

**NOTICE OF MEETING**

**DISTRICT PLAN AND REGULATORY COMMITTEE**

**TO:** Penny Webster - Mayor  
Crs Gaye Harding (Chairperson)  
Michael Goudie  
Dave Parker QSM  
Grahame Powell  
Suzanne Weld  
Pat Delich (Alternate)  
June Turner (Alternate)  
Wayne Walker (Alternate)

The District Plan and Regulatory Committee will meet in the Council Chambers, Centreway Road, Orewa on Wednesday, 5 August 2009 commencing at 9.00 a.m.

for: ACTING CHIEF EXECUTIVE  
Warren Maclennan

OREWA  
28 July 2009

\* \* \* \* \*

**PROGRAMME**

<u>Time</u>		<u>Page</u>
9.00 a.m.	Excessive Noise Incident: Application for Restitution of Property  Applicant: Craig Peapell	1

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### **CONFIDENTIAL**

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ITEM NO: 1

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**APOLOGIES**

**9.00 A.M.**

ITEM NO: 2

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**REPORT**



**TO** District Plan and Regulatory Committee  
**ON** 5 August 2009  
**FROM** Ian Farrell – Environmental Health Manager  
**APPROVED BY** Marion Read – Acting Director: Customer Service

**SIGNATURE**

A handwritten signature in black ink, appearing to be "M. Read".

**SUBJECT** **EXCESSIVE NOISE INCIDENT – APPLICATION FOR RESTITUTION OF PROPERTY**

**APPLICANT: CRAIG PEAPELL**

**FILE REF** ND/1/1

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**PURPOSE OF REPORT:**

<input type="checkbox"/> Information only	<input type="checkbox"/> Strategic decision	<input type="checkbox"/> Policy decision	<input checked="" type="checkbox"/> Statutory process
<input type="checkbox"/> Community issue	<input type="checkbox"/> Contract decision	<input type="checkbox"/> Delegation	<input type="checkbox"/> Appointment
<input checked="" type="checkbox"/> Administrative matter			

**IMPLICATIONS:**

(i)	Is this matter significant in terms of Council's Policy on Significance? No
(ii)	Implications in terms of Vision Rodney? No
(iii)	Implications in terms of Long Term Council Community Plan / Annual Plan? No
(iv)	Implications in terms of other Council Strategic documents or Council Policy? No
(v)	Is a budget amendment required? No

(vi)	Have the views of affected or interested persons been obtained and is any further public consultation required?
	No
(vii)	Does a decision on this matter require Auckland Transitional Authority approval? (yes / no / advice being sought?)
	Not applicable

**FINANCIAL IMPLICATIONS:**

Capital cost implications	Nil
Is it currently budgeted for?	Not applicable
Funding source of capital costs	Not applicable
Ongoing operational cost implications	Nil
Is it currently budgeted for?	Not applicable
Funding & rating impact (whether resulting from capital expenditure or arising directly)	Nil

**SUMMARY:**

Stereo equipment was impounded from the property at 3/15 Moenui Avenue, Orewa, on 24 May 2008 and the owner of the equipment has now made application for its restitution. The Committee needs to be satisfied that there will not be a resumption of noise beyond a reasonable level, and if it is satisfied, then the equipment should be returned on payment of the Council's costs in seizing, impounding and storing the equipment. If the Committee is not satisfied, then the application should be declined.

**RECOMMENDATION:**

- (a) That the report on excessive noise from 3/15 Moenui Avenue, Orewa on 24 May 2008, be received.
- (b) That upon considering Craig Peapell's application for restitution of stereo equipment seized and impounded on 24 May 2008 from premises at 3/15 Moenui Avenue, Orewa, the Committee adopt one or other of the following alternative draft resolutions:

**Either:**

- (i) That the Committee, being satisfied that the return of the stereo equipment seized and impounded under s.328 of the Resource Management Act 1991 from premises at 3/15 Moenui Avenue, Orewa on 24 May 2008 is not likely to lead to the resumption of the emission of noise beyond a reasonable level, agree to make restitution of the stereo equipment to Craig Peapell on payment of the Council's costs in seizing, impounding and storing the stereo equipment.

**Or alternatively:**

- (ii) That the Committee, not being satisfied that the return of the stereo equipment seized and impounded under s.328 of the Resource Management Act 1991 from the premises at 3/15 Moenui Avenue, Orewa, on 24 May 2008 is not likely to lead to the resumption of the emission of noise beyond a reasonable level, refuse to make restitution of the stereo equipment to Craig Peapell and that he be advised of a right of appeal to the Environment Court against the decision.

- (c) That in the event of restitution being refused and no appeal having been made to the Environment Court, or the applicant not claiming the property within one month of the date of this meeting, the Environmental Health Manager be authorised to dispose of the stereo equipment in accordance with s.336(6) of the Resource Management Act 1991.
- 

## 1.0 Background

Attached as **Appendix 1** is a full report of an incident that commenced at 22:13 on 24 May 2008 at 3/15 Moenui Avenue, Orewa, and ended with the seizing and impounding of stereo equipment from that address at 23.45 on 24 May 2008.

The circumstances of the seizure resulted in a series of complaints to the Ombudsmen's Office by Craig Peapell. Following a detailed investigation of each of the complaints the Chief Ombudsman upheld the Council's actions in each of the matters. This was previously reported to a meeting of the Committee on 15 July 2009. A copy of the Chief Ombudsman's letter advising of the decision and reasons is attached as **Appendix 2**.

