

Time: 9.00am
Date: Monday 21 February 2011
Venue: Council Chambers, Waipa District Council, 101 Bank Street,
Te Awamutu.

1 PRESENT

Chairperson

DL Sharpe

Members

SDC Milner, BJ Taranaki, BS Thomas.

Public

There were 9 members of the public in attendance.

Others

Manager Planning & Regulatory, W Allan; Environmental Services Team Leader & Secretary District Licensing Agency, K Tutty; Environmental Health Officer & Liquor Licensing Inspector, D Fabrie; Building Project Advisor, M Gosnell; Regulatory Administration Officer, C Parry; Regulatory Administration Officer, A McIlroy; Senior Planner – Bloxam Burnett & Olliver, A McFarlane; Committee Secretary, S King.

2 APOLOGIES

There were no apologies.

3 DISCLOSURE OF MEMBERS' INTERESTS

There were no disclosures.

4 VISITORS

There were no visitors.

5 MINUTES OF PREVIOUS MEETING

Resolved

4/11/01

That the minutes of a meeting of the Regulatory Committee held on 29 November 2010 be confirmed as a true and accurate record.

Councillor Thomas / Councillor Milner

6 LATE ITEMS

There were no late items.

7 CONFIRMATION OF ORDER OF MEETING

File: 01-89-04

Resolved

4/11/02

That the order of the meeting be confirmed with Item 9 to be taken at 9.15am and Item 14 to be taken at 10.30am.

Councillor Taranaki / Chairperson Sharpe

8 WAIPA DISTRICT LIQUOR LICENSING AGENCY: MONTHLY SCHEDULE OF LIQUOR LICENSE APPLICATIONS CONSIDERED BY STAFF UNDER DELEGATED AUTHORITY

File: 01-85-10

The Schedule was provided on page 71 of the Agenda.

Councillor Taranaki queried how liquor licensing applied to cafés with outdoor seating. Environmental Services Team Leader, K Tutty responded that if the cafés have a seating permit then that area is incorporated into the area covered by the liquor license. He advised special conditions of the seating permit meant this would not occur after 10pm.

Resolved

4/11/03

That the monthly schedule of Liquor License Applications Considered by Staff under Delegated Authority for January 2011 be received.

Councillor Taranaki / Councillor Thomas

The Agency adjourned at 9.15am as the Applicant was not in attendance. The Agency reconvened at 9.30am following Items 11, 12 & 13.

9 WAIPA DISTRICT LIQUOR LICENSING AGENCY: CONSIDERATION OF OPPOSED APPLICATION FOR TEMPORARY AUTHORITY – C JAMES

File: 016/TEMP/00011/10

Report of Karl Tutty, Secretary District Licensing Agency was included on pages 75-91 of the Agenda.

Secretary District Licensing Agency, K Tutty informed members that the Applicant had not arrived to attend the hearing in person as she claimed that she had not received written confirmation of the hearing. He advised both NZ Police and the Liquor Licensing Inspector had received their written confirmation which was sent at the same time on 3 February 2011. Furthermore, he advised the applicant had received additional verbal confirmation.

Chairperson Sharpe determined that as the Applicant had been notified verbally as well as in writing, this was sufficient for the hearing to proceed.

Mr Tutty outlined the application for the Temporary Authority lodged by the Applicant. He advised that a temporary authority is mostly used by new owners to enable them to trade whilst a permanent application was being prepared and processed. Mr Tutty stated the Applicant had a Temporary Authority issued on 19 October 2010 which expired on 4 January 2011. He advised the Applicant had lodged an application for a second Temporary Authority on 23 December 2010.

Mr Tutty stated the Agency's policy was for a second Temporary Authority to be issued only where a permanent application had been lodged and was being processed. He advised the Applicant had been given advice and assistance since the first Temporary Authority was issued in October 2010 but that a full application had not been lodged. Mr Tutty noted the Agency could waive the policy against issuing a second Temporary Authority unless a permanent application had been lodged, if it considers the application warrants such a waiver.

Liquor License Inspector, D Fabrie advised of the advice and assistance offered to the Applicant to prepare a permanent application. Mr Tutty noted that most applicants manage to prepare and submit a permanent application during the first three month Temporary Authority. He stated the second Temporary Authority application was forwarded to the Police as part of standard procedures and had resulted in an objection.

Sergeant M Van Der Veeken, NZ Police (Cambridge)

Police Sergeant M Van Der Veeken tabled and read his Statement of Evidence including the Job Sheets referred to in the Statement. He then summarised that the Police had concerns about the Applicant's ability to manage a licensed premises and had demonstrated a lack of good practice during the three month period of the first Temporary Authority that was issued in October 2010.

Chairperson Sharpe queried the experience and qualifications of the bar manager employed by the Applicant and Mr Fabrie advised while he had some experience in England, he did not have experience in New Zealand. Mr Fabrie noted the bar manager was 19 years old.

Councillor Taranaki queried the bar experience of the Applicant and Mr Fabrie advised that although the Applicant had indicated experience assisting at the Masonic in Cambridge, she had proven inadequate as a licensee with the first Temporary Authority.

Chairperson Sharpe queried the qualifications required to become a general manager and Mr Tutty advised a general manager would be required to complete a course which the Applicant could have completed in the three months of the first Temporary Authority. Neither held the licence controllers qualification or a managers certificate at that time.

Chairperson Sharpe queried the procedure should the Agency decline the application and Mr Tutty responded the information would go to the Liquor Licensing Authority. The applicant can appeal the decision of the Agency to the Liquor Licensing Authority.

Resolved

4/11/06

That:

- a) *The report of Karl Tutty, Secretary District Licensing Agency be received; and,*
- b) *That the application by Catherine JAMES for a temporary authority pursuant to section 24 of the Sale of Liquor Act 1989 be declined.*

Councillor Taranaki / Councillor Milner

Reasons for Decision:

- 1 The evidence presented at the hearing relating to suitability of the applicant to hold a temporary authority for an on-licence provided further reasons for the application to be declined.

10 PLANNING AND REGULATORY SERVICES MONITORING AND ENFORCEMENT REPORT FOR THE PERIOD 1 OCTOBER TO 31 DECMEBER 2010

File: 65-18-01

Report of Wayne Allan, Manager Planning & Regulatory was included on pages 101-107 of the Agenda.

Manager Planning & Regulatory, W Allan advised the Report previously was included in the Policy Committee agenda but, due to the recent restructure of Council's committees, the Report would now be included in the Regulatory Committee agenda. read the summary section of his report. Environmental Services Team Leader, K Tutty read the summary of the report.

Councillor Taranaki queried the breach of conditions of consent by Powerhouse Café and Mr Tutty advised there were restrictions on the use of the deck for the consumption of food and alcohol.

Chairperson Sharpe queried how staff follow up incidents of illegal dumping and Mr Allan advised that where staff can establish who is illegally dumping enforcement officers follow the matter up. He noted there have been no prosecutions during the Report period.

Councillor Thomas declared a possible conflict of interest with the abatement notice issued to the owners of 335 Kaipaki Road. He queried the process followed by staff and Mr Tutty advised staff would firstly issue a warning letter and if necessary proceed in the following order: warning letter, abatement notice, infringement notice, enforcement through the Environment Court.

Mr Tutty noted the Kihikihi pound was running at capacity and long term dogs were transferred to Cambridge. He advised one of the long term dogs had bitten a child and the owner had been convicted of threatening behaviour towards Council staff the previous week. Mr Allan commented on the controlled purchase operation and Mr Tutty advised two of the three premises were first offenders and had been offered a negotiated suspension. He noted the third premises was a second time offender so a hearing would be held by the Liquor Licensing Authority.

Resolved

4/11/08

That the report of Wayne Allan, Manager Planning and Regulatory is received.

Councillor Taranaki / Councillor Milner

The meeting adjourned for the morning tea break at 9.57am.

