlands

10 HEARINGS

10.1 10.15am – 2.42pm including two breaks totalling 55 minutes.

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

1 THE HEARING

The hearing held on Monday 31 May 2010 was attended by the following:

Applicant	Judith Graham
Appearing for Applicant	Kate Barry- Piceno - Barrister Jason Cargo - Surveyor Fraser Miller - Landscape Architect Aaron Collier - Planning Consultant
Appearing for Council	Jaime McLellan - Planner Tony Roxburgh - Community Assets Manager
Submitters in Opposition	Athol Murray Stuart Phillips Christine Schoen

2 SITE VISIT

The Regulatory Committee did not undertake a site visit as they were either familiar with the site or had conducted an independent 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

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 and Policies

- Objectives SU1, SU2, SU3, HG5, TR1, TR2, TR3, TR4 & RS1
- Policies SU2B, SU3, SU4, SU6, SU8, SU11, SU15ASU16, SU16A, SU16B, SU17, SU24, RC4, RC25, TR8 RU22, RU23, RU24, RU27 & RU29, RS42 & RS45

Rules

- Rural Zone Rules (Rule 2.4)
- Subdivision Rules (Section 10)
 - Categories for Subdivision (Rule 10.3)
 - General Subdivision provisions (Rule 10.4)
 - Subdivision Standards for All Subdivisions (Rule 10.5)
 - Subdivision Standards for Individual Zones (Rule 10.6) and in particular Rules 10.6.1.1, and 10.6.1.4
 - Esplanade reserves (10.9.3)

4.2 OTHER LEGISLATION

The provisions of the Local Government Act 2002 (LGA) are applicable to this proposal and have been considered in the assessment of the application. In particular, a development contribution has been levied to off-set the potential increase in demand for; roading and transport, reserves, and community infrastructure, pursuant to Sections 197-212 of the LGA.

4.3 OTHER POLICY STATEMENTS

No provisions in any National Policy Statement, New Zealand Coastal Policy Statement, Waikato Regional Policy Statement or Proposed Regional Policy Statement were applicable to the assessment of this application.

5 THE PRINCIPAL ISSUES THAT WERE IN CONTENTION:

The principal issues that were in contention were:

- The areas of non-compliance
- The existing and proposed measures to protect Lake Maratoto.
- The number of entitlements to subdivide Environmental Protection Lots
- The traffic effects
- The visual effects
- The provision for fire-fighting

6 SUMMARY OF THE EVIDENCE HEARD

The Applicant's Opening Presentation

On behalf of the applicant, legal evidence was presented by Kate Barry-Piceno. Ms Barry-Piceno briefly outlined the proposal, discussed the legal requirements and implications under the Resource Management Act 1991, and introduced the witnesses that would be called to support the application.

Following on from Ms Barry-Piceno's, the applicant; Mrs Judith Graham, presented her evidence. Mrs Graham noted her families long association with the property. Mrs Graham noted that Lake Maratoto had been protected by other members of her Family when the land was in the ownership of Lochiel Farms Limited. Mrs Graham, as a director of Lochiel Properties Limited, had taken ownership of the property in 2003. At this time, Mrs Graham sought advice from Environment Waikato and Council's Manager (Parks and Reserves Management) regarding the future management of Lake Maratoto.

Mrs Graham confirmed that the wetland and forested area around Lake Maratoto had been fenced with a post and three-wire (electrified) fence. Mrs Graham noted that, in her opinion, this standard was suitable to protect the forest and wetland area from grazing animals. On this basis, Mrs Graham requested that the covenant, recommended by the Council planner, should only refer to the maintenance of a 'stock-proof' fence, rather than specifying a specific number of wires.

Mrs Graham outlined the current farming practice. Mrs Graham noted that the farm operates on both the eastern and western sides of State Highway 3 (SH3). Mrs Graham advised that farm-machinery is able to cross SH3 through a pair of farm gates or "double-gates" (NZTA crossing place "CP" reference number 209/210) which have been positioned parallel to another set of gates that are situated on the opposite side of SH3. In response to a question raised through the chair, Mr Graham advised that the double-gates are not used to direct stock across SH3, rather specialised stock-trucks are used.

