



Hastings District Council

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OPEN

MINUTES

HEARINGS COMMITTEE

(Variation 7 - Seasonal Workers Accommodation)

Meeting Date: **Commencing on Tuesday, 18 February 2020 and subsequently reconvened in Public Excluded Session to undertake deliberations with subsequent recommendations forwarded to Council for consideration**

HASTINGS DISTRICT COUNCIL

MINUTES OF A MEETING OF THE HEARINGS COMMITTEE
HELD IN THE COUNCIL CHAMBER, GROUND FLOOR, CIVIC ADMINISTRATION
BUILDING, LYNDON ROAD EAST, HASTINGS
COMMENCING ON TUESDAY, 18 FEBRUARY 2020 AT 9.30AM

*(AND SUBSEQUENTLY RECONVENED IN PUBLIC EXCLUDED SESSION
TO UNDERTAKE ITS DELIBERATIONS AND FORWARDING ITS SUBSEQUENT
RECOMMENDATIONS TO COUNCIL FOR CONSIDERATION
AT A MEETING ON 23 APRIL 2020)*

[WITH THE SUBSEQUENT COUNCIL DECISION BEING PUBLICLY NOTIFIED
ON 2 MAY 2020]

PRESENT: Mr G Lyons (Commissioner Chair – External appointee)
Councillors Barber (Deputy Chair), Kerr, Lawson,
Redstone and Mr P Kay (External appointee member)

IN ATTENDANCE: Environmental Policy Manager (Mr R Wallis)
3 Waters Manager (Mr B Chapman) – *present for part of
hearing*
Democracy & Governance Advisor (Mrs C Hilton)

ALSO PRESENT: **“Submitters”**
Ms D Vesty, Executive Officer, HB Fruitgrowers’
Association
Ms C Drury, Consultant Planner – appearing for
Horticulture NZ
Ms E Robotham, Policy Planner, HB Regional Council
Mr A Taylor – appearing for Surveying the Bay and as a
consultant appearing for Mr Apple NZ Ltd
Mr V Saywell
Mr C Lambourne
Ms A Coats, Director of Proarch Consultants Limited –
appearing for A and J Maurenbrecher & Others
Mr A and Mrs J Maurenbrecher
Mr J Roil

1. APOLOGIES

Mr Lyons/Councillor Kerr

That an apology for absence from Councillor Schollum be accepted.

CARRIED

Apologies for absence were also noted from the following submitters:

- Mr A Jamieson, Mr Apple NZ Ltd.
- Mr G Honor – who was accepted as a late submitter.

2. VARIATION 7 - SEASONAL WORKERS ACCOMMODATION

Council's Document Reference: Covering report (20/83) and Planning Report (ENV-9-19-9-20-117), together with associated attachments, were circulated in two documents prior to the meeting and put onto the Council's website. Evidence, in both written and oral form was presented at the hearing, as detailed in these minutes. (*Note: the numbers in italics and brackets are the references for evidence saved in the council's records management system*).

The Chair of the Hearings Committee and the other members of the panel introduced themselves. A site visit had not been undertaken in relation to this hearing.

The Chair outlined the process to be followed at the hearing and "house-keeping" matters were addressed. Questions could only be asked by the members of the hearings committee. Cross-examination by the parties to the hearing was not permitted.

Late Submissions:

- **Submission No. 16 – Mr G Honor** – on behalf of the Omaha Land Trust and Irongate Way Ltd. (Received three days late on Wednesday, 2 October 2019).
- **Submission No. 17 – Mr A Ayre** (Received on 8 November 2019, after closing date for further submissions).

The Chair noted two late submissions had been received from Mr G Honor (Submission No. 16) and Mr A Ayre (Submission No. 17). The Chair advised that these two late submissions would be considered as part of decision making process.

