

AGENDA

HEARINGS AND JUDICIAL COMMITTEE MEETING

Monday, 17 September 2018, 9.05am
in the Council Chambers, Council Office, William Street, Paeroa



Membership

Committee Members:

Cr P A Milner (Chairperson)
Cr G R Leonard
Cr A Spicer

Staff

P Thom
R Bierre
W Harris
M Muller
M Sexton
M Evans
K Walton
Council Secretary

Public copies:

Paeroa Office
Plains Area Office
Waihi Area Office

Chief Executive

L D Cavers

Hauraki District Council, P O Box 17, William Street Paeroa, New Zealand
P: 07 862 8609 or 0800 734 834 (within the District)
E: info@hauraki-dc.govt.nz www.hauraki-dc.govt.nz

Delegations: Hearings and Judicial Committee

Membership	Three Councillors with at least one member from each Ward
Meeting frequency	The second to last and fourth to last Monday of each month (if required) commencing at 9.00am
Delegations	<p>All delegations to this Committee are to be exercised within the framework of the Council's adopted regulatory policies, plans, strategies, policy guidelines and by-laws.</p> <p>The Council delegates to the Hearings and Judicial Committee the following powers, duties and responsibilities:</p> <ul style="list-style-type: none"> ■ Implementation of the Resource Management Act, the Operative District Plan and other regulatory Acts and Regulations in terms of judicial and regulatory responsibilities. ■ Monitor and implement Council's regulatory service delivery functions. ■ All powers, duties and discretions under the Resource Management Act 1991 to allow the above matters to be undertaken other than: <ul style="list-style-type: none"> □ The consideration or hearing of any application where the Council is the applicant □ The making of a recommendation on a requirement for a Designation or a Heritage Order where the Council is the Requiring Authority □ Exercising the power of delegation. ■ All Council's powers, duties and discretions in respect to the Dog Control Act 1996 in terms of judicial and regulatory responsibilities and the monitoring of the implementation of Council's regulatory service delivery functions under that Act. ■ In terms of judicial and regulatory service delivery responsibilities, and monitoring and implementation of these listed regulatory functions all: <ul style="list-style-type: none"> □ Powers, duties and discretions vested in the Council by the Crown Minerals Act 1991. □ Powers, functions and discretions under Building (Pools) Amendment Act 2016. □ Powers, duties and discretions pursuant to Section 78 232 of the Building Act 2004 with the exception of the power to set fees and charges. ■ Determining any Appeals to a Determination made by the Chief Executive under the Council's Consolidated Part 3 (Public Safety) Clause 4 – Liquor. ■ Pursuant to Section 34 of the Resource Management Act 1991 and clause 32 of Schedule 7 of the Local Government Act 2002 the Council directs that: <ul style="list-style-type: none"> □ Commissioners appointed to Joint Hearings shall be the Chairman of the Hearings and Judicial Committee together with not less than one or more than two others. One of who shall, if possible, be a member representing the Ward in which the site subject to the application is located. □ Commissioners appointed to deal with all other matters shall be the Chairman of the Hearings and Judicial Committee together with not less than one other, who shall, if possible, be a member representing the Ward in which the site subject to the application is located. ■ Commissioners, except the Chairperson of the Hearings and Judicial Committee, shall attend to applications as far as practicable on a rotational basis.



HEARINGS AND JUDICIAL COMMITTEE

AGENDA

Monday, 17 September 2018 – 9.00am

Council Chamber, Council Office, William Street, Paeroa

Schedule of Hearings

9.00am	Application: Dispensation in urban zone to have 3 dogs residing 18 Consols Street Waihi
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Order of Business

Pages

1. Apologies
2. Declaration of Late Items
3. Declarations of Conflicts of Interest
4. Confirmation of Hearings and Judicial Committee Minutes (13-06-18)
(2397589) **6**
5. **Dog Owner Application for Dog Number Dispensation:**
Application to have three dogs residing on an urban property at
18 Consols Street Waihi

Animal Control Officers Report - #2398629 **12**

Appendix A: # 2441869 – Dispensation Application **15**
Appendix B: # 2441869 – Adjoining Neighbour (10 Silverton Road, Waihi)
(Non consent) **17**
Appendix C: #2441869 – Adjoining Neighbour (20 Consols Street, Waihi)
(Non consent) **18**

PROCEDURE FOR HEARINGS

1. Chairman

The Chairman will declare the hearing open and advise on the procedure to be followed.

