

## **RESOURCE CONSENTS HEARINGS PANEL**

**MINUTES:** of a meeting of the Resource Consents Hearings Panel which commenced at 3.00 p.m. in the Council Chamber, Centreway Road, Orewa on Monday, 4 February 2008.

**PRESENT:**

Chair	Harry Bhana
Crs	June Turner
	Suzanne Weld

**IN ATTENDANCE:**

Reporting Planner	Carne Blandy
Team Leader	Ian Dobson
Committee Adviser	Raewyn Morrison

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**333/02/08**                      **APOLOGIES AND ANNOUNCEMENTS**

**AGENDA ITEM NO.**      1

There were no apologies or announcements.

**334/02/08**                      **REQUESTS FOR CONSIDERATION OF URGENT ITEMS**

**AGENDA ITEM NO.**      2

There were no requests for the consideration of urgent items.

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**335/02/08****A LIMITED NOTIFIED RESOURCE CONSENT APPLICATION UNDER SECTION 88 OF THE RESOURCE MANAGEMENT ACT 1991****APPLICATION FOR EARTHWORKS (WHICH HAVE BEEN COMPLETED) OVER AN AREA OF APPROXIMATELY 3500M<sup>2</sup> AND IN EXCESS OF 200M<sup>3</sup>, TO ERECT A NEW GREENHOUSE OF 3150M<sup>2</sup> IN EXTENT WHICH WILL INFRINGE THE SITE COVERAGE RESTRICTION AND WHICH WILL ALSO INFRINGE THE FRONT YARD RESTRICTION**

Address: 1190B Wharehine Road, Port Albert

**APPLICANT: MR ALWYN INGER**

<b>FILE REF</b>	<b>L52563</b>
<b>WARD</b>	Northern
<b>AGENDA ITEM NO.</b>	3

3.00 p.m. The applicant seeks consent to erect a greenhouse of 3150m<sup>2</sup>. This will be the third greenhouse on the property and will be located to the rear of the site and upslope from the existing greenhouses. The total site coverage would increase from 37.15% to 54.5%. The building would be sited approximately 1.2m from the southern boundary which abutts an unmade public road (Havelock Road). The bulk earthworks for the proposal are already completed. The exact volume is unknown, but certainly exceeds 200m<sup>3</sup>. Landscaping will be provided on the western boundary alongside the proposed building and will cover the fill slope resulting from the excavations.

The applicants, Mr Alwyn Inger and Mrs Anne Inger, present.

Councillor John Kirikiri (in intermittent observation).

3.03 p.m. The Chairperson opened the hearing and outlined the meeting procedure.

Mr Inger gave verbal evidence. Mr Inger outlined the family history in the area. He said that he had been growing produce since 1984 in various properties around the Pt Albert and Wellsford area. He had specialised since 1992 in greenhouse production. He had erected the first greenhouse in 1994. Mr Inger advised that he had bought the property from his grandparents' estate. He said that the three greenhouse units had been designed from the start but he didn't do the earthworks for the third at the beginning because it was too expensive owing to the topography of the land. When he erected the original greenhouses he had been given permission by the Auckland Regional Council, hence the earthworks had already done when he was visited by a Rodney District Council Environmental Officer who said he needed consent from RDC. The Environmental Officer had said that Mr Inger had no silt retention in place but that was incorrect and it was confirmed that no silt had been discharged off the site.

Mr Inger said that he had had to change a few things as the greenhouse operation evolved. He advised that it was of a modular nature and that for commercial reasons he wanted it to be as big as possible to make it economically viable. He'd had to go close to the back boundary and he noted that the measurement of 4.2m in the report was incorrect – the greenhouse would be 1.2m to 1.5m from the boundary. The third greenhouse exceeded the Council's permeable layer rules. He said that 1ha was about the right size for his management style. At the moment he had 4 full time and 2 or 3 part time workers, and with the third greenhouse the staff employed would go up to 6 or 8 with 1 or 2 part time people. He employed people from within the immediate area (i.e. 5-6 km from the property). Mr Inger said that he would appreciate being given approval for the proposal. About half the total cost, estimated to be about \$450,000 had gone into upgrading the existing greenhouse in order to bolt on the new one, and also he'd had to upgrade pumps, power, run off control systems, filtration etc, and he was just waiting on the actual building now.

