



Hastings District Council

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OPEN MINUTES

HEARINGS COMMITTEE

Meeting Date: **Wednesday, 7 February 2018
and Continued, on Friday, 9
February and Tuesday, 20
February 2018 and then
reconvened in Public Excluded
Session, later on 20 February 2018**

**(Notice of Requirement for Designation - Minister of Education to
Designate Land for Educational Purposes at Bennett Road,
Waipatu, Hastings (RMA20170341))**

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 ON
WEDNESDAY, 7 FEBRUARY 2018 AT 9.30AM
AND RECONVENED ON FRIDAY, 9 FEBRUARY 2018
AND FURTHER RECONVENED ON TUESDAY, 20 FEBRUARY 2018

*[AND THEN CONTINUED IN PUBLIC EXCLUDED SESSION
ON TUESDAY, 20 FEBRUARY 2018 AT 1.10PM]*

WITH THE HEARINGS COMMITTEE RECOMMENDATIONS BEING RELEASED
ON THURSDAY, 22 MARCH 2018

(FOLLOWING A RESOLUTION TO PROCEED IN OPEN SESSION
IN ORDER TO RELEASE THOSE RECOMMENDATIONS)

PRESENT: **Chair:** Councillor Lyons
Councillors Barber and Heaps

IN ATTENDANCE: Group Manager: Planning and Regulatory Services (Mr John O'Shaughnessy)
Team Leader Environmental Consents/Subdivision (Mr Caleb Sutton)
Senior Environmental Planner Consents (Mrs Catherine Boulton)
Translator (Mr Jeremy MacLeod)
Committee Secretary (Mrs Carolyn Hunt)

AS REQUIRED ***Ministry of Education – “The Requiring Authority”***

- Mr Nick Whittington – Solicitor, Meredith Connell Law Firm
- Ms Orchid Laloifi Atimalala, Principal Advisor: Resource Management Act and the Acquisitions and Designations Team
- Mr David Neil Robert Dravitzki, Senior Engineering Geologist, Land Development and Exploration Limited
- Guy Derek Panckhurst (Cadastral Surveyor), Director of Surveying the Bay Limited
- Mr Robert Alan van de Munckhof, Senior Environment Engineer, Tonkin and Taylor Limited
- Mr Glen Stuart Randall – Principal Transportation Engineer, Traffic Design Group Limited
- Ms Angela Tracey Jones – Senior Planner, The Property Group
- Mr Roy Sye, Director of Education for the Hawke's Bay/Tairāwhiti Region

“Submitters”

Te Kōhanga Reo o Te Wananga Whare Tapere o Takitimu;
Narelle Huata (1) and Ariki Huata (19)
Totara Huata-Rangawhenua and Heiani Huata Pouira (20)
Nathan Pope (4 and 56)

Kere (Clare) Jean Robinson (5)
Ngatai Huata appearing for Waipatu Marae (94)
Marei Apatu (93)
Ellison Huata (14)
Paul Winitana (15)
Matua Hook (71)
150 Students of the Kura school and staff

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

Councillor Barber welcomed those present to the Hearing.

Karakia: Kaumatua Haami Hilton

1. APOLOGIES

An apology from Ngahiwi Tomoana, Waipatu Marae was noted.

2. NOTICE OF REQUIREMENT FOR DESIGNATION - MINISTER OF EDUCATION TO DESIGNATE LAND FOR EDUCATIONAL PURPOSES AT BENNETT ROAD, WAIPATU, HASTINGS (RMA20170341) *(Planning report and background information previously circulated) (Evidence circulated at meeting).*

The Chair, Councillor Lyons, welcomed everyone to the Hearing and introduced the Hearings Committee and Council Officers present.

The Chair then made his opening comments and outlined the process to be followed at the hearing, together with addressing housekeeping issues. It was explained that the planning report had the same status as any other evidence being considered at this hearing. The Committee had been on a site visit that morning, prior to the hearing and were conversant with the area. If required, the Committee could revisit the site later in the hearing process.

Late Submissions:

Submission No. 93 – Marei Apatu

Submission No. 94 – Waipatu Marae (dated 18 October 2017 and received on 25 January 2018)

The Chair noted two late submissions had been received being Marei Apatu (Submission No. 93) and Ngatai Huata (Submission No. 94, dated 18 October 2017 and received on 25 January 2018). The Chair advised that these two late submissions would be considered as part of decision making process.

Councillor Lyons/Councillor Heaps

- A) That pursuant to section 37 of the Resource Management Act 1991, the Hearings Committee resolve to extend the timeframe for lodging submissions in relation to the Notice of Requirement for Education Purposes at Bennett Road, Waipatu, Hastings from the closing date of 17 November 2017 to 21 November 2017, to enable the late submission from Mr Marei Apatu (Submission No. 93) to be accepted.**

- B) That pursuant to section 37 of the Resource Management Act 1991, the Hearings Committee resolve to extend the timeframe for lodging submissions in relation to the Notice of Requirement for Education Purposes at Bennett Road, Waipatu, Hastings from the closing date of 17 November 2017 to 25 January 2018, to enable the late submission from Waipatu Marae (Submission No. 94) to be accepted.**

CARRIED

The Chair advised that Ms Narelle Huata had requested that she be allowed to present on behalf of the Te Kōhanga Reo o Te Wananga Whare Tapere O Takitimu (Submissions 1, 19 and 20), at the start of the hearing while the Kura students were present.

Mr Whittington, speaking on behalf of the Ministry of Education (the Requiring Authority) advised, that although they would have preferred to present their evidence prior to the presentation of any submissions, they were happy to agree to Ms Huata's request to make a presentation while the students were present.

The Chair thanked Mr Whittington for allowing Ms Narelle to present prior to the opening submissions from the Ministry. The Chair then outlined the process to be followed at the hearing.

Following the presentation of evidence at this hearing, the Council's Reporting Planner would be given the opportunity to respond to matters raised by the Ministry or the submitters. The Ministry would then have a Right of Reply to address any matters raised during the hearing.

The hearing would then be adjourned and the Committee would deliberate in private. During this deliberation period the Committee may choose to seek clarification or advice on any matters that had been raised. At the end of their deliberations the Hearing would be closed, and a written copy of the Committee's Recommendations would be prepared and then publicly released.

Ms Narelle Karanema Huata spoke on behalf of **Te Kōhanga Reo o Te Wananga Whare Tapere o Takitimu (Submission No. 1); Arika Huata (Submission No. 19) and Totara Huata-Rangawhenua and Heiani Huata Pouira (Submission No. 20)** which fully supported the Ministry of Education's application for Bennett Road to be designated for educational purposes.

Ms Huata displayed a photo powerpoint presentation (*HDC Trim Ref: 55294#0180*) relating to the Te Wananga Whare Tapere O Takitimu Performing Arts School.