2. Council Secretary

The Council Secretary will read the application and determine:

- If the applicant is in attendance, or represented;
- If there are any witnesses in support.

- If there are any submitters in attendance;
- If there are any witnesses in support.

3. Applicant

The applicant will present the application and call any witnesses in support, and answer any questions from the Councillors.

4. Submissions to be Heard

The submitters may present their submissions, calling any witnesses in support and answering any questions from the Councillors.

5. Animal Control Officer

The Animal Control Officer will present a report and answer any questions from the Councillors.

6. Right of Reply

The applicant now has the right of reply.

7. Close of Hearing

The Chairman will close the hearing and advise that Council's decision is reserved until it has considered the evidence presented and all relevant matters.

HAURAKI DISTRICT COUNCIL

HEARINGS AND JUDICIAL COMMITTEE

MINUTES OF A MEETING OF THE HEARINGS AND JUDICIAL COMMITTEE HELD IN THE COUNCIL CHAMBERS, WILLIAM STREET, PAEROA ON MONDAY, 09 JULY 2018 COMMENCING AT 9.05AM

PRESENT Cr P A Milner (Chairperson), Cr G R Leonard (Deputy Chairperson) and Cr A Spicer

IN ATTENDANCE Messrs P Thom (Planning & Environmental Services), Mrs W Harris (Senior Planner), Ms G Davies (Student Planner – in observance) and Ms C Black (Council Secretary)

APOLOGIES

There were no apologies.

LATE ITEMS

There were no late items.

DECLARATIONS OF CONFLICTS OF INTEREST

There were no conflicts of interest.

CONFIRMATION OF MINUTES – 13-06-18 (2397589)

RESOLVED

THAT the minutes of Hearings and Judicial Committee meeting held on Wednesday 13 June 2018 be confirmed and are a true and correct record.

HJC18/12

Leonard/Milner

CARRIED

The Chairperson opened the hearing at 9.15am.

SUBDIVISION APPLICATION FOR A BOUNDARY RELOCATION SUBDIVISION AT 27 CORBETT STREET, PAEROA – R & J DEVELOPMENTS LTD

Document: # 2398629

Appendix A: # 2350104 - Application

Appendix B: # 2395323& 2395136- Further Information

Appendix C: # 2371667 & 2385129 - Affected party's approval

Appendix D: # 2390652 – Development Engineer's Report

In attendance:

Mr Phillip Green (Surveyor) on behalf of Applicant

Rob Riedstra – R & J Developments Limited (Applicant)

Applicant/Party in support of Applicant/Appellant

Mr Green spoke to his statement of evidence on behalf of R & J Developments Ltd.

He stated that the land originally was developed in 1896 consisting of a string of 10 m wide titles which were formed.

Historically – the owner purchased both lots. Titles were never amalgamated into one parcel.

The result is that the land has been developed on the northern side of the property. The land is zoned residential. The 2 lots proposed are for residential purpose.

The site is located on the corner of Corbett and King Street, Paeroa. There is vacant land across the road from the site which is owned by Council to the north of the Council owned pensioner flats. The Rugby Club is located in the north east corner and the Paeroa Domain to the south of the site.

The site is not subject to water inundation and has no hazards noted on the LIM.

The land is flat in contour.

The garage on the property has been constructed the most recently.

The vehicle crossing is by King Street which accesses the garage of the existing dwelling.

The proposed subdivision was to be a boundary adjustment but this was varied because Council has asked for a corner snipe of the section.

The sewer line passes through the applicant's site. The applicant has spoken with the Council engineer who has allowed building over the sewer line.

The main issue is with the boundary adjustment. Two existing titles so would be two titles with no additional title created.

The existing dwelling is not able to create a shape acceptable to District Plan standard.

