

EVIDENCE Heather McNeal.
TOPIC PC 113
SUB# Two.
DATE 18 NOV 2013.

IN THE MATTER of the Resource Management
Act 1991

AND

IN THE MATTER of proposed private Plan Change
PC113 (Ruakaka Racecourse)
to the Whangarei District Plan.

OPENING COMMENTS OF COUNCIL REPORTING PLANNER, HEATHER MCNEAL

Introduction

1. Since completing my s42A report I have read the briefs of evidence submitted on behalf of the applicant, the Director-General of Conservation, Patuharakeke Hapu, the Bream Bay Coastal Care Trust, Colleen Prendergast and Margaret Hicks.
2. I am not recommending any significant amendments to my report at this stage but wish to comment on several key issues addressed in the briefs of evidence which remain in contention and/or require further clarification:
 - An appropriate level of development for the Rural Equine Environment;
 - The adjoining consented subdivisions to the west;
 - Prohibited activities;
 - Council's District Plan policy-led approach including the management plan technique and requisite policies.

What is an appropriate level of development for the REE?

3. In paragraphs 259 – 267 of my s42A report I discussed the issue of '*intensity of development*', quoting a policy that specifies a maximum of 350 dwelling units across the Environment. Due to typographical errors in paragraph 259, the relevant policy (REE.1.4.1) is provided in full below, with the relevant sub-clause (ii) highlighted in bold.

REE.1.4 Policies

1. To protect the ongoing operation of the Whangarei Racing Club on the site while providing opportunities for expansion of equine-related activities by ensuring that:

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- i. The race track and infield area is retained for equine-related activities.
 - ii. **There will be a maximum of 350 dwelling units across the Environment. Units in visitor accommodation developments and retirement villages or similar may be in addition to this.**
 - iii. All residential units on the site will enter into a 'no complaints' covenant to ensure that the residential development does not impact on the day to day equine-related activities and events.
 - iv. Use of the site by community groups is provided for, but their use of facilities is to be compatible with the primary function of the Environment as a racecourse.
4. In my report I recommended¹ that the policy be amended to reflect the need to balance the on-going viability of the racecourse and associated equine activities with the capacity of the adjoining environment to sustain the level of intensity proposed, with an intensity quota, if imposed, to be dependent on further evidence to be presented at the hearing.
 5. I continue to maintain the view that determining an appropriate level of development within the REE is central to the entire plan change and that further discussion on the issue is still required, given the differing 'bottom lines' proposed by the applicant and submitters and the basis on which these have been established.
 6. The applicant is proposing a maximum of 350 'dwelling units' within the REE, while DOC's submission is seeking a limit of 100 'residential units' with prohibited activity status beyond that figure, (although this appears not to have been carried through to DOC's 'track changes' version of PC113.) Patuharakeke seeks 'below 150.'
 7. From the opening wording of policy REE.1.4.1: '*To protect the ongoing operation of the Whangarei Racing Club...*', it may be assumed that economic viability is the prime determinant of the maximum level of intensity specified. However, the applicant's s32 report also refers to the 350 quota as one of a list of '*important methods used to control risks to the environment*' and this is detailed further in David Mead's evidence (Ecological effects, paragraphs 53-61).
 8. This recommends a '*mixed cap and management approach*' with emphasis on controlling behaviour and education of residents in the management of risks of adverse effects on ecological resources. The stated approach² of the plan change is '*risk reduction through the preparation of a comprehensive management plan.*'
 9. Paragraph 2.7 of the brief of evidence from Nicholas Brandon on behalf of WRC provides some clue as to the economic basis for the 350 dwelling unit quota. Here it is claimed that to offset the

¹ S42A paras 260 & 267 and summary of recommendations, para 317

² Para 61 Mead evidence.

cost of providing improved infrastructure from Peter Snell Road to the grandstand mound, (including a new road), estimated at approximately \$3.5 million, a development capacity of a minimum of 350 units must be permitted.

10. No indication has been provided, however, as to what contribution other proposed activities within the REE (including commercial activities such as motels, hotels or retirement villages) could play in achieving and maintaining economic viability and development 'marketability'. Likewise, it is not clear whether there is any scope, from an economic perspective, to reduce the proposed level of intensity should this be deemed necessary for environmental reasons.
11. DOC's approach to establishing an appropriate level of intensity for the racecourse to protect the values of the surrounding high value habitat and public recreation land appears largely based on the level of development proposed for two adjacent (and yet to be developed) subdivisions to the west, (Land Development Solutions and the Great Northern Land Company), rather than on specific quantifiable ecological factors.
12. Andrew Riddell's evidence refers³ to the subdivision consents granted for those subdivisions, including statements that 'Council considered the appropriate level of development when it granted consent'⁴ and 'For both these subdivisions the Council had to establish an appropriate level of coastal subdivision given that these properties, like the racecourse, are adjacent to sensitive public conservation land.'⁵ (Emphasis added.)
13. In paragraphs 114 and 115 of his evidence he concludes that the average intensity of development achieved by the 2 adjacent subdivisions can be used as '*an appropriate upper level for residential development.*'
14. In my opinion, the pattern and level of development sought by the applicants and consented to by Council reflected the zoning and density applicable to the sites concerned, rather than being '*an appropriate level of coastal subdivision*' dictated by Council, as inferred.
15. Being within an area zoned as 'Future Environment' (with an underlying zoning of Coastal Countryside and an overlying Environment of Living 1) both subdivisions were subject to the Future Environment Rules of Chapter 48 of the District Plan. As such, the intensity of development was based on (and complied with) the underlying Living 1 zoning with a minimum lot size of 500m² net site area, rather than a level of development deemed appropriate by Council.
16. However, a raft of conditions, (drafted in consultation with DOC), was imposed on each of those subdivision consents (both of which were non-notified) to assist in avoiding and mitigating environmental effects on the adjacent public land. Similar provisions are proposed within PC113 Management Plan and Ecological Management Plan requirements, including additional amendments recommended by DOC. In my opinion, it is these types of measures that would