Ms Huata provided a brief outline of the history of the Kura including the purpose and values of the Kura and said that the land was ideal, especially being located near the local Marae and would provide community involvement.

A waiata was performed at the conclusion of this presentation.

*The Hearing adjourned for morning tea at 10.30am
and reconvened at 10.45am*

Notice of Requirement (NOR) Process

Prior to hearing the verbal submissions, the Chair, Councillor Lyons advised that this was a hearing for a notice of requirement for a designation, and so the Council's Hearings Committee could only recommend to the Requiring Authority (Ministry of Education) that it:

- Confirm the requirement
- Modify the requirement
- Impose conditions; or
- Withdraw the requirement.

A copy of the Committee's recommendations would be sent to all parties, as soon as possible, after the hearing.

The Ministry would make its decision within 30 working days of receiving the Council's recommendations.

Under Section 173 of the Resource Management Act 1991 (RMA) - The Ministry's Decision would be sent to the Council and within 15 days of receipt of that Decision, it would be forwarded on to all parties to the hearing.

Under Section 174 of RMA - within 15 working days, of receiving the Ministry's Decision, the Submitters and the Council have the right to appeal that Decision if they chose to do so. Details of the process would be set out in the letter sent at that time.

Mr Nick Whittington – Solicitor, Meredith Connell Law Firm on behalf of the Ministry of Education advised that evidence would be presented by:

- Orchid Laloifi Atimalala, Principal Advisor: Resource Management Act and the Acquisitions and Designations Team
- Mr David Neil Robert Dravitzki, Senior Engineering Geologist, Land Development and Exploration Limited
- Guy Derek Panckhurst (Cadastral Surveyor), Director of Surveying the Bay Limited
- Mr Robert Alan van de Munckhof, Senior Environment Engineer, Tonkin and Taylor Limited
- Mr Glen Stuart Randall – Principal Transportation Engineer, Traffic Design Group Limited
- Ms Angela Tracey Jones – Senior Planner, The Property Group Limited

The Chair advised that the Hearings Committee would hear the evidence of the Ministry of Education prior to asking questions.

Mr Whittington then circulated and read his Legal Submissions on behalf of the Ministry of Education (*HDC Trim Ref: 55294#0178*), in regard to the NOR and highlighted the following:

- The site was owned by the Crown for educational purposes.
- There is no detailed design available for the Kura and Kōhanga Reo and the Applicant wished to retain flexibility to develop educational facilities for future needs.
- The Ministry considered there are no effects on the environment, having regard to the relevant provisions of the District Plan.

- There was an urgency to relocate the Kura and Kōhanga Reo and negotiating with a willing seller was an important factor in selecting the site.
- A cultural connection to the site has been confirmed in a number of submissions.
- An intersection upgrade for Bennett Road has been agreed with New Zealand Transport Agency (NZTA).
- The planner's proposed conditions to minimise spray drift from adjoining orchards and set backs are unnecessary as there is no adverse effect from potential spray drift.
- The Ministry did not accept the restrictive no complaints covenant condition being included.
- The Ministry opposed the planner's condition regarding noise limits as it could create difficulties for the operation of the Kura and Te Kōhanga Reo activities.

Ms Orchid Laloifi Atimalala, Principal Advisor: Resource Management Act and the Acquisitions and Designations Team read her pre-circulated evidence (*HDC Trim Ref: 55294#0169*).

Mr Atimalala's evidence outlined key background information of the Ministry's processes and procedures for the NOR and also addressed some issues raised in submissions.

Ms Atimalala noted that the Kura catered for Years 0-13 as per the Education Act, but did not include the Wananga.

The main issues raised in questions asked by the Hearings Committee related to:

Negotiations entered into with Aorangi Trust Board in 2017 – when did purchase take place?

The Ministry initiated talks with the Te Aorangi Trust Board in August 2015 and agreement was made in March 2017 and signed in April/May 2017 with settlement soon thereafter.

The land was acquired under the Public Works Act, however the land was sold willingly and there was no duress put on the landowner to sell.

When it was identified through District Plan reviews that growth strategy may have an impact on property perspective the Ministry worked with Councils and would make a formal submission in these cases. The Ministry continue with offline conversations and relationships with council management.

Site selection – note there was no detail of what other sites were and how they stacked up and then this particular proposed site was chosen. Why was there no information provided of what sites were looked at?

The Ministry's site selection methodology was tested in terms of robustness and integrity but they did not need to provide that information for designating a site.

Mr Whittington suggested that as evidence had been pre-circulated, it should be "taken as read" and the Hearings Committee ask questions if they wished.

The evidence of Mr David Neil Robert Dravitzki, Senior Engineering Geologist, Land Development and Exploration Limited had been pre-circulated (*HDC Trim Ref: 55294#0168*) and was “taken as read”.

Mr Dravitzki had prepared the preliminary geotechnical investigation of the proposed site for the Kura in Bennett Road.

Mr Dravitzki concluded that in his opinion the site was generally stable and suitable for the proposed buildings of a Kura. He had not identified any geotechnical constraints, issues, hazards or considerations that may preclude the development of the Kura aside from issues that could be addressed at the detailed planning stage.

The evidence of Guy Derek Panckhurst (Cadastral Surveyor), Director of Surveying the Bay Limited had been pre-circulated (*HDC Trim Ref: 55294#0166*) and was “taken as read”.

Mr Panckhurst advised that in his opinion relocating the Kura to the Bennett Road site was feasible in terms of infrastructure provision and flooding. Part of the site may be subject to flooding but he considered it would be possible to mitigate adverse flooding effects at the detailed design stage.

The main issues raised in questions asked by the Hearings Committee related to:

As Waipatu Marae had moved a number of times due to flooding there would be a flood risk for the school - would an elevated foundation be used?

Mr Panckhurst advised that the flooding assessment report had identified a 1 in 50 year flood zone which encroaches on the site. One way of mitigating that would be to set floor levels above that level in the design.

The evidence of Mr Robert Alan van de Munckhof, Senior Environment Engineer, Tonkin and Taylor Limited pre-circulated evidence (*HDC Trim Ref: 55294#0167*) was “taken as read”.

Mr van de Munckhof had assessed the potential odour and dust effects on the proposed Kura from activities in the vicinity of the site.

Mr van de Munckhof concluded that the risk of odour and dust effects of the proposed Kura were low. The risk of spray drift affecting the Kura was also low, provided any agrichemical application undertaken was in accordance with the requirements in the Hawke’s Bay Regional Resource Management Plan.

The main issues raised in questions asked by the Hearings Committee related to:

Aware of poultry business – do you feel that set-backs from the new site are sufficient?

Mr Munckhof advised that the existing setbacks were adequate based on the size of the farm. Any new industry would have to obtain a resource consent and consideration would be given to any effects on existing users in the surrounding area.

The existing separation distances are well beyond what would be expected and there were conditions on their consent in regard to odour effects. Industry would be required to mitigate and remedy any adverse effects.