Some issues with the lots are:

Corner snipe - would comply if snipe was not coming off.
It would comply generally but not on a discretionary basis.
Neighbours have approved.

A waiver has been applied for to waive the garage yard requirement to make the building size as large as possible.

The garages would be joined at the rear on each lot to save space.

Mr Green believed it is in keeping with the surrounding lots. Other lots in neighbourhood vary in size.

1500m² is the total area of council flats – they are small (equating to 361m² - if calculated per lot).

The proposal will have accesses from King Street, which is the existing access to the property.

All services can be accessed easily.

Mr Green agreed with the planners report that the effects are less than minor and considered the proposed development to be an efficient use of land.

Questions

Cr Spicer – what are you referring to be 'minor' ?

Mr Green responded that the effects on character and amenity are minor. The existing owner is the 'neighbour' so there would be no issues.

Riedstra stated that the house proposed for development is similar in design to the existing house on Lot 1.

Mr Riedstra explained the layout of the proposed dwelling for construction on Lot 2. He stated it will be a good quality, three bedroom home.

Cr Milner referred to the boundary onto the domain, what sort of fencing would you be doing?

Mr Riedstra advised that they will retain the hedge that is already there which is a native Griselinia.

Cr Milner re the boundary consent application, you could do something else.
Mr Riedstra stated he would be building on it not selling the section.

Cr Leonard – garage on site what is it used for?

Mr Riedstra responded that the garage is used as a 'garage'. Currently there is a single garage with a bedroom on one side. Previous owner built this.

Cr Leonard asked where the driveway to potential new house is.

Mr Riedstra stated the driveway would be right next to the garage. No driveway at park end of the development and will be 3.5m wide.

Cr Milner – Existing buildings – asked will the old house be removed.

Mr Green advised that this is long term development, there is no plan to remove the old house or existing garage off the site.

Mr Riedstra stated he had the experience to undertake the development of the property well (advised of his building construction industry experience).

Cr Milner asked if consent was granted, is there anything about this site that you believe could set a precedent.

Mr Green explained it is a boundary adjustment so there is no additional titles. He believed approving consent of the application would not set a precedent. He referred to the existing lot sizes, one complies with the 525m², and one does not. The average density of the lots just meets the rule.

Regarding the proximity to the Domain, he believed this was a positive feature, the Domain provides good recreational use so the property does not need to be developed significantly (e.g. outside area entertaining can be conservative).

Council Planning Staff

Senior Planner, Wendy Harris provided photos of the proposed development site and spoke to her report.

Mrs Harris explained the layout of proposed dwelling on lot 2 and advised that Lot 1 complies with the minimum lot area. There are no significant issues.

Lot 2 – size of the lot being less than 525m² being the minimum size.

The sewer line goes through the lot.

Engineers have said that the foundation needs to be raised so not to load up over sewer line.

Storm water disposal – soak pit for the dwelling in lot 1 runs over into lot 2. An easement would be required over the lots to allow access to the storm water soak pit.

Concern that this could create conflict between neighbours. Better to have all services contained on each lot, therefore no encroachment.

Under the previous District Plan, an infill site could be 350m². Feedback received from public consultation indicated the public were dissatisfied with this lot size. As a result, the minimum lot size was increased. For large Greenfield subdivisions – there is a different formula.

There are discussions at present that the Council may consider 450m². This is in a draft stage. Once consultation has been held, it will be decided whether Council will reduce the lot size or not. Therefore, this cannot be taken into consideration as this time.

Corner splay – believed it did not make any difference to the size of Lot 2.

Lot 1 is large and it has been reduced but still complies. Outdoor living area has been addressed.

No two lot subdivisions have been developed for anything under 525m². Other subdivisions have been granted smaller but they comply with the standard for more than three lots.

There are two existing titles, 4m² short on one lot.

There are a number of properties in the vicinity that are less than 525m². This is no difference from other properties around the district.

Questions:

Cr Spicer referred to the soak pit asking if it can be relocated.
Council Planner advised that the soak pit could be relocated.

