

WAIROA DISTRICT COUNCIL

**RESOURCE MANAGEMENT COMMITTEE  
(To Consider A combined Land Use & Subdivision Consent  
Application for SP Beach Ltd & Wine Country Properties Ltd)**

Minutes of the Resource Management Committee To Consider A Combined Land Use & Subdivision Consent Application for SP Beach Ltd & Wine Country Properties Ltd held in the Council Chambers, Coronation Square, Wairoa on Tuesday, 9 December 2008 at 2.00pm.

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**CHAIR:** B McKinnon (Chair)

**COUNCILLORS**

His Worship the Mayor, Mr L Probert, B Cairns, D Caves D A Eaglesome (left 2.52pm),(returned 2.53pm), J Heron

**IN ATTENDANCE:** E France (Planning Consultant)  
S Stuart (SP Beach Ltd)  
L Williams (Wine Country Properties Ltd)  
L Cook (District Planner)  
H Waihape (Planning Student)  
G Thompson (Secretary)

**CIVIC PRAYER**

The Chairman explained the civic prayer had already been given in the Council meeting.

**APOLOGY**

An apology was received from Councillor J Petersen.

<b><u>Resolved:</u></b> <i>That an apology received from Councillor J Petersen be accepted.</i> <i>Eaglesome/Heron</i>
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**General Items**

**TO CONSIDER A COMBINED LAND USE & SUBDIVISION CONSENT APPLICATION FOR  
SP BEACH LTD & WINE COUNTRY PROPERTIES LTD RM 070004**

The Chairman welcomed everybody to the meeting and asked the Applicants to introduce themselves.

Mr Ross Muir, Planning Consultant for the Applicants produced his Statement of Evidence. Mr Muir's Statement of Evidence covered Assisting applicant with lodgement, District Plan change, Consent Status, Statutory Assessment, Submissions, Permitted Baseline Comparison, Objectives & Policy Framework Actual or Potential Adverse Environmental Effects being Natural Character & Landscape Amenity Effects, Coastal Ribbon Development, Coastal Erosion Risks and Effects on Heritage/Cultural Sites.

Mr Muir's evidence also covered Wastewater Treatment/Disposal, Earthworks, Conditions and Part 2 Assessment.

Councillor Caves asked various questions regarding the ownership of the water tank below Lot 21. Mr Williams advised Councillor Caves it is owned by S P Beach Ltd.

The Committee queried the availability of fire fighting water supply. Mr Muir advised each proposed allotment through the provision of 45,000 litres of water storage in the locations labelled K & L on the Subdivision Plan. Mr Williams advised the fire fighting water supply is sufficient for the NZ Fire Service.

Ms France advised the Committee provided that clarification as to the location of the areas of importance identified in the cultural audit undertaken as part of the previous subdivision can be obtained, it is her opinion that the actual or potential effects to the proposed activity are likely to be minor, provided that the intended mitigation measures and additional mitigation measures recommended are implemented at the time of development.

## Exclusion of the Public

**Resolved:** *That pursuant to Section 48 (1) of the Local Government Information and Meetings Act 1987, the public be excluded on the following grounds:*

*That the exclusion of the public from the whole or relevant part of the proceedings of the meeting is necessary to enable the local authority to deliberate in private on its decision or recommendation in:*

*S7 (2)(b) Protect information where the making available of the information-*

*(i) Would disclose a trade secret; or*  
*(ii) Would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information.*

***Caves/His Worship the Mayor***

**EXCLUDED FROM:** 3.02PM

**READMITTED FROM:** 3.18PM

**Resolved:** *That:*

*Pursuant to Sections 104D, 106, 108 and 220 of the Resource Management Act 1991 the Wairoa District Council grants subdivision consent to SP Beach Limited and Wine Country Properties Limited to subdivide Lots 1 and 2 DP 359131 to create 24 residential allotments, 2 allotments for wastewater treatment and disposal and one lot to vest in the Wairoa District Council as road, as shown on the subdivision and development plans (Reference 2189/19, Proposed Subdivision of Lots 1 and 2 DP 359131 – Stage Plan, dated December 2008, prepared by Surveying the Bay) subject to the following conditions.*

**A. Subdivision Consent Application**

**General**

- 1. The subdivision and development of the site shall proceed generally in accordance with the information, further information, assessment of effects, statements of intent, mitigation measures, technical reports, drawings, specifications and plans provided with the application, except that minor alterations to the locations of the boundaries of Lot 22 may be made to accommodate a building platform that avoids disturbance to the cultural site identified on that lot. Where a conflict arises between the conditions of the consent and the application the conditions of this consent shall prevail.*
- 2. The consent holder shall be responsible for all costs associated with compliance with the conditions of the consent including any fees and charges required by the Council, any legal expenses and the cost of construction works. In the event of non-compliance being detected, the costs to the Council of any monitoring shall be paid by the consent holder in accordance with the Council's schedule of fees.*

