



28 May and 25 June 2010

**501/05/10**                      **APOLOGIES**  
**AGENDA ITEM NO.**        **1**

There were no apologies.

**502/05/10**                      **A NOTIFIED RESOURCE CONSENT APPLICATION UNDER SECTION  
88 OF THE RESOURCE MANAGEMENT ACT 1991**  
**AN APPLICATION FOR CONSENT TO UNDERTAKE A SUBDIVISION  
WITH THE EXISTING SITE LOT 9 D.P 92986, TO CREATE A BALANCE  
SITE OF 19.9879HA (PROPOSED LOT 2) AND ONE NEW RURAL  
RESIDENTIAL SITE (PROPOSED LOT 1) OF 1.10HA, BY  
UNDERTAKING THE FOLLOWING:**

1.     **PROTECTING 2.53HA OF YOUNG SHRUBLAND (SHOWN AS  
AREAS A, B AND C ON THE SCHEME PLAN) WHICH INCLUDES  
THE PROTECTION OF A COLONY OF PLANT (*POMADERRIS  
HAMILTONII*) LISTED AS ‘SPARSE’ BY THE AUCKLAND  
BOTANICAL SOCIETY AND THE HABITAT OF A NATIVE  
CENTIPEDE.**
2.     **RETIRING 1,300M<sup>2</sup> AREA OF THE SITE (SHOWN AS AREA D ON  
THE SCHEME PLAN).**

Address: 271 Takatu Road, Omaha Flats

**APPLICANT: JUTLAND TRUST**

**FILE REF**                      **RMA 54547**  
**WARD**                              Northern  
**AGENDA ITEM NO.**        **2**

The applicant seeks consent to subdivide a 21.0879ha property at 217 Takatu Road, in the Omaha Flats area, into two residential lots. The applicant is seeking to create a new 1.10ha rural-residential property (Proposed Lot 1) in the eastern corner of the site on the Takatu Road frontage. Proposed Lot 2 will contain the balance area which includes the existing house and other existing development that has already taken place on the site such as accessory buildings and driveways. This balance lot will be 19.9879ha in size. The applicant offers the following mitigation for the entitlement to an additional rural residential lot:

- Protecting 2.53ha of young shrubland, (shown as Areas A, B and C on the scheme plan) which includes the protection of a colony of plant (*Pomaderris hamiltonii*) listed as ‘sparse’ by the Auckland Botanical Society, and the habitat of a native centipede.
- Retiring a 1,300m<sup>2</sup> area of the site (shown as Area D on the scheme plan).

The applicant, Jutland Trust (Stephen and Claire Smythe), and the applicant’s representatives, Kitt Littlejohn (Counsel), Karen Pegrume (Planner), Sarah Flynn (Ecologist), and Ian Smith (Surveyor), present.

9.02 a.m.     The Chairperson opened the hearing and outlined the meeting procedure.

A copy of the Environment Court decision Rodney District Council v C & K Batten (ENV-2008-AKL-000083) was tabled.

Kitt Littlejohn opened proceedings for the applicant. Mr Littlejohn distributed and read a written submission.

28 May and 25 June 2010

---

Mr Littlejohn said that the basis of the application was the protection of a significant stand of native bush, assessed as such under the relevant District Plan assessment guidelines, of 2.53 hectares in area. The applicant had also offered to retire a further 3900m<sup>2</sup> of the site from active rural production activities.

Mr Littlejohn said that one particular feature of the application had caused Council staff considerable angst, and was the reason the reporting planner, on their collective behalf, considered the application should be declined. That particular feature was the fact that the bush offered for protection was planted by the applicant in 2004. Council officers maintained that the age of the bush and its existence as a result of planting (as opposed to natural regeneration) disqualified it from being eligible for protection under the “bush block” subdivision rule. They claimed that it was actually an enhancement planting proposal of insufficient area and therefore non complying.

Mr Littlejohn outlined the basis of the application and statutory scheme. He said that the main issues in contention were:

- What was the status of the application?
- Does the bush achieve the necessary score to be eligible for protection?
- What are the environmental effects of the subdivision?
- How does the proposal relate to relevant objectives and policies?
- Does the application meet the purpose of the Resource Management Act 1991?

Mr Littlejohn was requested to provide copies of the case law decisions he had referred to in his submission.

In response to questions from the Panel, Mr Littlejohn said that:

- The rule under which embarking on assessment was clear as to what constituted native bush for the purpose of the rule; there were very specific provisions regarding evaluating bush that was growing, and a more general proposition of what the plan thought about the bush.
- When faced with inconsistent specific rules one did not yield to general ones.
- The absence of submissions was not the same as any positive evidence; all it meant was there was a lack of submissions.

Referring to the Batten decision, Mr Littlejohn said that Plan Change 55 did not have a catch all rule for subdivision; section 77c was the default position.

Stephen Smythe distributed and read written evidence. The following was noted:

Mr Smythe spoke of the advice he had been given by a Council staff member in regard to enhancement planting in the early stages of considering subdivision. He said that he had obtained similar advice from surveyors, planners and engineers and had been surprised when it came to lodgement of the application that the advice was not consistent. Mr Smythe said that the steepest slopes of the property had been cleared of their cover of pines and gums and the area replanted in native bush. He said that the vigorous stands of *Pomaderris hamiltonii* that were present amongst the pines had been retained. Mr Smythe said that he and his wife had actively pursued retirement of other unsuitable areas of the farm. To date around 50% - some 10ha – had been retired into the bush block, a wetland and the house garden. Over 50,000 native plants had been planted on the property in the time they had lived there.

Mr Smythe said that the site chosen for subdivision was largely comprised of a part of the bush with a complying house site and sufficient flat land for entry and on-site turning. The land which didn't contain bush that had been taken for the new lot was of class 3 to 6 soils and as such there was an insignificant impact on the productive capability of the parent farm, long term. Mr Smythe said that it was highly probable that the purchaser of the new property would value not only the views but the benefit of the bush, bird life and lack of land to let go to rack and ruin, as seemed to occur with many lifestyle blocks.

28 May and 25 June 2010

---

Sarah Flynn distributed and read written evidence. The following was noted:

Ms Flynn described the vegetation and flora present within the proposed bush protection area on the subject property. She provided an overview of the Rodney District Plan guidelines for the assessment of bush quality, and presented an assessment of the area proposed for covenanting in accordance with those guidelines. She also gave her opinion on the viability and conservation significance of the colony of *Pomaderris hamiltonii* (a regionally endemic threatened plant) that was present within the proposed covenant area.

Ms Flynn said that the proposed area of bush encompassed 2.3ha of native bush, established as restoration planting in 2004. Vegetation comprised manuka and kanuka scrub between 3 to 4m tall. A dense shrubland of *Pomaderris hamiltonii*, a regionally endemic threatened plant, covered approximately 0.2ha of exposed upper hillside. Rule 11.1 in the Council's Operative District Plan allowed for the subdivision of sites in return for the protection of significant stands of native bush. The assessment methodology set out in the District Plan provided a dual-scale system as an objective means of determining whether an area of indigenous vegetation was of sufficient quality to qualify for 'conservation lot' subdivision. Ms Flynn said that these guidelines were explicitly intended for implementation by lay people with a limited knowledge of bush quality or indigenous bush species. As such, in her view, this system envisaged no additional evaluation to determine whether a subject site met the definition of "native bush".

Ms Flynn discussed the scores she had given to the bush in both Scale 1 and 2 and said that the total score of 36 exceeded the score required to qualify for a bush subdivision. She believed that under the District Plan criteria the proposed bush protection area was considered to be of sufficient quality and size to warrant the addition of one extra rural residential site to the land parcel at 271 Takatu Road.

Ms Flynn said that the presence of the large colony of *Pomaderris hamiltonii* was the fundamental attribute that rendered the proposed bush protection area ecologically significant. Most of the other colonies of this plant within the Warkworth area that she was aware of were small, sparse and vulnerable to disturbance due to their size and location. Ms Flynn said that while she acknowledged that revegetation of the proposed bush protection area may have curtailed regeneration of *Pomaderris hamiltonii* across the hill slope, she considered the buffering effect of the revegetation planting to be beneficial as it would suppress the establishment of weeds which in her view would be more detrimental than the planted vegetation. She considered that a few straightforward management provisions would provide reasonable certainty of long-term viability for the *Pomaderris hamiltonii* colony in the proposed bush protection area. These included:

- Gorse control
- Removal of manuka and kanuka from amongst the *Pomaderris hamiltonii* colony
- Monitor any bare patches/slips of the property for *Pomaderris hamiltonii* seedlings, and keep new colonised sites free of weeds and scrub.

Mr Smythe confirmed that he accepted Ms Flynn's recommendations.

In response to questions from the Panel, Ms Flynn said:

- She imagined gorse control would be by way of consent conditions; a management plan could be readily provided and could be monitored and referred to.
- The criteria in the District Plan only require that a threatened species is present; the covenant site would provide for protection of the population. There was a requirement that the species must remain viable. It had to be demonstrated that the *Pomaderris hamiltonii* was a viable and self-perpetuating population; this was the largest known colony of this species on the mainland.
- *P hamiltonii* grows to 3 - 4m and its presence was the unusual feature of the proposal; its presence tipped the balance for her and hence the way she had scored it in accordance with the plan.
- *Pomaderris hamiltonii* was an early successional species which tended to colonise bare sites and naturally moved around the landscape. The skerricks of it along the road side did not provide for protection of the species; the plant needed to find places to bulk up and dominate a site for a while in order to disperse seed into the landscape; it moved around the landscape.

28 May and 25 June 2010

- Essentially the disturbance needed to be maintained, this would be done by removing the competing species.
- In the very long term the site would regenerate to forest. When the plant population of *Pomaderris hamiltonii* loses dominance she believed it would remain around the margins; it would stay on the site but not in the same abundance (an estimated timeframe of 50 - 100 years).
- Protection of this site did not ensure protection of the species and regional councils needed to be more proactive in its protection; this was a necessary step toward facilitating protection.
- She thought that in 10 years, with active management, the *Pomaderris hamiltonii* would be there in a reasonably large quantity.
- In terms of the bush itself without the presence of the *Pomaderris hamiltonii*, the bush was not significant.
- The population of *Pomaderris hamiltonii* was present at the site because of the poor soil quality and exposed nature of the site; it had done better than the native planting because the site was poor.

Ms Flynn said that if the *Pomaderris hamiltonii* had not been present the bush would need a greater diversity of species and a better understorey to score above 20; the understorey was sparse. Over time that would develop but with the process of succession could take 60 years or longer; it was entirely appropriate for it to take that long. Given the composition of the bush and the absence of weed species, and the maintenance of the site, the trajectory of the site was going that way. She thought that the 'bar' for bush quality assessment in the Council's District Plan was set quite low however it indicated a desire to move towards restoration.

10.50 a.m. - 11.12 a.m. Morning tea adjournment.

Council's Consultant Ecologist Amy Bazeley addressed the Panel.

Ms Bazeley said that Ms Flynn had rightly identified her main concerns; however Ms Bazeley said that she had concerns that the application would open the floodgates for revegetation projects to be considered as significant. Ms Bazeley said that she had concern with the maintenance of the *Pomaderris hamiltonii* as well as concerns as to whether it would be present in time to come. She said that she agreed that the criteria in the District Plan in reference to Appendix 7 weren't particularly rigorous when compared to other criteria used in other district plans. She and Ms Flynn both agreed the *Pomaderris hamiltonii* was significant but the main issue from the outset was whether the criteria for scoring should be applied to forest rather than shrubland. Ms Bazeley said that she agreed the presence of the species was of ecological note but how that fitted into a planning context in terms of subdivision was questionable. Ms Bazeley said she thought maintenance of the *Pomaderris hamiltonii* would be important if it was used for subdivision rights. The presence of plants was different to the presence of bush however it was desirable to have the *Pomaderris hamiltonii* protected.

Mr Littlejohn tabled a copy of Variation 63.

Karen Pegrume distributed and read written evidence.

Ms Pegrume discussed the application site and surrounding area as well as detailing amendments to the application which included a slight adjustment to the proposed building platform and additional information in regard to hydrological neutrality and the presence of a native centipede.

