



## Maori Standing Committee

### Minutes 4 February 2013

- Present:** Haami Te Whaiti (Chair), Gray Carter, Horipo Rimene, Terry Te Maari, Rutu Namana (until 6:55pm), Michael Roera (until 6:55pm), Alex Webster, Cr Solitaire Robertson and Cr Brian Jephson.
- In Attendance:** Paul Crimp (Group Manager Corporate Support), Cr Viv Napier, Cr Max Stevens and Suzanne Clark (Committee Secretary).
- Conduct of Business:** The meeting was held in the South Wairarapa District Council Chambers, 19 Kitchener Street, Martinborough. The meeting was conducted in public between 6:00pm and 7:45pm except where expressly noted.
- Public in Attendance:** Paora Ammunson and Johnny Rutene.

#### **PUBLIC BUSINESS**

Haami Te Whaiti led a powhiri for the new representatives and visitors of Papawai Marae to the meeting.

The Committee agreed to add acknowledgement of former Papawai Marae Committee representatives of the Committee to the agenda.

The Committee agreed to move agenda item 6 'Governance Review' to follow agenda item 3.

#### **1. APOLOGIES**

*MSC RESOLVED (MSC 2013/01)* to receive apologies from Janine Adams, Trevor Hawkins, Dr Jack Dowds, Mayor Adrienne Staples and apologies for leaving early from Rutu Namana and Michael Roera.

*(Moved Te Whaiti/Seconded Cr Robertson)*

Carried

#### **2. PUBLIC PARTICIPATION**

There was no public participation.

#### **3. MAORI STANDING COMMITTEE MINUTES**

##### **3.1 Maori Standing Committee Minutes – 26 November 2012**

*MSC RESOLVED (MSC 2013/02)* that the minutes of the Maori Standing Committee 26 November 2012 be confirmed as a true and correct record.

*(Moved Rimene/Seconded Webster)*

Carried

#### **DISCLAIMER**

*Until confirmed as a true and correct record, at a subsequent meeting, the minutes of this meeting should not be relied on as to their correctness*

### 3.2 Matters arising

The Committee noted that the Draft Coastal Reserves Management Plan was available for public consultation until 3 April 2013. The Committee requested that Council officers present the plan at the next meeting.

*MSC NOTED:*

1. Action 45: Include the Draft Coastal Reserves Management Plan on the next MSC agenda so the Committee could review the Plan with a view to making a submission; V Tipoki

### 3.3 Action items

The Committee reviewed the action items list.

## 4. GOVERNANCE REVIEW

Crs Viv Napier and Max Stevens gave background to the preferred Wairarapa Councils' Governance Working Party option which was currently out for consultation and addressed questions from the Committee. The process that would be followed by the Local Government Commission was explained. Cr Napier addressed concerns about the viability of a unitary authority saying that Martin Jenkins had been commissioned to undertake a peer review of the finances and that the report was due at the end of February. Cross subsidization of Regional Council funding was discussed.

The Committee expressed concern that Maori had not been invited to sit on the Governance Working Party and provide input at an early stage or prior to a decision on the preferred option.

*MSC NOTED:*

1. Action 46: Provide the Maori Standing Committee with a copy of the Martin Jenkins report when it became available; P Crimp

## 5. OPERATIONAL REPORTS – COUNCIL OFFICERS

### 5.1 Officers' Report

The Committee reviewed the report and discussed rates debtors, Maori involvement with civil defence at a regional level, local civil defence organisation, communication and inclusion of Maori representation on the CDEM response teams, and waste water discharge/resource consent in Featherston.

*MSC RESOLVED (MSC 2013/03)*

1. To receive the Officers' Report.

*(Moved Webster/Seconded Watson)*

Carried

2. Action 47: At the next WREMO meeting, enquire how other areas are utilising their local marae and advise that South

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Wairarapa Maori wish to be involved and assist with CDEM preparation and coordination; M Allingham

## 6. AED (ARTIFICIAL DEFIBRILLATOR LOCATIONS AND CONTACTS)

For the health benefit of the elderly in the community Mr Carter requested Council coordinate/locate an up to date list of artificial defibrillator locations and holder contact details in the local communities.