Applicants - Right of Reply

Mr Green stated that the effects of the proposal on the character of the area are minor. He referred the Committee to a photo of the neighbourhood. There are varying lot sizes consisting of 770 – 1100m² (excl. Council pensioner flats). The character and amenity is already dominated by small sized lots. The current dwelling on lot 1 would not comply now but it is there. 10m width and 8m length being the older lot sizes. Small lots are dominant. Because the applicant owns both titles, he believed there to be no issue. Daylight and setback are less than minor. The garages back onto one another which is of benefit.

Objectives and policies – there is already small lots in the vicinity this proposal makes no difference.

Residential Zone – the proposal maintains and enhances the character of the existing neighborhood. All affected parties have approved of the development.

There is no hazards involved in this property.

To avoid, mitigate or remedy the affects, the proposed dwelling is to be of a similar character to the existing house. There is enough room for onsite parking and will have safe access to public road.

It will not establish a precedent.

In conclusion, there are ample features that set this subdivision apart from other subdivisions in this residential area. It is in keeping with other properties. Under discretionary activity, there are no effects to neighbours and they have given their approval of the development.

As part of consent, it will be noted on the title that the hedge be retained.

Mr Riedstra advised that at pre-purchase stage, there was no sewer line shown on the LIM report.

The Council engineer stated there was major issue with the manhole on the property as sewerage had overflowed in past.

Council staff had advised if the manhole needed to be reconstructed they would put cameras inside to investigate.

Council records now have the sewer line shown on their records.

Cr Leonard – asked if Mr Riedstra if he was wanting to have the sewer line shifted.

Mr Riedstra stated there was no need to shift the sewer line as it is working fine.

Cr Leonard suggested that a future owner of Lot 2 may not be satisfied with this.

Mr Riedstra commented an easement is there which is standard and allows access for maintenance of services and is no different from any other easement.

The Chairperson adjourned the hearing at 10.05am and advised that Council's decision was reserved until it had considered the evidence presented and all other relevant matters.

The members left the Council Chambers and undertook a site visit to the subject property at 10.05am.

The members returned to the Council chambers at 10.30am.

The Chairperson closed the hearing at 10.30am.

Deliberations commenced at 10.30am and concluded at 11.25am.

DECISION

R & J Developments Limited

RESOLVED

That pursuant to Sections 104 and 104B of the Resource Management Act 1991, Council declines consent to:

- A. The non-notified, discretionary activity application to undertake a boundary relocation subdivision between Lot 20 DP 1512 and Lot 21 DP 1512, located at 27 Corbett Street, Paeroa, and
- B. The non-notified, restricted discretionary activity land use consent application to reduce the side yard standard along the southern boundary of proposed Lot 1 to 1.06 metres and to depart from the daylight standard and outdoor living area standard in the Residential Zone in conjunction with the existing dwelling and garage on proposed Lot 1 of the proposed subdivision of Lot 20 DP 1512 and Lot 21 DP 1512, located at 27 Corbett Street, Paeroa.

For the following reasons:

1. Lot 2 would have a net lot area of 461m², which doesn't comply with the minimum net lot area of 525m² for a 2 lot subdivision, under Rule 9.4.3.1(1)(a)(i) of the Operative Hauraki District Plan (2014). It is acknowledged that the subdivision is a boundary relocation, and that Lot 21 DP 1512 is an existing non-complying lot, at 521m², which is 4m² less than the minimum net lot area of 525m². However, this existing non-complying lot would be reduced in size by a further 60m², resulting in Lot 2 being 64m² less than the minimum net lot area.
2. The existing house and garage are located over the boundary between the two existing Certificates of Title. The property is effectively being used as one lot, as the Titles cannot be sold separately. The two existing Certificates of Title therefore don't set this property apart from others. It is acknowledged that existing development on the property limits the size of proposed Lot 2. However, this is a common situation on many properties in the Residential Zone. Given the above, it is considered there are no unique circumstances which set the application property apart from other properties in the Residential Zone. Approval of the application would therefore set a precedent.

HJC18/13

Milner/Spicer

CARRIED

The meeting closed at 11.25am.

