



R E P O R T	TO	HEARINGS COMMITTEE
	FROM	Grant Eccles – Consultant Planner
	FILE REF	82.695.333 – OC253807.RTF
	DATE	13 JULY 2006
	SUBJECT	OBJECTION TO CONDITIONS OF SUBDIVISION CONSENT A MALONE, 52 MATAURA ROAD, WAIHI

BACKGROUND

On 30th May 2006, consent was granted under delegated authority to an application by the consent holder to subdivide Sections 487 and 488 Town of Waihi located at 52 Mataurua Road, Waihi into five residential lots in two stages (first stage – Lots 3 and 4, second stage – Lots 2, 5, and 6). A road to vest lot allows for a corner splay on the southwest corner of the Mataura Road/Favona Street intersection. The residential lots range in size from 510m² to 957m².

Each stage of the subdivision was subject to a range of conditions. The applicant has objected to a number of conditions in each stage. The conditions that are objected to, a summary of the objection and comment on the objection are set out as follows:

Stage 1 - Condition 9.

That the subdivider pay a capital contribution towards the urbanisation of Mataura Road (Kerbing and channelling) plus a new footpath of \$3513.48 plus GST.

Summary of Objection

- The amount seems high and inconsistent with other levies on previous subdivisions put forward by Waihi Beach Surveyors.
- No correspondence with owner of property as to Councils intention to full urbanise the road. Applicant should not have to pay if the upgrade is not scheduled within next 5 years.
- No calculations have been provided as to the outcome of the amount.

Comment

The Consultant Engineer that assessed the application and imposed the condition has commented as follows:

“Urbanisation contributions are charged as per the District Plan Rule 10.2.7.3(b) 2(iii) as follows:

In the case of either (i) or (ii) if the street has not been formed to the required standard for a street with that status in the hierarchy, by reference to Performance Standard 8.9 a financial contribution (payable in any form) shall be required. The contribution shall be calculated for the length of street subject to the increase in traffic, as a percentage of the cost of improving the street to the standard that the street has in the hierarchy using the formula in 3 below:

$$\text{Contribution} = IC \times \frac{AV}{AV + PV}$$

Where IC = cost of improving the affected portion of the street to the level that the street should be, as determined by the volume of traffic and the street hierarchy

AV = additional value of traffic

PV = existing volume of traffic

Mataura Road is a minor local road as defined by NZS 4404:2004 and shall be provided with kerbs and channels and shall be adequately drained unless the TA approves an alternative. For roads serving more than 20 dwelling units, footpaths should be provided on each side of the road.

Using the formula above the contributions are influenced by the length of road to be upgraded and the daily traffic count.

In Stage 1 there are two new lots being created with the remaining lots being part of the Stage 2. hence the total of \$5270.22 has been split into contributions of \$3513.48 and \$1756.74 for Stages 1 and 2 respectively”.

The calculations used to ascertain the contribution can be found in Appendix One to this report.

Should the objection be upheld and the requirement for the contribution be deleted, Council (if it were to be consistent in its decision making) would find it difficult to impose the contribution on any other subdivisions where financial contributions would otherwise be required. There are no circumstances surrounding the proposed subdivision that warrant an exception from the financial contribution requirement.

Stage 1 – Condition 10.

That the existing crossing be used to serve lots 3 and the balance lot shown as Lots 2, 5 and 6 and that a right of way be created over Lot 2 of sufficient length and dimensions to access Lot 3, alternatively the area required to access Lot 3 the existing be included within that lot and a right of way in favour of Lot 2 be created over it. Note that the right of way and vehicle crossing are to be upgraded as per the District Plan standards.

Summary of Objection

- New condition proposed requiring existing vehicle crossing to Lot 2 to be upgraded to relevant District Plan standard and that a new access to Lot 3 be installed on the western boundary of that lot.
- The existing garage that would straddle the Lot 3/4 boundary is to be moved entirely onto Lot 3 to sit hard against the western boundary, hence a new access to Lot 3 is required to align with the garage.
- The existing crossing to lot 2 needs to be upgraded as its location is fixed, being as far from the Mataura Road/Favona Street corner as possible.

Comment

There are no engineering reasons why a new entrance to Lot 3 cannot be established as requested. In this case the relevant District Plan entrance standard is a Class B entrance.

Stage 2 – Condition 3

That the existing sleepout/storeroom on Lot 2 be removed.

Summary of Objection

- The applicant would like to retain the right to upgrade the sleepout/storeroom to a complying dwelling.
- Would like the condition amended to allow the applicant to upgrade the sleepout to a complying dwelling status with building consent prior to the issue of a 224C certificate for Stage 2 of the subdivision.

Comment

It is not appropriate to allow the sleepout/storeroom to remain in its current form on Lot 2. The building was not granted consent as a dwelling and if it remains in its current form and location it will hinder the ability for a dwelling to be established on Lot 2, hence the condition required removal of the building. If the applicant converted the building to full dwelling standard it will fulfil the District Plan entitlement for one dwelling to be housed within Lot 2. However advice from Council building staff is that it is not feasible to upgrade the building to dwelling standard given its current condition. That is the reason that the original condition required removal and did not include the option of upgrading the building. Given that nothing has changed in terms of the condition of the building it is not considered appropriate to allow for the possibility of upgrading the building through amendment of the condition.