Spray drift effects – do they become an issue with the existing operators or an issue of the proposed Kura?

This depends on circumstances and principal activities and they have to operate within the existing regime. If issues were outside the conditions, Council could take enforcement measures to make sure the operators comply. Spray drift was addressed in the Regional Plan. Communication is the key driver.

Buffers – effectiveness of wind breaks is variable?

The school's concern was the use of trees as a wind break and the effect if children were hiding in the trees. It considered that buffers can be useful for unexpected events but they should not be relied on for the everyday events. It is better to avoid having potential spray drift rather than using windbreaks to counter that effect.

The evidence of Mr Glen Stuart Randall – Principal Transportation Engineer, Traffic Design Group Limited evidence had been pre-circulated (*HDC Trim Ref: 55294#0165*) and was "taken as read".

Mr Randall advised that he had prepared a preliminary transport assessment (dated 4 September 2017) which had subsequently been updated (12 December 2017).

Mr Randall concluded that, based on his assessments, the traffic expected to be generated by the proposed Kura and Kōhanga Reo could be safely accommodated. The Ministry intended to meet on-site parking requirements and the proposed State Highway 2/Bennett Road intersection would ensure it operated within acceptable capacity limits.

The main issues raised in questions asked by the Hearings Committee related to:

When the Committee visited the site today they looked at the State Highway 2 and Bennett Road intersection and there did not appear to be a lot of room. In your opinion is there room for a right turning bay?

Mr Randall confirmed that on the site visit and initial measurements it could just fit although it would be quite tight and will be close to the footpath. There could be scope to move the footpath over.

Providing a footpath just out the front of the site would be a footpath to nowhere?

A shared footpath/cyclepath could be provided along Bennett Road fronting the site. The total footpath distance recommend was approximately 300m in length.

Preliminary investigations had confirmed that vehicle access arrangements could be designed to match the requirements of the development.

Mr Randall proposed that a safety audit be undertaken.

A footpath connecting to the Marae and papakainga needs to happen. One of strengths of the application is its connection to the marae. Please comment on the ability for tamariki to get to school on a bike or by walking.

The iway project is north of Otene Road and runs through to Clive. There was no evidence that there was future link or cycle route along Bennett Road with Council's plan for a proposed link into existing network.

Bennett Road itself with vehicle movements significant. Very narrow road is there enough verge?

The road is 5.5m and there is enough verge, there is 7m from the edge of the verge to the road seal and it could be widened at some stage as there is space for this. The volume of traffic from school is manageable at this stage. Bennett Road could be widened in the future.

Roads have a distinct rural feel and there is a lack of road markings and signage at these intersections. Otene/Bennett Road have no markings but at least there was a stop sign and road markings implemented.

Submissions from other parties in regards to added pressure of traffic was a concern. Some concerns were addressed in the report, others related to added time delays to exit out of State Highway 2. How else could traffic flow be mitigated for residents within that area?

One of things would be the calculation of the number of trips. The Ministry had assumed travel would be via walking and cycling. The school could consider a travel plan and encourage users living nearby not to use private cars to travel to the school. There is a balancing act between giving priority to Bennett Road users or to State Highway 2 users. If the Right Turning Bay is not successful then they could look at signalling or have a round-about but Mr Randall would not like to see this for State Highway 2 users.

Is the Ministry's involvement pursuing a travel plan?

Ms Atamalala advised that a condition requiring a travel plan could be developed with the school and council engineers – on the basis of the traffic assessment report and could be developed through the outline plan of works.

The evidence of Ms Angela Tracey Jones – Senior Planner, The Property Group Limited evidence (*HDC Trim Ref: 55294#0164*) had been pre-circulated and was mostly "taken as read".

Ms Jones advised that she had been engaged by the Ministry of Education to prepare and lodge the Notice of Requirement (NOR) to designate land for educational purposes at Bennett Road, Waipatu, Hastings.

Ms Jones spoke to her evidence which included a summary of the Notice of Requirement and site, planning framework and statutory considerations, consideration of the submissions and comments in regard to Council's Section 42A report.

In conclusion, Ms Jones considered that the site was appropriate for the NOR and concurred with the recommendation of the Council's reporting planner, although she suggested some amendments to the recommended Conditions 1, 2, 3, 5, 6, 7, 9-11 and 13-16.

The main issues raised in questions asked by the Hearings Committee related to:

A submitter had raised concern in regard to the Mangateretere Kura and asked whether the proposed site for the Kura in Bennett Road would be compromised with dropping roles?

Mr Roy Sye, Director of Education for the Hawke's Bay/Tairāwhiti Region responded that Mangateretere was not a Kura but rather a mainstream school and the role had sustained some growth with a role of 40 students, (an increase from 18 last year). The Mangateretere School was a very different offering and would not impact on the proposed Kura at Bennett Road.

Productive Plain zones – only 3 ha and it was a minute piece of land in relation to whole district. What is the Ministry's philosophy in regards to cumulative effects on the Plains Production zoned land?

In terms of effects, the Ministry acknowledges it was plains production zone and the loss of 3 hectares was also acknowledged. However, the mitigating factor is that initially 9 hectares of land was looked at and the Ministry only acquired 3 hectares, just enough for the Kura and Kōhanga Reo. It is designated for public work and considered quite differently. It will not result in a precedent being created. If it was being developed for residential use it would be different, but this would be a one off proposal and the cultural connection to the land overrides that.

Ms Atamalala advised that this was a designation and was exempt from the Hastings District Plan zone rules. Future proofing that site around cumulative effects that may occur, it was unlikely that there would be more schools in that zone.

The conditions that the Ministry wish to be removed or changed would be addressed in the outline plan of works, at which time Council would assess and make recommendations back to Ministry based on that proposal.

Mr Whittington advised that this concluded the presentation of the Ministry's evidence.

He noted that in regard to the cumulative effects it would be inappropriate and unlikely that this proposal would be used as a precedent in relation to change to the environment. The application was different to a Resource Consent and could not apply as a precedent to use production plains land. Legally it was a matter of the consent authority and whether it took that into account and the Council would be justified in not using it as precedent.

Noise on and off site – during school hours that is going to happen. Neighbours will not be able to do much about it. Legally spray drift is not supposed to cross the boundary so Kura can challenge neighbours on that

issue. It wasn't a one sided story that the Kura can complain about neighbours but neighbours can't complain about the Kura.

It is the Ministry's intention as with all schools and sites, to engage with the community in open communication in respect to effects of the establishment of a new school.

*The Hearing adjourned for lunch at 1.10pm
and reconvened at 1.30pm*

PRESENTATION OF VERBAL SUBMISSIONS

The Chair advised submitters that he wished to keep the proceedings as informal as possible and invited submitters to sit at the Council table and remain seated when presenting.

Copies of the Planner's Officer's report and recommendations had been previously circulated to submitters.