CONFIRMED

P A Milner
Chairperson

17 September 2018



Decision Report

To: Judicial Committee

From: Murray Sexton – Animal Control Officer

Date: Tuesday, 21 August 2018

File reference: Document: 2441509
Appendix A: Dog Owner Margaret Andreassen application for dog number dispensation
Appendix B: Letters of no consent from neighbours at 20 Consols Street and 10 Silverton Street Waihi

Portfolio holder: Paul Milner

Meeting date: Monday, 17 September 2018

Subject: **Dog Owner Margaret Andreassen of 18 Consols Street Waihi - Application for Dog Number Dispensation**

Recommendation:

THAT the report be received, and

THAT the Judicial Committee make a decision to approve dispensation for three dogs at 18 Consols Street Waihi, or request the dog owner Margaret Andreassen reduce her dog numbers to two.

1 Purpose

The purpose of this report is to provide information relating to an application for dog number dispensation, to enable a decision to be made to either approve dispensation or request the dog owner Margaret Andreassen to reduce dog numbers to two.

2 Background

On 16 July 2018 dog owner Margaret Andreassen registered a third dog (which had belonged to her son). A letter was sent to Margaret to advise her she would need to apply for dog number dispensation and the forms were sent out with this letter.

Council Consolidated Bylaw (Part 3: Public Safety) in relation to dog numbers on urban properties, states:

6.6 Limitation on the Number of Dogs on Any Urban Premises

a) No person shall keep, or permit to be kept, on or within any premises within the urban area more than two (2) dogs of greater age than three (3) months without first obtaining the written consent of the Council.

b) Every application for such consent shall be in writing on the prescribed form and signed by the applicant and the applicant shall give to the Council such further information as it may require. Every such application shall be accompanied by an application fee which shall be fixed by the Council by resolution from time to time and publicly notified.

c) The Council may grant or refuse to give consent for the issue of a licence at its absolute discretion and subject to any terms, conditions or restrictions as it may impose in any particular case concerning the housing and control of the dogs.

d) Every person who commits any breach of the terms, conditions or restrictions imposed by the Council under sub-clause (b) hereof shall be guilty of an offence against this Part of the Bylaw.

On the 20th August 2018 Council received an application (Appendix A) for dog number dispensation from dog owner Margaret Andreassen, to gain consent to have three dogs at her property at 18 Consols Street Waihi.

Prior to this application being received, Council had received two letters dated 07 August and 09 August 2018, from the two adjoining neighbours at 20 Consols Street, and 10 Silverton Road Waihi in which they did not give their consent to Margaret having 3 dogs (Appendix B).

Included in Margaret's application (Appendix A) is consent from her neighbours at 17 Consols, 15 Consols and 9 Silverton Road Waihi, however none of these neighbours are her adjoining neighbours. Her adjoining neighbours, at 20 consols and 10 Silverton Road Waihi, as mentioned above, have not given their consent.

Margaret Andreassen has had dogs registered with Hauraki since 2009 and became an ROL (Responsible Dog Owner Licence) holder on 26 July 2013. To date there are no official complaints recorded against her dogs, she has no infringement or other notices, and has paid her dog registrations on time.

3 Issue and options

Although Margaret has made application to Council for dog number dispensation, holds a Responsible Owner Licence and currently has a blemish free record, she does not have the consent of her immediate neighbours at 20 Consols Street and 10 Silverton Road Waihi.

4 Significance and Engagement Assessment

This decision does not trigger the Significance and Engagement Policy Assessment Tool and therefore is not considered significant under the Significance and Engagement Policy 2014.

5 Recommendation

Council should make its decision on which option to choose based on that option being the most cost effective, and good quality option for the Hauraki District (s10 of the Local Government Act 2002).

It is recommended the Judicial Committee make a decision, based on the information provided including the neighbours objections, as to approve dispensation, or request the dog owner Margaret Andreassen reduce her dog numbers to two.

