

*Minutes of a Meeting of the Regulatory Committee held in the Council Chambers,
101 Bank Street, Te Awamutu on Monday 25 June 2007 commencing at 9.00am*

1 MEMBERS

Councillor D Sharpe, Chairperson

Committee

Councillors GC Flay, BJ Taranaki, GRP Webber, Committee Member G Roberts

2 APOLOGIES

RESOLVED

4/07/42

That the apologies for non attendance from His Worship the Mayor A Livingston and Cr Newlands be received.

Cr Flay/Cr Webber

3 LATE ITEMS

There were no late items.

4 CONFIRMATION OF ORDER OF MEETING

File: 01-89-04

RESOLVED

4/07/43

That the order of the meeting be confirmed subject to items 7.2 and 8.1 being held at 9.00am.

Cr Taranaki/Cr Webber

5 CONFIRMATION OF PREVIOUS MEETINGS

File: 01-89-04

5.1 **Ordinary Meeting of Regulatory Committee held on 30 April 2007**

RESOLVED

4/07/44

That the Minutes of the Regulatory Committee held on 30 April 2007, having been circulated, be taken as read and confirmed as a true and correct record.

Cr Flay/Cr Taranaki

5.2 Ordinary Meeting of Regulatory Committee held on 28 May 2007

RESOLVED

4/07/45

That the Minutes of the Regulatory Committee held on 28 May 2007, having been circulated, be taken as read and confirmed as a true and correct record.

Cr Flay/Cr Taranaki

5.3 Decision of Commissioner Alan Withy: Private Plan Change 28: DC Firth

RESOLVED

4/07/46

That the Decision of Commissioner Alan Withy on Private Plan Change 28 being a Private Plan Change Application by DC Firth to Rezone Rural Land to Rural (Rural Residential Policy Area) at the corner of Paterangi and Ngaroto Roads, Te Awamutu, be received.

Cr Webber/Cr Flay

6 WAIPA DISTRICT LIQUOR LICENSING AGENCY

**6.1 Monthly Schedule of Liquor License Applications
Considered by Staff Under Delegated Authority
File: 01-85-10**

RESOLVED

4/07/47

That the monthly schedule of Liquor License Applications Considered by Staff Under Delegated Authority for May 2007 be received.

Cr Taranaki/Cr Flay

7 GENERAL

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

File: 01-52-01

RESOLVED

4/07/48

That the schedule of Matters Considered by Staff Under Delegated Authority for May 2007, be received, a copy of which is attached to and forms part of these minutes.

Cr Taranaki/Committee Member Roberts

7.2 Application by Sodexo Total Support Services NZ Ltd for an on licence for Hamilton International Airport Café

File: 01-52-01

Liquor Licensing Inspector Bryan Faris outlined the proposal for an On Licence at Hamilton International Airport and outlined that the Hamilton Police had lodged a late submission and therefore the application will be amended from a 24 hour licence to one that fits within the normal boundaries which is able to be approved by the Agency.

The Applicant addressed the Committee and stated that he was pleased with the support that staff have given him in this process.

RESOLVED

4/07/49

That

- a) *The report of the Liquor Licensing Inspector, Bryan Faris dated 11 June 2007, be received.*
- b) *That the application by Sodexo Total Support Services NZ Ltd for an ON Licence in respect of the Hamilton International Airport Café be granted to supply alcohol to any persons present on the premises when the premises are being used as a restaurant during normal operating hours.*
- c) *The Regulatory Committee does not have any objections to the original application by the applicant for a 24 hour licence (subject to the airport's hours of operation), which application will require to be determined by the Liquor Licensing Authority if the applicant pursues the original application.*

Cr Webber/Cr Taranaki

8 HEARINGS

8.1 9.18am – 9.42am

Objection to Notice to Abate Nuisance caused by Barking Dogs: Owner Lynette Collins

File: 33-15-07

Appearing for Council Jennie McFarlane – Environmental Safety Officer

Vicki Byford – Animal Control Officer

Complainants in Attendance Barbara Casey

Animal Control Officer Vicki Byford outlined the objection and timelines that had brought the matter to a hearing.

She outlined that since the abatement notice had been put on there had been very few problems and the dogs were separated during times the owner was not at home.

Mrs Collins spoke in defence of her dogs and in response to questions stated that she had now cut back her hours of work and as her sick father had passed away, there would be no need for her to make long visits to the hospital. Vicki outlined the objection and the timelines that had brought the matter to the head.

The Chairperson read a letter in support of Mrs Collins and her dogs.

In response to questions to the complainants Mrs Casey advised that there had been an improvement and she and her husband were saddened that it had to go this far to get the improvement.

RESOLVED

4/07/50

That

- a) *The report of the Environmental Safety Manager, Jennie McFarlane dated 30 May 2007 be received;*
- b) *The Regulatory Committee uphold the “Notice to Abate Nuisance caused by Barking Dog” issued on 11 May 2007 by Council staff pursuant to Section 55 of the Dog Control Act 1996 for two Border Collies “Shine” and “Bounce” owned by Lynette Collins both dogs residing at 1893 Hamilton road, SH1, Cambridge.*

Cr Webber/Cr Taranaki

8.2 10.15am – 10.38am

Application to Subdivide and Create two additional allotments under the Transferable Development Rights Rules: J & J Watt, 117 Redoubt Road, Cambridge
File: 04641/282.02

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

1 THE HEARING

The hearing held on the 25th June 2007 was attended by the following:

Appearing for Applicant	Mark Chrisp of Environment Management Services Phil Cogswell of Cogswell Surveyors Ltd
Appearing for Council	Angela Bron

2 SITE VISIT

The Regulatory Committee undertook a site visit on the 25th June 2007 to familiarise themselves with the site and surrounding area.

3 THE RELEVANT STATUTORY PROVISIONS

The application was considered under the provisions of the Resource Management Act 1991 (RMA).

It was assessed as a **non-complying** activity and thus, was considered in accordance with sections 104, 104B, 104D and Part 2 of the RMA.

4 OTHER RELEVANT PROVISIONS CONSIDERED

4.1 OPERATIVE WAIPA DISTRICT PLAN

The following provisions in the Operative Waipa District Plan (District Plan) were considered in the assessment of the application.

- Subdivision Objectives and Policies (Part 1, Section 8)
- Subdivision Rules (Part 2, Section 10)
- Rural Activities Objectives and Policies (Part 1, Section 2)

4.2 OTHER LEGISLATION

No other legislation was applicable in the assessment of this application.

4.3 OTHER POLICY STATEMENTS

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

5 THE PRINCIPAL ISSUES THAT WERE IN CONTENTION:

The principal issue that was in contention was the proposal to create two additional allotments pursuant to Rule 10.4.6.1.e – Transferable Development Rights (TDR), which states that only one lot may be created per holding under to this rule. This entitlement had been utilised in a previous subdivision of the holding.

6 SUMMARY OF THE EVIDENCE HEARD

Evidence on behalf of the applicant was given by Mr Mark Chrisp of Environmental Management Services.

Mr Chrisp presented written evidence in support of the application, which was read to the committee. Mr Chrisp stated that the proposed subdivision will not result in any adverse effects on the environment that will be more than minor, that the proposed subdivision is an appropriate use of the land in question taking into account the land use character of the area, and that the proposed subdivision is not inconsistent with the objectives and policies of the Waipa District Plan. Mr Chrisp stated that the proposed subdivision will result in positive environmental effects, by preventing the subdivision of the applicants property at 85 Maungatautari Road, which is currently used for productive farming purposes.

Mr Chrisp stated that Council is able to grant consent to the proposed subdivision in the knowledge that it passes at least one of the gateway tests in section 104D of the RMA and, having regard to the matters in section 104 of the RMA, the proposal is consistent with the purpose and principles of the RMA.

7 THE MAIN FINDINGS OF FACT:

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

- The proposal does not comply with the TDR Rules of the District Plan;

- Restricting the number of entitlements that can be transferred onto a holding in the Rural Zone under the TDR rules to one only is necessary to prevent the establishment of de-facto rural residential settlements in the Rural Zone;
- The positive effects of transferring the entitlements to subdivide the property at 85 Maungatautari Road could be achieved by transferring the entitlements to alternative properties in accordance with the TDR Rules.

8 RESOLVED

4/07/51

That

- a) The report of Angela Bron, Planner dated 11 May 2007 be received.*
- b) That in consideration of Section 104, and pursuant to Sections 104B, 104D, 108 and 220 of the Resource Management Act 1991 and the Operative Waipa District Plan the Waipa District Council declines subdivision for a Transferable Development Right to J & J Watt Ltd to subdivide at 117 Redoubt Road, Cambridge legally described as Lot 1 DP 346985 being the Transferee property and to J & J Watt Ltd at 85 Maungatautari Road, Cambridge legally described as Lot A DP 2894, Lot 1 DPS 63405 and Lot 1 DPS 28757 being the Transferor property as shown on the plan of subdivision SP/0057/07, for the following reasons:-
Chairperson Sharpe/Cr Flay*

REASONS FOR DECISION

1. Having regard to the criteria in Section 104, 104B and 104D of the RMA it is considered that the proposed development is contrary to Part II of the RMA, in particular, 104.D.1.(b)(i) – that the application is contrary to the policies and objectives of the Waipa District Plan.
2. The proposal does not meet the requirements of Subdivision Rule 10.6.1.4(e) which provides for one Transferable Development Rights subdivision to be undertaken on a holding.
3. Consent to the proposal would have an adverse effect on the integrity of the District Plan and public confidence in the consistent administration of the Plan.
4. Approval of this Non-Complying subdivision (that is void of unique or specific features to justify approval) could lead to further applications for similar subdivisions in the Rural Zone in Waipa District.
5. The subdivision would result in the loss of productive farmland which is currently used for productive purposes (dairy grazing).

6. The subdivision would result in a de-facto rural-residential area within the Rural Zone, which is considered to be an inappropriate use of productive farmland.
7. The entitlements to subdivide the property at 85 Maungatautari Road could be transferred to alternative properties within the District, where subdivisions pursuant to the Transferable Development Rights provisions of the Operative Waipa District Plan have not yet been undertaken.

8.3 11.03am – 11.30am

Application for Remission of Financial Contributions Levied Pursuant to the Development Contribution Policy & the Local Government Act 2002 (LGA)

File: 04652/147.00

Applicant	P Holmes
Appearing for Council	Terrena Kelly - Senior Planner

The Chairperson welcomed those present to the hearing and advised how the procedure that would be followed. She then asked Mr Holmes to address the Committee and outline any further points that he may have.

Mr Holmes stated that he considered the legislation was not intended for the likes of himself as he is not a developer in the true sense but just making changes to his property due to a change of circumstances on the farm. He considered that the costs for the small development that he was doing were far too high. Mr Holmes said that Himitana Road was one of the worst roads in the District with four blind corners, a metal surface, narrow and dangerous. He was also aggrieved with the charge for the parks and reserves contribution as he has 30 ha of native bush which he preserves for the future.

In response to questions, he advised that the bush land does not have a covenant but he pays rates on it and it is a substantial contribution to the well being of the bushland. He also advised that the conditions of the shearing sheds, while not looking so pretty on the outside were pretty tidy inside. One has a bbq area built alongside and they have toilet, shower, sink and bench and are carpeted and lined.

The Chairperson then asked Senior Planner Ms Kelly to outline any points in her report. Ms Kelly stated that she considered that her recommendation should still stand.

RESOLVED

4/07/52

That

- a) *The report from Terrena Kelly, Senior Planner dated 31 May 2007 be received; and*
- b) *The application for remission (refund) for the Development Contribution levied be dismissed, and the Development Contribution of \$5670,00 (GST Inclusive) contained on the Development Contribution Notice DC/0064/2007 be upheld.*
Cr Webber/Cr Flay

Reason for Recommendation

The Committee considers that the development contribution levied was fair and reasonable having regard to Councils Development Contribution Policy (DCP). In particular, the Committee notes that a 50% reduction had already been allowed by staff acting under delegated authority when the matter was first considered; and this was in recognition of the double workers quarters which were to be removed. As the double workers quarters are not considered to constitute a dwellinghouse, a 50% reduction is considered to be generous under the circumstances.

There being no further business the meeting closed at 2.10pm at the conclusion of the site visits.

CONFIRMED AS A TRUE AND CORRECT RECORD

CHAIRPERSON: _____

DATE: _____