Submissions Nos. 4 and 56 - Nathan Pope spoke to his submission opposing the designation and highlighted the following points:

- Current proposal relates to mitigating odour drift, but not chemical spray drift.
- He proposed that a buffer zone be created to mitigate any unforeseen chemical spray drift.
- He owned the property at 120 Bennett Road, adjacent to proposed school, which he leased out.
- He circulated a photo of orchard spray from the web (*HDC: Trim Ref. 55294#0182*).
- Lack of mitigation of potential spray drift – concern for children.
- Mistakes can happen where operators come close to boundary – e.g. if they forget to shut off the spray it will create spray drift.
- Planning stage was when that sort of potential should be mitigated.
- Negative reverse sensitivity.
- Agreed with AgFirst soil report – other potential issues.
- Feared that his lessee will terminate their lease.
- Would like to see a buffer zone from boundary and an additional shelter belt on the school side to mitigate any potential for these problems.

Mr Pope considered that a second shelter belt of 20m could be appropriate to mitigate any potential effect of spray drift.

Submission No. 5 - Kere Jean Robinson spoke to her submission in support of the designation and highlighted the following points:

- Provides more space for the Kura to expand.
- Safer road and access for the children.
- She believed that people living in the area understood the reasons and growth of the Kura.
- Traffic and commercial vehicles were mostly early morning or evening and the submitter did not think it would create traffic congestion.
- Supported the designation which was close to the local Marae and would provide what the community needed.

- It was a misconception that only Māori learn about Māori things. Students from the Kura are more confident and excelled in kapahaka performing arts, speaking and general education.
- Children learn through the eyes of language.
- It is an advantage to be in a rural setting in the context of the subject of Māori eyes. Connections to the land and revitalises and strengthens their aims in education.

In response to questions Mrs Robinson advised that she lived in the Kaumatua flats at Waipatu and considered safer traffic access was needed and the speed limit reduced to 50km.

Submission No. 94 – Ngatai Huata on behalf of Waipatu Marae spoke to her submission in Te Reo (verbally translated by Mr MacLeod). A powerpoint presentation (*HDC Trim Ref: 55294#0179*) containing photos was also displayed.

Ms Huata provided a brief history of the hapu and marae and highlighted the following points:

- She gave unadulterated support for the establishment of the Kura.
- The cess pond - restore the vitality and clean up.
- The aquifer at Waipatu should be put on town supply because of the impact that the taking of water would have on our aquifer.
- Want sustainability of waters for Waipatu marae and the local community for at least another 1000 years.
- Would like the speed limit reduced on Karamu Road.
- Compulsory left turn from Bennett Road with no right turn on to Karamu Road.

Cess pond is on right hand side of Otene Road.

Connection to council water supply rather than private bore. Under current proposal it is a private bore. Potential for this to be connected to main supply.

Submission No. 93 – Marei Apatu commenced his submission in Teo (verbally translated by Mr MacLeod) and circulated and read his evidence which had been compiled together with Ngahiwi Tomoana (*HDC Trim Ref. 55294#0183*).

If moving the site is not a reality how can your concerns about the effect of surrounding horticultural impacts on the children be addressed?

The option that could be possible moving it closer to Waipatu Marae could be a solution but it has an orchard on the eastern flank. Discharge of sprays must be monitored.

Consultation process there was some misgivings – looked at NOR and it looked like neighbours and marae had not been consulted.

When conversation first started on acquisition of land. NOR was mentioned July/September 2017. Noted that the marae expressed concerns and did not have the opportunity in August/September/October to express these concerns before the deadline for submissions.

Submission No. 14 - Ellison Huata spoke to her submission in support of the designation in its entirety and the proposed Kura. No additional points were noted.

Submission No. 15 - Paul Ramiha Winitana spoke to his submission in support of the designation and highlighted the following:

- The children need a bigger school as they have outgrown the current site.
- The Kura will have connections to Waipatu Marae and being in the country is a good environment for the children.
- Applied in 2009 to Ministry for new site and offered the Arataki Road site in 2013.

Submission No. 71 - Matua Hook (Chairman of the Te Kōhanga Reo National Trust) spoke to his submission in support of the designation in its entirety and the proposed Kura.

Clean up the water on Waipatu and surrounding area. Key to futureproofing the community in Otene Road.

*The Hearing adjourned at 3.50pm and would
reconvene on 9 February 2018 at 9.00am*

HASTINGS DISTRICT COUNCIL

**MINUTES OF A RECONVENED MEETING OF THE HEARINGS COMMITTEE
HELD IN THE COUNCIL CHAMBER, GROUND FLOOR, CIVIC ADMINISTRATION
BUILDING, LYNDON ROAD EAST, HASTINGS
ON WEDNESDAY, 7 FEBRUARY 2018
AND RECONVENED ON FRIDAY, 9 FEBRUARY 2018 AT 9.00AM
AND FURTHER RECONVENED ON TUESDAY, 20 FEBRUARY 2018**

***[AND THEN CONTINUED IN PUBLIC EXCLUDED SESSION
ON TUESDAY, 20 FEBRUARY 2018 AT 1.10PM]***

**WITH THE HEARINGS COMMITTEE RECOMMENDATIONS BEING RELEASED
ON THURSDAY, 22 MARCH 2018**

**(FOLLOWING A RESOLUTION TO PROCEED IN OPEN SESSION
IN ORDER TO RELEASE THOSE RECOMMENDATIONS)**

PRESENT:

Chair: Councillor Lyons
Councillors Barber and Heaps

IN ATTENDANCE:

Team Leader Environmental Consents/Subdivision (Mr Caleb Sutton)
Senior Environmental Planner Consents (Mrs Catherine Boulton)
Translator (Mr Jeremy MacLeod)
Committee Secretary (Mrs Carolyn Hunt)

AS REQUIRED

Ministry of Education – “The Requiring Authority”

- Mr Nick Whittington – Solicitor, Meredith Connell Law Firm
- Ms Joanna Beresford, Associate, Meredith Connell Law Firm
- Ms Angela Tracey Jones – Senior Planner, The Property Group

“Submitters”

Wayne & Sharon Hughes (62)
Patrick Lander (57)
Dominic Salmon (60)
Warren Preston Wainohu and JB Smith (49)
Bessie Mananea (12)
Stephen and Julie-Ann (Jill) Norman (59)

Councillor Barber gave the Karakia.

1. APOLOGIES

There were no apologies to receive.

2. **NOTICE OF REQUIREMENT FOR DESIGNATION - MINISTER OF EDUCATION TO DESIGNATE LAND FOR EDUCATIONAL PURPOSES AT BENNETT ROAD, WAIPATU, HASTINGS (RMA20170341) (Cont..)**

The Chair reconvened the hearing and re-emphasised that the purpose of the Committee was to consider a Notice of Requirement and that it could only make recommendations to the Ministry.