Mr Jason Cargo presented technical evidence on the proposed; stormwater, wastewater, and water services, and discussed the proposed access arrangement. Mr Cargo advised that discussions with the New Zealand Transport Agency (NZTA) had been on-going and an agreement had not been reached, yet. Mr Cargo noted that the NZTA had supported the subdivision provided the applicant agree to; upgrade the main farm access at 3872 Ohaupo Road (CP213), close six 'gated' CP's, and direct all access to lots 1-5 through Douch Road. Mr Cargo noted that the applicant has accepted that four of the 'gated' CP's could be closed. However, at this stage, the applicant and NZTA had not resolved issues concerning the status and use of the 'double-gates' (CP209/210). Mr Cargo respectfully requested that the 'double-gates' (CP209/210) remain authorised for vehicular traffic.

Mr Fraser Miller presented expert evidence on the visual effects of the proposal. Mr Miller noted the particular landscape features of the site and addressed the concerns that were raised by the submitters, regarding the changes to the rural amenity.

Regarding the conditions recommended in the Council Planner's Report, Mr Miller requested that any boundary treatment around the proposed lots 1-5 should include the option of rural type post and wire fencing. Mr Miller also requested that the uninterrupted and continuous length of any future building on lots 1-5 be reduced from 20-metres down to 10-metres. Mr Miller concluded that with these changes and the conditions recommended in the Planner's Report, the adverse visual effects will be no more than minor.

The Chair asked Mr Miller whether he had considered the visual effects of any future-potential development on Lot 1 DPS 81798. Mrs Graham responded for Mr Miller. Mrs Graham confirmed that the land within Lot 1 DPS 81798 is held in the ownership of the Graham Family, and she accepted that the design measures that are proposed for Lots 1-5 may be applied to Lot 1 DPS 81798.

Planning evidence on behalf of the applicant was given by Mr Collier. Mr Collier noted his involvement with applications for Environmental Protection Lots (EPL) submitted to the Western Bay of Plenty District Council. Mr Collier noted that five EPL allotments were sought by the applicant for the protection of Lake Maratoto. Mr Collier noted that the protection of Lake Maratoto might otherwise have warranted a higher number of allotments. Whereas, some other Council's award up to one lot for every hectare of wetland area that is protected, Mr Collier recognised that the criteria contained in Council's District Plan does not specify a particular formula for awarding EPL's. Mr Collier concluded that, in his experience, the number of allotments that were sought is justified and appropriate, considering the significance of the feature being protected and by comparison to other Council's.

Councillor Newlands noted that the number of EPL's sought for the protection of Lake Maratoto was high compared with other EPL applications and enquired, through the Chair, as to Mr Colliers experience with EPL subdivisions in the Waipa District Council. In response, Mr Collier advised that his experience did not include any previous EPL-subdivisions, involving the Waipa District Council.

Mr Collier noted that while a large proportion of Lake Maratoto was already protected under a covenant with the Queen Elizabeth the Second Trust, the proposal would increase the area protected to include the entire wetland and forested margins. In addition, Mr Collier did not consider that the existing protection covenant should penalise the applicant. Rather, the foresight and measures taken by the previous owners should be credited to the applicant, as the Lake has created on-going responsibilities and obligations, and has reduced the area available to the applicant that can be farmed.

Councillor Newlands asked through the Chair, what the area was that could be farmed around Lake Maratoto. In response, Mr Collier advised that he did not

know the exact area of land within the fence-line that could be farmed, although he noted that 1950's aerial photographs of the lake showed a significantly larger wetland margin around Lake Maratoto. Mr Collier added that the area is understood to contain fertile soils and could support agricultural production if it were drained or if the water levels were allowed to retreat.

The Chair put the question to Mr Collier as to how the on-going management and restoration of Lake Maratoto would be funded. Mr Collier advised that the bulk of the restoration could be completed prior to the completion of the subdivision. While the applicant intended on retaining some of the proposed lots for the family, some of the lots would be offered for sale. The proportion of the sale of the lots can be directed to meet the responsibilities for the on-going management of Lake Maratoto.