Ms Pegrume discussed in detail the status of the application as lodged. She said that in her opinion the plan provisions with the most weight were those in the Operative District Plan and she considered there was no need to refer to the General Rural provisions in the Proposed District Plan as the zoning of the site had changed. All other Proposed District Plan provisions (e.g. Chapter 23) however, remained relevant. Ms Pegrume said that regard still must be had to the provisions of Variation 63, although relatively little weight could be placed on them.

Ms Pegrume addressed the Assessment of Effects which included matters in regard to ecology, water quality and quantity, site stability, rural character and amenity, and reverse sensitivity with surrounding land uses. She also referred to earthworks, traffic, and financial contributions. Ms Pegrume discussed the relevant planning and policy provisions and identified the key objectives and policies she considered to be of relevance.

28 May and 25 June 2010

---

Ms Pegrume discussed the officer's report and the peer review by Ms Bazeley. Ms Pegrume noted that the report by the Council's reporting officer concluded that as this site did not have bush growing on it then it was a non-complying activity under the Operative District Plan. Ms Pegrume said that in her opinion that conclusion was wrong.

In conclusion, Ms Pegrume said that in her opinion it was beyond doubt that this stand of bush with a significant colony of rare plant in it was worthy for protection under the District Plan subdivision provisions as a Restricted Discretionary activity under the Operative District Plan. The adverse effects on ecology would be less than minor in terms of water quality and habitat disturbance that an additional lot may create. There would be no adverse effects on character and amenity values in the area. A safe building platform could be created and there were no traffic effects.

In response to questions from the Panel, Ms Pegrume said that Variation 63 could be given very little weight, but the proposal was not contrary to what Variation 63 sought to achieve; Variation 63 would allow for a site with no mitigation. She said that the land was a large block and not productive.

- The presence of the *Pomaderris hamiltonii* very much tipped the balance - there weren't usually very large populations of it; there were extreme fluctuations.
- The colony on the site had produced a carpet of seedlings over the summer; it was quite an important site for its viability.
- In nursery conditions it was not a plant that readily germinated.
- The native centipede was not very common because of the high disturbance of the habitat.
- The applicant would accept a 'no cats' covenant.

The Chairperson requested that the Panel be provided with a cadastral map of the site.

Ms Flynn said that the scoring system was much more inclusive than exclusive.

12.30 p.m. - 1.19 p.m. Luncheon adjournment.

Council Officers:

Amy Bazeley addressed the Panel.

Ms Bazeley said that she had concerns over the maturity of the feature rather than the vegetation per se. In assessing the criteria themselves she didn't think the area of vegetation met the definition of 'bush'. The presence of the *Pomaderris hamiltonii* was important, as was its environmental protection. She said that for her, the biggest difficulty was that the rule was for protecting significant bush.

Anne Hessell addressed the Panel. The following was noted:

Ms Hessell said that the application had been lodged in September 2008 and there was now a new variation for the area (Variation 63). She said that under section 88A of the RMA the application had to be considered, determined and processed for the type of activity that it was for, or treated as being for at the time the application was lodged, i.e. Plan Change 55 and Chapter 7 of the Proposed District Plan. However, the Panel could have regard to Variation 63. Ms Hessell said that she considered she would need legal direction on point 16 of Mr Littlejohn's submission.

Ms Hessell said that there had been ongoing debate about the definition of native bush between Council officers and the applicant and the applicant's representatives; the definition applied across land use and subdivision activities. With regard to non compliance and environmental effects, Ms Hessell said that if subdivision was not offset by significant native bush the issue then related back to the effects on the environment. Referring to comments from Mr Smythe with regard to the advice given to him by Council staff in the early stages of considering subdivision, Ms Hessell said that would not have been the type of advice she would have given out.

With regard to points raised in statements of evidence that the Council were prejudiced because the bush was planted rather than occurring naturally, Ms Hessell said that if someone planted 2 - 3ha of bush and came in 20 - 30 years down the track the situation would be viewed differently. With regard to the rare plant (*Pomaderris hamiltonii*) she believed that should only be considered once the

28 May and 25 June 2010

definition of native bush had been met, and then the scoring was applied. Ms Hessell said that there was a real question about how the first two steps were satisfied.

Ms Hessell said that the Panel should be wary about putting too much weight on Variation 63 as a decision had not been reached and there were some submitters against what the variation proposed for subdivision. In conclusion Ms Hessell noted that there were two other subdivision applications currently lodged on the subject property. Ms Hessell said that she stood by her recommendation to refuse consent.

In response to questions from the Panel, both Ms Hessell and Ms Flynn said that in terms of Part II (purpose and principles, matters of national importance) of the RMA the presence of the *Pomaderris hamiltonii* was significant.

Mr Littlejohn presented the right of reply. The following was noted:

Mr Littlejohn referred the Panel to Map 8 in the Proposed District Plan.

Mr Littlejohn said that the key aspect in regard to Amy Bazeley's report was that the proposal was going to open the floodgates for other revegetation applications. Mr Littlejohn referred the Panel to 11.1 and 11.3 of the Operative District Plan; he considered it to be a simple interpretative exercise with regard to the definition of native bush. Mr Littlejohn said that the guidelines made reference to manuka and kanuka qualifying. With regard to comments about the vegetation not being mature enough and not forest, there were lots of rules in the District Plan and in society in general which were open to interpretation. The issue came down to what score was achieved and there was confident agreement between the people who had looked at the bush. The presence of the *Pomaderris hamiltonii* was a feature that made up for the lack of maturity of the understorey. But for that plant the vegetation would be just another patch of scrub and would need another 5 or 10 years before it qualified; it was a question of timing.

The application presented an opportunity to put in place protection for bush which would become forest in due course, and it would also allow the protection and management of *Pomaderris hamiltonii*. Mr Littlejohn noted that when Variation 63 came into effect there would be no obligation for the applicant to do that. He also noted that one of the objectives in the District Plan was natural features in the rural landscape.

Mr Littlejohn said he would provide a copy of the Environment Court decision between the Minister of Conservation and the Royal Forest and Bird Protection Society and Western Bay of Plenty Council.

1.55 p.m. The Chairperson adjourned the hearing.

Following the adjournment of the hearing the Chairperson issued a memorandum to all parties requesting information on the types of methodologies which could be used to sustain the colony of *Pomaderris hamiltonii* in the long term. Following receipt of this information the Chairperson considered it necessary to reconvene the hearing.

**The hearing reconvened on Friday, 25 June 2010 at 9.15 a.m.**

**PRESENT:** Commissioners John Childs (Chair)  
Alan Watson

**IN ATTENDANCE:** Reporting Planner Anne Hessell  
Team Leader Erick Oosthuizen  
Consultant Ecologist Amy Bazeley  
Ecology Advisor Rue Statham  
Democracy Services Officer Raewyn Morrison

28 May and 25 June 2010

---

9.15 a.m. The hearing was reconvened at the request of the Panel in order for the applicant's Ecologist and the Council's Consultant Ecologist and Ecology Advisor to address the issue of the sustainability (long term) of the *Pomaderris hamiltonii* and the methodologies which could be used to sustain it. Correspondence had been exchanged between the applicant's representatives and the Council's representatives in regard to the question posed by the Panel.

The applicant, Jutland Trust (Stephen and Claire Smythe), and the applicant's representatives, Kitt Littlejohn (Counsel), Karen Pegrume (Planner), and Sarah Flynn (Ecologist), present.

Amy Bazeley tabled a copy of her qualifications.

Kitt Littlejohn was invited to address the Panel.

Mr Littlejohn said that he proposed to allow Ms Flynn to speak in regard to the methodology she proposed and she would then speak to the information that had been provided during the exchange of documents by Ms Bazeley and the Council's Ecology Advisor. Mr Littlejohn considered there was an issue in regard to the meaning of the word 'perpetuity' in the District Plan; the issue being that any natural problem would not remove the legal protection as the land would still remain retired.

Ms Flynn addressed the Panel.

Ms Flynn spoke with regard to the physical scrub and weed control and monitoring of the site both in terms of actual monitoring, the presence and abundance of the *Pomaderris hamiltonii*, and measuring the rate of establishment and rate of growth of scrub and weeds. She suggested that at 5 yearly intervals an expert should undertake a monitoring report taking into consideration the time it might take for the scrub to develop and mature, noting that on low nutrient sites this would take longer.

Ms Flynn considered that either an ecologist (or similar) or the landowner should be responsible for monitoring the site annually in addition to the review process every 5 years. She believed that in the longer term the soil conditions would change with an increase in organic material and as a result of the site becoming more sheltered, which in turn might affect the *Pomaderris hamiltonii*. She said that the *Pomaderris hamiltonii* didn't require low nutrient soils and it could survive in a variety of conditions, the issue was how it reacted with other species; generally it competed better in poor conditions.

In response to questions from the Panel, Ms Flynn said that:

- With regard to annual monitoring she thought the applicant could do that themselves and a template for that purpose had been provided.
- With regard to the determination of the size of the patch of *Pomaderris hamiltonii*, it would be well documented and there was a process of audit by the Council, who could come and look at the site at any time.
- With regard as to who would benefit from protection of the species, people with botanical interest would find it very interesting; it was of intrinsic value; it was a biodiversity that occurred nowhere else in the world. From a scientific point of view, taxonomists required plant material, and samples could be obtained from this site. The Botanical Society has known about the site for some time and had a great interest in it.
- She did not think the site needed fencing off, instead it could be delineated by GPS and the boundaries measured as well as plotted on an aerial photograph identifying the margins.
- With regard to trying to maintain a viable population on site, the species didn't need to be in the same place and be the same size - it was not a static population but it was a viable one; she would hate to see the landowner penalised.
- Monitoring was not an onerous task; there would be weed control once a year. No signposting would be necessary as the botanical community were aware of the presence of the plant.

Mr Smythe said that the bush area would be covenanted and there were options as to who would be the beneficiary, for example it could be Queen Elizabeth II Trust (QEII Trust); livestock would not be able to enter the area and he would encourage people to come and view the plant.

28 May and 25 June 2010

---

Mr Littlejohn said that he had been involved in cases of a heritage nature and there was sometimes a condition imposed as to groups viewing a site on invitation no more than once every 12 months. Mr Littlejohn offered to provide a draft condition in this respect. He said the land would be subject to a covenant and the successor might like to specify the size of the group able to have access to the area.

Referring to the comments circulated by the Council officers, Ms Flynn said that:

- With regard to the question about the minimum size of the *Pomaderris hamiltonii* and keeping it in its current state, the aim should be to maintain a viable population.
- The species would remain on site very probably without much management although it might retreat to the margins.
- Shading of the population or sheltering or encroaching from the margins was not going to cause catastrophic collapse and she didn't think there needed to be a 15m buffer.
- The disposal fields should not be in the area of the *Pomaderris hamiltonii*.
- With regard to perpetuity, she saw merit in active management but in the long term ultimate maturity usually resulted in a catastrophic event. In the very long term the population may not be there but the intent of the rule was that bush would be there.
- The *Pomaderris hamiltonii* was part of a dynamic ecosystem.

In response to questions from the Panel, Ms Flynn said that:

- She imagined the population would be there in 20 - 50 years time although it would be surrounded by denser bush.
- Pest control - she didn't think anything was necessary beyond possum and rat control.
- Bonding was usually done for maintenance and monitoring but not used as a surety for a significant feature.

The Chairperson noted that a consent notice on the title could contain an approved management plan (on an ongoing basis).

Amy Bazeley addressed the Panel. The following was noted:

Ms Bazeley said that the colony of *Pomaderris hamiltonii* was considered to be of national importance. It met some of section 6(c) of the Act but there was a question as to its long term viability; that needed to be ensured. She said that natural fluctuation of the colony would always occur and she felt it would be ideal to keep the significance value, i.e. its size (as in numbers) because of the genetic population. In terms of maintaining plants there should be some management of the rest of the vegetation around the colony in order to maintain the size of the population. Ms Bazeley said that the vegetation planted around the *Pomaderris hamiltonii* was of high density and she noted that the species generally preferred to be in the open; she envisaged it would be necessary to do some clearance to deal with shading. She said that leaf litter would eventually create better soil conditions which would need some maintenance. Ms Bazeley considered that more specialist monitoring would be required and that the site should be looked at firstly by a specialist so as to give some basis over time. She said that there should be a GIS plan of the patches of *Pomaderris hamiltonii*, total counts of the plants, a height size survey and also the development of trigger points would be important to manage the plant colony. The data collected during monitoring rounds would need to give good answers to monitoring questions.

