

DISTRICT PLAN AND REGULATORY COMMITTEE

MINUTES: of a meeting of the Regulatory Committee which commenced at 9.00 a.m. in the Committee Room, Centreway Road, Orewa on Wednesday, 13 February 2008.

PRESENT: Penny Webster , Mayor (from 9.05 a.m.)
Crs Gaye Harding (Chairperson)
Michael Goudie
Dave Parker QSM
Grahame Powell
Suzanne Weld

IN ATTENDANCE: Committee Adviser (Elise Heyns)

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9.00 a.m. Senior Policy Planner-Development (Dave Paul) in attendance.

The Chairperson, Cr Harding, welcomed everyone present and thanked Cr Weld for assuming the Chair in her absence.

44/02/08 APOLOGIES AND ANNOUNCEMENTS

AGENDA ITEM NO. 1

There were no apologies or announcements.

45/02/08 REQUESTS FOR CONSIDERATION OF URGENT ITEMS

AGENDA ITEM NO. 2

There were no requests for consideration of urgent items.

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46/02/08	PROPOSED PRIVATE PLAN CHANGE 106
	REZONING LAND ON WERANUI ROAD WAIWERA
	HEARING OF SUBMISSIONS
FILE REF	TP/14/3/10
AGENDA ITEM NO.	3

Consultants Robert Scott and Rebecca Skidmore were present for this item. Consultant (Robert Scott) introduced the item to the Committee.

Submitters David Wrathall, Marcus Landman and David Town (representing Auckland Regional Council) present and applicant Derek Dikstaal and Shane Hartley, Alan Hopkinson and Mike Barnes, (representing the applicant) present.

Written evidence of submitter Transit New Zealand (not present) was circulated at the start of the meeting.

David Wrathall

David Wrathall distributed written evidence in support of his submission (copy on File: TP/14/3/10). He pointed out the position of his property in relation to the applicant's site on request of the Committee.

Consultant (Robert Scott) distributed the final report of Rebecca Skidmore to replace the draft report within the circulated agenda (copy on File: TP/14/3/10).

Marcus Langman, representing Auckland Regional Council (ARC)

Marcus Langman distributed written evidence in support of the submission by the ARC (copy on File: TP/14/3/10).

In response to questions from Committee members, Marcus Landman noted that decisions of Proposed Plan Change 6 were currently subject to appeal. The landscape features of Proposed Plan 8 still needed to be identified.

Mr Landman said the ARC was not concerned about the other planned developments in the zoned Waiwera area.

9.40 a.m. Penny Webster – Mayor, retired from the meeting.

Shane Hartley (Terra Nova Planning), representing the applicant

Shane Hartley distributed written evidence in support of the applicant's submission (copy on File: TP/14/3/10).

10.17a.m. - 10.37 a.m. Morning Tea Adjournment

In response to questions, the following was noted:

- The site was not subject to flooding.
- The nature of settlement from Waiwera to the Alport Bridge appeared linear with two or three clusters spaced intermittently.
- The stormwater management would mitigate any negative effects on catchment impact and landscape impact.
- The waste water treatment plant forms a topographical and functional boundary between the site and other land, effectively making it the last property to have development potential and therefore would not cause a precedent.
- The scale and proportion of the development (10 new houses) would not be threatening for Council strategies.

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- The actual zoning would be for High Intensity with a 12 lot limitation.
- There were no perceived odours due to the ridge shielding the oxidation ponds.
- The road was sealed and there existed overhead power lines.
- A full structure plan process would be needed if the Waiwera township was to be extended to the motorway.

Alan Hopkinson, representing the applicant

Alan Hopkinson distributed written evidence in support of the applicant's submission (copy on File: TP/14/3/10).

Mr Hopkinson referred to the Transit submission that expressed concern about the visibility available at the intersection of Waiwera Road with State Highway 1. Mr Hopkinson said that Transit New Zealand identified the hazard which could be easily rectified through proper maintenance.

The Chairperson, Cr Harding, said that his comment would be passed on to Transit New Zealand.

Mike Barnes, representing the applicant

Mike Barnes gave a PowerPoint presentation (hard copy on File: TP/14/3/10).