*MSC NOTED:*

1. Action 47: Locate a list of artificial defibrillator locations and contact details in the community. If an up to date list can not be located invite the Community Boards to update the list and consider the best method of advising the public of the locations; P Crimp

## 7. GENERAL

Mr Te Whaiti tabled a Rahui Notice of Restriction for the collection of seafood, fishing and recreational swimming from Manurewa Point to Te Awaiti Point up until the 16 February 2013 (extension possible).

## 8. CORRESPONDENCE

### 8.1 Inwards

From Paora Ammunson, Papawai Marae, to Dr Jack Dowds, SWDC, dated 17 January 2013.

*MSC RESOLVED (MSC 2013/04):*

1. To receive the inwards correspondence.  
(*Moved Webster/Seconded Cr Robertson*)
2. Action 48: Draft letters to Liz Watson and Lisa Pirere thanking them for their contribution to the Maori Standing Committee (forward to Mr Te Whaiti for signature); P Crimp

Carried

Haami Te Whaiti closed the meeting with a karakia.

**Confirmed as a true and correct record**

.....Chairperson

.....Date

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**Maori Standing Committee  
Action Items  
From 4 February 2013**

Ref #	Meeting	Date	Action Type	Responsible Manager	Action or Task details	Status	Notes
685	MSC	26-Nov-12	Action	Paul	Advise the Committee of the expected annual plan preparation timeframes	Actioned	
45	MSC	4-Feb-13	Action	Vanessa	Include the Draft Coastal Reserves Management Plan on the next MSC agenda so the Committee could review the Plan with a view to making a submission	Actioned	
46	MSC	4-Feb-13	Action	Paul	Provide the Maori Standing Committee with a copy of the Martin Jenkins report when it became available	Open	Not yet available
47	MSC	4-Feb-13	Action	Mark	At the next WREMO meeting, enquire how other areas are utilising their local marae and advise that South Wairarapa Maori wish to be involved and assist with CDEM preparation and coordination	Open	
48	MSC	4-Feb-13	Action	Paul	Locate a list of artificial defibrillator locations and holder contact details in the local communities. If an up to date list can not be located invite the Community Boards to update the list and consider the best method of advising the public of the locations	Open	Community Boards have been invited to undertake this project and the feedback from members to date has indicated that they would like to pickup this project.
49	MSC	4-Feb-13	Action	Paul	Draft letters to Liz Watson and Lisa Pirere thanking them for their contribution to the Maori Standing Committee (forward to Mr Te Whaiti for signature)	Actioned	Sent to Haamito review.

# MAORI STANDING COMMITTEE

18 MARCH 2013

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## AGENDA ITEM 4.2

### OFFICERS' REPORT

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#### **Purpose of Report**

To update community boards and the Maori Standing Committee on Corporate Support, Infrastructure and Services and Planning and Environment Group activities.

#### **Recommendations**

Officers recommend that the Community Board/Committee:

1. *Receives the information.*

## CORPORATE SUPPORT GROUP

### **1. Executive Summary**

The intervening period between the last report and this has been punctuated by annual leave, and catching up on a backlog of work.

The first cut of the budgets has been prepared and will be available in due course.

A draft of the annual plan timetable is included for consideration.

A reasonable amount of time has been spent keeping up to date with the ever changing regulatory environment within local government including implications of the Local Government Act 2002 Amendment Act 2012, and the Productivity Commission's report "Towards Better Regulation"

### **2. Discussion**

#### **2.1 Operating System Replacement**

The operating system replacement continues as planned with all modules installed and running. Additional training will take place over the next few months to ensure we get the best out of the system.

## 2.2 Rate Arrears

Efforts continue on rate arrears. The table below outlines the situation as at 11 February 2013, and excludes multi ownership Maori land.

