



24.3.04.92
2080/0002/B00

17 November 2006

S A and C A Thornton
C/- Harrison Grierson Consultants Limited
P O Box 1199
TAURANGA



RCSDEC

Attention: Mark Thomas

Dear Mark

RESOURCE CONSENT (SUBDIVISION) – S A AND C A THORNTON, 2B KOWHAI STREET, OHOPE.

On 16 November 2006, the Manager Development and Compliance, under delegated authority, resolved as follows:

- "1. *THAT pursuant to Sections 34A, 104, 104B, 106, 108, 220 and 221 of the Resource Management Act 1991, the Whakatane District Council grants consent to subdivide the property situated at 2B Kowhai Street, Ohope and legally described as Lot 25 DPS 9167 and Lot 2 DP 327498, subject to the following conditions:*

General

- (a) *The proposed activity shall be carried out in general accordance with:*

- *The application prepared by Harrison Grierson Consultants Ltd dated 28th June 2004.*
- *Additional information supplied by Harrison Grierson Consultants Ltd dated 31st August 2005.*
- *Additional information supplied by Harrison Grierson Consultants Ltd dated 6th October 2005.*
- *Additional information supplied by Harrison Grierson Consultants Ltd dated 24th February 2006.*
- *Additional information supplied by Harrison Grierson Consultants Ltd dated 26th April 2006.*
- *Additional information supplied by Harrison Grierson Consultants Ltd dated 20th June 2006.*
- *Additional information supplied by Harrison Grierson Consultants Ltd dated 25th July 2006.*
- *Plan number 011050-SC02 Revision A supplied By Harrison Grierson Consultants Ltd amendment date 13th October 2006.*

Except where modified by any other condition of this consent.

- (b) That prior to any works commencing on site, the consent holder shall notify the Whakatane District Council in writing of their intention to do so and the date of works commencing.*
- (c) In the event that any archaeological remains, features, or sites are uncovered during operations on site, all works on site shall cease immediately and the relevant Iwi groups shall be contacted along with the New Zealand Historic Places Trust. Works shall not commence again on site until such time as appropriate authorisation is given to the consent holder.*
- (d) The proposed common driveway to serve proposed Lots 1 and 2 shall be formed and constructed in accordance with Standard Drawings R 01A and R13 contained within the Whakatane District Council's Engineering Code of Practice except that a single coat chip seal surface will be accepted by Council for the purposes of acquiring Section 223 and Section 224 approval for the subdivision. All stormwater generated by the common driveway shall be collected and disposed of via a piped system onto Wainui Road to the satisfaction of the Director Works and Services.*
- (e) That proposed Lots 1 and 2 shall be provided with independent Council reticulated sewer connections to their respective boundaries in accordance with Standard Drawing SS 01 of the Whakatane District Council's Engineering Code of Practice.*
- (f) Proposed Lots 1 and 2 shall be provided with independent metered water connections in accordance with the Engineering Code of Practice.*
- (g) "As built plans" of all new and extended services associated with the development of proposed Lots 1 and 2 shall be submitted to the Whakatane District Council for approval and record keeping purposes. These plans shall be certified by a Registered Professional Surveyor as an accurate record of the location of services as constructed on site.*
- (h) The existing access and driveway currently serving 2 Kowhai Street (Lot 2 DPS 49257) shall if necessary, be upgraded to meet the requirements prescribed in Standard Drawings R 01A and R 13 contained within the Whakatane District Council's Engineering Code of Practice.*
- (i) The existing access onto Wainui Road and serving proposed Lot 1 shall be permanently closed and the culvert removed to the satisfaction of the Director of Works and Services prior to Section 223 and Section 224 approval being issued for the subdivision.*

