

**WAIROA DISTRICT COUNCIL**

**SPECIAL MEETING OF THE  
RESOURCE MANAGEMENT COMMITTEE  
(To Consider a Combined Land Use And Subdivision Consent  
Application - P N & J B Krzanich)**

Minutes of a Special meeting of the Resource Management Committee To Consider a Combined Land Use And Subdivision Consent Application by P N & J B Krzanich held in the Council Chambers, Coronation Square, Wairoa on Friday 21 September 2007 at 9.30am.

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

**COUNCILLORS**

S Birrell, D Caves, G McIntyre, B McKinnon, B Shortt

**IN ATTENDANCE:** W Wairau (Neighbour)  
Te Hira Whati  
P & J Krzanich (Applicants)  
T Lyall (Osyris Group, Address for Service)  
E France (Wairoa District Council's Planning Consultant)  
G Thompson (Secretary)

**CIVIC PRAYER**

The civic prayer was given by the Administration Manager, Mrs Te Aroha Cook.

**APOLOGY**

An apology was received from Mr T W Wilson.

<b><u>Resolved:</u></b>	<i>That an apology received from Mr T W Wilson be accepted.</i>	<b><i>Caves/Birrell</i></b>
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His Worship the Mayor welcomed everyone to the meeting and explained the procedures.

Mr Wairau advised the Committee he was a neighbour of the applicants and wanted to speak to the application. His Worship the Mayor advised him of the procedures.

**Mr T Lyall – Applicant's Consultant**

Mr Lyall explained the applicant is proposing to subdivide 2.3221 ha and Mr Lyall also explained the minimum sideyard setback requirements is 15 metres and the applicant is seeking reduction of side yard requirements to 5 metres on the proposed new lot is insufficient land between the property boundary and the protected wetland edge to allow the full 15 metre sideyards.

Councillors asked various questions regarding indigenous plants, protection of wetland, legal boundary of fence lines and drainage of stormwater into wetland.

## Exclusion of the Public

<b><u>Resolved:</u></b>	<i>That pursuant to Section 48 2(a)(i) &amp; Section 7(2)(g) of the Local Government Information and Meetings Act 1987, the public be excluded on the following grounds:</i>
	<ol style="list-style-type: none"><li>1. Section 48 (2) (a) (i)<ol style="list-style-type: none"><li>(a) Any proceedings before a local authority where-<ol style="list-style-type: none"><li>(i) A right of appeal lies to any Court or tribunal against the final decision of the local authority in those proceedings or</li></ol></li></ol></li><li>2. Section 7(2)(g) – Maintain legal professional privilege.</li></ol>
	<b>Birrell/Caves</b>

**EXCLUDED FROM:** 10.01AM

**READMITTED FROM:** 10.11AM

## General Items

### **COMBINED LAND USE AND SUBDIVISION CONSENT APPLICATION - P N & J B KRZANICH**

**RM 070001**

His Worship the Mayor reported on the application. He reported on Introduction, Description of the Site, Summary of the Proposal being Residential Lots, Access, Stormwater Disposal, Wastewater Disposal, Potable and Firefighting Water Supply, Site Services, Site Stability, Earthworks and Privacy, Shading and Visual Amenity, Submissions and Consultation being Submissions and Other Consultation, District Plan Rules and Activity Status being District Plan Status, Operative District Plan Rules and Activity Status for Subdivision and Land Use, Proposed Plan Change 1 Rules and Activity Status for Subdivision and Land Use, Overall Activity Status, Plan Change 1B Rules for Subdivision and Land Use, Plan Weighting, Statutory Considerations being Matters to be Considered, Determination of applications, Part II RMA Matters being Purpose of the Act, Matters of National Importance, Others Matters, Treaty of Waitangi and Summary Part II, Permitted Baseline, Assessment of Effects on the Environment being Overview, Visual Effects, Landscape Value and the Natural Character of the Coastal Environment, Amenity Values being Privacy, Shading and Visual Amenity, Density, Archaeological, Heritage and Cultural Values, Traffic and Access, Adverse Effects on the Nearby Wetland, Utility Services, Natural Hazards, Water Supply, Stormwater Disposal, Wastewater Treatment and Disposal and Financial Contributions, Statutory Documents being New Zealand Coastal Policy Statement, Hawke's Bay Regional Resource Management Plan, Proposed Regional Coastal Environment Plan and Wairoa District Plan, Summary – Operative Wairoa District Plan, Plan Change 1B to the Wairoa District Plan, Other Matters being Wairoa Coastal Strategy, Mahia Landscape Assessment (Wairoa Coastal Strategy Study), Wairoa District Council Engineering Code of Practice and Precedent Effects, Sustainable Management being Section 5 of the Resource Management Act 1991, Section 6 of the Resource Management Act 1991, Section 7 of the Resource Management Act 1991 and Section 8 of the Resource Management Act 1991, Section 104D Assessment being Adverse Effects, Objectives and Policies, Summary and Conclusion and Recommendation for Subdivision Consent Application and Land Use Consent.

