

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, 29 JULY 2019 COMMENCING AT 9.00AM

PRESENT Cr P A Milner (Chairperson), Cr G R Leonard (Deputy Chairperson) and Mrs D Carmine (Commissioner)

IN ATTENDANCE Messrs P Thom (Planning & Environmental Services), Ms Louise Cowan (Senior Staff Planner), Ms M Muller (Staff Planner), L de Haast (Transportation Manager) and Ms C Black (Council Secretary)

APOLOGIES

RESOLVED

THAT the apology of Cr A Spicer be received and sustained.

HJC19/17

Milner/Leonard

CARRIED

LATE ITEMS

There were no late items.

DECLARATIONS OF CONFLICTS OF INTEREST

There were no declarations.

CONFIRMATION OF MINUTES – 13-05-19 (2588231)

RESOLVED

THAT the minutes of the Hearings and Judicial Committee meeting held on Monday, 13 May 2019 be received and confirmed as a true and correct record.

HJC19/18

Milner/Leonard

CARRIED

The Chairperson opened the hearing at 9.15am

LIMITED NOTIFIED RESOURCE NON COMPLYING APPLICATION

APPLICATION UNDER SECTION 88 OF THE RESOURCE MANAGEMENT ACT 1991 TO CONSTRUCT AN ACCESS TRACK WITHIN AN UNFORMED ROAD RESERVE WITH AN UNDERLYING RESERVE (PASSIVE) ZONING AND TO DEPART FROM THE STREET AND ROAD DESIGN STANDARD AND VEHICLE CROSSING STANDARD: C AND R EVERITT, RESERVOIR ROAD, WAIHI

Document: # 2592835

Appendix A: # 2602336 - Site Plan/Roading Plans

Appendix B: # 2405039 - Application

Appendix C: # 2602380 - Further Information Request and Information Provided

Appendix D: # 2583013 - Notification Report

Appendix E: # 2593099 - Submission Received

In attendance:

Mr Duncan Smeaton (Farm Advisor - on behalf of applicant)
Mr Richard Everitt (Applicant)
Mr Matt Walker (Submitter)

Mr Duncan Smeaton (Farm Advisor) on behalf of Applicant

Mr Smeaton spoke on behalf of the applicant, Mr Richard Everitt.

He provided a PowerPoint presentation in support of Mr Everitt's application which showed a number of slides detailing the key matters for consideration as follows:

- Traffic flows are very light.
- The road would be used for day to day rural purposes.
- Fencing is proposed on both sides of the road.
- Stock yards are to be relocated.

Mr Smeaton explained the location of the proposed access road on the site plan included in his presentation.

Mr Smeaton agreed with the majority of the Staff Planner's recommendations as provided in the report circulated prior to the hearing. However, he noted that the Staff Planner had proposed that a fence be constructed on both sides of the access track with gates and access being provided across the track to enable grazing. He requested that only the southern side of the access track be fenced and proposed, with the agreement of the Applicant to provide riparian planting on the northern side of the access track.

Mr Smeaton considered that restricting grazing of this area would be a more practical arrangement as the management and grazing of this area of land would be difficult given its small size and the necessity of crossing over the access track.

He wished to forgo the Staff Planner's recommendation to put fencing along both sides of the access track with gates to allow for grazing access, preferring a single fence and the installation of riparian plantings as the plantings would also provide screening between the two properties and separate the users of the track from the areas of land utilised for grazing.

Questions:

Cr Leonard asked whether the Pinnacles Civil Ltd's application was for a ford or a bridge.

Mr Smeaton stated that the original application was for a ford and now it has been changed to a bridge. The resource consent for the bridge is within the jurisdiction of the Waikato Regional Council (WRC) and the roading falls within the Hauraki District Council's area of responsibility.

Cr Leonard asked who are the principal parties grazing the area?

Mr Smeaton stated the owners of the land adjoining the Everett's are currently grazing this land which is an unformed road reserve.

Mr Smeaton stated that Mr Everitt does not graze the area of land in question proposed for planting.

Cr Leonard asked if there was currently any other form of alternative access to the Everitt property.

Mr Smeaton responded that section 30 only has access through the adjoining property to the north, which is also owned by the Everitt's.

