

A G E N D A

HEARINGS AND JUDICIAL COMMITTEE

Monday, 28 September 2020, 9.00am

Council Chamber
Council Office
William Street
Paeroa



Membership

Committee Members:

Cr P A Milner (Chairperson)
Cr A Spicer (Deputy Chairperson)
Cr P Buckthought
Mayor Toby Adams

Staff

P Thom
L Cowan
M Muller
M Sexton
M Matich
A Harris
Council Secretary

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Paeroa Office
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Waihi Area Office (Waihi Library)

Chief Executive

L D Cavers

Hearings and Judicial Committee

Reporting To:	Council
Membership:	Mayor and 3 Councillors Approved Independent Commissioners (to be appointed at the discretion of the Chair)
Meeting Frequency:	Twice monthly (as required)
Delegation:	<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 Bylaws. Approval of legal action taken by the Council in relation to the Council's Bylaws made under the Local Government Act 2002 or any other legislation.■ 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. <p>Commissioners, except the Chairperson of the Hearings and Judicial Committee, shall attend to applications as far as practicable on a rotational basis.</p>
Management Responsibility:	Group Manager - Planning and Environmental Services

Ngà Karakia Timatanga (opening)

(1)

Kia tau te rangimarie
Kia whakapapa pounamu te moana
Hei huarahi ma tatou i te rangi nei
Aroha atu, aroha mai
Tatou i a tatou katoa
Hui e! Taiki e!

*May peace be widespread
May the sea be like greenstone
A pathway for us all this day
Let us show respect for each other
For one another
Bind us all together!*

(2)

Whakataka te hau ki te uru,
Whakataka te hau ki te tonga.
Kia mākinakina ki uta,
Kia mātaratara ki tai.
E hī ake ana te atākura he tio,
he huka, he hauhunga.
Haumi e! Hui e! Tāiki e!

*Get ready for the westerly
and be prepared for the southerly.
It will be icy cold inland,
and icy cold on the shore.
May the dawn rise red-tipped on ice,
on snow, on frost.
Join! Gather! Intertwine!*

Karakia Whakamutunga (closing)

Kia whakai-ria te tapu
Kia wātea ai te ara
Kia turuki whakataha ai
Haumi e. Hui e. Tāiki e!

*Restrictions are moved aside
So the pathways is clear
To return to everyday activities
Join Gather Intertwine!*



HEARINGS AND JUDICIAL COMMITTEE

AGENDA

Monday, 28 September 2020 – 9.00am

Council Chambers, Hauraki House, Council Office, William Street, Paeroa

Schedule of Hearings

9.05am	(Public Excluded) Notice Under Section (31) Dog Control Act (1996) Dangerous Dog Appeal
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ORDER OF BUSINESS

Pages

1. Karakia Timatanga – Mayor Adams
2. Apologies
3. Declarations of Late Items
4. Declarations of Conflict of Interest
5. Confirmation: Hearings and Judicial Committee Minutes - 10-08-20 #2808924 **9**

6. **Matters to be taken with the Public Excluded**

Pages

Exclude the public from the following parts of the proceedings of this meeting.

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter and the specific grounds under section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

Item No.	General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Ground(s) Under Section 48(1) for the Passing of this Resolution
1	Notice Under Section (31) Dog Control Act (1996) Dangerous Dog Appeal -	Section 7(2)(a) – Protect the privacy of natural persons, including that of deceased natural persons.	Section 48(1)(a) That the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist.
2	Decision to Disqualify Dog Owner Under Section 25 of the Dog Control Act 1996	Section 7(2)(a) – Protect the privacy of natural persons, including that of deceased natural persons.	Section 48(1)(a) That the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist.

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PROCEDURE FOR HEARINGS

1. Chairman

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

2. Council Secretary

The Council Secretary will read the applications (*in the case of matters to be heard under the Resource Management Act*) 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/Appellant

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

5. Submissions to be heard (*in the case of matters to be heard under the Resource Management Act*)

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

5. Planning Officer/Animal Control Staff

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

6. Right of Reply

The applicant/appellant 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, 10 AUGUST 2020 COMMENCING AT 9.00AM

PRESENT Cr P A Milner (Chairperson), A Spicer (Deputy Chairperson), Cr P Buckthought and His Worship the Mayor, D A Adams

IN ATTENDANCE Messrs P Thom (Planning & Environmental Services), Ms Louise Cowan (Senior Staff Planner), Mr M Sexton and Mr D Hanna (Dog Control Officers), Engineering Services) and Mrs A Harris (Animal Control Administrator) and Ms M Lankow (Acting Council Secretaries)

KARAKIA TIMATANGA

Cr Milner opened the meeting with a karakia.