Rue Statham addressed the Panel.

Mr Statham said that the reason the *Pomaderris hamiltonii* was sustainable in such good numbers was because of the removal of the forestry plantation, as demonstrated in the article 34(3): 0-0 of New Zealand Journal of Ecology (tabled). Mr Statham said that the article tabled had noted that *Pomaderris hamiltonii* had colonised the niche habitats created by forestry plantations which were constantly reworked, with no specific management technique. Mr Statham considered that over time the plant colony might recede to the periphery of the proposed covenant area and he questioned the significance of the plant should that occur. With regard to national importance, Mr Statham said that he concurred with a lot of what the parties said; the plant was on a list of rare and threatened plants and its range was restricted but he considered that could be based on data 10 years out of date.

28 May and 25 June 2010

---

Mr Statham said that in his professional opinion there was false ecology in managing the plant and it was onerous on both the applicant and the Council to expect someone to maintain a population artificially. In his opinion more management would result in more work in regard to compliance and monitoring. He said that he would argue whether ecologically, given the nature of the plant, it was really justified to manage the plant. Mr Statham also said that there were no specific provisions within the District Plan providing for the protection of rare or threatened species, and that the District Plan had already considered section 6c of the RMA (the Act) and provided protection mechanisms within existing objectives, rules and policies to provide for the protection of such plants, animals and communities.

The Chairperson asked Mr Statham to state his qualifications.

Anne Hessell addressed the Panel.

Ms Hessell said that in terms of section 6(c) of the RMA she had concerns about focusing on that in isolation and that rather, the Panel should be looking at the level of environmental benefit that the Plan allowed. Ms Hessell confirmed that she still stood by her recommendation to decline consent.

10.21 a.m. - 10.39 a.m. Morning tea adjournment.

Ms Flynn addressed the Panel.

Ms Flynn said that with regard to comments about significance and size of the *Pomaderris hamiltonii*, in her opinion it was more important to maintain a stronghold. The issue of management of the buffer vegetation and shading could be a matter for the 5 yearly review process. In her opinion the vegetation would not need to go back any further than the dripline (rather than a large buffer; 15m was excessive). With regard to the monitoring conditions these should incorporate Ms Bazeley's recommendation for a GIS map, but rather than a total count of the amount of plants she considered that density should be looked at in randomly located plots, this would provide a reliable estimate of the density.

Ms Flynn said that she did not agree with Mr Statham that the threat assessment was out of date. She also noted that the matter of the forestry cycle and disturbance was a period of 20-25 years. With respect to the subdivision proposal, it was marginal bush in regard to the District Plan criteria but the distinguishing factor was that it contained a threatened plant. In terms of District Plan requirements for the bush to have grown enough to qualify for subdivision, conservatively she estimated another 10 years. With regard to the issue of pests, *Pomaderris hamiltonii* was not particularly palatable to browsing animals.

Kitt Littlejohn presented the right of reply.

Mr Littlejohn said that benefits, access and intrinsic values were section 7 matters; the Act already recognised nature as valuable in its own right. He said that Mr Smythe would be happy for limited access to the plant colony and that could be incorporated into the consent notice. With regard to the issues of compliance, that was a Council matter. Mr Littlejohn said that there were basic techniques which could be achieved and implemented. He said that Mr Smythe was not prepared to offer a bond. Mr Littlejohn said that section 6 matters of the Act were not the be all and end all and there was nothing in section 5 that referred back to s.104; the tests in section 5 were broad and certainly did not lead back into analysis of what the District Plan said. With regard to placing guarantees on longevity, Mr Littlejohn said that Ms Flynn estimated the population of *Pomaderris hamiltonii* could be maintained for approximately 50 years or more and that it would assist in seed dispersal throughout the district; in a hundred years there would be a mature bush block.

The Chairperson said that the Panel was of a mind to grant consent and would like to see a set of draft conditions from the applicant. There would then be the ability for Council staff to comment.

28 May and 25 June 2010

---

Such issues to be addressed in conditions were a Management Plan including:

- No disposal fields located within the area of *Pomaderris hamiltonii*
- Herbicides
- Pest control
- Fencing or barriers
- Access
- Scrub and weed control
- Monitoring
- Fire
- Pest management
- Location of species and how is that achieved
- Edge maintenance
- Retention of the rest of the bush
- The way it can be dealt with by way of covenant
- Potential for annual report by applicant
- 5 yearly review.

If the applicant's representatives and the Council's officers did not agree with any condition they were instructed to state their reasons in writing.

A memorandum was circulated with regard to the above.

11.15 a.m. The Chairperson adjourned the hearing.

The Chairperson declared the hearing closed on Monday, 2 August 2010 at 4.00 p.m.

The Panel resolved:

#### **Childs/Watson**

#### **THE DECISION:**

**That pursuant to Section 104 and 104D of the Resource Management Act 1991 the notified application for resource consent by Jutland Trust to undertake a subdivision to create an additional rural-residential site of 1.1ha by protecting 2.53 hectares of revegetated area which includes the protection of a colony of a plant (*Pomaderris hamiltonii*) that is listed as 'sparse' and the habitat of a native centipede and retiring 4,900m<sup>2</sup> area on the site at 271 Takatu Road (Lot 9 DP 92986) is granted consent.**

#### **REASONS FOR THE DECISION:**

**Pursuant to Section 113 of the Resource Management Act 1991, the reasons for this decision are as follows:**

- a) *Pomaderris hamiltonii* (Ph) is a threatened and endangered plant and as such the Panel is satisfied that the retention of this plant which forms part of the area subject to this application is a matter of national importance in terms of Section 6(c) of the Act.
- b) The Panel is satisfied that subject to conditions the *Pomaderris hamiltonii* can be effectively protected in the long term.
- c) The retention of the *Pomaderris hamiltonii* will, coupled with the associated shrub land, have positive environmental effects as a threatened and endangered plant will be retained in the long term. The Panel notes that this is a regionally endemic threatened species which is vulnerable to rapid population decline. Its retention in an area of native shrub land will, subject to conditions, reduce its vulnerability.

28 May and 25 June 2010

- 
- d) The retention of the shrub land including the *Pomaderris hamiltonii* is generally consistent with District Plan provisions which seek to maintain and enhance rural character by retaining an area of native shrub land which includes a threatened / rare endangered species.
  - e) Given the presence of the *Pomaderris hamiltonii* the shrub land to be protected meets the intent of Appendix 7B of the District Plan 2000 (Guidelines for the Field Assessment of Native Bush Quality in Rodney District) to the extent that an endangered species will be protected and young shrub land will be retained in the long term.
  - f) The proposal is consistent with Regional Policy Statement's strategic objectives which, amongst other things, seek to identify areas of significant vegetation and protect them from inappropriate subdivision and development. (Part 2.5.1.5) This is achieved by the location of the building site for the proposed future lot being situated adjacent to the road and the protection of the shrub land including the *Pomaderris hamiltonii*.
  - g) The proposal is consistent with Part II of the Act as it represents suitable management of natural resources in a manner which protects an area of significant vegetation and has regard to the intrinsic values of ecosystems (Section 7d).
  - h) The presence and retention of the *Pomaderris hamiltonii* on the land is a special circumstance which justifies consent being granted to this non complying activity.
  - i) Overall the proposal meets both threshold tests of Section 104D of the Act for a non complying activity in that subject to conditions the adverse effects on the environment will be minor and the proposal will not be contrary to the objectives and policies of the District Plan 2000 which indicate that subdivision in rural areas should be undertaken in a manner which results in the protection and enhancement of young shrub land and rehabilitation of steep, eroding and unstable land through appropriate replanting.

**THE RELEVANT STATUTORY PROVISIONS THAT WERE CONSIDERED:  
(Section 113(1) (AA))**

Overall this application was considered to be a non complying activity and was considered in terms of sections 104, 104B, 104D and Part 2 of the Act.

**OTHER RELEVANT PROVISIONS THAT WERE CONSIDERED:  
(Section 113(1) (ab))**

**Auckland Regional Policy Statement Provisions**

Policy 2.6.4

**Plan Change Number 55 Rural Provisions**

**Issue 4.5**

- a) Objective 5.1 and policies 5.2(i),(ii) and (iii)
- b) Objective 5.3 and policies 5.4(i) and (iv)
- c) Objective 5.5 and policies 5.6(i) and (ii)

Appendix 1 – Guidelines for Assessment of Forest Quality

**Proposed District Plan 2000**

- a) Objective 7.8.1.1.1, 7.8.1.1.2, 7.8.1.1.4
- b) Policy 7.8.1.2.1, 7.8.1.2.2, 7.8.1.2.3, 7.8.1.2.4, 7.8.1.2.6, 7.8.1.2.9, 7.8.1.2.11

28 May and 25 June 2010

Variation 63  
Objective 12.8.22.1.9

Policy  
12.8.22.1.10.1  
12.8.22.1.10.2  
12.8.22.1.10.3

### **Other Documents**

#### **Vision Rodney**

#### **PREAMBLE**

This application seeks consent to subdivide a rural lot into two lots. Proposed Lot 1 being 1.10 hectares and the balance Proposed Lot 2 being 19.98 hectares. The basis for the subdivision being the protection of 2.53 hectares of young shrub land which includes a colony of a plant known as Pomaderris hamiltonii. The application was fully notified. One submission was received from the NZ Fire Service. The submission sought that if consent was granted conditions be imposed to deal with fire fighting issues.

#### **THE PRINCIPAL ISSUES THAT WERE IN CONTENTION: (Section 113(1) (ac))**

1. Whether the shrub land to be protected satisfied the relevant District Plan provisions for bush preservation.
2. Whether the retention of Pomaderris hamiltonii justifies the additional lot being created. In this respect whether its protection was a matter of national importance.
3. Whether the Pomaderris hamiltonii could be protected in the long term.
4. The status of the application i.e. restricted discretionary or non complying.
5. If it was non complying whether either gateway test for a non complying activity was satisfied.

#### **SUMMARY OF THE EVIDENCE HEARD: (Section 113(1) (ad))**

#### **EVIDENCE ON BEHALF OF THE APPLICANT WAS GIVEN BY:**

Mr Kitt Littlejohn	-	Counsel
Ms Sarah Flynn	-	Ecologist
Ms Karen Pegrume	-	Resource Planner
Mr Stephen Smythe	-	Applicant

#### **Mr Kitt Littlejohn**

Mr Littlejohn outlined the proposal in opening legal submissions. The basis for the application being the protection of a significant stand of native bush involving 2.53 hectares. In addition the applicant has offered to retire 4900m<sup>2</sup> from active rural use. This is shown on the scheme plan of subdivision that includes a total area of 3.02ha sought to be protected. The staff concern was the recent age of the vegetation which was planted by the applicant in 2004.

The site was affected by Variation 63 which re-zones the site Point Wells / Omaha Flats Zone. This change does not provide for subdivision through native bush protection but allows an additional allotment of 4000 to 5000m<sup>2</sup> as a restricted discretionary activity on the application site.

28 May and 25 June 2010

---

The legal position applies in terms of Section 88A and the status of the application remains as a restricted discretionary activity. In his submission the Operative Plan provisions had the greatest weight.

The native bush needs to be assessed as to whether it is eligible for protection and this was based on whether it scored sufficiently under the relevant guidelines in the District Plan. The guidelines were the only provisions to determine eligibility of bush for protection. The evidence of Ms Flynn was that the bush easily met the score required to make it eligible for subdivision.

Ms Pegrume also advised that the bush complied with the District Plan Guidelines.

*“The applicant’s case is that there is no shortfall of ecological benefit, the bush is of sufficient area and sufficient quality to warrant protection and an additional lot.”*

Mr Littlejohn noted that no submissions were received from neighbours. Also the proposal easily achieved the purpose of the Act which included protection of an existing stand of native bush containing a large colony of a nationally rare species.