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In response to questions from the Panel, Mr Inger said:

With regard to stability of earthworks, Riley Engineering Consultants would be doing the job. Mr Inger considered the best way would be to reform the bank with a digger so as to make the face even, to take out the spoil and address the erosion that had occurred since construction. The dam would be built on top of the bank, and water piped from the front of the dam to the bottom of the bank; the whole bank would be encased in concrete which was the quickest and cheapest solution. Other options such as retaining walls and rocks were very expensive.

Mr Dobson suggested that proposed condition (c) (engineering report) would require a slight amendment to the effect that a report be supplied by a professional engineer and submitted to and approved by a delegated officer at the Council. With regard to works extending into lot 2, although not the application site, Mr Inger owned the site, and this could be reflected in conditions.

Mr Inger said that he used 40 'cubes' of water a day; this figure would go up to 60 'cubes' at the height of summer. He operated a hydroponic system utilising sawdust; the system was computerised and 20% of water was run off to waste as it stopped salts building up in the bags. This water was collected in sumps divided into manageable areas and then pumped into a common main which went back into the dam. The water was recycled. Mr Inger had upgraded overflows from the dam to cope with increased run off. During periods of no rain the concentration of fertiliser went up; rains diluted the water in the dam and the overflow went to the open drain by the road. Roof run off was also collected, and land run off was piped direct to the dam. Once the dam was full water was piped off horizontally into a neighbouring property; there was no bore facility only a water facility. Any runoff would only reach the Kaipara Harbour via water from the dam which flowed into the water table on the main road. The proposal would be subject to consent from the Auckland Regional Council because it was over 1 hectare and would require consent to use water from the dam. Mr Inger advised that the system met horticultural union criteria.

Mr Blandy addressed his report. The following was noted:

Mr Blandy pointed out the yard measurement in his report was incorrect; it should have been 1.2m (not 4.2m) but he didn't think this made any difference to his assessment. The abutting property was an unmade road and there had been excavation into the unmade road area on the southern boundary. He had discussed this matter with Council's Property Division, and although they were not prepared to dispose of the road yet, they didn't mind the intrusion so long as the face was stabilised. He thought the 1.2m width was sufficient to allow for cutting of grass.

Mr Inger said that he had nothing further to add as the right of reply and he confirmed that he would be happy to obtain an engineering report as part of consent conditions.

3.30 p.m. The Chairperson closed the hearing.

The Panel subsequently resolved:

**Turner/Weld**

## **THE DECISION**

**That pursuant to Sections 104 and 108 of the Resource Management Act, 1991, the limited notified resource consent application by Alwyn Inger to carry out earthworks (retrospective consent required) and to erect a greenhouse at 1190B Wharehine Road, Port Albert is granted consent for the attached reasons.**

## **REASONS FOR DECISION**

1. The Panel is satisfied that adverse effects on the environment arising from the development of the additional greenhouse will be no more than minor and are satisfied that the conditions to be imposed on this consent will ensure the stability of the banks created by the earthworks.

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2. The Panel considers that overall the application is for a rural activity of a kind which is entirely consistent with the objectives and policies of both the Operative District Plan and the Proposed District Plan which endeavour to maintain the rural character and amenity of the Rodney countryside. While of the proposed development of an additional greenhouse will increase the coverage on the site, developments of this kind are a familiar and acceptable component of rural production activities which are protected and enabled by the General Rural Zone provisions of both District Plans.
3. The Panel considers that the proposed development is consistent with the protection of rural activities and rural resources contemplated by the policies of the Auckland Regional Policy Statement
4. We also consider that it is consistent with the thrust of Vision Rodney in relation to keeping the "country look and feel" and enabling the Rodney community to "make our living in Rodney".
5. The Panel is satisfied that the grant of consent to this application would be entirely consistent with Part II of the Resource Management Act 1991 in that it will enable the sustainable management of natural and physical resources for the well-being of the community while at the same time ensuring that any adverse effects on the environment are appropriately avoided, remedied or mitigated.

**THE RELEVANT STATUTORY PROVISIONS THAT WERE CONSIDERED:**

Overall the application was considered to be a discretionary activity and was considered in terms of section 104 and Part II of the Act.