Submission No. 62 – Wayne and Sharon Hughes spoke to their submission (*HDC Trim Ref: 55294#0093 and tabled evidence 55294#0184*) relating to the following issues:

- Impact that the Kura would have on their environment.
- Traffic will be heavier at certain times and getting across Karamu Road will be a nightmare.
- Bennett Road is not suitable to cope with the additional traffic which will create safety issues.
- Consider building the Kura closer to either of the two Marae.
- Rates will increase and some householders may not be able to afford the increase in rates.
- Have no concern about school noise.

Submission No. 57 – Patrick Lander spoke to his submission opposing the Notice of Requirement application and highlighted the following issues:.

- At a consultation meeting on 4 September 2017 an artist's impression of the school designed for the Arataki Road site was shown to fit the Bennett Road site.
- Access, parking and drop off zones were specifically discussed at that meeting, yet the application submitted to Council suggests that no master plan for the proposed site had yet been developed.
- Opportunities for consultation were empty.
- Traffic is likely to be an issue for kaumatua, Kura and residents.
- No evidence has been provided to show that the Bennett Road site meets the criteria usually required by the MOE.
- Questioned that the footpath from the Kura site and the marae was a footpath to nowhere.
- One of the problems with installing a footpath in Bennett Road is that the bridge is quite narrow. Mr Randall seemed to offer other solutions.
- Community come together and discuss - this is the first forum where they had been able to meet any neighbours.
- 2.5ha site on corner of Bennett Road on route for public access and opposite the marae. If there is a bigger vision, have a conversation about it.
- From evidence it appears that the existing Kura in Albert Road is too small for them.
- Waipatu and Bennett Road seem good location for them. Without bigger vision of the plan, it is hard to support the designation of that land and use of that legislation which could have engendered a bigger discussion.
- Concerned about safety of the community.
- Traffic modelling needs to have wider input.

In response to questions from the Committee Mr Lander responded that he:

- Supported the relocation of the Kura, but what had not been transparent was why that piece of land had to be used.
- Only 3 hectares purchased and he had understood it was 9 hectares.

- At the time the NOR was submitted it was not apparent that the proposal was able to demonstrate cultural advantages
- Pedestrian crossing would be ideal – if less traffic coming out of Bennett Road, if closed that road, the crossing becomes easier.

Submission No. 60 – Dominic Salmon spoke to the submission from himself and Sarah Linehan which had opposed the application and highlighted the following:

- At the time submission was written the cultural part did not apply.
- Bennett Road is a greenfields site and there would be loss of productive land.
- There is land within Waipatu that could be better suited for the Kura.
- Concern regarding the traffic and accessibility to the Kura and the safety issues surrounding these concerns.
- SH2 and Bennett Road intersection was already challenging and without significant redesign there is the likelihood of accidents.
- They were in support of Kura in Waipatu environment but not the actual position.

Submission No. 49 - Warren Preston Wainohu and JB Smith spoke to their submission in Te Reo (Mr MacLeod verbally translated) and gave a brief history of their ancestry and highlighted the following points:

- In support of the designation for educational purposes and believed that the community had been waiting long enough for it to happen.
- Mr Wainohu had been a teacher at the Kura for the past five years.
- More than a school it was a community that cares and nurtures.
- Unless another viable site for the Kura they supported the application.

Submission No. 12 - Bessie Mananea spoke to her submission in Te Reo (Mr MacLeod verbally translated) in support of the Notice of Requirement for a Kura in Bennett Road. No additional points were noted.

Submission No. 59 – Jill Norman spoke to her submission in opposition of the NOR and addressed evidence – being a written statement; figures showing school catchment areas and proposed alignment of proposed food hub link road; and a three stage report document compiled by The Property Group Limited for the Ministry of Education “released under the Official Information Act” addressing site evaluation in HB for new schools (*HDC Trim Refs: 55294#0173; 55294#0174; 55294#0175; 55294#0176; and 55294#0177*). Mrs Norman highlighted the following points:

- She supported the preservation of the Māori heritage and commended the Kura principle.
- Was not against the culture, but against the site as a school when there were two other sites much more suitable.
- Documents released under the Official Information Act revealed a site at 22 St Georges Rd was considered before the Ministry settled on the Bennett Road site.
- The documents stated 55 sites were considered as part of a first-stage assessment conducted by contractors, The Property Group, before being narrowed down to a shortlist of eight.
- The Bennett Road site did not appear on the initial shortlist.
- The St Georges Rd site backed onto the Waipatu Marae, which would be more suitable "if the cultural connection was as important as it's made out to be".
- In stage two of the assessment, the Ministry gave the Bennett Road site last place out of eight shortlisted sites and discarded the St Georges Road site.

- The report centred around the cultural significance of the site, however that was only one of 18 criteria.
- The "only other factor" mentioned in the Bennett Road site selection was the fact the land was already purchased by the Ministry.
- Concern was the possible increased traffic the Kura could bring.
- She questioned the site purchased by the Ministry if there had not been a willing seller who had come along.
- She supported the Kura – she just did not want to see it at the end of Bennett Road.

*The Hearing adjourned for morning tea at 10.30am
and reconvened at 10.45am*

The Reporting Planner, Mrs Boulton advised that after reviewing the expert evidence and listening to the submissions and questions and answers she would like to readdress her recommended conditions. A copy of the revised conditions was circulated (*HDC Trim Ref. 55294#0185*).

Mrs Boulton spoke to the revised conditions and made the following comments:

Purpose of Designation - The recommended conditions did not include the purpose of the designation which was an offered condition in the NOR. The evidence of Angela Jones states that including a designation purpose assists both Council officers processing future Outline Plan of Works processes as well as the local community in understanding the intended use of the site.

Mrs Boulton agreed that the offered designation purpose should be included, should the designation be confirmed, subject to her comments about Condition 1.

Condition 1 – Works in general accordance with documentation - The requiring authority requested that the Hearings Committee should not recommend that Condition 1 forms part of the designation. The reason it gives is that a condition referencing back to the NOR process is highly unusual and does not align with the typical approach to conditions ascribed to designations. This is more typical of a condition on a resource consent and not a designation.

Mrs Boulton recommended that this condition should remain as, in her experience, this type of condition was typical of resource consents and designations. Its intention to ensure that what was undertaken in reliance on the designation was in line with the information provided by the requiring authority, in support of the designation, and what has been understood and assessed by the affected community and the Council.

A condition such as this helped ensure that the land uses undertaken, in reliance on the designation, have effects in line with what had been assessed as part of this proceeding, particularly where the purpose of the designation was so far reaching. Without it, Mrs Boulton could not be satisfied that the effects of activities undertaken in reliance on the designation will be appropriate for this environment.

By way of example, the traffic report had been undertaken based on certain assumptions as to the numbers of children attending but there was no condition proposed limiting the school roll.