### **Mr Stephen Smythe – Owner / Applicant**

Mr Smythe explained the history of his involvement with the land. The site had limited opportunities for any viable horticulture or other forms of farming. Development for additional living would allow a programme to retire much of the farm with the sale of the additional lot allowing for fencing, planting and maintenance of the bush block.

He had been advised by the Council around 2002 that the bush would qualify under the assessment guidelines and was surprised that this view regarding the bush had changed.

“Vigorous” stands of *Pomaderris hamiltonii* were retained. He had been advised that it was rare to the Warkworth area and it was listed on the New Zealand endangered species web site.

Over 50,000 native plants have been planted on the application site.

The new lot will largely contain bush with an adequate house site.

### **Ms Sarah Flynn – Terrestrial Ecologist**

Ms Flynn described:

1. The bush to be protected being 2.53 hectares of native bush including Manuka and Kanuka and a dense shrub land of *Pomaderris hamiltonii*;
2. The Rodney District Council Guidelines for the Field Assessment of Native Bush Quality; and
3. The viability and conservation significance of *Pomaderris hamiltonii*.

*Pomaderris hamiltonii* was a regionally endemic threatened plant. She considered that if it was not for this species the bush area would not achieve a qualifying score. Her analysis indicated that the score for the four sites was an average of 16 under Scale 1 and 20 under Scale 2. This was made up of 10 for rare endangered species, 5 for a lot adjoining protected areas and 5 for potential in the criteria. This gave a total score of 36 which exceeded the score required to qualify for a bush lot subdivision.

*“The presence of a relatively large colony of *Pomaderris hamiltonii* is the fundamental attribute that renders the proposed bush protection area ecologically significant. Most other *Pomaderris hamiltonii* colonies within the Warkworth area that I am aware of are small, sparse and vulnerable to disturbance due to size and location.”*

She suggested mitigation measures to provide reasonably long term viability of the *Pomaderris hamiltonii* colony.

28 May and 25 June 2010

In answer to questions from the Panel she considered the protection of the species a matter of national importance.

### **Karen Pegrume – Environmental Consultant and Planner**

Ms Pegrume discussed ecological and planning matters.

She described the site and the surrounding area and the amended application. The *Pomaderris hamiltonii* had been identified as a significant natural feature in terms of Scale 2 in the field assessment guidelines. She indicated that a report had been supplied about a native centipede on the land.

She discussed the native bush quality assessment guidelines. There were no references in the District Plans that bush must be measured by age or that it be excluded because it started life as planted bush.

In relation to Variation 63 limited weight should be accorded to it.

She considered that the effects on ecology were positive.

She saw the regenerating bush to be typical of its type

*“and with on-going pest and weed management as proposed will service an ongoing and important habitat”. ( Para 45)*

*“The protection of this area of bush will ensure the ongoing viability of the bush as a habitat for both flora that is rare and fauna that although not rare at this stage is at risk on the mainland because of habitat depletion and predator attack.” (Para 47)*

She then discussed the environmental effects of the proposal and considered the adverse effects to be less than minor.

She examined the Variation 63 provisions.

She indicated that the subdivision would allow bush protection which includes a rare plant colony.

In summary she considered that consent should be granted on the grounds that the bush was worthy of protection and that any adverse effects would be less than minor or neutral.

### **Evidence on behalf of the Council was given by:**

- Ms Anne Hessel – Reporting Planner
- Ms Amy Bazeley – Bush Ecological Review Report
- Mr David Mitchell / Grace Survapalli – Traffic Engineering
- Ms Rebecca Stanley – Ecologist Auckland Regional Council (tabled)
- Mr Rue Statham – Rodney District Council Ecology Adviser

Ms Hessel reviewed the application in terms of District Plan provisions, the effects on the environment, the Point Wells Omaha Flats Sustainable Development Plan (June 2006), Vision Rodney, Planning Rodney and Part II Matters.

She indicated that:

1. *The proposal failed to meet either gateway test for a non-complying activity.*
2. *The proposal was contrary to Part II RMA Matters.*
3. *Three ecologists had advised that the vegetation requested for protection was not significant bush.*

28 May and 25 June 2010

- 
4. *The protection of the Pomaderris hamiltonii would not provide a benefit or have an ecological value that would satisfy the relevant rule relating to subdivision based on significant stands of native bush or significant natural features.*
  5. *The proposal was inconsistent with relevant Operative and Proposed District Plan Objectives and Policies.*
  6. *It failed to meet relevant ARPS's provisions regarding rural subdivision.*
  7. *The proposal was not particularly consistent with other relevant documents including Vision Rodney and the Point Wells / Omaha Flats Sustainable Development Plan.*
  8. *Neither gateway test for a non complying activity is satisfied.*
  9. *Overall the proposal is contrary to Part 2 RMA matters.*

She recommended that the application be declined.

### **Ms Bazeley**

Ms Bazeley's report indicated that it was a matter of interpretation whether the re-vegetation score could satisfy the District Plan Guidelines.

The Pomaderris hamiltonii "*is still healthy and of ecological note*". Its retention would provide environmental benefit but it would require on-going long term management.

She indicated that she would not classify the re-vegetated area as forest or bush. "*It is not developed natural shrub land*". She considered that the intent of the District Plan guidelines for bush preservation did not apply to re-vegetated areas of shrub land.

In answer to questions from the Panel she acknowledged that the Protection / Preservation of the Pomaderris hamiltonii was a matter of national importance.

**Mr Rue Statham's** report indicated:

- *The area of revegetation does not meet the standards set out in the assessment criteria for native bush subdivision; being an area of re-vegetation not considered to be stereotypical bush / forest on which subdivision is based.*
- *The area currently planted does not fully meet the assessment scoring which is being considered; the area has not reached a climax vegetation stage and as such the scoring has incorrectly awarded points for scoring scale 2.*
- *The rare plant within the property, although correctly identified, is limited in its ability to survive outside of open shrub land which currently exists and the management of such a plant would be onerous to a property owner and the Council.*
- *He considered the rules relating to 6 hectares of rehabilitation planting a more acceptable alternative to that which is currently tabled for the protection of non-complying 2 hectares re-vegetation.*

### **EVIDENCE ON BEHALF OF THE SUBMITTERS WAS GIVEN BY:**

No submitters were in attendance.

### **ADJOURNMENT**

The hearing was subsequently adjourned to deal with a question raised by the Commissioners.

*"If the areas of Pomaderris hamiltonii identified on the aerial photograph are to be protected in perpetuity what method(s) can achieve this?"*

28 May and 25 June 2010

---

**RESUMED HEARING****Ms Sarah Flynn**

Ms Flynn discussed methods of protection. This included annual monitoring, scrub and weed control and a five year review process.

Ms Flynn tabled a document entitled "Log of Works for Maintenance of the Pomaderris hamiltonii colonies and weed control within the covenanted area." This log included an annual survey, scrub control, weed control and a monitoring survey.

She then discussed methods of retaining the plant.

**From the Council**

A joint commentary on the question of retaining the Pomaderris hamiltonii in perpetuity was received from Ms Bazeley and Mr Statham.

This included maintenance of the open conditions, a weed and pest programme, a management plan and monitoring programme, clearance and removal of all planted vegetation around and within the Pomaderris hamiltonii population that was casting a shadow, maintenance of current low soil fertility, no livestock, and wastewater or stormwater disposal systems.

Mr Statham indicated that the plant would survive in perpetuity by way of a specific management plan.

Ms Hessell after hearing all the evidence advised the Panel her opinion had not changed.

**Right of Reply**

Mr Littlejohn in what were effectively two rights of reply indicated that:

1. *The proposal would not open the flood gates for further applications of a similar nature.*
2. *The issue with the bush preservation was what score was achieved.*
3. *The application would put in place protection of bush which would become forest in due course. It would also allow for the protection of the Pomaderris hamiltonii.*
4. *When Variation 63 came into effect protection of the Pomaderris hamiltonii would not be required.*
5. *He addressed Part II RMA Matters indicating that the benefits, access and intrinsic values were Section 7 matters.*

**Case law**

AO66/2009 C & K Batten v Rodney District Council.

**THE MAIN FINDINGS OF FACT:  
(Section 113(1) (ae))**

The main findings of fact determined by the Hearings Panel that have led to the above decision and the reasons for that decision are as follows. They have been reached after considering the application, visiting the site, the evidence and submissions heard at the hearing, the report prepared by the reporting planner, all the relevant statutory and planning provisions, as well as the principal issues that were in contention.

28 May and 25 June 2010

**SUMMARY**

1. The area to be protected contains young modest native shrub land with areas of *Pomaderris hamiltonii*.
2. The *Pomaderris hamiltonii* is a regionally endemic threatened plant. Its retention coupled with the surrounding shrub land justifies consent.
3. Subject to conditions including a management plan the *Pomaderris hamiltonii* can be protected in the long term.
4. Its preservation is a matter of national importance.
5. The shrub land does not meet the relevant District Plan guidelines as it is not at this stage significant bush; however the protection of this shrub land which includes the *Pomaderris hamiltonii* is an unusual circumstance which warrants its acceptance as the basis for a further lot.
6. As the District Plan bush protection guidelines are not met the application needs to be considered as a non complying activity.

**The Application**

This proposal seeks to obtain an additional lot, a rural residential lot in a rural zone. The application for the additional lot was based on a relatively young area of native shrub land planted about 2004. It includes areas of *Pomaderris hamiltonii* which is a regionally endemic threatened plant.

**Environmental effects**

There was considerable discussion on these effects with divergent views by the experts on these effects.

**Ecological Mitigation**

The proposal involves

1. Protecting 2.53ha of relatively young shrub land dating back to 2004 being predominantly Manuka and Kanuka scrub varying in height from 2.5 metres to 5 metres tall. It includes a remnant of high significance which is a regionally endemic threatened plant known as *Pomaderris hamiltonii*.
2. Retiring 4900m<sup>2</sup> of land.

We accept the advice of Ms Flynn who is an experienced ecologist that:

*“The presence of a relatively large colony of Pomaderris hamiltonii is the fundamental attribute that renders the proposed bush protection ecologically significant”.*

Both Ms Flynn and Ms Bazeley in answer to questions from the Panel agreed that the retention of the *Pomaderris hamiltonii* was a matter of national importance.

The further information provided by the Council and the applicant indicates that this plant can be retained over a long period.

The rest of the native shrub land may take years to mature however it contributes to the natural landscape as retired land and it has been densely planted with natives.

28 May and 25 June 2010

---

**Rural Character and Amenity Values**

The additional lot and the building(s) that may result will affect rural character in a minor way. However, as indicated in the planning report, there is a density of rural settlement on the northern side of Takatu Road. Subject to appropriate environmental mitigation, this proposal will have a minor adverse effect on rural character. The site also abuts to the north a wastewater treatment plant with a pine plantation adjacent to proposed Lot 1. This will mitigate any effects of an additional building as it is unlikely that this land will be developed for rural residential purposes.

The new building area will be sufficiently separated from the existing house on proposed Lot 2 to avoid any clustering effect.

Conditions include controls on the colour of any future building to mitigate these effects. In looking at physical effects an additional farm building could have similar physical effects to that of an additional house.

These effects will be further mitigated by the shrub land to be protected.

Overall, subject to conditions the adverse effects on rural character and amenity will be minor.

**District Plan Objectives and Policies**

In this case the District Plan 2000 which is Operative in Part is the relevant document.