**Resolution Contd:**

3. *The consent holder shall ensure that all works and structures are designed by a Chartered Professional Engineer, and constructed and approved in accordance with the Council's Engineering Code of Practice unless the Engineering Manager approves a variation to the design standards and performance targets contained in the Council's Engineering Code of Practice.*

**Conditions to be Met Prior to the Commencement of Any Stage**

4. *Prior to approval pursuant to Section 223 of the Resource Management Act 1991 and the commencement of construction works for any stage of the subdivision the consent holder shall submit engineering design plans for the road, footpath, stormwater drainage system (including the stormwater drainage infrastructure on Lot 25), wastewater disposal system, sewerage reticulation, power services, telephone services, street-lighting, traffic signage and street name signs prepared by a Chartered Professional Engineer in accordance with the requirements of the Council's Engineering Code of Practice for the approval of the Engineering Manager. The engineering design plans shall detail which infrastructure is to be constructed at each stage. The engineering design plans shall detail the ways in which design and construction will comply with the Council's Engineering Code of Practice.*
5. *Prior to approval pursuant to Section 223 of the Resource Management Act 1991 the existing cabbage trees on Lots 1 and 9, the cultural marker on Lot 17 shall be identified on the Land Transfer Title Plan.*
6. *Prior to approval pursuant to Section 223 of the Resource Management Act 1991 the cultural sites on Lots 1 and 14 shall be marked on the site with a Pohutukawa tree (*Metrosiderous excelsa*) and the cultural sites located Lots 16 and 22 shall be marked on the site with a boulder.*
7. *Prior to approval pursuant to section 224 of the Resource Management Act 1991 for any stage the consent holder shall submit a detailed planting plan for Lot 25 to the satisfaction of the Wairoa District Council. The planting plan shall show planting for the purpose of screening the lower parts of the buildings located on the upper terrace, reducing the adverse effects of earthworks and roading, enhancing the landscape setting and contributing to the natural character of the coastal environment, in accordance with the recommendations of the report Mahanga: Proposed Subdivision, Lots 1 and 2: Landscape, Natural Character and Visual Effects Assessment dated 4/06/2008, prepared by Hudson Associates Landscape Architects, submitted with the application. The planting plan shall also include:*
  - (a) *The timing of planting*
  - (b) *An implementation and ongoing management and maintenance programme which shall detail the measures to ensure post establishment growth, weed and pest control and replacement of plants that are dead or in poor health.*
8. *Prior to approval pursuant to Section 224 of the Resource Management Act 1991 for any stage the consent holder shall implement the approved landscape and planting plan.*

**Resolution Contd:**

**Conditions to be Met for Each Stage**

9. *Prior to approval under Section 224 of the Resource Management Act 1991 for each stage the consent holder shall construct the road, footpath, stormwater drainage system, wastewater disposal system, sewerage reticulation, power services, telephone services, street-lighting, traffic signage and street name signs necessary to service the respective stage for which approval is sought, in accordance with the approved design plans and the Council's Engineering Code of Practice, unless the Engineering Manager approves a variation to the design standards contained in the Council's Engineering Code of Practice. The construction of the road shall not commence until the Engineering Manager has approved the engineering design plans required in accordance with condition 4.*
10. *Prior to approval pursuant to Section 224 of the Resource Management Act 1991 for each stage the consent holder shall provide quality assurance, as built plans and qualified professional person certification as required under the Engineering Code of Practice on completion of the construction of the road, footpath, stormwater drainage system, wastewater disposal system, sewerage reticulation, power services, telephone services, street-lighting, traffic signage and street name signs necessary to service the respective stage for the review and approval of the Engineering Manager.*
11. *Prior to approval pursuant to Section 224 of the Resource Management Act 1991 for the respective stages the consent holder shall provide separate underground electricity connections to the boundary of Lots 8, 9 and 15 to 20 within the respective stage for which approval is sought to the satisfaction of the District Planner.*
12. *Prior to approval pursuant to Section 224 of the Resource Management Act 1991 for the respective stages the consent holder shall ensure that Lots 1 to 7, 10 to 14 within the respective stage for which approval is sought are able to connect to an electricity supply to the satisfaction of the District Planner.*
13. *Prior to approval pursuant to Section 224 of the Resource Management Act 1991 for each stage the consent holder shall ensure that each of Lots 1 to 24 within the respective stage for which approval is sought is able to connect to an operational wastewater treatment and disposal system which is in accordance with the requirements of the Hawke's Bay Regional Council.*
14. *Prior to approval pursuant to Section 223 of the Resource Management Act 1991 for each stage easements to protect the use and maintenance of power, telecommunications, wastewater, water and stormwater services within the stage shall be identified on the title plan for the respective stage and shown in a memorandum of easements. The Engineering Manager may require other easements to protect the use and maintenance of services. Such easements shall be duly granted and reserved upon deposit and issue of the Certificates of Title. The consent holder shall be responsible for all costs associated with the creation of easements.*
15. *Easements over Lots 25 and 26 providing for the right to convey sewage shall be extended to provide for the storage, treatment and disposal of sewage and shown in a Memorandum of Easements. Such easements shall be duly granted and reserved upon deposit and issue of the Certificates of Title. The consent holder shall be responsible for all costs associated with the creation of easements.*