Councillor Kerr/Mr P Kay

- A) That pursuant to Section 37 (1) (b) of the Resource Management Act 1991, the Hearings Committee resolve to extend the timeframe for lodging submissions in relation to Variation 7 – Seasonal Workers Accommodation from the closing date of 27 September 2019 to 2 October 2019, to enable the late submission from Mr G Honor on behalf of the Omaha Land Trust and Irongate Way Ltd (Submission No. 16) to be accepted as no other party was directly affected by the waiver being sought by this submitter; there was an opportunity for further submissions to be lodged in regard to this submission; and there was no delay caused in notifying the Summary of Submissions.
- B) That pursuant to Section 37 (1) (b) of the Resource Management Act 1991, the Hearings Committee resolve not to extend the timeframe for lodging submissions in relation to Variation 7 – Seasonal Workers Accommodation from the closing date of 27 September 2019 to 8 November 2019, and as a result the late submission from Mr A Ayre (Submission No. 17) is not accepted for the reasons that the submission was received after the closing date for further submissions and it did not allow the interests of those who may be directly affected to be put forward.

CARRIED

Overview from Reporting Planner:

Environmental Policy Manager and Reporting Planner, Mr R Wallis, spoke to the Proposed Hastings District Plan - Variation 7 Seasonal Workers Accommodation and gave an overview of the proposal. He explained how it would better provide for the increasing demand for this type of accommodation in the district, while protecting the sustainable management of the Heretaunga Plains resource and reducing pressure on existing residential rental stock.

Mr Wallis presented some opening comments (CG-16-8-00045), interpolating as appropriate, and responded to questions from the hearings committee. He also displayed some Intramaps showing the Irongate area and a large scale map of the Plains Zone (size A0) was displayed. He highlighted the main issue raised by submitters – that they wanted some certainty as to how the establishment of this proposed accommodation would be addressed.

Presentation Of Submissions:

Ms D Vesty, Executive Officer, HB Fruitgrowers' Association (Submission No. 8 and Further Submission No. 6) circulated and read her evidence (CG-16-8-00046), on behalf of the Association, with some interpolation as appropriate. She responded to questions from the Hearings Committee.

The main points that Ms Vesty highlighted in her evidence, or submission/further submission or that were addressed in response to questions from the Committee, included:

- Best to put this accommodation close to large scale infrastructure services.
- Recognised Seasonal Employer (RSE) workers – as percentage of workforce.
- Could RSE employers consider commercial type accommodation on smaller blocks for commercial gain.
- The ability for landowners to amalgamate their operations on one site and have accommodation where needed – if they can use a site less than 12ha in size.
- What was a fair trigger for the removal of RSE accommodation – if landowners no longer employing RSE workers nor providing accommodation for them within the industry.
- Whether Plains Zone workers should be housed specifically in that zone.
- Large RSE complexes could be adapted if no longer needed for original use.
- What to use buildings for in the “off season” - or could undertake maintenance.

Ms C Drury, Consultant Planner addressed the hearing **on behalf of Horticulture NZ** (Submission No. 12 and Further Submission No. 3). She spoke to Horticulture NZ's submission and further submission and responded to questions from the Hearings Committee.

The main points that were highlighted in the submission/further submission or that were addressed in response to questions from the Committee, included:

- The role of Horticulture NZ in the Hawke's Bay region.
- HB was the largest employer of seasonal workers in the country.
- Seasonal Worker Accommodation (SWA) will continue to be a challenge and Horticulture NZ acknowledged the co-ordinated approach taken by HDC.
- Horticulture NZ also wanted to see productive land being protected.
- The proposed SWA within Industrial Zones including a cap of 300 people, to minimise reverse sensitivity effects, as per discussions with the industry.
- Horticulture NZ supported the proposed amendment around a 125m² SWA limit and not applying that to an existing dwelling.
- Horticulture NZ had concerns regarding the 12ha minimum site size – SWA should be on the least productive soil and site size was irrelevant.
- Workers should be in Plains Zones where orchards are, not in Rural areas.
- A trigger for removing RSE accommodation – need a grace period (e.g. 2 to 3

- years) between any loss of RSE licence and removal of accommodation.
- Land may be developed or replanted and not being worked for a period of time.
 - Growers saw the 12ha minimum site size as a barrier – if removed this site size, then the restricted discretionary activity provisions would give protection.