- (j) That reinstatement of the road reserve and road reserve drainage inclusive of seal widening works shall be undertaken across the former access to proposed Lot 1 to the satisfaction of the Director Works and Services.
- (k) The consent holder shall prepare a traffic management plan and submit this plan to Whakatane District Council for approval prior to any works on either the Wainui Road formation or Wainui road Reserve commencing.
- (l) The common driveway to serve proposed Lots 1 and 2 shall be designed by a Chartered Professional Engineer who is familiar with the geotechnical constraints and geotechnical reports relating to this subdivision consent. Plans for the driveway shall be submitted to the Director of Environment and Policy for approval and shall consider the collection and disposal of stormwater and groundwater in relation to the structures and the rest of the site and the construction methodology required to facilitate the driveway formation. Engineering plans associated with the proposed common driveway and associated structures will be peer reviewed at the expense of the consent holder and no work shall commence on site until such time as the plans have been approved by the Director of Environment and Policy.
- (m) Building Consent for retaining walls associated with the access formation to serve proposed Lots 1 and 2 shall be obtained prior to any works commencing on site.
- (n) As part of the formation of the new access to the site, the existing bulldozed track shall be reinstated as per the further information supplied by Harrison Grierson Consultants Limited dated 26th April 2006 and to a standard that does not decrease the stability of the slope above or below the existing bulldozed track. Materials to be used for backfilling shall be of a suitable moisture content and not of an organic nature and shall be layered uniformly and compacted concurrently. The stability of the reinstated track area shall be designed and constructed to meet building code stability requirements.
- (o) All stormwater generated by the existing dwelling, garage and concrete manoeuvring area located on proposed Lot 1 shall be collected and disposed of via a piped system onto Wainui Road to the satisfaction of Director of Works and Services.
- (p) A Retaining and Debris wall system shall be designed for the proposed building platform on proposed Lot 2 in general accordance with those shown on the Harrison Grierson Consultants Limited drawing 011050-200 and in accordance with the proposed construction sequence identified in further information supplied by Harrison Grierson Consultants Limited dated 26th April 2006 and 20th June 2006.

This design shall take into account the requirements for inspection and maintenance of these structures inclusive of anchoring systems. A peer review of the design of these structures shall be undertaken to the satisfaction of Director of Environment and Policy prior to Section 223 and Section 224 approval being issued for the subdivision and at the expense of the consent holder.

- (q) *The consent holder shall prepare a landscape plan for the subject site that identifies any representative vegetation that may be affected by the proposal and measures employed to retain or replace this vegetation. This plan shall be submitted to the Manager of Community Facilities for approval prior to implementation and any works commencing on site.*
- (r) *That a monitoring fee of \$200.00 (inclusive of GST) shall be paid to the Council as a single charge for the administration, monitoring and supervision of this resource consent. Notwithstanding the above, where there is good and reasonable cause for unprogrammed monitoring and additional site inspections, then the costs of that will be a charge on the consent holder. Such costs are recovered on an actual and reasonable basis as defined in the General Conditions and Notes of the Fees and Charges Schedule as approved by the Council in terms of Section 36 of the Resource Management Act 1991.*
- (s) *That a financial contribution of \$2405.25 (inclusive of GST) shall be paid to the Council for reserves purposes.*
- (t) *That any Easements required to provide for service connections to proposed Lots 1 and 2 shall be duly reserved and granted.*
- (u) *In accordance with Section 221 of the Resource Management Act 1991 a Consent Notice shall be registered against the Title of Lot 2 requiring that:*
- (i) *A building consent shall be lodged for the Debris and Retaining walls structures referenced in condition (p) of the subdivision consent and any other retaining walls required on site.*
 - (ii) *Prior to any works commencing on site to form the retaining and debris wall structures associated with the proposed building platform on Lot 2, horizontal drains shall be installed as prescribed in the additional information supplied by Harrison Grierson Consultants Limited dated 26th April 2006 and to the satisfaction of Director of Environment and Policy.*
 - (iii) *That the horizontal drains referenced in consent notice condition (ii) above shall be constructed in a manner that provides for regular and ongoing maintenance to be undertaken.*

The Geotechnical engineer undertaking the design of the horizontal drains shall submit a formal programme for ongoing periodic inspections and maintenance beyond the end of construction to Whakatane District Council, prior to the drains being installed. The programme shall include the frequencies for inspections and monitoring, maintenance schedules, alert and alarm levels, and contingency measures to be initiated if alarm levels are exceeded.