The premises at 3/15 Moenui Avenue, Orewa is owned, according to rating records, by Orewa Pacific Limited and is rented by Craig and Sharlene Peapell.

There is a history of an earlier complaint and visit to the property at 3/15 Moenui Avenue, Orewa, on 30 March 2008, at which time a Direction to Reduce Excessive Noise was issued.

The Committee is also advised that part of the seized equipment, an Akai Receiver Serial No. 93888, was previously seized from Craig Peapell on 27 December 1990 from premises situated at 89A Centreway Road, Orewa. Prior to its return in that instance, Mr Peapell gave a written undertaking to a meeting of the Hibiscus Coast Community Board on 7 March 1991 that he would ensure that there would not be any further emission of noise beyond a reasonable level.

An email application for the restitution of the stereo equipment was received from the owner of the equipment, Craig Peapell, on 13 July 2009.

## 2.0 Issues

The Resource Management Act 1991 has the following provisions on the question of restitution:

"336 *Return of property seized under sections 323 and 328 -*

- (1) *Where any property is seized and impounded under section 323 or section 328 (which relate to failure to comply with an abatement notice to reduce noise or an excessive noise direction), the owner of the property or person from whom it was seized may apply to the local authority, consent authority, or police station where the property is held, at any time, to have the property returned to him or her.*
- (2) *Where an application is made under subsection (1), the local authority, consent authority, or police officer with authority to do so, shall arrange for the return of the property if -*
  - (a) *Satisfied that the return of the property is not likely to lead to a resumption of the emission of noise beyond a reasonable level; and*
  - (b) *The applicant has paid all costs incurred by the local authority, consent authority, or police in seizing, impounding, transporting and storing the property."*

There is further provision for an appeal to the Environment Court if restitution is refused.

## 3.0 Options

Costs incurred by the Council in seizing the property will amount to \$157.50 including GST. On this occasion, because of the time that has elapsed due to the appeal to the Ombudsmen's Office, it is not intended to charge storage costs up to the date of this meeting.

If the Committee decides that the property is to be returned and it is not collected within seven days of the owner being notified, then further storage charges of \$2.00 per day plus GST should be applied, unless alternative arrangements are made for payment and collection.

Should restitution of the property be refused, or the owner fail to pay the Council's costs, or no appeal is made to the Environment Court within one month of the date of this meeting, then after advising the owner of its intentions, the Council may sell the property.

# APPENDIX 1

-----  
Call ID: 19752 Class: Noise  
-----

Name:

Primary:

Address:

Description:

LOUD MUSIC COMING FROM 15B MOENUI AVE, OREWA

Actions:

24/05/2008 22:13

- 30 MIN CALL BACK ENFORCED

24/05/2008 22:34

- COMPLAINTANT HAS PHONED BACK AND NOISE IS CONTINUING

24/05/2008 22:35

- DETAILS PAGED THROUGH TO NCO BRITTAN

24/05/2008 22:45

- NCO BRITTAN ONSITE - NOISE ON ARRIVAL - MOVING TO ABATE

24/05/2008 22:51

- ABATEMENT - #5553 - 15B MONAUI AVE, OREWA - 22.45

24/05/2008 23:01

- CALL BACK FROM SHARLENE PEAPPLE - SHE IS TENNANT OF THE PROPERTY THAT HAS BEEN ABATED - 427 4256 - DOESN'T WANT TO TURN THE MUSIC OFF AT THIS ADDRESS AND THINKS THE COUNCIL ARE UNREASONABLE

24/05/2008 23:04

- ALSO DID NOT LIKE THE GUARD THAT SERVED THE NOTICE

24/05/2008 23:19

- COMPLAINT RECEIVED FROM  
ME THAT THE NOISE IS STILL CONTINUING

- INFORMED

24/05/2008 23:20

- DETAILS PASSED BACK TO NCO BRITTAN - AND HE WILL GO AND RE-ASSESS THE SITUATION

24/05/2008 23:25

- NCO BRITTAN AND POLICE ONSITE FOR THE SEIZURE OF EQUIPMENT

24/05/2008 23:45

- NCO BRITTAN AND OREWA POLICE HAVE MADE A STEREO SEIZURE FROM THIS ADDRESS - THE POLICE AND NCO BRITTAN HAD A HARD TIME WITH THIS SEIZURE -

24/05/2008 23:50

- BECAUSE OF THE TENNANT TRYING TO HIDE THE STEREO - NCO AND POLICE WERE VERBALLY ABUSED - PLEASE NOTE THAT A RECEIPT WAS ASKED FOR BY TENNANT, BUT IT IS NOT STANDARD PRACTISE WAS NOT GIVEN

24/05/2008 23:47

- I RECEIVED A PHONE CALL FROM SHARLENE PEAPPLE - SHE CALLED NCO BRITTAN "SANTA CLAUS" AND THE PEOPLE AT THE RESIDENCE ALL AT ONCE ABUSED ME DOWN THE PHONE LINE - CALL IS RECORDED

26/05/2008 07:14

- SEIZED AKAI RECEIVER SERIAL NO93888 S/N - AKI TUNER/CASSETTE  
PLAYER SERIAL NO 92372 S/N

-----  
Date: 24/05/2008 Time: 22:13 Op: SF  
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Private Bag 500, Orewa  
 Ph: 0800 426 5169  
 Head Office: Centreway Road, Orewa