Mr Barnes accentuated the belief that the intentions of the RMA should be embraced in an innovative manner to achieve sensitive development. He said the developer would like to spend time with Council staff to develop a new eco village model. Mr Barnes confirmed that the type of design and lay-out would be managed on the site with no massive earthworks. The lower flat area would be used for the house platforms and the bush would remain as a recreation area. It was pointed out that the bush was covenanted.

Mr Hartley concluded by saying that it all came down to the scale and proportion of the proposal and the site was totally acceptable for High Density zoning with a 12 lot restriction.

12.02 p.m. The Chairperson adjourned the hearing subject to a site visit.

47/02/08 PUBLIC EXCLUDED

AGENDA ITEM NO. 13

Powell/Weld

Recommendation:

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

Minute No(s). 48/02/08, 49/02/08, 50/02/08, 51/02/08 and 52/02/08

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	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.)

12.50 p.m. – 1.10 p.m. Luncheon Adjournment

1.10 p.m. Dave Paul (Senior Policy Planner-Development) and Policy Planner - Environmental Planning (Alison Pye) and Senior Policy Planner (Ian Bayliss) retired from the meeting.

1.10 p.m. Chief Legal Officer (Rob Goldsbury), Principal Planner Appeals (Fran Mikulicic), Animal Control & Bylaws Manager (Wayne Knightbridge) and Animal Control Officers (Colin Mason and Craig McFarlane) in attendance.

1.15 p.m. Building Compliance Officer (Tony Jane) in attendance.

53/02/08 APPEAL AGAINST DANGEROUS DOG CLASSIFICATION – ROCHELLE O'CALLAGHAN

FILE REF DC/9/1

AGENDA ITEM NO. 5

The applicant, Rochelle O' Callaghan, was not present for this item.

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54/02/08 **APPEAL AGAINST DANGEROUS DOG CLASSIFICATION –
ROMAN SHCHGLIK AND MAREE GELDARD**

FILE REF DC/9/1

AGENDA ITEM NO. 6

The Chairperson, Cr Harding, welcomed Roman Shchglik to the meeting and explained the hearing process.

Roman Shchglik defended the complaint made against his dog Eva, an American Bulldog. He said that there existed no grounds for saying that Eva was dangerous and was barking excessively. He said that Eva was not aggressive, but was merely protecting his property. Mr Shchglik said that Eva could not have been involved in the attack on another dog as mentioned in the report as she was with him in Wellington at that time. He said that Eva was with puppies when the Animal Control officers and policemen visited his property and tried to jump over the fence. Mr Shchglik considered Eva to be a highly trained dog.

Animal Control and Bylaws Manager (Wayne Knightbridge) gave a brief review of the events recorded in the agenda report. He said Eva was identified by the complainant and that there were numerous reports of barking from neighbours. Animal Control Officer (Colin Mason) confirmed that the officers did not try to jump over the fence; they observed Eva as being very dangerous. Although Eva showed no aggression when Roman was present, the Officer expressed concern for what might happen if any other person enter the property.

The Chairperson, Cr Harding, thanked Mr Shchglik for his attendance and advised that a decision would be deferred until later in the meeting and that he would be informed of the outcome at a later time.

55/02/08 **APPEAL AGAINST MENACING DOG CLASSIFICATION –
CHRIS GREYLING**

FILE REF DC/9/2

AGENDA ITEM NO. 7

The applicant, Chris Greyling, was not present for this item.

56/02/08 **NOTIFICATION OF NEW APPEAL(S)**

AGENDA ITEM NO. 4

Confirmation of a new appeal was received.

57/02/08 **EXEMPTION: FENCING OF SWIMMING POOLS ACT 1987**

ADDRESS: 12 RAKAU VIEWS, OREWA

OWNER: BRYAN PERROW

FILE REF BB/14/1; SWM 8371

AGENDA ITEM NO. 9

Goudie/Parker

That the application for exemption from the Fencing of Swimming Pools Act 1987 by Bryan Perrow be granted subject to the following:

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Conditions:

- a) The top of the spa pool or hot tub shall be positioned with the entire top surface not less than 760 mm above the surrounding ground or deck;
- (b) The cover shall be lockable and shall be kept locked when the spa pool or hot tub is not being used or supervised. A locking device shall contain a mechanical locking mechanism or a self-locking mechanism in addition to latching shut;
- (c) The locks shall not be able to be readily opened or released by a child of up to the age of six (6) years;
- (d) When locked the cover shall be fitted so that if lifted it does not release the locking device or provide a clearance greater than 100 mm;
- (e) The cover shall be made of a material that if walked on, cannot collapse and can withstand the weight of at least 20 kg to ensure that it will more than take the weight of a child up to six (6) years of age;
- (f) The cover shall be constructed of material that meets American Society Testing and Materials Standard (ASTM) F1346-91 to allow easy movement on and off the spa pool or hot tub;
- (g) The cover shall be constructed with a taper from the centre hinge to the outside edge of the cover so that water will not pond on top of it;
- (h) The cover shall have an evenly spaced mechanical locking device as required in (b) which shall be positioned to ensure the cover cannot be lifted more than 100mm by a child up to six (6) years of age, and ensures that the cover is fixed securely to the spa pool or hot tub;
- (i) The cover and locks shall be maintained at all times in a good state of repair;
- (j) Warning stickers/signs shall be placed on the cover to advise that it shall be locked in place when the spa pool or hot tub is not being used or supervised;
- (k) Removable steps, movable furniture, or other objects that can assist a young child to climb onto the cover, shall be stowed/stored away at least 1200 mm from the side of the spa pool or hot tub.
- (l) That the property owner/tenant sign a statement of undertaking, taking responsibility to ensure the above requirements is adhered to.
- (m) Further, the exemption is not transferable to any new owner of the property in the event of sale by the current owner Bryan Perrow.

Reason:

In the opinion of the Council it is possible, reasonable and is not in breach of any other act, regulation or bylaw to ensure compliance with the Fencing of Swimming Pools Act 1987 requirements or the new New Zealand Standard (NZS) 8500:2006 guidelines if the above conditions were met.

Carried

13 February 2008

58/02/08 **EXEMPTION: FENCING OF SWIMMING POOLS ACT 1987**
ADDRESS: 65 POYNER ROAD, KOMOKORIKI, 1241
OWNER: KARL AND LIZ CLEMM

FILE REF BB/14/1; SWM 8370

AGENDA ITEM NO. 10

Goudie/Parker

That the application for exemption from the Fencing of Swimming Pools Act 1987 by Karl and Liz Clemm be granted subject to the following:

Conditions:

- (a) The top of the spa pool or hot tub shall be positioned with the entire top surface not less than 760 mm above the surrounding ground or deck;**
- (b) The cover shall be lockable and shall be kept locked when the spa pool or hot tub is not being used or supervised. A locking device shall contain a mechanical locking mechanism or a self-locking mechanism in addition to latching shut;**
- (c) The locks shall not be able to be readily opened or released by a child of up to the age of six (6) years;**
- (d) When locked the cover shall be fitted so that if lifted it does not release the locking device or provide a clearance greater than 100 mm;**
- (e) The cover shall be made of a material that if walked on, cannot collapse and can withstand the weight of at least 20 kg to ensure that it will more than take the weight of a child up to six (6) years of age;**
- (f) The cover shall be constructed of material that meets American Society Testing and Materials Standard (ASTM) F1346-91 to allow easy movement on and off the spa pool or hot tub;**
- (g) The cover shall be constructed with a taper from the centre hinge to the outside edge of the cover so that water will not pond on top of it;**
- (h) The cover shall have an evenly spaced mechanical locking device as required in (b) which shall be positioned to ensure the cover cannot be lifted more than 100mm by a child up to six (6) years of age, and ensures that the cover is fixed securely to the spa pool or hot tub;**
- (i) The cover and locks shall be maintained at all times in a good state of repair;**
- (j) Warning stickers/signs shall be placed on the cover to advise that it shall be locked in place when the spa pool or hot tub is not being used or supervised;**
- (k) Removable steps, movable furniture, or other objects that can assist a young child to climb onto the cover, shall be stowed/stored away at least 1200 mm from the side of the spa pool or hot tub;**
- (l) That the property owner/tenant sign a statement of undertaking, taking responsibility to ensure the above requirements is adhered to;**
- (m) Further, the exemption is not transferable to any new owner of the property in the event of sale by the current owners Karl and Liz Clemm.**

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Reason:

In the opinion of the Council it is possible, reasonable and is not in breach of any other act, regulation or bylaw to ensure compliance with the Fencing of Swimming Pools Act 1987 requirements or the new New Zealand Standard (NZS) 8500:2006 guidelines if the above conditions were met.

