

## **DISTRICT PLAN AND REGULATORY COMMITTEE**

**MINUTES:** of a meeting of the District Plan and Regulatory Committee which commenced at 9.00 a.m. in the Council Chambers, Centreway Road, Orewa on Wednesday, 23 September 2009.

**PRESENT:** Crs Gaye Harding (Chairperson)  
Michael Goudie  
Dave Parker QSM  
Grahame Powell  
Pat Delich

**IN ATTENDANCE:** Democracy Services Officer (Elise Heyns)

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9.00 a.m. Chief Legal Officer (Rob Goldsbury), Disputes Resolution Officer (Valerie Coffey) Traffic Consultant (David Mitchell) and Environmental Protection Officer (Ryno Botha) in attendance.

**632/09/09 APOLOGIES**

**AGENDA ITEM NO. 1**

**Harding/Powell**

**That the apology from Cr Weld be received and sustained.**

**Carried**

**633/09/09 NOTIFICATION OF NEW APPEAL(S)**

**AGENDA ITEM NO. 2**

There was no notification of new appeals.

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**634/09/09****“NO STOPPING” LINES:****HATTON ROAD, OREWA****WECH DRIVE, WARKWORTH****NELSON AND TAUPAKI ROAD INTERSECTION****AMBER PLACE AND MURIWAI ROAD INTERSECTION****MANGA ROAD, SILVERDALE****79 COMMERCIAL ROAD, HELENSVILLE – REMOVAL OF “NO  
STOPPING” LINES****FILE REF**

RF/38/1; RF/276/1; RF/76/1; RF/63/1; RF/251/1; RF/44/1

**AGENDA ITEM NO.**

3

**Delich/Parker**

**That new “no stopping” lines be installed at the streets shown in Appendix 1 - 5 to the agenda item and “no stopping” lines be removed at the street shown in Appendix 6 to the agenda item.**

**Carried**

9.04 a.m.

Traffic Consultant (David Mitchell) retired from the meeting.

9.05 a.m.

Senior Planner Consents (Steve Seager) and Planner (Eric Oosthuizen) in attendance.

**635/09/09****REDDALE LIME COMPANY LTD: CRUSHING AND PROCESSING LIME  
IN BREACH OF AN ABATEMENT NOTICE, APPEAL OF ABATEMENT  
NOTICES, STAY APPLICATIONS****17 OLD PINE VALLEY ROAD, SILVERDALE****FILE REF**

L 35346; L 35225 &amp; L 35973

**AGENDA ITEM NO.**

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**Harding/Delich****That the information be received.****Carried**

9.10 a.m.

Environmental Protection Officer (Ryno Botha) retired from the meeting.

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**636/09/09**                                    **SECTION 357 OBJECTION TO FEES CHARGED FOR THE PROCESSING OF A RESOURCE CONSENT APPLICATION TO CONVERT AN EXISTING DWELLING AT 749-751 WHANGAPARAOA ROAD INTO A CAFÉ/RESTAURANT**

**OBJECTOR:** Shane Hartley (Terra Nova Planning) for:

**APPLICANT:** Wayne O' Leary

**FILE REF**                                    **RMA 50053**

**WARD**                                        Eastern Ward

**AGENDA ITEM NO.**                    5

*The objectors, Mr and Mrs O'Leary, were present for the hearing.*

Planner (Eric Oosthuizen) gave a summary of the agenda report and outlined the reasons for the objection.

Mr O'Leary addressed the Committee. He said they had originally planned to open a café as a family business, but since their application had been rejected, they had decided to move on. They had objected to the fees charged for the processing because they felt it was out of proportion in regard to the scale and nature of the proposal, but they had to wait three years for the objection hearing before the District Plan and Regulatory Committee. He said they had exhausted their funds and was asking for some leniency from the Council in settling this matter.

9.15 a.m.                    Democracy Services Manager (Ellen Barrett) in attendance.

The Chairperson, Cr Harding, thanked Mr and Mrs O'Leary for their attendance at the meeting, advising that the Committee's decision in the matter would be deferred to later in the meeting and they would be advised of the outcome at a later date.

9.20 a.m.                    Senior Planner Consents (Steve Seager) and Planner (Eric Oosthuizen) retired from the meeting.

**637/09/09**                                    **SCHEDULE OF DELEGATED DECISIONS ON RESOURCE CONSENT APPLICATIONS**

**FILE REF**                                    TP/1/6

**AGENDA ITEM NO.**                    7

It was noted that the following Hibiscus Coast Ward applications were incorrectly listed under the Northern Ward applications.