5553

Date 24<sup>th</sup> May 08

**DIRECTION TO REDUCE EXCESSIVE NOISE  
 ISSUED UNDER SECTION 327 - RESOURCE MANAGEMENT ACT 1991**

TO: THE OCCUPIER OR OTHER PERSON WHO APPEARS TO BE RESPONSIBLE FOR CAUSING EXCESSIVE NOISE:-

**Name of Occupier/Person Responsible:-**

Occupier  
 (Forenames) (Surname)

Occupation: Occupier

Address of place from which excessive noise is being emitted: 15 Moerui Ave Orewa  
 (Referred to below as "THE PLACE")

Address of person responsible for causing excessive noise if not the occupier: 15 Moerui Ave Orewa

YOU ARE HEREBY DIRECTED TO IMMEDIATELY REDUCE THE NOISE TO A REASONABLE LEVEL, FROM OR WITHIN THE VICINITY OF THE PLACE. YOU ARE ALSO HEREBY PROHIBITED FROM CAUSING OR CONTRIBUTING TO THE EMISSION OF EXCESSIVE NOISE FROM OR WITHIN THE VICINITY OF THE PLACE AT ANY TIME DURING THE PERIOD OF SEVENTY TWO (72) HOURS AS FROM:

Time: 22:45 a.m./p.m. Date: 24/5/08

**TAKE NOTICE THAT:-**

Every person who knows or ought to know that this direction has been given must comply with it whilst in the vicinity of the place referred to above as if the direction has been give to him/her.

**TAKE FURTHER NOTICE THAT:-**

- (a) Failure to comply with this direction immediately may result in a constable, or an enforcement officer accompanied by a constable, entering the place to:
  - (i) Seize and remove, or
  - (ii) Render inoperable by removal of any part from, or
  - (iii) Lock or seal so as to make unusable any instrument, appliance, vehicle, aircraft, train or machine that is producing or contributing to the excessive noise.
- (b) Every person who contravenes, or permits a contravention of this direction is liable on summary conviction to a fine not exceeding \$10,000 and if the offence is a continuing one, to a further fine of \$1000 for every day or part of a day during which the offence continues.

SIGNED: [Signature] Enforcement Officer WITTEN (Print Surname)

Stereo Restitution Statement-Peapell

**Cost Incurred In Seizing and Impounding  
Stereo Equipment  
From Premises At  
3/15 Moenui Avenue, Orewa  
On 24 May 2008  
Craig Peapell**

	Quantity	Cost	Total
Visits	2	70.00	\$140.00
	Sub Total		\$140.00
	GST		\$17.50
	TOTAL		\$157.50

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**From:** Craig Peapell [mailto:craigpeapell@xtra.co.nz]  
**Sent:** Monday, 13 July 2009 3:59 p.m.  
**To:** customerservice  
**Subject:** Noise control 5553

**To whom it may concern,**

Ref: ND/1/1 IE /1/1-1.1450 5553070

I hereby apply for the restoration of property seized on 24<sup>th</sup> May 2008 from the premises of 3/15 Moenui Ave Orewa. I am the owner of the property seized. My Name is stated below as are my contact details.

I understand from the Ombudsmen's Office that RDC have waived the fee normally charged for this process. I hereby accept the waiving of fees without prejudice to any other rights open to me.

I also advise RDC that the Ombudsmen's Office is in possession of 3 signed statements at this time which refute excessive noise and highlight the serious misconduct of the NCO on the night in question. I advise RDC that the Ombudsmen makes no reference to the statements in her late correspondence which I believe further highlights bureaucratic protectionism. In light of the non disclosure I hereby authorise the Ombudsmen to release a copy of the signed statements in order for the regulatory committee to consider these signed statements.

My side of the events are well documented and on file with RDC and the Ombudsmen's office.

I note for the record that the only notice received being 5553 was to "reduce noise to a reasonable level." On the night in question our stereo was in FACT turned off and unplugged as witnessed by the Police present. Compliance within the law was in fact complied with in the first instance negating the need for further action. I note that the one of the other property occupiers omitting noise within 20m only turned down their noise as Police arrived.

Interestingly no further complaints have been brought to our attention despite having further family gatherings at this location. We have taken steps to reduce our noise by fixing the speakers to the inside walls which helps to reduce outside noise. It is not our intention to fall out with neighbours over noise nor to unreasonably interfere with the peace, comfort and convenience of other people. Our immediate elderly neighbour submitted a signed statement regarding noise on the night in question which in her opinion was not excessive. She also has the same measuring equipment as the NCO.

There is also some seriously unanswered questions regarding the deletion or authentic recording of evidential phone calls within the official log. RDC also question the skill and tact of their NCO yet have the audacity to question the integrity of actual witnesses, who they refuse to interview despite an official complaint being lodged.

I don't acknowledge nor authorise the disposal of my property by RDC.

I'm currently sick in bed and unable to personally deliver my request to the regulatory committee. Please accept this form as my request for return of property.

I look forward to the return of my property which was taken by the NCO under duress and in conflicting circumstances.

Kind Regards,

*Craig Peapell*

[craigpeapell@xtra.co.nz](mailto:craigpeapell@xtra.co.nz) | Ph 027 6945800 | PO Box 629 Orewa

DISCLAIMER: The information in this email and in any attachments is confidential and intended solely for the attention and use of the addressee(s). If this email is not intended for you, you must not use, read, distribute or copy it. If you have received this email by mistake please reply to the sender/or erase the email and any attachments, and any copies of the same. Any views or opinions expressed are at the time of sending believed by the author / sender to be true and correct, however you are advised to carry out your own due diligence before relying on the content of this email or its attachments. No guarantee is given or implied as to the accuracy and correctness of the content herein.