11 MATTERS CONSIDERED BY STAFF UNDER DELEGATED AUTHORITY – RESOURCE MANAGEMENT ACT 1991

File: 01-52-01

Schedule of Matters Considered by Staff Under Delegated Authority for December 2010 was included on pages 93-99 of the Agenda.

Resolved

4/11/04

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

Councillor Thomas/ Councillor Taranaki

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

File: 01-52-01

This item was not required.

13 APPOINTMENT OF A HEARING COMMISSIONER – NOTICE OF REQUIREMENT FOR AN ALTERATION TO THE EXISTING CAMBRIDGE BYPASS DESIGNATION

File: 55-35-12/2 & DN0001/11

Manager Planning & Regulatory, W Allan advised the alteration to the Cambridge bypass had not been notified as it was subject to further information requests. He stated the alteration would be notified in due course.

Resolved

4/11/05

That Pursuant to Section 34A of the Resource Management Act 1991 independent Commissioner Alan Withy be appointed as the Hearing Commissioner for the purpose of Hearing and Making a Recommendation to the Requiring Authority being the New Zealand Transport Agency on the Notice of Requirement for the Alteration of Designation as detailed in Schedule 1 below.

This authority includes Hearing and making Recommendations on the submissions lodged to the Alteration of Designation application within Waipa District and dealing with any procedural issues prior to delivering a Recommendation.

Schedule 1

Requiring Authority: New Zealand Transport Agency

The requirement is for:

Alteration to the existing Cambridge Bypass designation for a public work to the to the north and northeast of Cambridge, being the construction, operation and maintenance of the 11.6km Cambridge section of the State Highway 1 Waikato Expressway (“the Cambridge Section”) and ancillary works, including connections to the local road network, stormwater treatment, mitigation works (including relocation of services, landscaping and noise mitigation), and activities associated with these works.

The site to which the Requirement applies is as follows:

The Cambridge Section traverses both the Waikato and Waipa Districts. The land is generally located adjacent to an area already designated for the “Cambridge Bypass”, which extends from the existing State Highway No 1 just south of the junction with Hautapu Road, bypasses Cambridge Township to the north and northeast, and rejoins the existing State Highway 1 just east of the Cambridge Golf Course.

Councillor Milner / Councillor Taranaki

Item 9 was taken after Item 13.

The meeting reconvened following the morning tea break at 10.30am.

14 PRIVATE PLAN CHANGE NO. 71 TO THE WAIPA DISTRICT PLAN: APPLICATION BY AGRESEARCH LIMITED TO SCHEDULE LAND OWNED BY AGRESEARCH LIMITED SUCH THAT AGRICULTURAL RESEARCH ACTIVITIES ARE PERMITTED BY RIGHT WITHIN A RESEARCH CAMPUS AND ARE RESTRICTED DISCRETIONARY ELSEWHERE ON THE AGRESEARCH LIMITED FARM

File: 65-07-71

Report of Andrew McFarlane, Senior Planner – Bloxam Burnett & Oliver was included on pages 109 – 187 of the Agenda.

The hearing closed at 12.03pm. The Committee made a site visit with four of the submitters at 1.00pm.

The meeting reconvened at 1.30pm and the Committee deliberated Item 14.



1 March 2011

File Ref: 65-07-71
11014137

AgResearch Limited, Tokanui

Private Plan Change 71 Decisions

PART 1: INTRODUCTION

1. The Waipa District Council's Regulatory Committee heard and considered the private Plan Change request by AgResearch Limited on 21st February 2011. The Plan Change sought to schedule the AgResearch property at Tokanui such that agricultural research activities are permitted by right within a research campus, and are a Restricted Discretionary Activity elsewhere within the balance of the site. The Regulatory Committee comprised Councillor's Sharpe, Taranaki, Thomas and Milner. This decision report provides the Committee's assessment and resolutions on the Plan Change and is presented in the following Parts:

- Part 1: Introduction
- Part 2: Resolutions
- Part 3: Reasons for Decision
- Part 4: Background and Proposal
- Part 5: Statutory Framework
- Part 6: Relevant Plans and Policies
- Part 7: Assessment
- Part 8: Section 32 Analysis
- Part 9: Submissions and Further Submissions
- Part 10: Approved Plan Change Provisions (with Modifications)

PART 2: RESOLUTIONS

2. Resolved

4/11/09

That,

- (a) *Having had regard to the provisions of the Resource Management Act 1991 and in particular to s74 (matters to be considered by a territorial authority), s31 (functions of territorial authorities under this Act), s32 (consideration of alternatives, benefits and costs), and s75 (contents of district plans); and*

Having considered the effects on the environment of Proposed Private Plan Change 71 to the Waipa District Plan and the management of those effects; and

Having visited the site; and

Having considered the submissions and further submissions lodged in respect of Proposed Plan Change 71; and

For the reasons set out in the text of this decision; and

- b) *Pursuant to Clauses 10 and 29(4) of the First Schedule of the Resource Management Act 1991 the request for Private Plan Change 71 by AgResearch Limited to schedule land in the vicinity of State Highway 3 and Te Mawhai Road, legally described as Lots 1, 2 and 3 DPS 66439 and Sections 1 and 2 SO Plan 44853 and Section 1 SO Plan 44854 be **approved** subject to:*
- 1. Modification of proposed Rules '2.4.9 – Size of Activities' and '2.4.9A Tokanui Dairy Research Centre – Size of Activities', as detailed in the Schedule of Recommended Changes contained within Part 10 of this report; and*
 - 2. The boundary of the proposed research campus area being confirmed by way of Global Positioning Satellite (GPS) definition prior to Plan Change 71 taking effect.*
- c) *The submissions and further submissions to Plan Change 71 are accepted, accepted in part or rejected as set out in Part 9 of this Decision;*
- d) *That the Operative Waipa District Plan is amended as per the Schedule of Changes outlined in Part 10 of this Decision.*

Councillor Taranaki / Councillor Thomas

PART 3: REASONS FOR DECISIONS

3. The full assessment and discussion of reasons for the Committee's decisions on private Plan Change 71 are contained within this decision with the individual submissions and further submissions addressed in Part 9. By way of summary and to encapsulate the main findings of the Committee, the following summary reasons are provided:
 - i) The private Plan Change is generally consistent with the objectives and policies of the Operative District Plan.
 - ii) Potentially adverse effects resulting from the private Plan Change are outweighed by the environmental, social and economic gains that a Plan Change of this nature would promote.
 - iii) The private Plan Change will promote the sustainable management of natural and physical resources, in a way and at a rate which enables the farming community in particular and the wider community in general, to provide for their social, economic and cultural wellbeing.
 - iv) Potentially adverse effects on rural amenity values will be minor due to the relatively isolated nature of the proposed research campus relative to the proximity of neighbouring landowners.
 - v) The proposed modification to Rules 2.4.9 and 2.4.9A will ensure consideration of archaeological and cultural heritage issues when assessing the suitability of research-related activity beyond the proposed campus. In so doing, the modification will provide greater recognition of the relationship between Maori and their ancestral lands, sites, waahi tapu and other taonga.

PART 4: BACKGROUND AND PROPOSAL

4. Historically, the AgResearch property in Tokanui was designated as 'Tokanui Agricultural Research Farm'. The effect of the designation was to enable agricultural research activities to be undertaken without the need for resource consent. When AgResearch was created a Crown Research Institute in 1992, it was no longer part of a Government Department and thus lost its ability to designate. The designation for AgResearch's Tokanui site was subsequently uplifted.
5. In March 2010 AgResearch Limited lodged a private Plan Change request (PC-71) with the Waipa District Council to schedule the AgResearch property in Tokanui for agricultural research purposes.