Date	Amount \$'000	Number	Days since instalment due	SWDC component \$'000  (81%)
30 June 2011	\$851	631	31	\$689
1 August 2011	\$780	463	64	\$632
28 November 2011	\$969	760	7	\$785
1 March 2012	\$925	690	7	\$740
16 March 2012	\$830	602	23	\$672
23 March 2012	\$790	555	30	\$640
1 June 2012	\$855	722	10	\$692
19 June 2012	\$730	632	31	\$591
10 September 2012	\$947		21	\$767
15 February 2013	\$820	565	57	\$644

The fragility of rate arrears has unfortunately reared its ugly head. I have no view on why this instalment has increased, however we will be pursuing the outstanding amounts as usual.

## 2.3 Local Government Act 2002 Amendment Act 2012

Attached as Appendix 1 are two documents providing commentary on the impacts of the above Act.

The first document includes a legal opinion from Simpson Grierson, the brief for this opinion is included in the memo dated 18 January 2013 from Local Government New Zealand

The second document is entitled "Purpose Clause: Frequently Asked Questions" and is published by SOLGM.

No analysis is provided here, however Officer Reports will need to take into account the above changes when preparing reports and recommendations.

It is important that all decision makers are aware of these changes, especially the implications around the LTP being prepared under the old legislation.

## 2.4 Legal Implications

The changes to the local government legislation may pose some legal challenges, these will need to be included in the analysis sections of reports prepared by Officers.

## **2.5 Financial Considerations**

There are no financial implications arising out of this report.

## **3. Appendix**

Appendix 1 – Commentary on Changes to the Local Government Act as a Result of the Local Government Act 2002 Amendment Act 2012

Appendix 2 – Proposed 2013/14 Annual Plan Timeline

Contact Officer: Paul Crimp, Group Manager Corporate Support

# **Appendix 1 – Commentary on Changes to the Local Government Act as a Result of the Local Government Act 2002 Amendment Act 2012**





18 January 2013

### **Mayors, Chairs and Chief Executives**

Following the enactment of the Better Local Government Amendment Bill 2012, there has been a significant change to the purpose of local government. Therefore, we have commissioned Simpson Grierson to provide us with advice on how this change will affect the sector.

We now enclose this advice for free distribution to all our members.

The advice details the nature of the legal risk associated with the legislative change and recommends procedural changes to minimise, as much as possible, the legal exposure.

There will be legal uncertainty until the parameters of the law are tested in court.

In addition, Jonathan Salter, Partner at Simpson Grierson, has accepted an invitation to speak to this advice and take questions from the sector at upcoming rural, provincial, metro and regional sector meetings.

Yours sincerely

Lawrence Yule  
President  
Local Government New Zealand

18 January 2013

**Partner Reference**  
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Dear Malcolm

**The amended purpose of local government – risk management**

1. We have been asked to advise on the change to the purpose of local government effected by the Local Government Act 2002 Amendment Act 2012 (**Amendment Act**). In particular, we are to address how local authorities may mitigate litigation risk arising from the change.

**Executive Summary**

- The change to the purpose clause (section 10) is a significant and complex change from a legal perspective.
- It offers generous opportunities for those wishing to challenge activities and expenditures of local authorities, by way of judicial review or declaratory proceedings.
- Continued detailed analysis of the implications and effects for local government will be appropriate in the New Year.
- The absence of transitional or savings provisions could be taken to suggest that Parliament did not regard the practical effect as significant. This may be backed up by some comments from members of the government in resisting submissions during the legislative process aimed at moderating the perceived rigour of the changes. However, the Courts will likely start from an established assumption that if Parliament changes statutory wording, it does so intending a change in interpretation.
- Whilst it is difficult to anticipate the approach the courts may take to a judicial review, there may be some expectation that:
  - they may be inclined to take a pragmatic approach to the economic concepts;
  - they will be less inclined to intervene where the elected council has applied its mind to the issues and exercised a discretion;
  - they will be more likely to intervene where the council has not applied its mind to the issues, especially specific analysis of "most cost effective".