If the Hearings Committee was to agree with the requiring authority that Condition 1 should be removed, then she felt it would be necessary to introduce additional conditions to ensure the works undertaken in reliance on the designation were limited. This was so they would as not to generate effects in excess of what has been assessed. Her preference was to retain the cross-reference to the material submitted in support of the NOR.

Condition 2 - Matters to be included in an outline plan - The Ministry was seeking changes to the condition requiring an outline plan to be submitted so that the condition was specific and enforceable and only included matters required to address adverse effects on the environment.

Assimilation of buildings into the environment - Condition 2(a) required the requiring authority to show how the design would assimilate the buildings into the rural environment. The Ministry of Education stated that this condition was both vague and not something that could be easily shown on an Outline Plan and it was not required to address an adverse effect on the environment.

The planner's report considered that school buildings were not necessarily out of context with the surrounding environment. However, this meant that buildings could be designed to fit in. Equally, some building designs could be entirely out of character and have adverse effects on the existing rural amenity. In Mrs Boulton's view, in the absence of this condition, or one to "like effect", the Committee could not be satisfied that potential adverse effects on rural character will be adequately avoided or mitigated.

Traffic Impact Assessment - Condition 2(e) required a Traffic Management and Parking Plan. The Ministry sought that this be changed to a Traffic Impact Assessment Report given what was being asked for related to the wider traffic network and not just on-site school traffic and parking matters. Mrs Boulton agreed that this condition should refer to a Traffic Impact Assessment, although considered it appropriate to continue to refer to parking.

Condition (2)(e)(i) required a new footpath to be included to extend along Bennett Road from Otene Road to Kauru Road. The Ministry did not believe that a footpath of this length was warranted, but that a footpath connecting to the Otene Road cycle way and extending along the frontage of the Kura and Kōhanga Reo would be appropriate.

Mrs Boulton still considered that a footpath should be provided to Kauru Road to help provide a connection to the school from the residential pocket to the south of Bennett Road, and to enable safe pedestrian and cycle access to the school.

Sustainable transport modes and linkages and facilities for the provision of alternative modes of transport was in the Proposed District Plan's objectives and policies. It was considered that the provision of a footpath would help in meeting these objectives and policies.

Mrs Boulton had had discussions with Council's Traffic Engineer that it was possible for the footpath to be located on either side of the road. It was noted that the traffic report is premised on a reasonably high number of children accessing the school by means other than private vehicle. It was important that this be encouraged through the provision of safe facilities.

Mrs Boulton considered that if safe walking facilities are not provided, more children will be dropped to school by car which will exacerbate the traffic issues which have already been identified.

Mrs Boulton did not believe the footpath had to be sealed but could be of a similar formation as the Otene Road cycleway (perhaps limestone).

In relation to the intersection works proposed, the proposed right turning bay will help to mitigate the effects of traffic at Bennet Road/SH2. However, this is also likely to result in unintended consequences, as it will move the southbound traffic lane closer to the marae frontage and to the footpath and power poles.

As Council's Traffic Engineer stated, these induced safety problems may then call for protective barriers which could compromise the ability to retrofit a pedestrian crossing facility to link Bennett Road with the marae. The additional width of the right turning bay and its tapers will have already made the road harder to cross.

Mrs Boulton acknowledged that in the evidence by Glen Randall (appearing for the Ministry) the latter accepted that the introduction of a right turn bay could introduce safety concerns. Mr Randall therefore recommends that a safety audit be undertaken of the proposed design to ensure safety is not compromised. The results of the safety audit will form part of the detailed design process when engineering approval is sought. Mrs Boulton recommended that this safety audit be included in the conditions of the designation, should it be confirmed.

Mr Randall recommends that the Kura and Kōhanga Reo introduces a school travel plan to educate and guide safety initiatives through the management of parking and the behaviours of parents/caregivers dropping off and picking up their children.

Mrs Boulton recommended that this is included as a condition, should the designation be confirmed.

Reverse Sensitivity – Mrs Boulton advised that during the course of the hearing, reverse sensitivity appeared to me to be a key issue, and the evidence presented on this topic was particularly helpful. As noted the planning report, reverse sensitivity is a key issue for the Rural area and the Plains Production Zone.

The Minister's evidence on reverse sensitivity was primarily presented by Mr van de Munckhof who stated that, *"provided the permitted activity rules are met, I consider that the risks of agrichemical spray drift affecting the proposed Kura and Kōhanga Reo are low. Further, it would be expected that the controls would be no more onerous than would already be required to avoid effects on other sensitive activities within the existing environment"*.

However Mrs Boulton commented that Mr van de Munckhof's evidence details quite extensive changes that could be expected to be required in regard to ordinary farming practices including:

- Limiting hours of spraying to when children are not expected to be present – I note in this regard that the purpose of the designation suggests children may be present well outside normal school hours as after school activities and cultural and sporting events are anticipated outside school hours (which would include weekends).
- Using handheld application rather than motorised or aerial application in some situations;

- Avoiding application when the wind is blowing towards the school – noting that the presence of some residential activity in the area presumably already limits application for other wind directions – this may result in a cumulative effect in that the conditions in which spraying can be carried out are severely limited;
- Establishing buffer zones. The evidence appeared to suggest buffer zones should be provided on the farming site, rather than the Ministry's site. This would result in effective loss of productive land and direct economic loss to the neighbouring landowners if they are required to retire land that would otherwise be in productive use in order to provide a buffer;
- Possibly changing chemicals used or the method of application;
- Preparation of a plan which takes account of sensitive users.

The clear implication is that the onus of mitigating risk to sensitive users of the school will be on neighbouring landowners with little if any mitigation being proposed by the requiring authority. After hearing Mr van de Munckhof's evidence, and that of Mr Pope, Mrs Boulton considered that the comments in the AgFirst report should be reiterated. That report states:

... "siting a Kura on this location will lead to huge reverse sensitivity issues with neighbouring land owners. There are a number of orchard properties relatively close to the east, north and west of the site making the Kura in the lee side of these properties for our two main prevailing winds, the westerly and the easterly sea breeze. This will limit opportunity for these land owners to carry out critical crop husbandry practices such as pest and disease control... In the event of the Kura being established on this site a condition of consent should be that the school be responsible for establishing and maintaining suitable evergreen shelter plantings around the site to minimise reverse sensitivity issues. This was a condition of the consent for Te Kura Kaupapa Māori o Ngati Kahungunu Heretaunga established in Stock Road which was adjacent to established orchard properties".

In her view, these limits on what can be carried out by farmers within the PPZ mean that the school is contrary to the fundamental "right to farm" objective of the PDP, particularly objective PPO4 "To enable the operation of activities relying on the productivity of the soil without limitation as a result of reverse sensitivities"; and its related policy PPP16.

Mrs Boulton considered that there needed to be a clear indication of how reverse sensitivity effects of the school would be managed by the school rather than through the neighbouring farmers needing to mitigate against the presence of the school.