# APPENDIX 2

N4/11

  
**Office of the Ombudsmen**  
Te Tari -o- Ngā Kaitiaki Mana Tangata

FV

Our Ref: A13392

LETTER NO.	629039	AM PM
Rodney DISTRICT COUNCIL OREWA		
24 JUN 2009		
SUBJECT	FUNCTION	COPY
	LEG	

22 June 2009

Mr R Kerr-Newell  
Chief Executive  
Rodney District Council  
Private Bag 500  
Orewa 0946

Dear Mr Kerr-Newell

**OMBUDSMEN ACT COMPLAINT: CRAIG PEPELL**

I have now concluded my investigation of Mr Peapell's complaint about the Council's actions in relation to an Excessive Noise Direction issued in respect of a property at 3/15 Moenui Street, Orewa, on 24 May 2008. You may recall that the following heads of complaint were notified to you on 5 September 2008:

1. That the *Direction to Reduce Excessive Noise* notice, numbered 5553, issued under section 327 of the Resource Management Act 1991, was defective, in that the address had been altered and was incorrect, and the notice failed to properly identify the occupier of the property.
2. That the Noise Control Officer made no effort to obtain voluntary agreement to turn down the stereo before issuing the section 327 Direction.
3. That the Noise Control Officer unlawfully demanded that the stereo be turned off completely, rather than asking that the occupants "*reduce the noise to a reasonable level*" as stated in the section 327 Direction.
4. That the Noise Control Officer's action in subsequently uplifting the stereo, notwithstanding that it had been turned off, unplugged and removed from the lounge, was unlawful and unreasonable.
5. That the Council has unreasonably rejected Mr Peapell's claim that the officer did not have lawful grounds to seize the stereo, and has acted unreasonably in refusing to return it unless he submits an application under section 336 of the Resource Management Act and pays a fee of \$300.

6. That there are irregularities in the Council's "log" which records the sequence of events on the night in question.
7. That the Council's investigation of Mr Peapell's complaint about the Noise Control Officer's actions was inadequate.

The Council's report was received on 30 January 2009. On 2 March 2009 I informed Mr Peapell of the Council's response to his complaint, and advised him that my provisional view was that his complaint was not able to be sustained, for the following reasons:

*"1. Validity of the section 327 notice*

*Having considered the Council's explanation and the comments of the former noise control officer and the police, I do not consider the alteration of the street number on the excessive noise direction to be of any great significance, as it seems to have resulted from a simple error. I am satisfied from the information provided to me that the excessive noise direction was issued to the correct address, as required by the Resource Management Act.*

*2. Voluntary compliance*

*At this distance, and in the absence of any independent evidence which supports one view or the other, I am unable to form a view on the question of whether the officer tried to get the occupants to turn the stereo down voluntarily. In any event, I do not consider that he was under any obligation to do so. The officer's preference to issue the notice and depart as quickly as possible does not seem unreasonable, given the lateness of the hour, and the fact that he was dealing with a large crowd of people at a gathering where, according to the observations of the Police, alcohol had been consumed.*

*3. Reduction of noise*

*Again, there is no independent evidence available to me regarding whether the noise control officer said that the stereo had to be turned off entirely. However, I consider this issue to be of minor importance, since the excessive noise direction clearly stated that the recipient (the "occupier or other person who appears to be responsible for causing excessive noise") was to "immediately reduce the noise to a reasonable level, from or within the vicinity of the place". This was what the direction required of the recipient, regardless of what those present may have believed the noise control officer to have said. The officer's recollection is that he was at the property for no more than 3 or 4 minutes. Given the likely level of noise emanating from the stereo and the people attending the party, I am doubtful that any evidence regarding what was said by either the officer or anyone who witnessed the events could be relied upon.*

*4. Seizure of the stereo*

*The excessive noise direction prohibited the emission of excessive noise from the property for a period of 72 hours from the time the direction was*

issued. The Council received a further complaint of excessive noise coming from the premises later that evening, indicating that the direction had not been complied with, and this was apparently verified by the noise control officer when he arrived at the property. In these circumstances, it would appear that the officer was lawfully entitled to seize the stereo, notwithstanding that it had been turned off and moved to another room by the time the police arrived.

The police sergeant's account of events verifies the Council's report that the police were concerned at the lack of a written receipt identifying the item that had been seized, and how to apply for its return. As the Council has explained, this is not a requirement in law. I can find no suggestion on the part of the police that the seizure of the stereo was unlawful.