L55372	90 West Hoe Heights, Orewa;
L55412	Lennon Access Road, Stillwater.

**Harding/Powell**

**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.

**Carried**

9.25 a.m. Policy Planner (Wendy Robertshaw) in attendance.

9.25 a.m. Chief Legal Officer (Rob Goldsbury) retired from the meeting.

9.30 a.m. Manager: District Planning (Peter Vari) in attendance.

**638/09/09 PROPOSED DISTRICT PLAN 2000 - REPORT FOR DISTRICT PLAN AND REGULATORY COMMITTEE**

**PROPOSED VARIATION 65 VISITOR ACCOMMODATION**

**FILE REF** TP/14/2/65

**AGENDA ITEM NO.** 6

Policy Planner (Wendy Robertshaw) summarised the agenda report.

Submitter 1016/1-4; FS 1016/5-7: Lance Hessell on behalf of Terra Nova Planning

Lance Hessell distributed and read his written evidence (copy on File: TP/14/2/65). Mr Hessell's evidence addressed the following key issues:

- The existing rules and the limited provision for visitors accommodation under those rules;
- Operational mechanisms and covenants for unit titled visitors accommodation;
- Environmental effects in terms of unit title visitor accommodation and longer duration of stay;
- The Council's rationale for introducing the prohibited activity status for unit titling; and
- Assessment criteria.

Mr Hessell concluded by saying that it was his opinion that the withdrawal of the Variation would better reflect the Council's intentions of encouraging the growth of tourism and would be more in line with its economic strategy report "A Living Vision of Rodney's Economy".

9.45 a.m. Disputes Resolution Officer (Valerie Coffee) retired from the meeting.

9.55 a.m. Democracy Services Manager (Ellen Barrett) retired from the meeting.

In response to questions, Mr Hessell said that a 90-day stay would allow for seasonal visitors and thus target a wider market. It was also noted that there should be sufficient notice of reverse sensitivity for the rural areas in the applications.

The Chairperson, Cr Harding, thanked Mr Hessell for his attendance and advised that a decision would be made at a later time.

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Submitter 1012/1-3: David Town on behalf of the ARC

David Town distributed and read his written evidence (copy on File: TP/14/2/65). Mr Town said the ARC's submission supported the variation overall, while seeking some amendments. He focused his evidence on those amendments which were, in summary:

- The application of Prohibited Activity Status for subdivision of visitor accommodation in all residential and rural zones;
- The introduction of an assessment criterion addressing the values of outstanding natural landscapes;
- The retention of assessment criterion 7.13.4.16(a).

The Chairperson, Cr Harding, thanked Mr Town for his attendance and advised that a decision would be made at a later time.

10.05 a.m. The Mayor, Penny Webster, present and the Chief Executive (Rodger Kerr-Newell) in attendance.

10.10 a.m. The Mayor, Penny Webster, and the Chief Executive (Rodger Kerr-Newell) retired from the meeting.

Submitter 1000/1: Annette Asher and Colin Binstead, on behalf of Rainbows End and Rivers Environmental Group (REaREG)

Ms Asher thanked the Council for the protection of rural property through the Variation. She commented on the importance of green spaces and open land for the health of a nation.

Mr Binstead said REaREG endorsed the Officer's report. Mr Binstead distributed written evidence of the ownership structure of a developer who referred to the lessee as "...having full ownership (a lease in perpetuity)" and "...have the same value and negotiability as if it were freehold" (copy on File: TP/14/2/65). Mr Binstead said the Group supported a policy which prevents permanent residential accommodation creeping in to the district's rural and residential zones under the guise of visitor accommodation.

The Chairperson, Cr Harding, thanked Mr Binstead and Ms Asher for their attendance and advised that a decision would be made at a later time.

9.20 a.m. Chief Legal Officer (Rob Goldsbury) in attendance.

Submitter 1002/1: Doug Irwin

Mr Doug Irwin gave verbal evidence. Mr Irwin said he and his wife operated an establishment in Red Beach that provided accommodation for a variety of reasons (requests from WINZ, Hospitals, overseas guests, etc). He said they provided a service to the community and it was difficult to put a time frame on the guests' duration of stay. He also asked the Council to change their classification from a motel to a boarding house and said they wished to accommodate more than 10 people to allow for visitors and family members.

Manager: District Planning (Peter Vari) noted that boarding houses fell outside the Variation and was treated separately to visitor accommodation. He said the Council would look into Mr Irwin's property classification.

