

INDEPENDENT COMMISSIONER HEARING

RESOURCE CONSENTS

MINUTES: an Independent Commissioner Hearing (Resource Consents) which commenced at 9.05 a.m. in the Council Chamber, Centreway Road, Orewa on Friday, 18 December 2009.

PRESENT: Chairperson John Childs
Commissioner Alan Watson

IN ATTENDANCE: Reporting Officer Nick McCool
Team Leader Carl Jenkins
Traffic Engineer David Mitchell
Landscape Architect Patrick Corfe
Solicitor Mary Nacey
Democracy Services Officer Raewyn Morrison

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036/12/09 APOLOGIES**AGENDA ITEM NO. 1**

There were no apologies.

037/12/09 A NOTIFIED RESOURCE CONSENT APPLICATION UNDER SECTION 88 OF THE RESOURCE MANAGEMENT ACT 1991

FOR CONSENT TO ERECT NINE FLOODLIGHT TOWERS OF 15M IN HEIGHT OR LESS TO REPLACE THE EXISTING FLOODLIGHTS FOR THE RUGBY FIELDS AT 2 EDWARD STREET, RIVERHEAD

Address: 2 Edward Street, Riverhead

APPLICANT: RODNEY DISTRICT COUNCIL

AGENDA ITEM NO. 2**WARD Western****FILE REF L55040**

The applicant, Rodney District Council, seeks consent to erect nine floodlight columns to the existing Number 1 rugby field and a training area at Riverhead War Memorial Park. 6 floodlighting columns will be erected around the Number 1 ground, and 3 floodlight columns will be erected around the practice area. The columns around the Number 1 field will be 14.7m in height (15m with the lights), and those surrounding the training areas will be 12.2m in height (12.5m with the lights installed). The columns at the southern try line and halfway line on the western side of Number 1 field will be relocatable as they are proposed to be within the cricket oval, therefore at the end of each winter rugby season the two columns will be relocated to a summer storage position near the eastern boundary.

The applicant, Rodney District Council (RDC), was represented by Malcolm Maclean (Counsel), Diana Bell (Planning Consultant), Mandy McMullin (Landscape Architect), Peter Bilton (Council's Senior Parks and Coastal Capital Works Engineer), and Russ Kern (Lighting Expert), present.

Submitters in support: Denis Henderson, (North Harbour Rugby Club), Paul Smith and Anna Wheeler (both of Kumeu Rugby Club), present.

Submitters: Claire Walker and James Hendra, present.

Council Planner, Felicity Blackmore, observing.

9.05 a.m. The Chairperson, John Childs, opened the hearing and outlined the meeting procedure.

Mr Hendra, submitter in opposition, raised a procedural matter. He distributed and read a written statement. Mr Hendra said that he and Ms Walker had not received notice of the hearing within the required period of 10 working days. His notice regarding the hearing had arrived in their letter box 9 working days before the hearing. They sought an immediate adjournment to the hearing to a later date in order to provide them with the minimum period of preparation time afforded to them by law, and requested that the Commissioners make a decision to this request without delay.

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Mary Nacey, Council's Solicitor, addressed the Panel. The following was noted:

Ms Nacey said that the notice of hearing letter had been dated Wednesday, 2 December 2009.

Ms Nacey submitted that notice of hearing could be by post, under section 101, when it was read together with section 352(1)(c) and (5). Where a notice is sent by post it is deemed, in absence of proof to the contrary, to be received at the time at which the letter would have been delivered in the ordinary course of the post. The Rodney District Council had allowed 2 days for the notice to be delivered by post. This complied with the Resource Management Act's (RMA) requirements. It was up to Ms Walker and Mr Hendra to prove that the notice to each of them was not in their post box on Friday, 4 December.

Ms Nacey said that if Ms Walker and Ms Hendra did receive the notices by clearing their post box on Saturday, 5 December, then Saturday would be the date of receipt. Receipt did not have to occur only on a work day.

Ms Nacey said that Mr Hendra and Ms Walker claimed that they had received the notice of hearing letter on Saturday, 5 December, one day outside the required 10 working days. The complaint from Mr Hendra and Ms Walker that they received the notice of hearing late only came after they had met with the applicant and received the hearing report.

Ms Nacey provided an email trail between Mr Hendra and Council staff. She noted that there had been a meeting between Mr Hendra and the applicant on Thursday, 10 December and the matter of receiving the hearing notice had not been raised with the Council's regulatory arm until Friday, December 11. She noted that Mr Hendra and Ms Walker had received the planning report on December 11. This complied with the 5 working days' notice of requirement for reports under section 42A(3)(b) of the RMA. Ms Nacey also said that, if the Commissioners determined that the notice was received on Saturday, 5 December, they had the power to waive failure to comply with the requirements in relation to notice under section 37(1)(b) of the Act. In this case, if the post had arrived on Friday, 4 December, Mr Hendra would have received the notice when he arrived home in the evening after work. This compared with Ms Walker and him receiving the mail at the usual time on Saturday. The difference in time was probably only half a day with a maximum of one day's difference.

Ms Nacey said that the test was whether a party would be unduly prejudiced if a waiver wasn't granted. Factors which may contribute towards a finding of undue prejudice have included the amount of money involved or at risk; the level of expenditure already committed to a project; and, the fact that complainants waited before complaining about the late notice. The Commissioners should also consider the 'balance of convenience' and whether there was a major or irreparable risk of damage if the applicant's proposal to erect the floodlights was delayed by some months.

Ms Nacey tabled a folder of relevant information for the Panel.

Mr Maclean noted that the submitters had received the detailed planning report within the timeframes. It was only the letter with regard to the notification date of the hearing that had been received by Mr Hendra and Ms Walker one day late. He said that the Council he been scrupulous to separate out its functions. For example, he was solicitor for the applicant, Rodney District Council (RDC), and he usually did not act for RDC. Mr Maclean said that the situation did not involve fault on anyone's part and certainly not on the applicant's part. The application had been fully publicly notified and only one submission from two people ("two submissions if you like") had been received. The applicant had "bent over backwards" to address the issues raised since receiving the submission. Mr Maclean said he thought the submission from Mr Hendra and Ms Walker was not one of opposing in principle. Rather, it was a series of concerns that related to a variety of matters in detail. The applicant had been in thorough dialogue with the submitters and this included a meeting as recently as last Thursday. With regard to the issue of the submitters being prejudiced by receiving notice of the hearing a day late, Mr Maclean said that there was a history and track record of the relationship between the applicant and the submitters. He said that Section 101 directed 10 working days for the notice of hearing. However, Section 352 provided the requirements of giving notice. The legal position was that where notice was given by post it was deemed to be received in the ordinary course of post unless there was evidence to the contrary. It was Mr Maclean's submission that around the Auckland Region the normal course of post was generally delivery the following day. He noted that Riverhead

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was more out of way and from a consent authority's point of view the Council had worked on the basis of one day plus an extra day. Mr Maclean submitted that the Council could properly consider the letter would have been delivered within that time.

Mr Maclean submitted that:

1. The Council was properly within its rights to understand the mail would have been delivered within two days.
2. Section 352 made plain the deeming provision and there was no proof to the contrary (he thought it would have been better to have an affidavit).

Mr Maclean said that under Section 37 the Act provided waiver provisions. He said that the position of Mr Hendra and Ms Walker was a question of prejudice; he was surprised that as the notice had been received on Saturday, the submitters would have immediately known the notice was received late and he couldn't understand why they had not raised the issue until the following Friday (11 December). They, and only they, had known there was a technical problem. If the hearing was delayed, the earliest hearing date would be in late February 2010. Mr Maclean submitted that this would be a substantial prejudice to the Council as applicant and a large number of people in the community who would not be able to have the benefit of the consent being implemented if granted.

Mr Hendra said that his position had changed slightly since his submission to the application and upon considering the application on a deeper level; he said that he did support the training in principle but he didn't support the Friday night games and associated effects on the community. He said that he was in a position to submit expert planning and landscape material. Mr Hendra said that he didn't keep the envelope that the notice of hearing letter came in.

Mr Maclean said that submitters could only raise matters that had been raised in submissions. He said that it was news to him that the submitters had changed their stance. He was surprised and considered the changed stance to be outside the scope of the submission. With regard to the question of prejudice, he accepted that the submitters as professional people were entitled to speak to their submission but as personally interested parties they could not have the status of expert evidence or express expert opinions. The issue was prejudice from deferral of the hearing; the applicant would not oppose the submitters sending in additional information. Mr Maclean said that he agreed with and adopted Ms Nacey's submissions in full.

Mr Hendra said he would have like to have prepared graphic evidence to support his submission and an account of night time traffic. There were a number of areas where he would have liked to undertake work and hadn't been able to. He said that his evidence was structured as an affected person, with a separate section which demarcated technical material. The weight would sit on the technical side.

Ms Walker said that from a lay person's position, a big piece of her submission was lacking. She would have liked to have been able to canvas the community more. She believed that a lot of people in the community were unaware of the application.

9.58 a.m. - 10.07 a.m. Meeting adjournment.

The Chairperson reconvened the hearing and announced that the hearing would proceed. He said that he would give Mr Hendra and Ms Walker until Friday, 15 January 2010 to provide further written material. Mr Maclean would need to have responded to this material by 22 January 2010.

Mr Hendra agreed with this arrangement and said that he was comfortable with that approach.

10.08 a.m. Ms Nacey retired from the meeting.

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Mr Maclean distributed and read written evidence. He also tabled an interlocutory document.

Mr Maclean agreed to accommodate Mr Hendra to present his submission after he had read his opening legal submission and before the applicant had presented the entire case.

Mr Maclean said that the proposal was a highly constructive and positive application to upgrade and replace the existing inadequate (and technically inefficient) lighting at the Riverhead War Memorial Reserve. In summary Mr Maclean said that it was his submission that the adverse environmental effects of the proposal were minor and the positive effects were significant and beneficial to both the community and the Council's sustainable management of the valuable recreation resource that comprised the reserve land. Further, the proposal was consistent with the relevant District Plan objectives and policies in respect of reserve management and field lighting.

Mr Maclean referred to the written approvals obtained and the consultation that had been undertaken. Referring to the only submission received in opposition, Mr Maclean said that there was no outright opposition to the notified proposal. To respond to the submission by Mr Hendra and Ms Walker the applicant had undertaken considerable additional work and technical investigation. The applicant had also met with the submitters and discussed in detail the concerns raised, the information provided and the responses to the points in their submission. With regard to the submitters' criticisms that there had been no consultation, Mr Maclean said that as a matter of law, there could not be a legally relevant criticism of a "lack of consultation" in relation to a resource consent application either on behalf of the applicant or the consent body. The second legal matter was the suggestion that a further land use consent for the use of the rugby club facilities was required, which was not the case because of the existing land use consent held by the rugby club.

Accordingly, and with further reference to the enabling elements of Part II of the Act, Mr Maclean said that granting consent to the application would promote the sustainable management of natural and physical resources for the reasons he had referred to.

10.30 a.m. - 10.49 a.m. Morning tea adjournment.

Mr Hendra distributed and read written evidence on behalf of himself and his partner, Claire Walker.

Mr Hendra said that they were both aware that in their professional capacity as an Open Space Planner and Landscape Architect there was the potential for a conflict of interest which could influence their findings. He said that he and his wife, Claire, had lived at 41 Great North Road, Riverhead for the past 6 years and that they were both active in the community. Mr Hendra said that the proposed floodlights would cater for the proposed increase in club training from 3 to 4 and the provision of 6 night games per season. The main impact upon the community would be the influx of people to Riverhead from around the surrounding District to train, play and watch rugby games. The application stated an expected 200 spectators to attend the proposed night games. Mr Hendra said he expected Friday night games would generate a completely different set of behaviours, and he expected that associated after match functions would drag on for hours. Mr Hendra referred to traffic incidents in relation to events at the rugby club and said that there was a noticeable difference in unsavoury behaviour on nights when there were no functions at the Kumeu Rugby Club.

Mr Hendra said that aside from the likely antisocial behaviours that would likely occur, the volume of vehicle movements associated with the games was unacceptable in their view. The existing environment was very quiet during the night, and even normal driving behaviours would interrupt the peace and quiet, as well as the headlight glare. He also said that they had been shown no information that explained how the Riverhead War Memorial Reserves functioned within the district wide sports planning perspective. He believed that information would demonstrate the strategic planning that would support the application. In conclusion he said the *"we fear that the need to develop rugby venues for the benefit of the wider district is being imposed on a small community with a unique character, without proper evaluation of alternative venues with less sensitive receiving environments. Overall, we hope that the application can be modified to exclude the Friday night games."*

Mr Hendra presented a planning statement. He tabled an aerial photograph with the street lighting locations in Riverhead marked on it. He also presented a plan showing the locations of people they had spoken to who were not keen on the proposal.

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Mr Hendra outlined the proposal, described the site and surrounding locality and discussed the reasons for the application in relation to the Proposed District Plan - Operative in Part and Plan Weighting. Overall, he said that the application was a discretionary activity. Mr Hendra gave a Section 104B Assessment covering the Statutory Matters, the Permitted Baseline, and the Actual and Potential Effects on the Environment of Allowing the Activity. He discussed the residential amenity and neighbourhood character effects, parking effects, reserve character, vegetation effects and cumulative and positive effects. On balance, he considered that the proposal would have significant adverse effects on the existing neighbourhood character which would outweigh potential benefits to the rugby club and the wider rugby playing community within the District. Mr Hendra addressed the Relevant Policy Statement, Plans or Proposed Plans (section 104(1(b)) and Section 104(1)(c) - Other Matters. In conclusion he discussed refinements to conditions.

Ms Walker read her statement with regard to Landscape.

Ms Walker discussed the character of the reserve. She considered that the towers labelled 1A and 2A were inappropriately sited and that other technical solutions were available to Rodney District Council to avoid the proposed layout and provide lighting only to the more appropriate location around the perimeter of the reserve. She said that she felt the introduction of a 15 metre tower into the centre of a large open space would compromise a user's sense of spaciousness. The lights would effectively bisect the northern end of the reserve. The light towers would in effect 'tower' above the user within a wide open environment with no ability to mitigate the strong vertical nature of the towers as with the towers at the perimeter of the reserve.

In conclusion, Ms Walker said that she felt RDC had the ability to revisit the scope and details of towers 1A and 2A and potentially site them around the perimeter of the park which would not compromise the character of the reserve. She understood that this would bring about an increase in height to the towers to achieve light lux levels, but that this increased height could be better accommodated within the existing vegetated perimeter.

In response to questions from the Panel, Ms Walker said that with regard to physical effects from their own property, they would be able to see the light columns during the day and light spill at night, but this was not the issue, it was more about the effects of the activity.

In response to questions from the Panel, Mr Hendra described the various vehicle routes to the park, Princes St or the Great North Road from the main highway being the most used. Often people left the park via Kaipara Portage Road. He thought Mr McCool, the reporting planner, had not considered the effects of traffic movement on the receiving environment after games/functions. The rugby club was a good citizen but he feared night games would bring people into the District with associated after match activities. He noted that cars often spilt out on to the streets for parking. In conclusion Mr Hendra thanked all the parties for accommodating his circumstances.

Representatives of the rugby club in attendance said that the carpark was not marked out but could accommodate in excess of 100 cars. It was later noted that the carpark was not tarsealed.

Mr Hendra and Ms Walker retired from the meeting after presenting their submissions.

Peter Bilton distributed and read written evidence.

Mr Bilton said that the resource consent application was one of three applications lodged in 2009; the others had been at Huapai and Stanmore Bay. As a result of community and sports club demand and enquiries the Council, as part of its overall management of parks and reserves within the District, had made the decision to lead the design and consenting phase of them all as there were wider implications to be considered that affected the wider management of the District's sportsgrounds. Council's policy was to allocate its sportgrounds on a seasonal basis to the various codes for midweek training and the weekend sports fixtures programmed by the parent sport association. In this way the Council retained control of the usage of the sportsgrounds and the flexibility to change the usage according to the seasonal variations that can occur between codes.

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Mr Bilton said that Riverhead War Memorial Park was the premier sportsground park for the Riverhead Township and was the home ground for the Kumeu Rugby Football and Sports Club, the clubrooms of which were located adjacent to the park on privately owned land. The proposal was to progressively upgrade the existing lighting used for mid-week training and provide lighting of the Number 1 sandfield for both mid-week training and some end of week night games as specified in the consent application. Two of the new light columns were proposed to be relocatable, being moved out of the centre of the park for the summer season to accommodate the current sports activities of cricket and athletics. In preparing the application, Mr Bilton confirmed that the Council had very carefully considered and minimised the potential effects on neighbouring residents. It had undertaken consultation with those considered the most affected in Edward Street. The advice they had received was that the proposal was the minimum possible to achieve the accepted minimum lighting industry standard required for the safety and wellbeing of the sporting participants.

In response to questions for the Panel, Mr Bilton said that:

- He had no experience with relocatable columns, but the Stanmore Bay Reserve consent which had been recently granted involved a relocatable light column. Specialist lifting equipment needed to be used. The column was unbolted from the base and shifted to a 'parked area'; they couldn't be used in parked points and were stored in an upright position.
- Edward Street was the area of greatest consultation.
- When the poles were moved a cover flush with the ground would be put over the hole.
- The new lights would be owned by the Council who had the overall control of use of the grounds.

Russ Kern distributed written evidence.

Mr Kern spoke to his evidence. He said that the lighting design had been commissioned in January 2009 with the aim of improving the quality of lighting in the park. More efficient lighting and improved optics in the lights would improve the situation in regard to glare which was of particular concern to road users and residents. He noted that the existing lights were quite glary. From his calculations and those of Phillips Lighting, the results had been quite similar. For the benefit of the Panel, Mr Kern addressed the diagrams in his evidence. Mr Kern said that the pole located by the scout hall and the relocatable column were deleted as per suggestions from the submitters. Mr Kern said that the existing lights were near vertical and road users found the glare from them almost unbearable. This proposal was a plus in that respect.

In response to questions from the Panel, Mr Kern said that there were systems for turning lights off, for example time clocks which had over-rides for emergencies etc.

Mr Smith, President of Kumeu Rugby Club, said that the club used the fields on Tuesday, Wednesday and Thursday and the lights were usually turned off by 8.30 p.m. Having the cut off as 9.00 p.m. allowed an extra half hour for tidying up etc.

Mandy McMullin distributed written evidence. Attached to her evidence were A3 copies of the viewpoints.

Ms McMullin addressed her report and explained each viewpoint and photomontage. In conclusion she said that in terms of visual effects, the lights would introduce a new element into the view - of a greater scale and intensity than the existing, but the reserve was a diverse landscape and the lighting towers would not be dominant in her opinion. The columns had been located away from the boundary, close to the perimeter vegetation - the location where they were likely to have the least visual impact. The two moveable columns, those that were the most visually prominent within the reserve, were relocatable. In addition, the columns and luminaries themselves had been designed to minimise both summer and winter visual effects. The visual effect of the columns should reduce over time as they oxidised and dulled, and the winter position of the relocatable columns and use of the lights was temporary. In her opinion overall the landscape, natural character, amenity and visual effects of the new lights would be no more than minor.

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

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- In her opinion the situation of the pole that Mr Hendra had referred to was at the edge of the dripline of the tree.
- Foundations for the poles were in the order of 600mm - 1m deep.
- With regard to the pole in relation to the running track, clearly the pole was not where the submitter says it would be. The pole was located more than a metre from the running track and at the toe of the bank, not up the bank.
- She had considered the view from the Coatesville Riverhead Highway into the park and in her opinion there would be no negative effects on residents, landscape amenity and motorists.
- The bulk of the vegetation around the park she would describe as young mature; it was going to get larger over time.
- In her professional view the adverse effects were minor.

Patrick Corfe addressed the Panel. The following was noted:

Mr Corfe said that with regard to encountering tree roots, the most critical issue was the trenching of power for the poles which was more of a concern rather than the situation of the poles. He was aware of the activities off site but whether the lights were responsible for that was hard to say. Mr Corfe said that nothing he had heard had made him change his mind.

12.55 p.m. Russ Kern retired from the meeting.

12.55 p.m. - 1.42 p.m. Luncheon adjournment.

With regard to Ms Walker's comments about rural landscape, Ms McMullin said that she considered the reserve to be very utilitarian; it was a recreation reserve not rural landscape and the poles were in keeping with the reserve's character.

Diana Bell distributed and read written evidence.

Ms Bell provided a brief introduction to the proposal and focused her evidence on the issues raised in submissions. She said that the submission from Mr Hendra and Ms Walker had asked for clarification as to the scope of the application. Ms Bell said that as lodged the application requested an additional hour of training per evening, which had been subsequently reduced to 8.30 p.m. Also the application had been amended and potential effects reduced, by making two of the columns relocatable, and the lighting had been reduced by the removal of one luminaire. Ms Bell outlined the operation of the lights, and the activity and the use of the rugby club. She discussed consultation and the effects of activities permitted by the plan (permitted baseline). Ms Bell addressed the situation with the existing lights, the lighting report, drainage problems and the reserve management plan.

In conclusion, Ms Bell said that she had considered the proposal in relation to the relevant matters for assessment set out in section 104 of the Act, and it was her opinion that consent should be granted to the proposal, the reasons being:

- The potential adverse effects of the proposal on the environment were considered to be no more than minor;
- The proposal was consistent with, and certainly not contrary to, the relevant objectives and policies of the Rodney District Plan 2000 – Operative in Part; and
- The proposal was consistent with Part II of the Act.

Submitters in support:

Denis Henderson from North Harbour Rugby Club gave verbal evidence.

Mr Henderson said that lighting the Number 1 field would allow night rugby which was considered to be a way of growing the game. More people were looking to play night rugby as it freed up Saturdays and weekends by playing Fridays. Games that were played on a Friday were generally rearranged from Saturday, i.e. there would be no new games. Friday night games were a convenience thing for people with busy lifestyles, and he was of the opinion that this would become more prevalent where it could be done. The proposal would achieve a good facility for Kumeu Rugby. Mr Henderson noted

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that most of the games were junior rugby so Mr Hendra's concerns regarding drinking and associated behaviour he considered to be gross exaggeration.

Mr Henderson said that the Club and Union were going to comply with the consent conditions. With respect to comments about noise, this was not a problem on training nights. He acknowledged there would be more noise on a Friday night, but didn't think it would be excessive and games were all over by 8.30 p.m. Whilst the noise might be intrusive to people who lived very close, he doubted whether Mr Hendra would hear anything. Mr Henderson didn't think there would be an additional number of people taking into account the transfer of games from Saturday to Friday. He noted that people would park in the surrounding streets but the streets were fairly wide and this was what happened with parking around sports clubs. The Domain had been used for rugby for over 50 years. Mr Henderson said that he didn't think drainage was an issue and the club got on well with other users. With regard to comments about antisocial behaviour, some people couldn't be controlled. He wondered whether the Riverhead area needed more lighting and footpaths, but that was another issue.

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

- Junior games were for children aged 5-13 yrs old. They were pool games and if a game was drawn there would be no extension of time.
- They could do more with members assisting with parking. They send messages out to visiting clubs in regard to where to park.
- The carpark was metal so could not be marked.
- Car park marshalling would be a good idea on 'big' days and possibly there could be some more signage.

Mr Bilton said that the Council sometimes put up directional signage in regard to its reserves.

Paul Smith, President of Kumeu Rugby Club gave verbal evidence.

Mr Smith said that the bar closed at 10.00 p.m. Touch rugby was played on Thursday nights and about 800 people were associated with this during summer. From his point of view he thought behaviour had increased for the better over the years. The bar was open on Wednesday from 5.30 p.m. - 7.00 p.m. and Thursday until 9.00 p.m. On Saturdays, depending on games, on a general rugby day the bar closed by 10.00 p.m. If they got consent, on Friday nights they would envisage closing the bar by 10.00 p.m.

Mr Smith said that one of the biggest issues for junior rugby was the safety issue; they had had to limit the number of juniors to 300 because of the current lighting system. The lighting system as it was now was not adequate. As a senior club they currently had to split their training nights into two because of the lighting issue. They were trying to grow the club and get some unity. He felt the lights were very important and would assist in rebuilding the club; they were needed to attract players and make the club more unified in the senior side of things. Mr Smith said that club management was completely different now to previous years, and they had more members. He noted that previously community communication had been lacking and the new committee's objective was to communicate with the community more.

Council Officers:

David Mitchell addressed the Panel.

Mr Mitchell clarified the number of car parks. Using the measurements and calculations in the District Plan he estimated there were 95 carparks without pushing the boundaries and that in busy situations it might be possible to get another 10 - 20 extra vehicles parked. Utilising parking around the area using the bowling club area, Edward Street etc, he estimated there was parking for a total of 200 cars. There was probably parking for another 100 cars well within walking distance of the park. Vehicle volumes per day on the Coatesville Riverhead Highway were 8,000, on Princes Street 200, on Kaipara Portage Road 520. With regard to the suggestion of a review condition related to the possible effect of additional training sessions when the second sand field went in - this was not related to night games and parking; it was probably not essential to be included in regard to the night games.

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Patrick Corfe addressed the Panel.

Mr Corfe said that with regard to the poles in the vicinity of the trees along the main highway, the underground cabling should come out into the field rather than go from pole to pole. He noted that the proposal was for 9 poles instead of the existing 13 and he was professionally comfortable for consent to be granted.

Nick McCool addressed the Panel.

Mr McCool said that Mr Hendra and Ms Walker's original submission had been very detailed. He noted that the application had been fully notified and notice specifically had been given to people all around park, and as well licensees were given notice. Residents of Riverhead should have been aware of the application. Mr McCool pointed out that there was only one submission in opposition. He noted that the rugby club's existing consent allowed them to operate to 12.30 a.m. and although they didn't use that time, the ability was there.

Mr McCool said that he agreed with the recommendation in his report to grant consent. He noted that Mr Hendra and Ms Walker's property at 41 Great North Road would be a distance of about 170m from the nearest light pole; he considered this to be a significant separation distance. Granting consent to the proposal would see the removal of 13 old tired floodlights with overhead power cables. They would be replaced with 9 new lights of high quality with effects that would be no more than minor. The applicant requested the ability to hold 6 night games over a 7 month season. Mr McCool said that there was the potential to look at the wording of conditions to take into account any damage to trees and trenching outside root zones.

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

With regard to proposed condition 5 (relocatable lighting column), Mr Maclean said that Mr Hendra had raised the aspect of the condition requiring the lights to be moved from their position a maximum of 4 weeks prior and after commencement of the season etc, the reality was as soon as the rugby season finished the relocatable columns would be removed to their summer position as quickly as possible but the condition should allow flexibility to take into account weather conditions. Mr Maclean said that he thought it was practicable within a 4 week period to move the lights. He considered including the noise controls from the District Plan in the conditions to be good practice. With regard to proposed condition 9 (parking), Mr Maclean said that he would be happy to have that deleted and dealt with as an advice note. Mr Maclean noted that marshalling of cars on a big day might be a useful thing for the rugby club to consider.

2.35 p.m. The Chairperson adjourned the hearing.

The Chairperson closed the hearing on Monday, 25 January 2010 at 4.00 p.m.

The Panel resolved:

Childs/Watson

THE DECISION

That pursuant to Sections 104 and 104B of the Resource Management Act 1991, the notified resource consent application by Rodney District Council to erect 9 floodlight towers (6 towers being 15 metres in height and 3 towers being 12.5 metres high) to replace existing floodlights at the Riverhead War Memorial Park at 2 Edward Street, Riverhead, (Lot 1 DP 56612, Lots 1 - 2 DP55325, Allotment 597 Parish of Paremoremo SO 45216 and Allotment 598 Parish of Paremoremo SO 45216) be granted consent, subject to conditions, for the attached reasons.

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REASONS FOR DECISION

1. The design of the lighting system for which consent is sought has been engineered so as to minimise the potential adverse effects on the surrounding area.
2. Recognising the location of the reserve on a main road, plus its size and the location of the floodlight towers relative to residential neighbours and subject to conditions including limits on the hours of use and days the lights may be used, the adverse effects of the proposal on the environment will be minor.
3. The floodlight towers replace 13 existing columns. Given the location, design, colour and profile of the new structures, the visual effects and effects on amenity values will be no more than minor.
4. The grant of consent to the application is consistent with the objectives and policies for the Open Space Zones in general and those of the Open Space 4 Zone in particular in the District Plan as the proposal will meet some of the community's sporting needs without compromising amenity values.
5. The proposed provision of lighting for night-time sports training on a recreation reserve will provide for sustainable management of this community resource and enable those who use it for night-time training purposes to provide for their health and safety while ensuring that any adverse effects on surrounding properties are appropriately avoided, remedied or mitigated. In addition the applicant had requested provision for 6 night games per season with floodlighting required until 9.00 p.m.
6. The proposal is consistent with the Riverhead War Memorial Reserve Management Plan as the works will rationalise and optimise the use of the existing playing fields.

THE RELEVANT STATUTORY PROVISIONS THAT WERE CONSIDERED:

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

OTHER RELEVANT PROVISIONS THAT WERE CONSIDERED:

The provisions of the following documents were considered by the Commissioners in reaching this decision:

National Policy Statement Provisions

None applicable

New Zealand Coastal Policy Statement Provisions

Not relevant

Auckland Regional Policy Statement Provisions

Not relevant

Proposed Regional Policy Statements Provisions

Not relevant

Auckland Regional Plan: Coastal Provisions

Not applicable

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Auckland Regional Plan: Air, Land and Water Provisions

None applicable

District Plan Provisions**Partly Operative Proposed Plan Provisions****Partly Operative Proposed District Plan 2000**

Chapter 10 - Operative

Objective 10.3.1; 10.3.2; 10.3.4; 10.3.5; 10.8.4.1.1

Policies 10.4.1; 10.4.2; 10.4.4; 10.4.5; 10.8.4.2.1

Other Documents

Vision Rodney - A non-statutory document produced by the Rodney District Council (Described as 'A Strategy for the District's Future'.)

- Riverhead War Memorial Reserve Management Plan

PREAMBLE

This is an application by the Rodney District Council for a consent to erect nine floodlight columns, six 15 metres high and three 12.5 metres high on the Riverhead War Memorial Park. Six will light the existing number one field and the other three will be erected around the practice area. Two will be relocatable. The columns replace 13 existing columns 8 - 10 metres high which will be removed.

The new poles will be used during weekdays mainly for training purposes.

The application was publicly notified attracting two submissions in support and one in opposition.

PROCEDURAL MATTERS

- a) At the commencement of the hearing the Panel were advised that submitters Ms Walker and Mr Hendra had only received their notice of hearing nine days prior to the hearing and not the required ten days. They requested an adjournment of the hearing.

After hearing from Ms Nacey a staff solicitor, Mr Maclean (the applicant's Counsel), and Ms Walker and Mr Hendra the Commissioners decided to proceed with the hearing. In doing so

1. Mr Hendra / Ms Walker were given until 15 January 2010 to provide further written material.
 2. Mr Maclean was required to respond by 22 January 2010 to this information.
- b) A petition was tabled at the hearing by Mr Hendra / Ms Walker. As this was not lodged within the submission period no regard can be had to it.

SITE VISIT

The Panel visited and inspected the site and surrounding area on Tuesday, 15 December 2009.

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THE PRINCIPAL ISSUES THAT WERE IN CONTENTION:

1. The increased number of days the lights would be used, particularly on Friday nights.
2. Whether the operations of the Rugby Club could be controlled by conditions on this application.
3. Potential adverse effects on the environment arising from the hours of use, including traffic movements and parking.
4. Potential adverse effects on the reserve including trees.
5. The impact of the lights on the surrounding area, coupled with the increased night use of the park by the Rugby Club.
6. The adequacy of the consultation.

SUMMARY OF THE EVIDENCE HEARD:**EVIDENCE ON BEHALF OF THE APPLICANT****Mr Malcolm Maclean – Counsel for the Applicant**

Mr Peter Bilton – Senior Parks and Coastal Capital Works Engineer, Rodney District Council

Mr Russ Kern – Lighting Engineer

Ms Mandy McMullin – Landscape Architect

Ms Diana Bell – Town Planning Consultant

Mr Malcolm Maclean

1. He outlined the proposal.
2. He submitted that the adverse effects on the environment would be minor and there would be positive effects to the community.
3. The proposal was consistent with the relevant District Plan Objectives and Policies in respect of Reserve Management and Field Lighting.
4. He addressed the concerns of the submitters in opposition who stated that there had been no consultation. He referred to S36A of the Act which indicates that a local authority or applicant has no obligation to consult any person about an application.
5. The issue of whether a further land use consent was required for the rugby facilities was raised by some submitters. He indicated that this was not the case because there was an existing land use consent held by the Rugby Club.

In conclusion he submitted that in terms of Part II the application would promote sustainable management of natural and physical resources, the adverse effects on the environment would be minor, and the proposal was consistent with relevant District Plan objectives and policies.

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Mr Peter Bilton

He discussed the background to the proposal and its rationale. This was to

“more effectively and efficiently manage the usage of sports field’s assets”.

In this case to allow mid week training and some end of week games. Other works on the park in the future included improvements in drainage (anticipated within 3-4 years).

The lighting was the minimum possible to achieve an acceptable standard for sporting participants.

Mr Russ Kern an Illumination Engineer

He discussed the proposed lighting arrangements for the site.

He spelt out the relevant District Plan requirements and stated that the design of the proposal provided a favourable condition to achieve minimal glare for players, motorists and residents. It achieved the desired illumination on the playing surfaces with no significant adverse effects.

Riverhead being a Rural Residential area had generally dark surrounds with minimum street lights. This would mean that any increase in light would be discernable by nearby residents and this was the underlying reason for the proposed time limits on their use.

The glare rating was within acceptable limits as required by the relevant standard AS4282. He advised that the glare from the existing flood lighting did not comply with the District Plan and had, in his opinion, unacceptable effects on neighbours and motorists.

In his opinion the effects of the new lighting would be no more than minor and residential properties would not be adversely affected. He advised that the design met the average light level requirements for training, competition for outdoor rugby, and that the design complied with acceptable glare controls particularly for motorists on the Coatesville / Riverhead Highway and Princes Street and neighbouring residential properties.

In his opinion the residential properties in the general vicinity would not be subject to unacceptable glare or spill light and this included residents located on the hill overlooking the reserve.

He suggested an automated control system to ensure the lights are extinguished at the agreed time and not inadvertently left on.

In conclusion he indicated that the

“Lighting as proposed will provide a significant improvement to existing lighting due to improved glare control and better pole locations to suit the purpose.”

He suggested minor alterations to the design.

Ms Mandy McMullin

Ms McMullin addressed her visual and landscape assessment of the proposal. In her opinion the existing lights were old, inefficient and inadequate. The new columns would be taller and more visually prominent with more lights. The adverse effects of this would be offset by the improved design and profile, the lights being slim with improved technology, which would direct light down onto the field reducing the existing spill and glare for existing residents. In her opinion effects on the existing landscape character would be no more than minor. The proposal was, in her opinion, in keeping with the natural and existing character of the recreation reserve and would have no effect on the natural character of the reserve.

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In her opinion there would be adverse effects on existing views and amenity for some people whose houses overlook the field in Edward and Princes Streets due to the scale and proximity of the columns and the intensity of the lighting compared to the existing situation, however these effects would be no more than minor.

Ms McMullin indicated that the visual effect of the columns would reduce over time as they oxidised and become dull.

She concluded that the overall landscape, natural character, amenity and visual effects of the new lights would be no more than minor.

Ms Diana Bell

Ms Bell, a Town Planning and Resource Management Consultant, presented evidence in support of the application. Ms Bell's evidence discussed the proposal, the submissions, and the planner's report, effects of the proposal on the environment, the Reserve Management Plan and the recommended conditions.

She indicated that the lights would be used for training purposes four nights a week until 8.30pm and for six night games a season until 9pm. Two of the columns would be relocatable.

She tabled a resource consent which dated back to 1972 which allowed the Rugby Club to operate evening functions provided they ceased no later than 12.30am.

In relation to the Reserve Management Plan she considered that the proposal was consistent with it.

In her opinion consent should be granted because:

1. Potential adverse effects of the proposal on the environment would be no more than minor.
2. The proposal was consistent with and certainly not contrary to the relevant objectives of the Rodney District Plan 2000 – Operative in Part and was consistent with Part II of the Act.

SUBMISSIONS AND EVIDENCE ON BEHALF OF THE SUBMITTERS

- Mr James Hendra and Miss Claire Walker - in opposition to the proposal
- Mr Denis Henderson - for the North Harbour Rugby Football Union
- Mr Paul Smith - President of the Kumeu Rugby Club

Mr Hendra and Ms Walker's Joint Submission indicated

Riverhead was a unique settlement within Auckland being of a small size and with limited improvements. This included very little street lighting except for the main highway.

The main impact on the community would be the increase in people coming to Riverhead to train, play and watch rugby games particularly as the rugby club served members from a wider area than Riverhead.

Their main concern was the intensity of the use proposed and the amenity effects on the community. They didn't believe that the balance of benefits to the immediate community outweighed the cost the activity would impose on the quiet rural character and the residents of Riverhead.

The Friday night games were of particular concern generating a different set of behaviours with the 12.30am close down condition. In their words

"the quiet and dark streets of Riverhead will be subject to the behaviours one would expect to occur after such functions and with it anti-social behaviour". Page 5.

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The anti-social behaviour could include erratic driving. Many of their concerns were summed up in their words

“we fear that the need to develop rugby venues for the benefit of the wider district is being imposed on a small community with unique character without proper valuation of alternative venues with less sensitive receiving environments”.

They considered existing flood lights were not within the permitted baseline.

In terms of the residential amenity and neighbourhood character effects, the main change would be the increased activity at nights for up to 200 persons expected to attend Friday night games with associated on street parking and traffic movements.

The effect on neighbourhood character would be unacceptable. There were also concerns about the amount of parking.

In relation to lights spill, they were satisfied that lights could be installed to cause no impressionable light spill effects on residential properties. However given the character of the reserve, the towers would change the open and spacious character of the reserve in a negative way. The adverse effects in this matter would be unacceptable. Vegetation effects they considered would be adverse. They also considered cumulative effects would be significant.

On balance they considered that the proposal would have significant adverse effects on existing neighbourhood character which would outweigh the potential benefits to the rugby club and the wider rugby playing community within district.

They discussed the District Plan objectives and policies and considered that the proposal was not consistent with them and also that the relevant assessment criteria were not satisfied.

They requested that the proposal be refused consent. They did however suggest that if conditions were imposed that they should be amended, for example to exclude Friday night games.

Mr Hendra / Ms Walker were given further time to comment on the proposal. Their second submission discussed the following

1. The work they had done to correct flaws in the drawings. Their efforts were for the wider present and future community.
2. The park must be able to accommodate both passive and active recreation activities.
3. Concerns about lights / cabling in the vicinity of trees on the park.
4. With the lights potentially more rugby games would be planned on the park and they suggested that there should be a condition to restrict Saturday games should Friday night games be held, as well as suggesting that there be as other restrictions on who should play at nights.
5. Drainage issues.
6. Anti-social behaviour at sports events; they wished to see the bar closed at 10pm.
7. The traffic and parking review should be retained.
8. Pole relocation issues.

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9. Their main concern was the

“likely adverse effects on the quiet (in terms of noise and people traffic movements) residential character on the receiving environment.”

10. Riverhead was not the right place for night games.

Mr Denis Henderson

On behalf of the North Harbour Rugby Football Union Mr Henderson spoke in support of the proposal. In his view it would allow night rugby which was a way of growing the game. Friday nights were convenient for people with busy lifestyles. He felt the proposal would achieve a good facility for Kumeu Rugby. He advised that both the club and the union would comply with the consent conditions.

Paul Smith – The President of Kumeu Rugby Club

He discussed the operations of the club. Lights would in his opinion assist in rebuilding the club; the club needed to attract players. More players would contribute to a more unified club, in particular attracting senior club members.

THE EVIDENCE OF COUNCIL OFFICERS

This came from

- **Mr Nick McCool – Staff Planner**
- **Mr Mike Grunsell – Lighting Engineer**
- **Mr David Mitchell – Traffic Planning Consultant**
- **Mr Patrick Corfe – Landscape Architect**

Mr Nick McCool

The Reporting Planning **Mr Nick McCool** outlined the proposal and undertook the necessary statutory assessment. He concluded that the consent should be granted because:

1. The proposed lights would not increase the intensity of the site to a large degree to the small area of land that the lights would occupy. The proposed flood lights would comply with the District Plan Lighting Standards and would not exceed 100 lux at the boundary.
2. The proposal was consistent with the objectives and policies of the Proposed District Plan Operative in Part.
3. The proposal was consistent with the purpose and principles of Part II of the Act.

He recommended that the application be approved subject to conditions.

Mr McCool's report was accompanied by comments on

1. Transport issues from **Mr David Mitchell** who concluded there was no traffic reason that consent should not be granted subject to certain recommended conditions. This included a review of the traffic and parking arrangements.

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2. Mike Grunsell - LDP Ltd

He addressed lighting issues. He indicated that the proposed luminaires would have "considerably" better control of light distribution than the existing luminaires due to technically superior optics and shielding. He suggested certain conditions including complying with the relevant standards and the installation of a time clock automated device and a requirement that once completed an engineer confirm that the spill lighting and glare was equal or less to that in the application.

3. A peer review of the landscape and visual assessment by **Patrick Corfe** who indicated that although he had some concerns about the landscape report lodged he felt that the adverse effects of the proposal would be no more than minor.

Right Of Reply**Mr Maclean**

1. He discussed the various recommended conditions; he considered Condition 9 relating to parking could be dealt with by way of an advice note.
2. He was satisfied that in relation to the submitters' concerns that adequate information had been presented and discussed at the hearing.
3. The application was for an activity within the reserve and did not affect the consent of activities within the neighbouring rugby club land.
4. The application site comprises the whole of the reserve land with the lights and rugby activities occupying only part of the total area.
5. No reliance had been made on existing use rights when undertaking the effects assessment for the application.
6. The scope of the proposal was very limited particularly in the respect of the evening hours with applicants supporting the proposed consent conditions.
7. It was outside the scope of the application to consider other matters such as the frequency of Saturday afternoon games.
8. A tree protection and management condition was appropriate.
9. The applicant supported the recommended conditions with certain changes which Mr Maclean discussed.
10. The application was detailed and had sufficient assessment of the actual and potential effects of the proposal.
11. The proposal would have positive benefits and effects.

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

The Panel's main findings on the principal issues that were in contention are as follows. They have been reached after visiting the site and locality, considering the application, the evidence and submissions heard at the hearing, the additional comments from Ms Walker and Mr Hendra and the additional right of reply comments from Mr Maclean, the report prepared by the reporting planner, the associated technical reports and all the relevant statutory and planning provisions.

This application seeks to replace 13 existing lighting towers on the Riverhead War Memorial Park Reserve with new towers. They will relate to a relatively small part of the reserve. The purpose of the works is to allow the Kumeu Rugby Football and Sports Club to train and play with improved lighting up to five nights a week; the main addition being on Friday nights. The main hours of use would be:

- 5.00 p.m. to 8.3p.m. Monday to Thursday
- 5.00 p.m. to 8.30pm on Friday nights and six times a year till 9pm when a game is being played.

The land involved is the Riverhead War Memorial Park in Edward Street, Riverhead. The Reserve is triangular shaped and 6.18 hectares in area. It is used for a variety of active and passive recreation uses. This includes a main (No. 1) ground and a practice ground. The Rugby Club's building is located on an adjacent site to the east of the park in Edward Street. It is not part of the Reserve.

The District Plan Zoning in the Proposed District Plan is Open Space 4. This is a multi-use and community zone. The Objective and Policy are:

To enable the communities recreational, sporting and leisure needs to be met without compromising amenity values of surrounding areas.

Activities in the Open Space 4 Zone should not adversely affect the amenity values of adjoining sites, particularly through noise, glare, traffic and visual impacts.

The towers are a discretionary activity.

There is also a Reserve Management Plan.

1. Scope Of The Proposal

The submitters in opposition sought clarification as to the nature of the application. The application originally requested week night use up to 9.30 pm. This was later reduced to 8.30 pm except for 6 games when the conclusion would be 9.00 pm. Currently Rugby training occurs on three week nights up to 8.30 pm.

After evaluating the submissions we consider that the amended closure time and additional night use is appropriate as it allows reasonable evening weekday use of part of the park. It also allows better use of the fields. It will also mean that the lights do not operate on Saturdays and Sundays. Noise will be controlled by a condition of consent.

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2. Hours Of Operation and The Use Of The Rugby Clubrooms

The hours as outlined above have been limited in recognition of the site's location in a rural residential area. There will be no operation on Saturdays and Sundays. The Rugby Club is not located on the reserve and is subject to a separate resource consent. This consent allows the clubrooms to operate until 12.30 a.m.

Although obviously the evening training/ games will involve night use of the adjacent club rooms for changing, and often social activities, we have no jurisdiction to control the operations of the Club which is on another site and is subject to a valid consent.

3. Operation Effects / Increased Night Use

The traffic effects were analysed by the only traffic expert Mr Mitchell, a traffic engineer. He indicated that the parking and traffic effects should be reviewed before the final three towers were installed. This was considered appropriate given the concerns by Ms Hendra / Ms Walker. Mr Mitchell concluded that there was no traffic reason to decline consent. In the absence of any other opposing expert evidence, and based on our assessment from all the information presented concerning the proposal, we accept this advice.

Given the Rugby Club's valid consent as discussed above we cannot control its hours of operation.

4. Trees

The potential impact of the poles / cabling on trees in the reserve is a legitimate concern. A condition is proposed to deal with this issue.

5. Effects on the Environment

The main issue relates to the physical and illumination impacts of the towers.

The Panel is satisfied that by their design and location, and the fact that two of the lights towers are relocatable, the structures are appropriate to this reserve. They will be located on the park which is of a reasonable size and is surrounded on all sides by roads / road reserves. They replace the existing 13 lights.

The lighting evidence indicates that the current lights do not comply with the relevant District Plan standards. The new structures will comply with them. As a result this will have a positive effect on the environment.

As a result these effects will be subject to conditions (i.e. hours / days of use); it is considered the adverse effects will be no more than minor.

6. Consultation

Mr Maclean advised the Panel that some consultation had been undertaken. Also that as a matter of law this was not legally required. Although consultation was desirable it was not obligatory. We note that the application was fully notified. Notification aims to ensure the wider public are aware of a proposal by means of a public notice in a newspaper and individual notification and with it the opportunity to submit/comment on the application.

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We also note that the applicant's planning consultants wrote to some local residents in February 2009 advising them of the proposal.

7. Reserve Management Plan

Although the Reserve Management Plan shows the existing lights on the landscape concept plan it contains little guidance relating to new structures. It does however indicate that its main focus is to provide a framework for the rationalisation and optimisation of existing facilities and activities and enhancing passive recreation activities. The reserve does already contain 13 light columns so this proposal is consistent with this statement (1.0).

8. Part 2 Considerations and Conclusions as to findings

We are satisfied that the proposal will promote the sustainable management of natural and physical resources, in this case substantial improvements to enable sustainable community use of an established sports field complex which already contains 13 lighting columns that do not comply with current District Plan lighting Standards. The proposal will do so in a way which ensures that any potential adverse effects on the amenity values of the surrounding area are mitigated. Accordingly we consider that the grant of consent to the application would be consistent with the purpose and principles of the RMA.

9. Conclusion

We are satisfied that consent can be granted to the proposed floodlight towers that will provide for limited evening use of the reserve. The proposal is consistent with the Zone objective and policy referred to above as some of the community's active sporting needs will be better met. By the imposition of conditions the significant adverse effects on the environment will be avoided and amenity values will not be compromised.

This application for the floodlight towers relates to an existing active recreation use that uses floodlighting but which relates to a relatively small part of the reserve. The application merely involves a modest increase in the lighting for evening use which will make better use of part of the reserve.

Consent is granted subject to conditions as below.

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;

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

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

1. (general) Except as amended by conditions of consent the development shall proceed in general accordance with the application submitted by O'Connor Planning Consultants Ltd, and the plans drawn by Landscapeworks +, dated 4 December 2009 and including but not limited to the following key documentation and drawings:
 - (i) The Assessment of Landscape and Visual Effects by Mandy McMullin and the photomontages dated December 2009;
 - (ii) The Riverhead Memorial Park Peer Review, Rugby and Training Field Lighting Riverhead by Kern Consultants Ltd dated 3 December 2009;
 - (iii) The recommendations in the peer review titled Peer Review, Landscape and Visual Effects, for Proposed Installation of Floodlights at Riverhead War Memorial Park Riverhead by Patrick Corfe Landscape Architects Ltd dated 8 December 2009.
 - (iv) The LDP Ltd reports titled Riverhead War Memorial Reserve – Sports Lighting dated 17 November 2009 and Riverhead War Memorial Reserve – Sports Lighting Supplementary Report dated 10 December 2009.

Note: (building consent) The granting of this resource consent does not preclude the consent holder from the need to obtain a building consent prior to construction commencing.

2. (notification of commencement) At least 7 days prior to the work commencing the resource consent holder shall notify the Council's RMA Compliance Administrator by telephone (0800 426 5169) the expected date of work commencing.
3. (lighting) The lighting shall be in accordance with Rodney District Council District Plan requirements except that between the hours of 7:00am to 8:30pm, and up until 9:00pm for the 6 night games per season, the lighting shall not create illuminance in excess of 100 lux, measured horizontally or vertically on or directly above the boundary of any adjacent site at that point which is closest to any window of an adjacent household unit. Between the hours of 8:30pm on one day and 7:00am on the next day the lighting shall not be operated, except for 6 occasions where the lights are to be used for night games, they shall be able to be used until 9:00pm. If monitoring of the lighting levels is required, this shall be at the landowners cost.

On completion of the final aiming and commissioning the consent holder shall engage a professional lighting designer/engineer (MIES or FIES) to provide confirmation that the installed spill light and glare is equal to or less than that in the application. This shall be provided within 5 working days of the completion of the aiming.

4. (lighting shut off) A time clock or automated device, to the approval of the Council's consent monitoring manager, shall be installed to control the lighting to ensure operation only occurs during the designated times.
 - 5:00pm to 8:30pm Monday to Thursday,
 - 5:00pm to 9:00pm Friday,
 - The floodlights shall not be used on Saturday or Sunday.
5. (relocatable floodlighting columns) The relocatable floodlighting columns shall be re-located from the summer position to the winter position a maximum of four weeks prior to the commencement of the rugby season and shall be relocated from the winter to the summer position a maximum of four weeks from the end of the season. (Except where ground conditions prevent this and the column shall in these circumstances be relocated as soon as is practicable). The winter season is considered to operate between 1 March and 30 September.

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6. (noise limits) The noise from the activity associated with the proposed floodlights shall not exceed levels specified in Rule 16.9.2.1.2 of the Proposed District Plan – Operative in Part:

Monday to Saturday 7.00 am to 6.30 pm	50 dBA Leq
Monday to Saturday 6.30 pm to 8.30 pm	45 dBA Leq
Sundays and Public Holidays 7.00 am to 7.00 pm	45 dBA Leq
At all other times	40 dBA Leq 70 dBA Lmax

Sound levels shall be measured in accordance with the provisions of NZS 6801:1999 Acoustics - Measurement of environmental sound, and assessed in accordance with the provisions of NZS 6802:1999 Acoustics - Assessment of environmental noise.

7. (colour of floodlighting columns) The floodlighting columns shall be galvanised and left to oxidise naturally to ensure the effects of the columns on the visual and amenity values within the surrounding environment are minimised.
8. (loading) Loading and unloading of vehicles during construction shall not occur on the Coatesville-Riverhead Highway.
9. (arborist supervision) The works within the driplines of any trees protected under the District Plan 2000 – Operative in Part (including the provision of footings for the lighting columns and trenching of cables) shall be supervised by an Arborist who Council's Ecological Advisor is satisfied is suitably qualified and experienced. Prior to any digging taking place the ground shall be examined and probed to determine the location of roots and the suitability of the trench alignment and foundation set out. All excavations for the initial 600mm depth and subsequent back-filling within the dripline shall be carried out using hand held tools only unless otherwise agreed to by the Team Leader – Resource Consents (i.e.: spades, picks and steel bars).
10. (silt retention) Before commencement of any works, adequate silt retention structures as detailed in the Auckland Regional Council Technical Publication No. 90 "Erosion and Sediment Control Guidelines for Land Disturbing Activities in the Auckland Region" shall be installed. These structures shall be maintained and cleaned out as necessary until such time as complete grass cover, or other non-erodible surfacing, has been re-established over the site.
11. (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:

Environmental protection 2x site visit.

Monitoring deposits will be invoiced by the Council together with the consent processing charges.

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.

The location and detail of the sediment control shall be included in the Engineering Plans for approval prior to commencement of construction.

Advice note: Existing open streams shall not be modified without Council permission and they shall be retained and maintained in their existing position and alignment.

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12. (review condition) Pursuant to s128 of the Resource Management Act 1991, the Council may serve notice on the consent holder of its intention to review the following conditions of this consent. Conditions 3 & 4 (lighting performance), Condition 7 (colour of floodlighting columns)
- a) Within the first winter season following construction of the proposed floodlights monitoring shall be undertaken to establish a baseline for future comparison.
 - b) Monitoring shall then be undertaken at no less than 3 yearly intervals to assess the situation in regards to lighting performance and the colour of the lighting columns.
 - c) The costs of the reviews shall be carried out at the consent holder's expense.

Advice Note

That the Kumeu Rugby Football and Sports Club be encouraged to provide adequate on site parking for the night games. This should include Friday nights and nights when games are being played. The provision of such car parking should be accompanied by "marshalls", or persons engaged to assist with directing parking, to achieve efficient use of the available on site area available for that purpose.

Carried

CONFIRMED AS A TRUE AND CORRECT RECORD THIS 4TH DAY OF MARCH 2010

MAYOR

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