

IN THE MATTER

of the Resource Management Act 1991

EVIDENCE David Mead

AND

TOPIC PC 113

IN THE MATTER

of proposed Private Plan Change 113

JOB# Seven

(Ruakaka Racecourse) to the

DATE 18 NOV 2013

Whangerei District Plan

Supplementary Statement of David Mead

18 November 2013

Introduction

1. I prepared a statement of evidence dated 25 October 2013.
2. My qualifications and experience are as set out in that statement, along with my compliance with the code of conduct for expert witnesses.

Summary

3. In this supplementary statement I respond to the points raised in the evidence of Mr Riddell for the Department of Conservation (DoC). I also provide further clarification of the planning issues associated with alternative road access.
4. Attached is a table which sets out Mr Riddell's proposed changes to the Plan Change text and my response to them. That is, whether I agree or disagree with the changes and where there is disagreement, my reasons for this. In some cases I set out possible alternative wording. Further possible changes are set out below in relation to ecological management.
5. Mr Riddell uses the following headings in his evidence:

Prohibited activities

Limit on residential units

Breaching a management plan

Requisite policies and notification

Activities occurring before a management plan is approved

Ecological management plan

Contents of management plans

6. I agree in part with the issues he raises in relation to notification of management plans, when management plans are triggered and whether a comprehensive ecological management plan is appropriate.
7. I continue to disagree in relation to the use of prohibited activities, limits on residential development and breaching a management plan.
8. In relation to residential limits, I reiterate the points I made my main evidence that the proposed development enabled by the plan change involves a clustering of development in one part of the site to maintain other parts as open space, while the number of residential units enabled is less than what may be possible should the race course no longer operate. Further, Mr Brandon identifies the on-going growth in the wider Ruakaka-Marsden Point area. Limiting development on the racecourse site will not mean that additional people pressures on ecological resources will be avoided. These people will just be living a bit further away, possibly with fewer management provisions applying to their interaction with the ecological resources in the area.
9. In this statement I concentrate on the areas of partial agreement. The attached table should be referred to for detailed comments and responses in relation to areas of agreement or disagreement.

Requisite policies and notification

10. Mr Riddell raises a concern that as presently drafted, it could be construed that management plans will not be notified. REE 1.2 sets out that management plans are available as a discretionary activity. Precinct specific provisions (such as REE 3.5) go on to state that land use proposals that are not contrary to the requisite policies for the relevant precinct are precluded from public notification. This could be taken to mean that a management plan for that precinct will not be notified.
11. The intention has always been for management plans, as a discretionary activity, to be subject to the normal notification tests of the RMA. This can be clarified by a small change to the relevant provision.
12. I note that REE 1.5.4 states that the Habitat Protection Plan is to be prepared in consultation with DoC (and tangata whenua) and this statement will remain. Whether the plan will be notified for submissions will be determined in relation to the tests under the RMA, but my expectation would be that given that management plans deal with effects which potentially affect adjoining resources, to varying scales of effect, then notification is a distinct possibility. However this may not be the case for all management plans (for example an update of an existing plan).
13. I would suggest that REE 3.5, REE 4.5 and REE 5.5 be amended to read:

"Land use proposals that are not contrary to the requisite policies are precluded from public notification, except for management plans prepared under REE 1.5 which will

be subject to the notification tests of the RMA notwithstanding their compliance with requisite policies."

Activities occurring before management plans

14. At paragraph 147, Mr Riddell expresses a concern that "ad hoc" development could occur in Precincts B, C and D prior to management plans being put in place. He particularly cites equine-related activities as possibly generating adverse effects of concern, although I can find no real assessment of what these effects may be.
15. He suggests that the Coastal Countryside rules should apply until such time as a management plan is approved for the whole site. This approach ignores the fact that the Race Club has an existing consent for a race course (as confirmed in the section 42a report).
16. At a minimum I would expect a plan change to enable race course related activities, given this consent and the history of continuous use since 1974. There is no justification for a "winding back" of the current, authorised use of the site as a race course. I also do not agree that the definition of "equine-related activities" is wide ranging. To my mind it covers the range of activities that a person would normally associate with a race course.
17. While I remain of the view that it is appropriate that management plans only come into play when development is contemplated which might cause new, off-site effects which cannot be mitigated by set standards, the discussion of when management plans apply has raised an issue in relation to the trigger point for a management plan, particularly the habitat protection component.
18. As currently drafted, management plans are required if:
 - a. redevelopment on the grand stand hill or residential development is proposed in Precinct B (southern precinct);
 - b. greater than two storey development or any commercial development is proposed in Precinct D (eastern precinct); or
 - c. more intensive residential development is proposed in precinct C (western precinct).