Mr Collier briefly discussed the importance of the double-gates to the continued operation of the farm holding. Mr Collier noted that the access through the 'double-gates' (CP209/210) is part of a integrated network of farm races and tracks. Mr Collier also noted that the 'double-gates' are located in a practical and convenient position that minimises the distance farm machinery is required to travel along use of SH3. Mr Collier concluded that the 'double-gates' are considered to be an essential part of the farm access arrangement.

Evidence Presented by Individual Submitters

Mr Athol Murray of 39 Douch Road spoke to his submission. Mr Murray did not consider that the traffic count for Douch Road reflected the true traffic volumes, noting that the recent development of a horse arena attracted large numbers of visitors.

Mr Stuart Phillips of 58 Douch Road, spoke to his submission. Mr Phillips voiced his general opposition to the urbanisation of quality rural land, amongst other matters raised in his submission.

Mrs Schoen of 19 Douch Road, spoke to her submission. Mrs Schoen noted that her property was located directly opposite the proposed lots 1-5. Mrs Schoen noted, in her opinion, that the subdivision would change the streetscape considerably. Mrs Schoen accepted that the site was entitled to further subdivision under other provisions of the District Plan, however she maintained that any additional EPL entitlements should not be developed along Douch Road.

A brief discussion with the applicant took place through the Chair, whereby the applicant accepted that two of the EPL entitlements could be disposed by way of a transferable development right.

The Committee secretary read a letter dated 20 May 2010 from Beca Carter Hollings & Ferner Ltd that was tabled on behalf of The New Zealand Fire Service Commission (NZFSC), and in support of the NZFSC submission.

Evidence Presented by Council's Staff Members

Mr Jaime McLellan presented the Planner's Report. Mr McLellan outlined that recommended conditions. Mr McLellan noted that the changes to conditions, sought by the applicant, could be accommodated.

Regarding the existing crossing places onto SH3, Mr McLellan tabled a letter from NZTA. The letter was circulated to the applicant. The letter raised concerns that the 'double-gates' (ref:CP209/210) were potentially unsafe and recommended that the entrances be repositioned to improve the sight distances.

Mr McLellan noted that SH3 is a Limited Access Road and as such the continued use of any access onto SH3 required the prior authorisation of the NZTA. Mr McLellan noted, however, that the subdivision would not contribute to any particular change in the type or volume of traffic using the 'double-gates'. On this basis, Mr McLellan advised that Council that the subdivision would have less than minor adverse effects on the traffic safety associated with the 'double-gates' and recommended that the any condition relating to the double-gates (CP209/210) could be deleted.

Council's Community Facilities Manager, Mr Tony Roxburgh, presented technical advice and evidence on the ecology and historical management of Lake Maratoto.

Mr Roxburgh noted that public access to Lake Maratoto is not compatible with what has been proposed considering: the ecology of the lake is vulnerable to disturbances and infestation of weeds, the lake is not readily accessible without a right of way agreement, and the lake not in Council's ownership.

Regarding the fencing conditions, Mr Roxburgh accepted that a seven wire fence may be excessive. Mr Roxburgh noted, however, that the existing three wire fence may be vulnerable to pressure from stock, particularly if a power failure results in the loss of electricity through the 'hot' wires. Mr Roxburgh considered that the minimum fencing standard should be a five-wire electrified fence, with posts positioned at close and regular intervals.

Mr Roxburgh discussed the merits of the subdivision in terms of positive effects for Lake Maratoto. Mr Roxburgh concurred with the findings of the ecological report, prepared by Kessels and Associates Ltd, submitted with the application. Mr Roxburgh acknowledged that the ecology of Lake Maratoto is of national significance.

Mr Roxburgh noted that the pre-existing Queen Elizabeth the Second (QEII) covenant did not deliver the management objectives and was only offered 'passive' protection. Mr Roxburgh advised that Environment Waikato had invested \$100,000 to prepare a three phased restoration and management plan, control weeds, and commence plantings around a small portion of Lake

Maratoto. Mr Roxburgh noted that phase II of the restoration plan was underway and phase III was due to be completed by the end of 2011.