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 PREVIOUS MINUTES 24-02-20 (2725494)

RESOLVED

THAT the minutes of the meeting of the Hearings and Judicial Committee held on Monday, 24 February 2020 are received and confirmed as a true and correct record.

HJC20/06

Adams/Spicer

CARRIED

Matter arising from the Minutes

There were no matters raised.

The Chairperson opened the hearing at 9.05am.

Matters to be taken with the Public Excluded

RESOLVED

THAT the public be excluded from the following parts of the proceedings of this meeting.

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter and the specific grounds under section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

Item No.	General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Ground(s) Under Section 48(1) for the Passing of this Resolution
1	Notice Under Section (33a) Dog Control Act (1996) Menacing Dog Appeal	Section 7(2)(a) – Protect the privacy of natural persons, including that of deceased natural persons.	Section 48(1)(a) That the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist.
2	Notice Under Section (6.6) of the Consolidated Bylaw – Part 3 Public Safety – Application For Dog Number Dispensation	Section 7(2)(a) – Protect the privacy of natural persons, including that of deceased natural persons.	Section 48(1)(a) That the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist.
3	Notice Under Section (25) Dog Control Act (1996) - Notice of Classification as Disqualified Dog Owner (consideration of Committee only)	Section 7(2)(a) – Protect the privacy of natural persons, including that of deceased natural persons.	Section 48(1)(a) That the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist.

HJC20/07

Milner/Buckthought

CARRIED

RESOLVED

THAT the public be re-admitted to the meeting and that the business in committee discussed be confirmed.

HJC20/11

Adams/Buckthought

CARRIED

The Chairperson opened the hearing at 10.50am

NON-NOTIFIED RESOURCE CONSENT APPLICATION – C W AND C D DE JONGH, 419 KAIUA ROAD KAIUA

The final Statement of Evidence from Applicant was included separately (2795755)

Appendix A: 2792265 - Scheme Plans and Fencing Plan

Appendix B: 2792267 - Application and Appendices

Appendix C: 2792268 - Further Information Request and Information Provided

Appendix D: 2792271 - Peer Review, Ecological Potential Ltd

Appendix E: 2773774 - Notification Report

Appendix F: Potential Consent Conditions

Application under Section 88 of the Resource Management Act 1991 to subdivide one lot into three via the Environmental Lot provisions of the Franklin Section of the Operative Hauraki District Plan (2014).

In attendance:

Applicants – C W and C D de Jongh and Chanel Hargrave (on behalf of Applicants)

The Surveying Company - Senior Planner - Todd Shuker

Consultant Planner – Joy Morse - 4sight Consulting

Hauraki District Council - Resource Consents Team Leader - Louise Cowan

Summary of Evidence presented by Applicant

The Applicant's Planner, Ms Hargrave, tabled and presented a summary of her evidence. In doing so Ms Hargrave set out the additional amendments to the application, namely that the proposed subdivision now includes the protection of Area's 'X', 'Y' and 'W' being a total of 25.7ha of RIV.

Ms Hargrave concluded that the proposal complies with all relevant performance standards of the District Plan, excluding Rule 22B.11.2.1(g) and therefore triggers consent as a Non Complying Activity.

Ms Hargrave remained of the opinion that Area 'B' is the only RIV contiguous with the QNF (Area 'X'). Area's 'C' to 'E' are not contiguous with the QNF (Area 'X') as there is an open canopy between the QNF and these areas. Ms Hargrave also stated that these areas contain "*dispersed, scattered vegetation with an open canopy and limited understory*".

Ms Hargrave explained that the protection and fencing of RIV Area's 'C' to 'E' would require 5km of additional fencing which is likely to outweigh the positive economic benefit of the subdivision and does not represent the most appropriate or efficient use of the land.