(iv) No works to construct the Building Platform on site shall be undertaken until such time as the Whakatane District Council is satisfied the Debris and Retaining Wall structures and the horizontal drains have been installed in accordance with the approved plans.

(v) Prior to any dwelling being constructed on the identified building platform, a Geotechnical Completion Report shall be undertaken. This report shall:

- Confirm that the works undertaken on site including horizontal drain installation, debris and retaining wall installation, formation of new access and building platform and reinstatement of bulldozed track, have resulted in the site being geotechnically stable and suitable for the construction and occupation of a dwelling on the building platform.*
- Identify recommendations for foundation design methodology, disposal of stormwater from impervious areas and roofing, the best practicable options for connection to reticulated services located at the property boundary and any other matters considered relevant following the completion of physical works on site.*
- Identify post construction inspection/maintenance requirements and programmes for structures located on site including, but not limited to horizontal drains, retaining walls and retaining wall anchors.*

This Geotechnical Completion Report may be peer reviewed at the discretion of Whakatane District Council and at the expense of the consent holder.

(vi) Any building to be constructed on site shall be subject to specific design and constructed in accordance with the Geotechnical Completion Report contained under clause (v) of this consent notice.

- (vii) *The horizontal drains required by this consent notice shall be maintained in accordance with the Geotechnical engineer's requirements stipulated under consent notice condition (iii) to ensure they continue to function. Confirmation of inspection by a Chartered Professional Engineer shall be provided to Whakatane District Council at the inspection frequency identified in the Geotechnical Completion Report.*
- (viii) *Council's officers or contractors shall be permitted entry upon the land at reasonable times so as to ascertain compliance with these conditions.*
- (ix) *The Council's legal costs and disbursements directly or indirectly attributable to the enforcement of the consent notice and the Council's conditions set out in the notice shall be paid by the consent holder.*
- (x) *Following the completion of construction of a dwelling on Lot 2 the common driveway which serves Lots 1 and 2 shall be formed and constructed in accordance with Standard Drawings R 01A and R13 contained within the Whakatane District Council's Engineering Code of Practice. In particular this will require that the surface of the common driveway is upgraded to meet surfacing option A, B or C prescribed in Table 2 of Standard Drawing R13.*
- (xi) *The common driveway which serves Lots 1 and 2 inclusive of associated retaining and stormwater structures, shall be maintained at all times to the satisfaction of Whakatane District Council.*
- (v) *In accordance with Section 221 of the Resource Management Act 1991 a Consent Notice shall be registered against the title of Proposed Lot 1 requiring that:*
 - (i) *Any new or additional buildings to be constructed on site shall be subject to specific designs which include geotechnical considerations.*
 - (ii) *Council's officers or contractors shall be permitted entry upon the land at reasonable times so as to ascertain compliance with these conditions.*
 - (iii) *The Council's legal costs and disbursements directly or indirectly attributable to the enforcement of the consent notice and the Council's conditions set out in the notice shall be paid by the consent holder.*

- (iv) *The common driveway which serves Lots 1 and 2 inclusive of associated retaining and stormwater structures, shall be maintained at all times to the satisfaction of Whakatane District Council.*
- (w) *That the consent holder shall pay the Council's legal costs and disbursements directly or indirectly attributable to the preparation, execution and registration of the consent notice(s).*
- (x) *Whakatane District Council may, following receipt of advice from its Geotechnical Peer Reviewer involved throughout engineering design and approval for the access and for structures to be located on Lots 1 and 2, serve notice on the consent holder of it's intention to review the conditions of this Resource Consent under Section 128 of the Resource Management Act 1991, at any time prior to the release of Section 224 certification. The purpose of this review is to address any particular matters that may arise from the engineering design and approval process and/or deal with any adverse effects on the environment that may result from exercising this consent and may need to be dealt with at a later stage to ensure the conditions of subdivision consent remain relevant.*