Mr Roxburgh noted that a significant contribution is required to extend the manage and restoration to the remaining parts of the wetland and forested area around Lake Maratoto. Particular attention to ensure that weeds are controlled and young plants are nurtured and given the opportunity to establish. Mr Roxburgh noted that a significant effort is required in the short term control weeds. This will minimise the level of on-going management.

Mr Roxburgh advised that the number of EPL's should be proportional to the level of investment made by the applicant to protect Lake Maratoto. Mr Roxburgh concurred with Councillor Newlands comments that the number of EPL's sought by the applicant was high the previous subdivisions granted by Council. Mr Roxburgh noted, however, that the national significance of Lake Maratoto warranted five EPL's, provided that the landowner accepted responsibility for the further restoration and management of the peat lake.

Mr Roxburgh recommended that any agreement on the on-going management of Lake Maratoto needs to be documented in a legal agreement with Council. This may either be bilateral between Council and the applicant, or multi-lateral involving other stakeholders such as the Queen Elizabeth the Second Trust.

Applicant's Right of Reply

Ms Barry-Piceno presented the right of reply on behalf of the applicant. Ms Barry-Piceno accepted that a management and restoration plan would be overseen by the Council. Regarding the 'double-gates', Ms Barry-Piceno advised that they could not be relocated without realigning the existing races. Ms Barry-Piceno noted that any realignment of the farm races would require additional expense, which she considers unreasonable.

Mr Collier advised that only three of the five EPLs entitlements, sought by the application, will be realised as part of the subdivision. Mr Collier acknowledged the concerns, raised by Mrs Schoen, that further subdivision along Douch Road may ensue if five EPL's are approved. Mr Collier noted the applicant's offer to transfer the right to the remaining two EPL entitlements to an eligible recipient, elsewhere in the rural zone, as measure to avoid and mitigate the cumulative adverse effects of incremental and piecemeal subdivision development.

Mr Collier commented on the continued management and restoration of Lake Maratoto. He noted that the bulk of the restoration work may be undertaken prior to the completion of the subdivision process. He acknowledged that the on-going management of Lake Maratoto could be undertaken either by way of a consent notice or a tripartite agreement with the QEII Trust.

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:

Ecological Issues

- Lake Maratoto is of such national significance that it merits full protection and restoration.
- The applicant is entitled to subdivide five EPL's, on the basis that they undertake to:
 - protect all the existing wetland and forests around Lake Maratoto;
 - manage the threat posed by weed species; and,
 - restoration the entire wetland and forested margins a level that is commensurate with the work currently being undertaken by Environment Waikato.
- A consent notice will be required to ensure the on-going management and weed control is undertaken.
- The landowner will not be required to allow public access to Lake Maratoto.

Other matters

- Any future potential development on Lots 1-7 will be able to meet the requirements set out in the Code of Practice for Buildings, pursuant to the Building Act 2004.
- Council does not have the discretionary powers to require the landowners of rural land to install a dedicated water-supply to fight fires.
- The clustered subdivision layout will minimise loss of Prime Agricultural Land and ensure that the balance land remains a viable and productive farming unit.
- The remaining EPL entitlements will be transferred to other sites, within the District, to avoid the cumulative effects of further subdivision within the holding.

Traffic and Visual Effects

- The subdivision will not intensify traffic conflicts at the existing 'double-gates' (CP209/210), therefore Council will not require that the 'double-gates' be closed.
- The closure of a number of the existing farm gates will increase the separation distance between the crossing places along SH3 and improve traffic safety.
- The entrance at number 3872 Ohaupo Road (SH3) will be upgraded to remedy the substandard access formation.
- The design of the Douch Road/SH3 intersection is suitable and can accommodate the potential increase in traffic that may result from the

development of Lots 1-5. No additional treatment to the intersection is required.

- There is no evidence from the crash data that would indicate that the Douch Road/SH3 intersection is unsafe.
- It is inappropriate to install footpaths or kerb and channelling along Douch Road considering the pattern of development is predominantly low-density, the road is located in a rural area, and the posted speed limit is 100km/hr.
- The proposed design controls and the landscaping will ensure that the future development is in keeping with the surrounding amenity, and will avoid and mitigate the adverse effects of this significant rural landscape. The design controls shall also apply to the adjacent lot, Lot 1 DPS 81798, which is also owned by the applicant.