Carried

1.40 p.m. Building Compliance Officer (Tony Jane) retired from the meeting.

59/02/08 SCHEDULE OF DELEGATED DECISIONS ON RESOURCE CONSENT APPLICATIONS

FILE REF TP/1/6

AGENDA ITEM NO. 12

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

60/02/08 APPEAL AGAINST DANGEROUS DOG CLASSIFICATION – DAVID BELL

FILE REF DC/9/1

AGENDA ITEM NO. 8

The Chairperson, Cr Harding, welcomed David Bell to the meeting and explained the hearing process.

Mr Bell reported that Arnika, an English bull terrier, had undergone intensive training since June/July the previous year and was a different dog than when she first came to him in January 2007. She was never without her lead when going for a walk or swim and took no notice of other dogs while walking. Mr Bell said he invested a lot of money and time in her. In response to questions Mr Bell said the second offence happened at an unguarded moment on a dark and rainy night when he did not expect people to be on his driveway.

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Animal Control Officer (Colin Mason) reported that Mr Bell's property was securely fenced. However, the menacing dog restrictions were not enforced at the time of the second attack and therefore the proposed dangerous dog classification.

The Chairperson, Cr Harding, thanked Mr Bell for his attendance and advised that a decision would be deferred until later in the meeting and that he would be informed of the outcome at a later time.

1.55 p.m. Transport Maintenance Manager (Malcolm Black) in attendance.

2.00 p.m. Animal Control Officers (Craig McFarlane) retired from the meeting.

61/02/08 WILSON ROAD AND ADJOINING PAPER ROAD, SOUTH HEAD
FILE REF RF/80/1
AGENDA ITEM NO. 11

Weld/Harding

That the Committee agree to trial a "no parking" area on Wilson Road for 100 metres either side on both sides of the entrance to the paper road, with a further report on the outcomes of the trial to be presented back to the District Plan and Regulatory Committee in six months.

Carried

2.05 p.m. Transport Maintenance Manager (Malcolm Black) retired from the meeting.

62/02/08 PUBLIC EXCLUDED
AGENDA ITEM NO. 13

Goudie/Parker

Recommendation:

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

Minute No(s). 63/02/08, 64/02/08, 65/02/08, 66/02/08, 67/02/08, 68/02/08 and 69/02/08

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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Appeals	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.)

Note: The following decision was made with the public excluded then brought into open meeting.

70/02/08 **APPEAL AGAINST DANGEROUS DOG CLASSIFICATION –
ROCHELLE O'CALLAGHAN**

FILE REF DC/9/1

AGENDA ITEM NO. 5

Parker/Powell

That the dangerous dog classification under section 31 of the Dog Control Act 1996 against the pit bull terrier known as Soul, be upheld.

Carried

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Note: The following decision was made with the public excluded then brought into open meeting.

71/02/08 **APPEAL AGAINST DANGEROUS DOG CLASSIFICATION –
ROMAN SHCHGLIK AND MAREE GELDARD**

FILE REF DC/9/1

AGENDA ITEM NO. 6

Note: Cr Goudie refrain from voting on this item because of a conflict of interest.

Parker/Weld

That the dangerous dog classification under section 31 of the Dog Control Act 1996 against the American Bulldog known as Eva, be upheld.

Carried

Note: The following decision was made with the public excluded then brought into open meeting.

72/02/08 **APPEAL AGAINST MENACING DOG CLASSIFICATION –
CHRIS GREYLING**

FILE REF DC/9/2

AGENDA ITEM NO. 7

Powell/Harding

That the menacing dog classification under section 33A of the Dog Control Act 1996 against the collie dog known as Harrison Ford, be upheld.

Carried

Note: The following decision was made with the public excluded then brought into open meeting.

73/02/08 **APPEAL AGAINST DANGEROUS DOG CLASSIFICATION –
DAVID BELL**

FILE REF DC/9/1

AGENDA ITEM NO. 8

That the dangerous dog classification under section 31 of the Dog Control Act 1996 against the English bull terrier known as Arnika, be rescinded.

Carried

The meeting closed at 2.45 p.m.

CONFIRMED AS A TRUE AND CORRECT RECORD THIS 28TH DAY OF FEBRUARY 2008

MAYOR

13 February 2008

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