5. *The Council's rejection of your complaint, and refusal to return the stereo.*

*It follows from what I have said above that I do not presently consider that the Council's seizure of your stereo appears to have been contrary to law. ...Consequently, I do not consider it unreasonable for the Council to require you to submit an application under section 336 of the Resource Management Act to have the stereo returned to you. This section provides for applications to be made for the return of property seized where there has been a failure to comply with an excessive noise direction. Section 336(2) states that where such an application is made, the Council –*

*"...shall arrange for the return of the property if –*

- (a) Satisfied that the return of the property is not likely to lead to a resumption of the emission of noise beyond a reasonable level; and*
- (b) The applicant has paid all costs incurred by the local authority...in seizing, impounding, transporting, and storing the property."*

*In this instance, the Council has offered to waive its usual \$300 application fee. This offer seems generous in the circumstances, and I would encourage you to take advantage of it.*

6. *Accuracy of the Council's "log"*

*I am satisfied with the Council's explanation for the times recorded in the log, and I do not consider that there is any merit in this aspect of your complaint.*

7. *Adequacy of the Council's investigation*

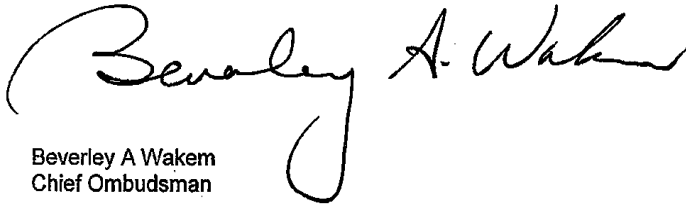
*Following notification of your complaint to this office, the Council undertook further investigations with regard to the events that took place at your property on 24 May 2008. Those investigations, which have been lengthy and thorough, have only served to support the findings of the earlier enquiries carried out by the Council when you first complained to it about the actions of the Noise Control Officer. ...In my*

*view, the Council's initial response to your complaint was adequate and reasonable in the circumstances."*

Mr Peapell was invited to comment, and has done so. However, I have not found reason to alter my view, which I now confirm as final. Mr Peapell has been informed accordingly, and I have now concluded my investigation.

Thank you for Mary Nacey's assistance with this matter.

Yours sincerely

A handwritten signature in black ink that reads "Beverley A. Wakem". The signature is written in a cursive style with a large, sweeping initial 'B'.

Beverley A Wakem  
Chief Ombudsman

ITEM NO: 3

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REPORT



**TO** District Plan and Regulatory Committee  
**ON** 5 August 2009  
**FROM** Valerie Coffey – Disputes Resolution Officer  
**APPROVED BY** Rob Goldsbury – Chief Legal Officer  
**SIGNATURE**

A handwritten signature in black ink, appearing to be "Rob Goldsbury", with a horizontal line underneath.

**SUBJECT** NOTIFICATION OF NEW APPEAL(S)

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Attached as **Appendix 1** is a notification of a new appeal received.

In the event that there are further matters to report on, these will be distributed as supplementary items prior to the meeting.

# APPENDIX 1

**NEW APPEAL RECEIVED**

FILE REF: R53106	ADDRESS: 84 Mahana Road, Muriwai Valley
APPLICANT: Awa Gardens Ltd	APPELLANT: Awa Gardens Ltd
APPLICATION DESCRIPTION:	Application for two lot subdivision with protection and enhancement of 8562m <sup>2</sup> of native vegetation.
NOTIFICATION: Fully notified	SUBMITTERS: FOR: 0 / AGAINST: 5 NEUTRAL: 1
REPORTING PLANNER: Robert Scott	RECOMMENDATION: Refuse
DECISION MAKER(S): Resource Consent Hearings Panel (Harry Bhana, Cr Zane Taylor, Cr Suzanne Weld)	DECISION: Refused
APPEAL RECEIVED ON: 07/07/09	APPEAL REVIEWING PLANNER: To be allocated
<p><b><u>TARGET:</u></b></p> <p>AGENDA ITEM REQUIRED: 3 August 2009</p> <p>FOR DISTRICT PLAN AND REGULATORY COMMITTEE MEETING ON: 12 August 2009</p>	

ITEM NO: 4

REPORT



TO District Plan and Regulatory Committee  
ON 5 August 2009  
APPROVED BY Ian Dobson – Manager: Resource Consents  
SIGNATURE

A handwritten signature in black ink, appearing to read "Ian Dobson", written over a horizontal line.

SUBJECT **SCHEDULE OF DELEGATED DECISIONS ON RESOURCE CONSENT APPLICATIONS**  
FILE REF TP/1/6

*Note: Councillors should raise any queries they may have with the relevant director prior to the day of the meeting so that these may be responded to on the day.*

The schedule below summarises, for the Committee's information, recent decisions made by staff on delegated authority.

NORTHERN WARD

Type of Delegation	Officer	Applicant/ Owner	Address	Application	Decision/ Date
A	Team Leader Resource Management	I Munro & J Martin L55141	5 Lavinia Place Kawau Island	For consent to a Discretionary Activity to authorise existing dwelling that infringes maximum height, height in relation to boundary and side yard controls and undertake alterations to an existing dwelling that infringe the maximum height, height in relation to boundary and side yard controls. Consent is also sought for a pagoda, water tank and garden shed to infringe side yard controls.	Non-Notified Approved 09/07/09
G	Team Leader Resource Management	J E & M R Dellow R53364A	162 Ashton Road Whangateau	For consent to a Discretionary Activity A variation to the consent is sought for: - altering the requirement for the formation within the road reserve to be to council roading standards and - the gradient can be increased slightly from a maximum of 20% to a maximum of 23% Resource consent is required to undertake an earthworks volume of 2240m <sup>3</sup> in order to establish the access proposed. Consent to create one additional site, rural residential in nature, in lieu of protecting native bush.	Non-Notified Approved 09/07/09