**OTHER RELEVANT PROVISIONS THAT WERE CONSIDERED:**

The provisions of the following documents were considered by the Hearings Panel in reaching this decision.

**National Policy Statement Provisions**

None applicable

**New Zealand Coastal Policy Statement Provisions**

None applicable

**Auckland Regional Policy Statement Provisions**

None relevant

**Proposed Regional Policy Statements Provisions**

None relevant

**Auckland Regional Plan: Coastal Provisions**

None applicable

**Auckland Regional Plan: Air Land and Water Provisions**

None applicable

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**Plan Provisions****1993 Transitional District Plan**

None applicable

**Plan Change Number 26 Residential Provisions**

None applicable

**Plan Change Number 55 Rural Provisions**

General Objective for the Rural Area and Objectives 5.1; 5.3; 5.13; and Policies 5.2; 5.4; 5.14.

**Plan Change Number 62 Financial Contributions**

Relevant provisions considered

**Proposed Plan Provisions****Proposed District Plan 2000**Objectives 7.3.1; 7.3.3; 7.3.4; 7.8.1.1.1; 7.8.1.1.2; 7.8.1.1.4  
Policies 7.8.1.2.4; 7.8.1.2.6; 7.8.1.2.7; 7.8.1.2.8; 7.8.1.2.11.**PREAMBLE**

This was an application to erect a greenhouse of 3150m<sup>2</sup> on a 1.85 ha site currently used for horticultural purposes at Port Albert. The site presently has two large greenhouses in operation, a service building and shed and an irrigation dam which is used in conjunction with the greenhouse hydroponic horticultural operation. The new greenhouse will take the site coverage to approximately 54.5%. The rules for the General Rural zone permitted up to 10% site coverage and the coverage of the existing buildings are already approximately 37%. The earthworks to provide a building platform are already complete and likely exceed the 200m<sup>3</sup> allowed as a permitted activity. Further stabilisation work of some of the banks created is necessary. The building would be sited 1.2 -1.5m from the southern boundary which abuts an unmade public road (Havelock Road). Landscaping will be provided on the western boundary alongside the proposed building and will cover the fill slope resulting from the excavations.

The application was notified to the abutting owners and one adjoining owner was opposed to the application. The other three adjoining property owners (including the applicant) support the application.

**SITE VISIT**

The Hearing Panel visited and inspected the site on 4 February 2008 immediately prior to the hearing.

**THE PRINCIPAL ISSUES THAT WERE IN CONTENTION:**

The principal issues that were in contention were as follows:

1. Whether the increased coverage of the site would have an adverse visual effect on the rural character of the area.
2. Whether there was a potential for on-going stability problems relating to the banks created by the earthworks.
3. Whether there was any potential for run-off of chemicals, including fertiliser, which might impact on waterways and the nearby harbour.

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4. Whether the development of a greenhouse in the location proposed would have any significant adverse effect on the abutting land owner.

**SUMMARY OF THE EVIDENCE HEARD:****SUBMISSIONS AND EVIDENCE ON BEHALF OF THE APPLICANT****MR ALWYN INGER - THE APPLICANT:**

Mr Inger outlined the family history in the area. He said that the three greenhouse units had been designed from the start but he did not carry out earthworks for the third because of the cost. When he erected the original greenhouses he had consent for all of the earthworks from the Auckland Regional Council. Mr Inger confirmed that no silt had been discharged off the site.

He advised that the greenhouse was of a modular nature and that for commercial reasons he wanted it to be as big as possible to make it economically viable. It was necessary to go close to the back boundary and he noted that the measurement of 4.2m stated in the planning report was incorrect – the greenhouse would be 1.2m to 1.5m from boundary. He acknowledged that the third greenhouse exceeded the 10% coverage limit. He said that 1ha was about the right size for his management style. At the moment he had 4 full time and 2 or 3 part time workers, and with the third greenhouse the staff employed would go up to 6 to 8 with 1 or 2 part time people. He employed people from within the immediate area (i.e. 5-6 km from the property). Mr Inger said that about half the total cost, estimated to be about \$450,000, had gone into upgrading the existing greenhouse in order to enable integration with the new one, and he had upgraded pumps, power, run off control systems, filtration etc, in preparation for the new greenhouse.