6. The Tokanui Dairy Research Centre is located approximately 2 kilometres south of Kihikihi. The majority of the 340 hectare property is located immediately west of State Highway 3 and south of Te Mawhai Road. The balance of the property is located immediately north of Te Mawhai Road adjoining the Puniu River and east of State Highway 3. That part of the holding located west of State Highway 3 is accessed off Te Mawhai Road whereas the balance of the holding east of State Highway 3 is accessed off Waikeria Road.
7. **The site is illustrated in diagram 1 below:**

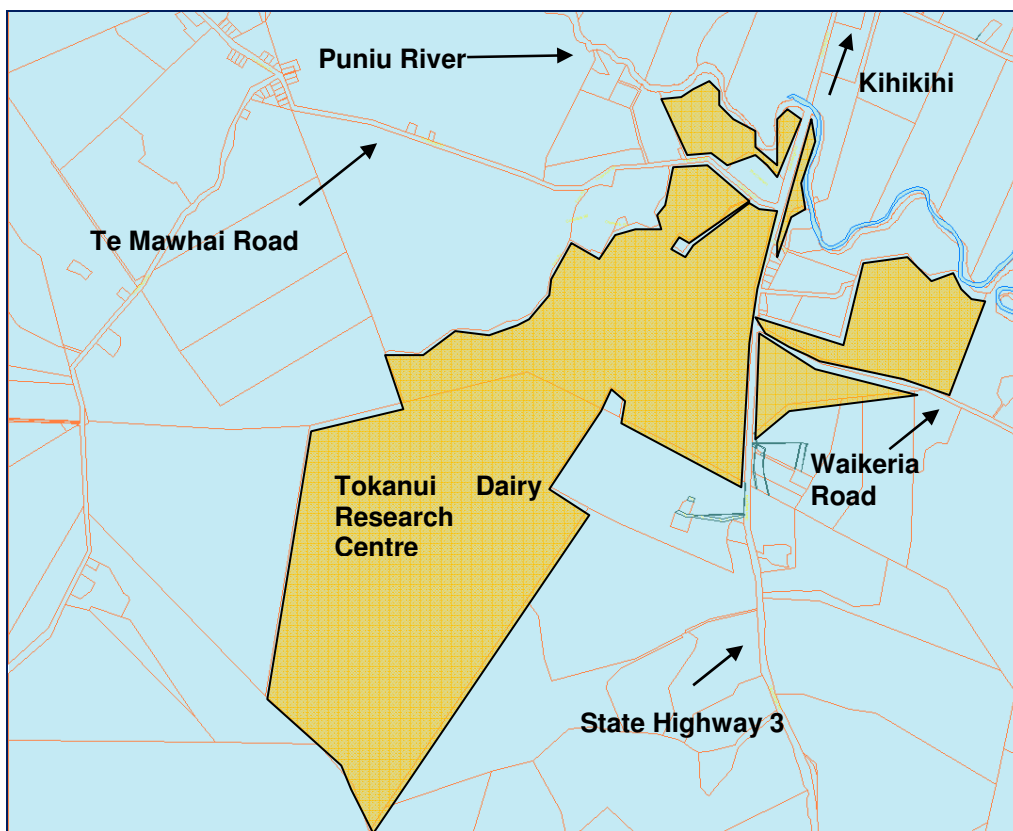


Diagram 1: Location Plan & Application Site

8. Plan Change 71 seeks to change the operative District Plan so that the Tokanui Dairy Research Centre and its associated activities are recognized and provided for. This is to be achieved by creating a “scheduled site” for the Tokanui Dairy Research Centre which will allow agricultural research activities to be established on site, either as a Permitted Activity within the research campus or as a Restricted Discretionary Activity elsewhere on the holding.
9. Scheduling of the site will provide for a 5 hectare research campus, within which agricultural research activities will be a Permitted Activity. Agricultural research activity is to be defined as follows:

“Agricultural research and development and ancillary activities including education and conference facilities; laboratories, pilot plants for researching and processing and manufacturing of dairy products; staff offices and facilities; field days.”

10. Initially at least, the research campus is to have a maximum occupancy of 15-20 employees. The research campus will include a recently established education centre which was approved by way of resource consent in October 2009. The campus will also include a cafeteria which will be permitted to sell food and drinks to staff and visitors as a permitted activity.
11. Scheduling of the site will also provide for agricultural research activities outside of the 5 hectare research campus, albeit that this will be classified as a Restricted Discretionary Activity. It is proposed that Council’s discretion be restricted to the bulk, location, density and clustering of buildings.
12. As a consequence of the private Plan Change, it will be necessary to amend the following parts of the Operative District Plan:
 - Add a new Policy RU40A to recognize and provide for the continued operation, development and expansion of the Tokanui Dairy Research Centre, including a research campus.
 - Amend Rule 2.4.2 (Protection of Prime Agricultural Land) such that buildings associated with agricultural research are exempt from elite soil restrictions.
 - Amend Rule 2.4.9 (Size of Activities) such that the area restrictions for non-farming activities do not apply to agricultural research activities within the proposed campus area, and agricultural research activities outside of the campus area are recognized as Restricted Discretionary Activities.
 - Add new Rule 2.4.9A (Tokuani Dairy Research Centre - Size of Activities), to identify the performance standards for building coverage within the proposed campus area, and to restrict employee numbers within the Dairy Research Centre.
 - Amend Rule 2.4.20 (Sale of Goods) so that restrictions on the sale of goods do not apply to the cafeteria within the proposed campus area.
 - Amend the Definitions section of the District Plan to include a definition for ‘agricultural research activities’.
 - Amend Planning Map 14 to identify the Tokanui Dairy Research Centre as a scheduled site.
 - Create a new Planning Map 14A to show an enlargement of the Tokanui Dairy Research Centre, including the boundaries of the proposed campus area.

PART 5: STATUTORY FRAMEWORK

13. The Plan Change process is subject to the provisions of the Resource Management Act 1991 (RMA). Any Plan Change is subject to the Purpose and Principles of the RMA (Sections 5 to 8) with the overriding purpose being ‘to promote the sustainable management of natural and physical resources’.
14. Section 74 of the RMA sets out the matters to be considered by Council when preparing or changing a District Plan. Specifically Section 74 (1) states that Council must prepare or change its District Plan in accordance with its functions under Section 31 of the RMA, the provisions of Part 2 of the First Schedule, and its duty under Section 32 of the RMA.
15. Section 31 of the RMA sets out the Functions of Territorial Authorities. Notably, it identifies the functions of a Council at S31 (1) (a) as including:

“The establishment...[and] implementation of objectives, policies, and methods to achieve integrated management of the effects of the use, development, or protection of land...”
16. Section 32 of the RMA imposes on Council a duty before making a final decision on a Plan Change application to consider the matters set out in subsection (3) and (4) below.

“(3) 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.*
(4) For the purposes of the examinations referred to in subsections (3) and (3A),

an evaluation must take into account—
 - (a) the benefits and costs of policies, rules, or other methods; and*
 - (b) the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules, or other methods”.*
17. After considering the proposed Plan Change and the S.32 evaluation the Committee can make a decision to decline, approve or approve subject to modifications the Plan Change, and should give reasons for its decision. Clause 10 (First Schedule) specifies the manner in which the Committee shall set out its decision which must include reasons for accepting or rejecting any submission.

18. Once Council has issued its decision, submitters have the opportunity to appeal the decision in accordance with sub-clause 14 (First Schedule).

PART 6: RELEVANT PLANS & POLICIES

19. There are three statutory documents relevant to this private Plan Change application; the Operative Waipa District Plan 1997 (WDP), the Waikato Regional Plan 2007 (WRP), and the Waikato Regional Policy Statement 2000 (RPS). The Waipa District Plan is the principal planning document, as the proposed private Plan Change seeks to amend the provisions of the District Plan to enable agricultural research activities to operate by right within parts of the application site.

1 WAIPA DISTRICT PLAN

20. The WDP provides the resource management framework for subdivision and landuse consent activities within the Waipa District. Part 1 of the WDP sets out the objectives and policies for the District, while Part 2 sets out the rules. The relevant objectives and policies to this proposed Plan Change are considered to be those listed below in relevant issue categories:

Objectives and Policies relating to Sustainability & Prime Agricultural Land:

Objective RU1

To manage the rural environment so that changes induced by humankind do not significantly affect the ability of the land and water to sustain the activities of human, animal and plant communities.