Type of Delegation	Officer	Applicant/ Owner	Address	Application	Decision/ Date
A	Team Leader Resource Management	Murray Dingle L55273	1218 Sandspit Road Sandspit	Retrospective Consent is sought for a Restricted Discretionary Activity to construct a retaining wall with fill breaching the 1:2 Rule in relation to the eastern boundary.	Non-Notified Approved 09/07/09
A	Team Leader Resource Management	S & S Hansen L55402	35 Blue Bell Parade, Omaha	For consent to a Restricted Discretionary Activity to construct a dwelling that infringes the maximum bulk in relation to boundary on each side.	Non-Notified Approved 10/07/09
A	Team Leader Resource Management	Able Buildings (2008) Ltd L55294	67 Auckland Road Warkworth	For consent to a Non-Conforming Activity to establish and operate a non-conforming Activity within an existing building and erect signage in excess of one per site.	Non-Notified Approved 14/07/09
A	Council Arborist Resource Management	DN & JR MacReady L55320	4 Waimanu Place Point Wells	For consent to a Discretionary Activity to remove Norfolk Island Hibiscus	Non-Notified Approved 14/07/09
A	Team Leader Resource Management	V Steele L55347	76 Falls Road Warkworth	For consent to a Restricted Discretionary Activity to construct a dwelling with the Low Intensity Residential Zone and conduct 165m <sup>3</sup> of earthworks breaching the 1:2 Rule.	Non-Notified Approved 15/07/09
A	Team Leader Resource Management	Vodafone NZ Ltd L55361	72 Rodney road Warkworth	For consent to a Discretionary Activity to erect a telecommunications mast with associated antenna and equipment cabinets within 2.2 metres of the front boundary.	Non-Notified Approved 15/07/09
G	Team Leader Resource Management	J&M Hatfull R55305	87 Hudson Road Warkworth	For consent to a Non-Complying Activity to a two lot subdivision of Lot 24 DP 9212 in the Residential Low Intensity zone, resulting in lot sizes of 6,000m <sup>2</sup> and 5,200m <sup>2</sup> .	Non-Notified Approved 17/07/09
A	Council Arborist	D Shapleski L55279	15D Wonderview Rd Leigh	For consent to a Discretionary Activity to remove a Pohutukawa and a Norfolk pine to allow safe access way to building site.	Non-Notified Approved 21/07/09
A	Senior Planner Resource Management	Titan Group Ltd L55356	6 Mangawhai Road Te Hana	For consent for a Non-Complying Activity to establish and operate a business involving the sale of rural accessory buildings and to erect a show building for this purpose.	Non-Notified Approved 22/07/09

#### WESTERN AND CENTRAL WARDS

Type of Delegation	Officer	Applicant/ Owner	Address	Application	Decision/ Date
A	Team Leader Resource Management	SH 16 Limited L 55311	Downer Access Road Kaukapakapa	For consent to a Discretionary Activity for a proposed dwelling to infringe the rear yard by 4m.	Non-Notified Approved 07/07/09
A	Independent Commissioner	A B Pickering L55211	27 Access Road Kumeu	For consent to a Discretionary Activity to resite the existing Pomona Hall on to the Kumeu Showground's site. The proposed location of the Hall will infringe the western side boundary with a setback distance of 4.1m.	Non-Notified Approved 02/07/09

Type of Delegation	Officer	Applicant/ Owner	Address	Application	Decision/ Date
A	Team Leader Resource Management	L Fu & D Feng L54881	112 Coatesville Heights, Coatesville	For consent to a Discretionary Activity to construct a new dwelling with attached minor household unit and undertake approximately 4,776m <sup>3</sup> of cut and 4,778m <sup>3</sup> of fill associated with the construction of the new dwelling, tennis court and access tracks.	Non-Notified Approved 06/07/09
A	Team Leader Resource Management	West Auckland Hospice L55370	40 Mill Road Helensville	For consent to a Non-Complying activity to change the existing industrial use to retail service, specifically a Hospice shop.	Non-Notified Approved 10/07/09
A	Team Leader Resource Management	Wainui School Board of Trustees L55401	492 Waitoki Road Wainui	Consent is sought for Outline Plan of Works Application for the construction of a building adjoining the 'junior block' containing two teaching spaces, to enable the school to cater for 276 pupils and 12 Full time teachers.	Non-Notified Approved 14/07/09
A	Ecology Adviser Resource Management	G D Brown L 55380	92 Waitea Road Muriwai Beach	For consent to a Discretionary Activity to trim two pohutukawa trees to remove branches overhanging roof of house.	Non-Notified Approved 15/07/09
A	Ecology Adviser Resource Management	Downer EDI Works Ltd	Adjacent 132 Motutara Road, Muriwai Beach	For consent to a Discretionary Activity to trim branches of a Pohutukawa.	Non-Notified Approved 15/07/09
A	Team Leader Resource Management	Te Kani and A Te Wiata L55414	185 West Road, Kaukapakapa	For consent to a Discretionary Activity for an accessory building infringing the side yard.	Non-Notified Approved 14/07/09
G	Team Leader Resource Management	Twin Pines Estate Ltd R54267	527 Kiwitahi Road, Helensville	For consent to a Discretionary Activity for a subdivision consent to create one additional lot based on the protection of significant wetland.	Non-Notified Approved 20/07/09
A	Team Leader Resource Management	Cai Yun Ma and Wei Guo Xie L55360	145 Te Kanae Road, Mairatahi	For consent to a Discretionary Activity to construct an accessory building in the Dune Lakes zone that will infringe the maximum height rule.	Non-Notified Approved 21/07/09
A	Team Leader Resource Management	J & M Swanton L55400	99 Argent Lane, Upper Orewa	For consent to a Discretionary Activity for earthworks of approximately 675m <sup>3</sup> cut to fill.	Non-Notified Approved 17/07/09
A	Team Leader Resource Management	LA & SL Maskovich R54518	308 Matua Road Huapai	For consent to a Discretionary Activity for a two lot subdivision to create a new rural residential lot. The subdivision is on the basis of the protection of 6500m <sup>2</sup> of wetland area.	Non-Notified Approved 22/07/09
A	Team Leader Resource Management	Mark Ensom L52890	329 Main Road Huapai	For consent to a Non-Complying Activity to vary conditions 1, 3 and 5 to amend the size and location of the office building and alter the stormwater disposal for the site.	Non-Notified Approved 23/07/09
A	Team Leader Resource Management	L & A Trimmer L55445	31c Koraha Road, Kumeu	For consent to Restricted Discretionary Activity for additions to an existing dwelling.	Non-Notified Approved 24/07/09
G	Land Surveyor Resource Management	D & L Eagle R53355A	1318/1320 SH 17 Dairy Flat	For consent to a Discretionary Activity to alter condition of consent pursuant to section 127 of the RMA to allow staging of the subdivision approved under SUB53355.	Non-Notified Approved 27/07/09

