

BEFORE KĀPITI COAST DISTRICT COUNCIL

IN THE MATTER OF

Resource Consent application for
Tieko Street Subdivision

APPLICANT

M R Mansell, R P Mansell and A J Mansell

**MINUTE # 2 OF HEARING COMMISSIONERS:
ADDITIONAL INFORMATION AND EXPERT CONFERENCING
DATED 12 AUGUST 2022**

Minute # 2 of Hearing Commissioners
Tiekō Street Subdivision
RM210147

Introduction

1. The Tiekō Street subdivision hearing took place in Paraparaumu on 3 and 4 August 2022. This Minute addresses various matters arising from the in-person hearing.
2. At the end of day 2 the hearing was adjourned, as is standard practice, to allow time for the provision of additional information. The nature of the information requested is set out below. The ability of the commissioners to request additional information and direct expert conferencing is provided by sections 41 to 41D RMA.
3. All references to “sections” in this Minute are to sections of the Resource Management Act 1991 (RMA).

Planning Policy Framework

4. The planning policy framework is a key consideration for the commissioners. Although we were provided with some relevant evidence, and in answer to our questions, we require greater detail to help inform our decision making.
5. We direct the Applicant and the Council to provide us with a clear summary and expert planning analysis of the following matters:
 - a. The National Policy Statement on Urban Development (NPS-UD) including in relation to:
 - NPS-UD provisions that refer to well-functioning urban environments.
 - the NPS-UD definitions of an urban environment and a tier 1 urban environment (if different).
 - the implications of NPS-UD Policy 6 in relation to planning decisions.
 - the Council’s district growth strategy (Te Tupu Pai).
 - b. With respect to Te Tupu Pai:
 - whether it is a Future Development Strategy (FDS) as mandated by sub-part 4 of the NPS-UD; or
 - whether it is intended as a step in progress towards a FDS; and
 - the implications of the relationship between Te Tupu Pai and the proposed development.
 - c. The Council’s proposed Intensification Plan Change (draft plan change 2), due for public notification on 18 August, including in relation to:
 - the continued zoning of the application site as Rural Lifestyle Zone.
 - no identification of the application site, in whole or part, as a site by Appendix “A” of the plan change, being a range of sites proposed to be added to the General Residential Zone as part of incorporating the MDRS into the District Plan, or giving effect to policy 3 of the NPS-UD.

- d. The following objective and policies from the district plan¹ and, where relevant, any district plan explanations that support those provisions:
- DO-O3 Development Management: including in relation to the terms “existing urban areas” and “identified growth areas”.
 - UFD-P1 Growth Management: particularly in relation to part (d) of the policy.
 - UFD-P4 Residential Density: particularly in relation to part (7) of the policy.
 - RLZ-P2 Rural Character: including in relation to parts (a) and (c) of the policy.
 - RLZ-P9 Rural Lifestyle Zone: particularly in relation to part (d) of the policy.
 - INF-GEN-P7: particularly in relation to part (f) of the policy, and in relation to the focus of intensification being in “existing urban areas” as defined by the district plan.
- e. An integrated and overall opinion about the relevance of all the above matters with regard to the application site as a whole, and to the site’s southern residential area in particular.
6. We expect that the Council planner’s response to our directions will draw on advice from the Council’s policy team. We require the reporting officer to clearly note where her opinion and conclusions differ from those provided by the policy team, and the reasons why.
7. In reaching our decision, the commissioners will have regard to all relevant objectives and policies for the purpose of reaching a conclusion under s104D(1)(b) RMA. As noted in paragraph 7.7 of the Applicant’s opening legal submissions, we must make a holistic and overall broad judgement of the provisions. The purpose of our directions under paragraph 5 above is to help focus those aspects of our assessment that are relevant to the southern part of the subdivision (accessed from Otaihanga Road). This does not preclude the planning experts from choosing to provide analysis about other provisions. We will take into account all analysis provided to us via the application, in evidence, and in response to these directions.
8. Mr Strawbridge, representing the owners of 44 Tiekō Street, was the only party among the submitters to engage an expert planning witness (Ms Blackwell). We have considered whether to direct the submitter’s planner to respond to the same matters set out above. Even though Ms Blackwell’s evidence – and our questioning of her – touched on the matter of district plan objectives and policies, we consider that the submitter’s concerns are more focussed on specific amenity issues. Notwithstanding that focus, we are happy for the submitter’s planner to respond to our directions under paragraph 5 above – if the submitter considers it would assist the purposes of their submission.

Shared Path Grades and Surfaces

9. We note and appreciate the provision of longsections for the shared pathway and the southern cul de sac (sheets 17 and 24 of 22208 SCH1 Rev Q). To provide us with a more detailed understanding of grades and accessibility throughout the proposed subdivision we require the Applicant to provide us with the following:

¹ Note that the naming / numbering of the provisions is that used in the current version of the district plan

- a. Simple longsections showing grades in percentages (to assist our understanding in relation to various standards).
- b. On those longsections, marked beginnings and ends to different surface materials.
- c. Both of the above being for:
 - The new pathway from the current end of Tieko Street through to the end of the northern cul de sac.
 - The shared pathway between the end of the northern cul sac and Otaihanga Road in Lot 105.
 - The pathway in the southern cul de sac, between Lot 105 and Otaihanga Road.
- d. For comparative purposes, longsections with grades for the northern and southern connections between the Expressway CWB and Otaihanga Road.

Legal Opinion

10. With regard to lot size, the proposed subdivision includes smaller lots in the south, and larger lots in the north. As noted above, the commissioners have an interest in understanding (among other matters) how national and local policy frameworks may affect our planning decision regarding the southern part.
11. We therefore request the Applicant's legal counsel to provide us with a legal opinion regarding available options to structure our decision in ways that reflect differences between those two parts of the site. In providing that opinion, counsel should take into account the range of findings we may potentially make in relation to the applicable policy frameworks and section 104D RMA.
12. We also request the Applicant's legal counsel to advise whether the Council's intensification plan change (draft plan change 2, due for notification 18 August) can be taken into account as either a s104(1)(b) or s104(1)(c) RMA matter.

Conferencing and Timetabling

13. We direct the Planning experts to engage in conferencing for the purpose of resolving outstanding differences over wording or the inclusion / exclusion of particular conditions. The outcome should be a combined set of conditions provided to us, clearly showing remaining differences in wording (if any). The conditions document should be accompanied by a single separate agreed statement outlining the reasons for the remaining differences. We anticipate that the conferencing will principally take place between planners acting for the Applicant and Council, but that the planner acting for Mr Strawbridge will be brought in for conferencing specific to the submitter's concerns.
14. We direct the Traffic experts to engage in conferencing related to the following matters:
 - a. Shared Path – for the purpose of resolving outstanding differences regarding lighting, grades, and surfacing. As an output, we require a Joint Witness Statement that sets out agreed matters, any outstanding areas of disagreement, and the reasons for the disagreement.
 - b. Tieko Street Improvements – for the purpose of resolving the apparent impasse regarding the use and terms of a Development Agreement versus requiring improvements via consent conditions. Subject to any outcomes from this

conferencing, we have formed a preliminary view that an Agreement is the preferable approach. If necessary, we agree that the Applicant (Mr Mansell) and legal counsel should also take part in this conferencing.

15. We invite the Applicant's legal counsel to confer with Council officers and provide us with a proposed timetable for the conferencing referred to above, plus provision of the Applicant's closing right of reply – whether written or in person.

Correspondence

16. Any correspondence with the commissioners should be directed through Emma Bean, Emma.Bean@Kapiticoast.govt.nz, 04 296 5400



Mark Ashby
Independent Commissioner



Phillip Hindrup
Independent Commissioner