8 RESOLVED

No 4/10/29

Date 31/5/10

That

- a) *The report from Jaime McLellan dated 20 May 2010 be received;*
- b) *Waipa District Council **grants subdivision consent** to Lochiel Properties Ltd to subdivide the property at 3872 Ohaupo Road legally described as Lot 1 DPS 82897, Allotment 399-400 Te Rapa Parish, Part Allotment 303 & 305 Te Rapa Parish as shown on the plan of subdivision SP/0159/09, subject to the following conditions:-*

GENERAL

1. *That the Land Transfer Plan to give effect to this subdivision consent must be generally consistent with the approved plans prepared by Aurecon New Zealand Limited reference 3965723 dated September 2009 submitted with application SP/0159/09, unless otherwise altered by the consent conditions. A copy of the approved plans are attached.*

CORNER SPLAY

2. *That a 6m by 6m corner splay on the Lot 4 boundary of the intersection of Douch and Ohaupo Roads (SH3) must be provided in accordance with Council's standards as set out in the Code of Practice for Land Development and Subdivision and be vested in Council as road. The corner splay must be shown on the Land Transfer Plan submitted to Council pursuant to section 223 of the Resource Management Act 1991.*

CREATION OF RIGHTS OF WAY AND EASEMENTS

3. *That the ROW and easements shown as 'A' & 'B' on the scheme plan of subdivision SP/0159/09 be created and duly granted. The right of way must be shown on the Land Transfer Plan and a schedule of easement(s)*

submitted to Council pursuant to section 223 of the Resource Management Act 1991.

ENTRANCES

4. *That the consent holder must construct a figure 3 type rural residential vehicle entrance to Lots 1, 2, 3, 4 & 5. 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 entrances must be sealed from the edge of the road to the property boundary.*
 - *The consent holder must construct the vehicle entrances in accordance with the approved plans (reference: Drawing No DW-002), ensuring the dual entrances are constructed between; Lots 1 & 2, Lots 3 & 4, and Lot 1 & Lot 1 DPS 81798, respectively.*
5. *The existing entrance to Lot 1 DPS81798 must be permanently closed to vehicular traffic. The existing entrance shall be permanently fenced and the Douch Road berm and water-table reinstated to the satisfaction of the Council's Development Engineering Manager and must be at the consent holder's expense.*
6. *The existing vehicle entrance (registered LAR Crossing Place 213) that will serve proposed Lot 6 and 7 is upgraded to a modified Diagram 'D' access standard as defined by the NZ Transport Agency's Planning Policy Manual (2007 version), modified to exclude the road widening opposite the crossing place.*
7. *The existing vehicle entrances CP 208, CP211 and CP 214 (as marked on the attached aerial photo) must be permanently closed. The permanent closure of the vehicle entrance shall consist of any or all of the following that are applicable:*
 - *The removal of any gates;*
 - *The reinstatement of the fence line;*
 - *The removal of any culverts;*
 - *The reinstatement of any berm and highway drainage*

POWER

8. *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 resisting, repositioning or removal of any electric power lines which exist on the land being subdivided.*

Where electric power lines serving any lot are required to cross the boundary of any other lot or lots registered easements must be created for such services.

TELECOMMUNICATIONS

9. *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 for 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.

CONSENT NOTICE - NO FURTHER LAH SUBDIVISION

10. *Subdivision consent has been granted for a lot under the provisions of the Operative Waipa District Plan Rule 10.6.1.4(a) 'Dwelling for a Person with a Long Association with a Holding'. The rule states that one lot can be subdivided from the 'holding' when the applicant has resided on the land forming part of the holding continuously for a minimum period of fifteen (15) years. Only one lot per holding must be permitted under this Rule notwithstanding the number of people who may qualify.*

Note. *A 'holding' is defined in the District Plan as a property or a collection of properties under common occupancy or in a single certificate of title which are farmed in conjunction with one another, and are contiguous.*

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 7.

