

WAIROA DISTRICT COUNCIL

**SPECIAL MEETING OF THE  
RESOURCE MANAGEMENT COMMITTEE  
(To Consider an Application for Land Use Consent  
For Clearance of Significant Indigenous Vegetation  
Waikatea Station – Ruakituri Valley)**

Minutes of a Special Meeting of The Resource Management Committee to consider an Application for Land Use Consent For Clearance of Significant Indigenous Vegetation on Waikatea Station, Ruakituri held in the Council Chambers, on Wednesday 8 March 2006 at 9.00am.

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**PRESENT:** His Worship the Mayor Mr L Probert (Chairman)

**COUNCILLORS**

S Birrell, D A Eaglesome, D Caves, G McIntyre, B McKinnon, B Shortt, T W Wilson

**IN ATTENDANCE:** T Grace (Planning Consultant)  
S Beale (Planning Consultant)  
G Thompson (Secretary)

**CIVIC PRAYER**

The Civic Prayer was given by Councillor D Eaglesome.

## General Items

His Worship the Mayor welcomed everyone to the Hearing and outlined the processes. He explained that the Applicants will speak first then the Submitters. The Planner will then speak to his report and the Committee will deliberate on the decision.

His Worship the Mayor read part of the Planners Report being the Introduction that the Bayly Trust is seeking resource consent to clear indigenous forest and scrub vegetation on the Waikatea Station to bring the land into pastoral production. The application was lodged on 18<sup>th</sup> November 2004.

The application was received prior to the Proposed Wairoa District Plan being made Operative. The application must therefore be considered under both the Operative (Transitional) Wairoa District Plan (Variation No.3) (the 'Operative Plan') and the Proposed Wairoa District Plan (the 'Proposed Plan') as they were at the time the application was lodged.

The proposed vegetation clearance is a **Non Complying Activity** under the relevant provisions of the Operative Plan and a **Discretionary Activity** under the Proposed Plan.

The application was limited notified on 29<sup>th</sup> November 2005 and 2 submissions have been received. These submissions are from the Hawke's Bay Regional Council ('HBRC') and the Department of Conservation ('DOC').

His Worship the Mayor also read out part of the Procedural Matters being the District Planner determined that the application should be Limited Notified

**Trevor Lyall** – Mr Lyall provided an introduction to the application and background information about the property and the proposal. Mr Lyall explained how the proposal for clearance of kanuka intends to address the productivity, profitability and business risks associated with the property, while improving biological and ecological values. Mr Lyall outlined how the proposal is a forward-looking whole of farm approach to chive the right environmental/economic balance, and how the proposal is an excellent model for sustainable farm practice that could be used elsewhere in the District.

**Mr John Bayly** – Mr Bayly provided a background to the purchase of the property by the Bayly Trust (“the Trust”) and the work involved in the preparation of the application. Mr Bayly explained how it is the intention of the Trust to be good guardians of the land. Mr Bayly detailed the meetings held with various parties to help develop their proposal including Morice and Associates Ltd (Registered Rural and Urban Valuers), the Hawke’s Bay Regional Council (HBRC), the Department of Conservation (“DOC”), the Wairoa District Council, Ray Thompson and Trevor Lyall. Mr Bayly explained how they believed their goals for the property could be achieved through an open approach with DOC, but that this approach has resulted in frustration and a lack of assistance from DOC. Mr Bayly expressed concern that DOC has not acknowledged the commitment of the Trust to set aside some 20% of the property for the “protection” of indigenous vegetation. Mr Bayly explained how they did not seek to influence the soil conservation plan prepared by Simon Stokes (HBRC) and have adopted the recommendations of this report in their proposal.

**Mr Paul Thomas – Co Trustee Bayly Trust** – Mr Thomas provided an overview of the support that has been provided for the proposal from the community. Mr Thomas commented on how the property was almost totally cleared of scrub in the 1940s. Mr Thomas explained that an increase in 10,000 to 12,000 stock units is not an unreasonable expectation. Mr Thomas asked the Committee to view the proposal in pragmatic way.

**Mr Ted Hindmarsh** – Mr Hindmarsh provided a perspective on the proposal from an experienced farmer and neighbour of the Waikatea Block. Mr Hindmarsh explained he has farmed in the Ruakituri Valley for 25 years and the approach proposed by the Trust is way beyond what has been carried out by farmers in the past. Mr Hindmarsh commented that as time goes by what is considered to be good farming practice changes and that no one could really ask for more than what is being proposed by the Trust.

**Mr Hamish De Lautour Trustee Bayly Trust** – Mr de Lautour outlined the philosophy behind the proposal and what the applicant expects to achieve from the proposal. Mr de Lautour explained how the proposal is a whole farm plan based on the advice received from Simon Stokes, and seeks to balance productivity, conservation, economic gain and soil conservation. Mr de Lautour explained why a financial gain is required to provide for the protection of significant areas of indigenous vegetation on the property. Mr de Lautour outlined how the proposal can be described as incorporating three outcomes, being environmental sustainability, financial sustainability (improved production) and the setting of a good precedent for the future.

**Mr Chris Perley (Chris Perley and Associates)** – Mr Perley provided background to the assessment of the effects on the environment prepared to support the application. Mr Perley explained how the proposal is a broad and integrated approach to sustainable land management, and how the vegetation management proposal put forward by the applicant represents a shift from the continually failing quantity fixation of New Zealand conservation policy, to a focus on the quality of the landscape ecology, soil and water value, within which people live and work. Mr Perley outlined examples of win-win outcomes you can get within farms, and how specialists who lack broad appreciation of the total integrated natural and cultural values in the landscape, are all too often unaware of the potential for the win-win outcomes that are assumed and encouraged by the Resource Management Act. Mr Perley explained how any assessment of the proposal needs to be considered in the light of the whole farm approach proposed by the Trust, and how the net effect of the proposal at the worst, will be a retention of existing values. Mr Perley outlined the reasons for the applicant’s opposition to the recommendation contained in the Officer’s report for the exclusion of additional areas of indigenous vegetation from clearance. Mr Perley concluded that the proposal might provide an excellent model showing the potential for a people-inclusive sustainable land use approach on New Zealand hill country farms.

**ADJOURNED – 10.52AM  
RECONVENED – 11.01AM**

## **SUBMITTERS**

**Mr Geoff Hulbert, Counsel for the Director General of Conservation** - Mr Hulbert provided an outline of the statutory requirements for the consideration of the application and the evidence to be presented in support of the submission made by the Director General of Conservation. Mr Hulbert outlined the "gateway" tests of Section 104D of the Resource Management Act. Mr Hulbert explained that the proposal fails to comply with both tests, and therefore the Council does not have the legal ability to grant the consent. Mr Hulbert explained that as a result of past clearances, know by the applicant prior to purchasing the property, the load on the "camel's back" has become very heavy, and that the proposed clearance of indigenous vegetation will break the "camel's back". Mr Hulbert suggested the provisions of the Resource Management Act and the relevant planning instruments all point to the conclusion that the proposal should not be permitted. Mr Hulbert explained how the evidence will show that in the national context this vegetation type and habitat is significant, and therefore the protection of this vegetation and habitat is particularly important, and should be accorded greater weight in applying the overall judgement approach. Mr Hulbert explained how it is not possible to mitigate the effects of the proposed activity so as to enable vegetation clearance of the scale sought by the applicant. Mr Hulbert explained why the economic wellbeing of the owner, or in this case increased profitability and private ownership rights, do not outweigh the protection objective of Section 6(c) of the Resource Management Act. Mr Hulbert concluded that the resource consent as sought by the applicant should be refused.

Councillors asked various questions on the size of the proposed vegetation clearance and adverse effects.

Planning Consultant, Mr Tim Grace confirmed how significant indigenous vegetation defined in the District Plan.

**Bronwyn Hunt Senior Planner, Department of Conservation** – Ms Hunt looked at the planning implications of the proposal in terms of the Resource Management Act and the relevant statutory planning documents. Ms Hunt outlined the relevant provisions of the Resource Management Act, the Regional Policy Statement, the Proposed Hawke's Bay Regional Resource Management Plan and the Wairoa District Plan. Ms Hunt explained the activity requires Discretionary Activity consent under the provisions of the now Operative Wairoa District Plan. Ms Hunt outlined why she thinks the objectives and policies of the regional and strict planning documents expect that much of the vegetation proposed for clearance should not occur. Ms Hunt explained why she considers that restricting any further clearance on the property is consistent with relevant regional and district planning provisions, and the Resource Management Act, in that it provides for sustainable use and development of the land on Waikatea Station whilst excluding from clearance most of what now remains of significant indigenous vegetation and biodiversity. Ms Hunt explained why this outcome gives due recognition to the key resource management issues of scarcity of indigenous vegetation and habitats in the region and district due to past loss.

Various questions were asked by Councillors.

**ADJOURN – 12.30PM  
RECONVENED – 1.04PM**

**Christopher Mark Ward, Conservancy Advisory Scientist for the East Coast Hawke's Bay Conservancy of the Department of Conservation** – Dr Ward looked at the basis for describing the areas of indigenous vegetation on Waikatea Station as significant and the effects of the proposal to clear indigenous vegetation and develop it into pasture. Dr Ward explained how he has taken account of the wider context of the proposal as part of a "package" of development also including enhanced protection of some indigenous vegetation and habitat. Dr Ward outlined the uncertainty associated with the proposal and why it is considered that the area to be cleared is in fact some 619 hectares. Dr Ward defined the proposal, outlined the ecological character of the areas proposed for clearance, considered the ecological significance of the area, explained the adverse effects of the proposed clearance, commented on the proposed mitigation package and commented on the position of the HBRC and the Officer's report. Dr Ward outlined why the areas proposed for clearance is significant indigenous vegetation and habitats of indigenous fauna. Dr Ward explained the proposal, being the vegetation clearance at its core, and the development plan taken as a whole with its "mitigation package", would have very large adverse effects that are unacceptable far beyond the "no more than

minor" standard. Dr Ward concluded that there are only small areas in the order of 25 hectares in total that might be considered for clearance that might have only minor adverse effects.

**ADJOURN – 2.51PM  
RECONVENED – 2.58PM**

His Worship the Mayor spoke about the element of uncertainty as to the areas to be cleared.

A Point of Order was made by Mr Trevor Lyall as to whether new evidence was admissible from the Department of Conservation.

The Chairman and Committee were all in agreement that it was not new evidence that was submitted but further evidence in support of their submission.

**PLANNER'S REPORT**

**RM 040046**

The Council's Planning Consultant, Mr Simon Beale, spoke to his report, and confirmed that resource consent is required as the proposed activity is a Non Complying Activity under the relevant provisions of the Operative (Transitional) Wairoa District Plan (Variation No 3) and a Discretionary Activity under the Proposed Wairoa District Plan.

Mr Beale explained the Proposed District is considered to be the dominant planning document for consideration of the application due to the advanced stage of preparation of this statutory planning document.

Mr Beale outlined why the proposed activity is considered to be generally consistent with the objectives and policies of the Proposed District Plan and the relevant provisions of the proposed Hawke's Bay Regional Resource Management Plan. Mr Beale explained why this opinion is on the basis that the areas shown on Map 7A are excluded from clearance and the mitigation measures outlined in the application are implemented at the time of the vegetation clearance. Mr Beale acknowledged that the effects of this activity may be more than minor given the scale of the clearance proposed by the applicant.

Mr Beale explained how appropriate conditions could be imposed on the granting of the consent to avoid, remedy or mitigate some of the potential adverse effects that the proposed activity may have on the environment.

Mr Beale confirmed the applicant has undertaken consultation with tangata whenua representatives being the Erepeti Marae Committee in relation to the proposed activity, and that this consultation has resulted in the Committee expressing their support for the application.

Mr Beale explained why the application is considered to be consistent with the principle of sustainable management as promoted by the Resource Management Act.

Mr Beale confirmed that the application can meet the requirements of Section 104D of the Resource Management Act in part (being the second "gateway" test) and explained why the Council has the ability to grant the application. Mr Beale confirmed his recommendation that consent to this application should be granted, subject to conditions required to avoid, remedy or mitigate the actual or potential effects of the activity.

**ADJOURN – 4.00PM  
RECONVENED – 4.12PM**

His Worship the Mayor spoke on the areas of uncertainty.

Mr Grace asked Mr Lyall whether the dotted area on Map P8 – Existing Extents Scrub to be Cleared For Grass Paddock is the area for removal of vegetation and to confirm the shaded area – Existing Extents of Area to be Replanted in Native Vegetation.

Mr Grace also asked about the specific amount of hectares for removal of vegetation.

**Mr Perley** – Mr Perley noted DOC's submission, vegetation being cleared since 1945, incorporating people but emphasizing on area, quality vs quantity and production and ecological values.

Mr Perley added that stock intrusion is a key issue. Cattle grazing has only recently been occurring on the property.

His Worship the Mayor thanked the Applicants and Submitters for attending.

**ADJOURNED – 4.34PM**  
**RECONVENED – 4.37PM**

His Worship the Mayor and Councillors sought clarification from the Planning Consultants of the conditions relating to Map P8 – Existing Extents Scrub to be Cleared for Grass Paddock.

**Resolved:**

*That Pursuant to Rule 6.5.6 of the Operative Transitional Wairoa District Plan (Variation Number 3 to the Wairoa District Plan Review), Rule 23.1.7 of the Proposed Wairoa District Plan (as amended by decisions March 2001) and Sections 104B and 108 of the Resource Management Act 1991 the Wairoa District Council grant resource consent to the Bayly Trust to carry out indigenous vegetation clearance at Okare Station (Waikatea Block) in those areas shown as "EXISTING EXTENTS SCRUB TO BE CLEARED FOR GRASS Paddock" on Plan P8 "WAIKATEA BLOCK - RUAKITURI VALLEY – WAIROA" prepared by Engineering Works (dated Feb 2006) being Sections 1 & 2, Block XIII A, Section 2 & Part Section 1, Block XII A and Part Section 1, Block IV, Taramarama Survey District contained in Certificate of Title 5A/836 and Part Section 1 & Part Section 3R, Block XIX, Tuahu Survey District contained in Certificate of Title 5A/837 (Reference RM040046), subject to the following conditions.*

- 1. The activity shall proceed generally in accordance with the application, assessment of effects on the environment and plans submitted with the resource consent application.*
- 2. The consent holder shall ensure that no indigenous vegetation is disturbed, removed or destroyed in the areas proposed for retention, as shown on Map P7A attached.*
- 3. The consent holder shall ensure that no indigenous trees that attain a diameter at breast height greater than 30 centimetres at maturity, other than kanuka trees, are removed from those areas shown as "EXISTING EXTENTS SCRUB TO BE CLEARED FOR GRASS Paddock" on Plan P8 "WAIKATEA BLOCK - RUAKITURI VALLEY – WAIROA" prepared by Engineering Works (dated Feb 2006).*
- 4. The areas proposed for clearance and the methods of clearance shall be clearly defined by the consent holder on the ground and on appropriate plans and/or aerial photography prints and submitted to the District Planner, prior to the works commencing. Clearance works shall not commence until written approval to the areas proposed for clearance and the methods of clearance has been received from the Wairoa District Council.*
- 5. The consent holder shall not carry out any vegetation clearance within 20 metres on either side of any waterbody.*
- 6. Vegetation clearance within 50 metres of any riparian margin and any areas proposed for retention shall be undertaken by scrub cutting measures only. No aerial spraying shall be carried out in these areas.*

**Resolution: (Cont'd)**

7. *For the purposes of condition 6 the riparian margin is defined as a strip of vegetation no less than 20 metres from any waterbody.*
  8. *The consent holder shall only carry out the application of herbicide during calm weather conditions and shall ensure that all other practical steps are taken to avoid spray drift affecting areas of indigenous vegetation that is being retained, as shown on Map P7A attached.*
  9. *A dust and silt management plan shall be submitted to the District Planner for approval prior to the commencement of works. This plan shall describe the measures that the consent holder shall utilise in the event that site and weather conditions give rise to actual or potential adverse effects of dust and/or silt on adjoining properties. The management plan shall describe the measures to be applied to minimise dust, control silt, intended sources of water and named personnel to be contacted in the event of dust or silt nuisances occurring.*
  10. *The dust and silt management plan required by Condition 9 shall be implemented to the satisfaction of the District Planner.*
  11. *Prior to the commencement of aerial spraying of defoliant, a pasture re-seeding plan shall be submitted for the approval of the District Planner. The consent holder shall maintain the pasture seeding programme until all areas authorised for indigenous vegetation clearance by this consent have been established in pasture to the satisfaction of the Wairoa District Council. Aerial spraying shall not commence until the written approval of the Wairoa District Council has been received.*
  12. *The consent holder shall provide ten working days written notice to the Wairoa District Council prior to commencement of spraying for the purpose of enabling monitoring of compliance with the conditions of this consent.*
  13. *All costs associated with complying with all conditions of this consent shall be borne by the consent holder including any fees and charges required by the Wairoa District Council, and any legal expenses.*
  14. *The consent holder shall ensure that the indigenous vegetation clearance activity is carried out in general accordance with the "Soil Conservation Plan – Waikatea – Bayly Trust – Ruakituri" (HBRC Plan Number 3386) prepared by the Hawke's Bay Regional Council (dated September 2004).*
- B. *That the submissions of the Director General of Conservation and the Hawke's Bay Regional Council be disallowed in-so-far as consent is granted subject to conditions but allowed in-so-far as additional areas of indigenous vegetation are required to be retained.*

**Resolution: (Cont'd)**

**WITH THE REASONS FOR THIS DECISION BEING:**

1. *The proposal is unlikely to have any effects on water quality, visual and amenity values, natural hazards and tangata whenua values that will be more than minor, for the following reasons:*
  - A. *The proposal includes the planting and improved management of riparian margins.*
  - B. *The proposed clearance will take place in a locality where indigenous vegetation clearance has already taken place and pastoral land use activities form part of the landscape character.*
  - C. *Vegetation clearance on erosion prone land will be avoided.*
  - D. *Adverse effects in terms of dust and sediment run-off can be avoided, remedied or mitigated.*
  - E. *Support for the proposal has been provided by Erepeti Marae Committee.*
2. *The proposal is generally consistent with the relevant objectives and policies of the Proposed Wairoa District Plan (as amended by decisions March 2001) in that:*
  - A. *Clearance of indigenous vegetation is anticipated by the Proposed District Plan but with some limitations and restrictions.*
  - B. *The vegetation clearance will enable the improved productive use of the soil resource.*
  - C. *Areas of significant indigenous vegetation to be retained will be protected and subject to improved management.*
  - D. *Potential adverse effects of the proposal can be remedied or mitigated by conditions of consent.*
3. *That the application meets the requirements of Part II of the Resource Management Act 1991, in that:*
  - A. *The application is consistent with the principle of the sustainable management of resources as promoted by the Act;*
  - B. *Areas of significant indigenous vegetation will be retained and protected;*  
*and*
  - C. *The potential adverse effects can be remedied or mitigated.*

**WITH THE REASONS FOR THE CONDITIONS BEING:**

*Conditions 1 and 14 ensure the proposed activity is carried generally in accordance with the plans and information submitted to the Council and upon which the proposal has been assessed.*

*Conditions 2 and 3 ensure significant areas of indigenous vegetation are retained.*

*Condition 4 ensures the areas of vegetation to be cleared are those considered by Council to be acceptable for removal.*

*Conditions 5, 6 and 7 ensure adverse effects on waterways are avoided and values associated with riparian margins are maintained and enhanced.*

*Condition 8 ensures that adverse effects resulting from spray drift on areas of indigenous vegetation identified to be retained are avoided.*

*Conditions 9 and 10 ensures adverse effects associated with dust and silt are avoided, remedied or mitigated.*

**Resolution: (Cont'd)**

*Condition 11 ensures adverse effects associated with sediment runoff are avoided.*

*Condition 12 ensures effective monitoring of the proposal can be undertaken for the purpose of checking compliance with the consent issued.*

*Condition 13 ensures the costs associated with complying with the requirements of the consent are met by the consent holder.*

***His Worship the Mayor/McKinnon***

**CLOSED:**           The meeting closed at 5.42pm.

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Chair