In response to questions from the Panel, Mr Inger said:

With regard to stability of earthworks, Riley Engineering Consultants would be providing the necessary engineering advice and supervision. Mr Inger suggested various methods that could be used to stabilise the bank. In that regard the Panel were advised by the Resource Consents Team Leader, Mr Dobson, that proposed condition (c) (engineering report) would require a slight amendment to the effect that a report be supplied by a professional engineer and submitted to and approved by a delegated officer at the Council. With regard to works extending into lot 2, although not the application site, Mr Inger owned the site, and this could be reflected in conditions.

In regard to potential for run-off of chemicals and fertiliser, Mr Inger said that he used 40 'cubes' of water a day, this figure would go up to 60 'cubes' at the height of summer. He operated a hydroponic system utilising sawdust; the system was computerised and 20% of water was run off to waste as it stopped salts building up in the bags. This water was collected in sumps divided into manageable areas and then pumped into a common main which went back into the dam. The water was recycled. Mr Inger had upgraded overflows from the dam to cope with increased run off. During periods of no rain the concentration of fertiliser went up; rains diluted the water in the dam and the overflow went to the open drain by the road. Roof run off was also collected, and land run off was piped direct to the dam. Once the dam was full, water was piped off horizontally into a neighbouring property; there was no bore facility only a water facility. Any runoff would only reach the Kaipara Harbour via water from the dam which flowed into the water table on the main road. The proposal would be subject to consent from the Auckland Regional Council because it was over 1 hectare. Mr Inger advised that the system met horticultural union criteria.

**THE EVIDENCE OF COUNCIL OFFICERS****REPORT OF CARNE BLANDY - PLANNING CONSULTANT**

Mr Blandy's report described the proposed development, noting that the greenhouse would occupy 3150m<sup>2</sup> of the site taking the total site coverage from 37.15% to 54.5%. He advised the bulk earthworks for the proposal were complete and although the exact volume was unknown it would likely exceed 200m<sup>3</sup>. He advised that landscaping was proposed to assist in screening the building.

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The report set out provisions of the Operative and Proposed District Plans noting that the southern boundary adjoined a paper road and theoretically required a 10m front yard under both Plans. Mr Blandy indicated the building would be sited 4.2m from the paper road although, as noted above, Mr Inger corrected that to state that it would be 1.2 to 1.5m from the boundary. As noted earlier the building would exceed the 10% site coverage which applies to permitted activities and the extent of earthworks exceeds the limit for a permitted activity. The limits for permitted activities are the same under both Plans. Up to 1000m<sup>3</sup> is provided for as a restricted discretionary activity under the Proposed District Plan and although not precisely known the volume likely exceeds that limit. Accordingly the application requires consideration as a discretionary activity.

Mr Blandy described the site and the surrounding environment and advised that limited notification was served on abutting property owners resulting in three submissions in support (including one from the applicant and his wife who reside on the abutting property). One submission was received in opposition from a neighbour who owns a vacant property (Lot 1 DP 349610) which adjoins the eastern boundary of the subject site but which is separated from the site of the proposed new greenhouse by planting and the existing greenhouses at the northern end of the applicant's site.

The report considered the statutory provisions to be applied to assessment of the application under the Resource Management Act 1991 and considered the effects on visual amenity and rural character. The author of the report considered that the greenhouse would have negligible effects on the wider environment. He gave consideration to the planting that was proposed and considered that it would, in time, provide adequate visual screening of the proposed greenhouse from the property owned by the submitter in opposition. He pointed out that having regard to a potential dwelling that might be erected on that site the new greenhouse would have a very limited visual presence in respect of the submitter's property. He considered that overall the proposal would not generate any adverse effects on the amenity of the wider or immediate environments to a degree that was more than minor. He expressed the view that provision for services was satisfactory and that the arrangements to control runoff using the on-site irrigation dam and recycling operation were appropriate. He noted that positive economic effects could arise from expansion of the horticultural operation on the site.

Mr Blandy evaluated the application having regard to the objectives and policies of both the Operative District Plan and the Proposed District Plan concluding that the proposed development was not inconsistent with either. He considered other relevant documents including "Vision Rodney", "A Living Vision for Rodney's Economy" and the "Draft Tourism Strategy" currently under preparation. He was of the view that the Auckland Regional Growth Strategy was not relevant to the proposed application.