Policy RU39

To ensure that prime agricultural land remains available for future primary productive use.

Policy RU40

To encourage uses which would compromise the future use and availability of prime agricultural land to locate in alternative rural or urban locations.

Objectives and Policies relating to the rural environment

Objective RU1

To manage the rural environment so that changes induced by humankind do not significantly affect the ability of the land and water to sustain the activities of human, animal and plant communities.

Policy RU 47

To avoid farming practices and techniques that would have a significant adverse effect on the environmental qualities of the District or on the efficiency and safe operation of any public facility.

Policy RU48

To ensure that intensive farming activities and activities associated with farming do not have any significant adverse effect on residents of the District or adjoining Districts.

Policy RU54

To ensure that other land uses in rural areas do not adversely affect the rural environment or the sustainable use of any resource to any significant extent either separately or in aggregation

Policies Relating to Maori Culture and Traditions

Policy RU41

To ensure that Maori conservation ethics and issues are taken into account in the management of rural areas.

Policy RU42

To protect assets of cultural significance to Maori.

Policy RU43

To consult with Iwi on issues of cultural significance including kaitiakitanga and waahi tapu.

Objectives and Policies in Relation to Heritage

Objective HG1

To identify in the District Plan all heritage objects and areas of architectural, historical, cultural, spiritual, scientific or ecological significance.

Objective HG4

To protect heritage objects and areas from adverse effects of incompatible uses and activities.

21. Policies RU39 and RU40 are the substantive policies in relation to the protection of elite and productive soils. The Committee concurs with the findings of the Reporting Consultant Planner that, despite a partial loss of elite soils in the vicinity of the research campus area, that loss is minor within the context of the overall site. The Committee considers that it would be impractical to locate an agricultural research facility anywhere other than a rural environment. On balance, therefore, the private

- Plan Change is considered consistent with objectives and policies relating to the sustainability of elite soils.
22. Policies RU41 to RU43 are explicit in their provision for Maori conservation ethics and on the need to consider issues of significance to Maori. The Committee accepts that the AgResearch site is of cultural significance to some Maori in particular, and of historic significance to the community in general. This is partially reflected by the archaeological and cultural notations in the District Planning maps.
 23. The Committee notes that the Historic Places Act 1993 confers protection on archaeological sites, such that any alteration, modification or destruction of the sites will require an authority from the New Zealand Historic Places Trust. This, in conjunction with the heritage provisions of the operative District Plan, will ensure ongoing protection of the site's cultural assets. It is considered that the effect of 'scheduling' the AgResearch property will in no way diminish the existing statutory protection; nor will it enable AgResearch to alter, modify or destroy any of the archaeological sites without the appropriate authority. In the event that any such authorities were applied for, Council protocol would require consultation with the appropriate Iwi authority.
 24. The Committee is satisfied that evidence of Iwi consultation has been provided with the Plan Change documentation, albeit that the extent of pre-lodgement consultation is questioned by some submitters. Importantly, the Committee considers that AgResearch has consulted in good faith. In accordance with Council protocol, the private Plan Change was also notified to Nga Iwi Toopu O Waipa (NITOW) for consultation purposes, though no submission from NITOW was subsequently lodged. On balance, and notwithstanding the issues raised by individual submitters, the Committee does not consider the private Plan Change to be inconsistent with policies relating to Maori culture and traditions. Nor is the Plan Change considered inconsistent with policies relating to heritage.
 25. In consideration of objectives and policies for the 'rural environment', the Committee notes that the activities to be undertaken at the Dairy Research Centre are essentially of a farming nature, with a focus on dairy production. The majority of the AgResearch property is to be developed and operated as a dairy farm. That activity and its associated effects are an established part of the Tokanui locality, and are not typically associated with 'significant' adverse effects. Whilst the private Plan Change will enable a degree of non-farming activity beyond the confines of the research campus (as a Restricted Discretionary Activity), the intensification of that activity is able to be controlled with performance standards.
 26. Consideration has been given to the extent that activities within the research campus could adversely affect the rural environment or the sustainability of resources. In this regard, the Committee notes that the proposed research campus is centrally located,

approximately 800m into the AgResearch property when accessed via Farm Road. The nearest property boundary is some 200m+ to the west and east of the proposed campus, and therefore the Committee does not consider it to be in close proximity to neighbouring landowners. In the circumstances, and given the nature of activities proposed within the campus, it is considered unlikely that campus activities would in themselves adversely affect the rural environment or the sustainability of the surrounding land resource.

27. It also needs to be acknowledged that, over time, agricultural-based research has the potential to improve farming efficiencies and enhance sustainability. In general, therefore, the Committee considers the private Plan Change to be consistent with the objective and policies relating to the rural environment.

Waikato Regional Policy Statement

28. The Waikato Regional Policy Statement ('WRPS') sets out the objectives, policies and implementation methods to address the significant resource management issues of the Waikato region. It provides policies and a range of methods to achieve integrated management of natural and physical resources, and guides the development of sub-ordinate plans (such as Regional and District plans) in the consideration of resource consents. The WRPS became operative in October 2000.
29. The relevant part of the WRPS is Section 3.3 which deals with Land and Soil. Section 3.3.9 'Maintenance of Soil Health', recognizes the Waikato Region as one of the most intensively farmed regions of the country, which places considerable demand upon its soil resources. Therefore, soil health is critical for the sustainable management of the Region's soil and water resources. The Committee recognizes that land use practices involving compaction through development also have the ability to adversely affect soil versatility and productivity.
30. The objective in relation to Section 3.3.9 is to "Maintain versatility and productive capacity of the Region's soil resources." The corresponding policy for Section 3.3.9 is:

*"Policy One: Avoid, Remedy or Mitigate Degradation of Soil Versatility and Productive Capacity
Land use practices should occur in a manner designed to avoid degradation of soil versatility and productive capacity."*

31. The Plan Change is found to be consistent with the relevant policies and objectives of the WRPS because, with the exception of limited development within the proposed research campus, the subject property will remain in productive farming use, the efficiency of which is largely dependent upon the maintenance of soil versatility. The Committee expects that elements of agricultural research will inevitably be focused

on soil capability issues, which is consistent with the following implementation method identified in the WRPS:

“3. Encourage research to be undertaken into the development of sustainable land management practices and facilitate the dissemination of this information to land users.”

32. The private Plan Change will facilitate research into the development of sustainable land management practices, which will eventually filter downstream to the farming community. Overall therefore, the private Plan Change is considered consistent with the relevant policies, objectives and implementation methods of the WRPS.

Waikato Regional Plan

33. The Waikato Regional Plan (WRP) became operative in September 2007. The WRP contains policy and methods to manage the natural and physical resources of the Waikato region. The WRP is the implementation arm of the Waikato Regional Policy Statement.
34. The Committee considers that there are no provisions of the WRP that are directly relevant to consideration of the proposed private Plan Change. Whilst future AgResearch activities may or may not give rise to the need for Regional consents, they are not issues that need be addressed at this stage.

Other Plans and Policy Documents

35. Section 74 of the Act directs the Committee to consider any other relevant plans or regulations. In this instance, consideration has been given to the Waipa 2050 Growth Strategy (‘Waipa 2050’). Waipa 2050 articulates the vision and methodology for managing growth in Waipa District until 2050. The aim of the Strategy is to take an integrated approach to growth management by recognizing, protecting and enhancing the features of Waipa District that make it special, and by setting a pattern for the future growth of settlements. A key focus of the Strategy is the integration of growth with infrastructure provision as a means of promoting cost effective and affordable development.
36. Waipa 2050 does not identify the AgResearch property at Tokanui as a future growth cell. Nonetheless, it makes reference to the Te Mawhai area and to the future role of AgResearch Limited in the development of a dairy research farm and an associated research campus.