**Resolution Contd:**

**Conditions Specific to Stage 3**

16. *Prior to approval under Section 223 of the Resource Management Act 1991 for stage 3 the Land Transfer Title Plan shall be drawn such that Lot 27 shall be vested in the Wairoa District Council as road.*
17. *That Lots 24 and 28 hereon be held in the same Computer Freehold Register.*

CSN Request 776599

**Consent Notices**

18. *A consent notice pursuant to Section 221 of the Resource Management Act 1991 shall be registered on the Certificate of Title for Lots 1 to 24 advising the owner(s) and subsequent owner(s) of the requirement to comply with the following conditions on a continuing basis. The consent notice shall be prepared and registered at the expense of the consent holder.*
  - (a) *All building platform(s) on the lot(s) shall be a minimum height of 3.5m above mean sea level for buildings with a specified intended life of less than 50 years 4 metres above mean sea level for buildings with a specified intended life or more than 50 years.*
  - (b) *Prior to the construction of any buildings on the Lot(s) the owner(s) of the Lot(s) shall submit a geotechnical report prepared by a Chartered Professional Engineer experienced in geotechnical assessment to the satisfaction of the Wairoa District Council. The report shall include a statement of professional opinion as to the suitability of the intended building platform for construction and any recommendations in respect of the intended building platform and building works (including site specific foundation design).*
  - (c) *The land shall not be built on unless the Council is satisfied that:*
    - i. *the recommendations in the geotechnical report required by*
  - (d) *above have been adopted in the building platform design; and*
    - ii. *where applicable, any risk from erosion, falling debris, subsidence, slippage, or inundation from any source can be satisfactory addressed through issue of building consent and placement of a memorandum on the title in accordance with sections 71-74 the Building Act 1991.*
    - iii. *a geotechnical completion certificate prepared in accordance with Schedule 2A of NZS 4404:2004 Land Development and Subdivision Engineering by a Chartered Professional Engineer experienced in geotechnical assessment has been provided to confirm (a) and (b) above and the following:*

**Resolution Contd:**

- the position of all building platforms and building restriction lines (where applicable).
  - recommendations for the disposal of stormwater and wastewater have been adopted (where applicable).
  - recommendations for the development of the land have been adopted (where applicable).
  - any earth-fill and / or building platforms have been constructed to comply in all respects with the requirements set down in the New Zealand Building Code.
- (e) Prior to the construction of any building(s) on the Lot the owner(s) of the Lot shall submit detailed engineering design plans for the stormwater drainage system prepared by a Chartered Professional Engineer experienced in stormwater drainage system design and construction for the approval of the Wairoa District Council in accordance with the requirements of the Council's Engineering Code of Practice.
- (f) Prior to the construction of any building(s) on the Lot the owner(s) of the Lot shall construct the stormwater drainage system as detailed in the approved design plans and in accordance with the Council's Engineering Code of Practice. The construction of the stormwater drainage system shall not commence on the site until the Wairoa District Council has approved the engineering design plans.
- (g) The owner(s) of the Lot(s) for the time being shall ensure that the stormwater drainage systems shall be operated and maintained in accordance with the approved design plans on an ongoing basis to the satisfaction of the Wairoa District Council.
- (h) The owner(s) of the Lot(s) for the time being shall ensure that the wastewater treatment and disposal system is managed and maintained in accordance with the requirements of the Hawke's Bay Regional Council.
- (i) In the event that any Koiwi (human remains) or artefacts which may be of historic or cultural importance are discovered, all work in the vicinity shall cease immediately and tangata whenua, the New Zealand Historic Places Trust and the Wairoa District Council shall be immediately notified to determine any necessary protection, remediation or mitigation.
19. A consent notice pursuant to Section 221 of the Resource Management Act 1991 shall be registered on the Certificate of Title for Lots 1 to 4 advising the owner(s) and subsequent owner(s) of the requirement to comply with the following conditions on a continuing basis. The consent notice shall be prepared and registered at the expense of the consent holder.
- (a) Any building(s) on the lot(s) shall not exceed a height of 7 metres above the existing ground level as shown on the on the plan 2189/19, Proposed Subdivision of Lots 1 and 2 DP 359131 – Stage Plan, dated December 2008, prepared by Surveying the Bay submitted with the subdivision application (Reference RM070004).

**Resolution Contd:**

20. *A consent notice pursuant to Section 221 of the Resource Management Act 1991 shall be registered on the Certificate of Title for Lots 15 to 24 and 28 advising the owner(s) and subsequent owner(s) of the requirement to comply with the following conditions on a continuing basis. The consent notice shall be prepared and registered at the expense of the consent holder.*
  - (a) *Any building(s) on the lot(s) shall not exceed a height of 6.5 metres above the existing ground level as shown on the on the plan 2189/19, Proposed Subdivision of Lots 1 and 2 DP 359131 – Stage Plan, dated December 2008, prepared by Surveying the Bay submitted with the subdivision application (Reference RM070004).*
21. *A consent notice pursuant to Section 221 of the Resource Management Act 1991 shall be registered on the Certificate of Title for Lots 2, 3 and 4 advising the owner(s) and subsequent owner(s) of the requirement to comply with the following conditions on a continuing basis. The consent notice shall be prepared and registered at the expense of the consent holder.*
  - (a) *Any building(s) on the lot(s) shall be constructed a minimum of 12 metres from the Blake’s Approach road reserve boundary.*
22. *A consent notice pursuant to Section 221 of the Resource Management Act 1991 shall be registered on the Certificate of Title for Lots 1, 9 and 14 advising the owner(s) and subsequent owner(s) of the requirement to comply with the following conditions on a continuing basis. The consent notice shall be prepared and registered at the expense of the consent holder.*
  - (a) *The cabbage tree(s) (Cordyline australis) and/or Pohutukawa tree(s) (Metrosiderous excelsa) shown on the Land Transfer Title Plan shall be retained on the site. Should the tree(s) die or become diseased, they shall be replaced within the next available planting season.*
23. *A consent notice pursuant to Section 221 of the Resource Management Act 1991 shall be registered on the Certificate of Title for Lots 16, 17 and 22 advising the owner(s) and subsequent owner(s) of the requirement to comply with the following conditions on a continuing basis. The consent notice shall be prepared and registered at the expense of the consent holder.*
  - (a) *The cultural marker identified on the Land Transfer Title Plan shall be retained on the site. No buildings shall be constructed or ground disturbance take place on the site of the cultural marker.*
24. *A consent notice pursuant to Section 221 of the Resource Management Act 1991 shall be registered on the Certificate of Title for Lot 25 advising the owner(s) and subsequent owner(s) of the requirement to comply with the following conditions on a continuing basis. The consent notice shall be prepared and registered at the expense of the consent holder.*

**Resolution Contd:**

- (a) *The owner(s) of the Lot(s) for the time being shall maintain the planted areas contained within the lots in accordance with the approved landscape and planting plan required by condition 6 of subdivision consent RM070004 at all times. Planting undertaken as part of the approved landscape and planting plan shall not be removed, destroyed or intentionally damaged unless approved in writing by the District Planner, Wairoa District Council. Any plant specimens that are dead or diseased shall be replaced in accordance with the approved landscape and planting plan.*

**B. LANDUSE CONSENT APPLICATION (EARTHWORKS)**

*Pursuant to Sections 104B and 108 of the Resource Management Act 1991 the Wairoa District Council grant land use consent to SP Beach Limited and Wine Country Properties Limited to undertake 3000m<sup>3</sup> of earthworks for the purpose constructing roads, vehicle access and filling residential lots as shown on the subdivision and development plans Reference 2189/19, Proposed Subdivision of Lots 1 and 2 DP 359131 – Stage Plan, dated December 2008, prepared by Surveying the Bay) subject to the following conditions.*

**General**

- 1. The earthworks shall be undertaken generally in accordance with the information, further information, assessment of effects, statements of intent, mitigation measures, technical reports, drawings, specifications and plans submitted with the application. Where conflict arises between the conditions of the consent and the application the conditions of the consent shall prevail.*
- 2. The consent holder shall be responsible for all costs associated with compliance with the conditions of the consent including any fees and charges required by the Council, any legal expenses and the cost of construction works. In the event of non-compliance being detected, the costs to the Council of any monitoring shall be paid by the consent holder in accordance with the Council's schedule of fees.*
- 3. The consent holder shall ensure that all earthworks are designed by a Chartered Professional Engineer, and carried out and approved in accordance with the Council's Engineering Code of Practice to the satisfaction of the Engineering Manager unless the Engineering Manager approves a variation to the design standards and performance targets contained in the Council's Engineering Code of Practice.*

**Construction Works**

- 4. The consent holder shall implement erosion and sediment control measures to ensure that there is no deposit of sediment or detritus into watercourses, wetlands, stormwater drains or the coastal marine area or beyond the boundary of the property. Any deposit of sediment or detritus onto Council road shall be removed within 24 hours.*
- 5. The consent holder shall ensure that the construction works do not cause any offensive or objectionable discharge of dust beyond the boundary of the site.*

**Resolution Contd:**

6. *The works shall be conducted so as to comply with the provisions of New Zealand Standard NZS 6803P 'Measurement and Assessment of Noise from Construction, Maintenance and Development Work'.*
7. *The works shall only be carried out between 7:30am and 5:30pm Monday to Saturday and shall not be carried out on a Sunday or a public holiday.*
8. *Prior to the commencement of any works on the site the consent holder shall submit a Construction Management Plan prepared by a suitably qualified and experienced person(s) that details the ways in which construction works will be managed to ensure compliance with conditions 4 to 7 above to the satisfaction of the Engineering Manager. The construction management plan shall include but not be limited to:*
  - (a) *Timing and staging of construction works;*
  - (b) *Reporting and auditing;*
  - (c) *Complaints handling and reporting procedure;*
  - (d) *All measures that will be undertaken to mitigate potential erosion and sedimentation effects to ensure compliance with condition 4;*
  - (e) *All measures that will be undertaken to mitigate potential dust effects to ensure compliance with condition 5;*
  - (f) *All measures that will be undertaken to mitigate potential noise effects to ensure compliance with condition 6;*
  - (g) *Any other measures that will be undertaken to mitigate potential nuisance effects on nearby residents;*
  - (h) *The contact details for the site manager.*
9. *The consent holder shall ensure that the works on the site are carried out in accordance with the approved construction management plan at all times to the satisfaction of the Engineering Manager.*
10. *The consent holder shall provide the Engineering Manager at least one weeks notice of the commencement of works on the site.*

***Landscape and Visual***

11. *The consent holder shall ensure that the cut and fill areas are hardsurfaced, re-grassed or planted with suitable species to ensure that complete coverage of the cut and fill areas is achieved as soon as practical and no later than the autumn immediately following the completion of the construction works.*

***Archaeological, Historical and Cultural***

12. *In the event that any Koiwi (human remains) or artefacts which may be of historic or cultural importance are discovered, all work in the vicinity shall cease immediately and tangata whenua, the New Zealand Historic Places Trust and the Wairoa District Council shall be immediately notified to determine any necessary protection, remediation or mitigation.*
13. *A representative of the tangata whenua shall be given one weeks notice in advance of the commencement of earthworks or excavation associated with these works and shall be given permission to enter and remain of the site (during daylight hours) during these works for the purpose of monitoring these works. (Note: the Council's iwi liaison officer should be consulted to identify who the appropriate tangata whenua representative is in regard to the Mahanga Area).*

**Resolution Contd:**

14. A qualified archaeologist shall be present on the site at the time of removal of the initial layer of topsoil to monitor for any possible archaeological site(s). Upon removal of the first layer of topsoil/grass cover in the earthworks excavation and filling areas the archaeologist shall carry out a site inspection for the purpose of assessing the likelihood of the presence of archaeological sites or urupa in the substrata. In the event that any urupa, middens, hangi pits, or any other archaeological remains or artefacts or soil structures indicating historical occupation are unearthed during site excavation, all work within the immediate vicinity of the site shall cease forthwith and a site meeting shall be held with representatives of tangata whenua and the New Zealand Historic Places Trust and the Wairoa District Council at which time the appropriate course of action shall be determined.

**Review**

15. The Wairoa District Council may initiate a review of the conditions of the consent in accordance with Section 128 of the Resource Management Act 1991 at any time by serving notice of the intention to do so under Section 128 of the Resource Management Act 1991. The purpose of the review will be to address any adverse effect on the environment that may arise from the exercise of the consent in relation to archaeological or cultural sites, sediment laden run off, dust and noise, success and degree of grass and plant growth and landscape and visual impacts.

**2.0 APPLICATION**

- 2.1 SP Beach Limited and Wine Country Properties Limited ("the applicant") sought subdivision and land use consents to subdivide and develop 24 residential allotments on a site located on the western side of Pukenui Road, Mahanga. The subject sites are legally described as Lot 1 and 2 DP 359131 and have a total area of 4.5613 hectares.

- 2.2 The proposal is summarised as follows:

**Residential Lots**

- 2.3 The applicant proposes to create 24 residential allotments. The proposed allotments range in area from 930m<sup>2</sup> to 2890m<sup>2</sup>.

**Access**

- 2.4 The proposed residential allotments will be accessed via a new road to be constructed by the applicant and vested in the Council, private Rights of Way or directly from Blake's Approach or Pukenui Road, as shown on the subdivision plan.

**Stormwater Disposal**

- 2.5 Each residential allotment will dispose of stormwater on site by way of ground soakage. The proposed road will be constructed with a flush nib and grass berms falling away from the carriageway, which will allow for stormwater drainage and soakage.