Stage 2 – Condition 5.

The connections for lots 5 and 6 shall be from a new 100mm main to be installed along Favona Street to the north eastern corner of Lot 6 at the consent holders cost.

Summary of Objection

- The limited nature of the subdivision and the lack of further subdivision on Favona Street means that a water pipe of 65mm OD would be sufficient to serve three lots.

Comment

Council is to upgrade the water main on the southern side of Matura Road through placement of a new 100mm main to the entrance to Favona Street (the applicant is required to contribute to this upgrading). This will provide fire fighting capacity to both Lots 5 and 6 and also to Lot 489 Town of Waihi (not part of this subdivision). It is acceptable for the requirement for the 100mm line to be replaced with a 65mmOD line.

Stage 2 – Condition 8.

That the subdivider shall upgrade Favona Street with the following works to be constructed in accordance with NZS 4404:2004:

- a) *That the unformed public road (Favona Street) be formed to full road standard 6m total width sealed from Matura Road to 10m south of the north-eastern corner of lot 6 hereon. This is to include kerb and channelling (or nib kerb and swales) and footpathing along the western side of Favona Street.*

Summary of Objection

- Formation of Favona Street to full road standard is excessive for three lots. In the past a ROW standard has been applicable for three lots (i.e. 2.8m wide sealed carriageway).
- Road should be required to be formed to half road standard i.e. minimum carriageway width of 3m.

Comment

The District Plan through Rule 9.3.17.3 requires that any development that proposes to use an unformed public road for access must form the road to full standard i.e. 6m carriageway width. In practice however Council staff have adopted the approach that if the proposal involves up to three lots the road only needs to be formed to “half road” standard i.e. 3m carriageway standard. This is on the basis that the District Plan requires a right-of-way width of 2.8m for up to three lots.

In this case Stage 2 of the subdivision proposes to create three lots that could have access to Favona Street. In addition, the applicant is constructing a dwelling on Lot 489 Town of Waihi (the immediately adjoining property to the south of the subject site) that will also access Favona Street. The consent for that dwelling required Favona Street to be formed to half road standard, on the basis that at the time of consent the dwelling would have been the only dwelling accessing Favona Street. When the additional dwelling on Lot 489 is considered, there will be (upon Stage 2 of the subdivision being created) the ability for four lots to access Favona Street.

Stage 2 – Condition 9.

That the subdivider pay a capital contribution towards the urbanisation of Mataura Road (kerbing and channelling) plus a new road footpath of \$1756.74 plus GST.

Summary of Objection

The financial contribution has already been imposed in the conditions for Stage 1 of the subdivision.

Comment

See comments for objection to Stage 1 – Condition 9.

RECOMMENDATION

It is recommended that:

(i) The objection to Stage 1 – Condition 9 be dismissed and the condition be retained unaltered.

(ii) The objection to Stage 1 – Condition 10 be upheld and the condition be amended to read as follows:

“ That Lot 2 only shall be served from the existing access to Lot 2 and a Class E (Standard Residential Vehicle Entrance) as specified in Section 9.3.3.3 of the HDC District Plan is to be constructed by the applicant to serve Lot 3”.

(iii) The objection Stage 2 – Condition 3 be dismissed and the condition be retained unaltered.

(iv) The objection to Stage 2 – Condition 5 be upheld and the condition be amended to read as follows:

“That connections for Lots 5 and 6 shall be from a new 65mm OD main to be installed along Favona Street to the north-eastern corner of Lot 6 at the consent holders cost”.

(v) The objection to Stage 2 – Condition 8 be dismissed and the condition be retained unaltered.

(vi) The objection to Stage 2 – Condition 9 be dismissed and the condition be retained unaltered.

Reasons:

Stage 1 – Condition 9 and Stage 2 – Condition 9

a) These conditions were imposed in accordance with Rule 10.2.7.3(b) of the Hauraki District Plan that authorises the gathering of financial contributions for the upgrading of existing roads and streets in the Urban Zones of the District. There are no unusual or unique circumstances associated with the subdivision that warrant an exemption from the condition. Because of this, if Council was to be consistent with its decision making, upholding the objection would mean that other similar subdivisions in the wider District would also have to be exempted from paying the financial contribution. This would lead to an inequitable situation where developers would not financially contribute towards mitigating the effects of their developments.

Stage 1 - Condition 10

b) The establishment of an access to Lot 3 will not create adverse effects on the safety and efficiency of the traffic environment on Mataura Road.

Stage 2 – Condition 3

c) The building is in poor condition and it is not considered feasible for it to be upgraded to full dwelling standard. On that basis it is not considered appropriate to accommodate the option of upgrading the building through the requested amendment of the condition.

Stage 2 – Condition 5

d) Given the upgrade of the water main that will occur on Mataura Road and the low intensity of development in the vicinity, a 65mmOD water pipe will be sufficient for water supply purposes along Favona Road.

Stage 2 – Condition 8

e) The subdivision will result in up to four lots having the ability to access Favona Road. Given that the District Plan requires any subdivision accessing an unformed public road to form the road to full standard as required by NZS 4404; it is considered appropriate for the condition requiring a full 6m wide carriageway formation to remain.

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