Submitter

Mr Matt Walker spoke to his submission.

Mr Walker stated that his main concern was the close proximity of their house in relation to the proposed bridge and access track, which will be directly below their outdoor living area. Currently, they graze the area of land proposed for planting to keep it tidy. There is fencing located along the southern side of Walmsley Stream, however, Mr Walker noted that stock are able to access Walmsley Stream from the other property via the northern side of the stream.

WRC require access to maintain the area along the creek. WRC have taken out a Japanese oak tree. Habitat group (HELP) have made recommendations to WRC as regards to riparian planting.

Cr Milner asked if the access track were to be constructed, would there be an acceptable form of mitigation that could maintain Mr Walker's outlook.

Mr Walker stated that he would like to see the edge of the stream planted out all the way along with natives.

Council Planning Staff – Mary Muller

Ms Muller spoke to her report.

Ms Muller noted that the information in relation to the WRC consent submitted with the original application to Haruaki District Council referred to a ford. WRC had asked for more information regarding environmental effects and the application to WRC was subsequently amended by the Applicant to an access bridge.

Ms Muller provided an explanation on reserve passive zoning. This zoning is for passive activities i.e. walking and picnicking. The proposed activity cannot hinder the future use of the site for passive reserve activities.

The Parks and Reserves Manager did not identify any concerns with the location and operation of the access track in the passive reserve zoned land.

Ms Muller agreed that her recommended condition in relation to the fencing of the access track and provision of gates to allow access for grazing should be amended. Ms Muller suggested that fencing should only be required along the southern and eastern boundary of the access track.

She agreed that it would be more practical to ensure that stock be excluded from this area and the area be provided with riparian planting.

Ms Muller also recommended that a gate be installed at the reserve entrance, and if gates are to be locked, that the key holders be Council and the Applicant.

Public pedestrian access could be provided by putting in a stile.

In relation to the reduced formation of the track, Ms Muller noted that it is not considered appropriate to put in a full road standard 'sealed' road as this would be contrary to the rural character and amenity. A lesser standard of 'track' is more in keeping with farming activities within the surrounding area.

With regards to potential planting on the southern boundary, Ms Muller noted that it may not be appropriate to have high plantings close to the submitter's house as it may shade the house and restrict views.

Ms Muller suggested that the speed limit along the access track be restricted to reduce potential dust effects.

The stockyard encroachment is a separate issue which is being dealt with by the Transportation Manager. The Transportation Manager identified that the stockyards are actually located in the road reserve associated with Reservoir Road and concurred that this matter was being dealt with as a separate issue.

Cr Leonard asked if there was potential for the access track to be used as a walkway.

Ms Muller responded that there is the potential for it be used as a walkway. At this stage, the Parks and Reserves Manager supported gates and stiles to restrict vehicle access but to enable pedestrian access to continue.

Cr Leonard asked if the application is granted, would the access track be up to roading standard.

The Transportation Manager stated that there is a condition which relates to the maintenance of the track. If Council own the track, they would be responsible to ensure it was up to road standard. In this case, the Applicant will be responsible for the ongoing maintenance of the track and as such a lesser standard is acceptable.

In conclusion, the Staff Planner stated that the application is not considered to be contrary to the objectives and policies of the District Plan and subject to minor amendments to the recommended conditions of consent continued to consider that the application could be granted.

Applicants - Right of Reply

Mr Smeaton responded that the Applicants are happy to plant native species as recommended by the Waikato Regional Council.

Regarding the submitter's concerns in relation to restricting their rural outlook and obstructing sunlight, Mr Everitt commented he will not plant vegetation close to the Walker's house. The plantings will screen the road without impeding the Walker's view and sunlight.

As regards to the concern raised in relation to stock accessing from the northern side of the stream, there is a fence on the northern side of the stream.

Mr Everitt stated that the fence would be completed and repaired fully so animals cannot access the stream.

Cr Leonard asked if the submitter's house is on the higher land above the stream.

Mr Walker responded that the house sits on a rise before the land drops away to the stream.

Cr Leonard asked Mr Walker what was the main issue for him. Is it the siting of the bridge and access track leading to a decrease in rural amenity?

Mr Walker stated that both these issues are of particular concern to them.

Cr Leonard asked Mr Walker if he considered whether the plantings will adequately screen the bridge construction.