The Hearing adjourned for morning tea at 10.35am
and reconvened at 10.58am

Ms E Robotham, Policy Planner, appearing for the HB Regional Council (Submission No. 10) addressed the hearing. She read her written evidence (CG-16-8-00047), a copy of which was forwarded later in the day and circulated to the Hearings Committee at that time.

The main points that Ms Robotham highlighted in her evidence, or submission or that were addressed in response to questions from the Committee, included:

- The Regional Council did not take account of the fact that properties were only utilised for part of the year, as their concerns were about the resources used.
- The Regional Council supported the recommendation to include consideration of cumulative effects as an acceptable alternative.
- The intent of “TANK” Policy 6b to protect drinking water quality and the recommended rejection of Regional Council’s request to use similar wording for Variation 7.
- They support sites greater than 12ha but wanted reticulated infrastructure services for RSE accommodation. How reconcile these competing demands?
- Contamination risk – some sites were above the unconfined aquifer.

Mr A Taylor, appearing for Surveying the Bay (Submission No. 14) and as a consultant appearing for Mr Apple NZ Ltd (Further Submission No. 1). He noted an apology from his client, Mr A Jamieson, Mr Apple NZ Ltd. Mr Taylor circulated and read his evidence (CG-16-8-00048), with some interpolation as appropriate, and responded to questions from the Hearings Committee.

The main points that Mr Taylor highlighted in his evidence, or the submission/further submission or that were addressed in response to questions from the Committee, included:

- HDC worked with them well and administered the rules consistently.
- Changes to the Department of Labour sleeping area requirements (from 3.0m² to 4.5m² per employee).
- The Permitted Activity threshold of 125m² was no longer large enough for the changed sleeping area size and other requirements. Size should be 200m².
- Van capacity was also a factor when considering worker numbers on each site.
- He was asking HDC to reconsider the 15m side yard requirement.
- Removal of SE accommodation – his responses on this issue were his opinion and not made on behalf of Mr Apple NZ Ltd. If buildings were relocatable they could be moved elsewhere as needed, in response to market forces.
- He felt the resource consent process would address issues such as any effect on unconfined aquifer.
- Having 200m² buildings would cover more land, but landowners also wanted to retain maximum versatile soils on their site for their use.

Mr V Saywell (Submission No. 15) circulated and read his evidence (CG-16-8-00049), with some interpolation as appropriate, and responded to questions from the Hearings Committee.

The main points that Mr Saywell highlighted in his evidence or submission or that were addressed in response to questions from the Committee, included:

- Seasonal workers were vulnerable and their cultural and social needs should also be considered and addressed.
- Council could use this Variation 7 process to ensure all operators were

complying and possibly have a separate category for mid-sized orchards.

The Chair noted that some of the points in Mr Saywell's submission and evidence were out of scope for this hearing to address, as the Resource Management Act only permitted consideration of specific types of issues. There were other means that the public could use for reporting any breaches of accepted conduct by RSE operators to the appropriate agencies.

The Chair also noted that the Environmental Policy Manager, Mr R Wallis, had referred to issues raised by submitters regarding RSE workers' pastoral care and wellbeing in the comments the latter made at the start of the hearing. Those comments advised that these issues had been raised with the Mayor and Chief Executive who had resolved to raise them with the government agencies responsible for these matters.

Mr C Lambourne (Submission No. 6) addressed the hearing. He read his written evidence (*CG-16-8-00050*), a copy of which was forwarded later in the day and circulated to the Hearings Committee at that time.

The main points that Mr Lambourne highlighted in his evidence or submission or that were addressed in response to questions from the Committee, included:

- His experience working in Africa as a background to his comments on the need to address the RSE workers' wellbeing and pastoral care.
- He felt there were huge gaps to be addressed in regard to these issues.
- Removal of accommodation could be addressed via on-going temporary permits, rather than issuing permits to operators "as of right".

The Chair acknowledged the issues raised by Mr Lambourne and reiterated some of the points he had made following the presentation by the previous submitter, Mr Saywell.