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- There can be some comfort that matters expressly mandated by the 2012 long term plans will be intra vires, but their delivery will have to be in a most cost effective manner.
- There is scope for interpretation around the terms "local infrastructure" and "local public services".
- On any new expenditure or activity which is outside the scope of section 11A, a council should expressly determine that the activity falls within "local infrastructure" or "local public services", and address why it meets the community's needs for the expenditure or activity which is "good quality".
- Council reports should, as a matter of course, address options and identify the recommended one as seen as being most cost effective for households and businesses (allowing for costs over time and indirect and contingent costs).

In the balance of this letter, we expand on the issues which support these views.

At this time, the two critical points to be made are:

- the actual legal effect of the changes on local authority powers will depend on judicial interpretation; and
- local authorities may be able to avoid unwelcome judicial outcomes by approaching the issues with caution and giving express attention to the new concepts wherever practicable.

### **The Legislative context**

2. As enacted in 2002, the purpose of the Local Government Act 2002 (LGA) set out in section 3 was:

#### **3 Purpose**

The purpose of this Act is to provide for democratic and effective local government that recognises the diversity of New Zealand communities; and, to that end, this Act—

- (a) states the purpose of local government; and
- (b) provides a framework and powers for local authorities to decide which activities they undertake and the manner in which they will undertake them; and
- (c) promotes the accountability of local authorities to their communities; and
- (d) provides for local authorities to play a broad role in promoting the social, economic, environmental, and cultural well-being of their communities, taking a sustainable development approach.

3. Section 10 set out the purpose of local government as:

#### **10 Purpose of local government**

The purpose of local government is—

- (a) to enable democratic local decision-making and action by, and on behalf of, communities; and
- (b) to promote the social, economic, environmental, and cultural well-being of communities, in the present and for the future.

4. The role of a local authority and the status and powers of a local authority are linked to the purpose statement in section 10 as follows:

#### **11 Role of local authority**

The role of a local authority is to—

- (a) give effect, in relation to its district or region, to the purpose of local government stated in section 10; and
- (b) perform the duties, and exercise the rights, conferred on it by or under this Act and any other enactment.

#### **12 Status and powers**

(1) A local authority is a body corporate with perpetual succession.

(2) For the purposes of performing its role, a local authority has—

- (a) full capacity to carry on or undertake any activity or business, do any act, or enter into any transaction; and
  - (b) for the purposes of paragraph (a), full rights, powers, and privileges.
- (3) Subsection (2) is subject to this Act, any other enactment, and the general law.
- (4) A territorial authority must exercise its powers under this section wholly or principally for the benefit of its district.
- (5) A regional council must exercise its powers under this section wholly or principally for the benefit of all or a significant part of its region, and not for the benefit of a single district.
- (6) Subsections (4) and (5) do not—
- (a) prevent 2 or more local authorities engaging in a joint undertaking, a joint activity, or a co-operative activity; or
  - (b) prevent a transfer of responsibility from one local authority to another in accordance with this Act; or
  - (c) restrict the activities of a council-controlled organisation; or
  - (d) prevent a local authority from making a donation (whether of money, resources, or otherwise) to another local authority or to a person or organisation outside its district or region or outside New Zealand—
    - (i) if the local authority considers, on reasonable grounds, that the donation will benefit its district or region, or the communities within its district or region; or
    - (ii) if the local authority considers, on reasonable grounds, that a benefit will be conferred on the local government sector as a whole; or
    - (iii) for emergency relief; or
  - (e) prevent a local authority from making a donation (whether of money, resources, or otherwise) to a local government body outside New Zealand to enable it to share its experience and expertise with that body.

5. Section 13 provides:

#### **13 Performance of functions under other enactments**

Sections 10 and 12(2) apply to a local authority performing a function under another enactment to the extent that the application of those provisions is not inconsistent with the other enactment.