Ms Hargrave stated that the proposal results in a large area of protection that will be self-sustaining and will result in positive environmental benefits, even in the absence of the protection of RIV Area's 'C' to 'E'.

Ms Hargrave set out those reasons for why she considered the proposal to be consistent with the key Environmental Lot provisions of the District Plan, namely that the QNF (11.5ha) exceeds the minimum area of protection (8ha) and natural feature ranking required to qualify for Environmental lots. Further, Ms Hargrave was of the opinion that the District Plan would not set a minimum QNF protection area of 8ha if that area was not considered to be significant in the context of the District Plan.

Ms Hargrave further noted that Council have placed excessive importance on Rule 22B.11.2.1(g) and suggested that the District plan places more emphasis on the QNF than the RIV. Ms Hargrave concluded that the proposal cannot be considered 'contrary' to the objectives and policies of the Plan that require "*significant environmental protection or benefits*" given the scale of RIV and QNF proposed for protection that will result in "*positive environmental benefits*".

Ms Hargrave stated that the "*proposal demonstrates that the covenant boundaries represent appropriate, practical and logical use of the rural land resource. It is not appropriate to legally protect and physically protect all areas of RIV and the property given the specific constraints of the site.*" Ms Hargrave explained that these constraints make the proposal materially distinguishable from other applications meaning that it is highly unlikely to set an adverse precedent that would erode the integrity of the Plan in relation to Rule 22B.11.2.1(g).

Overall, Ms Hargrave reached the conclusion that the proposal is "*largely consistent with the important plan provisions for Environmental Lot Subdivision*". And that the proposal "*represents an appropriate use of the rural land resource and achieved the sustainable management purpose of Part 2 of the RMA*". Ms Hargrave stated that "*it is appropriate for consent to be granted to the proposal.*"

Evidence Presented by Planning Officer

Ms Morse tabled and presented a summary of her evidence to the Committee, the Applicant, and the Applicant's Experts.

Ms Morse stated that "*the applicant has proposed meaningful amendments to the subdivision, subsequent to the circulation of the Committee Report. The proposed amendments represent an increase in the total area of RIV to be protected, being 25.7 hectares, including 11.5ha of QNF, and an increase in the level of protection awarded to some of these areas.*"

Ms Morse noted that she remained of the opinion that Area's 'B', 'C', 'D' and 'E' are areas of RIV contiguous with the QNF (Area 'X') and the decision to exclude these areas from protection attracts a Non-Complying Activity status.

Ms Morse reiterated that that any adverse effects of the proposal will be less than minor, subject to appropriate conditions of consent, and that the proposal will have notable positive effects on the environment resulting from the legal protection of Area's 'X', 'Y' and 'W'.

Ms Morse agreed with Ms Hargrave that the Environmental Lot 'Explanation' included in Section 22B.11 of the District Plan provides helpful context and guidance in assessing Environmental Lot applications, and that the size and quality of a QNF are clearly important factors in assessing the merits of the application. Ms Morse stated that she did not agree with Ms Hargrave's assessment that the protection of a large area inherently means significant ecological benefits will be gained. As, in her opinion, this would *"have the effect of rendering the protection of any contiguous RIV's as immaterial when assessing the proposal against Objectives 17A (11(b)) and 17C.2(7), and Policy 17C.2(8)."*

Ms Morse acknowledged that the scale of protection proposed for Areas 'X', 'Y' and 'W' is meaningful but noted that exceeding the minimum area of QNF protection (8ha) and natural feature ranking does not inherently achieve significant biodiversity gains and protection, where an accompanying provision 22.B.9.1(g) 'Protection of contiguous RIV' is not achieved. Ms Morse noted that *"this is particularly so as neither provision is provided hierarchy over the other."*

Ms Morse reiterated that *"the dispensation from Rule 22.B.9.1(g), requiring the protection of contiguous RIV, attracts the Non Complying Activity Status and necessitates an assessment pursuant to Section 104D of the Act."*