37. Section 6.2.2. of Waipa 2050 states as follows:

“There are a number of opportunities for developments in the Te Mawhai area. AgResearch Ltd is converting the Tokanui Agricultural Research Farm into a Dairy Research Farm facility and also plans to develop an associated research campus. There is also the potential for further development in conjunction with Mangatoatoa Marae once the settlement process has been completed. In respect of the research facility it will be important that the location of any adjacent development is managed and located carefully to avoid potential reverse sensitivity effects.”

38. The Committee notes that Waipa 2050 does not have statutory status, because it currently sits outside of the District Plan framework. Nonetheless, it clearly signals the importance of AgResearch as a stakeholder in the Te Mawhai area, and acknowledges the potential for growth of that facility. In the circumstances, the Committee considers the private Plan Change to be consistent with the intent of the Waipa 2050 Growth Strategy.

PART 7: ASSESSMENT

Part II of the Resource Management Act 1991

39. The guiding purpose of the Resource Management Act 1991 (RMA) is the ‘*sustainable management of natural and physical resources*’. Part of the definition of sustainable development refers to the social, economic and cultural wellbeing of people and communities.

40. The most relevant sections from Part II are considered to be as follows:

- Section 5, which defines the purpose of the RMA and the principles of sustainable management.
- Section 7(b) - the efficient use of natural and physical resources.
- Section 7(c) - the maintenance and enhancement of natural and physical resources.
- Section 7(f) - maintenance and enhancement of the quality of the environment.
- Section 7 (g) - any finite characteristics of natural and physical resources.

41. The RMA requires the Committee to undertake a balancing exercise and make a broad judgment as to whether the private Plan Change will promote the sustainable management of natural and physical resources, whilst taking into consideration the relevant issues within Sections 6 (Matters of National Importance) and 7 (Other Matters).

42. The Committee considers the extent to which the private Plan Change promotes the sustainable management of natural and physical resources to be clear-cut. Whilst there are undoubtedly short-term costs associated with the establishment of a research campus, the longer-term outcome will be a better understanding of agricultural practices and downstream efficiencies for the farming sector.
43. As a result of the above, the private Plan Change will enable people and communities to provide for their social, economic and cultural wellbeing, as well as their safety. Furthermore, the private Plan Change is able to achieve this in a manner that avoids, remedies or mitigates potentially adverse effects on the environment. The Committee is therefore satisfied that the Plan Change would give effect to the purpose and principles of the RMA.
44. There are no matters in Section 6 that are relevant to consideration of the Plan Change. Key issues considered under Section 7 are set out below.

Key Issues

45. In reaching the conclusion to approve this private Plan Change the Committee had regard to a number of key issues. These were determined having given regard to the Plan Change documentation, submissions, submitter's presentations and evidence, a site visit and the Consultant Planner's report. In essence, these issues determined whether the Plan Change constituted the sustainable use of land resource.

Rural Amenity Values

46. The RMA defines 'amenity value' to mean those *"natural or physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes"* (Section 2).
47. The amenity value of the Tokanui locality stems from its modified rural landscape interspersed with a combination of rural residential and utility buildings. The locality is also characterized by the former Tokanui Hospital, which adjoins and is partially visible from the Plan Change site.
48. The private Plan Change will result in the bulk of the subject property being used as a dairy research farm. For all intents and purposes therefore, the amenity values resulting from that activity will be no different from those already associated with neighbouring farms. The secluded location of the research campus relative to the overall scale of the property will ensure that the site retains the appearance of a dairy farm. Consequently, the private Plan Change is expected to have negligible impact on existing rural amenity values.

Visual and Landscape

49. A principal outcome of the private Plan Change will be the ability to develop by right, a 5ha research campus which is to be centrally located within the site. Incrementally over time, research-related facilities will be erected within the campus, thus changing the visual appearance of that part of the site.
50. The private Plan Change includes performance standards to limit the extent of site coverage within the campus, but is otherwise reliant upon the bulk and location rules of the Rural Zone to control the physical appearance of development. Although research-related development could take place beyond the proposed campus, such development would require the benefit of resource consent.
51. The proposed campus is not publicly visible from either Te Mawhai Road or Farm Road, and is only partially visible from the rear of the former Tokanui Hospital. Although the campus may be partially visible from a limited number of surrounding properties, that visual impact will be mitigated by a combination of distance and the proliferation of shelter belts and mature trees. A site visit also confirmed that the proposed campus is situated within a topographic 'basin' which generally has a back-drop of rolling hills. Not being situated on ridge or skyline, the campus has the potential to visually 'blend' with its rural backdrop and surrounds.
52. The Committee notes that the private Plan Change site is not located within a Special Landscape Character Area, and therefore no special provision has been given towards the protection of landscape values. Nor was this an issue that was raised as a concern by submitters. Overall therefore, the Committee considers that visual and landscape effects associated with the private Plan Change will be less than minor.

Social and Economic

53. The proposed private Plan Change has the potential to stimulate social and economic benefits, not only for Waipa District, but for the Waikato Region and New Zealand as a whole. Typically, agricultural research has the potential to improve the efficiency of farming practices, improve animal husbandry, and increase environmental awareness. The social and economic benefits associated with agricultural research are also evident in the form of local employment opportunities and commercially valuable intellectual property. Generally, therefore, the Committee considers that agricultural research activities would have a positive rather than a detrimental impact on social and economic wellbeing.

Traffic

54. It is recognized that development of a research campus has the potential to increase traffic beyond levels that are currently experienced on the AgResearch property. The effect of that increase has been addressed by a Traffic Impact Assessment (TIA) prepared by Maunsell Ltd. which was attached as Appendix G to the Plan Change application.
55. The Committee accepts the finding of the TIA that the initial predicted increase in traffic (resulting from AgResearch activities) will be small, and its impacts “will be at most, minor.” The Committee acknowledges that, notwithstanding initial traffic predictions, future development within the site could result in increased traffic volumes, the effects of which may not be fully known at this stage. Therefore, the Committee supports the recommendations of the TIA that traffic effects are re-examined if on-site employment exceeds 20 staff, and that such circumstances would trigger the need for a Restricted Discretionary resource consent application. It is noted that the private Plan Change includes rules to this effect.
56. The Committee acknowledges that agreements are already in place to undertake road improvements to the intersection of Te Mawhai Road / State Highway 3. It acknowledges also that improvements to the Farm Road / Te Mawhai Road intersection will be considered if / when AgResearch staff exceed 20 persons. The Committee therefore concurs with the findings of the Reporting Planner that traffic-related effects will be less than minor and can be managed by way of Plan Change rules.

Heritage and Culture

57. It is recognized that the AgResearch property contains a number of archaeological and culturally sensitive heritage sites, all of which are notated on either operative of Draft planning maps. These sites are all located north of the proposed campus area. Given that the research campus is the area most likely to undergo development, the Committee considers that the integrity of known heritage sites is unlikely be affected by the private Plan Change. Importantly, those heritage sites have conferred protection through the Historic Places Act and the Operative District Plan, and that protection will remain in place regardless of whether the private Plan Change is given effect.
58. The Committee acknowledges that research-related development could occur beyond the proposed campus area, albeit that such activity would require the benefit of resource consent. Development beyond the research campus has the potential to affect ‘unknown’ heritage or archaeological sites. Whilst the latter still retains protection through the Historic Places Act, the private Plan Change as notified does not provide for ‘heritage’ as a restricted discretionary consideration. The Committee agrees with the recommendation of the Reporting Planner that restricted discretionary

considerations should be broadened to include consideration of ‘archaeological or culturally sensitive heritage items’.

59. By incorporating the above amendment, the Committee is satisfied that impacts on heritage and cultural items can be managed such that potentially damaging effects can be avoided, remedied or mitigated. Furthermore, the inclusion of ‘heritage’ as a discretionary consideration will inevitably result in consultation with Iwi and / or New Zealand Historic Places Trust in the event of development encroaching heritage items.

Loss of Elite Soils

60. The private Plan Change application was accompanied by a Land Use Capability Report which confirmed that the proposed research campus will be located on a mixture of Class IIs, IIe and IIIe land. These soils are recognised by the Operative Waipa District Plan as prime agricultural land (i.e. elite soil). To some extent, therefore, development of the research campus will result in the loss of elite soils.