Mr Walker believed the plantings would help to screen the bridge but expressed the view that there needed to be an agreed time line when the planting, fencing and installation of the two gates are to be completed.

The Chairperson closed the hearing at 9.55am and advised that Council's decision was reserved until it had considered the evidence presented and all other relevant matters.

The meeting adjourned at 9.55am for a tea break.

The meeting reconvened at 10.05am.

Deliberations commenced at 10.05am.

DECISION

C and R Everitt, Reservoir Road, Waihi

RESOLVED

THAT the Staff Planners report be received, and

THAT pursuant to Sections 104, 104B and 104D of the Resource Management Act 1991, Hauraki District Council grant consent to this non-notified, non-complying activity application to construct an access track within unformed Road Reserve with an underlying Reserve (Passive) zoning and to depart from the road formation and vehicle crossing standards at Reservoir Road, to provide access to a site legally described as Section 85 and Part Section 30 Block XII Ohinemuri Survey District subject to the following conditions;

Survey

- 1) Prior to commencement of any work, the boundary between the unformed road reserve and 62 Reservoir Road shall be located and pegged by a registered Surveyor.

Access Track

- 2) All construction associated with the access track shall be contained within the boundary of the unformed road reserve as surveyed in accordance with Condition 1.
- 3) That the construction of the access track shall be undertaken generally in accordance with the plans by Tiaki Engineering Consultants Ltd which have been stamped and signed approved, including:
 - Plan and Long Section – Sheet 02 – Revision A – dated May 2019
 - Layout Plan – Sheet 01 – Revision C – dated March 2019
 - Design Vehicle Tracking – Sheet 02 – Revision C – dated March 2019
 - Horizontal Geometry – Sheet 03 – Revision C – dated March 2019
 - Vertical Geometry – Sheet 04 – Revision C – dated March 2019

Except where amended by the following conditions:

- 4) That the intersection of the access track with the formed carriageway of Reservoir Road shall be formed to a minimum Class A (Standard Articulated Vehicle Crossing

in Rural Area) generally in accordance with Section 8.4.3.3(1)(e)(i) of the operative Hauraki District Plan and Diagram HDC-301, Hauraki District Council Engineering Manual 2010 - Version 1. The first 20 metres of the access track from the intersection is required to be sealed. A 4m (min) sealed carriageway is required in accordance with the "Road Layerworks Specification (Entrance)" Section on the Plan drawn by Tiaki Engineering Consultants titled "Horizontal Geometry" - Sheet 03, Revision C, dated March 2019.

- 5) That the access track (within the unformed road), from the Class A vehicle crossing to the bridge, shall be metalled to an all-weather access track standard in accordance with the Operative District Plan and the Hauraki District Council Engineering Manual 2010 - Version 1 and shall include a 4m wide carriageway in accordance with the "Road Layerworks Specification (Gravel Road) Section on the Plan by Tiaki Engineering Consultants titled "Horizontal Geometry" - Sheet 03, Revision C, dated March 2019.
- 6) That the maintenance of the access track (including drainage) located within the unformed road corridor, from the intersection of the access track with the sealed Reservoir Road formation to the boundary of Section 85 and Part Section 30 Block XII Ohinemuri Survey District, shall be the responsibility of the consent holder, in conjunction with any other users of the access track, and Hauraki District Council will not be liable for any maintenance.

Fencing

- 7) The consent holder shall, at their cost, stock-proof fence the southern and eastern side of the access track, from the road boundary to the edge of the Walmsley Stream. Any existing, adjacent fences located within 62 Reservoir Road shall be re-connected to the new fencing to ensure that adjacent paddocks remain stock-proof. The fencing shall be a minimum of 5-wire post and batten fence. The location of the fencing is to be in general accordance with the enclosed plan identified as "Figure 1: Plan showing location of Fencing and Gates".
- 8) The consent holder shall install a gate and repair or reinstate any fencing as required, adjacent to the new Class A vehicle crossing accessing Reservoir Road. The gate shall remain closed when not in use. The location of the roadside gate is to be in general accordance with the enclosed plan identified as "Figure 1: Plan showing location of Fencing and Gates".
- 9) The consent holder shall install a second gate within the eastern extent of the fence constructed in accordance with Condition 7, to allow for vehicle access for organisations for stream associated maintenance. The location of the gate is to be in general accordance with the enclosed plan identified as "Figure 1: Plan showing location of Fencing and Gates".
- 10) The consent holder shall at their cost, upgrade the existing fence on the northern side of Walmsley Stream along the boundary of Part Section 30 Block XII Ohinemuri SD to a stock proof standard.