Having heard all of the evidence, Mrs Boulton's view was that it is appropriate that conditions be imposed beyond those set out in her original recommendation in order to adequately mitigate clear reverse sensitivity effects associated with introducing children into an agricultural and horticultural environment.

Setbacks – Mrs Boulton advised that one method of addressing reverse sensitivity was via the use of setback requirements. The condition put forward in the notice of requirement is that any new building or building extension (excluding goal posts and similar structures) shall not be erected within 7.5 metres of the front boundary and 5 metres on all other boundaries. Mrs Boulton's recommendation, in her

planner's report, was that this be 7.5 m for the front boundary and 15 metres for all other boundaries.

It was noted that the Minister's legal submission stated that, "*the effects of a school are generally well understood and have little in common with industrial or commercial activities. The Minister says that if a comparison is to be made to the set backs in applying to other activities in the District Plan then the effects of a school are more akin to residential land uses. Accordingly, the Minister seeks that Council recommend a 5 metre set back on side and rear boundaries as proposed in the NOR*".

A 7.5m front yard setback and 5m setback under the Proposed District Plan relates to Accessory Buildings (associated with residential and land based primary production). Residential buildings also have a 7.5m front yard setback requirements and a 15m setback requirements from all other boundaries.

This setback was introduced specifically in order to mitigate against reverse sensitivity effects, following an appeal by Horticulture New Zealand (see Consent Memorandum dated 15 September 2016, Paragraphs 15 and 22). Industrial and commercial buildings have a 15m setback requirement from all boundaries.

Mrs Boulton recommended changes for the yard setback are in accordance with the Plains Zone standards for residential buildings and for the side and rear boundary yard standards for industrial and commercial buildings. She remained firmly of the view that a 15m setback for buildings is appropriate as part of the mitigation against reverse sensitivity.

Shelterbelt planting – Mrs Boulton suggested enhancement of the landscaping requirement for shelterbelt planting, to ensure that the planting is adequate to achieve the purpose of mitigating spray drift.

Reverse Sensitivity Management Plan - In addition, Mrs Boulton suggested conditions requiring compliance with a reverse sensitivity management plan to be prepared in consultation with surrounding landowners and submitted at the time of the Outline Plan of Works.

The reverse sensitivity management plan is proposed to include compulsory measures such as provision of buffer zones and a communications plan to ensure students and staff are aware of the environment in which the school operates; and can also include other measures to be consulted on with neighbouring landowners. Such measures may include measures to be implemented when spraying is being undertaken, such as keeping children indoors, or away from playing fields or buildings in close proximity to the affected boundary.

Mrs Boulton noted that the requiring authority opposes the condition requiring a no complaints covenant, and on reflection she agreed this would be difficult to enforce against users of the school who were not the landowner, and it is unlikely to be an efficient method of mitigating reverse sensitivity risk.

The requirement for shelterbelt planting, a buffer zone, a communications plan to advise students and staff of the environment in which the school operates, and other techniques to be consulted on are considered sufficient to mitigate reverse sensitivity effects without the need for a no complaints covenant.

Noise – Mrs Boulton advised that Mr Whittington’s submissions oppose the part of the noise condition which provides that amplified noise is not excluded from compliance with noise limits.

Mrs Boulton remained of the view that the condition as worded is appropriate. Mr Whittington notes that “there is a safety need for announcements to be able to be heard over the usual noise of children playing”. Mrs Boulton had not intended that such announcements would be considered “amplified music” and had amended the condition to clarify this.

Earthworks – Mrs Boulton advised that as earthworks could be addressed in the Outline Plan of Works she was not opposed to this condition being removed.

Other Matters – Mrs Boulton advised that Section 5.2 of her Section 42A officer report stated that a future resource consent would be required for earthworks. The evidence by Angela Jones states that earthworks will be assessed through the Outline Plan of Works process and will not require a further resource consent under the District Plan although it is noted that resource consent under the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health will still be required.

Mrs Boulton confirmed that the designation would allow for all land use activities otherwise regulated by the District Plan to occur without the need for a resource consent.

Infrastructure – Mrs Boulton advised that a question came up at the hearing session on Wednesday, 7 February regarding the proposed infrastructure for the site, particularly the water supply. There are options for water supply - that a private bore is provided for water supply or there are Council water supplies that the Kura and Kōhanga Reo could connect to, their locations are shown on page 183 of Document 2. This has been confirmed by Council’s Water Supply Manager who has advised that the Kura and Kōhanga Reo can connect into the Council’s supply and that it will be at their own cost.

Reverse Sensitivity - Mrs Boulton advised that she would like to set clear that in Mr van de Munckhoff’s response to a question on Wednesday, 7 February he advised that other activities locating in the area would require resource consent. This is not necessarily the case, Intensive Rural Production within specified distances would need consent, but land based primary production, industrial activities and commercial activities within specified limits and a residential dwelling could all locate within the area without resource consent. Therefore this would not require an assessment on the existing activities within the area.

Mr Nick Whittington advised that having read the revised conditions there was probably not much difference between those and the Ministry’s evidence, except the proposed reverse sensitivity plan.

He requested that he discuss the revised conditions with Ms Aitmalala and would need consent to submit a closing written submission for Tuesday, 20 February 2018.

Councillor Barber gave the closing Karakia

*The Hearing adjourned 12.10pm and would
reconvene on 20 February 2018 at 9.00am*

HASTINGS DISTRICT COUNCIL

**MINUTES OF A RECONVENED MEETING OF THE HEARINGS COMMITTEE
HELD IN THE COUNCIL CHAMBER, GROUND FLOOR, CIVIC ADMINISTRATION
BUILDING, LYNDON ROAD EAST, HASTINGS ON
WEDNESDAY, 7 FEBRUARY 2018
AND RECONVENED ON FRIDAY, 9 FEBRUARY 2018
AND FURTHER RECONVENED ON TUESDAY, 20 FEBRUARY 2018 AT 9.00AM**

***[AND THEN CONTINUED IN PUBLIC EXCLUDED SESSION
ON TUESDAY, 20 FEBRUARY 2018 AT 1.10PM]***

**WITH THE HEARINGS COMMITTEE RECOMMENDATIONS BEING RELEASED
ON THURSDAY, 22 MARCH 2018**

**(FOLLOWING A RESOLUTION TO PROCEED IN OPEN SESSION
IN ORDER TO RELEASE THOSE RECOMMENDATIONS)**

PRESENT: **Chair:** Councillor Lyons
 Councillors Barber and Heaps

IN ATTENDANCE: Group Manager: Planning and Regulatory Services (Mr John O'Shaughnessy)
 Team Leader Environmental Consents/Subdivision (Mr Caleb Sutton)
 Senior Environmental Planner Consents (Mrs Catherine Boulton)
 Committee Secretary (Mrs Carolyn Hunt)

AS REQUIRED ***Ministry of Education – “The Requiring Authority”***

- Mr Nick Whittington – Solicitor, Meredith Connell Law Firm
- Ms Joanna Beresford, Associate, Meredith Connell Law Firm
- Ms Orchid Laloifi Atimalala, Principal Advisor: Resource Management Act and the Acquisitions and Designations Team
- Ms Angela Tracey Jones – Senior Planner, The Property Group

“Submitters”

Students of the Kura school, staff and other members of the public (30) were also present in the gallery.