**Resolution Contd:**

Wastewater Disposal

- 2.6 *Individual onsite wastewater treatment plants will be installed on each of the proposed allotments. Wastewater will then be pumped to a communal wastewater storage and treatment facility where it will receive further treatment before being discharged to land. The communal storage, treatment and disposal facility will be located on proposed Lot 26 and/or 25. The communal schemes will also serve potential future subdivisions of other lots in the area. This outcome is proposed to be secured by easements over these lots.*

Potable Water Supply

- 2.7 *Potable water supply to each of the proposed residential allotments can be provided by roof collection and onsite storage. A minimum storage volume of 22,000 litres will be provided.*

Fire Fighting Water Supply

- 2.8 *Fire fighting water supply will be provided for each proposed allotment through the provision of 45,000 litres of water storage for fire fighting purposes in the locations labelled K and L on the subdivision plan, within a 135m distance of each allotment. The tanks will be fitted with valves and fittings and suitably positioned to enable access for fire-fighting purposes.*

Site Services

- 2.9 *The appropriate service providers have confirmed that each lot can be provided with power and telephone services.*

Natural Hazards

- 2.10 *The applicant has demonstrated that a stable building platform can be achieved that will not be subject to natural hazards within each proposed allotment.*
- 2.11 *Provided certain mitigation measures are implemented, the applicant has demonstrated that the proposed lots will be mostly risk free from the coastal hazards of erosion and flooding from storm tides this century.*

Earthworks

- 2.12 *Earthworks totalling 3000m<sup>3</sup> will be undertaken in order to complete the site development. This will generally involve taking the cut material removed to form the proposed road and placing it in the lowest areas of proposed Lots 8 to 14. The volume and area of the earthworks proposed do not achieve the performance standards for earthworks contained in the Wairoa District Plan and therefore the applicant seeks land use consent for the proposed development.*

Landscaping and Building Controls

- 2.13 *The applicant proposes to mitigate the potential for adverse effects on landscape, natural character and visual amenity values through controls on building height, yard setbacks, planting and retaining the existing cabbage trees on the site.*

**Resolution Contd:**

Staging

2.14 The applicant has indicated that it is possible that the development will be undertaken in up to five stages. Essentially this would enable the consent holder to develop part of the subdivision and have titles issued before starting on the next part of the subdivision.

Amalgamation

2.15 Proposed Lots 24 and 28 will be held on the same Certificate of Title. Proposed Lot 28 currently contains a water tank associated with the Mahanga Public Water Supply. The tank is protected by the easement labelled Q on the subdivision plan.

**3.0 NOTIFICATION, SUBMISSIONS AND HEARING**

3.1 Notice of this application was served on the Hawke's Bay Regional Council and Te Mana Taiao o Rongomaiwahine (TMTOR). One submission was received from TMTOR.

3.2 The hearing was held on the 9<sup>th</sup> of December 2008 at the Wairoa District Council chambers. The applicant and representatives attended the hearing but the submitter did not.

3.3 The information made available to the Resource Management Committee in making this decision includes:

- The planning report, dated 9<sup>th</sup> December 2008 prepared by Ms Emma France of MWH New Zealand Limited, Planning Consultant to the Council.
- A copy of the application and accompanying Assessment of Effects on the Environment.
- Copies of the further information provided by the applicant after the lodgement of the application.
  
- The presentations made by and on behalf of the applicant and reporting officer at the hearing.

3.4 The Committee had also undertaken a site visit.

**REASONS FOR THE DECISIONS**

Reasons for the Overall Decision

3.1 Pursuant to Section 113(1)(a) of the Resource Management Act 1991, the reasons for the decisions are as follows:

- (a) The proposed activity is generally consistent with the relevant assessment matters of the Wairoa District Plan for the following reasons:

**Resolution Contd:**

- *The site can be adequately accessed and serviced.*
  - *The potential for adverse effects on residential character and amenity values can be adequately mitigated.*
  - *The potential for adverse effects on archaeological, cultural and historical values will be no more than minor.*
  - *The potential for adverse effects associated with natural hazards can be adequately avoided or mitigated.*
- (b) *The proposal is considered to be consistent with the relevant objectives and policies of the Wairoa District Plan.*
- (c) *The proposal is considered to be consistent with the intent of the relevant provisions of the New Zealand Coastal Policy Statement, the Hawke's Bay Regional Resource Management Plan, the Proposed Hawke's Bay Regional Coastal Environment Plan and the Wairoa Coastal Strategy.*
- (d) *The proposal can be implemented generally in accordance with the Council's Engineering Code of Practice and as such any potential for adverse effects can be satisfactorily avoided, remedied or mitigated.*
- (e) *The proposal can avoid adverse effects associated with natural hazards of the type referred to in Section 106 of the Resource Management Act 1991.*
- (f) *The proposal is considered to be consistent with the principle of sustainable management and is considered to be an efficient and effective use of the existing land resource.*
- (g) *The proposal passes the statutory tests of Section 104D of the Resource Management Act 1991.*