6. The Amendment Act has altered section 3 and section 10 as follows:

#### **4 Section 3 amended (Purpose)**

Replace section 3(d) with:

- "(d) provides for local authorities to play a broad role in meeting the current and future needs of their communities for good-quality local infrastructure, local public services, and performance of regulatory functions."

#### **7 Section 10 amended (Purpose of local government)**

(1) Replace section 10(b) with:

- "(b) to meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses."
  - (2) In section 10, insert as subsection (2):
  - "(2) In this Act, **good-quality**, in relation to local infrastructure, local public services, and performance of regulatory functions, means infrastructure, services, and performance that are—
    - "(a) efficient; and
    - "(b) effective; and
    - "(c) appropriate to present and anticipated future circumstances."
- 7. Sections 11 and 12 are unaltered but the effect of them has changed due to the link with section 10: The powers of local authorities are defined in section 12 by reference to the role of local government in section 11, which in turn is defined by reference to the purpose of local government in section 10.<sup>1</sup>
- 8. The change to the purpose of the Act (to section 3(d)) is relatively unproblematic. The effect is a change from a purpose of the Act being to provide for local authorities to play a broad role in promoting community wellbeing in a sustainable way, to them playing a broad role in meeting the current and future needs of their communities for good quality local infrastructure, local public services and the performance of regulatory functions. The term "good quality" has the meaning ascribed to it by the new section 10(2).
- 9. This purpose is relevant to the interpretation of the Act in its generality. Section 5(1) of the Interpretation Act 1999 provides that "the meaning of an enactment must be ascertained from its text and in light of its purpose."
- 10. The far more significant change is to the purpose of local government in section 10 for three main reasons,
  - (a) the purpose of meeting communities' current and future needs for good quality local infrastructure, local public services and regulatory functions, has an additional component – to do so in a way that is most cost effective for households and businesses.
  - (b) this purpose provision does not just aid interpretation of the Act. By virtue of the link to sections 11 and 12, it plays a fundamental part in defining the role of local authorities and circumscribes their powers. This is because the general powers of a local authority are defined by reference to its role which is defined by reference to the purpose: a local authority has full capacity to carry on or undertake any activity or business, do any act or enter into any transaction, but only for the purpose of performing its role.<sup>2</sup>

1 Section 11A is also unchanged, but its effect is modified by its reference to the role in section 11. Section 11A provides:

**11A Core services to be considered in performing role**

In performing its role, a local authority must have particular regard to the contribution that the following core services make to its communities:

- (a) network infrastructure;
- (b) public transport services;
- (c) solid waste collection and disposal;
- (d) the avoidance or mitigation of natural hazards;
- (e) libraries, museums, reserves, recreational facilities, and other community infrastructure.

2 The specific constraints in subsections (3) to (5) of section 12 continue to apply, as do the specific authorisations in section 12(6), at least in so far as the latter are not prevented by subsections (4) and (5).

- (c) the link to community choice is weakened. The previous definition of "community outcomes" which linked them to the promotion of community wellbeing meant that what constituted a particular council's role and therefore its powers was determined through the community engagement and consultation process of the long term plan. This meant that appropriate consultation could substantially define what it was which promoted "community wellbeing". "Community outcomes" now means "the outcomes that a local authority aims to achieve in meeting the current and future needs of communities for good quality local infrastructure, local public services, and performance of regulatory functions". This means that long term plan consultation may still mandate activities. However, the manner of delivery must be in a manner that is most cost effective for households and businesses. This has less to do with community preference manifested through consultation and is clearly directed solely at economic and financial considerations.
11. The role of local authorities by virtue of the unamended section 11(b) is to perform the duties, and exercise the rights, conferred on them by or under the Local Government Act 2002 and any other enactment. Importantly this includes various statutory duties conferred under legislation such as the Resource Management Act 1991 and the Building Act 2004. However, by virtue of section 13 of the LGA the performance of such regulatory functions must now be in a way that is most cost effective for households and businesses.