Note: The upgrade of the fence in this location is to ensure that stock will be excluded from crossing Walmsley Stream in this location to gain access to the unformed road reserve.

Pedestrian Access

- 11) The consent holder shall construct a pedestrian stile in the western road boundary fence to provide pedestrian access to the unformed road reserve. The location of the pedestrian stile is to be in general accordance with the enclosed plan identified as "Figure 1: Plan showing location of Fencing and Gates".

Signage

- 12) The consent holder shall erect signage at the southern end of the bridge advising that the bridge is private property and no public access is permitted.

Dust mitigation

- 13) That the consent holder shall prepare and submit a Dust Management Plan to Hauraki District Council's Group Manager Engineering Services for consideration and approval ten (10) working days prior to the commencement of any activities associated with this consent.

The Dust Management Plan shall include methods to minimise dust effects on 62 Reservoir Road from both the construction of the access track and on-going use of the track by vehicles, including transportation activities associated with forestry harvesting.

Where appropriate, the Dust Management Plan shall;

- a. address the use of water carts or sprays to suppress dust from exposed areas on the access track, on an as required basis; and/or
 - b. the use of dust stabilisation systems (water or water plus additives).
- 14) The speed limit on the access track shall be limited to 15 km/hr in normal/wet conditions and in dry conditions vehicle speeds shall be kept below 10 km/h.

Riparian Planting

- 15) The consent holder shall prepare and submit a Planting Plan to the Hauraki District Council's Group Manager Community Services and Development for consideration and approval ten (10) working days prior to the commencement of any activities associated with this consent.

The Planting Plan shall include the following details:

- The location of riparian planting to be carried out on the southern bank of Walmsley Stream. The location of the riparian planting shall be in general accordance with the enclosed plan attached to this report identified as "Figure 2: Riparian and Screen Planting Locations".
- The location and design of all screen planting within the unformed road reserve along the fence line of the common boundary with Lot 1 DP 367407. The location of the screen planting shall be in general accordance with the enclosed plan attached to this report identified as "Figure 2: Riparian and Screen Planting Locations".
- Details of the species, number, location and size at planting of vegetation to be planted and maintained on the site. The plantings shall include only native species (e.g. flaxes, manuka, carex etc).
- Details regarding a vegetation establishment and maintenance program within the site. These details shall include a strategy to replace any plants that may die or do not grow sufficiently to meet the conditions of this consent. Plants shall be watered in the first two summers following planting as necessary to facilitate their establishment and with planting areas kept weed free. Any plant that dies, is removed, or otherwise fails to establish shall be replaced the following planting season and maintained thereafter.
- Details regarding a strategy to ensure that all plantings remain excluded from stock access and grazing.
- Details to ensure that the screen plantings do not exceed a maximum height of 2m.

Note: The purpose of the screen planting associated with this condition is to mitigate amenity effects and to reduce the likelihood of airborne dust.

Note: The Hauraki District Council's Group Manager Community Services and Development will seek feedback in relation to plant species with the owners and occupiers of Lot 1 DP 367407 prior to final approval of the Planting Plan being issued.

Note: Plants used for the screen planting should be PB12 minimum grade or 1.0m minimum height at planting time in order to establish effective screening as quickly as possible.

- 16) In the first planting season following completion of construction of the access track, planting in accordance with the approved Planting Plan shall be completed to the satisfaction of the Hauraki District Council's Group Manager Community Services and Development.
- 17) The planting shall be protected from stock damage, maintained and retained in perpetuity, in accordance with the approved Planting Plan.