The Chairperson, Cr Harding, thanked Mr Irwin for his attendance and advised that a decision would be made at a later time.

10.30 a.m. Consultant David Wren in attendance.

Manager: District Planning (Peter Vari) advised the Committee that Council staff would reflect on the submissions and return with a deliberation report within the following month.

10.35 – 10.50 a.m. Morning Tea Adjournment.

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10.50 a.m. Chief Legal Officer (Rob Goldsbury), Disputes Resolution Officer (Valerie Coffee), Senior Planner Consents (Steve Seager), Planner (Eric Oosthuizen) and Policy Planner (Alison Pye) in attendance.

**639/09/09 REQUEST FOR CONSIDERATION OF URGENT ITEMS**

**AGENDA ITEM NO.** 21

**Harding/Parker**

**That item 21: RMA Amendment Bill – Tree Protection be considered under urgency at this meeting to allow dissemination of the information relevant to changes to the RMA (Simplifying and Streamlining) Amendment Bill, in particular Tree Protection which take effect on 1 October 2009.**

**Carried**

10.57 a.m. Democracy Services Manager (Ellen Barrett) in attendance.

10.58 a.m. Assistant Chief Executive (Warren MacLennan) in attendance.

11.00 a.m. Environmental Protection Officer (Ryno Botha) and Environmental Protection Officer (Kerry Flynn) in attendance.

**640/09/09 RMA AMENDMENT BILL – TREE PROTECTION**

**FILE REF** TP/14/2/23; TD/1/1

**AGENDA ITEM NO.** 21

Policy Planner (Alison Pye) summarised the agenda report and noted that the changes contained in the Bill concerning the trimming of trees would come into effect on 1 October 2009.

Manager: District Planning (Peter Vari) noted that a definition of the term ‘trimming’ would be added to the District Plan and advised that residents should be encouraged to check whether the rules applying to an individual property were affected by the changes before any trimming was done.

11.05 a.m. Manager: District Planning (Peter Vari) and Policy Planner (Alison Pye) retired from the meeting.

**641/09/09 SECTION 357 OBJECTION TO FEES CHARGED FOR THE PROCESSING OF A RESOURCE CONSENT APPLICATION TO CONVERT AN EXISTING DWELLING AT 749-751 WHANGAPARAOA ROAD INTO A CAFÉ/RESTAURANT**

**OBJECTOR:** Shane Hartley (Terra Nova Planning) for:

**APPLICANT:** Wayne O’ Leary

**FILE REF** RMA 50053

**WARD** Eastern Ward

**AGENDA ITEM NO.** 5

After discussion it was decided to reduce the charges to Mr and Mrs O’Leary with 10% in recognition of the lengthy period it took to achieve the objection hearing and the subsequent period of uncertainty suffered by the applicants.

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**Delich/Parker**

That pursuant to Section 357 of the Resource Management Act 1991, the objection made by Mr Shane Hartley in respect of a request for the reduction of fees arising from the processing of an application to convert an existing dwelling at 749 Whangaparaoa Road into a café/restaurant, be partially dismissed and that a 10% reduction in the outstanding fee be granted.

**REASONS:**

1. It is considered that the administrative charge invoiced in relation to the resource consent application represents the actual and reasonable costs incurred by the Council in processing the resource consent application.
2. Section 36(3) of the Resource Management Act 1991 provides for the Council to recover the actual and reasonable costs for the processing of Resource Consents and it is the Councils policy to recover these costs from applicants. In this instance there is no evidence that the costs incurred are excessive or unreasonable.
3. It is considered appropriate for the applicant to incur the costs for the processing of the application. Should any reduction or waiver be made to the invoiced amount, the ratepayer will have to cover these costs.
4. The 10% reduction in the fee is granted as a result of the lengthy period taken to consider the objection which was submitted during 2006.

**Carried**

11.15 a.m. Senior Planner Consents (Steve Seager) and Planner (Eric Oosthuizen) retired from the meeting.