61. The District Plan generally seeks to minimise the loss of prime agricultural land by encouraging activities which compromise elite soils to relocate to alternative rural or urban locations. In consideration of this issue, the District Plan notes as follows:

“..the protection required does not need to be so prohibitive that it excludes all non-farming uses and uses which are not concerned with soil quality but it will need to ensure, as far as practicable, that such uses are not to be located elsewhere in the District before they are permitted to establish on prime agricultural land.”

62. The Committee considers the research campus to be an integral part of the surrounding dairy research farm, to the extent that it would be impractical to locate the facility in an alternative urban area. It is considered equally impractical to relocate the campus away from established facilities such as the AgResearch offices and the dairy shed facilities, regardless of whether alternative parts of the site comprise lesser quality soils. Relocation of the campus elsewhere on site would lead to the unnecessary fragmentation of productive areas. It may also risk the research campus being located closer to site boundaries and thus more visually prominent than it needs to be.

63. Importantly, the private Plan Change includes provision to limit building site coverage to 20% within the campus area (approximately 10,000m²). In effect, this equates to less than 1.5% of the prime agricultural land contained within the 340 hectare property. Within the context of the overall site, therefore, the loss of elite soil associated with the campus development is negligible. On the basis that the vast majority of the site will continue in primary productive use, the Committee is satisfied that any effects associated with loss of elite soils will be less than minor, and that the sustainability of that land resource will not be compromised.

Positive Effects

64. In assessing the private Plan Change, the Committee has evaluated all matters which relate to sustainability issues, including any environmental or sustainability benefits which might accrue from activities.
65. The private Plan Change will enable dairy research activities to take place within a Region which is heavily dependent upon the agricultural and dairying sector. As an industry, agricultural research is expected to contribute significantly to the social and economic wellbeing of the farming community. The Committee considers that this in turn will have downstream economic benefits, not only for the Waikato Region but for New Zealand as a whole.
66. Generally, the Committee considers that agricultural research is likely to result in improvements to animal husbandry and the wellbeing of stock. The private Plan Change could also result in improved soil management, thus potentially increasing productive capability. The Committee considers that 'agricultural research' activities will deliver improved rural sustainability outcomes.

PART 8: SECTION 32 ANALYSIS

67. The applicant produced a S.32 analysis as part of the private Plan Change documentation. Subsection 32(2) also requires Council to carry out a further evaluation prior to making its decision on the private Plan Change. That evaluation must assess the extent to which each objective is the most appropriate way to achieve the purpose of the RMA, and whether the policies and rules are the most appropriate methods in terms of their effectiveness and efficiency to achieve the objectives.
68. After considering the submissions and further submissions and the evidence provided at the hearing, the Committee has concluded that the original Section 32 assessment document remains valid and the proposed private Plan Change as notified, is generally the most appropriate way to achieve the purpose of the RMA, while having regard to efficiency and effectiveness of the proposed policies, rules and other methods.
69. The proposal largely adopts the existing objectives, policies and rules for the Rural Zone. It also updates the planning maps to reflect a 'scheduled site', to which a small number of 'tailored' rules apply. The submissions and further submissions do not substantiate any need to change either the notified Section 32 analysis, or the subsequent analysis of the Reporting Planner.

PART 9: SUBMISSIONS AND FURTHER SUBMISSIONS

70. Plan Change 71 was notified on 30th September 2010 and 11 submissions were received. The summary of submissions was notified on 16th November 2010 and 1 further submission was received. A hearing was held on 21st February 2011 and a site visit undertaken the same day.
71. Submissions have been grouped into those who support the private Plan Change, those who oppose the private Plan Change, and those who neither support nor oppose the private Plan Change but have requested amendment in part. The grouping of decisions in this manner does not mean that consideration of individual submissions has not been undertaken. The decisions relative to the individual submissions are set out in the following tables.

Table 1: Submissions in Support

Submission Reference	Submitter	Support / Oppose	Further Submission Reference	Further Submitter	Support / Oppose
71.1	New Zealand Historic Places Trust	Support	N/A	N/A	N/A
71.10	Trevor Sargent	Support	N/A	N/A	N/A

Submission Content:

Submission 71.1 is supportive of the Plan Change but recommends amendment to the effect that advisory protocols are included for the accidental discovery of archaeological material during earthworks.

Submission 71.10 is supportive of the Plan Change in its entirety.

Assessment of submissions

The amendment sought by submission 71.1 is of a precautionary nature, similar to the advisory notes which append all Waipa District Council resource consents. Given that advisory protocols are already in place for the accidental discovery of archaeological material, there are no benefits to be gained by replicating those protocols in the form of a Plan Change. Regardless of whether archaeological remains are specifically identified in the Waipa District Plan, all archaeological sites benefit from statutory protection under the Historic Places Act. Therefore, amendment to the Plan Change to duplicate this protection is not considered necessary.

The explicit nature of submission 71.10 means that assessment of that submission is not considered necessary.

Decisions:

- (1) That submission 71.1 in support of Plan Change 71 be accepted in part and rejected in part.
- (2) That submission 71.10 in support of Plan Change 71 be accepted.

Resulting modifications to the District Plan:

No amendments to the proposed Plan Change are necessary as a result of the above decisions.

Table 2: Submissions in Opposition

Submission Reference	Submitter	Support / Oppose / Amend	Further Submission Reference	Further Submitter	Support / Oppose / Amend
71.3	Trustees of the Wipaea Manu Trust	Oppose	N/A	N/A	N/A
71.8	Robert Elliot	Oppose	71.8.1	Trustees of the Wipaea Manu Trust	Support

Submission Content

Submission 71.3 opposes the Plan Change on the basis that the subject property and the adjoining Tokanui Hospital are the subject of a claim to the Waitangi Tribunal, and that consultation has not been undertaken with the claimants. The submitter contends that the Rural Zoning of the area should not be altered in any way pending the outcome of the Tribunal claim.

Submission 71.3 also notes that the subject property is one of cultural significance to the submitter. Concern is expressed that AgResearch activities might be carried out in a manner that does not recognize and properly provide for the relationship of Maori to ancestral lands, waahi tapu and other taonga. The submitter considers that the scope of permitted activities within the research campus is too broad ranging and is potentially detrimental to the sustainable management of the area. It is requested that such activities are the subject of normal planning scrutiny.

Submission 71.8 opposes the private Plan Change on the basis that the subject property is under a multiple hapu and iwi claim to the Waitangi Tribunal. The submission queries the mechanisms and processes used to validate the proposed private Plan Change.

Further submission 71.8.1 supports all submissions lodged in opposition to the Plan Change. The reason for that support is generally as stated in submission 71.3. The further submission contends that agricultural research activities should only be permitted by way of advertised resource consent application and that the Plan Change “overrides the principles of good planning.”

Assessment of Submissions

It is acknowledged that the subject property comprises part of a claim to the Waitangi Tribunal, and that the outcome of that claim process is not yet known. Notwithstanding the legitimacy of that claim, the Committee considers that the process for resolution of claim issues is governed by the Treaty of Waitangi Act 1975 and not the Resource Management Act 1991 (the RMA). The RMA is not concerned about ownership of land / resources, and its single purpose is to promote the sustainable management of natural and physical resources. In contrast, the Waitangi Tribunal inquiry process, as part of the Tribunal’s function, contributes to the resolution of Treaty claims and is largely concerned with the ownership of land. Therefore, regardless of the merits of the Tribunal claim, the Committee is entitled to proceed to hear and determine the Plan Change application on behalf of Council. Furthermore, the RMA does not impose any express obligation on territorial authorities to take into account Treaty claims.

