

R E P O R T	TO	HEARINGS COMMITTEE
	FROM	GRANT ECCLES - CONSULTANT PLANNER
	FILE REF	82.768.431 - RE268709.RTF
	DATE	5 FEBRUARY 2007
	SUBJECT	OBJECTION TO CONDITION OF SUBDIVISION CONSENT – P GRIFFITHS, 22 WAITETE ROAD, WAIHI

BACKGROUND

On 7th November 2006, consent was granted under delegated authority to an application by the consent holder to subdivide Lot 1 DP 360185 located at 22 Waitete Road, Waihi into two residential lots. The site is located on the corner of Colebrook Road and Waitete Road. Lot 1 of the subdivision is 646m² and Lot 2 of the subdivision is 696m².

The subdivision consent was granted subject to a range of conditions. The applicant has objected to the quantum of the financial contribution required by condition 3 of the subdivision consent as follows:

“Condition 3.

That the subdivider shall pay \$2,629.83 plus GST as a capital contribution towards the cost of improving Waitete Road, in accordance with Rule 10.2.7.3B(b) of the District Plan.

A_p	7		\$54.00	\$81.20		
LOCATION	VPD (P_v)	L	K+C	P/WAY	Combined (I_c)	Contribution
Orchard to Toomey	170	346	\$18,684.00	\$28,095.20	\$46,779.20	\$1,850.02
Toomey to Colebrook	260	162	\$8,748.00	\$13,154.40	\$21,902.40	\$574.22
Colebrook to Lot 1	260	58	\$3,132.00	\$4,709.60	\$7,841.60	\$205.59

TOTAL	\$2,629.83
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$$Urbanisation\ Contribution\ (\$) = I_c \times \frac{A_p}{P_v + A_p} ,,$$

Statement of Objection

The applicant's objection reads as follows:

"The calculation procedure includes the portion of Waitete Road from Orchard Road to Toomey Street (\$1850.02) – this section of road is not travelled when commuting from the subject property to the centre of town. For the same reasons that we do not pay contributions past the property we should not pay contributions before the property if that portion of road is not in normal use when commuting between the CBD and home. This is referred to in the District Plan as the increase in traffic on the street resulting from the subdivision or development - clearly if there is no increase in traffic on that portion of the street then there should be no financial charge on that portion of the street".

On the basis of the above the applicant seeks that the contribution amount be amended from \$2629.83 to \$779.81 (the figure arrived at if the portion of Waitete Road from Orchard to Toomey is excluded – see Table above).

Comment

The wording of the relevant District Plan rule is 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

Waitete 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 territorial authority 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.

The calculations used to ascertain the contribution are set out on the previous page. The calculations are based on Councils standard approach to interpreting the above rule.

The essence of the objection is that it is inequitable to include the length of Waitete Road between Orchard and Toomey because that part of the road will not be subject to an increase in traffic as a result of the subdivision. The applicants contention is that traffic from the subdivision would access the Waihi town centre via Toomey Street, thus not generating an increase in traffic on Waitete Road between Orchard and Toomey.

However the rule in the plan does not state that the traffic path to be taken into account is that from the lot to the town centre.

It is recognised that the wording of the subject rule is subjective and open to interpretation. Council staff have however in formulating the contribution used the standard approach applied to all subdivisions in urban areas of taking into account the length of the road leading to the nearest arterial road. In this case this is Parry Palm Avenue (SHW2) and there is no evidence in the objection to substantiate the applicant's position.

Should the objection be upheld and the requirement for the contribution be reduced as requested, uncertainty into the interpretation of the relevant District Plan rule would be introduced and this in turn would create the potential for inconsistent administration of the District Plan.

RECOMMENDATION

It is recommended that the objection to Condition 3 be dismissed and the condition be retained unaltered.

Reasons:

a) The 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 standard method of calculating the financial contribution.

b) The applicant has not provided sufficient information in the objection to demonstrate that the portion of Waitete Road between Orchard Road and Toomey Street will not experience an increase in traffic as a result of the subdivision, nor that the interpretation of the rule should change from the current one. Because of this, if Council was to be consistent with its decision making, upholding the objection would introduce uncertainty into the interpretation of the rule and thus create the potential for inconsistent administration of the District Plan.

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