**The General Rural Objectives and Policies include****7.8.1.1.1**

*To ensure that natural resources, rather than built forms, dominate the rural character and amenity values of the General Rural Zone.*

**7.8.1.1.2**

*To ensure the protection and enhancement of native biodiversity, natural landscape qualities and significant natural areas can occur.*

**7.8.1.2 General Rural Zone Policies****7.8.1.2.1**

*Further subdivision and rural residential lifestyle opportunities should be limited in this zone.*

**7.8.1.2.2**

*Rural residential development should not establish within the zone unless undertaken as part of protecting significant natural areas, enhancement planting or land rehabilitation.*

**7.8.1.2.3**

*Subdivision and development should be undertaken in a manner which results in:*

- a) *Riparian margin protection and enhancement;*
- b) *Hydrological neutrality;*
- c) *Protection and enhancement of bush, scrub and wetlands;*
- d) *Rehabilitation of steep, eroding or unstable land through appropriate exotic or native replanting.*

28 May and 25 June 2010

---

**7.8.1.2.4**

*The adverse cumulative effects of activities and subdivision upon the character and amenity values in the rural area should be avoided.*

In this case the proposal will

1. Subject to conditions including the retention of 2.5 hectares of land plus retiring 4900m<sup>2</sup> of land including areas of *Pomaderris hamiltonii* will ensure with time that the natural resources will dominate the rural character of this immediate area.
2. Native biodiversity by virtue of the shrub land and *Pomaderris hamiltonii* will be protected and enhanced.
3. Conditions can mitigate adverse effects of the additional residential lot.
4. The land to be retired by its steepness and ecology make it better suited to non productive use.
5. The protection of the shrub land including the retention of *Pomaderris hamiltonii* justifies the additional lot.
6. Subject to conditions adverse cumulative effects on rural character and amenity values will be avoided.
7. The subdivision will protect and enhance the young native vegetation.

The Panel was referred to the Batten decision which involved a rural subdivision at the back of Puhoi. This case dates back to June 2009 when Plan Change 55 had more relevance. It also related to land rehabilitation and not protection and enhancement of bush. However the case was also evaluated under the Proposed District Plan 2000.

The Court amongst other things raised three concerns with the subdivision:

- a) Cumulative visual impact of clustering.
- b) Time for establishment and certainty of the planting outcome.
- c) Interim visual effects.

In this case given the position of the new lot in relation to other buildings in the vicinity and the plantation next door will avoid any clustering of buildings.

In relation to the planting it exists and has done so for six years. It has from the site inspection become well established although not yet of a significant height.

Conditions including a colour control on future buildings and landscaping along the road frontage can avoid adverse visual effects of any new building.

One distinguishing characteristic that sets this proposal apart from the Batten case is the *Pomaderris hamiltonii*. Also relevant is that the planting is native and not exotic as in the Batten case. The *Pomaderris hamiltonii* brings with it an unusual situation.

Also relevant to the case is the permitted baseline which would allow a farm building on this site, although all the effects would not be identical, the physical implications would be the same or similar.

28 May and 25 June 2010

---

### **The Guidelines for the Field Assessment of Native Bush Quality Rodney District**

This sets out the guidelines for assessing the quality of native bush.

It has a dual system. One relates to bush quality and the second to additional features which include rare and endangered species. This is where the scoring of the experts differed – Ms Bazeley having concerns that the *Pomaderris hamiltonii* would require on-going management. Ms Flynn did not share these concerns. We are satisfied that the *Pomaderris hamiltonii* is a rare endangered species and that it can be protected in the long term.

We are satisfied that subject to conditions the proposal can achieve ongoing management required by Ms Bazeley.

While the shrub land is young it is established and it has resulted in the retiring of land which with time will enhance rural amenity by retaining the vegetation and preventing its development in the future.

### **Summary**

The District Plan 2000 anticipates subdivision and development to protect and enhance bush, scrub and wetlands subject to the guidelines being satisfied. In this case a rare endangered species which can be protected in the long term will be retained. This consent is on balance not contrary to the District Plan.

### **Variation 63**

As the variation is at an early stage we have had little regard to it.

### **The Integrity and Consistent Administration of the Plan**

We are satisfied that the *Pomaderris hamiltonii* on the site can be protected in the long term future. This is a distinguishing characteristic / unusual circumstance. In addition the native shrub land although relatively young is established and it is achieving the intent of retiring land from development and protecting it as open space in the long term. It offers the environmental compensation for a further lot anticipated by the District Plan.

This proposal will therefore not affect the integrity and consistent administration of the District Plan.

### **Part II Matters**

The Act is concerned with sustainable management. In this case the application seeks a rural residential type lot. This needs to be balanced against the environmental benefit / compensation that will accrue.

This benefit arises from the protection of shrub land which includes area(s) of *Pomaderris hamiltonii*. Both Ms Bazeley and Ms Flynn indicated that its preservation was a matter of national importance in terms of Section 6(c) Protection of Significant Indigenous Vegetation. Mr Littlejohn also referred us to Section 7(d) Other Matters - intrinsic values - which should also have regard to in achieving the purpose of the Act.

It is these Section 6 and 7 matters which have had a major influence on our decision.

The subdivision will retain a threatened plant as well as a significant area of shrub land which with time will have significant local environmental benefits and set aside the land as open space in the long term.

This justifies consent being granted.

28 May and 25 June 2010

---

### **Other Documents**

We were referred to:

- The Point Wells / Omaha Flats Sustainable Development Plan June 2006
- Vision Rodney
- Planning Rodney.

While the proposed subdivision may not be entirely consistent with these documents the balancing exercise of the statutory documents in association with Part II outweighs the issues of enhancement of rural areas outlined in the documents.

### **STATUS OF THE APPLICATION**

We received evidence from the applicant that supported the proposal meeting the Guidelines and therefore being approved as a Restricted Discretionary Activity. That evidence also stated the *Pomaderris hamiltonii* was of particular significance. The Council officers contested whether the proposal met the Guidelines. They stated it did not. They did however acknowledge the *Pomaderris hamiltonii* had particular significance.

We consider it appropriate that we consider the application as being for a Non Complying Activity. This is because although there is the support for the proposal meeting the Guidelines, and being a Restricted Discretionary Activity, the Non Complying Activity approach provides for a more stringent assessment of the application. We are of the view that the application meets the Non Complying Activity provisions of the Resource Management Act. This is because it does derive support from the Guidelines for the Field Assessment of Native Bush Quality in the District Plan. Although there were different points of view on this matter we see the preservation of the *Pomaderris hamiltonii* as an unusual circumstance providing justification to grant of consent to the application as an exception to the District Plan.

### **Conclusion**

This application is one which is finely balanced. However the protection of the *Pomaderris hamiltonii* in the long term, which is dealt with by way of conditions, is the influencing factor in a positive decision.

Subject to conditions the proposal satisfies the relevant S104 considerations and can be consented to with conditions as a non complying activity.

1. In terms of Part II RMA the proposal represents sustainable management with significant environmental benefits.
2. The actual and potential effects of the proposal will be minor.
3. The protection of the native shrub land, including the protection of the *Pomaderris hamiltonii*, will have positive effects by retaining an endangered plant and retaining 2.6 hectares of land as retired open space.
4. The proposal is consistent with District Plan 2000 objectives and policies regarding environmental enhancement.
5. The relevant guidelines are satisfied.
6. Regional Policy Statement rural provisions are not in question.
7. The protection in the long term of the *Pomaderris hamiltonii* is a special circumstance justifying consent.

28 May and 25 June 2010

**LAPSING OF CONSENT:**

Pursuant to Section 125 of the Resource Management Act 1991, this resource consent will expire five years after the date of commencement of consent unless, before the consent lapses;

- (a) the consent is given effect to; or
- (b) an application is made to the Council to extend the period of consent, and the Council decides to grant an extension after taking into account the statutory considerations, set out in section 125(1) (b) of the Resource Management Act 1991.

**CONDITIONS OF CONSENT:**

**Pursuant to Section 108 of the Resource Management Act 1991, this consent is subject to the following conditions:**

**General Conditions**

1. (general) Except as amended by conditions below the development/subdivision shall proceed in general accordance with the application submitted, with further information submitted and the survey plan drawn by Ian Smith Surveying, dated August 2008 (Amended April 2009), (**attached**) ("Survey Plan").
2. (lapsing) Pursuant to Section 125 of the Resource Management Act 1991, this resource consent will expire 5 years after the date of commencement of consent unless, before the consent lapses;
  - a) the consent is given effect to; or
  - b) an application is made to the Council to extend the period of consent, and the Council decides to grant an extension after taking into account the statutory considerations, set out in section 125(1)(b) of the Resource Management Act 1991.

**To be completed before Council approval of the Survey Plan**

3. (conditions to be shown on survey title plan) Before the Council will approve the Survey Plan pursuant to s.223 of the Act, the consent holder shall show on the survey plan:
  - (a) The areas to be protected on Lots 1 and 2 shall be identified as "area to be subject to land covenant".

**To be completed before issue of the s.224(c) certificate**

4. (conditions to be carried out by the consent holder) Before the Council will issue a certificate pursuant to s.224(c) of the Act, the consent holder shall satisfy the following conditions at his/her/its full cost:
  - (a) (preliminary *Pomaderris Hamiltonii* area survey) A GPS survey of the extent of the *Pomaderris Hamiltonii* colonies within the covenanted areas on the site shall be undertaken and a copy of the results of this survey shall be provided to the satisfaction of Council's Manager-Resource Management or equivalent position. The GPS survey shall include showing each patch size delimited by GPS mapping of its perimeter and the results shall be overlaid on an aerial plan. All these details shall be included in the results that are submitted to the satisfaction of Council's Manager-Resource Management or equivalent position.

28 May and 25 June 2010

---

- (b) (preliminary *Pomaderris Hamiltonii* grid count) A quantitative survey in accordance with Section 2 of the Pomaderris Management Plan (dated 9 August) and signed by the Chair of the RDC Hearings Panel (**attached**), shall be undertaken to provide baseline information of the *Pomaderris Hamiltonii* population structure and abundance (and that of other species present). The quantitative survey shall be submitted to the satisfaction of Council's Manager-Resource Management or equivalent position. This quantitative survey shall include but not be limited to the submission of representative photo points that have been taken through the colonies.
- (c) (compliance costs) The consent holder will be required to meet all the costs of the Council Officer and/or Specialist Consultant time involved in determining if compliance with conditions 4 (a) & (b) has been achieved.
- (d) (fencing) Fencing shall be installed (seven wire post and batten fence with no gates installed) on the perimeter of the covenant areas marked as A, B, C, D and E on the Survey Plan.
- (e) (weed and pest control management plan) A weed and animal pest control management plan, that has been prepared by a suitably qualified and experienced person shall be provided to Council and approved by the Council's Ecological Adviser or equivalent position. This shall address the weed and pest control issues in all areas that will be subject to a land covenant under this entire consent approval. The consent holder shall then implement the approved Weed and Pest Control Management Plan to the satisfaction of the Council's Ecological Adviser or equivalent position.
- (f) (identify building sites) The Consent holder shall provide to the Team Leader-Development Engineers two copies of a plan certified and dated by a Licensed Cadastral Surveyor fixing the location and size of the identified building site on Lot 1 by offsets from surveyed boundary pegs. This condition requires the building sites to be fixed for geo-technical reasons. It must be complied with in addition to any further conditions which require the building site is fixed for visual reasons.
- (g) (developer's representative) Prior to the commencement of engineering works (construction of crossing), the consent holder shall nominate in writing to Council its Developer's Representative in terms of Council's "Standards for Engineering Design and Construction" to be the first point of contact for all engineering matters. Any subsequent change to the nominated Developer's Representative shall be immediately notified in writing to the Consents Engineer.
- (h) (engineering works) The engineering works required by this consent shall comply with the Council's "Standards for Engineering Design and Construction" as may be amended from time to time.
- (i) (pre-construction meeting) The Developer's Representative shall give the Consents Field Supervisor at least 5 working days notice of the on-site pre-construction site meeting (refer section 103.15 of the "Standards for Engineering Design and Construction"). Construction work shall not commence on the site until such meeting has been held and all necessary documentation presented.

Note: Structure such as retaining walls, in-ground walls and bridges will require a separate Building Consent.