Type of Delegation	Officer	Applicant/ Owner	Address	Application	Decision/ Date
A	Independent Commissioner	Rodney District Council L55335	Kumeu River at Weza Lane, Kumeu	For consent to a Restricted Discretionary Activity to remove an existing footbridge and construct a new 57.7 metre long footbridge.	Non-Notified Approved 20/07/09
A	Team Leader Resource Management	Newns Family Trust L55393	74A Waitakere Road Waitakere	For consent to a Restricted Discretionary Activity to erect a garage that will infringe the side yard by 3 metres on a rear site.	Non-Notified Approved 28/07/09

#### HIBISCUS COAST WARD

Type of Delegation	Officer	Applicant/ Owner	Address	Application	Decision/ Date
G	Land Surveyor Resource Management	Coastal Properties Limited R 55237	15 Marie Avenue Red Beach	For consent to a Discretionary Activity for replacement of an existing house involving erection of the new dwelling in the front yard. Two lot subdivision of a site containing two existing dwellings.	Non-Notified Approved 07/07/09
G	Land Surveyor	C & D Buchanan R55328	10 Ngahere Views Orewa	Consent to create a right of way labelled as 'A' on Scheme Plan R55328 over Lot 1 DP 149738 in favour of Lot 2 DP 149738.	Non-Notified Approved 09/07/09
A	Team Leader Resource Management	T & J Wilson L55178	1/17 De Luen Avenue, Tindalls Beach	For consent to a Restricted Discretionary Activity for the addition of a deck and swimming pool to a consented but unbuilt dwelling, infringing the front yard and involving excavation and retaining.	Non-Notified Approved 13/07/09
A	Team Leader Resource Management	B & J Power L55338	1a Edgewater Grove, Orewa	For consent to a Restricted Discretionary Activity to reduce the eastern and western side yards.	Non-Notified Approved 13/07/09
G	Team Leader Resource Management	Coastal Properties Ltd R55327	11 Tee Point, Red Beach	For consent to a Non-Complying Activity for a subdivision of two existing, amalgamated lots, retained earthworks (cut and fill).	Non-Notified Approved 13/07/09
A	Team Leader Resource Management	B Luckman L55329	130 Pacific Parade, Army Bay	For consent to a Restricted Discretionary Activity for a retaining wall and removal of a pohutukawa tree.	Non-Notified Approved 13/07/09
G	Team Leader Resource Management	McRasta Ltd R55156A	85 Bay Street Red Beach	For consent to a Discretionary Activity to a Variation to Subdivision R 55156 to reduce the number of lots from three to two.	Non-Notified Approved 13/07/09
A	Ecology Advisor Resource Management	Satvir Kaur L 55395	195 Brightside Road Stanmore Bay	For consent to a Discretionary Activity to trim 1x Coral, 1x Red Matipo, 1x Cabbage trees and remove 1x Manuka tree which are encroaching the Growth Limit Zone with respect to electricity network lines.	Non-Notified Approved 13/07/09