Ms Morse remained of the opinion that, *"in determining whether the proposal is consistent/contrary to Objectives 17A (11(b)) and 17C.2(7), and Policy 17C.2(8), due regard should be given to the decision to exclude the protection of Area's 'C', 'D' and 'E' which has opportunity to realise further biodiversity enhancement of the remaining RIV. This in turn could contribute to connectedness and overall resilience of the wider habitat network."*

Overall, Ms Morse stated that *"careful consideration should be given by the Committee to weighing the meaningful scale of RIV protection proposed by the applicant and those reasons put forward by Ms Hargrave detailing that protection of the remaining RIV is not practical/cost prohibitive for the applicant (also acknowledged by Ms Deichmann), against the lost opportunity to protect those remaining areas of RIV. I note that there appears to be no further readily available incentives, by virtue of the District Plan, to facilitate the protection of RIV areas 'B', 'C', 'D' and 'E' in the future."*

Applicant's Right of Reply

Ms Hargrave reiterated those reasons for why RIV Areas 'B', 'C', 'D' and 'E' were not, in her opinion, contiguous with Area 'X'. Further, Ms Hargrave acknowledged that there is no hierarchy given to those Environmental Lot standards relating to the protection RIV and QNF, however in her opinion the QNF feature itself is the most important, as entitlements are only available where QNF is present.

Ms Hargrave noted that the definition of contiguous has come up previously and is going to come up in other parts of the district, in relation to the interpretation of the District Plan provisions. It would be good to ensure that there is a consistent application of "contiguous".

Cr Milner asked Ms Hargrave whether the Applicant had any comment in relation to the provisions on pages 11 and 12 of Ms Morse's supplementary report and whether the Applicant agrees on the inclusion of areas W and S. Ms Hargrave replied they have

considered these provisions and the Applicant would be willing to accept these as a condition. Area W has been looked at by Mr Shuker and there is very little animal intrusion into the bush, so there is very good under storey, which is why they are reasonably confident that the weed and pest management proposed would be suitable for that area.

Mr Shuker, the Applicant's Surveyor, provided additional evidence during the Applicant's Right of Reply. He noted that he had undertaken a thorough site walk over and concluded that in his opinion the areas identified as RIV Areas 'B, 'C', 'D' and 'E' were not contiguous with Area 'X'.

Mr Shuker noted he had assessed the potential for subdivision of other properties within the surrounding area and there would be only about eight sites that could be considered for subdivision in accordance with the environmental lot provisions. He noted regardless of the outcome of this application that each application would need to be considered on its own merit.

Mr Shuker confirmed in his opinion that it would not be practical to fence Area C. Mr Shuker noted that Mr de Jongh has spent considerable funds over the years protecting native vegetation.

The Chairperson adjourned the hearing at 11.55am.

The Chairperson reconvened and closed the hearing on 15th of September at 11.00am.

PRESENT

Cr P A Milner (Chairperson), A Spicer (Deputy Chairperson) in attendance via zoom) and His Worship the Mayor, D A Adams

IN ATTENDANCE

Ms Louise Cowan (Senior Staff Planner)

Deliberations regarding the Non-Notified Resource Consent Application – C W and C D De Jongh decision were held from 11.00am 12.00.

DECISION

C W and C D de Jongh, 419 Kaiaua Road Kaiaua

RESOLVED

THAT the report be received, and

THAT pursuant to Sections 104, 104B and 104D of the Resource Management Act 1991, the Hauraki District Council Hearings and Judicial Committee (under delegated authority) grant consent to this non-notified, non-complying activity application to subdivide one lot into three via the Environmental Lot provisions of the Franklin Section of the Operative Hauraki District Plan (2014) on a site legally described as Lot 2 DP 369806 and Section 8 SOP 44869, Section 9 and Section 10 Block III Wharekawa SD, subject to the following conditions:

General

- 1) That the subdivision shall proceed, in general accordance with the information submitted with the application and the scheme plan(s) prepared by The Surveying

Company titled "Proposed Subdivision of Lot 2 Deposited Plan 369806 and Section 8 SO Plan 44869, Section 9 and 10 Block III Wharekawa Survey District – Kaiaua Road, Kaiaua," Sheets 1 to 2, referenced 326690, dated July 2020, stamped and signed as approved by Council.

In circumstances where there is any conflict between the documents listed in Condition 1 and the conditions of this consent, the conditions must prevail.