MANAGEMENT PLAN

11. *That a Management Plan for Lake Maratoto, and its wetland and forested margins, on Lot 7 (shown as figure 3 in the report prepared by Kessels and Associates Ltd reference: 201107) must be prepared by a suitably qualified person approved by Council's Manager, Community Facilities. The purpose*

of the Management Plan is to identify the means and measures proposed to protect, maintain and enhance the bush area in perpetuity by the (current) owner(s) of Lot 7. The Management Plan must have regard to the reports prepared by Kessels and Associates Ltd and Environment Waikato that were submitted with the resource consent application (ref: SP/0159/09) and must include, but not be limited to, the following:

- a) *The measures proposed to restore the natural ecology and indigenous biodiversity to the bush area, inclusive of pest control, fencing, and replanting and reintroduction of flora and fauna.*
 - b) *A timetable for carrying out the restoration measures.*
 - c) *Detailed plans of the restoration works proposed.*
 - d) *The review measures proposed to ensure the on-going health and management of the bush area.*
 - e) *An estimate of costs for the restoration measures and works.*
12. *The consent holder must implement the management plan requirements as detailed in condition 11, including any bush restoration and fencing measures proposed. This work must be completed to the satisfaction of the Council's Manager, Community Facilities.*
13. *That for Lake Maratoto and its wetland and forested margins (shown as figure 3 in the report prepared by Kessels and Associates Ltd reference: 201107) on Lot 7 must be protected and preserved, and:*
- a) *Every person who owns Lot 7 must take every reasonable step to ensure that the native bush is protected and preserved in accordance with the Management Plan prepared under condition 11 above,*
 - b) *no person must carry out any activity in, on, under or over the native bush, or in the vicinity of the native bush that endangers or is likely to endanger it, or in any way detracts from the interest or significance of the native bush, unless so approved in the Management Plan; and*
 - c) *Lake Maratoto, and its wetland and forested margins, comprising an area no less than 46ha, must be kept free of stock with a suitable 'stock-proof' perimeter fence that features:*
 - *posts positioned at four (4)-metre intervals,*
 - *A minimum five wires, including: two (2) electrified or 'hot-wires', one of which must be positioned on an out-rigger to avoid stock placing pressure on the fence and causing damage that may lead to a incursion or breach of the perimeter fence.*

This being a condition to be complied with on a continuing basis by the subdividing owner and subsequent owners and before the deposit of the survey plan at LINZ 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 7.

CONSENT NOTICE - RESTRICTIONS ON FURTHER 25-HA SUBDIVISION

14. The consent holder must either register a consent notice to give effects to the following:

- a) That Lot 7 must not be subdivided further than into 5 lots (4 additional) pursuant to Rule 10.6.1.1 (General Standards for Allotments) of the Operative Waipa District Plan.

This being a condition to be complied with on a continuing basis by the subdividing owner and subsequent owners and before the deposit of the survey plan at LINZ 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 7.

Note: *Subdivision consent (SP/0005/10 - issued 4 February 2010) has been granted to Lochiel Properties Ltd to dispose of one entitlement, pursuant to Rule 10.6.1.4(e) of the Operative Waipa District Plan 'Transferable Development Right'. Condition 13 of that consent required a bond be registered on the one of the titles affected by this consent (Certificate of Title -SA64B/807) to record the disposal of one 25-ha entitlement. The above condition includes the 25-ha lot transferred under SP/0005/10.*

CANCELLATION OF CONSENT NOTICE

15. *At the consent holder's expense Councils' solicitors must give an undertaking to cancel consent notice B499881.4, and bonds registered as part of SP/0005/10, from Lot 1 DPS 82897. Cancellation must be conditional upon the registration of a bond or consent notice on Lot 7, as required under condition 14, above.*

CONFIRMATION OF FURTHER EPL ENTITLEMENTS

16. *The owner is entitled to subdivide two (2) Environmental Protection Lots, pursuant to Rule 10.6.1.4(f) of the Operative Waipa District Plan, provided that any such allotment must be transferred to another holding pursuant to Rule 10.6.1.4(e) of the Operative Waipa District Plan.*

Reason: *Pursuant to Rule 10.3.2.2(e) the registered proprietor of Lot 1 DPS 82897 is entitled to create five (5) Environmental Protection Lots for the protection of Lake Maratoto (required under conditions 11-13). Consent (Waipa District Council reference: SP/0159/09) has been granted to realise three (3) of those entitlements by creating lots 1-3 under this consent. The*

remaining two entitlements must be transferred to protect the amenity of the surrounding rural zone.