**Reasons for the Conditions**

**General**

- (a) *To ensure that measures required to avoid, remedy or mitigate actual or potential effects on the environment associated with the subdivision and development of the site are implemented.*

**Subdivision Consent**

- (a) *Condition 1 ensures the subdivision is completed in accordance with the approved plans.*
- (b) *Condition 2 ensures that the applicant meets the costs associated with compliance with conditions of consent, including compliance monitoring.*
- (c) *Condition 3 ensures the subdivision is completed to an appropriate standard.*
- (d) *Conditions 4 to 8 sets out the matters that must be complied with prior to any work commencing on the site. This will ensure that the subdivision is designed to an appropriate standard and that the potential for adverse landscape, natural character and visual amenity effects are mitigated.*
- (e) *Conditions 9 to 15 ensure that the lots can be adequately accessed and serviced on an ongoing basis.*
- (f) *Condition 16 to 24 ensure that the future owner(s) of the lots are required to avoid, remedy or mitigate the potential for adverse effects on an ongoing basis.*

**Resolution Contd:**

**Land Use Consent (Earthworks)**

- (h) Condition 1 ensures the activity is completed in accordance with the approved plans and conditions of consent.
- (i) Condition 2 ensures that the applicant meets the costs associated with compliance with conditions of consent.
- (j) Condition 3 ensures that the works are appropriately designed and constructed in accordance with the Council's Engineering Code of Practice.
- (k) Conditions 4 to 7 ensure that any potential adverse effects arising from construction works are mitigated.
- (l) Conditions 8 and 9 ensure that there are measures in place for ensuring compliance with conditions 4 to 7.
- (m) Conditions 10 ensures that construction works are able to be monitored by the Council.
- (n) Condition 11 ensures that there are no significant landscape and visual effects.
- (o) Conditions 12 to 14 ensure that any potential for adverse effects on archaeological or cultural values are avoided or mitigated.
- (p) Condition 15 enables Council to address adverse effects that may arise from implementation of the consent.

**4.0 RELEVANT STATUTORY PROVISIONS CONSIDERED**

4.1 Pursuant to Section 113(1)(aa) of the Resource Management Act 1991, the relevant statutory provisions that were considered are:

- Part 2 (Purpose and Principles).
- Section 104 (Consideration of applications).
- Section 104B (Determination of applications for discretionary or non-complying activities).
- Section 106 (Consent authority may refuse subdivision consent in certain circumstances).
- Section 108 (Conditions of resource consents).
- Section 220 (Conditions of subdivision consents).

**5.0 RELEVANT PROVISIONS OF STATUTORY DOCUMENTS CONSIDERED**

5.1 In accordance with Section 113(ab) of the Resource Management Act 1991, the relevant statutory documents that were considered are listed below.

Hawke's Bay Regional Resource Management Plan

- Objectives 4, 5 and 8 in respect to the sustainable management to coastal resources.
- Policy 18 in respect to ground water quality.
- Objective 31 and Policy 56 in respect to natural hazards.

Proposed Hawke's Bay Regional Coastal Environment Plan

- Objective 2-1 and Policies 2-1, 2-3 and 2-4 in respect to natural character.
- Objective 5-1 and Policy 5-1 in respect to public access to the coast.
- Objectives 6-1 and 6-2A and Policies 6-1, 6-2, and 6-3 in respect to the relationship of Maori and the coast.
- Objective 7-1 and Policy 7-1 in respect to historic heritage.
- Objectives 15-1 and 15-2 and Policy 15-1 in respect to coastal hazards.

**Resolution Contd:**

**Wairoa District Plan**

- Objectives 4.3.1, 4.3.3, 4.3.4 and Policy 4.4.3 in respect to tangata whenua issues.
- Objective 5.4.4 and Policies 5.5.1, 5.5.7, 5.5.8 in respect to recognising and providing for natural and physical resources of significance.
- Objectives 8.4.1, 8.4.2, 8.4.3, 8.4.4 and Policies 8.5.1, 8.5.2, 8.5.3, 8.5.4 in respect to natural hazards.
- Objective 10.4.3 and Policy 10.4.4 in respect to dust/discharges to air.
- Objective 10.6.10, 10.6.12 and Policies 10.6.13, 10.6.15 in respect to visual amenity.
- Objective 10.8.10 and Policies 10.8.12, 10.8.14, 10.8.16 in respect to access.
- Objectives 18A.2.1 and 18A.2.3 and Policies 18A.3.1, 18A.3.2, 18A.3.4, 18A.3.5, 18A.3.7, 18A.3.8 in respect to the Residential (Mahia) Zone.
- Objectives 27.3.1 and 27.3.2 and Policies 27.4.3, 27.4.4, 27.4.5, 27.4.6 in respect to subdivision.

**6.0 PRINCIPAL ISSUES THAT WERE IN CONTENTION**

6.1 *In accordance with Section 113(1)(ad) of the Resource Management Act 1991, were three minor issues in contention at the hearing. These issues were:*

1. *At which stage the landscape planting proposed for Lot 25 should take place.*
2. *Who the responsibility for the construction of the stormwater swale would lie with (the consent holder or the future owners of the lots).*
3. *The hours during which construction activities could occur.*

6.2 *The Committee also considered the issues raised in the submission from TMTOR. These issues are summarised as follows:*

1. *How many of the original lot boundaries and house locations have been moved and re-numbered from the original Mahanga Beach proposal?*
2. *How many houses will be built on each lot?*
3. *In relation to water storage, will this be above ground or below ground?*
4. *That a cultural audit for the proposed 22 residential allotments be undertaken by John Hovell.*
5. *That a full archaeological assessment be completed by Gordon Jackman, registered archaeologist.*
6. *Noted that the applicant appears to have ignored several of the agreements made following the cultural audit undertaken as a condition of the previous subdivision that created the subject sites, namely:*

**Resolution Contd:**

- That no development shall be undertaken on the immediate location of whare/house sites identified on Lots 1 and 2.
  - That other identified occupation sites be marked with markers.
  - That the swap/lake area on Lot 7 of the original plan that has been identified be protected and allowed to regenerate to its former self.
  - That Mahanga Beach Limited will look favourably on future restoration, fencing and signage of the ancient urupa bordering on Lot 3.
7. No consultation regarding the proposal has been undertaken with tangata whenua.
8. The wastewater system is opposed until consultation is undertaken.

**7.0 SUMMARY OF EVIDENCE HEARD**

7.1 Pursuant to Section 113(1)(ac), (ad) and (ae) of the Resource Management Act 1991, a summary of evidence heard is provided below. This summary provides an overview of evidence heard and more detail where it involves issues of contention.

**The Applicant**

7.2 The applicant's planning consultant, Mr Ross Muir, summarised the application and gave an assessment of the proposal against the relevant statutory provisions. Mr Muir advised the Committee that the applicant largely accepted the conditions recommended by the Council's Consultant Planner but recommended that some alterations could be made to recommended condition 7 and 17(e) of the subdivision consent, in relation to the timing of planting of Lot 25, and the construction of a stormwater swale on Lot 25, and condition 7 of the land use consent, in relation to the hours of construction.

7.3 Mr Muir also outlined an amendment to the proposal that would see additional sites of cultural significance noted on the survey plan, physically identified on the site and protected by way of consent notice. The approximate location of these sites was shown in a plan included in his evidence (attached).

**Council's Consultant Planner**

7.4 Ms Emma France, the Council's consultant planner spoke to briefly to her report. Ms France also outlined that in her opinion, the proposal would not result in adverse effects that would be more than minor, and that the proposal was consistent with Part 2 of the RMA and the relevant objectives and policies of the Wairoa District Plan.

7.5 Ms France agreed with Mr Muir that the identification of see additional sites of cultural significance noted on the survey plan, physically identified on the site and protected by way of consent notice would be an appropriate way to mitigate the potential for adverse effects on the sites.

**Resolution Contd:**

- 7.6 *Ms France commented that in her opinion, undertaking the planting proposed for Lot 25 prior to the issue of a Section 224 certificate for Stage 1 would allow the plantings more time to establish, and thereby provide more effective mitigation for stages 3 and 4 once they are developed.*
- 7.7 *Ms France commented that the requirement for the consent holder to construct the stormwater swale on Lot 25 could easily be clarified and ensured through an amendment to the recommended conditions of consent.*
- 7.8 *Ms France also commented that the recommended condition of consent limiting the hours during which construction works could be undertaken is a standard condition of consent used for other similar consents. However, the limit did not come from a rule in the District Plan.*

**8.0 MAIN FINDINGS OF FACT**

- 8.1 *In accordance with Section 113(1)(ae), the main finding of fact are listed below.*

***Effects on the Environment***

- 8.2 *The Resource Management Committee finds that the adverse effects of the activity on the environment is no more than minor and this outcome can be ensured on an ongoing basis by imposing conditions on the consents.*

***Consistency with Statutory Documents***

- 8.14 *The Resource Management Committee has considered the provisions of the relevant statutory documents outlined above and it is found that the proposal is generally consistent with the policy direction set in these documents. This can be ensured by imposing conditions of consent.*

***Caves/His Worship the Mayor***

The Chairman thanked everyone for attending the meeting.

**CLOSED:** The meeting closed at 3.20pm.

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Chair