General – Engineering

- 18) That the consent holder shall implement the requirements of Waikato Regional Council as described in "Erosion and Sediment Control - Guidelines for Soil Disturbing Activities January 2009 and updated in 2014" to mitigate the dust, sedimentation and erosion. All batter faces shall be planted or hydro seeded during the first planting season after batter face construction.
- 19) That the consent holder shall control all surface runoff from the exposed bare surface areas associated with access excavations to prevent silt contamination on downstream properties. This shall be to the satisfaction of the Hauraki District Council's Group Manager Engineering Services.
- 20) That the consent holder shall make good any damage to the road infrastructure caused by construction machinery during the construction operations. This shall be to the satisfaction of the Hauraki District Council's Group Manager Engineering Services.
- 21) That the following engineering site inspections are required by the Hauraki District Council's Development Engineer:
 - Installation of the silt controls immediately prior to the commencement of earthworks.
 - Subgrade drainage preparation before backfill.
 - Entranceway formation prior to sealing.

Administration

- 22) That pursuant to Section 36(1)(b) of the Resource Management Act 1991, the applicant shall pay Hauraki District Council charges for receiving, processing and granting the Resource Consent.
- 23) That pursuant to Section 36(1)(c) of the Resource Management Act 1991 the applicant shall pay Hauraki District Council a fee of \$110.00 for the administration associated with monitoring the consent, and thereafter shall pay to Hauraki District Council, all costs that arise for monitoring this consent, including all costs associated with site visits, and the consideration and certification of plans and details associated with the consent, as appropriate.

Advice Notes

- *The removal or trimming of any vegetation within the unformed road reserve will require the written approval of the Hauraki District Council's Group Manager Community Services and Development.*
- *24 Hours notice must be given for any engineering inspections that are required to be undertaken. All requests in this regard must be directed to the Development Engineer on 07-862 8609.*
- *A Corridor Access Request via is required for all proposed works undertaken in the Road Reserve including entrance construction. This must be submitted and shall be processed under a Corridor Access Request for approval 10 working days prior to the commencement of any works. All enquiries in this regard must be directed to the Technical Services Business Unit Administrator on 07-862 8609*
- *For the farm access track leading from the bridge into Section 85 and Part Section 30 Block XII Ohinemuri Survey District, where accessway gradients exceed 12.5% (1 in 8) specifically approved surfacing is required. All requests in this regard should be directed to the Development Engineer on 07-862 8609.*
- *The access track extending from Reservoir Road to the Walmsley Stream is located within legal road reserve which has a Reserve (Passive) zoning. It is public land which may be developed in the future for a public walkway and/or other public uses. If a walkway is developed, the access track may be used as a shared surface (i.e. shared by vehicles and pedestrians).*
- *Any accidental discoveries of archaeological sites by the consent holder or contractors shall follow the procedure below:*
 - *Work shall cease immediately at that place.*
 - *The contractor must shut down all machinery, secure the area and advise the Site Manager.*
 - *The Site Manager shall notify the Project Archaeologist (if relevant), the Heritage New Zealand/Pouhere Taonga Regional Archaeologist (if no authority has been granted) and if necessary the appropriate consent process shall be initiated.*
 - *If the site is of Maori origin the Site Manager shall also notify the appropriate iwi group/s to determine what further actions are appropriate to safeguard the site or its contents.*
 - *If skeletal remains are uncovered the Site Manager shall advise the Police.*
 - *Works affecting the archaeological site shall not resume until Heritage New Zealand/Pouhere Taonga, the Police (if skeletal remains are involved) and iwi groups have each given the appropriate approval for work to continue.*

Reasons

The reasons for this decision are as follows:

- 1 Any adverse environmental effects resulting from the proposal are deemed to be less than minor in accordance with the statutory requirements of the RMA.
- 2 The loss of amenity for the adjoining site to the south can be mitigated by the provision of screen planting.
- 3 That additional conditions in relation to planting have been imposed as offered and agreed to by the applicant.
- 4 The proposal is not contrary to Section 5, 6 or 7 of the Resource Management Act 1991 (RMA). There is nothing in the proposal that would conflict with the principles

of the Treaty of Waitangi (Section 8). Overall, the application would not offend any of the matters contained within Part 2 of the RMA.

- 5 The application is not contrary to the relevant objectives and policies of the Hauraki District Plan.

HJC19/19

Leonard/Carmine

CARRIED

The meeting closed the meeting at 11.00am.

CONFIRMED

P A Milner
Chairperson

26 August 2019