Power

- 2) That the Consent Holder shall provide written confirmation from the respective supply authority that a power connection is provided to the reticulated power network for Lots 2 and 3.

Telephone

- 3) That EITHER:
 - a) A reticulated phone connection (land line) shall be provided from the reticulated landline phone network to Lots 2 and 3, and written confirmation shall be provided to the Council from the appropriate supply authority, OR
 - b) That pursuant to Section 221 of the Resource Management Act 1991, a consent notice shall be registered on the Record of Title for Lots 2 and 3 stating that there is no telecommunication connection (land line), and that if a telecommunication connection (landline) is required, the cost of the connection will be the responsibility of the then landowner.

Engineering

- 4) That the consent holder must appoint a representative in respect of engineering works, through whom all correspondence, relating to engineering matters, will be undertaken. Council's Development Engineer shall be notified in writing of the name and contact details of the representative prior to the commencement of construction activities on site.

Access

- 5) The vehicle crossing for Lot 2 shall be constructed in accordance with Figure R29 of the Franklin District Council Code of Practice for Subdivision and Development, October 2010. The vehicle crossing design shall address the following matters:
 - a) Overland stormwater flows shall be managed and controlled along the road side; and
 - b) Overland stormwater flows shall be directed away from the vehicle crossing to avoid scour and washing debris onto Kaiaua Road.

Easements

- 6) Prior to requesting approval under section 223 of the Act, the consent holder must provide a written statement by a professional surveyor to the effect that all services

are confined to their respective lots or provision has been made for suitable easements to be granted and reserved and endorsed on the Land Transfer Plan.

- 7) The consent holder shall create the following easements:

Memorandum of Easements			
<i>Shown</i>	<i>Purpose</i>	<i>Burdened Land</i>	<i>Benefited Land</i>
R and T	Right to Convey Electricity	Lot 3 hereon	Lots 1 and 2 hereon
T and W	Right to Convey Water	Lot 3 hereon	Lots 1 and 2 hereon

Consent Notice

- 8) The following condition shall be complied with on a continuing basis by the subdividing owner and subsequent owners:

- a) That for subsequent development of Lots 2 and 3 a suitably qualified and experienced Engineer will be required to inspect the site and submit to Council for certification, at the time of building consent, design details on the foundations of the buildings, stormwater disposal and wastewater disposal. The designs shall be in accordance with either:
 - i) The recommendations included in the Geotechnical Report prepared by Ground Consulting Ltd titled "Geotechnical Assessment for Proposed House Sites: Lots 2 & 3", reference R0226-3B, dated 30 September 2019 (Council's reference - # 2724897); or
 - ii) An alternative specific engineering design by a Chartered Professional Engineer who is qualified and experienced in geotechnical design and investigation.

Note: *The wastewater system will need to comply with Rule 3.5.7.6 (Permitted Activity) of the Waikato Regional Plan unless otherwise approved by the relevant consenting authority.*

- b) That for subsequent residential development of Lots 2 and 3, all earthworks shall be undertaken in general accordance with the recommendations included in Section 7 of the Geotechnical Report prepared by Ground Consulting Ltd titled "Geotechnical Assessment for Proposed House Sites: Lots 2 & 3", reference R0226-3B, dated 30 September 2019 (Council's reference - Magiq# 2724897), unless an alternative design prepared by a suitably qualified and experienced engineering practitioner is submitted for consideration and certification as part of any building consent process.
- c) Any future vehicle crossing constructed on Lot 3 for the purpose of residential access must be formed to a Class C entranceway standard in accordance with Section in 8.4.3.3(1)(e)(i) of the operative Hauraki District Plan and the Hauraki District Council Engineering Manual 2010 - Version 1.