1. **APOLOGIES**

There were no apologies to receive.

2. **NOTICE OF REQUIREMENT FOR DESIGNATION - MINISTER OF EDUCATION TO DESIGNATE LAND FOR EDUCATIONAL PURPOSES AT BENNETT ROAD, WAIPATU, HASTINGS (RMA20170341) (Cont..)**

The Chair reconvened the meeting which was to hear the closing submissions on behalf of the Ministry.

Following the closing submission from the Ministry, the Hearings Committee would deliberate in Public Excluded session with its Recommendations subsequently being released and circulated to all parties. These Recommendations would be considered by the Ministry as outlined at the beginning of the Hearing.

Mr Whittington circulated and read his closing submission (*HDC Trim Ref 55294#0186*) on behalf of the Ministry of Education. Also circulated was a copy of the amended conditions as requested by the Ministry, (*HDC Trim Ref 55294#0187*).

The main points highlighted by Mr Whittington included:

- The hearing had assisted in better understanding the issues and concerns raised by the Council and submitters.
- The Minister considered that (with the exception of spray drift where the Minister fundamentally disagrees with the Council) about the correct approach to “spray drift” of agrichemicals.
- Precedent or cumulative effects.
- The use of a no complaints covenants under the District Plan to appropriately manage reverse sensitivity effects.
- Consultation and engagement with the community.
- The relevance of HPUDS.
- Responsibility for infrastructure upgrades.
- Scope of the NOR.
- Acquisition by agreement under the Public Works Act 1981.
- Development of a school travel plan at Open Outline Plan of Works stage.
- The Minister considered that the reverse sensitivity management plan condition proposed by the reporting planner goes too far to the point of unlawfulness and proposes that that condition be deleted.
- Acknowledged that some form of communication plan be put in place regarding agrichemical use.
- The controls in the Regional Plan are appropriate to minimise the risk of off-target spray drift, and additional controls are not required.
- In relation to future resource consent applications for subdivision or development in the Plains Production zone, the Minister says that the designation, if confirmed, will not have a precedent effect.
- He was pleased that the Council planner is no longer recommending a no complaints covenant condition
- The Minister was not required to prove that the designated site was the best site for an activity.
- The Minister disagreed with the comments made by submitters regarding a lack of transparency and consultation and remained of the view that its consultation process was robust.
- Opportunities for Māori to engage with the Ministry about the Kura and Kōhanga Reo’s kaupapa still exist.
- The Ministry used a document like HPUDS together with demographic information, to plan its network many years ahead.
- With the exception of the upgrade to the intersection of Bennett Rd and SH2, these are all matters that are the responsibility of either the Council or NZTA and the NOR is not generating the need for any infrastructural upgrade.

- Any proposal to take water would require a resource consent from the Hawke's Bay Regional Council.
- The Wananga is not covered by the NOR.
- The Bennett Road site was acquired by agreement from the Aorangi Trust board following a period of negotiation.
- Because the site was acquired under the Public Works Act, this enabled the 3 hectare site to be separated from the original 9 hectare parent site by Gazette notice, rather than as a subdivision under the Resource Management Act.
- A school travel plan is something that would begin to be developed through the Traffic Impact Assessment (TIA) at the establishment of the Outline Plan of Works stage.

The Chair, Councillor Lyons, thanked the representatives appearing on behalf of the Ministry of Education, Submitters, Consultants and the Council officers for their respective input into the proceedings. The Chair, advised that the Committee would review all the material submitted and would now deliberate in Public Excluded [Confidential] session.

Councillor Lyons/ Councillor Barber

- A) That the public be excluded from the deliberations in relation to the hearing of a Notice of Requirement for Designation - Minister of Education to Designate Land for Educational Purposes at Bennett Road, Waipatu, Hastings (RMA20170341) application by the Ministry of Education. 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:**
- B) 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 for morning tea at 10.45am
and reconvened at 11.00am in Public Excluded Session*

The Hearing continued in Public Excluded Session to enable the Committee to undertake its deliberations and publicly release its Recommendations.

**WITH THE HEARING COMMITTEE'S RECOMMENDATIONS BEING RELEASED
ON THURSDAY, 22 MARCH 2018**

**(FOLLOWING A RESOLUTION TO PROCEED IN OPEN SESSION
IN ORDER TO RELEASE THESE RECOMMENDATIONS)**

**NOTICE OF REQUIREMENT FOR DESIGNATION - MINISTER OF
EDUCATION TO DESIGNATE LAND FOR EDUCATIONAL PURPOSES AT
BENNETT ROAD, WAIPATU, HASTINGS (RMA20170341) (Cont..)**

The Hearings Committee confirmed its Recommendations as set out below:

Councillor Lyons/Councillor Heaps

That pursuant to Sections 168(1), 171 and 184 of the Resource Management Act 1991, the Notice of Requirement by The Minister of Education to designate land for "Educational Purposes – Te Kura Kaupapa Māori o Te Wānanaga Whare Tāpere o Takitimu (years 0-13) and associated Kōhanga Reo (early childhood education)" be CONFIRMED subject to conditions, with a 10 year lapse period. The area of land to be designated is legally defined as Section 1 Survey Office Plan 514724 (CFR: 806990) at Bennett Road, Waipatu, Hastings.

CARRIED

(Note: The full wording of the signed Hearings Committee Recommendations is saved into the Council's records system (HDC Trim Ref 55294#0221). The Committee's Recommendations are circulated with and form part of these minutes.

That full wording of the Recommendations includes recommended conditions and the narrative which summarises details of the hearing process and the evidence that was presented to the Committee for its consideration, in regard to the proposed Notice of Requirement.

- *[A letter from HDC responding to the designation conditions that were proposed to form part of the Ministry of Education's Decision is saved under (55294#0224).*
- *A Decision letter and HDC Recommendation Report Conditions (the Decision) both received from the Ministry of Education and dated 4 May 2018, are saved under (55294#0225 and 55294#0226) respectively.*
- *The FINAL HDC Recommendation report conditions with amendments (the Corrected Decision), dated 11 May 2018, is saved under (55294#0227). This was sent out, to all submitters with letters, dated 14 May 2018, (55294#0219 and 55294#0220) giving submitters advice of their Right to Appeal].*

The Hearing closed on 20 February 2018 at 1.40pm

Confirmed:

Chairman:

Date: