



9 May 2005

File No: 04510/672.00

SP: 4527

**TO THE CHAIRPERSON AND MEMBERS OF THE REGULATORY COMMITTEE**

---

**REPORT ON A LIMITED NOTIFIED SUBDIVISION CONSENT APPLICATION**

---

<b>APPLICANT:</b>	Farrell/Claridge Trust
<b>PROPERTY ADDRESS:</b>	40-42 Moore Street, Leamington, Cambridge
<b>LEGAL DESCRIPTION:</b>	Lot 1 DPS 40505 (CT SA35D/685).
<b>SITE AREA:</b>	1,940m <sup>2</sup>
<b>ZONING:</b>	Residential Zone (Planning Map 27) – Waipa District Plan
<b>PROPOSAL:</b>	A two stage subdivision consent is proposed. Stage 1 comprises the creation of three residential lots of 400m <sup>2</sup> , 833m <sup>2</sup> and 707m <sup>2</sup> . Stage 2 comprises the cross lease of the 833m <sup>2</sup> lot created under Stage 1 into two lots of 459m <sup>2</sup> and 374m <sup>2</sup> under the multi-unit residential rules.
<b>SURVEYOR:</b>	Nicklin Surveying and Resource Management

---

## **1 PURPOSE OF REPORT**

1.1 The purposes of this report are to assist the Regulatory Committee in coming to a decision on the application by:

- ♦ Outlining any further information or clarification that has been obtained so that all parties have a clear understanding of the proposal;
- ♦ Outlining the statutory framework of the Resource Management Act 1991 (RMA) and the policy framework of the District Plan and any regional planning documents under which a decision is to be made;
- ♦ Independently “auditing” the reports submitted by the applicant in support of the application to identify any deficiencies or areas where different interpretations should be applied;
- ♦ Identifying key issues that need to be considered by the Committee;
- ♦ Commenting on points raised in submissions; and
- ♦ Making a recommendation to the Committee for its guidance.

## 2. THE SITE

- 2.1 The subject site is located on the southwestern corner of Moore and Burns Streets, Leamington, Cambridge. The street address is 40-42 Moore Street. The subject site has an area of 1,940m<sup>2</sup>, is held in one Certificate of Title (SA 35D/685) and is legally described as Lot 1 DPS 40505.
- 2.2 In general the site is a rectangular shape measuring some 40.0m by 48.5m. The land has a flat topography. Currently located on the site is a single storey weatherboard dwelling, a garage and small sheds. The remainder of the site is covered in grass, trees and shrubs, and gardens. The site is fenced on all boundaries to some degree.



AERIAL PHOTOGRAPH OF THE SUBJECT SITE

- 2.3 The site has one vehicle crossing to Moore Street. Both Moore and Burns Streets are characterised by wide grassed berms. Some mature trees are also located on the berm.
- 2.4 Land surrounding the site is used for residential purposes. An aerial photograph of the site and local area is presented on page 2.

### 3 PROPOSAL

- 3.1 The two stage subdivision proposal is shown on the scheme plan by Nicklin Surveying and Resource Management reference 2900 sheet CP1 Issue 6 dated April 2004 and the building plans by Lethborg Homes dated 26 April 2005 submitted with the application (refer to Appendix 1).
- 3.2 **Please note that the scheme plan and building plans have been amended from those served on persons who were considered to be affected by the proposal under Section 94(1) of the RMA. The scheme plan and building plans were amended to comply with the residential living standards of the Waipa District Plan and to satisfy the development density concerns of the submitter opposing the application. A copy of the scheme plan and building plans originally served are attached as Appendix 2.**

#### Stage 1

- 3.3 Stage 1 of the subdivision proposes to subdivide the existing 1,940m<sup>2</sup> residential site into three residential lots of 400m<sup>2</sup>, 833m<sup>2</sup> and 707m<sup>2</sup>.
- 3.4 Lot 1 of 400m<sup>2</sup> is generally rectangular in shape except for an angled rear boundary. Lot 1 has frontage to Moore Street of 16.5m and is presently undeveloped.
- 3.5 Lot 2 of 833m<sup>2</sup> is also generally rectangular in shape except for a partly angled northern side boundary (shared with Lot 1). Lot 2 has frontage to Burns Street of 17.75m. Other than a large walnut tree located near Burns Street, Lot 2 is also presently undeveloped.
- 3.6 Lot 3 of 707m<sup>2</sup> is a corner site created around the existing dwelling.
- 3.7 The existing garage over the Lot 1/Lot 3 boundary and the shed over the Lot 2/Lot 3 boundary are to be removed.

#### Stage 2

- 3.8 Stage 2 of the subdivision is the re-subdivision of Lot 2 (of 833m<sup>2</sup>) under the multi-unit residential development rules to create two cross lease titles around two proposed dwelling units.
- 3.9 Unit Site A has a net area of 459m<sup>2</sup> (374m<sup>2</sup> excluding the 85m<sup>2</sup> access) and frontage to Burns Street of 3.5m. Proposed Unit A is a 124m<sup>2</sup> single storey brick and weatherboard dwelling covered over with a coloursteel roof. Unit A comprises an open plan lounge, dining and kitchen area, three bedrooms, toilet, bathroom, entry and a single attached garage. Unit A is proposed to be located at least 1.5m from all boundaries.
- 3.10 Unit Site B has an area of 374m<sup>2</sup> and frontage to Burns Street of 14.25m. Unit B has a floor area of 133m<sup>2</sup>, and is to be constructed of similar materials and have the same rooms (but not layout) as Unit A. Unit B is proposed to be located 5.0m from the eastern (Burns

Street), 2.0m from the northern, 2.5 from the western and 0.85m from the southern boundaries.

#### 4. PUBLIC NOTICE AND SUBMISSIONS

- 4.1 Pursuant to Section 94(1) of the RMA, the Application was served on all persons who, in the opinion of Council, may be affected by the proposal. The notice was served on 18<sup>th</sup> January 2005 and submissions closed on 15<sup>th</sup> February 2005. A submission was received from one party within this time period. The nature and reasons for the submission is set out in Table 1 following. A copy of the submission is attached as Appendix 3.

**Table 1: Summary of Submission**

SUBMITTER	ADDRESS	STANCE		REQUEST TO BE HEARD		SUMMARY OF ISSUES RAISED IN THE SUBMISSION
		OPPOSE	SUPPORT	YES	NO	
The Liddell Investment Trust	133A Burns Street	✓		✓		• Density of development proposed.

- 4.2 Since the lodging of the submission, the applicant has amended the scheme plan and building plans to comply with the residential living standards of the Waipa District Plan and to satisfy the development density concerns of the submitter opposing the application.

#### 5 NGAĀ IWI TOOPU O WAIPA (NITOW) CONSULTATION

- 5.1 NITOW have advised that they have no concerns with the subdivision consent application.

#### 6 OFFICER COMMENTS

##### 6.1 Roothing Officer

6.1.1 The following conditions are recommended:

- i) The consent holder shall construct separate Residential type urban vehicle crossings to Unit Sites A and B and the proposed garage on Lot 3. The crossings are to be constructed to the Council's standards, as set out in the Code of Practice for Land Development and Subdivision. All work is to be completed to the satisfaction of the Roothing Manager, and shall be at the consent holder's expense.
- ii) The existing crossing to the old garage shall be removed as necessary and the road reserve reinstated to the satisfaction of the Roothing Manager.
- iii) That a corner splay on each boundary of the intersection, be provided at the corner of Moore Street and Burns Street, 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.

## 6.2 Regulatory Engineer – Utilities

6.2.1 The following conditions are recommended:

### Stage 1

- i) The consent holder shall arrange for Council to install separate water connections to Lots 1 and 2 and meet all costs incurred.
- ii) The consent holder shall provide separate sewer connections to Lots 1 and 2. These connections shall be constructed and recorded in accordance with the Council's standards as set out in the Code of Practice for Land Development and Subdivision. All work shall be to the satisfaction of the Regulatory Engineer – Utilities, and be at the consent holder's expense. An application and construction drawing shall be submitted for approval prior to a work being carried out. **An inspection is required prior to any backfill being placed.** As-built plans and information of all infrastructure assets, which are to be vested in Council, shall be provided prior to the final inspection.
- iii) The consent holder shall remove the unused septic tank from Lot 1. All work shall be to the satisfaction of the Regulatory Engineer – Utilities, and be at the consent holder's expense. **An inspection is required prior to any backfill being placed.**

### Stage 2

- i) The consent holder shall arrange for Council to install separate water connections to Unit Sites A and B and meet all costs incurred.
- ii) The consent holder shall provide separate sewer connections to Unit Sites A and B. These connections shall be constructed and recorded in accordance with the Council's standards as set out in the Code of Practice for Land Development and Subdivision. All work shall be to the satisfaction of the Regulatory Engineer – Utilities, and be at the consent holder's expense. An application and construction drawing shall be submitted for approval prior to any work being carried out. **An inspection is required prior to any backfill being placed.** As-built plans and information of all infrastructure assets, which are to be vested in Council, shall be provided prior to the final inspection.

## 6.3 Building Control Officer

- 6.3.1 A Registered Engineers report shall be produced in respect of the subsoil area where the unused septic tank has been removed and any subsequent fill placed. The condition to be subject to a consent notice registered on the title of Lot 1.
- 6.3.2 A Registered Engineers report shall be produced in respect of the subsoil area where the roots of the walnut tree have been removed and any subsequent fill placed. This condition to be subject to a consent notice registered on the title of Lot 2.

## 7 DISTRICT PLAN PROVISIONS – CLASSIFICATION OF THE SUBDIVISION

7.1 The subject site is zoned Residential in the operative Waipa District Plan.

### Stage 1

7.2 Under rule 10.3.3.1 any subdivision in the Residential Zone to create separate titles shall be a **controlled activity** subject to compliance with the standards for lots set out in rule 10.6.2. The relevant standards of rule 10.6.2 for the Stage 1 subdivision of this application are assessed in Table 2 below:

**Table 2: Assessment of the Residential Zone Standards for Residential Lots in Sewered Area:**

RULE	PROVISION	COMPLIANCE	COMMENTS
10.6.2.2(a)	Minimum net lot area: 400m <sup>2</sup> . Provided that part of any entrance strip which has a width of 6m or less shall be excluded from the net lot area.	✓	Lots 1, 2 and 3 each have net lot areas equal to or exceeding 400m <sup>2</sup> .
10.6.2.2(c)	Shape factor: 13m diameter circle which does not encroach on any building setback.	✓	Lots 1, 2 and 3 are capable of containing a 13m diameter circle.
10.6.2.3(a)	Minimum frontage: 4m	✓	Lots 1, 2 and 3 each have frontage to either Moore or Burns Streets in excess of 4m.

7.3 The assessment in Table 2 above demonstrates that the Stage 1 subdivision can meet the standards for a controlled activity.

### Stage 2

7.4 Under rule 10.3.3.3 any subdivision of a multi-unit residential development in the Residential Zone to create separate allotments for individual occupancies shall be a **discretionary activity**.