28 May and 25 June 2010

Note: Attention is drawn to the requirements of section 103.15.3 "Standards for Engineering Design and Construction" for the following documentation to be presented at the preconstruction meeting:

- Health and Safety Plan;
- The Signed Road Opening Notice;
- The relevant Resource or Subdivision Consent (and all conditions attached thereto);

- (j) (road opening notice) Obtain a Road Opening Notice from the relevant Network Service Provider prior to the commencement of any works within the legal road.
- (k) (site works required) Carry out the installation of the in ground wall to protect the building site on Lot 1 in accordance with the recommendations of the report from RPH Consulting Ltd., reference 2935-13, dated 15 July 2009. The wall and earthworks associated shall be located clear of the covenanted bush.
- (l) (works certification) On completion of the in ground wall, an Earthworks Completion Report and a Certificate in the form of Appendix A of the "Standards for Engineering Design and Construction" signed by the Chartered Professional Engineer who designed and supervised the works shall be provided to the Consents Engineer.
- (m) (silt retention) Before commencement of any works, adequate silt retention structures as detailed in the Auckland Regional Council Technical Publication No. 90 "Erosion and Sediment Control Guidelines for Land Disturbing Activities in the Auckland Region" shall be installed. These structures shall be maintained and cleaned out as necessary until such time as complete grass cover, or other non-erodible surfacing, has been re-established over the site.
- (n) (construction of crossing) The vehicle crossing to the boundary of Lot 1 shall be constructed/reconstructed to the rural sealed/concrete standards of the "Standards for Engineering Design and Construction".
- (o) (provide for electric power) Written confirmation shall be provided from the electricity network supplier responsible for the area, that provision of an electric supply has been made available to all saleable lots created and that all the network supplier's requirements for making such means of supply available have been met.
- (p) (provide for telephone) Written confirmation shall be provided from the telecommunications network supplier responsible for the area, that provision of telephone services has been made available by underground means to all saleable lots created and that all the network supplier's requirements for making such services available have been met.
- (q) (financial contributions) Pursuant to Operative Plan Change 62 (Chapter 22), the financial contributions as set out in the "Schedule of Financial Contributions", RMA 54547, Sequence 001, **attached** to this consent shall be paid to the Council in full mitigation of the offsite effects of the activity in respect of infrastructure and community facilities.
- (r) (reassessment of contributions) Any portion of the contributions remaining unpaid on the anniversary of the date of granting the consent shall be adjusted by applying any change in the Producer Price Index – Construction between the date of consent and the most recent anniversary of the date of consent prior to the payment of the contribution.

Any portion of the contributions remaining unpaid five years after the date of granting of the consent shall be fully reassessed in accordance with Operative Plan Change 62 immediately before the time of payment.

28 May and 25 June 2010

- 
- (s) (timing of payment) Pursuant to Rule 22.8.3.2, all contributions shall be paid in full prior to the issue of the s.224(c) certificate, unless other arrangements satisfactory to the Council have been made pursuant to Rule 22.8.5. In the case of staged developments, the contribution payable on each stage shall be reassessed on the number of sites created in each stage.
  - (t) (fixed building sites) In relation to Lot 1 the consent holder shall provide a copy of the Land Transfer Plan, defining the building site on Lot 1 in relation to the surveyed lot boundaries as shown on the Scheme Plan prepared by Ian Smith Surveying, dated August 2008, (Amended April 2009) (attached). This condition requires the building sites to be fixed for visual and reasons. It must be complied with in addition to any further conditions which require the building site is fixed for geo-technical engineering reasons.
  - (u) (landscape plan) The consent holder shall prepare and submit a Landscape Plan to the satisfaction of the Manager-Resource Management or equivalent position. This plan shall include landscaping on the Takatu road frontage of Lot 1, to provide partial screening and integration of the building site from Takatu Road. The initial planting required under the approved landscape plan shall be implemented prior to a certificate pursuant to section 224 (c) being issued.
  - (v) (balance of fees) Subject to the exercise of any rights under section 357 of the Act, the consent holder shall pay any outstanding balance due to the Council for scheme plan processing or for the officer time involved in ensuring compliance with the section 224 (c) conditions are met.

#### Ongoing Conditions/Consent Notices

- 5. The following conditions of the consent shall be complied with in perpetuity and shall be registered on the relevant titles by way of consent notices pursuant to s.221 of the Act:
  - (a) (building restrictions) Any buildings erected on the building site identified on the approved Survey Plan shall be subject to the requirements of the report prepared by RPH Consulting Ltd., reference 2935-13, dated 15 July 2009, the Earthworks Completion Report and any subsequent reports. Copies of the said plan and report(s) will be held at the offices of the Council, Centreway Road, Orewa.
  - (b) (waste water field) The waste water field for the future household waste water system shall be installed below/outside of the defined Pomaderris Hamiltonii zones identified in the Pomaderris Management Plan. At the time building consent for the principal household unit on Lot 1 is applied for, certification from a suitably qualified and experienced professional shall be provided to the satisfaction of the Manager-Resource Management or equivalent position which confirms the location where the waste water system has been installed will not have a detrimental effect on the Pomaderris Hamiltonii populations.
 

Note: Reports and limitations on the land regarding any features or characteristics of the land or works on the land, whether the subject of specific encumbrances on the land or not shall be discoverable as part of the Council's records.
  - (c) (bush protection and management) The existing bush and retirement areas to be protected on Lots 1 and 2 shall be protected in perpetuity to the satisfaction of the Team Leader Resource Consents. In particular the owners, or their successors in title for the time being, of the above lots:
    - i. Shall preserve the natural landscape trees, vegetation and areas of bush now thereon within that part of each lot identified as such on the Survey Plan; and
    - ii. Shall not (without the prior written consent of the Council and then only in strict compliance with any conditions imposed by the Council) cut down, damage or destroy, or permit the cutting down, damaging or destruction of, any of such

28 May and 25 June 2010

natural landscape trees, vegetation or areas of bush other than in accordance with the Pomaderris Management Plan; and

- iii. Shall not do anything that would prejudice the health of any of such natural landscape trees, vegetation and areas of bush; and
- iv. Shall control, monitor and provide annual monitoring reports to Council for all noxious plants and animals within the identified part of each lot in accordance with the approved Weed Management Plan; and
- v. Shall maintain a stock-proof fence as approved by the Council around the perimeter of the identified part of each lot.

The owners shall be deemed not to be in breach of this covenant if any of such trees, vegetation or bush die from fire or natural causes not attributable to any act or default by or on behalf of the owners and for which the owners are responsible.

Note: Failure to comply with this condition may result in enforcement action being taken by the Council under the Resource Management Act 1991 to ensure full compliance and the continuing protection of the bush. The owners shall pay to the Council the fair and reasonable costs incurred by the Page 15 Council in monitoring this condition at not less than two-yearly intervals, unless required otherwise by a legitimate complaint. The owners will be advised of the costs, assessed under the Council's Schedule of Fees and Charges, as they fall due.

- (d) (*Pomaderris Hamiltonii*) The *Pomaderris Hamiltonii* shall be managed on an on-going basis in accordance with the approved Pomaderris Management Plan (PMP) dated 9 August 2010 and signed by the Chair of the RDC Hearings Panel) (**attached**). This shall include but not be limited to undertaking the following key elements of work, which shall be submitted to the Council to the satisfaction of the Council's Manager-Resource Management or equivalent position.

#### Annual requirements

- i) Annual *P. hamiltonii* survey and monitoring work shall be completed and a copy of the results provided to Council as per Section 1(i) and 3a) of the PMP.
- ii) Annual scrub control and monitoring shall be completed within and around the immediate edges of the *P. hamiltonii* colonies and a copy of the results provided to Council as per Section 1 (ii) and 3b) of the PMP.
- iii) Annual weed management within the *P. hamiltonii* colonies and in the wider covenanted area shall be completed and a copy of the results provided to Council as per Section 1(iii) and 3c) of the PMP and the approved Weed and Pest Control Management Plan.
- iv) The monitoring/verification survey outlined in Section 1(iv) of the PMP shall be completed as part of the work in Section 1(i), 1(ii) and 1(iii) of the PMP.

Annual requirements in (i), (ii), and part of (iii) and all of (iv) can be carried out by a lay person. The Weed and Pest Plan specifies that all weed work requiring the use of herbicide (part of requirement iii) should be undertaken by a qualified and experienced contractor, therefore this part of 5. (d)(iii) cannot be undertaken by a lay-person.

#### 5-Yearly requirements

- v) The quantitative quadrat survey; the analysis of data from the annual and 5-yearly surveys; and all other elements of work outlined in Section 2 of the PMP shall be undertaken at 5-yearly intervals. This is to be carried out by a suitably qualified and experienced professional as determined by the Council's Manager-Resource Management or equivalent position.

28 May and 25 June 2010

Adaptive Management Response

If the *Pomaderris Hamiltonian* colonies go into a state of natural decline as described in Section 2 of the approved Pomaderris Hamiltonii Management Plan (dated 10 August 2010) and signed by the Chair of the RDC Hearings Panel) (attached), this shall not be considered decline that is bought about due to lack of appropriate management under the PMP and therefore will not be considered a contravention of requirements contained in consent notice condition 5. (d) (i)-(v).

If the *Pomaderris Hamiltonii* does show indicators of natural decline as detailed in Section 2 of the PMP, then the consent holder or their successors in title, shall reassess all the covenanted areas under the Appendix 7B 'Guidelines for the Field Assessment of Native Bush Quality in Rodney District' contained in District Plan 2000-Operative in Part (attached), even if these guidelines no longer form part of the statutory planning documents that apply to the sites. Such a reassessment shall be undertaken by a suitably qualified and experienced professional as determined by the Council's Manager-Resource Management or equivalent position. The reassessment shall be undertaken to the satisfaction of the Council's Manager-Resource Management or equivalent position and shall award no points for the presence of the *Pomaderris Hamiltonii*. If the findings of this reassessment demonstrate that the bush qualifies under the Appendix 7B guidelines as significant native bush, then the requirements of consent notice condition 5. (d) (i)-(v) which require ongoing management of the *Pomaderris Hamiltonii* under the approved PMP and annual and five yearly requirements will no longer need to be carried out and shall be cancelled. However for the requirements under condition 5. (d) (i)-(v) to no longer be in legal effect, this strictly must be confirmed in writing to the consent holder or their successor(s) in title by the Council's Manager-Resource Management or equivalent position following the submission of a qualifying reassessment of the native bush under the Appendix 7B guidelines (attached) as described above. Following this the forest species in the covenanted areas will be allowed to regenerate within the *Pomaderris Hamiltonii*. All other consent notice conditions that relate to the covenanted areas will apply and **must continue to be complied with on an on-going basis.**

The consent holder or their successor(s) in title will be required to meet all the costs of officer and/or specialist consultant time involved in determining if compliance with the approved PMP and the key elements of work contained in condition 5 (d) (i)-(v) above, as well as the final part of condition 5 (d) that relates to the 'Adaptive Management Response' has been achieved.

Advice Note: It is expected that a Council Officer or appointed Consultant will visit the site every 5 years after the submission of the 5-yearly monitoring report and analysis, required under 5 (d) v). However Council reserve the right to visit the site at more frequent intervals if the annual monitoring shows evidence of management issues and a significant loss of *Pomaderris Hamiltonii* populations or in the event of any potential non-compliance with any conditions imposed by way of consent notice pursuant to section 221 of the RMA.

- (e) (access for botanical purposes) The landowners shall allow persons having a botanical interest in the *Pomaderris Hamiltonii* population on the site to have access into the covenanted areas to view/analyse the population provided that:
- (i) Requests for access shall be made of, and co-ordinated by, the Council;
  - (ii) No more than 4 persons shall be allowed on the site at one time;
  - (iii) No less than 2 weeks' notice in writing of the proposed visit shall be given by the Council to the landowner. Such notice shall identify the persons wishing to view the site and the purpose of the visit. The notice shall also state that the persons intending to visit have agreed to comply at all times with the conditions of the bush protection covenant applying to the site;

28 May and 25 June 2010

- 
- (iv) The persons viewing the site are accompanied by the landowner, or their nominated representative at all times, and any costs of such supervision are met by the visitors.
  - (f) (landscaping building site Lot 1) The landscaping implemented under the approved Landscape Plan in condition 4 (u) which is intended to provide partial screening and integration of the building site on Lot 1 from Takatu Road, shall be retained thereafter.
  - (g) (Defined building platforms) Buildings built on Lot 1 shall be built within the defined building sites as shown on the Ian Smith Surveying Plan submitted under the section 224 (c) condition 4 (t).
  - (h) (recessive colours) Buildings built on Lot 1 shall be finished in recessive colours to the satisfaction of the Manager-Resource Management or equivalent position.