#### **Litigation Risk**

12. The obvious litigation risk that arises from these changes is that any disaffected party may have grounds for a successful judicial review if it can establish that a Council expenditure relates to an activity, action or transaction which cannot be shown to meet the community's need for efficient and effective local infrastructure, or local public services in a way that is most cost effective for households and businesses. This could occur in several ways:
- (a) it is not established that the community's needs are met by the activity;
  - (b) the activity does not fall within "local infrastructure", "local public services" or "regulatory functions";
  - (c) it is not the most cost effective option for households and businesses.

#### **Absence of Transition or Savings**

13. Although there are indications in the legislative process that the intention was to narrow Council activity, there are no transitional provisions or savings of particular actions enacted. This could suggest that Parliament did not consider the change to be one that would raise particular difficulties in managing transition – as the relevant provisions took effect immediately following Royal assent.
14. In terms of section 96(1) of the LGA, the effect of a long term plan is to provide a formal and public statement of the local authority's intentions in relation to the matters covered by the plan. Section 96(2) and (4) provides that the adoption of a long term plan does not constitute a decision to act on any specific matter included within it and that no person may compel a council to implement the provisions of an LTP. However, it is reasonable to assume that had Parliament intended that the LTPs adopted under the legislation that applied just six months before it was amended ceased to be a "formal and public statement of the local authorities intentions" it would have provided

some statutory mechanism for transitioning to the altered purpose and powers of local authorities. There are therefore indications that a pragmatic approach might be taken by the Courts for so long as activities and expenditure remain within the ambit of matters set out in the 2012 long term plans during their currency.

### Interpretation Issues

15. There are significant uncertainties in interpreting the changes.
16. Strictly speaking, the term "local" in relation to "infrastructure" and "services" is unnecessary as sections 11 and 12(4) and 12(5) limit the ambit of every council's activities to its district (or region) which is what explains the "local" in "local authority". However, neither of the terms "infrastructure" nor "services" are defined.
17. Section 2 of the Resource Management Act 1991 defines "infrastructure" in quite a narrow way. More helpfully, in section 197 of the LGA, for the purposes of the development contributions provisions, there are definitions of both "community infrastructure" and "network infrastructure". "Community infrastructure" is defined by reference to land or assets of a territorial authority to provide public amenities. "Network infrastructure" means the provision of roads and other transport, water, waste water and storm water collection and management. "Public amenities" would appear to be a wide concept.
18. "Public services" is a term not defined in any legislation, but a dictionary definition includes:

A service provided for the community, esp. under the direction of local or central government or other official agency.<sup>3</sup>
19. We have undertaken limited research into New Zealand statutes for use of the term "most cost effective". There is frequent reference to "cost effective" and much less frequent use of "most cost effective", generally in reference to matters to be taken into account or have regard to. There is certainly little clear assistance in the case law to the meaning of the term for present purposes.
20. In a 2001 report by the Auditor General "*Local Government: Improving the Usefulness of Annual Reports*" there was a particular focus on cost effectiveness. The report stated:

**Cost effectiveness (impact or outcome over cost)**, and standard and quality of service delivery (standard or quality over cost). [emphasis added]
21. This implies a somewhat different approach to "cost effectiveness" from the standard economic approach which derives from the analysis of economic efficiency, where one alternative is preferred to another if it provides greater benefit at the same or lower cost, or lower cost for the same or greater benefit. This definition leaves open the question of which of two alternatives is more efficient if one provides greater benefit than the other but at lower cost.
22. The word "most" is the superlative of "many and much", that is to say the maximum.
23. Aside from the uncertainty about the meaning of "most cost effective", there is also the dilemma about how to balance the impacts on households and businesses, and over

3 Shorter Oxford English Dictionary (6th Ed Oxford University Press, United States 2007)

time (for example an option which is cheapest now may be more expensive to maintain, or vice versa).

24. Potentially a great deal of analysis and consideration could be applied to clarifying these concepts. There is a great deal of UK case law (not much of it encouraging) on the meaning of "best value for money", which may mean much the same as "most cost effective", or at least give an indication of the approach that will likely be taken by the judiciary.