Type of Delegation	Officer	Applicant/ Owner	Address	Application	Decision/ Date
A	Ecology Advisor Resource Management	DF & DJ Crosby L55316	190 Hibiscus Coast H/Way Orewa	For consent to a Discretionary Activity to undertake tree maintenance and removal, Pohutukawas, Norfolk Pine, Lawson cypress, Privet.	Non-Notified Approved 10/07/09
A	Ecology Advisor Resource Management	J & CE Williamson L55301	75 Maygrove Drive Orewa	For consent to a Discretionary Activity to remove lower limbs and formative prune one Gleditsia, formative pruned an additional Gleditsia and reduce height of a Radermachera.	Non-Notified Approved 14/07/09
A	Ecology Advisor Resource Management	GC & AL Morrison L55312	39 Manly Park Ave Manly	For consent to a Discretionary Activity to remove a Pecan Tree.	Non-Notified Approved 14/07/09
A	Team Leader Resource Management	C & R Sundgren L55343	9 Midshipman Court, Gulf Harbour	For consent to a Restricted Discretionary Activity for retrospective consent for a dwelling infringing the rear yard.	Non-Notified Approved 10/07/09
A	Council Arborist Resource Management	Orewa North Primary School L55282	280 Centreway Road, Orewa	For consent to a Discretionary Activity to trim back the roots of a pohutukawa tree causing damage to footpath.	Non-Notified Approved 14/07/09
A	Council Arborist Resource Management	B J Huphries L55091	1 Rawhiti Road manly	For consent to a Discretionary Activity to remove a Macrocarpa tree.	Non-Notified Approved 14/07/09
A	Ecology Adviser Resource Management	CE & JJ Brenan L55352	12 Arkles Strand Arkles Bay	For consent for a Discretionary Activity to remove a Macrocarpa tree.	Non-Notified Approved 14/07/09
G	Land Surveyor Resource Management	Coastal Properties Ltd R55304	4 Melanie Place Orewa	For consent for a Discretionary Activity to subdivide a 809m2 site into two lots Lot 1 will be 336m2 and Lot 2 will be 473m2. The applicant also intends to construct two dwellings at the same time as subdividing. The two dwellings will create several yard infringements. The front dwelling will infringe the front yard by 2.5m and the rear yard by 0.3m. Due to the subdivision the rear dwelling will infringe the three metre rear yard along three boundaries.	Non-Notified Approved 16/07/09
A	Team Leader Resource Management	P Partridge and L Kelly L55334	67 Island View Drive, Gulf Harbour	For consent to a Restricted Discretionary Activity to construct a dwelling involving earthworks and a variation to consent notice.	Non-Notified Approved 21/07/09
A	Team Leader Resource Management	WFH Properties Ltd L55272	Lots 1, 2, 4, 5 DP 198109 and Lot 2 DP 212197, Millwater Parkway, Silverdale North	For consent to a Discretionary Activity for blanket approval for buildings on approved Lots 1-6, 8, 16, 20 and 21, Stage 1 Precinct 4 and approved Lots 203-210, Stage 2, Precinct 4 to breach height in relation to boundary measurement to be taken from the top of approved retaining walls rather than the approved ground level at the time of subdivision.	Non-Notified Approved 21/07/09

Type of Delegation	Officer	Applicant/ Owner	Address	Application	Decision/ Date
A	Council Arborist	W G Ashley L55307	1 Arkles Strand Arkles Bay	For consent to a Discretionary Activity to deadwood and lighten foliage on a Quercus.	Non-Notified Approved 21/07/09
A	Council Arborist	GE & PI Harpur L55230	2/83 The Circle Manly	For consent to a Discretionary Activity to trim 1 Oak tree and 1 x Liquid ambar and canopy lift 1 x Pepper tree.	Non-Notified Approved 21/07/09
G	Team Leader Resource Management	WFH Properties Ltd R55314	Millwater Parkway / Leigh Road, Silverdale	For consent to a Non-Complying Activity for the approval of a development concept plan, subdivision of 18 residential lots, dispensation from the height in relation to boundary rules.	Non-Notified Approved 24/07/09
A	Team Leader Resource Management	DRH (North Shore Ltd) L55368	31 Grand Drive, Orewa	For consent to a Non-Complying Activity for the operation of a show home in a Residential Medium Intensity Zone.	Non-Notified Approved 24/07/09
A	Team Leader Resource Management	V & M Roberts L54492/A	80 Duck Creek Road, Stillwater	For consent to a Variation to Resource Consent RMA 54492 for condition 1 and 8 and deletion of 4, 5, 6 and 7.	Non-Notified Approved 24/07/09
A	Team Leader Resource Management	Vector Ltd L55359	43 Cedar Terrace Stanmore Bay	For consent to a Discretionary Activity for erection of a power pole within a residential zone, which is an activity not provided for.	Non-Notified Approved 24/07/09

#### **RECOMMENDATION:**

**That the report on decisions relating to:**

- A Land Use Resource Consent Applications [s.88 of the Resource Management Act 1991] (Controlled Activity, Discretionary Activity, Non-Complying Activity, Preservation or Conservation of Landscape);**
- B Lapsing of Consents [s.125 of the Resource Management Act 1991];**
- C Change or Cancellation of Consent Conditions by Consent Holder [s.127 of the Resource Management Act 1991];**
- D Existing Uses [s.10 of the Resource Management Act 1991];**
- E Non-Conforming Buildings [s.10 of the Resource Management Act 1991];**
- F Any Other Decision Relating to Activities;**
- G Subdivision Consent [s.105 of the Resource Management Act 1991] and Development Plans [s.409];**

**made pursuant to delegated authority from the Council, be received.**

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**SUBJECT PUBLIC EXCLUDED**

That the public be excluded from the following parts of the proceedings of this meeting, namely:

Agenda Item No(s). 6, 7, 8 and 9

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

General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Grounds under section 48(1) for the passing of this resolution
Appeals / Proposed District Plan 2000	Refer grounds	That the exclusion of the public from the whole or the relevant part of the proceedings of the meeting is necessary to enable the Local Authority to deliberate in private on its decision or recommendation in any proceedings before it where: (i) a right of appeal lies to any court or tribunal against the final decision of the Local Authority in those proceedings; or (ii) the Local Authority is required, by any enactment, to make a recommendation in respect of the matter that is the subject of those proceedings. (section 48(1)(d) Local Government Official Information and Meetings Act 1987.)

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