

BEFORE THE WAIPA DISTRICT COUNCIL

IN THE MATTER of the Resource Management Act 1991
(**the RMA**)

AND

IN THE MATTER of Plan Change 15 to the Waipa District
Plan

**STATEMENT OF EVIDENCE OF GARETH ELLIOT MORAN ON BEHALF OF CLASSIC
BUILDERS, ZB HOMES, GENERATION HOMES, A1 HOMES AND JENNIAN HOMES**

(PLANNING)

14 APRIL 2021

1. INTRODUCTION

- 1.1 My name is Gareth Elliot Moran and I hold the position of Associate at Barker and Associates Limited. I am providing planning evidence on behalf of Classic Builders, ZB Homes, Generation Homes, Jennian Homes. I have over 15 years' experience in planning and previously held the position of 'Consents Team Leader' at Waipa District Council.
- 1.2 I confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2014 and that I agree to comply with it. I confirm that I have considered all the material facts that I am aware of that might alter or detract from the opinions that I express, and that this evidence is within my area of expertise.

2. SCOPE

- 2.1 The scope of my evidence pertains to 'Topic 3 – Activity Status' outlined within Council's Section 42a Report.
- 2.2 My evidence will address the following matters:
- a) Evidence supporting a further reduction in the Activity Status for situations where non-complying impermeable surfaces occur
 - b) Benefits associated with the proposed changes
 - c) Possible alternative option.

3. ACTIVITY STATUS

- 3.1 A vast number of resource consents are triggered in the Waipa District due to non-complying impermeable surface calculations.
- 3.2 In my experience as 'Consents Team Leader' at Waipa District Council during the years of 2016 to 2019, not a single resource consent was declined due to non-complying impermeable surfaces, when the applicant provided a suitable Stormwater Management Plan.
- 3.3 At present resource consent is required for a Discretionary Activity, meaning a full and complete application assessing the full spectrum of environmental effects needs to be submitted. This comes at a cost in terms of monetary and time delays for applicants.
- 3.4 Council's Planner has recommended reducing this activity status Discretionary to Restricted Discretionary, with Council's discretion restricted to the following matters:

- *On-site stormwater disposal; and*
- *The effect of stormwater run-off to adjoining properties.*

3.5 The reduction in activity status from Discretionary to Restricted Discretionary is not providing any notable benefits in terms of the regulatory process for both potential applicants and Council due to the following reasons

- Both consent status are subject to **20 working day** timeframes;
- Based on my experience the same/similar level of information will need to be provided by the applicant whether consent was required for a Restricted Discretionary Activity or a Discretionary Activity. As stormwater is the only key point of contention.
- The cost of preparing an application for a Restricted Discretionary verse a Discretionary Activity resource consent is comparable.
- The above change does not reduce the number of resource consents required.

4. PROPOSED OUTCOME

4.1 In our submission we proposed that

*“impermeable surfaces in excess of 45% in Cambridge North and 60% in the remaining Residential Zone (except St Kilda Structure Plan Area) are **Permitted Activities**”* subject to a comprehensive set of performance standards.

4.2 In response, Council's 42a Report quoted as follows:

“It is acknowledged it would be ideal if a quantifiable standard could be included in the rule, enabling compliance with it as a permitted activity. Council engineering staff have advised that Waipā District Council has varying stormwater discharge consents from the Regional Council based on its infrastructure capacities in various locations throughout the district. This, along with variable soils in Cambridge North mean that it is difficult to apply a “one size fits all” engineering solution that could be included in the rule. For this reason, Council engineering staff need to continue to assess stormwater management on individual properties as they are developed and on a case-by-case basis”.

Based on the above quote, I can make the conclusion that Council are in agreement with our submission, provided a ‘quantifiable standard could be included’ as part of the rule framework.

- 4.3 Furthermore, based on the 'matters of discretion' outlined above, the key issues that are associated with non-complying impermeable surfaces are the onsite disposal of stormwater and the effects on adjoining property owners. Thus, if an applicant can demonstrate that all stormwater can be retained on site, by way of a site-specific design, then there is no reason for a resource consent. It is acknowledged that Waipa District Council has varying stormwater discharge consents from the Regional Council, based on its infrastructure capacities. Although I'm not a stormwater expert, it is my understanding that if it can be demonstrated that all stormwater is retained on site or discharged at post development levels, there will be **no** effect on the regional consents. Where this cannot be demonstrated, resource consent will be required.
- 4.4 In order to ensure this happens, a comprehensive set of performance standards tagged to the Permitted Activity status would be required. Due to budget constraints, we were unable to engage the services of an engineer, however in my opinion a set of performance standards *similar* to what Hamilton City Council have adopted would likely be suitable. The purpose of these provisions would be to adequately manage the potential effects of both attenuation and treatment which is essential for compliance with the various regional discharge consents.
- a) *A stormwater reticulation and disposal system shall be provided that is adequate to safeguard people from injury or illness and protect property from damage caused by surface water.*
 - b) *Stormwater management measures shall be in place and operational upon the completion of subdivision and/or development to ensure that the rate of stormwater discharge offsite is at or below pre-development rates. Stormwater management measures shall be implemented as appropriate, in accordance with the following drainage hierarchy:*
 - i. Retention for reuse*
 - ii. Soakage techniques*
 - iii. Detention and gradual release to a watercourse*
 - iv. Detention and gradual release to stormwater reticulation.*
- 4.5 Council's Section 42a Report quite correctly states that "*Performance Standards within permitted activity rules need to be measurable and enforceable and they should not convey an element of subjectivity or discretion*".

In my opinion the performance standards (or an example thereof) outlined above **are** measurable and enforceable and have been subject to the Schedule 1 process as part of their introduction into the Hamilton City Council District Plan. Examples of how they will/could be enforced are as follows:

- 1) Council will have the ability to enforce these requirements at time of building consent stage. All building consents are checked off by a Council Planner as part of the approval process. At this stage, if Council's Planner determines that there is a 'non-complying' impermeable surface situation, the planner will be able to direct the appropriate building consents to a suitable person (Building Compliance Officer or Development Engineer) for acceptance. Similar to a resource consent, but without the laborious and costly regulatory process. A set fee to cover this additional work stream could be added to Council's Fees and Charges. If the 'appropriate' person is not satisfied that the above criteria has been achieved, then resource consent will be required.
- 2) On the rare occasion that building consent is not required, the applicant will need to obtain a separate approval from Council's Building/Development Engineering Department. A set fee to cover this additional work stream could be added to Council's Fees and Charges.

4.6 On the basis that the above criteria (or version thereof) are introduced into the District Plan, Council will have the ability to either accept or reject stormwater design plans. The performance standard referenced above (or version thereof) are very black and white and provide a hierarchy of viable solutions which are acceptable under the existing discharge consents. No level of discretion has been factored into them.

4.7 If plans are rejected, then the activity is not deemed to be permitted and the applicant will need to apply for resource consent.

5. BENEFITS ASSOCIATED WITH PROPOSED CHANGES

5.1 It is my understanding that Plan Change 15 was introduced in order to provide improvements to the planning provisions associated with impermeable surfaces. The proposed changes to the definition of impermeable surfaces and the exclusion of Net Site Area from the District Plan provision represent a positive outcome and are supported. Unfortunately, they will have no (or very minimal) implications on the

volume of consents that are triggered. In my opinion this is the key area of significance, which has not been resolved by way of the proposed changes.

- 5.2 By adopting our preferred approach, it will effectively eliminate the vast majority of resource consents associated with impermeable/permeable surfaces, whilst still giving Council the ability to enforce and/or reject proposals that don't align with the performance standards.
- 5.3 This will result in considerable cost and time savings for applicants and Council.
- 5.4 It is important to note that Council have recently issued double time extensions for all resource consents (40 working days). Reducing the volume of resource consents will free up planner's time, enabling them to focus on more contentious resource consent applications.
- 5.5 The same environmental outcomes can be achieved by way of the proposed performance standards, without the need for a resource consent.
- 5.6 In my opinion reducing and/or effectively eliminating resource consents of this nature would greatly benefit all involved.

6. POSSIBLE ALTERNATIVE

- 6.1 Although having impermeable surfaces recognised as Permitted Activities (subject to performance standards) is our preferred option, if Council was not willing to accept this alternative, a possible compromise could be to further reduce the activity status from Restricted Discretionary (as proposed) to a Controlled Activity. Please note that this possible option is secondary to the proposed 'Permitted Activity' outcome.
- 6.2 The key differences between a Restricted Discretionary and Controlled Activity is that a Controlled Activity has to be approved, although Council has the ability to impose consent conditions relating to matters they have control over. For example, Council could grant consent for non-complying impermeable surfacing, subject to a consent condition stating "*all stormwater shall be disposed of on-site*". This effectively gives Council the power to manage any actual or potential environmental effects.
- 6.3 The other key difference is that Controlled Activities need to be processed within 10 working days as opposed to 20 working days. This fast-tracked consenting process avoids delays to projects and provides further security to applicants.

6.4 However, in my opinion, the key significance pertaining to Controlled Activities is that they need to be processed within 10 working days, as opposed to 20 working days for Restricted Discretionary Consents. This fast-tracked consenting process avoids delays to projects and provides further security to applicants.

7. CONCLUSION

7.1 Based on the matters outlined above, I conclude that Waipa District Council is able to effectively avoid and/or mitigate any potential effects on the environment by classifying impermeable surfaces in excess of 45% in Cambridge North and 60% in the remaining Residential Zone (except St Kilda Structure Plan Area) as Permitted Activities, subject to the introduction of appropriate performance standards.

7.2 As a compromised position, a further reduction of the activity status from Restricted Discretionary to Controlled would also provide additional benefits, specifically in relation to the 10-working day regulatory timeframes.



Gareth Elliot Moran

29 March 2021