#### **Possible approaches**

25. Given the apparent ambivalence of the Government about the effect of the reform beyond encouraging fiscal restraint, and the reluctance of Judges to engage in arcane economic arguments, it may be reasonable to expect sympathetic judicial consideration provided it is clear there is explicit Council consideration of the relevant matters. The traditional position of the Courts is not to intervene in the exercise of Council discretion provided the relevant mandatory considerations have been taken into account and the outcome is not otherwise, in a legal sense, unreasonable.
26. In relation to future decision making on activities which are not clearly within the ambit of core services set out in section 11A of the LGA and 2012 long term plans, it would be prudent to specifically address why the Council believes that the activity "meets the current and future needs of communities for one or other of good quality local infrastructure, good quality local public services, or good quality performance of regulatory functions". In relation to any decision making that involves expenditure, there should be a sufficient identification of alternatives and costs to address the Council's assessment that the expenditure is in a way that is most cost effective for households and businesses.

Yours sincerely



pp.  
Jonathan Salter  
Partner  
SIMPSON GRIERSON



## Purpose Clause: Frequently Asked Questions

### Disclaimer

These frequently asked questions represent SOLGM's interpretation of the new statement of purpose of local government as set out in section 10 of the Local Government Act 2002, as it appears in the version of the Bill post the Committee of the House Stage.

The answers herein are based on an interpretation of section 10 that accords with our understanding of the Government's intention, principles of statutory interpretation, and the other provisions of the Act.

Every effort has been made to ensure that the information in this guide is as accurate as possible, including review by legal advisors and representatives of the Department of Internal Affairs. The courts are the final arbiter of what legislation actually means.

This document is not a substitute for appropriate legal and policy advice. Neither SOLGM nor the individuals involved in the preparation of this document accepts any liability for loss or damage arising from the use of material contained herein.

### 1. *What's happened to the purpose clause?*

Parliament has amended section 10(b) of the Local Government Act 2002 by deleting the references to the "*promoting the social, environmental, economic and cultural wellbeing of their communities, in the present and future*" and replacing it with the following:

(the purpose of local government is "*to meet the current and future needs of communities for good quality local infrastructure, local public services, and the performance of regulatory functions in a way that is most cost-effective for households and businesses*").

Parliament has also made a similar change to section 3(d) of the same Act (the section that sets out the purpose for the Local Government Act itself). The amendment establishes that the Act

*“provides for local authorities to play a broad role in meeting the current and future needs of their communities for good-quality local infrastructure, local public services and performance of regulatory functions.”*

More generally, Parliament amended other references to community wellbeing in the Local Government Act. These include amendments to:

- the section 5 definitions of *community outcomes* and *significance*
- the explanation of “taking a sustainable development approach” in section 14(1)(h)(i) – where the term *wellbeing* has been replaced with the word *interests*
- the section 77(1)(b)(i) requirements for decision-making processes – where again the term *interests* has been used
- section 101(3)(b) – the complete reference to wellbeing has been removed, leaving this as a duty to consider the overall impact for any allocation of revenue needs on the community.

## 2. *Why has this change been made?*

The Government announced these changes as part of the 19 March Better Local Government announcements under the heading “refocus the role of local government”.

That set of announcements criticized the present purpose of local government as “unrealistic”, “creating false expectations about what councils can achieve” and “confusing the proper roles with respect to central government and the private sector”.

The following comment has been overlooked in most commentary post the announcements

*“A balance is needed that provides greater clarity of councils’ role but which recognises the diverse needs of local communities throughout New Zealand.”*

## 3. *When do the changes to the purpose clause take effect ?*

The new purpose clause took effect on 5 December 2012. There is no transition clause – so the new purpose applied to all decisions taken on, and from, 5 December

4. *What's happened to the "core services clause" that Parliament added to the Act in 2010? How do this clause and the new purpose clause "fit together"?*

Section 11A (the so-called core services clause) remains in the Act. The latest amendments to the Act have not amended this clause in any way. As now, when making decisions and taking action your local authority should have regard to the contribution that the specified list of services make to your community. The link with section 10 (if there is one) is no more or less direct than at present.