Advice Note: Condition (5) (h) requires the use of recessive colours to mitigate the visual effects of buildings being erected on Lot 1 in a position that is considered relatively close to the Takatu Road, road frontage and to also mitigate the visual effects of being located in close proximity to where the zoning reverts to a more landscape sensitive zone.

**Advice Notes:**

A. The New Zealand Fire Service (NZFS) considers that upon the construction of the habitable building, sufficient water volumes, pressure and flows should be provided in accordance with *NZFS Fire Fighting Water Supplies Code of Practice SNZ PAS 4509:2008* and that this water supply be accessible for fire fighting; and

B. That if the water supply is to be provided by way of tank storage, this should be located a safe distance away from any habitable dwelling in accordance with *NZFS Fire Fighting Water Supplies Code of Practice SNZ PAS 4509:2008*.

**Carried**

*Note: The attachments referred to in the decision are attached as **Appendix 1**.*

CONFIRMED AS A TRUE AND CORRECT RECORD THIS 30TH DAY OF SEPTEMBER 2010

MAYOR

\* \* \* \* \*

# APPENDIX 1



7  
DP 92986

1  
DP 134166

2  
19,9679 h

10  
DP 92886

1  
1.10 ha

Takatu Road  
(State)

Boundary  
ambiguity

Address:  
Rodney District Council  
Total Area: 27,0029 ha  
Comprised in CT 406 / 7888  
Zone: General Rural

Notes: A. E. See also the separate documents for the full and detailed site plan.	
1	PLAN
2	PLAN
3	PLAN
4	PLAN
5	PLAN
6	PLAN
7	PLAN
8	PLAN
9	PLAN
10	PLAN
11	PLAN
12	PLAN
13	PLAN
14	PLAN
15	PLAN
16	PLAN
17	PLAN
18	PLAN
19	PLAN
20	PLAN
21	PLAN
22	PLAN
23	PLAN
24	PLAN
25	PLAN
26	PLAN
27	PLAN
28	PLAN
29	PLAN
30	PLAN
31	PLAN
32	PLAN
33	PLAN
34	PLAN
35	PLAN
36	PLAN
37	PLAN
38	PLAN
39	PLAN
40	PLAN
41	PLAN
42	PLAN
43	PLAN
44	PLAN
45	PLAN
46	PLAN
47	PLAN
48	PLAN
49	PLAN
50	PLAN
51	PLAN
52	PLAN
53	PLAN
54	PLAN
55	PLAN
56	PLAN
57	PLAN
58	PLAN
59	PLAN
60	PLAN
61	PLAN
62	PLAN
63	PLAN
64	PLAN
65	PLAN
66	PLAN
67	PLAN
68	PLAN
69	PLAN
70	PLAN
71	PLAN
72	PLAN
73	PLAN
74	PLAN
75	PLAN
76	PLAN
77	PLAN
78	PLAN
79	PLAN
80	PLAN
81	PLAN
82	PLAN
83	PLAN
84	PLAN
85	PLAN
86	PLAN
87	PLAN
88	PLAN
89	PLAN
90	PLAN
91	PLAN
92	PLAN
93	PLAN
94	PLAN
95	PLAN
96	PLAN
97	PLAN
98	PLAN
99	PLAN
100	PLAN

Studio : 4/2000  
Date : 14/5/2002  
Printed : 14/5/2002

The Jewel Trust : 271 Takatu Road - Matukana  
Proposed Subdivision : Lot 10 DP 92886

Ian Smith  
Surveying Services Ltd  
PO Box 200, Matukana, Bay of Plenty

18

**MANAGEMENT PLAN AND LOG OF WORKS FOR MAINTENANCE OF POMADERRIS HAMILTONII COLONIES AND WEED/SCRUB CONTROL WITHIN THE COVENANTED AREA.**

The objective of this Management Plan (and accompanying Weed and Pest Plan) is to protect and therefore prolong for as long as is reasonably practicable, the large colonies of *Pomaderris hamiltonii* present on the site. The plans recognise that *P. hamiltonii* is a successional species whose current abundance on the site is likely to be a consequence of various environmental factors that will change over time, particularly as the adjoining native scrub and bush mature. The plans endeavour to maintain the *P. hamiltonii* colonies by suppressing their invasion by scrub for as long as is reasonably practicable (predicted to be in the 30-50 year timeframe); thereby preserving the intrinsic values of this population, and its region-wide significance as a seed source for new colonies of *P. hamiltonii*.

**1. The following maintenance and monitoring works are to be undertaken within the covenant area on an annual basis:**

- i. P. hamiltonii* survey: To be undertaken between March and July.
- ii. Scrub control:* As per the specifications in baseline & annual review survey reports. Includes maintenance of the margins of *P. hamiltonii* colonies to ensure the surrounding bush canopy dripline is clear of the colony, and both native and exotic woody species other than *P. hamiltonii* are systematically removed from within the defined colonies. May be undertaken year-round, but with emphasis on clearing potential germination sites (e.g., new slips, treefall gaps, etc) for *P. hamiltonii* prior to seedfall (December - January). Records of control works to be compiled as work is completed.
- iii. Weed control:* To be undertaken October -- February (in accordance with the weed and pest plan), but with emphasis on clearing potential germination sites for *P. hamiltonii* prior to seedfall. Records of control works are to be compiled as work is completed.
- iv. Monitoring survey:* A site walkover is to be undertaken in the month prior to submission of the monitoring report, to ensure submission of up-to-date information on outcomes of weed and scrub control and condition of *P. hamiltonii* colonies. Photographs are to be taken at photopoints established during the baseline and five-yearly review surveys.

**2. Baseline survey and five-yearly review:**

A suitably qualified expert is to undertake a baseline survey of *P. hamiltonii* colonies within the covenanted area, and subsequently re-survey colonies and review monitoring reports at five-yearly intervals in order to assess the long-term viability of the population on-site.

Baseline and five-yearly review reports will include documentation of the abundance and distribution of the *P. hamiltonii* population within the bush covenant, and recommendations for management. Five-yearly reports will document population trends and provide recommendations for modifications to the management/ maintenance programme, as needed. These recommendations will (in consultation with the Council's representative(s)) be incorporated into the log of works.

Surveys of *P. hamiltonii* colonies will comprise counts of individuals in randomly placed 5 m<sup>2</sup> quadrats<sup>1</sup>. The number of quadrats needed to provide a reliable estimate of *P. hamiltonii* population size will be determined by sampling until the standard error of samples is within +/- 15% of the mean (i.e. two thirds of all quadrats supply data that fall within 15% of the mean). A minimum of 30 quadrats (distributed across the three identified *P. hamiltonii* patches) will be sampled to ensure an adequate sample size to allow for statistical comparisons between years.

Locations of sample quadrats will be logged using GPS. Information recorded will include:

- Number of *P. hamiltonii* plants per quadrat in each of 4 size classes (<10 cm, 10-30 cm, 30cm-1m, >1m);
- Numbers of all woody species present per quadrat in each of 4 size classes;
- Number of individuals or % cover of herbaceous species in each quadrat.

Representative photopoints will be established throughout the *P. hamiltonii* colonies during the baseline survey. Additional photopoints will be established at five-yearly review intervals as required, for example to record regeneration following a disturbance event. Locations of photopoints will be logged using GPS, and marked using a waratah post.

In the longer term, even with the ongoing suppression of scrub within *P. hamiltonii* colonies, soil conditions are expected to become more fertile as organic matter accumulates, potentially favouring the establishment of herbs and grasses and reducing the capacity of *P. hamiltonii* to replace itself *in situ*.

Indicators of natural decline in *P. hamiltonii* colonies include:

- Progressive contraction of the spatial extent of *P. hamiltonii* patches (determined using data from successive GPS delimiting surveys) over two five-yearly review intervals; and
- Progressive decline in the density of *P. hamiltonii* plants within defined colonies in all size classes over two five-yearly review intervals (i.e., loss of mature plants and recruitment failure of juveniles).

---

<sup>1</sup> A 5 m<sup>2</sup> quadrat is sufficient to include a number of individuals, but small enough so that plants can be easily counted and measured with little likelihood of duplication or omission of individuals.

In the event that the *P. hamiltonii* colonies go into natural decline (i.e., as opposed to a decline due to lack of appropriate management in accordance with the management plan), the entire bush covenant will be reassessed against Rodney District Plan bush quality assessment guidelines (no points are to be awarded for the presence of *P. hamiltonii*). If the bush qualifies under these criteria, the *P. hamiltonii* management plan is to be retired, and forest species will be allowed to regenerate within the *P. hamiltonii* colonies.

Note that management and monitoring of the *P. hamiltonii* colonies is to continue as in accordance with the management plan until natural decline of the population is confirmed, rather than allowing the option of reassessing the bush at intervals and retiring the *P. hamiltonii* management plan when it is found to qualify.

If the re-evaluation finds that the bush does not qualify under RDC assessment criteria, more intensive management methods to maintain the *P. hamiltonii* colonies, such as stripping topsoil layers to expose subsoil, should be trialled on a small scale within the site and implemented colony-wide if found to be effective in promoting regeneration of *P. hamiltonii*. Otherwise, *P. hamiltonii* colonies should be maintained via cultivation of seedlings on-site until such a time as bush within the covenant is found to qualify under RDC criteria.

**ANNUAL MONITORING REPORT ON HEALTH OF POMADERRIS WEED COLONIES AND WEED CONTROL WITHIN THE COVENANTED AREA**

*[To be filled out and sent to Council at the end of each year].*

Report date: \_\_\_\_\_

Completed by: \_\_\_\_\_

Areas where work has been undertaken are to be marked on an aerial photograph. Photos before and after can be attached where appropriate.

**3a Size and condition of *P. hamiltonii* colonies**

Date of *P. hamiltonii* survey \_\_\_\_\_

Number of *P. hamiltonii* patches recorded during survey \_\_\_\_\_

Patch no.	Patch history <sup>2</sup>	Size (m <sup>2</sup> ) <sup>3</sup>	Photopoint/ photo reference no.	Other observations
1			P1.1= P1.2=	
2			P2.1= P2.2=	
3			P3.1= P3.2=	
Etc			Etc	

<sup>1</sup>As annotated on map; the same numbers are used for each patch from year to year, a 'patch' may be one or a group of plants.

<sup>2</sup>NP = new patch; OPSP = old patch, still present; OPNP = old patch, not present.

<sup>3</sup>Delimited via GPS mapping of perimeter

General comments: \_\_\_\_\_

\_\_\_\_\_

Scrub management within *P. hamiltonii* colonies \_\_\_\_\_

Scrub species targeted & approx. sizes of plants \_\_\_\_\_

Date undertaken \_\_\_\_\_

Areas targeted (as annotated on map) \_\_\_\_\_

Extent of works (no. of individuals/ no. of patches removed & cover in m<sup>2</sup>):

Patch 1: \_\_\_\_\_ Methods used – cutting/ hand pulling/ \_\_\_\_\_

Patch 2: \_\_\_\_\_ Methods used – cutting/ hand pulling/ \_\_\_\_\_

Patch 3: \_\_\_\_\_ Methods used – cutting/ hand pulling/ \_\_\_\_\_  
[etc]

Extent of scrub species as a % of *P. hamiltoni* colony area at time of reporting (i.e., post-control) \_\_\_\_\_

**Weed control**

*[complete a separate entry for each species targeted]*

Weed species targeted \_\_\_\_\_

Date undertaken \_\_\_\_\_

Extent of infestation (no. of individuals/ no. of patches & cover in m<sup>2</sup>) \_\_\_\_\_

Areas targeted (as annotated on map) \_\_\_\_\_

Herbicides used \_\_\_\_\_

Extent of targeted weed as a % of original infestation area at time of reporting \_\_\_\_\_

**Problems** (e.g., are certain weeds proving difficult to control and detrimental to the bush?)

Nature of problem \_\_\_\_\_

Possible solutions \_\_\_\_\_





## Schedule of Financial Contributions

RMA 54547

Sequence Number 001

Rosa Craer  
Status Saved  
10/05/2010

Applicant Jurland Trust

Request To undertake a subdivision with the existing 21.0879 ha site to create a balance site of 19.6679 ha (proposed Lot 2) and one new rural residential site (proposed Lot 1) of 1.10 ha by undertaking the following:  
1. Protecting 2.53 ha of young shrubland, which includes the protection of a colony of plant (Pomadouria Hamiltoni) listed as 'sparee' by the Auckland Botanical Society and the habitat of a native centipede  
2. Retiring a 4,900 m<sup>2</sup> area of the site.

Legal Description: Lot B DP 92958 (21.0879HA)

### Data for Existing Sites

Qty	Description	Site Use R=Residential B=Business	Multi Multifuse or Multi Story	Site Area (m2)	Household Units	Lettable Units	Gross Business Area (m2)	Impervious Area (m2)
1	Lot B DP 92958	R	N	0	1	0	0	0

### Data for Intended Sites

Qty	Description	Site Use R=Residential B=Business	Multi Multifuse or Multi Story	Site Area (m2)	Household Units	Lettable Units	Gross Business Area (m2)	Impervious Area (m2)	Site Value
1	Lot 1	R	N	0	0	0	0	0	
1	Lot 2	R	N	0	1	0	0	0	



- understorey density
- understorey species richness.

On the second scale the features which can contribute to the 'value' of a site include:

- presence of rare or endangered species
- presence of unusual numbers of native birds
- importance of the site as a corridor to other native bush stores
- lot size
- aesthetic or unusual value

## 2.2 ASSESSMENT METHOD

Scoring of the bush quality characteristics on Scale 1 should be based on first-hand field assessment, backed up where necessary by additional data (such as aerial photographs to aid in assessment of percentage bush cover).

Assessment of bush quality should be made at least 15 metres from the edge of the bush, to allow for differences in species composition related to edge effects. At least three separate assessments should be made, at positions 30 metres or more apart, to allow for a representative coverage of the lot. From each of the three (or more) positions, characteristics on Scale 1 should be scored based on an area within a radius of 15 metres of each assessment position. The three (or more) scores can be used to obtain an average bush quality assessment of the proposed subdivision. [Amendment: 70 Decision Report 2133]

The Scale 2 characteristics can only be scored 0, 5 or 10. No intermediate score is permitted. This forces either a high or a low score, and is intended to eliminate the possibility of achieving an intermediate 'so-so' score on several of these characteristics, which when added to the final Scale 1 score would be sufficient to allow acceptance of the proposed subdivision.

## 2.3 ACCEPTANCE CRITERIA

On the first scale the bush quality score must be 20 of a possible 28 points, based on its position on the rank of 0 to 4 for each character, for the proposed subdivision to be accepted. Numerical percentage scores relating to each rank score are provided on the field sheet. Where a bush stand scores zero for any of the canopy characteristics, or has a total Scale 1 score of less than 10, it is automatically rejected. If it scores between 10 and 20 the supplementary points system of Scale 2 is used, allowing other important features to contribute to the total score.

## 2.4 EXPLANATION OF GUIDELINES

[Subject to appeal ENV 2007-AK1-000783]

### 2.4.1 Scale 1

#### (1) Canopy composition

The score for this characteristic should be based on the percentage of the proposed covenanted area covered by a canopy of native species.

Native species found in bush patches in the Rodney District include:

- regenerating podocarps such as kauri, kahikatea, rimu, totara, terekaha with karu, manuka and tree ferns.



- remnant mixed hardwood - podocarp bush
- lowland mixed bush dominated by taraire
- coastal bush of pohutukawa, taraire, kohekohe, puriri, karaka
- totara remnants along rivers
- kahikatea swamp areas
- other species including tikaia, pigeon wood, kowhai, tawa, miro, northern rata, hohera, titoki, pukatea, hinau, kawakawa, hard beech (McEwen, 1987).

Exotic species may include wattle, pines, macrocarpa, willows, poplar, tobacco plant, privet, moth plant and gorse, among others.

(2) **Canopy height**

This characteristic should be scored on the basis of the height of the native trees in the canopy, as an estimated percentage of an 'adult height' of 10 metres. Height is used here as an indicator of maturity. Well-developed regenerating hardwood/podocarp bush is likely to have a canopy of large trees, (though depending on the age of the stand these may still be in their pole or juvenile state). Bush with large trees scores highly. Well-developed manuka or kanuka canopies score no higher than two (their potential is generally as nurse or shelter species or regeneration of hardwood and/or podocarp species) but in some areas (eg. on the dune soils of South Head), they represent the climax vegetation and their value may have to be adjusted upwards to recognise that this is the only bush likely to survive in these areas. (See footnote to score sheet.) Where the cover is predominantly grassy or composed of very small scrub less than three metres in height, the score is lower.

(3) **Canopy closure**

The percentage of the ground or understorey closed to the sky forms the scoring criterion for this characteristic. In a well-developed bush, few gaps in the bush canopy should be evident. The degree to which the canopy is closed affects the light quality beneath the canopy, and hence the types of species that will germinate and flourish. Even where the canopy is not composed entirely of native species, the degree of closure is likely to affect the development of the understorey. The score thus relates to the canopy in general, including exotics, rather than to natives alone.

(4) **Canopy richness (number of species)**

Canopy richness is scored on the basis of the total number of species present in the canopy. Although there is potential for bush stands such as coastal pohutukawa bush to be dominated by very few canopy species, and thus to have a low score for this character, high scores on other characters should ensure that important bush stands are not excluded by this criterion. (See also footnote to score sheet.) Bush with an unusual canopy composition are provided for under the Scale 2 criterion 'Aesthetic or Unusual Value'.

(5) **Understorey composition (% Indigenous species)**

Scoring of understorey composition, (the number of species forming a separate layer below the canopy), is based on the percentage of shrubby understorey species, seedlings and saplings beneath any existing canopy. As well as seedlings and saplings of the species listed above, natives in the shrubby understorey may be numerous. Examples are *Coprosma* species, *Pittosporum* species, tree ferns, kauri grass, smaller ferns, sedges. Workers without a comprehensive knowledge of the native flora will probably find it easiest to check for the presence of well-known exotics in the understorey rather than trying to make positive identification of natives. Larger exotics in the understorey may include blackberry, gorse, tobacco weed, moth plant, privet, young pines, wattle. Pasture grasses and introduced weedy species are likely to be found in the more open sites.



(6) **Understorey closure**

This characteristic is scored on the basis of the **density or percentage cover of the shrubby understorey**. In a well-developed native bush, the understorey is likely to be dense, and few bare patches of ground should be present. Many different shrubby species and young seedlings and saplings of canopy species growing together lead to a rich vegetation.

(7) **Understorey richness**

The score for understorey richness is based on the **number of native species found in the understorey layer(s) beneath the canopy**. These include shrubby species, seedlings and saplings as above.

2.4.2 Scale 2

(1) **Rare/endangered species**

The presence of species considered to be rare or endangered according to sources such as *The Red Data Book of New Zealand (1981)*, *Wilson and Given's Threatened Plants of New Zealand (1989)*, *Department of Conservation New Zealand Threat Classification Lists (Hitchmough 2002)* and *De Lange et al (2004), Threatened and uncommon plants of New Zealand (New Zealand Journal of Botany, Vol 42:45-76)*, or a species listed in an approved data base as a regionally rare or endangered species should be documented. Information about the occurrence of such species is sparse, and their discovery relies on reports from interested land owners, and local field botanists. The weight scale allows inclusion of even relatively poorly bushed areas as appropriate sites for subdivision and covenanting **where rare or endangered species are found, or have been reported.** [Amendment 70 Decision Report, 2153]

(2) **Corridor importance**

Removal of bush remnants and drainage of wetland areas has meant that patches of native vegetation are far apart in some parts of the Rodney District. Where this is the case, movements of native bush and/or wetland bird species between stands may be limited, and this has consequences not only for the numbers of bird species but also for dispersal of bush plant seeds. Where there is a perception that few bush stands remain in an area, the weighting system allows inclusion of lower quality bush within the acceptance levels. To allow for reasonable bird (and seed) movement between bush stands, the weighting system accords a higher importance to a stand **where it is the only bush area within one square kilometre.**

(3) **Lot size**

The larger the size of a discrete bush stand, the better its buffering capacity against both natural and human disturbance. The ability of plant and animal species to maintain viable breeding populations is so likely to be much higher where the bush patch is large. In its inventory of bush areas in New Zealand, the New Zealand Wildlife Service allowed an area of 10 hectares as the minimum for inclusion of a bush stand. Although the number of species present will not necessarily increase significantly between bush stands of two hectares and 10 hectares, the population stability of each species is likely to be greatly improved. Therefore, **where the bushed lot proposed for subdivision is much larger than the base level of two hectares (ie. eight hectares or more)** it accrues additional points under the weighting system, based on the potential for increased species stability.

(4) **Lot adjoining protected area**



A further criterion for the weighting of bush stands based on corridor importance or lot size relates to large areas of bush that are currently reserved or otherwise protected. Additional value can be accorded to a bush stand where it **directly adjoins reserved or protected bush**. As noted above, species richness and diversity is related to bush area, and the addition of even fairly marginal pieces of land in the early stages of regeneration can improve the species composition of the flora and fauna of the reserve.

(5) Aesthetic or unusual value

Perception of a bush stand as an attractive feature may be due to a number of factors. If the stand is situated in a hilly area, where it is easily seen from nearby roads, if it has running water/waterfalls, or an unusual composition (windy trees; a heavy tree-fern canopy; a stand of scattered mature pohutukawa, or totara) it may well be appreciated for its physical beauty. Although it is desirable to have stands of reserved bush visible to the public, patches of bush that are hidden from the road should not be excluded from this category. Decisions about aesthetic or unusual value are qualitative, but the weighting scale allows **bush patches with unusual beauty or unusual features** to fall within the acceptance levels for subdivision and covenanting.

(6) Potential

Some areas of bush of marginal quality have the **biological capacity to improve** to an acceptable standard in a reasonably short time, particularly if influences which depress their quality are removed. Examples are bush areas which have lost quality through being grazed, or which contain an excessive proportion of gorse, or which are in the early scrubby stages of regeneration. Where the adverse influences can be removed through actions that can be taken as part of the subdivision approval or covenanting process, or where regeneration is clearly well under way, such areas of bush may be given additional points under Scale 2.



## INSTRUCTIONS FOR USE WITH THE FIELD ASSESSMENT SHEET

### Scoring of bush lots proposed for subdivision

Scoring on Scale 1 should be completed first, the total evaluated, then scoring on Scale 2 should proceed if necessary.

Information for Scale 2 scoring may be obtained from maps, aerial photographs, and records.

Note that depending on the score obtained, acceptance or rejection of the proposed subdivision can take place either on completing evaluation of Scale 1 or on completing evaluation of Scale 2.

#### SCALE 1

##### Scoring:

1. Go to at least 15 metres within the bush.
2. In column for Site 1, record the score (0 to 4) for each of the canopy characteristics, based on the percentages and numbers displayed.
3. Go to a second site, at least 30 metres from the first, and at least 15 metres in from the edge of the bush.
4. Repeat step 2, recording the scores in column for Site 2.
5. Go to a third site, at least 30 metres from each of sites 1 and 2, and at least 15 metres from the bush edge.
6. Repeat step 2, recording the scores in column for Site 3.
7. Record the position of all three sites on a plan and attach it to the Bush Quality Assessment Field Sheet.

##### Calculation:

8. Add the scores in column for Site 1. This is Total 1.
9. Repeat for columns for Sites 2 and 3. These are Totals 2 and 3.
10. Average the three totals. This is TOTAL A.

##### Evaluation:

11. If TOTAL A is greater than or equal to 20 Accept
12. If TOTAL A is less than 10 Reject
13. If any of the canopy characteristics (1, 2, 3 or 4) is zero at all three sites (columns 1, 2 and 3) Reject
14. If TOTAL A is less than 20 but greater than 10 Go to Scale 2

#### SCALE 2

##### Scoring:

15. For each of the six characteristics, score 0, 5 or 10, recording the scores in the column.

##### Calculation:

16. Add the scores on Scale 2. This is TOTAL B.

##### Evaluation:

17. Add TOTAL A and TOTAL B. This is TOTAL C.
18. If TOTAL C is greater than or equal to 20 Accept
19. If TOTAL C is less than 20 Reject