- d) Individual potable water supplies shall be provided to Lots 1, 2 and 3 to comply with the Ministry of Health Drinking Water Standards for New Zealand, Hauraki District Council and NZS 4404:2004 requirements. This is required at the time of individual building consent for habitable buildings.
- e) The Heritage New Zealand Pouhere Taonga Act 2014 provides for the recording, protection and preservation of archaeological sites whether registered or not. Any accidental discoveries of archaeological sites by the consent holder or contractors shall follow the procedure below:
 - i) Work shall cease immediately at that place; and
 - ii) The contractor must shut down all machinery, secure the area and advise the Site Manager; and
 - iii) The Site Manager shall notify the Project Archaeologist (if relevant), Heritage New Zealand Pouhere Taonga Regional Archaeologist (if no authority has been granted) and if necessary the appropriate consent process shall be initiated; and
 - iv) 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; and
 - v) If skeletal remains are uncovered the Site Manager shall advise the Police.
 - vi) Works affecting the archaeological site shall not resume until the 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.

Area X – Qualifying Natural Feature, and Area Y – Remnant Indigenous Vegetation

- 9) The applicant shall provide evidence of compliance with the following prior to Section 224 certification:
 - a) That the area shown as “X” (11.5ha) and Area “Y” (10.2ha), on the approved scheme plan for subdivision consent SUBD - 201.2019.000001102.001 shall be permanently protected by way of a Conservation Covenant; and
 - b) That a consent notice shall be registered on the Record of Title of Lot 3 advising that no Environmental Lot subdivision entitlements are available pursuant to Rule 22B.11.2 of the Franklin Section of the Operative Hauraki District Plan (2014); and
 - c) That the external boundaries of Area “X” and “Y” shown on Lot 3 of the approved scheme plan for subdivision consent SUBD - 201.2019.000001102.001 shall be stock proof fenced in accordance with the Fencing Plan prepared by The Surveying Company, dated July 2020, reference 326690, and as follows:

- i) The fence shall be a 7 wire post and batten fence; except for
- ii) Where the fence is located within an area subject to flooding and/ or land slippage, the fence shall be electrified and constructed of a minimum of three wires;
- iii) The northern boundary of Area "Y" shall be stock proof fenced in the event that the pine plantation within Area "S" is felled and the landowner wishes to return Area "S" to pasture for grazing or purposes which does not afford protection to Area "Y".

Evidence that the fencing at the external boundaries of Area "X" and "Y" have been upgraded to a fully stock proof fenced in accordance with Conditions 9(c)(i) and (ii) shall be submitted to Council's Group Manager – Planning and Environmental Services for certification.

- d) That:
 - i) A Conservation Covenant pursuant to Section 77 of the Reserves Act 1977 in respect of Area "X" and "Y" identified under Condition 9(a) shall be prepared by the Council and registered on the title of Lot 3 at the applicant's expense; and
 - ii) That the Ecological Management Plan attached as Appendix 1 of the Ecological Report prepared by BFL Forestry and Environmental Services (titled '*Assessment of Areas of Remnant Native Bush Forest Proposed for Protection as the Basis for an Environmental Lot Subdivision – Meesrs CD ad CW de Jongh, 419 Kaiua Road, Kaiua*' dated 5 August 2017) shall be updated in accordance with the recommendations included in Section 2.2 of the Peer Review prepared by Ecological Potential Ltd titled '*Peer review of an ecological report prepared by BFL Forestry and Environmental Services for the C.W. & C.D. de Jongh property at 419 Kaiua Road, Kaiua*', dated 7 February 2020, reference 022/19. The amended plan shall address ongoing management of Areas "X", "Y" and "W", shall be prepared by a suitably qualified and experienced person and shall be submitted to Council's Group Manager – Planning and Environmental Services for certification; and
 - iii) That pursuant to Section 221 of the Resource Management Act 1991, a consent notice shall be registered on the Record of Title of Lot 3 of subdivision consent SUBD - 201.2019.000001102.001 to advise that the Ecological Management Plan certified under Condition 9(d)(ii) shall be implemented in perpetuity for Area's "X" and "Y".
- e) The covenant required by Condition 9 must be prepared and registered against Lot 3 at the cost of the consent holder.

Area W – Remnant Native Bush

- 10) The applicant shall provide evidence of compliance with the following prior to Section 224 certification:

- a) That the area shown as "W" on Lot 3 of the approved scheme plan for subdivision consent SUBD - 201.2019.000001102.001 shall be protected as a "Weed and Pest Control Area"; and
- b) That the external boundaries of Area "W" shown on Lot 3 of the approved scheme plan for subdivision consent SUBD - 201.2019.000001102.001 shall be stock-proof fenced on the southern and eastern external boundaries where it intersects Areas "Y" and "X" in accordance with the Fencing Plan prepared by The Surveying Company, dated July 2020, reference 326690, and as follows:
 - i) The fence shall be a 7 wire post and batten fence; except for
 - ii) Where the fence is located within an area subject to flooding and/or land slippage, the fence shall be electrified and constructed of a minimum of three wires.

Evidence that the fencing at the external boundaries of Area "W" has been upgraded to a fully stock-proof fence in accordance with Conditions 10(b)(i) and (ii) shall be submitted to Council's Group Manager – Planning and Environmental Services for certification.

- c) That pursuant to Section 221 of the Resource Management Act 1991, a consent notice shall be registered on the title of Lot 3 for subdivision consent SUBD - 201.2019.000001102.001 (or any subsequent variation to that land description). The consent notice shall advise that:
 - i) The indigenous vegetation within area "W" shown on the approved scheme plan for subdivision consent SUBD - 201.2019.000001102.001 shall be maintained in perpetuity; and
 - ii) That the landowner has taken all reasonable and practicable steps to avoid damage, removal or destruction of indigenous vegetation within Area "W", including that by domestic animals/stock;
 - iii) That the Ecological Management Plan certified under Condition 9(d)(ii) for subdivision consent SUBD - 201.2019.000001102.001 shall be implemented in perpetuity for Area "W"; and
 - iv) That within 24 months of Section 224 certification for subdivision SUBD - 201.2019.000001102.001, the landowner of Lot 3 of SUBD - 201.2019.000001102.001 shall engage a suitably qualified and experienced Ecologist to inspect Area "W" and to prepare brief written confirmation on whether the indigenous vegetation within Area "W" has been subject to damage by domestic animals/stock that compromises the biodiversity values of Area "W" and whether further stock proof measures are required; and
 - v) Should it be determined by (iv) further stock proof measures are required, all reasonable steps to restrict further access to Area "W" by domestic animals/stock to the satisfaction of Council's Group Manager – Planning and Environmental Services.

Area S – Stock Exclusion Area

11) The applicant shall provide evidence of compliance with the following prior to Section 224 certification:

- a) That the area shown as "S" on Lot 3 of the approved scheme plan for subdivision consent SUBD - 201.2019.000001102.001 shall be protected as a "Stock Exclusion Area"; and
- b) That the external boundaries of Area "S" shown on Lot 3 of the approved scheme plan for subdivision consent SUBD - 201.2019.000001102.001 shall be stock proof fenced in accordance with the Fencing Plan prepared by The Surveying Company, dated July 2020, reference 326690, and as follows:
 - i) The fence shall be a 7 wire post and batten fence; except for
 - ii) Where the fence is located within an area subject to flooding and/ or land slippage, the fence shall be electrified and constructed of a minimum of three wires; and

Evidence that the fencing at the external boundaries of Area "X" have been upgraded to a fully stock proof fenced in accordance with Conditions 10(b)(i) and (ii) shall be submitted to Council's Group Manager – Planning and Environmental Services for certification.

- c) That pursuant to Section 221 of the Resource Management Act 1991, a consent notice shall be registered on the title of Lot 3 for subdivision consent SUBD - 201.2019.000001102.001 (or any subsequent variation to that land description). The consent notice shall:
 - i) Advise that Area "S" shown on the approved scheme plan for subdivision consent SUBD - 201.2019.000001102.001 is a "Stock Exclusion Area" and that stock are permanently excluded from the area, except where supervised movement of stock is required to move stock from Lot 3 to Lot 1 DP 193419; and
 - ii) In the event that the fencing under Condition 11(b) is required to be removed to allow for pine harvesting within Area "S", temporary stock-proof fencing shall be erected to ensure that Area "Y" and "W" are not subject to grazing; and
 - iii) Any temporary stock-proof fencing shall be reinstated with permanent stock-proof fencing, as soon as harvesting is completed; and that area "S" shall be replanted with either pines or native vegetation on completion of the pine removal; and
 - iv) In the event that the landowner wishes to return Area "S" to pasture for grazing purposes, the external boundaries of Area "Y" shall be stock-proof fenced to prevent stock access from Area "S" to the satisfaction of Council's Group Manager – Planning and Environmental Services.