The report writer concluded with an assessment of the application having regard to Part II of the Resource Management Act 1991 and concluded that it was consistent with those provisions. The report contained a number of recommended conditions.

## **THE MAIN FINDINGS OF FACT:**

### **BASIS**

The main findings of fact determined by the Hearing Panel that have led to the above decision and the reasons for that decision are as follows. They have been reached after visiting the site, considering the application, 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.

### **POTENTIAL ADVERSE EFFECTS ON VISUAL AMENITY AND RURAL CHARACTER**

The Panel agrees with Mr Blandy, the reporting planner, that the proposed building will appear as an extension of the existing buildings and is satisfied that the proposed new greenhouse fits appropriately within the rural context of this area. The planting proposed will assist in integrating the greenhouse development into the existing rural character. The Panel considers that greenhouses are an appropriate and expected element of the rural character of the Rodney countryside.

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**POTENTIAL STABILITY PROBLEMS RELATING TO BANKS FORMED BY EARTHWORKS**

The Panel is satisfied that stabilisation of the banks can be undertaken in accordance with the relevant geotechnical engineering standards and that an appropriate condition of consent can be imposed to adequately deal with this issue.

**POTENTIAL RUNOFF OF CHEMICALS/FERTILISER**

The Panel accepts the evidence of Mr Inger regarding the provisions made for the control of stormwater and the retention of fertiliser from the hydroponic operations and is accordingly satisfied that there will be no adverse ecological effects arising from the expansion of the horticultural activities on the subject site.

**POTENTIAL ADVERSE EFFECTS ON LOT 1 DP 349610**

The Panel is satisfied that there will be little effect on this neighbouring property. In particular it notes the considerable separation of this property from the area where the greenhouse is to be located. The planting already carried out adjacent to this boundary will further reduce any minimal adverse effects that might arise from the development of the new building

**CONSENT CONDITIONS****LAPSING OF CONSENT**

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;

- the consent is given effect to; or
- 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:

- 1) **(general)** The development shall proceed in general accordance with the site plan and elevation drawings submitted by the applicant and attached to the Planning Report (item 3 on the Agenda for the hearing) as **Attachment A**.
- 2) **(resource consent and monitoring charges)** The resource consent holder shall pay to the Council within one month of the issue of this consent or prior to the activity commencing (whichever is earlier) the cost, including specialist services, staff time and administration for the processing of this application together with initial charges for the following inspections:
  - i. Environmental protection x 2 site visits.
  - ii. Monitoring deposits will be invoiced by the Council together with the consent processing charges.
  - iii. Should further monitoring be required to ensure compliance, the Council will recover the actual and reasonable costs that are incurred for this monitoring as set out in the Council's Schedule of Fees and Charges.

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- 3) **(engineering report)** A report shall be provided by a Professional Chartered Engineer experienced in soil mechanics, to determine the measures required to ensure that the earthworks carried out on the site are in accordance with appropriate engineering standards and practices. The report shall be submitted to and shall be approved by the Council Development Engineer nominated by the Council's Resource Consents Team Leader.

The report will particularly address:

- The suitability of the formed banks.
- Advise how the apparent 'spalling' to the formed embankment to the SE corner of the site can be 'repaired' and suggest methods for curtailing its progress.
- Any works that are necessary on the abutting land owned by the applicant in order to satisfy issues identified in the engineering report.
- Any other matters required to address geo-mechanical deficiencies identified in the engineering report.

The applicant is to carry out all recommendations contained in the above report by a date nominated in the engineering report which date shall be prior to the applicant commencing production of horticultural crops in the new greenhouse.

- 4) **(landscape plan)** The landscaping proposals as outlined in landscape report prepared by Green Themes Consultancy Ltd dated 16 August 2007 shall be presented in a comprehensive landscaping plan including a detailed site plan and planting and maintenance strategy and submitted for the approval of the Council's Team Leader. The proposals contained in this approved plan shall be implemented within the first planting season (May to October) following the granting of this consent. The landscaping shall be maintained thereafter in accordance with the maintenance programme submitted with the approved landscape plan.

**Carried**

The meeting closed at 3.30 p.m.

CONFIRMED AS A TRUE AND CORRECT RECORD THIS 24TH DAY OF APRIL 2008

MAYOR

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