Murray Sexton
Animal Control Officer

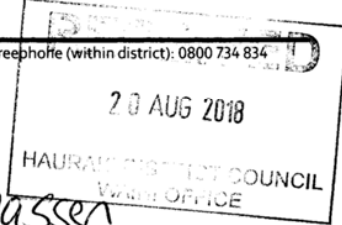
Appendix A:

Dispensation application

To have more than two dogs on an urban property



Hauraki District Council, PO Box 17 (William Street), Paeroa 3640, New Zealand, P: (07) 862 8609 or freephone (within district): 0800 734 834
 E info@hauraki-dc.govt.nz www.hauraki-dc.govt.nz



Applicants name: Margaret Andreassen
 Applicants address: 18 Consols St Waihi
 Phone number: 8633175
 Number of dogs: 3

I wish to apply to the Hauraki District Council for Dispensation to own more than two dogs on my section. I understand the requirements as follows:

1. The section is to be fenced in a dog proof manner.
2. There have been no warnings, written or verbal from the Ranger, nor has any dog been impounded for a period of twelve months prior to application.
3. There has been a good record of dog registration under one ownership.
4. There are adequate kenneling facilities according to the Hauraki District By-Laws.
5. Any changes of dogs must be notified.
6. There will be an annual check to ensure that standards are maintained.
7. Permission must be requested should any puppies remain over three months of age. These must be registered in accordance with the By-Laws.
8. Should the above conditions or compliance with the Hauraki District Council's By-Laws and/or the Dog Control Act 1996 not be kept, dispensation will be revoked.
9. Require written consent of neighbours to keep more than two dogs.
10. Pay an application fee of \$52.00.

Applicants signature: M. A. Andreassen

Office Use Only	
Receipt No:	1215571
DOG OWNER NUMBER:	7074
CSA Signature:	Leanne Hollis

Animal Control Forms – Dispensation application more than two dogs-urban		MDN: 2116190
Responsibility: AC Admin	Review Date: 14/05/2018	Page: 1 of 1

Neighbour consent form

for dispensation to have more than two dogs on an urban property



Hauraki District Council, PO Box 17 (William Street), Paeroa 3640, New Zealand, P: (07) 862 8609 or freephone (within district): 0800 734 834
E info@hauraki-dc.govt.nz www.hauraki-dc.govt.nz

Name of dog owner: Margaret Andreassen
Approval for (number of dogs): 3
Address where dogs reside: 18 Consol St Waihi

Neighbour(s) consenting:

I/We give approval to the above dog owner having more than two dogs on their property:

1. Neighbours name:

Address: 17 Consol Street

Signature:

2. Neighbours name:

Address: 9 Silveray Rd. Waihi

Signature:

3. Neighbours name:

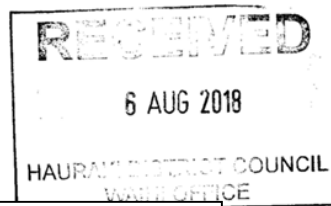
Address: 15 Consols Street, Waihi.

Signature:

Office Use Only: DOG OWNER NUMBER:

Animal Control Forms – Neighbour consent for dispensation form		MDN: 2116840
Responsibility: AC Admin	Review Date: 14/05/2018	Page: 1 of 1

Appendix B:



We of.

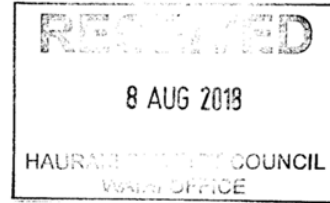
10 SILVERTON ROAD, WAIRARAPA
 Request signing the form for
 Margaret of 18 CONSULS STREET
 our neighbour to have more
 than two dogs as it has been
 here before and Barkes all the
 time and we are concerned
 that she might start having
 more as she was involved with
 SPCA. EXT

6-8-2018.



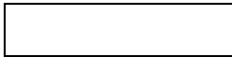
Appendix C

20 Consols Street
Waihi



8 August 2018

To Whom it may Concern



I Lindley Karen Hawkes of the above address have NOT given Margaret and Eric Andreassen of 18 Consols Street Waihi permission to have more than 2 dogs on their property.

The reason for this is that the dogs bark continuously when the extra dog is there.