The Committee recognizes that Section 8 of the RMA imposes a mandatory obligation on Council to take into account the principles of the Treaty when making a decision. In general, the principles recognised by the Courts include a ‘duty of partnership’, a ‘duty of active protection of Taonga and Maori interests’, a ‘duty to remedy past breaches’, a ‘duty to make informed decisions’ and a ‘duty of consultation’. The duty under Section 8 does not require Council to make “actual provisions” for Treaty principles in its decision. Generally, Section 8 will be met if Council enables active participation in the consultative process by Maori when dealing with applications of known or likely value to Maori.

Evidence of pre-lodgment consultation was provided with the private Plan Change application. This included consultation with adjoining landowners and relevant stakeholder groups including but not limited to, Nga Iwi Toopu O Waipa. The Committee considers that consultation has been undertaken in good faith, albeit that submitters 71.3 and 71.8 take a contrary view that pre-lodgment consultation was not undertaken with those parties. Be that as it may, subsequent notification by Council has enabled those submitters to actively participate in the hearing process, and therefore the Committee considers the obligations under Section 8 of the RMA have been met.

Importantly, Section 8 of the RMA is not applicable for determining constitutional matters such as claims to tribal sovereignty or land ownership issues. The Treaty principles imported by Section 8 cannot extend to principles that are inconsistent with the scheme of the RMA; nor can they be

used as a de facto mechanism for allocating resources to Maori. In the Committee's opinion, the sustainable management of the subject property is not dependent upon the outcome of the Treaty Claims process. Therefore, to decline the private Plan Change on the basis of a claim which does not necessarily have any impact (positive or otherwise) on the sustainability of this resource would, in the Committee's opinion, be ultra vires.

The Operative District Planning Maps indicate that the subject property contains at least one site of cultural significance and up to three archaeological sites. It is also noted that the Draft District Planning maps (which has yet to be publicly notified for submission) indicate the site as being partially affected by a 'cultural overlay'. It is not disputed therefore that at least parts of the site may well be of cultural significance to the submitter(s). That being the case, Section 6 of the RMA requires that Council recognize and provide for the relationship of Maori with ancestral lands, waahi tapu and other taonga, and also recognize and provide for the protection of historic heritage from inappropriate development.

In consideration of the above, the Committee notes that the effect of the private Plan Change is to focus physical development within a defined campus area, which is centrally located within the site. On the basis of known archaeological records and Iwi inputs to the Draft District Plan, the proposed campus area would appear to be sited clear of archaeological and culturally sensitive sites. To that extent, the Committee considers that the private Plan Change has recognized and provided for the protection of historic heritage and generally safeguards the relationship of Maori with their ancestral lands, waahi tapu and other taonga.

Notwithstanding that, the Committee recognizes that the Plan Change would still enable a degree of non-farming activity beyond the campus area, albeit that such development would require resource consent as a Restricted Discretionary Activity. In such circumstances, development could conceivably be in the vicinity of historic or culturally sensitive areas. The private Plan Change as notified, limits discretion to consideration of 'bulk, location, density and the clustering of buildings'. In the Committee's opinion, historic heritage and culturally sensitive sites could be safeguarded further still if the restricted discretionary considerations (for non-farming activities) were broadened to include 'archaeological or culturally sensitive heritage sites'. The implementation of this requirement would promote downstream consultation on cultural and heritage issues, thus further providing for the relationship between Maori and their ancestral lands, waahi tapu or taonga.

Submission 71.3 also contends that the scope of permitted activities is too broad ranging and potentially detrimental to the sustainable management of the site. In the Committee's opinion, the scope of permitted activities within the proposed campus is consistent with a research facility of this nature, and is potentially less than what was historically permissible by right when the entire site was designated. Also, the centralized and generally isolated nature of the campus is such that neighbouring landowners are less likely to be affected by research-related activities, and therefore there are limited benefits to be had by restricting the scope of activities further still. Outside of the research campus, agricultural research activities are subject to the normal provisions for the Rural Zone unless they have the benefit of resource consent.

The Committee does not share the view that activities are potentially detrimental to the sustainable management of the area. The Committee takes a contrary view that, whilst activity of this nature is geared towards maximizing the efficiency of farming resources, it inevitably relies upon maintaining and ultimately enhancing environmental sustainability.

The Committee also considered whether activities outside of the research campus area should be subject to a higher 'test' than Restricted Discretionary status. Recognizing that activities outside of the campus would be predominantly of a dairying nature, and thus consistent with surrounding farmland, it was considered inappropriate to raise that threshold from a 'Restricted Discretionary' to a 'Discretionary' status. Amongst other things, that would remove the certainty sought by AgResearch in terms of safeguarding core on-site activities. Ultimately, the areas of restricted discretion (including the amendment described above) were considered sufficient to safeguard community values and amenity.

On balance therefore, and taking into consideration Sections 6, 7 and 8 of the RMA, the Committee considers that there are insufficient grounds to decline the Plan Change on the basis of submissions 71.3 and 71.8 and further submission 71.8.1. However, the robustness of the Plan Change could be improved further still by broadening discretionary considerations to include 'archaeological or culturally sensitive heritage items'.

Decisions

- (1) That submission 71.3 in opposition to Plan Change 71 be accepted in part and rejected in part, insofar as improvements can be made to better provide for the relationship between Maori and their ancestral lands, waahi tapu and taonga.
- (2) That submission 71.8 in opposition to Plan Change 71 be rejected.
- (3) That further submission 71.8.1 in support of submission 71.8 be rejected.

Resulting modifications to the District Plan:

Amend Rules 2.4.9 ('Size of Activities') and 2.4.9A ('Tokanui Dairy Research Centre – Size of Activities') as notified to broaden the scope of restricted discretionary considerations to include 'proximity to archaeological or culturally sensitive heritage items'.

Table 3: Submissions Seeking Amendment

Submission Reference	Submitter	Neutral / Amend	Further Submission Reference	Further Submitter	Support / Oppose
71.2	The New Zealand Transport Agency	Neutral	N/A	N/A	N/A
71.4	John Spencer & Belinda Wilson	Amend	N/A	N/A	N/A
71.5	Lazy River Ranch	Amend	N/A	N/A	N/A
71.6	Jenny & Bruce Parkes	Amend	N/A	N/A	N/A
71.7	Hugh & Olwyn Earwaker	Amend	N/A	N/A	N/A
71.9	Clare St Pierre	Amend	N/A	N/A	N/A
71.11	Mangahana Farms Limited	Amend	N/A	N/A	N/A

Submission Content:

Submissions 71.4, 71.5, 71.6, 71.7 and 71.11 are duplicate submissions requesting amendment to the Plan Change as notified. These submissions seek amendment to the effect that neighbouring landowners are advised of new research work, compensation is available for neighbouring property damage caused by research activity and boundary fencing is re-established by the applicant.

Submission 71.2 is a neutral submission from the New Zealand Transport Agency (NZTA). The submitter has requested sight line improvements to the intersection of Te Mawhai Road and State Highway 3, and has requested that future development which exceeds 20 persons be classified as a Restricted Discretionary Activity.

Submission 71.9 seeks an amendment to the definition of agricultural research activities such that activities involving genetic modification, genetic engineering and the use of genetically modified organisms are specifically excluded.

Assessment of submissions

Submissions 71.4, 71.5, 71.6, 71.7, 71.9 and 71.11 allude to the dangers of research activities and their potential impacts upon neighbouring property and / or the wider community.

The Committee notes that under the Hazardous Substances and New Organisms Act 1996 (HSNO Act), research involving the import, development, field testing or release of new organisms requires the approval of the Environmental Risk Management Authority New Zealand (ERMA New Zealand). HSNO defines any species not present in New Zealand immediately before the date the Act came into effect as a 'new organism'.

The release or field testing of new organisms requires an application to ERMA New Zealand, which is publicly notified and submissions called for. When considering an application to import, develop, field test or release a new organism (including genetically modified organisms), ERMA New Zealand's first obligation is to fulfill the purpose of HSNO Act, which is to protect the environment and the health and safety of people and communities. In considering such applications, ERMA New Zealand must take into account (amongst other things): the sustainability of flora and fauna, the intrinsic value of ecosystems, public health, and the relationship of Maori culture and traditions with their ancestral land, water, sites, waahi tapu, valued flora and fauna and other taonga.