This being a condition to be complied with on a continuing basis by the subdividing owner and subsequent owners and before the deposit of the survey plan at LINZ 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 7.

CONSENT NOTICE - STORMWATER AND EFFLUENT DISPOSAL

17. *That for subsequent development of Lots 1-5 a suitably qualified and experienced Engineer will be required to inspect the site and submit to Council for approval, at the time of building consent design details on the proposed:*

- a) on-site stormwater disposal system.*
- b) on-site domestic waste water disposal system.*

Reason: *The site has poor soakage.*

This being a condition to be complied with on a continuing basis by the subdividing owner and subsequent owners and before the deposit of the survey plan at LINZ 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 titles to Lots 1-5.

LANDSCAPING

18. *Prior to the issue of a certificate pursuant to section 224(c) of the Resource Management Act, the consent holder must complete the following works:*

- o Plant the specimen trees identified on the plan ref: 2732 prepared by Isthmus and dated May 2010.*

Note: The specimen trees must not be planted between October - April.

- o Erect either 'post and rail' or rural-type post and wire fencing along all boundaries to Lots 1-5 and between the specimen trees (mentioned*

above) and open grassed areas that could potentially be used for grazing animals.

Note: If a rural type post and wire fence is elected, then it must be constructed and maintained in accordance with one of the specimen types described in the items 6 & 7 of the Second Schedule of the Fencing Act 1978.

Alternatively, if a 'post and rail' fence is elected, then it must be constructed and maintained in accordance with one of the specimen types described in the item 1 of the Second Schedule of the Fencing Act 1978.

BUILDING DESIGN AND EARTHWORKS

19. A report must be prepared and submitted to Council with any application for Building Consent, pursuant to the Building Act 2004. The report must specify, in detail, how compliance is achieved with the following criteria:
- No retaining walls are erected.
 - No fill may be imported onto the site, excepting pit sand for building platforms.
 - Buildings must not be placed on pile foundations.
 - Any cut and fill shall be hydro-seeded.
 - The maximum height of buildings must be six (6) metres above the finished ground level (excluding any chimneys or aerials),
 - All buildings must be single-storey.
 - Roof pitch on buildings must be not less than 30 degrees.
 - All roofs must be a darker shade than the walls.
 - All buildings must have overhangs, pergolas or eaves to cast shadows on exterior walls. Such shadow features must be a minimum of 0.6m deep.
 - Not more than 50% of any exterior wall (including doors and windows) and 10% of the roof area shall be finished with glass or similar reflective or translucent material.
 - The use of clear grey, green or bronze glass with recessive tints, and mirrored glass is not permitted.

- *All external components of buildings and structures, including, guttering, spouting and window joinery, must comply with the colour pallet contained in Appendix 21 of the Waipa District Plan.*
- *Exterior walls must be textured or rendered to cast shadow lines and can include any combination of the following: timber, weatherboard, brick and stone masonry blocks, rendered plastered walls.*
- *The maximum uninterrupted and continuous length of building must be 10m.*
- *The land owner must maintain and care for any specimen trees that fall within their property boundary, and any dead or dying trees must be replaced with sapling of the same species, as identified in the landscape concept plan ref: 2732 prepared by Isthmus and dated May 2010.*
- *Each land owner must maintain either post and rail or rural type fencing, as the case may be, around their property boundary.*
- *Any future development must be located within the area identified as the building platform as illustrated on the landscape concept plan ref: 2732 prepared by Isthmus and dated May 2010.*
- *No shipping containers may be stored on the site for a periods not exceeding 12 months in any 5 year period.*

This being a condition to be complied with on a continuing basis by the subdividing owner and subsequent owners and before the deposit of the survey plan at LINZ 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 titles to Lots 1-5 and Lot 1 DPS 81798.

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 93 & 94 of the Resource Management Act 1991 the application has been publicly notified.