These activities are discretionary activities unless a management plan is in place.

19. As I have noted in my evidence, activities that are likely to generate off-site effects, particularly in relation to non-equine related residential and commercial development, should be subject to management plan provisions. Generally the above management plan triggers were set in relation to a combination of visual, traffic and ecological effects.
20. With regard to ecological effects, having considered the evidence, in my view it would be appropriate to rework the trigger points for management plans so that all residential development and non-equine commercial development gets caught in the 'management plan net'. However this wider net comes with a need to ensure that management plans deal with the effects generated by the activities that they intend to enable and the first management plan is not used as the vehicle to manage all possible future effects and to remediate all current effects currently experienced by the adjoining DoC land.

21. In particular, it is appropriate that the first management plan that is triggered involves putting in place the framework of an REE-wide comprehensive ecological management plan, with subsequent plans to take forward and implement the measures contained in this first plan, as development proceeds in the different precincts. This is a point that I discuss further below.
22. With the move to all residential and commercial development in Precincts B, C and D being subject to management plan requirements, it is also necessary to clarify that the extent of analysis required to support the management plan and the contents of the plan be commensurate with the scale of effects to be generated by that plan. To this end I would recommend that the following words be added to REE 1.5:

The management plan must contain the following information, as is relevant to the development and activities that are to be enabled by the management plan and to a level of detail that is commensurate with the anticipated effects associated with this development.

23. By this I mean, for example, that if the management plan in Precinct B only provides for 2 storey residential development, then that management plan should not have to be accompanied by a detailed visual and landscape assessment (as two storey development is anticipated in the area and consistent with what is possible under the current use of the site). It is only greater than 2 storey development that should trigger landscape and visual assessment.
24. However in relation to ecological effects, it would be relevant to say that the first management plan is to contain an Ecological Management Plan. To this end, REE 1.5.4 could be recast to say:

The first management plan in the REE shall contain an ecological management plan. Subsequent management plans shall update and expand upon this initial ecological management plan, depending upon the nature of the development and activities enabled by these management plans.

25. Below I discuss the content of the first ecological management plan. Here I record that there is some justification for requiring a pan-Environment approach to ecological management, rather than a precinct-by-precinct approach, which was the approach of the notified version of the plan change. This is because the ecological management plan has to address management of human behaviour and education as a way of mitigating effects. It is sensible that the framework for this be set up at the start so that all residential and commercial development is aware of the likely requirements.
26. To accommodate the above points, I would recommend that:

REE.3 (Southern Precinct) be modified so that any non-equine related commercial development or residential development under or over 2 storeys;
REE 4 (Western Precinct) be modified so that any residential development; and
REE 5 (Eastern Precinct) be modified so that any non-equine commercial activities.

not in accordance with a management plan, be a discretionary activity.

(Note: Residential development already triggers a management plan in REE5)

27. In my opinion, discretionary activity status provides a sufficient incentive for management plans to be prepared. This is a matter that Mr Riddell questions. Management plans provide a means by which one consent can authorise a range of development, consistent with the objectives and policies of the Environment. This is their main advantage from an applicant's point of view. I do not see any advantage in moving to a non-complying status for activities not in accordance/authorised by a management plan. The gateway tests that apply to non-complying activities do not add anything in terms of council's discretion to add conditions relating to environmental management for specific consents, while there is still wide discretion to decline consent.
28. In relation to other non-equine activities that may generate off-site effects (such as non-equine events), it is reasonable that the proposed event management plan requirements address potential ecological effects (such as from amplified noise and visitors wandering into reserves), but these effects can be handled by the specific event management plan requirements. For example REE 2.7.4, 5 and 6 could be strengthened by referring to how events are to be managed to avoid human disturbance of nearby ecological resources. This for example could involve controlling event locations, parking and pedestrian flows to prevent people from heading into the southern part of the site, or informally crossing the coastal dune land.