**642/09/09 PUBLIC EXCLUDED**

**AGENDA ITEM NO. 8**

**Harding/Powell**

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

Minute No(s). 643/09/09, 644/09/09, 645/09/09, 646/09/09, 647/09/09, 648/09/09, 649/09/09, 650/09/09, 651/09/09, 652/09/09, 653/09/09, 654/09/09 and 655/09/09

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:

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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	<p>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:</p> <p>(i) a right of appeal lies to any court or tribunal against the final decision of the Local Authority in those proceedings; or</p> <p>(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.</p> <p>(section 48(1)(d) Local Government Official Information and Meetings Act 1987.)</p>

**Carried**

*Note: The following decisions were made with the public excluded then brought into open meeting.*

**656/09/09                      REDVALE LIME COMPANY LTD: CRUSHING AND PROCESSING LIME  
IN BREACH OF AN ABATEMENT NOTICE, APPEAL OF ABATEMENT  
NOTICES, STAY APPLICATIONS**

**17 OLD PINE VALLEY ROAD, SILVERDALE**

**FILE REF                      L 35346; L 35225 & L 35973**

**AGENDA ITEM NO.        10**

**Harding/Delich**

- (a) That the report be received.
- (b) That WEPSI's request for restitutive action be declined.
- (c) That Council staff continue to closely monitor the activities at 17 Old Pine Road.
- (d) That the decision only be restated in open meeting.

**Carried**

**657/09/09                      PRUNING, CUTTING AND DAMAGING OF PROTECTED NATIVE TREE:  
10 GLEDSTANE ROAD, STANMORE BAY**

**FILE REF                      CR 629740**

**AGENDA ITEM NO.        11**

**Delich/Goudie**

- (a) That the information be received.
- (b) That the owner and her partner/husband as well as the contractor be issued with a written warning.
- (c) That the decision only be restated in open meeting.

**Carried**

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**658/09/09                    MANLY GROUP INVESTMENTS LTD V RODNEY DISTRICT COUNCIL  
ENV 2008-AKL-000265****LOCATION: 156 BRIGHTSIDE ROAD, STANMORE BAY****FILE REF                    L52685-APL****AGENDA ITEM NO.        13****Goudie/Delich**

- (a)     **That the Council accept the experts' advice and agree to settle the appeal subject to the finalising of the conditions.**
- (b)     **That the decision be restated in open meeting.**

**Carried**

The Chairperson, Cr Harding, asked that her vote against the decision be noted because of the following reasons:

- the top floor of the building as proposed was non-complying;
- the Council needed to uphold the integrity of the District Plan;
- the urban design of the building did not fit in with the character of the existing Manly Village.

It was decided that a media release would be prepared by the Council's Communications Department. The Chairperson, Gaye Harding, asked that it be known that the District Plan and Regulatory Committee had reluctantly agreed to the decision.

**659/09/09                    PROPOSED VARIATION 123 – SPECIAL 26 (HIBISCUS COAST  
GATEWAY RECREATION AND ENTERTAINMENT) ZONE AND  
SPECIAL 25 (HIBISCUS COAST GATEWAY SPECIALTY RETAIL) ZONE  
AND METROPOLITAN URBAN LIMIT SHIFT REQUEST****FILE REF                    TP/9/45/2****AGENDA ITEM NO.        15****Harding/Powell**

- (a)     **That the Proposed Variation 123 – Introduction of Special 26 (Hibiscus Coast Gateway Recreation and Entertainment) Zone and Special 25 (Hibiscus Coast Gateway Specialist Retail) Zone and Other Amendments; as set out in the agenda report (subject to minor amendments and corrections) for pre-notification consultation with statutory bodies in accordance with Clause 3 of the First Schedule to the Resource Management Act 1991, be adopted.**
- (b)     **That the information on the Proposed Metropolitan Urban Limit shift request and proposed change to the Regional Air Land Water Plan be received.**
- (c)     **That the resolution and the agenda report be restated in open meeting.**

**Carried**

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**660/09/09**                    **PROPOSED VARIATION 131 TO THE RODNEY DISTRICT PLAN 2000 – OPERATIVE IN PART, RELATING TO THE REZONING OF LAND FOR INDUSTRIAL PURPOSES AND AN APPLICATION FOR A SHIFT TO THE METROPOLITAN URBAN LIMITS**

**FILE REF**                    TP/9/45/3

**AGENDA ITEM NO.**        16

**Delich/Powell**

- (a)    That that Committee adopt Proposed Variation 131 Rezoning Land for Industrial Purposes at Silverdale as set out in the agenda report (subject to minor amendments and corrections) for pre-notification consultation with statutory bodies in accordance with Clause 3 of the First Schedule to the Resource Management Act 1991.
- (b)    That the information on the Proposed Metropolitan Urban Limit shift request and proposed change to the Regional Air Land Water Plan as set out in the agenda report be received.
- (c)    That the resolution and the agenda report be restated in open meeting.

**Carried**

The meeting closed at 3.05 p.m.

CONFIRMED AS A TRUE AND CORRECT RECORD THIS 5TH DAY OF NOVEMBER 2009

MAYOR

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