It can be seen therefore, that regardless of the outcome of this RMA private Plan Change process, research activities involving the introduction of new organisms will require a public notification process, thereby affording opportunity for neighbouring landowners to be advised of such activities. Given the statutory safeguards that are already in place to manage hazardous substances and / or new organisms, the Committee considers that the exclusion of 'genetic activity' from the definition of 'research activities' would be inappropriate. The Committee also notes that, despite the inherent risks of genetic engineering, research activities of that nature also have the potential to improve the sustainability of resources, thereby fulfilling the purpose of the RMA.

In the Committee's opinion, the issue of neighbour compensation resulting from 'research-related damage' is not something that can be addressed as part of the private Plan Change process. Compensation is more appropriately addressed through civil litigation, and that opportunity will exist regardless of the outcome of this private Plan Change application.

On the issue of boundary fencing, the Committee notes that the MAF Regulatory Authority has a standard for the containment and field testing of genetically modified farm animals (Standard 154.03.06 – Containment Standard for Field Testing of Farm Animals). The standard for the containment of farm animals is approved by ERMA New Zealand in accordance with the HSNO Act 1996 and is mandatory.

The amendments requested by submitter 71.2 (New Zealand Transport Agency – 'NZTA') relate to sight line improvements on the SH3 / Te Mawhai Road intersection, and to controls on the

number of employees within the proposed research campus. The Committee notes that the Plan Change includes evidence of an approved alteration to designation from Waipa District Council to enable physical improvements to the SH3 / Te Mawhai Road intersection as per the request of NZTA. The alteration to designation was specifically to give effect to these works.

The Committee notes also that the private Plan Change has been designed such that a Restricted Discretionary resource consent will be required if employees on the research farm exceed 20 persons. In those circumstances, a Traffic Impact Assessment will be required, and NZTA will be afforded a further opportunity for consultation. Overall therefore, the Committee is satisfied that the concerns of NZTA have been fully addressed.

Decisions:

- (1) That submissions 71.4, 71.5, 71.6, 71.7, 71.9 and 71.11 seeking amendment to Plan Change 71 be rejected.
- (2) That neutral submission 71.2 be accepted.

Resulting modifications to the District Plan:

No amendments to the proposed Plan Change are necessary as a result of the above decisions.

PART 10: APPROVED PLAN CHANGE PROVISIONS (WITH MODIFICATIONS)

72. The Committee has resolved to approve Plan Change 71 to the Waipa District Plan, with modifications to restricted discretionary criteria. The approved changes to the Waipa District Plan are as follows (changes underlined, modifications in *'italics'*):

1. Amend Rule 2.4.2 – Protection of Prime Agricultural Land to read as follows:

"2.4.2 RULE – Protection of Prime Agricultural Land

No site shall be used for an activity which will prevent the future use of the site for the production of vegetation by the establishment of new buildings and/or hard surface areas, provided that this Rule shall not apply to:

- up to two dwellinghouses and accessory buildings;
- any building or soil coverage ancillary to any lawfully established activity;

- existing and proposed marae and associated buildings including dwellinghouses on multiple owned Maori land;
- building or soil coverage associated with agricultural research farming and associated agricultural research activities within the boundaries of the Tokanui Dairy Research Centre (as shown on Map 14 and 14A) in compliance with Rule 2.4.9A(Tokanui Dairy Research Centre Size of Activities);
- any activity listed in Rule 1.4.1 – Permitted Activities”.

2. Amend Rule 2.4.9 RULE - Size of Activities to read as follows:

“2.4.9 RULE – Size of Activities

1. The Rule shall not apply to farming, agricultural research activities in the area identified as “Research Campus Area” within the Tokanui Dairy Research Centre (as shown on Map 14 and 14A) in compliance with Rule 2.4.9A (Tokanui Dairy Research Centre Size of Activities), and forestry activities and activities included in Rule 2.4.20.
2. Activities shall not exceed the following standards:
 - i. The aggregate floor area of buildings and/or land area used for the non-farming activity shall not exceed 100 m2.
 - ii. The number of persons engaged in the activity at any one time shall not exceed five persons.
 - iii. The number of guests who are provided with board and lodging and/or meals shall not exceed ten persons at any one time.

Buildings associated with agricultural research activities that are located outside of the area identified as “Research Campus Area” within the Tokanui Dairy Research Centre (as shown on Map 14 and 14A) and do not comply with the requirements of Rule 2.4.9 shall require a resource consent for a Restricted Discretionary Activity. Council’s discretion will be restricted to bulk, location, density and clustering of buildings and proximity to archaeological or culturally sensitive heritage items.

All other Activities which do not comply with the requirements of Rule 2.4.9 shall require a resource consent for a Discretionary Activity which shall be considered in accordance with Rule 2.7.10.”

3. Include new Rule 2.4.9A – Tokanui Dairy Research Centre Size of Activities.

“2.4.9A RULE – Tokanui Dairy Research Centre Size of Activities

1. Total building coverage for agricultural research activities in the area identified as “Research Campus Area” within the Tokanui Dairy Research Centre (as shown on Map 14 and Map 14A) shall not exceed 20% of the 5 hectare “Research Campus Area”.

Activities which do not comply with the requirements of Rule 2.4.9A(1) shall require a resource consent for a Restricted Discretionary Activity where Council’s discretion is restricted to bulk, location, density and clustering of buildings and proximity to archaeological or culturally sensitive heritage items.

2. The number of fulltime employees at the Tokanui Dairy Research Centre (as shown on Map 14 and 14A) shall not exceed 20 persons.

Activities which do not comply with the requirements of Rule 2.4.9(A)(2) shall require a resource consent for a Restricted Discretionary Activity requiring the provision of a Traffic Impact Assessment, where Council’s discretion will be restricted to traffic matters.”

4. Amend Rule 2.4.20 – Sale of Goods to read as follows.

“2.4.20 Rule – Sale of Goods

1. There shall be no display of goods for sale other than the sale of produce or plants grown on the site or handcrafts made on the site. This rule shall not apply to any staff cafeteria located within the area identified as “Research Campus Area” at the Tokanui Dairy Research Centre (as shown on Map 14 and Map 14A).
2. With the exception of any staff cafeteria located within the area identified as “Research Campus Area” at the Tokanui Dairy Research Centre (as shown on Map 14 and Map 14A), the floor space of buildings or part of a building or area of land to be used for the sale of produce or handcrafts shall not exceed 20 m².”

5. Include the following definition for ‘agricultural research activities’ in Section 13 – Definitions:

“Agricultural research and development and ancillary activities including education and conference facilities; laboratories, pilot plants for researching the processing and manufacturing of dairy products; staff offices and facilities; field days.”

6. Amend Planning Map 14 to identify the scheduled boundaries of the Tokanui Dairy Research Centre, and to reference new Planning Map 14A.
7. Include new Planning Map 14A to show a detailed enlargement of the Tokanui Dairy Research Centre and the 'Proposed Future Campus Area'.
8. Include new Policy RU40A and explanation in the Rural Policies section to read as follows:

"Policy RU40A

Notwithstanding Policies RU39 and RU40, to adequately recognise and provide for the continued operation, development and expansion of the Tokanui Dairy Research Centre including a Research Campus (as shown on Maps 14 and 14A).

Explanation

Council recognises that research undertaken at the Tokanui Dairy Research Centre is of regional and national significance to the agricultural sector and the New Zealand economy. Council recognises that the Tokanui Dairy Research Centre must retain its opportunities for continued use and development, including the possibility of a future Research Campus area, and appropriate provisions have been included in the District Plan which are specific to the site.

(Refer to Objective RU1, Policy RU39 and RU40, Rules 2.4.2, 2.4.9, 2.4.9A)"

There being no further business the meeting closed at 1.38pm.

CONFIRMED AS A TRUE AND CORRECT RECORD

CHAIRPERSON:

DATE:

Completed and dispatched: 23 February 2011