



# *Hastings District Council*

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**OPEN**

## **MINUTES**

**(Recorded in the form of a Procedural Note)**

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### **COMMISSIONER HEARING**

Meeting Date: **Monday, 23 July 2018**

**(A Limited Notified Resource Consent to subdivide 52 and 80  
Raymond Road, Haumoana to Create 12 Lifestyle Lots not Meeting  
the Minimum Land Area in the Plains Production Zone  
(RMA20170355) - A & J Maurenbrecher and D & A Evans**

## HASTINGS DISTRICT COUNCIL

### MINUTES OF A COMMISSIONER HEARING HELD IN THE COUNCIL CHAMBER, GROUND FLOOR, CIVIC ADMINISTRATION BUILDING, LYNDON ROAD EAST, HASTINGS ON MONDAY, 23 JULY 2018 AT 9.00AM

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**PRESENT:** Commissioner Jenny Hudson

**IN ATTENDANCE:** Environmental Consents Manager (Mr M Arnold)  
Team Leader Environmental Consents / Subdivision (Mr C Sutton)  
Senior Environmental Consents Planner (Mrs M Hart)  
Development Engineer - Consents, Mr N Beacock –  
*present for part of hearing session*  
Principal Advisor: District Development (Mr M Clews) –  
*present for part of hearing session*  
HDC's Legal Counsel (Mr M Williams) - *present for part of hearing session*  
Committee Secretary (Mrs C Hilton)

**ALSO PRESENT:** ***“Applicants”***  
Mr A and Mrs J Maurenbrecher – Joint Applicants (52 Raymond Road, Haumoana)  
Mr D and Mrs A Evans – Joint Applicants (80 Raymond Road, Haumoana)  
Mr J Maassen – Legal Counsel for Applicants  
Ms A Coats – Planner, Proarch Consultants Limited  
Mr S Hainsworth – Pedologist  
Mr M Taylor – Horticultural Consultant

***“Submitters”***  
Mr W Gunn – 57 Raymond Road, Haumoana  
Mr M Graham – 65 Raymond Road, Haumoana

Other members of the public were present in the gallery as observers.

#### 1. APOLOGIES

There were no apologies.

#### 2. A LIMITED NOTIFIED RESOURCE CONSENT TO SUBDIVIDE 52 AND 80 RAYMOND ROAD, HAUMOANA TO CREATE 12 LIFESTYLE LOTS NOT MEETING THE MINIMUM LAND AREA IN THE PLAINS PRODUCTION ZONE (RMA20170355) - A & J MAURENBRECHER AND D & A EVANS

(Council's Document Reference: Planning Report 56999#0117 and associated Agenda documentation were circulated prior to the meeting) (Expert evidence

from the parties had also been pre-circulated, with further evidence being circulated at the meeting as detailed in these minutes).

Commissioner Jenny Hudson introduced herself. She had undertaken a site visit of the applicants' properties in the afternoon on Friday, 20 July 2018, accompanied by the Council's Environmental Consents Manager, Mr M Arnold.

The commissioner addressed "house-keeping" matters and outlined the process to be followed at this hearing. No cross-examination by the parties would be permitted and she would put no weight on hearsay evidence.

The commissioner addressed procedural matters which were minuted for the record below: *(Note: the numbers in italics and brackets are the references for evidence saved in the council's records management system).*

**Background to procedural issues raised by the Legal Counsel for the Applicants - in the lead-up to the Commissioner hearing on 23 July 2018 and to be further addressed at this hearing.**

The following had been pre-circulated prior to the earlier scheduled hearing (on 8 June 2018):

- The hearing agenda;
- The applicants' initial pre-circulated expert evidence;
- Expert submitter evidence (from Mr M Graham).

The 8 June hearing was begun and aborted, at the request of the applicants, and today's commissioner hearing was scheduled on 23 July. The original agenda was also to be used for this commissioner hearing.

The applicants' legal counsel, Mr J Maassen, had then advised that new statements of evidence would be circulated for the 23 July commissioner hearing. The following pre-circulated evidence was received on 6 July:

- S Hainsworth (*56999#0166*).
- A Evans (*56999#0167*).
- M Taylor (*56999#0168*).
- T Maurenbrecher (*56999#0169*).
- A Coats (*56999#0170 and 56999#0171*).

The evidence from soil scientist, Mr S Hainsworth, and horticultural expert Mr M Taylor, wasn't available when the planner's s42A report (*56999#0117*) had been prepared.

The following evidence was also pre-circulated by council officers, with a covering email (*56999#0243*), on 13 July:

- An email detailing the council officers' request, made on 11 July, which was granted by the commissioner, on 12 July, (*56999#0257*) to present an expert review and opinion on the two additional statements of expert evidence.
- Expert review and opinion from Dr Brent Clothier of Plant and Food (*56999#0260*).
- An excerpt from the NZ Science Review Vol 68 (2) 2011 titled "Land: Competition for future land use" by Mackay et al (*56999#0261*).
- Expert submitter evidence from Mr M Graham – a letter from Clearview Estate Winery (*56999#0154*).

The following was also pre-circulated:

- An objection from Mr Maassen to Dr Clothier's review and opinion (56999#0247) – received on 16 July.
- Council officers' response (56999#0248) to the objection – sent on 17 July.
- The Commissioner Minute, dated 19 July 2018, issued to all parties (56999#0227) addressing Mr Maassen's objection and Dr Clothier's review and opinion. This also allowed the parties to make submissions on these matters at the commencement of the 23 July hearing.

### **23 July Commissioner hearing:**

The commissioner asked **the reporting planner, Mrs M Hart**, to specifically address certain points in her s42A report to be referred to later in the hearing, regarding the Parkhill Subdivision and an update on the recommendations from the Heretaunga Plains Urban Development Strategy ("HPUDS") presented in a report to Council at the end of June 2018.

The commissioner also requested that council's Development Engineer - Consents, **Mr N Beacock**, be asked to attend later in the hearing to respond to some questions she wanted to ask of him.

**Mr J Maassen** commented on the matters raised in his objection, made on behalf of the applicants. He also commented further on these points later in the hearing as part of the presentation of evidence on behalf of the applicants.

The hearing was advised that **Mr M Williams** was present to assist the council and he addressed issues raised in the Commissioner Minute, regarding the review and opinion prepared by Dr Clothier and the pre-circulation of that opinion. He also commented on the issues raised by Mr Maassen.

The commissioner asked for **Dr Clothier** (who had been unable to attend the hearing) to make himself available to respond to questions or to caucus with Mr Hainsworth on any issues that she may require further information on.

The commissioner then advised that she would accept Dr Clothier's review and opinion, as she did not see any reason not to do so, and would proceed on that basis – she asked for this to be recorded in the hearing minutes.

At this point, **Mr Williams** clarified that Dr Clothier's review and opinion had not been put onto the council website, as per the other pre-circulated evidence, pending a determination by the commissioner on this issue.

Evidence, further to that which had been pre-circulated prior to the hearing, was now circulated by **Mr J Maassen**, on behalf of the applicants, as set out below:

- PDF presentation titled "Soils" (56999#0202).
- Presentation of Legal Submissions titled "Argument for Council approval to RMA20170355 – 52 and 80 Raymond Road" (56999#0203).
- PDF presentation titled "Effort Leads to Success" (56999#0204).
- PDF presentation titled "Planning" (56999#0205).
- Bunnings Ltd v HDC Environment Court Decision issues 6/10/11 (56999#0217).
- R J Davidson Family Trust v Marlborough District Council Environment Court Decision 9/5/16 (56999#0218).

- Rodney District Council v Gould and Gillain as trustees of the A and A Young Family Trust High Court Decision 10/10/04 (56999#0219).
- Section 5.3 of Proposed District Plan Rural Residential Zone (Pt B Strategic Management Areas and Zones (5.1-14.1)) (56999#0220).
- Document titled "3 Regionally Significant Issues, Objectives and Policies HBRC Regional Resource Management Plan Republished as at 1/1/14 (56999#0221).
- Draft Conditions for 52 Raymond Road (56999#0222).
- Draft Conditions for 80 Raymond Road (56999#0223).
- Questions for Dr Clothier and for witnesses appearing on behalf of the Applicants (56999#0224).
- Answers from Mr M Taylor to questions asked of witnesses appearing on behalf of the Applicants (56999#0225).
- A3 colour map showing the land zonings in the subject area (56999#0226).

The evidence for the applicants was presented by the applicants, their witnesses and Mr Maassen. Two cylinder test samples and two samples of duripan were tabled. A video showing the cutting of the pan was also presented (56999#0137). The parties responded to questions from the commissioner.

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The hearing adjourned for morning tea at 10.32am  
and resumed at 10.50am

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At this point, the commissioner asked submitter **Mr M Graham** to provide her with written evidence in regard to the location and scale of the vineyards he had referred to in his submission.

The presentation of extensive evidence on behalf of the applicants then continued.

Just prior to the lunch adjournment the matter of expert caucusing was further addressed – this was to involve Mr Taylor, Mr Hainsworth and Dr Clothier. The matters to be discussed were also addressed – including the feasibility of the suggested mitigation method.

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The hearing adjourned for lunch at 12.25pm  
and resumed at 1.20pm

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The presentation of extensive evidence on behalf of the applicants continued. Questions were asked by the commissioner.

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The hearing adjourned for afternoon tea at 2.48pm  
and resumed at 3.08pm

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The presentation of extensive evidence on behalf of the applicants continued. Questions were asked by the commissioner.

Evidence was then presented in turn by the submitters, as set out below, who each responded to questions from the commissioner.

**Mr M Graham** circulated and addressed his evidence, which comprised the following:

- A written statement (56999#0213).
- A written addendum to his statement (56999#0255).
- A letter from Ka Tahi Wines Limited, dated 16 July 2018 (56999#0314).
- A statement from Clearview Estate Winery (56999#0154).

**Mr W Gunn** circulated and addressed his evidence, which comprised the following:

- Verbal comments (a written copy of his comments was forwarded following the hearing (56999#0263)).
- An A4 colour roadside frontage plan showing the vista impact of Proposed Lot 7 as viewed from 57 Raymond Road (the Gunn property) (56999#0259).
- A colour A4 sheet – Google Maps showing the subject area and its environs, including the location of the Gunn property (56999#0340).

**Council's Development Engineer - Consents, Mr N Beacock** joined the meeting and responded to questions from the commissioner.

**Mrs M Hart** then addressed the hearing and reported back regarding the information the commissioner had asked for earlier in the hearing. She also responded to questions from the commissioner.

The commissioner advised that it would be appropriate to have a response from the council, before the Right-of-Reply was sought from Mr Maassen.

The commissioner advised that a second Minute (subsequently dated 27 July 2018) would be issued with requests for further information that was sought, as well as details of the issues to be addressed in caucus – a response to these issues would be required by Friday, 3 August 2018.

Once the commissioner had received the further information sought in the second Minute, she would then decide whether the hearing needed to be reconvened or whether she could make a decision based on the evidence that had been presented to her.

The hearing was adjourned at 6.08pm

The following information was subsequently received (in the order shown) as requested in the Minute and was forwarded to the commissioner (and also sent to the other parties, as appropriate, in due course):

- An electronic copy of the Questions and Answers that were addressed by Mr Maassen as part of the presentation of evidence on behalf of the applicants – covering email (56999#0273);
  - Questions of Mr Taylor and his responses (56999#0315).
  - Questions for Dr Clothier; S Hainsworth; M Taylor (and his responses); Mrs Evans and Mr Maurenbrecher (and his responses) (56999#0316).
- The second Commissioner Minute issued 27 July 2018 (56999#0208) - including the questions for Dr Clothier that were forwarded by Mr Maassen.

- An email from Mr Maassen (56999#0286) outlining his suggestions “for the way forward” including conferencing; reference to questions for Dr Clothier; and that HDC be asked to respond to suggested questions regarding the Cheal report and HPUDS (56999#0287).
- Response from the commissioner (56999#0282) to the above email from Mr Maassen; and subsequent emails conveying this response to Mr Maassen (56999#0283) and to council officers (56999#0284) with matters to address and forward to the commissioner as part of this hearing.
- Email from submitter, Mr M Graham (56999#0294), containing two vineyard location maps as requested by the commissioner.
- Covering email (56999#0302) and report, forwarded by Mr S Hainsworth, on the expert conferencing that was undertaken (*signed original hardcopy of report - 56999#0341*).
- Covering email (56999#0290) and copy of conferencing report (56999#0345) and answers to commissioner’s questions from Dr B Clothier (56999#0346).
- Response from HDC (56999#0344) to the further information requested by the commissioner in the second Minute.
- Email from Mr Maassen regarding the timing of the presentation of his Right-of-Reply, if the hearing was not being reconvened (56999#0308).
- Confirmation email from HDC that the reporting officer did not wish to amend her report recommendations in light of the evidence presented at the hearing or circulated as part of the subsequent further information requested by the commissioner (56999#0311).
- Email from the commissioner (56999#0313) confirming the hearing does not need to be reconvened and that Mr Maassen would be given opportunity to present a Right-of-Reply on behalf of the applicants.
- Email from Mr Maassen (56999#0324) regarding his Right-of-Reply and supporting information:
  - Submissions in Reply (56999#0323).
  - Draft Conditions for 80 Raymond Road, dated 10 August 2018 (56999#0322).
  - Draft Conditions for 52 Raymond Road, dated 10 August 2018 (56999#0342).
  - Cheal report “HPUDS Implementation Working Group”, dated 17 June 2016 (56999#0343).
- Email from the commissioner that the hearing was now formally closed – as of Tuesday, 14 August 2018 (56999#0339).

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The hearing was formally closed on Tuesday, 14 August 2018 at 4.21pm

*Note: The signed Commissioner decision (56999#0349) is saved into the Council’s system as a separate document, but forms part of these minutes.*