³ Paragraphs 100 – 116

⁴ Para 109 Riddell evidence

⁵ Para 111 Riddell evidence

ultimately provide more appropriate safeguards in this area than strict adherence to a quota based on conventional Living 1 standards applying to the adjoining subdivisions.

Prohibited activities

17. PC113 proposes subdivision within Precinct A to be a prohibited activity, presumably in the interests of retaining the racetrack and infield as a single entity. The evidence of Andrew Riddell recommends a number of additional activities as prohibited activities (i.e activities for which resource consent cannot be sought.) These are:

- *The keeping of cats, dogs, or mustelids in this Precinct and the bringing of cats, dogs or mustelids into the Precinct. (Precincts A, B, C, D);*
- *The dumping of any waste, including green waste, from the Precinct into the Crown Land administered by the Department of Conservation to the west or south of the Precinct (Precincts B, C, D.)*
- *Directly accessing Crown land administered by the Department of Conservation from this Precinct.(Precinct B)*
- *Directly accessing the dune lake from the Precinct (Precinct C)*
- *Directly accessing Crown land administered by the Department of Conservation from the Precinct except at points identified in an approved Management Plan. (Precinct D)*

18. I do not see the justification for the prohibited activities proposed by DOC since there are policies in PC113 applying to the banning of pet cats and dogs, and mustelids; protective fencing; and access restrictions. In addition, recommended amendments to the Management Plan Requirements section (REE 1.5) including the strengthening of Ecological Management Plan provisions will further assist in managing such issues.

Council's District Plan policy-led approach including the management plan technique and requisite policies.

19. Other than DOC and Colleen Prendergast, few submitters have specifically opposed the proposed plan change format and its language or use of the Management Plan Technique.

20. A number of changes to the list of Management Plan requirements in REE 1.5 including a change in name of the required '*Habitat Protection Plan*' (to '*Ecological Management Plan*') and the strengthening of ecological considerations have been recommended by DOC. I generally concur with these amendments, with the possible exception of the requirement for an overall Ecological Management Plan prior to development of the REE.

21. Andrew Riddell has correctly noted⁶ that in the MPT chapter of the District Plan, any proposed activity that does not comply with an approved Management Plan that has been given effect to is a

⁶ Para 79 Riddell evidence

non-complying activity. Therefore, for consistency in applying the MPT, PC113 Management Plan provisions should be amended to reflect this.

22. Other amendments to the format of PC113 recommended by Andrew Riddell include:

- Requiring any Management Plan application (or amended revised Management Plan) to be publicly notified;
- Referring to 'requisite policies' as 'performance standard policies';
- Requiring Coastal Countryside Environment provisions (and any prohibited activities) to apply prior to approval of a Management Plan to encourage the use of such plans.

23. Colleen Prendergast concurs (in paragraph 3) with statements by DOC for Management Plans to be mandatory, required prior to development, and publicly notified. The bulk of Ms Prendergast's evidence, however, is devoted to a criticism of Council's use of the requisite policies approach (rather than the development proposal *per se.*) Her conclusion (paragraph 27) states:

'I acknowledge that my submissions relate as much to the approach being taken to the review of the district (plan?) as to the plan change currently being considered. For the avoidance of doubt, I consider a comprehensive approach to the future uses to be made of what is a unique facility to be preferred to ad hoc development as the need or opportunity arises. The requirement for Management Plans setting out the details of the proposed uses for each precinct will allow for better sustainable management and avoidance of effects overall and is endorsed.'

24. Section 8 Policy Framework of my s42A report summarises the relevant policy documents (including the District Plan) that have helped shape the district's planning over recent years. Of particular relevance to the current plan change is the policy-led approach (Plan Change 106) adopted by Council in September 2011.

25. Nick Williamson, Council's Team Leader (District Plan), has been instrumental in advancing this approach, and in the incorporation in the District Plan of the Management Plan Technique Chapter and the Urban Transition Environment ('UTE'). In response to Ms Prendergast's evidence, Nick Williamson will clarify the philosophy behind Council's current review of the District Plan and some of the terms applied (e.g requisite policies) and provide details of relevant case law.

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