<b><u>Resolved:</u></b>	<i>That</i>
	<b>A. Subdivision Consent Application</b>
	<i>Pursuant to Sections 104D, 106, 108 and 220 of the Resource Management Act 1991 the Wairoa District Council <u>grant</u> subdivision consent to PN &amp; JB Krzanich to subdivide Lot 2 DP 349802 as comprised in Certificate of Title 203862 to create two new allotments, as shown on the subdivision and development plans (Reference JN 05/102 prepared by Dagg &amp; Thorn Surveyors, Napier) subject to the following conditions.</i>

## **Resolution Cont'd:**

### **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. 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.*

### **Access**

3. *Prior to approval under Section 224 of the Resource Management Act 1991 the consent holder shall form a vehicle crossing serving Lot 1 in accordance with the Council's Engineering Code of Practice to the satisfaction of the Engineering Manager. The consent holder shall ensure that the vehicle crossing and vehicle access are designed and constructed 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.*

### **Consent Notice**

4. *A consent notice pursuant to Section 221 of the Resource Management Act 1991 shall be registered on the Certificate of Title for Lot 1 advising the owner(s) and subsequent owner(s) of the requirement to comply with the following condition on a continuing basis. The consent notice shall be prepared and registered at the expense of the consent holder.*
  - (a) *Prior to the construction of any building(s) on the Lot the owner(s) of the Lot shall provide 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).*

*The land shall not be built on unless the Council is satisfied that:*

- i. *the recommendations in the geotechnical report required by (a) above have been adopted in the building platform design; and*
- ii. *any risk from erosion, falling debris, subsidence, slippage, or inundation from any source can be satisfactorily 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 by a Chartered Professional Engineer experienced in geotechnical assessment has been provided to confirm (a) and (b) above and the following:*

**Resolution Cont'd:**

- *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.*
- (b) *The owner(s) of the Lot shall ensure that any onsite wastewater treatment and disposal system to be used on the lot is installed and operated in accordance with the requirements of the Hawke's Bay Regional Council.*
- (c) *Sufficient water storage for fire-fighting purposes shall be made available to the lot to the satisfaction of the Rural Fire Officer.*
- (d) *The owner(s) of the Lot shall ensure that the total building coverage of the site with impermeable surfaces shall not exceed 400m<sup>2</sup>.*
- (e) *The owner(s) of the Lot shall ensure that all structures are located to maintain 5 metre side yards.*
- (f) *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.*

**Shortt/McIntyre**

**Resolved:**

That:

**B. Land Use Consent**

Pursuant to Sections 104D and 108 of the Resource Management Act 1991 the Wairoa District Council grant land use consent to PN & JB Krzanich to construct a vehicle crossing that does not achieve the minimum requirements for sight lines or spacings between adjacent property accesses, and to construct a dwelling that does not achieve the performance standards for side yards, density, site coverage and minimum lot size on Lot 2 as shown on the subdivision and development plans (Reference JN 05/102 prepared by Dagg & Thorn Surveyors, Napier) subject to the following conditions.