Contents of Ecological Management Plan

29. Mr Riddell recommends the use of the term "ecological management plan", rather than "habitat protection plan". I have no fundamental objection to this change in name. I note in passing that the use of the term "habitat protection plan" was an attempt to help define the purpose of the plan (it is not a plan to right all current ecological wrongs) and to clearly identify it as a sub set or component of the required management plan (which would have a number of sections to it, such as traffic, visual, cultural etc).
30. As for the contents of the ecological management plan, I have no issue with clarifying that the plan will deal with controlling access into the DoC reserve, fencing, pest and weed control and stopping people from introducing new weed and pests (cats, dogs etc). As stated in REE 1.5.4, it is also appropriate for the management plan to put in place a process and framework that will inform residents, workers and visitors about the resources in the area, appropriate behaviour and contribute towards management of the reserves.
31. Some of these actions can be put in place under the first management plan (for example determining access points and fencing), but others will need to be progressively "rolled out" as development occurs. This need for a roll out reflects a number of issues:

- a. Bans on the keeping of potential pests (cats and dogs etc) are likely to be best implemented through conditions or covenants on titles, when subdivision or resource consent occurs, rather than a prohibited activity rule in the plan
 - b. Similarly with avoidance of pest plant species
 - c. The ability of the Racing Club to resource pest and weed control programmes within the site to redress any current problems will progressively increase as more development occurs
 - d. Likewise with contribution towards management and maintenance of adjoining reserves, as is provided for by REE 1.5.4.
32. As an example, Mr Riddell proposes that the ecological management plan should require employment of a nest / reserve warden. If this was a full time warden, then this condition could be onerous and excessive in terms of the potential effects it is trying to manage. The first development triggering a management plan may be for only a few houses, such as 20 houses. In my view such a requirement could not meet section 32 of the RMA, or the 'Newbury tests' as to whether a "rule" is appropriate, given the scale of effect generated.
33. However this is not to say that the future residents should not contribute towards management of the reserve itself. The current (notified) provisions appropriately refer to temporary nest wardens in the lead up to and during breeding season and there is also reference to funding, ideally combined with funding from other future developments in the area.
34. The ecological management plan will detail a range of measures that need to be taken to reduce existing risks to ecological resources (like predator and weed control within the REE and its margins), as well as managing future risks that will arise from development within the REE, such as access controls, preventing new pests being introduced and providing information to residents and visitors. The Racing Club will need to fund these activities. It is also reasonable the actions include active management of nesting areas within the reserve during breeding season. This will have a wider benefit in that disturbance from all types of activities will be better managed. That is, not just possible disturbance from residents and visitors of the REE but also from the wider area. Combined, these actions will help to off-set any additional risks from the extra people in the REE.
35. Having said that, it is important that the Racing Club not be put in a position of taking on "more than it needs to". The ecological management plan needs to allow for the types of management responses to be scaled up, as development gets more intensive, while incorporating a proactive element that helps to mitigate current effects in anticipation of future potential pressures.
36. To address the above issues, my recommendation would be to require the first management plan to put in place an overall ecological management framework for the REE environment, identifying the range of actions that are to be taken to ensure that development meets the objectives and policies of the REE environment and indicating when these actions should be

put in place. Subsequent management plans for either more development in the same precinct as the original management plan, or a management plan for a new precinct can start to fill in the detail provided by this framework, and respond to the particular issues and effects associated with the Precinct and development to be enabled.

37. To this end REE 1.5.4 could be re structured so that it addresses the following four points.

38. Firstly, it is identified that the first management plan for any part of the REE is to contain an ecological management plan framework for the whole of the REE. This framework is to be based on the contents of the ecological management plan set out in the Plan Change and is to identify the range of actions to be progressively taken, based on the scale of and type of activities enabled by the Environment's provisions. For example REE 1.5.4 could start with:

The first management plan for any part of the REE shall include an Ecological Management Plan for the whole of the REE, as set out below. Subsequent Management Plans should review, update and replace this Ecological Management Plan, as necessary.

The Ecological Management Plan is to set out how significant ecological values of the adjacent DoC administered reserve areas, including the Ruakaka Wildlife Refuge and dune lake are to be protected including addressing potential effects associated with human disturbance and plant and animal pests arising from development within the REE.

39. I note that I have added the words "arising from development within the REE" to the above. These words are not in the notified text, but I consider they are appropriate to ensure that the management plan is dealing with those effects generated by the development enabled by the Plan Change.

40. Secondly, as for the process for preparing the management plan, REE 1.5.4 could be expanded upon as set out by Mr Riddell, for the sake of clarity, but with an adjustment to the suggested text so that it is clear that the plan is not being submitted to DoC for approval. For example:

The Ecological Management Plan should be prepared (and reviewed when updated) in consultation with DoC and tangata whenua. The Management Plan is to include a summary of the consultation undertaken, and the changes made (if any) as a result of that consultation.

41. I note that, in my view, it is not appropriate in the context of the above policy to say that consultation "shall" occur as proposed by Mr Riddell. The District Plan cannot compel consultation. One of the parties listed in the policy may not wish to be consulted or otherwise withhold their consent to be consulted. In effect they would be holding a veto, which is not appropriate.

42. Thirdly, the contents of the ecological management plan could be amended to cover most of the points raised by Mr Riddell, as follows:

The Ecological Management Plan is to specify the actions to be taken to manage and address adverse effects, including:

- a. fencing and access control to prevent access to DoC administered reserves (except for limited access to the coast at specified locations) and to discourage the dumping of green waste and prevent grazing of animals*
- b. the identification of access points across the coastal dune and the construction of these accesses to DoC standards*
- c. ongoing pest control (animals and weeds) within the REE and in the margins of adjoining reserves*
- d. avoidance of the introduction of new animal and weed pests into the REE*
- e. managing stormwater to maintain the natural hydrological processes of the dune lake*
- f. managing light spill and noise from the REE*
- g. providing detailed information for residents, workers and visitors on the habitats and fauna of the coastal dunelands, dune lake and wildlife refuge and their significance and vulnerability, with a focus on what is appropriate behaviour and what behaviour must be avoided*
- h. the rehabilitation of adjacent dune habitats aimed at enhancing natural habitat values*
- i. in the lead up to and during breeding, assisting with temporary fencing of nests within the DoC reserves and managing potential disturbances*
- j. baseline and outcome monitoring to determine effectiveness of the plan*
- k. a warden or similar to undertake the above duties*
- l. an appropriate means by which the above activities can be funded, such as a Residents' Society or similar, including possible sharing of costs with other developments in the area.*

In addition to the above, the Plan is to also put in place a structure by which future residents (and other users of the REE) can assist on a voluntary basis with the management of the Ruakaka Wildlife Refuge and dunelake. Actions could include undertaking predator and weed control, maintaining fences (temporary and permanent) and acting as temporary nest wardens in the lead up and during breeding season to educate recreational users of the need to avoid disturbance of roosting, foraging and nesting birds.

43. Fourthly, given DoC's submission and suggested changes, it would be appropriate to expand upon the above to include direction that the first ecological management plan is to set in place methods to implement the above actions in a way that allows for a build up of actions as development proceeds, for example:

The first Ecological Management Plan is to set up a framework by which the above actions are to be implemented, taking into account the nature and type of development likely to be enabled by the first and subsequent management plans. Subsequent ecological management plans are to implement and further develop as necessary the matters set out in the first management plan. As a guide it is expected that the first management plan will:

- a. specify the details of fencing and access controls and when these are to be implemented*
- b. put in place the method by which new plant and animal pests will not be introduced, such as by way of covenants on future titles*
- c. determine the methods by which light spill is to be controlled*
- d. specify educational material to be provided when development is occupied*
- e. set out the process by which weed and pest control and stormwater management within the REE is to be progressively implemented as development proceeds*
- f. the duties of a warden (i.e. in lead up and during breeding season and outside breeding season)*
- g. the structure by which future residents input is to be co-ordinated and the expectations upon future residents and other relevant activities as to the level of financial contribution towards maintenance and management of nearby ecological resources.*

The owners of the Racecourse and the Council will ensure that an up to date copy of the Ecological Management Plan is available for public viewing (such as via a website).

44. In summary, I consider the above amendments go a long way to addressing concerns about impacts on ecological resources, in a way that matches management responses with likely effects.

Road Access

45. Finally, I wish to expand upon comments I made in my statement of evidence in relation to the need for a western road access into the REE. I maintain my view that such an access is desirable but not essential.

46. Given that a western road access point is not a requirement, it may be questioned as to whether the existing access from the end of Peter Snell Road is sufficient. It is noted that the

current access can be covered by sand, due to the surfers gap blow out, and may be subject to ponding after heavy rain.

47. In relation to these issues, I note that the Racing Club cannot restore the dune and close surfers' gap. However the club does have a responsibility and a strong interest in maintaining its access (i.e. removing sand, fixing potholes). It can also be expected that once development requiring a management plan is triggered, then attention will be paid to the design of the current access way and whether there should be improvements in terms of dedicated pedestrian footpath and improved carriageways, as would be the case with any resource consent proposing different uses to those currently provided for by the existing consent.
48. I further note and concur with Dr Martin's comments in his evidence that if a western road link eventuates, this can be done so in a way that ensures that the dune lake is not impacted. A western road link does not need to be a wide road. It should be designed to manage traffic speeds and volumes - outcomes that are compatible with a low impact approach.

Attachment

49. Attached is a table which lists changes sought by Mr Riddell and my response to these.

David Mead

18 November 2013