- d) Council consider that the mitigation measures proposed will adequately address the concerns regarding visual amenity which have been raised in submissions. The applicant, as the owner with part shares in Lot 1 DPS 81798, has agreed to extent the design requirements to the said land to ensure that any new development on the said land is designed in keeping with the development on the adjacent lots.
- e) Engineering requirements will ensure that the subdivision is adequately provided with services when the area is developed. In particular, the roading conditions will ensure that each lot has suitable provision for safe and convenient access.
- f) The intersection of State Highway 3 and Douch Road is designed and constructed to an adequate standard that can accommodate the potential traffic generation. The potential and cumulative effects on the intersection are considered to be no more than minor.
- g) The provision of sprinklers and water reservoirs for fire-fighting purposes are not a legal requirement and the installation of the aforementioned systems is the discretion of the future landowners or developers.
- h) No additional traffic will use the crossings (CP209/210) as a result of the subdivision, and therefore Council have not required that the crossings be closed.
- i) The consent notices will advise future owners of the special and continuing circumstances of the site. In particular:
 - i. Condition 10 will note that the site has been subject to an LAH subdivision.
 - ii. Condition 13 will ensure that the owner of Lot 7 implements the long-term restoration goals for Lake Maratoto that are indentified in the reports prepared by Environment Waikato and Kessels & Associates Ltd.
 - iii. Condition 14 will record the number of entitlements to subdivide under the '25-ha' Rule.
 - iv. Condition 16 will record the number of entitlements to subdivide under the EPL provisions.
 - v. Condition 17 will advise future landowners of the requirements for stormwater and sewage disposal.
 - vi. Condition 19 will avoid and mitigate the potential adverse visual effects that may arise from the development multiple lots within the SH3 - Special Landscape Character Policy Area.
- j) In granting this consent, Council have approved the subdivision of multiple EPL's having consideration for the national significance of Lake Maratoto, the restoration measures required under condition 13, previous EPL subdivisions, and the comparable entitlements recorded for the land within the fenced perimeter of the Maungatautari Ecological Island.

- k) In granting this consent Council have not required an esplanade reserve around Lake Maratoto on the basis that consent holder will undertake the management and restoration of Lake Maratoto, as the landowner and beneficiary of the EPL entitlements.
- l) Council have exercised its discretionary powers under Rule 10.6.1.5 having regard to the mitigation measures offered by the applicant and considering the particular topographical contours of the site, the lot sizes and the access arrangement.

ADVISORY NOTES

WATER SUPPLY

- Lots 1-5 must obtain an independent potable water supply.
- No new connections to Council's Pukerimu Water Supply may be installed.

ROAD WORKS

- Works within the State Highway boundaries will require the prior approval of the New Zealand Transport Agency (NZTA) pursuant to Section 51 of the Transit New Zealand Act 1989. Before undertaking any physical work within the highway boundaries the consent holder must liaise with NZTA's network consultant who will further advise of NZTA's requirements. NZTA's consultant is:

Transfield Services
15-19 Ruakura Road
PO Box 5633
Hamilton 3242
Phone: 07 854 8600
Attention: Richard Parsons

EARTHWORKS

- All earthworks associated with any subdivision or development of land must be undertaken in accordance with the following matters :
 - a) All earthworks must be carried out so as to provide sound foundations as required under NZS 4431:1989 and avoid any hazard to persons or property;
 - b) All earthworks must be carried out so as to avoid or mitigate any detrimental effect on the environment particularly with regard to the unnecessary destruction of vegetation, the contamination of natural water or the diversion of surface or ground water flows
 - c) The existing landform must not be altered in such a manner that adjoining properties will be detrimentally affected particularly through changes in drainage systems or abrupt changes in ground level

d) All earthworks must be carried out in accordance with the Waipa District Council Code of Practice for Land Development and Subdivision for formation and construction standards.

- ♦ The consent holder must obtain all necessary consents from the Waikato Regional Council.

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.

There being no further business the meeting closed at 3.22pm.

CONFIRMED AS A TRUE AND ACCURATE RECORD

CHAIRPERSON: _____

DATE: _____