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. 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.
3. The maximum building site coverage on the site shall not exceed 400m<sup>2</sup>.
4. All structures on the site shall maintain 5 metre side yards.

**1.0 APPLICATION**

- 1.1 The application relates to the land located on Happy Jacks Road, Mahanga. The site is legally described as Lot 2 DP 349802. The application is for a combined subdivision and land use consent to subdivide the application site to create two new allotments and construct a dwelling on Lot 2 that will not achieve all of the performance standards and conditions of the Wairoa District Plan for permitted activities.
- 1.2 The proposal is summarised as follows:

Residential Lots

- 1.3 The applicant proposes to create two residential allotments. Proposed Lot 1 will have an area of 2000m<sup>2</sup>. This lot is currently vacant and the applicant proposes that it will be sold as a rural residential lifestyle lot. Proposed Lot 2 will have an area of 2.1220ha. This lot contains the existing dwelling on the site and will be retained by the owners.

Access

- 1.4 Proposed Lot 1 will be accessed from Happy Jacks Road. The applicant proposes to construct a new vehicle crossing to provide for this access. This access will not comply with the performance standards for access in respect of sight lines and minimum spacings between adjacent property accesses, and therefore, the applicant seeks land use consent for this vehicle crossing. Proposed Lot 2 has an existing access to Happy Jacks Road.

**Resolution Cont'd:**

Stormwater Disposal

- 1.5 Stormwater runoff from proposed Lot 1 will be discharged to the low areas adjacent to the proposed building platform. A similar method caters for proposed Lot 2.

Wastewater Disposal

- 1.6 The existing dwelling on proposed Lot 2 has a conventional septic tank system. An onsite treatment and disposal system will be constructed on proposed Lot 1 at the time it is developed. HBRC has confirmed that such a system would not require resource consent approval for a discharge to land, provided secondary wastewater treatment is achieved.

Potable and Firefighting Water Supply

- 1.7 Potable water supply is by way of roof collection and onsite storage. The appropriate fittings for fire fighting will be installed on any new tanks.

Site Services

- 1.8 Proposed Lot 2 is already connected to power and telephone services. The appropriate service providers have confirmed that proposed Lot 1 can be provided with these services.

Site Stability

- 1.9 The applicant has demonstrated that a stable building platform can be achieved that will not be subject to natural hazards within proposed Lot 1.

Earthworks

- 1.10 No earthworks that are in excess of the District Plan limits will be undertaken in respect of this proposal. It is possible that earthworks will be required to be undertaken during the future development of proposed Lot 2, however the details of any such earthworks are not available at this time and should be assessed for compliance with the District Plan at the time a specific development is proposed.

Future Dwelling

- 1.11 The building platform identified on proposed Lot 1 will not be able to achieve the minimum 15 metre side yard setback required by the Wairoa District Plan. Therefore, the applicant seeks land use consent to allow future buildings on the allotments to have minimum side yard setbacks of 5 metres. Any future dwelling on Lot 1 will also not achieve the District Plan requirements in respect of maximum building site coverage, density and minimum site area.

**2.0 NOTIFICATION, SUBMISSIONS AND HEARING**

- 2.1 Notice of this application was served on the adjoining property owners to the north as well as the Department of Conservation (DOC), Hawke's Bay Regional Council (HBRC) and Te Mana Taiao O Rongomaiwahine (TMTOR). One submission was received from TMTOR.

- 2.2 The hearing was held on the 21<sup>st</sup> September 2007 at the Wairoa District Council chambers.