Note: To give effect to (iv) the landowner would need to arrange for the cancellation of the consent notice pursuant to Section 221(3) of the Resource Management Act 1991, following the certification of fencing of Area "Y".

- d) The covenant required by Condition 11 must be prepared and registered against Lot 3 at the cost of the consent holder.

Fees

- 12) 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.
- 13) 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

Engineering

- 1) Any work undertaken in the road reserve, including entrance construction, shall be processed under a Corridor Access Request. This must be submitted 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 Support Officer on 07-862 8609.
- 2) Please notify the Council's Development Engineer at least 48 hours prior to undertaking any engineering works so as to enable the scheduling of the following inspections:
 - a) Subgrade verification at time of trimming and near completion of rolling for entranceways.
 - b) at installation or alteration of erosion and sediment control measures for the site.

Street Address

- 3) Please note that your street address may change as a result of the subdivision of your property. You will be advised at a later date if this is to be the case. Hauraki District Council follows the Standard New Zealand regulation governing the numbering of all rural and urban properties. This is to ensure the effective and efficient delivery of services and amongst them, emergency services such as fire, ambulance and police etc. Should you have any further queries regarding this matter, please contact the Hauraki District Council.

Archaeological

- 4) The Heritage New Zealand Pouhere Taonga Act 2014 provides for the recording, protection and preservation of archaeological sites whether registered or not. Any accidental discoveries of archaeological sites by the consent holder or contractors shall follow the procedure below:
 - i) Work shall cease immediately at that place.
 - ii) The contractor must shut down all machinery, secure the area and advise the Site Manager.
 - iii) The Site Manager shall notify the Project Archaeologist (if relevant), Heritage New Zealand Pouhere Taonga Regional Archaeologist (if no authority has been granted) and if necessary the appropriate consent process shall be initiated.
 - iv) 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.
 - v) If skeletal remains are uncovered the Site Manager shall advise the Police.
 - vi) Works affecting the archaeological site shall not resume until the 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. All considerations under Section 104 are subject to Part 2 of the Resource Management Act 1991 ('the Act'), which sets out the purpose and principles of the legislation. The proposal is not contrary to Section 5, 6 or 7 of the Act. 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.
2. The proposal is a Non Complying Activity under the Franklin Section of the Operative Hauraki District Plan (2014). Any adverse environmental effects resulting from the proposal are deemed to be less than minor or can be mitigated by the imposition of appropriate consent conditions. The proposal therefore meets the gateways test of Section 104D of the Resource Management Act, for Non-Complying Activities.
3. The proposal is not contrary to Objective 17A (11(b)) and 17C.2(7), and Policy 17C(8) of the Franklin Section of the Operative Hauraki District Plan (2014) which seek 'significant environmental protection and enhancement' of larger areas of indigenous vegetation, or 'significant environmental benefits' in return for lot entitlements. The scale of Remnant Indigenous Vegetation protection proposed (14.2ha) relative to the size of the Qualifying Natural Feature (11.5ha), and the positive environmental effects expected from that protection, has been

fundamental to the Committee reaching this conclusion. The proposal is consistent with all other relevant objectives and Policies of the Franklin Section of the Operative Hauraki District Plan (2014).

4. Engineering requirements will ensure that the subdivision is adequately provided with services when the site is developed.
5. The proposal includes the legal protection and ongoing management 25.7 hectares of Remnant Indigenous Vegetation. This protection is expected to result in meaningful positive effects on the ecological and biodiversity values of Area's 'X', 'Y' and 'W' and is likely to result in positive flow on effects for adjoining areas of indigenous habitat.

HJC20/12

Spicer/Adams

CARRIED

VERBAL UPDATE FROM PLANNING AND ENVIRONMENTAL SERVICES MANAGER –
16 BOUNDARY ROAD, WAIHI

A verbal update was provided from the Planning and Environmental Services Manager on the matter concerning 16 Boundary Road, Waihi.

Cr Milner closed the meeting with a karakia at midday.

CONFIRMED

P A Milner
Chairperson

28 September 2020

Public Excluded Business

(pages 35-47 have been removed)