Advice Notes

1. *Whakatane District Council will require that the geotechnical aspects of this subdivision are subject to specific design and certification by a Chartered Professional Engineer with competence and experience in geotechnical engineering.*
2. *Detailed design of the subdivision should include, but not be limited to the following matters:*
 - *Ground retention or any other measure(s) needed to protect the building platform against slope stability;*
 - *Interaction between adjacent retaining walls;*
 - *Slope stability analysis considering both global and local stability and including accurate modelling of the ground anchors;*
 - *Site specific seismic hazards;*
 - *Foundation design;*
 - *Setback distances;*
 - *Earthworks, particularly the disposal of spoil generated by formation of the accessway and new building platform;*
 - *Temporary stability of cut slopes;*
 - *Stormwater control;*
 - *Requirements for post-construction inspections, testing and maintenance.*
3. *Detailed design of the proposed subdivision should include specific assessment of the following aspects of the ground anchor design:*

- The lengths required to achieve the required anchor capabilities;
 - The length of the anchors and whether they will extend over the property boundary;
 - Anchor durability. Given the importance to the overall stability and the coastal environment, triple protection may be required;
 - Requirements for construction;
 - Load testing.
4. The practicalities of the proposed subsoil drainage system should be demonstrated at the time of detailed design, including (1) how any perched seepage zones remote from the level of the drains will be managed, and (2) how the drains will be maintained in the long term.
 5. It is recommended that the consent holder considers design of the overall development in a timely fashion. Engineering approval of the design of the debris and retaining wall structures associated with the building platform on proposed Lot 2 is critical in acquiring Section 223 and Section 224 approval for the subdivision, and may be relevant for the design/construction of the access.
 6. Retaining and Debris Wall Structure anchors will require strength testing, a condition of Building Consent for these structures shall require this testing is undertaken.
 7. The consent holder is advised that the reinstatement of the existing Bulldozed track on Proposed Lot 1 and 2 has been provided for as part of this granted consent for Subdivision. Should the Subdivision process be delayed and/or no development occurs on site within 6 months of the date of this consent being granted, Whakatane District Council will require that the track is reinstated to Council's satisfaction.
 8. Archaeological sites are historic places as defined by the Historic Places Act 1993, and all archaeological sites are protected under the provisions of that Act. Any activity, which impacts on an archaeological site, requires the prior permission of the Historic Places Trust. If any archaeological site is uncovered during operations on site, then work must stop until the site can be assessed by a qualified archaeologist and an authority to modify, damage or destroy the site is applied for under Section 11 or 12 of the Act.
 9. Full compliance with the conditions of this consent is necessary at all times. Failure to meet the conditions of the consent may result in Whakatane District Council taking enforcement actions against the consent holder.

10. A development contribution will be payable when the new dwelling is constructed on Lot 2 and will be charged as part of the building consent for the dwelling. Credit will be given for the portion of the contribution paid as a reserves contribution under this subdivision consent.
11. Additional details of the works recommended to comply with condition (j) are contained within Whakatane District Council Subdivision file 24.3.04.92.

Reasons for the decision

1. The proposed activity is a discretionary activity in the Residential 1 Zone of the Proposed Whakatane District Plan.
2. The site is a difficult site geotechnically and will require particular care in its development. The Council is only satisfied that the proposal is consistent with the relevant objectives and policies contained within the Proposed Whakatane District Plan subject to the stringent mitigation measures contained within the consent conditions. This subdivision can only be considered an appropriate use of the subject land parcel if the conditions are met. Residential use of the resulting land parcels will prevail which provides consistency with the surrounding land use.
3. The Council is satisfied that any adverse environmental effects that may actually, or potentially, result from the subdivision can be avoided, remedied or mitigated by the conditions of this resource consent. All services will be provided to residential Lots prior to the issue of s224 certification.
4. The proposal has been extensively considered by Tonkin and Taylor and Terrane Consultants specialist Geotechnical Engineers through a peer review process. Following receipt of this advice, Council is satisfied that this subdivision meets the requirements of S106 of the Resource Management Act 1991.
5. The proposal will result in minimal effect to the vegetation on site which comprises second generation exotic and also indigenous species including Pohutukawa, Puriri, Kanuka and Ponga. The proposed building platform is located within an area that has been cleared of plant pest species and therefore contains no significant vegetation and the proposed access is to pass through an area of established Pohutukawa without affecting these trees. Furthermore this consent requires that any trees affected by the proposal and identified as representative by Council, are to be either relocated on site or replacement plantings are undertaken to the satisfaction of Council.
6. The subject site is surrounded by residential development and Wainui Road. There are 4 dwellings (exclusive of the one owned by the applicant) which are located within close proximity to the proposed subdivision and elevated in relation to the relative level of the subject site.

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The potential effects are restricted to one of these dwellings which is located on Lot 1 DP 327498 at 8B Kowhai Street. Any potential effects to Lot 1 DP 327498 are associated with land instability and were confirmed in the owner's submission in opposition to the original application. Geotechnical advice has determined that these effects are able to be avoided, remedied or mitigated by the conditions of this consent and based upon this advice the submitter has withdrawn their right to be heard in support of their lodged submission.

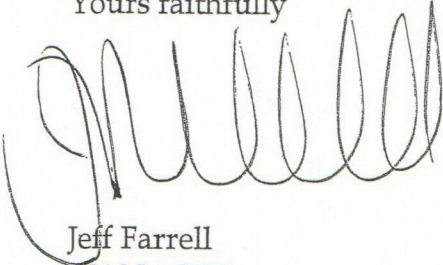
- 7. The Council is satisfied that the affected parties to the activity have been consulted with through a limited notification process and that submissions received in opposition to the original application have been considered and subsequently addressed by the applicant through amendments to their application or by conditions of this consent. Furthermore, there were no special circumstances in terms of Section 94(C) of the Resource Management Act 1991 which warranted the public notification of this proposal.*
- 8. The financial contribution for reserves purposes charged under condition (s) was based on the amount of the contribution required for reserves under the Council's current Development Contribution Policy. The subdivision application was received prior to the Development Contribution Policy coming into effect however due to an assessed land value for proposed Lot 1 of \$100, 000 (inclusive of GST) a reserves contribution based on the development contribution policy is considered a fairer assessment given the new calculations for units of demand. The financial contribution for reserves if assessed under the Local Government Act would have required a contribution of \$4500 (4.5% of \$100, 000).*
- 9. The Council is satisfied that conditional consent to this proposal is in accordance with Part II matters of the Resource Management Act 1991. The Council considers that this subdivision is an efficient use of land subject to the very stringent mitigation measures, and the amenity values and environmental quality of this area will not be adversely affected."*

In accordance with Section 357A of the Resource Management Act 1991, you have the right to submit to Council an objection to any of the above conditions of approval. An objection must be lodged with the Whakatane District Council within 15 working days of receipt of the Council's decision. If you are in any way not satisfied with the decision of Council on your objection, you have the right to appeal to the Environment Court. Any appeal is required to be lodged with the Environment Court within 15 working days of receiving the decision on your objection.

Please note that this consent will expire if not given effect to within five years from the date of this letter. Under some circumstances this five year period may be extended if an application for an extension is made before the consent lapses and in accordance with Section 125 of the Resource Management Act 1991.

If you have any further enquiries, please contact Laura Swan (Senior Planner), at this office.

Yours faithfully

A handwritten signature in black ink, consisting of a series of loops and a large initial 'J'.

Jeff Farrell
MANAGER
DEVELOPMENT AND COMPLIANCE