**Resolution Contd:**

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

- *The planning report, dated 20<sup>th</sup> August 2007 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.*

2.4 *The Committee had also undertaken a site visit.*

**3.0 REASONS FOR THE DECISIONS**

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:*
- *The site can be adequately accessed and serviced.*
  - *Adverse effects on the natural character, ecological values, cultural values and amenity of the area will be no more than minor.*
  - *Adverse effects in respect of access and natural hazards can be adequately mitigated.*
- (b) *The proposal is considered to be consistent with the relevant objectives and policies of the Wairoa District Plan, Proposed Plan Change 1B and the other relevant statutory and non-statutory documents.*
- (c) *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.*
- (d) *The proposal can avoid or mitigate adverse effects associated with natural hazards of the type referred to in Section 106 of the Resource Management Act 1991.*
- (e) *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.*
- (f) *The proposal passes the statutory tests of Section 104D of the Resource Management Act 1991.*

## **Resolution Cont'd:**

### **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.

New Zealand Coastal Policy Statement

Hawke's Bay Regional Resource Management Plan

Proposed Hawke's Bay Regional Coastal Environment Plan

Operative Wairoa District Plan

- Objectives 4.3.1, 4.3.3, 4.3.4 and Policy 4.4.3 in respect of tangata whenua issues.
- Objectives 5.4.2, 5.4.3, 5.4.4 and Policies 5.5.1, 5.5.7, 5.5.8 in respect of recognising and providing for natural and physical resources of significance.
- Objectives 6.4.1, 6.4.3, 6.4.4, 6.4.5 and Policies 6.5.1, 6.5.2, 6.5.3, 6.5.4 in respect of subdivision, use and development in the coastal environment.
- 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 of natural hazards.
- Objective 10.4.3 and Policy 10.4.4 in respect of dust/discharges to air.
- Objective 10.6.10, 10.6.12 and Policies 10.6.13, 10.6.15 in respect of visual amenity.
- Objective 10.8.10 and Policies 10.8.12, 10.8.14, 10.8.16 in respect of access.
- Objectives 27.3.1, 27.3.2 and Policies 27.4.3, 27.4.4, 27.4.5, 27.4.6 in respect of subdivision.

Plan Change 1B to the Wairoa District Plan

### **6.0 PRINCIPAL ISSUES THAT WERE IN CONTENTION**

6.1 In accordance with Section 113(1)(ad) of the Resource Management Act 1991, there were no issues in contention at the hearing, although the Committee did consider the issues raised in the submission from TMTOR. These issues are summarised as follows:

- The significance of this area to tangata whenua;
- The potential for koiwi to be uncovered during site development;
- Monitoring of earthworks;

## **Resolution Cont'd:**

- Wastewater should be treated to secondary standard and that no discharge should occur within 20 metres of any wetland;
- The location of the water storage tank on proposed Lot 1;
- Opposes the abstraction of any water from the wetlands;
- Opposes the discharge of stormwater to the wetland;
- Any building platform should be inspected by a registered geotechnical engineer;
- Potential for adverse effects on the wetland through the provision of access to proposed Lot 2;
- Potential for traffic safety effects;
- Opposes the application for a side yard setback waiver;
- The significance of the wetlands to tangata whenua;
- Support for the ongoing wetland restoration and tree planting being undertaken by the applicants on the site, however there are concerns that restoration work is being undertaken on a different wetland to the one referred to in the application.

### **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 agent, Mr Trevor Lyall, briefly summarised the application and advised the Committee that the applicant accepted the conditions recommended by the Council's Consultant Planner.

#### **Council's Consultant Planner**

7.3 Ms Emma France, the Council's consultant planner spoke to briefly to her report. Ms France also outlined that in her opinion, in the context of the particular features of this site including the covenanted wetlands, the topography of the site and the development on the surrounding sites the proposed subdivision and development is consistent with the objectives and policies of the Wairoa District Plan and Plan Change 1B.

7.4 Ms France commented that the submission from TMTOR raised a number of general matters in respect of the subdivision such as access, services and land stability. The applicant has demonstrated that all of these matters can be adequately addressed through conditions of the consent or at the time the Lot 1 is developed. Matters of cultural importance, such as the potential to uncover koiwi during site development could also be addressed through conditions of consent.

### **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.

**Resolution Cont'd:**

**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/McIntyre**

His Worship the Mayor thanked everyone for attending the meeting.

**CLOSED:** The meeting closed at 10.12am.

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Chair