## 8 STATUTORY FRAMEWORK – RESOURCE MANAGEMENT ACT 1991 (RMA)

### 8.1 Introduction – Sections 104, 104A and 104B

8.1.1 Section 104 sets out those matters that Council must consider when assessing an application for resource consent. The matters that are relevant to the consideration of this application (subject also to Part II, Purpose and Principles) are:

- “a) Any actual and potential effects on the environment of allowing the activity; and...*
- b) Any relevant provisions of - ...*

- (iv) *A plan or proposed plan; and*
- c) *Any other matters the consent authority considers relevant and reasonably necessary to determine the application.”*

Each of the relevant matters are considered in the following sections of this report.

8.1.2 Section 104A defines the power of Council to grant resource consent for a controlled activity. Section 104 states:

*“104A Determination of applications for controlled activities – After considering an application for a resource consent for a controlled activity, a consent authority –*

- (a) *must grant the application; but*
- (b) *may impose conditions on the consent under section 108 for matters over which it has reserved control in its plan or proposed plan.”*

8.1.3 Section 104B defines the power of Council to grant resource consent for a discretionary activity. Section 104B states:

*“104B Determination of applications for discretionary or non-complying activities – After considering an application for a resource consent for a discretionary activity or non-complying activity, a consent authority –*

- (c) *may grant or refuse the application; and*
- (d) *if it grants the application, may impose conditions on the consent under section 108.”*

## **8.2 Section 104(1)(a) – Any Actual and Potential Effects on the Environment of Allowing the Activity**

8.2.1 This application is predominantly being considered by Council because the site area of the Stage 2 lots (Unit Sites A and B) are less than the minimum. In this regard however, the Stage 2 application has adequately demonstrated that the site area is capable of accommodating the proposed dwellings and access and manoeuvring areas whilst generally complying with the development standards. Where there is some non-compliance with development standards, the application has provided adequate mitigation. Accordingly, the effects on the environment are in my view similar to a complying development.

## **8.3 Section 104(1)(b) – Any Relevant Objectives, Policies, Rules or Other Provisions of the Plan or Proposed Plan**

### General

8.3.1 The land use consent application must be considered having regard to the operative Waipa District Plan, Plan Change No. 2<sup>1</sup> (Development Impact Fees) and Plan Change No. 26<sup>2</sup> (Subdivision and Development Standards in Residential Areas).

<sup>1</sup> Plan Change No. 2 was made operative on 13 April 2004.

<sup>2</sup> Plan Change No. 26 was made operative on 20 September 2004.

8.3.2 In considering any controlled or discretionary activity subdivision consent Rule 10.4.2 (following) applies:

***“1. Subdivisional Layout for Controlled Activities***

*In considering any subdivision specified as a Controlled Activity the Council may, notwithstanding compliance with any standards contained in or referred to in Rule 10.6, impose conditions as to the number, arrangement, area, frontage and shape of allotments and access thereto having regard to the provisions of Rule 10.5 – Subdivisional Standards for All Subdivisions, and to the assessment criteria in Rule 10.6.*

***2. Subdivisional Layout for Discretionary Activities***

*In considering any subdivision specified as a Discretionary Activity the Council may determine the number, arrangement, area, frontage and shape of allotments and access thereto, and impose such restrictions on the use and development of any allotment as may be appropriate to the circumstances having regard to the provisions of Rule 10.5 and to the assessment criteria specified in Rule 10.6.”*

8.3.3 The relevant provisions under Rule 10.5 are:

*“In determining any resource consent for the subdivision and development of land, regard shall be given to the following assessment criteria:*

- a) In any subdivision, the size, shape and arrangement of allotments and provision for access thereto, shall have appropriate regard to:*
  - ♦ Topography, soils and vegetation;*
  - ♦ Surface and ground water conditions;*
  - ♦ Local climatic conditions;*
  - ♦ Existing buildings, roads and services; and*
  - ♦ The effects of earthworks.*
- b) The arrangement of allotments in any subdivision shall be such as to:*
  - ♦ Facilitate convenient and easy access by both people and vehicles;*
  - ♦ Facilitate the provision and operation of essential services;*
  - ♦ Provide an appropriate living or working environment and maintain amenities;*
  - ♦ Avoid conflicts between activities, protect the environment and mitigate adverse effects; and*
  - ♦ Appropriately relate to adjoining development.*
- c) Any lot in a subdivision shall unless not relevant to the circumstances contain an area which:*

- ♦ *Is of sufficient size to accommodate any intended development and use in compliance with the provision of this District Plan;*
- ♦ *Has convenient and safe vehicular access to a road;*
- ♦ *Is suitable for the proposed building in accordance with Rules 1.7.1 and 1.7.2 (Administration Rules); and*
- ♦ *Is connected to network utility services particularly sewerage, water, stormwater, electricity and telephone reticulation.”*

8.3.4 Accordingly, both subdivision applications need to demonstrate that the site areas are suitable for residential development and are capable of accommodating future or proposed dwellings and manoeuvring areas whilst complying with all development standards.

8.3.5 In terms of site suitability, the subject site being subdivided is of a generally flat topography and is able to be connected to all urban services. The removal of the unused septic tank on Lot 1 and the walnut tree on Lot 2 may affect ground stability and/or require fill to be placed. An engineer’s report is thus required with any recommendations therein to be fulfilled to ensure a stable building platform.

8.3.6 The surrounding activities are predominantly single residences meaning that the proposed dwelling units are likely to be compatible with the neighbouring activities. The aerial photograph on page 2 of this report clearly illustrates that the area has a high density of development with many of the neighbouring properties supporting two dwellings on less than 400m<sup>2</sup>. For example, the properties at 34, 36 and 38 Moore Street are each 699m<sup>2</sup> and the property at 133 Burns Street is 762m<sup>2</sup>.

8.3.7 The relevant Residential Zone subdivision standards for the Stage 1 application were assessed in Table 2 above. This assessment demonstrated that the Stage 1 subdivision was able to meet all standards. Accordingly the Stage 1 subdivision is considered suitable.

8.3.8 The relevant Residential Zone subdivision and development standards for the Stage 2 cross lease subdivision are assessed in Table 3 following:

**Table 3: Assessment of the Residential Zone Subdivision Standards for Residential Lots in Sewered Areas and Development Standards for Residential Dwelling Unit:**

<b>SUBDIVISION STANDARDS</b>			
<b>RULE</b>	<b>PROVISION</b>	<b>COMPLIANCE</b>	<b>COMMENTS</b>
10.6.2.2(a)	Minimum net lot area: 400m <sup>2</sup> .  Provided that part of any entrance strip which has a width of 6m or less shall be excluded from the net lot area.	✘	While the site has a total area of 833m <sup>2</sup> , Unit Sites A and B will both have net lot areas of only 374m <sup>2</sup> .
10.6.2.2(b)	The minimum areas of land specified in the first provision to Rule 3.4.1 –	✘	The net lot areas for each unit are less than the 400m <sup>2</sup> specified.

	<p>Residential Rules shall apply to the subdivision of any allotment in a Multi-Unit Residential development, and the boundaries of any such allotment shall comply with the Unit Site Area in accordance with Rule 10.4.3 as shown on the site plan of the development for which a building consent has been granted.</p> <p>No certificate pursuant to Section 224 of the Act may be issued in respect of any subdivision for a Comprehensive Residential Development or a Multi-Unit Residential Development, unless buildings have been completed in accordance with building consents granted, or a covenant has been entered into restricting development to such units, and a consent notice has been issued pursuant to Section 221 of the Act.</p>		<p>Each unit has its own exclusive use area.</p> <p>A condition can be recommended that will require that either the units be constructed prior to the issue of a 224 certificate or a covenant be issued restricting development to the said units.</p>
10.6.2.2(c)	<p>Shape factor: 13m diameter circle which does not encroach on any building setback.</p>	✘	<p>Unit Site A is capable of accommodating a 13m diameter circle but Unit Site B is too narrow for the 13m diameter circle.</p> <p>The provisions to rule 10.6.2.2(c) permit a smaller diameter where the location of existing boundaries or physical features make compliance impractical. In this case Unit Site B is a flat site with no limiting physical features evident. However the design of Unit B is such that it can be constructed on Unit Site B without encroachment on external neighbours. Thus provided Unit B is built as proposed it is my view that a dispensation could be recommended in this case under rule 10.6.2.2(c).</p>
10.6.2.3(a)	<p>Minimum frontage: 4m</p>	✘	<p>Unit Site A only has frontage to Burns Street of 3.5m. Unit Site B has frontage to Burns Street of 14.25m.</p>

10.6.2.3(b)	Minimum width of vehicular access:  ♦ Up to 2 lots: 3.5m; ♦ 3 to 6 lots: 6.0m	✓	The proposed access strip to Unit Site A has a width of 3.5m.
10.8.5.2	Pavement of a water supply upgrading fee: \$2,045 (GST inclusive)	N/A	Plan Change No. 2 introduces new rules for the Residential Zone which requires that in-fill developers contribute towards the provision of additional utility services and upgrades of existing services.  However as Plan Change No. 2 was not made operative until 13 April 2004, Council policy, for reasoning of fairness, has determined that applications lodged prior to this date will not be subject to these financial contributions. This application was lodged on 8 April 2004, thus the contributions do not apply.
10.8.5.3	Payment of a sewage upgrading fee: \$1,370 (GST inclusive).		
10.8.5.4	Payment of a road improvement fee: \$3,330 (GST inclusive).		
<b>DEVELOPMENT STANDARDS</b>			
3.4.1.2 (b)	Minimum site area (exclusive of access strip) for seweraged areas: 400m <sup>2</sup> per dwellinghouse.	✗	The site has a total area of 833m <sup>2</sup> . Unit Sites A and B will have areas of only 374m <sup>2</sup> (exclusive of the 85m <sup>2</sup> access strip in the case of Unit Site A)
3.4.3	Multi-Unit Residential development, elderly person's housing and Kaumarua housing	✓	No dwelling has a length of greater than 20m. The proposed dwellings have a separation of 7m which exceeds the minimum 3m separation.  Unit Sites A and B have an outdoor living area not less than 60m <sup>2</sup> with a least perimeter dimension of 5m.
3.4.4	Multiple units on a site	✓	The dwellings are to be provided with separate service connections.
3.4.5	Building set-back from road boundaries: 5m	✓	Unit B is set back 5m from Burns Street.
3.4.6	Separation of structures from internal site boundaries: Dwellings 1.5m.	✗	Unit A is proposed to be located at least 1.5m from all internal boundaries.  Unit B however is only proposed to be 0.85m from the southern unit site boundary of Unit A. The boundary however is the access to Unit A and will not be built on.

3.4.8	Landscaping and permeable surfaces: 40% of area (exclusive of any access leg).	✓	<p>Unit Site A (excluding the access leg) has an area of 374m<sup>2</sup>. The proposed dwelling and hardstanding areas will occupy some 224m<sup>2</sup> or 59.9% of the area.</p> <p>Unit Site B has an area of 374m<sup>2</sup>. The proposed dwelling and hardstanding areas will occupy some 213m<sup>2</sup> or 57.% of the area.</p> <p>Thus both Unit Sites will have at least 40% permeable surfaces as required by rule 3.4.8.</p> <p>However it is interesting to note that if a developer were simply building two units on the parent lot (Lot 2) then the development would have only 37.3% permeable area. That is, the parent site has an area of 833m<sup>2</sup>. The site may thus be occupied by 500m<sup>2</sup> of buildings and hardstanding surfaces to meet the 40% permeable surface requirement. The two dwellings and hardstanding areas, have an area of 522m<sup>2</sup>. The discrepancy arises in the wording of rule 3.4.8 which “excludes” any access leg from the calculations when assessing unit site areas. For consistent administration of the rule over similar developments, the wording of the rule in my view needs to be amended to “include” any access leg.</p>
3.4.9	Vehicle parking	✓	2 parking spaces for each dwelling is provided.
3.4.10	Height of structures	✓	At 4.8m to the roof apex the dwellings do not penetrate the 8m height plane. The dwellings also do not penetrate the recession plane at any boundary.
3.4.11	Maximum coverage: 40%	✓	The total floor area of Units A and B at 123.5m <sup>2</sup> and 133m <sup>2</sup> respectively occupy 33% and 36% of the exclusive site area to which they relate.
3.4.13	Number of dwelling houses on rear sites	✓	The access strip serving Unit A at 3.5m wide meets the minimum 3.5m width for up to 2 dwelling houses.
3.4.14	Manoeuvring space	✓	The site plan illustrates that there is sufficient vehicle manoeuvring space on Unit Site A so vehicles do not need to reverse on to or off Burns Street.

			Vehicles on Unit Site B will need to reverse on to Burns Street. However the proviso to rule 3.4.14 allows this where the site is a front site and the road is a secondary road. Both these provisos are met in respect of Unit Site B.
3.4.15	Vehicle access to sites	✓	Access to the site is proposed to be from a secondary road. The location of the accesses meets the minimum sight distances as set out in Council's Code of Practice for Land Development and Subdivision.
3.4.17	Noise	✓	The dwellings are designed and constructed to ensure noise will be within the limits of rule 3.4.17.
3.4.18	Odour	✓	The dwelling activities are not expected to create odour nuisances.
3.4.19	Smoke, fumes and dust	✓	The dwelling activities are not expected to omit smoke, fumes and dust which will be discernible beyond the boundary of the site.
3.4.20	Electrical interference	✓	The dwelling activities will not unduly interfere with the satisfactory supply of electricity to other persons.
3.4.21	Glare	✓	The dwelling activities will not result in the spillage of light onto adjoining properties beyond the prescribed limits. The exterior cladding of the dwelling will also be finished in such a manner that it does not reflect light to cause discomfort to neighbours or detract from the neighbourhood amenities.
3.4.22	Boarding and housing of animals	✓	The dwellings will not house animals, other than domestic pets.
3.4.23	Sale or hire of goods and services	✓	No goods or services will be displayed for sale from the site.
3.4.24	Employment on Residential sites	✓	No persons are employed on the site.
3.4.25	Reserve contribution	✓	A total reserve contribution of \$1,802 (GST inclusive) is required for the additional Stage 2 dwelling.
3.4.26	Potentially hazardous substances	✓	The dwelling activities do not involve the storage or use of hazardous substances.

3.4.27	Taking and/or discharge of water and contaminants	✓	No water or contaminants are taken or discharged.
3.4.28	Outdoor storage	✓	No outdoor storage areas are required.
3.4.30	Maximum number of persons on sites: 100 persons	✓	The dwellings are not designed to accommodate anywhere near 100 people.
3.4.33	Payment of a water supply upgrading fee: \$2,045 (GST inclusive).	N/A	Plan Change No. 2 introduces new rules for the Residential Zone which requires that in-fill developers contribute towards the provision of additional utility services and upgrades of existing services.  However as Plan Change No. 2 was not made operative until 13 April 2004, Council policy, for reasoning of fairness, has determined that applications lodged prior to this date will not be subject to these financial contributions. This application was lodged on 8 April 2004, thus the contributions do not apply.
3.4.34	Payment of a sewage upgrading fee: \$1,370 (GST inclusive).		
3.4.35	Payment of a road improvement fee: \$3,330 (GST inclusive).		

8.3.9 From Table 3 above, the Stage 2 cross lease subdivision can not comply with the conditions of rules 10.6.2.2 (a) and (b) (minimum net lot area), 10.6.2.2(c) (shape factor), 10.6.2.3(a) (minimum frontage), 3.4.1.2(b) (minimum sewered site area) and 3.4.6 (separation of structures from internal site boundaries).

8.3.10 Rules 10.6.2.2 (a), (b) and (c), 10.6.2.3 (a) and 3.4.1.2 (b) concern the standards for minimum area, frontage and shape factor. These standards can be given less weight where a subdivision (as in this case) involves the division of a multi-unit development in separate allotments of a size, shape and arrangement where each unit can be accommodated whilst provision for outdoor space, access, manoeuvring and parking are also met. Table 3 above has demonstrated the subdivision's compliance with these development standards. Compliance with these development standards also now positively addresses the concerns of the submitter in opposition.

8.3.11 In terms of the non-compliance with rule 3.4.6, the attached garage of Unit B is only 0.85m from the internal site boundary of Unit Site A. However the Unit Site A boundary is that of the 3.5m wide access leg. The access leg will not be occupied by dwellings in the future, thus daylighting and privacy standards will be maintained. Accordingly, it is my view that the dispensation is warranted in these circumstances.

8.3.12 In conclusion, having considered the Stage 2 subdivision against the subdivision and development standards (Table 3 above) it is my view that the application has adequately demonstrated that the site, despite being below the minimum area, is capable of accommodating the proposed dwellings, access and manoeuvring areas, and service and living courts, whilst maintaining the residential amenity of the neighbourhood.

8.3.13 The site is located in the Residential Zone within which a range of objectives and policies provide broad overall guidance on resource use in that zone. Those relevant to this application are set out below:

***“Objective RS1***

*To manage the development of residential activities in urban and rural areas in order to:*

- i) Minimise any adverse effects on the natural and physical resources of the District;*
- ii) Avoid as far as possible and practicable any significant adverse effects on the qualities of the environment; and*
- iii) Maintain the social and physical well-being and health of the residents of the District.*

***Policy RS1***

*To maintain and whenever possible enhance the ‘amenity values’ of residential areas.*

***Explanation***

*The present ‘amenity values’ of residential areas have been created by private and public endeavour. A high standard has been achieved by excluding incompatible uses, by controlling the size and location of buildings, by requiring a high standard of street design, construction and maintenance, by encouraging tree planting and by the discreet location of community buildings parks and facilities for convenient living.*

***Policy RS4***

*To ensure those residential and other activities in residential areas do not have an adverse effect on other activities or detract from local amenity values.*

***Policy RS6***

*To allow for further housing development in existing towns and settlements in the District.*

***Policy RS13***

*To preserve the generally low rise-low density character of residential areas while allowing for a greater variety of housing accommodation with minimal adverse effects on amenity values.*

***Policy RS17***

*To continue small lot residential development within the town belts.*

***Policy RS18***

*To encourage a more intensive use of large residential sites.*

***Policy RS19***

*To encourage further residential development in Leamington.*

***Policy RS77***

*To increase the density of housing while maintaining the open character of residential areas.*

***Policy RS78***

*To require sites to be large enough for the proposed development and compliance with all requirements of the Plan.*

***Policy RS79***

*To minimise the impact of multi-unit residential development on the existing residential environment by relating development to land area.*

***Policy RS86***

*To allow for the erection of dwellings up to site boundaries where protection of adjoining properties against loss of daylight, sunlight and noise is maintained and the general appearance is in character with the residential locality.*

***Policy RS87***

*To encourage developers to provide sufficient and satisfactory recreational open space for each dwelling on a site free from use as driveways, paths, parking areas or buildings.*

***Explanation***

*The conventional minimum setbacks at the front, side and rear boundaries assist in maintaining the general character of a suburban residential environment. They are not usually sufficiently large or wide enough, except at the front of a site, to provide for the private recreational needs of the occupants of the dwelling. For this reason additional outdoor space, in conjunction with or separately from the setback areas, should be provided on each site for active or passive space for each dwelling. This has traditionally been located at the rear of a dwellinghouse but it is often not particularly suitable because of its poor relationship to habitable rooms and its possible undesirable aspect. The area should be free from use as driveways, paths, parking areas or building. Such open space needs to be set aside particularly in multi-unit residential developments but also on small allotments for single dwellings.*

*The allocation and location of such space is primarily related to the internal management of a site. Provided that there is sufficient open space so that activities do not extend into the street or adversely affect adjoining properties, how they are*

*managed will be the responsibility of the developer and occupier. There will be no special Rules for the allocation of such areas on a site.*

*It is expected that the maximum site coverage requirement will obviate the need for a special requirement for an outdoor living area. However where a residential use requires a resource consent the Council will have regard to the matters above in so far as they may have an adverse effect on adjoining properties.”*

8.3.14 Therefore, the primary aim and focus of the objectives and policies is to ensure that any activity in the Residential Zone is in keeping with the amenity and character of the zone which was established as a suitable place for people to reside. In this regard, the objectives and policies support infill housing development in the Residential Zone where it has no adverse effect on the environment and where they are not incompatible with adjacent properties. In this case, it is my view that the Stage 2 development has been able to demonstrate that it is compatible with the Residential Zone, that is:

- ◆ The site is large. This size enables all activities to be accommodated within its boundaries without impact on neighbours or road safety and efficiency.
- ◆ The site is to be landscaped and fenced to provide the necessary privacy for the occupiers and neighbours alike.
- ◆ The dwellings are in keeping with neighbour’s buildings.

#### **8.4 Section 104(1)(c) – Any Other Matters the Consent Authority Considers Relevant and Reasonably Necessary to Determine the Application.**

8.4.1 There are no other matters which have been identified during the assessment and processing of this application which are considered relevant and reasonably necessary to determine the application.

#### **8.5 Part II – Purpose and Principles of the RMA**

8.5.1 Part II is the purpose and principles of the RMA. The overall purpose of the RMA is to promote the sustainable management of natural and physical resources. “Sustainable management” is defined to mean managing the use, development and protection of such resources in a way that enables people and communities to provide for their social, economic and cultural well-being and their health and safety. At the same time they must:

- ◆ Sustain the potential of resources to meet the reasonable foreseeable needs of the future generations;
- ◆ Safeguard the life-supporting capacity of air, water, soil and ecosystems;
- ◆ Avoid, remedy or mitigate adverse effects on the environment of the activity.

8.5.2 These matters must be given effect to in policy, plan and rule making and when making decisions on resource consents. The District Plan details the objectives, policies and rules that the community considers will promote sustainable management within the District.

8.5.3 The District Plan seeks to protect the amenity of the residential environment from inappropriate subdivision and development. The Residential Zone objectives and policies of the District Plan are not so prohibitive however that they exclude all non-complying subdivision and development. Non-complying subdivision and development which has no adverse effect on the environment while not encouraged are not to be excluded. In this case the application has in my view been able to demonstrate that it will both be in accord with the objectives, policies and rules of the District Plan and will have no more than a minor adverse effect on the environment. Accordingly, approval of the application would in my view be consistent with the sustainable management aims of the RMA.

## 9 CONCLUSION

9.1 The proposal is a two stage subdivision. Stage 1 seeks to create three freehold titles all of which meet the standards of the Waipa District Plan for residential allotments. Stage 2 is to construct two residential dwellings and create cross lease titles for each of the dwellings. The Stage 2 subdivision can not meet the minimum net site area standards. The Stage 2 subdivision has however demonstrated that, subject to compliance with recommended conditions, it will be compatible with the existing and proposed activities in the area, and will not adversely impact on the amenity values of the area.

9.2 In conclusion, after having considered the various matters of Section 104 of the RMA, it is my view that both stages of the subdivision application be granted, subject to conditions to avoid, remedy and/or mitigate the identified potential adverse effects.

## 10 RECOMMENDATION

That:

- (a) The report of the Planning Consultant dated 9 May 2005 be received.
- (b) In consideration of Section 104, and pursuant to Sections 104A, 108 and 220 of the Resource Management Act 1991, the Waipa District Council approves the Stage 1 application by the Farrell/Claridge Trust to subdivide the property at 40-42 Moore Street, Cambridge, legally described as Lot 1 DPS 40505, comprised in Certificate of Title SA 35D/685, into three residential lots subject to the following conditions:

### General

1. That the Land Transfer Plan to give effect to this subdivision consent shall be generally consistent with the approved plan by Nicklin Surveying and Resource Management reference 2900 sheet CP1 Issue 6 dated April 2004, submitted with application SP4527, unless otherwise altered by the consent conditions. A copy of the approved plan is attached.

### Financial Contribution

2. That a reserve contribution of \$3,604.00 (GST inclusive) be paid to Council for the additional two lots created.

### Roading

3. The consent holder shall construct a Residential type urban vehicle crossing to the garage on Lot 3. The crossing is to be constructed to the Council's standards, as set out in the Code of Practice for Land Development and Subdivision. All work is to be completed to the satisfaction of the Roothing Manager, and shall be at the consent holder's expense.
4. The existing crossing to the old garage shall be removed as necessary and the road reserve reinstated to the satisfaction of the Roothing Manager.

### Utilities

5. The consent holder shall arrange for Council to install separate water connections to Lots 1 and 2 and meet all costs incurred.
6. The consent holder shall provide separate sewer connections to Lots 1 and 2. These connections shall be constructed and recorded in accordance with the Council's standards as set out in the Code of Practice for Land Development and Subdivision. All work shall be to the satisfaction of the Regulatory Engineer – Utilities, and be at the consent holder's expense. An application and construction drawing shall be submitted for approval prior to a work being carried out. **An inspection is required prior to any backfill being placed.** As-built plans and information of all infrastructure assets, which are to be vested in Council, shall be provided prior to the final inspection.
7. The consent holder shall remove the unused septic tank from Lot 1. All work shall be to the satisfaction of the Regulatory Engineer – Utilities, and be at the consent holder's expense. **An inspection is required prior to any backfill being placed.**
8. The consent holder shall arrange with the local network electricity operator for separate underground reticulation of electricity to serve Lots 1 and 2 as required, and pay all costs attributable to such work. The consent holder shall submit to the Council's Planning Services Manager written confirmation from the local network operator that satisfactory arrangements have been made for the reticulation of the service to Lots 1 and 2. This is to include if necessary the resiting, reposition or removal of any electric power lines which exist on the land being subdivided.
9. The consent holder shall arrange with the local telecommunications company for separate underground reticulation of telephone cables to serve Lots 1 and 2 as required, and pay all costs attributable to such work. The consent holder shall submit to the Council's Planning Services Manager written confirmation from the telecommunications company that satisfactory arrangements have been made for the reticulation of the service to Lots 1 and 2. This is to include if necessary the resiting, repositioning or removal of any telephone cables which exist on the land being subdivided.

### Removal of Buildings

10. That the old garage over the Lot 1/Lot 3 boundary and the shed over the Lot 2/Lot 3 boundary be removed.

## Consent Notice

11. That a Registered Engineers report shall be produced in respect of the subsoil area where the unused septic tank has been removed and any subsequent fill placed on Lot 1.

Pursuant to Section 221 of the Resource Management Act 1991, a consent notice shall be prepared by the Council's solicitors at the consent holder's expense to ensure compliance with this condition on a continuing basis by the subdividing land owner and subsequent owners of Lot 1.

Upon the issue of a certificate pursuant to Section 224(c) of the Resource Management Act 1991 or at such earlier time as may be required, the consent notice pursuant to Section 221 of the Resource Management Act 1991 will be issued. The consent notice will specify this condition is to be registered against the Certificate of Title for Lot 1 of the subject subdivision.

12. That a Registered Engineers report shall be produced in respect of the subsoil area where the roots of the walnut tree have been removed and any subsequent fill placed on Lot 2.

Pursuant to Section 221 of the Resource Management Act 1991, a consent notice shall be prepared by the Council's solicitors at the consent holder's expense to ensure compliance with this condition on a continuing basis by the subdividing land owner and subsequent owners of Lot 2.

Upon the issue of a certificate pursuant to Section 224(c) of the Resource Management Act 1991 or at such earlier time as may be required, the consent notice pursuant to Section 221 of the Resource Management Act 1991 will be issued. The consent notice will specify this condition is to be registered against the Certificate of Title for Lot 2 of the subject subdivision.

## **Reasons for Decision**

- (a) The application is not in conflict with the Objectives and Policies of the Waipa District Plan and Plan Changes No. 2 and No. 26, and the potential adverse effects on the environment will be minor. The statutory tests imposed by Section 104 of the Resource Management Act 1991 for controlled activities can therefore be satisfied. A decision has therefore been made that the application meets the requirements of Section 104A of the Resource Management Act 1991 and approval can be granted.
- (b) The application has demonstrated that future development of the land for residential purposes is not compromised. Furthermore, any potential adverse effects that may arise from the application will be no more than minor or will be mitigated by appropriate conditions of consent.

- (c) In consideration of Section 104, and pursuant to Sections 104B, 108 and 220 of the Resource Management Act 1991, the Waipa District Council approves the Stage 2 application by the Farrell/Claridge Trust to subdivide the property at Burns Street, Cambridge, legally described as Lot 2 being a subdivision of Lot 1 DPS 40505, into two cross lease titles subject to the following conditions:

#### General

1. That the Land Transfer Plan to give effect to this subdivision consent shall be generally consistent with the approved plans by Nicklin Surveying and Resource Management reference 2900 sheet CP1 Issue 6 dated April 2004 and Lethborg Homes dated 26 April 2005 submitted with application SP4527, unless otherwise altered by the consent conditions. A copy of the approved plans are attached.

#### Financial Contribution

2. That a reserve contribution of \$1,802.00 (GST inclusive) be paid to Council for the additional lot created.

#### Roading

3. The consent holder shall construct separate Residential type urban vehicle crossings to Unit Sites A and B. The crossings are to be constructed to the Council's standards, as set out in the Code of Practice for Land Development and Subdivision. All work is to be completed to the satisfaction of the Roothing Manager, and shall be the consent holder's expense.

#### Utilities

4. The consent holder shall arrange for Council to install separate water connections to Unit Sites A and B and meet all costs incurred.
5. The consent holder shall provide separate sewer connections to Unit Sites A and B. These connections shall be constructed and recorded in accordance with the Council's standards as set out in the Code of Practice for Land Development and Subdivision. All work shall be to the satisfaction of the Regulatory Engineer – Utilities, and be at the consent holder's expense. An application and construction drawing shall be submitted for approval prior to an work being carried out. **An inspection is required prior to any backfill being placed.** As-built plans and information of all infrastructure assets, which are to be vested in Council, shall be provided prior to the final inspection.
6. The consent holder shall arrange with the local network electricity operator for separate underground reticulation of electricity to serve Unit Sites A and B as required, and pay all costs attributable to such work. The consent holder shall submit to the Council's Planning Services Manager written confirmation from the local network operator that satisfactory arrangements have been made for the reticulation of the service to Unit Sites A and B. This is to include if necessary the resiting, reposition or removal of any electric power lines which exist on the land being subdivided.

7. The consent holder shall arrange with the local telecommunications company for separate underground reticulation of telephone cables to serve Unit Sites A and B as required, and pay all costs attributable to such work. The consent holder shall submit to the Council's Planning Services Manager written confirmation from the telecommunications company that satisfactory arrangements have been made for the reticulation of the service to Unit Sites A and B. This is to include if necessary the resiting, repositioning or removal of any telephone cables which exist on the land being subdivided.

#### Construction of Dwellings

8. That either the proposed dwellings shown on the approved plans shall be constructed on site prior to the issue of the completion certificate pursuant to Section 224 of the Resource Management Act 1991, or the consent holder shall register a consent notice on the title of the site pursuant to Section 221 of the Resource Management Act 1991 which restricts the development to the dwellings shown on the approved plans. Any consent notice shall be prepared by the Council's Solicitor and shall be registered on the title at the expense of the consent holder.

**Advice Note:** "Constructed" for the purposes of condition 8 shall mean the completion of the 'shell' of the dwelling (ie. the floor, roof and outside walls).

#### Consent Notice

9. The current and future owners of Unit Sites A and B shall be informed that the percentage of permeable area of each respective Unit Site shall be at least 40% at all times.

Pursuant to Section 221 of the Resource Management Act 1991, a consent notice shall be prepared by the Council's solicitors at the consent holder's expense to ensure compliance with this condition on a continuing basis by the subdividing land owner and subsequent owners of Unit Sites A and B.

Upon the issue of a certificate pursuant to Section 224(c) of the Resource Management Act 1991 or at such earlier time as may be required, the consent notice pursuant to Section 221 of the Resource Management Act 1991 will be issued. The consent notice will specify this condition is to be registered against the Certificate of Titles for Unit Sites A and B of the subject subdivision.

#### **Reasons for Decision**

- (a) The application is not in conflict with the Objectives and Policies of the Waipa District Plan and Plan Changes No. 2 and No. 26, and the potential adverse effects on the environment will be minor. The statutory tests imposed by Section 104 of the Resource Management Act 1991 for discretionary activities can therefore be satisfied. A decision has therefore been made that the application meets the requirements of Section 104B of the Resource Management Act 1991 and approval can be granted.

- (b) The application has demonstrated that future development of the land for residential purposes is not compromised. Furthermore, any potential adverse effects that may arise from the application will be no more than minor or will be mitigated by appropriate conditions of consent.
- (c) The amended scheme plan and building plans comply with the residential living standards of the Waipa District Plan and now can generally satisfy the development density concerns of the submitter opposing the application.

---

SG Bigwood  
*Senior Planner – Bloxam Burnett & Olliver Limited*

**Approved for Regulatory Committee Agenda**

---

Garry Dyet  
*Deputy Chief Executive*

K:\132890 WaipaDC Planning Advice\28 Farrell\_Claridge Trust\SP 4527.doc

## **APPENDIX 1**

## **APPENDIX 2**

## **APPENDIX 3**