Ms A Coats, Director of Proarch Consultants Limited, circulated and highlighted the main points in her evidence (*CG-16-8-00051*), being presented on behalf of Mr A and Mrs J Maurenbrecher & Others (Submission No. 11 and Further Submission No. 2), with some interpolation as appropriate.

The main points that Ms Coats highlighted in her evidence or in the submission/further submission or that were addressed in response to questions from the Committee, included:

- Her qualification as a Registered Architect enabled her to answer questions regarding temporary buildings on behalf of her clients.
- Paragraph 3 of her evidence – a decision was pending in regard to her clients' case currently before the Environment Court. She had sought legal advice and had been advised she could introduce information in her evidence at this hearing to show that there were lower quality soils in the Plains Production Zone. She had also included a signed joint witness statement to support this.
- Her clients' land was atypical of Plains land – she explained this point further.
- She expanded on points in Paragraphs 7, 9 and 10 of her evidence.
- She referred to Policy PPZ and Policy UD1 - in respect of the points Mr Wallis had addressed in the agenda report in regard to her clients' submissions.
- Paragraph 16 of her evidence – she addressed the matter of Industrial land and Residential activity on that land and resultant reverse sensitivity issues.
- Policies, including LIZP1 and LIZP5, were unclear on these matters.
- In response to questions asked of other submitters earlier in the hearing by the committee – she suggested the land be tested by a pedologist qualified in land use capability.
- The plan attached at end of her evidence showed the context of pockets of Heretaunga Plains land that didn't match exactly with Policy PP2 provisions.

The Hearing adjourned for lunch at 12.15pm
and reconvened at 1.05pm

Mr J Roil displayed a power point presentation (CG-16-8-00053), and presented some written notes, interpolating as appropriate, as part of his evidence (Submission No. 4). He read his written evidence (CG-16-8-00052), a copy of which was forwarded later in the day and circulated to the Hearings Committee at that time.

The main points that Mr Roil highlighted in his evidence or submission or that were addressed in response to questions from the Committee, included:

- He highlighted the confusion that existed between RSE (200m² recommended) and Worker accommodation in Plains Zone (125m² should be retained for this).
- He referred to the power point slides to illustrate some projects undertaken.
- He felt the Irongate area would be full in 3 to 5 years.
- Grey and blackwater could be separated to help facilitate a greater degree of development on the Irongate land, with the former being used to integrate plantings. The type of discharge would be dictated by the land size.
- He strongly opposed the 12ha minimum and sought a lower limit – but was open to alternatives regarding what that lower minimum site size may be.

The Chair advised that the hearing would now be adjourned and the Committee would then start its deliberations.

At this point the Committee went into Public Excluded Session to commence its deliberations.

Mr G Lyons/Mr P Kay

That the public be excluded from the deliberations in relation to the hearing of the Proposed Hastings District Plan - Variation 7 Seasonal Worker Accommodation. The reason for passing this Resolution in relation to this matter and the specific grounds under Section 48(2)(a) of the Local Government Official Information and Meetings Act 1987 for the passing of this Resolution is as follows:

That the exclusion of the public from the whole or the relevant part of the proceedings of the meeting is necessary to enable the local authority to deliberate in private on its decision or recommendation in:

- a) **Any proceedings before a local authority where:**
- i) **A right of appeal lies to any Court or Tribunal against the final decision of the local authority in those proceedings; or**
 - ii) **The local authority is required, by any enactment, to make a recommendation in respect of the matter that is the subject of those proceedings.**

CARRIED

The Hearing adjourned at 1.40pm
and would reconvene in Public Excluded Session
for the Committee to undertake its deliberations

Following the deliberations, the hearing was subsequently formally closed
on Thursday, 12 March 2020 at 9.15am
with the Hearings Committee's recommendations being forwarded to Council for
consideration at a meeting on 23 April 2020

(Note: The Recommendations from this hearing (CG-16-8-00040) and the associated Section 32AA report (ENV-9-19-9-20-125) were addressed by Council at a meeting on 23 April 2020 and the resultant Council Decision would then be Publicly Notified and circulated to all Submitters)