5. *What are "local infrastructure", "local public services" and "local regulation" ?*

The Act does not define the term "local". The Better Local Government announcements suggest the Government's intent in using the term "local" was to focus local authorities on *"those services that only councils can provide or performing only those roles local authorities can perform."* That seems somewhat different from the dictionary definition of "local" which is *"belonging to, existing in or peculiar to a particular place"*. Read in conjunction with the purpose sections 11 and 12 appear to reinforce that notion that local is constrained by the "borders of the district or region".

While there is no direct definition of "infrastructure" in the Local Government Act, one can see "clues" in section 197. This section defines both network and community infrastructure as:

- *network infrastructure* – means the provision of roads and other transport, water, wastewater, and stormwater collection and management
- *community infrastructure* – land or development assets on land, owned or controlled by a territorial authority to provide public amenities (including land to be used for these purposes).

Obviously this is a very territorial focused definition.

The dictionary definition is *a. basic structural foundations of a society or enterprise and b. roads, bridges, sewers etc regarded as a country's economic foundation*

In a similar vein there is no definition of a "public service". The dictionary definition of public is *"open to, or shared by all"*, and the definition of service is *"1. work, or the doing of work for another or for a community ... 3. assistance or benefit given. 4. provision or supply of a public need. ..."* In other words a public service involved the provision or supply a need that is open to, or shared by all".

6. *The purpose clause refers to good-quality local infrastructure, local public services, and performance of regulatory functions. What does good quality mean, and whose judgment is this to make?*

The Act defines “good-quality” as

*“infrastructure, services and performance that are*

*(a) efficient; and*

*(b) effective; and*

*(c) appropriate to present and anticipated future circumstances.”*

The Act does not define any of “*efficient*”, “*effective*” or “*appropriate to ...*”. In this instance, the Courts will read these terms as having the meaning ascribed to them in the dictionary (we used the Oxford English Dictionary).

Efficient means “*productive with a minimum waste or effort*”. That is to say that the common English meaning of efficient corresponds with the economist’s concept of *productive efficiency*.

Effective means “*1. Producing the intended result. 2. impressive, striking. 3. actual, existing. 4. Operative.*”

Appropriate in this context means “*suitable or proper*” given the present and anticipated future needs of the community.

Taken as a whole, a good quality local service, or piece of infrastructure is something that is delivered at the least cost consistent with the achievement of the council’s desired results, both now and in the future. When viewed in this light one has to ask whether this is effectively any different from the way council’s “do the business” at present.

There will be a temptation for some to argue that one or more aspects of this definition have greater weight than the others, most likely that efficiency is more important. There is no provision anywhere in the Act that gives any of these aspects greater weight in law than the other.

The Act does not specify a process for making judgments, or even whose role it is to make judgments as to what constitute “good-quality”. It must therefore be regarded as a policy decision for your local authority to make, within the construct of the Act. A decision-making process that demonstrates that your local authority has turned its mind to efficiency, effectiveness, and appropriateness for the present and future needs of the community will be most defensible in the event of challenge. Your decision-making process and report templates how your council considered these matters.

7. *The purpose clause refers to “performing (functions) in a way that is most cost-effective for households and businesses”. How should cost-effectiveness for households and businesses be measured? Whose judgment is this to make?*

The dictionary definition of cost effective is “*effective in relation to its cost*”. While this might sound like a blinding flash of the obvious, it does imply two things. Firstly, that the end objective or desired end result from the decision or action is achieved. Secondly, the use of the word “most” suggest that the objective is achieved at lowest cost – which in this context is intended as lowest cost consistent with the achievement of the objective. This is not necessarily the same as the concept of least cost that was initially contained in the 19 March announcements.

The Bill specifically refers to households and businesses – while it may be tempting to consider only the costs to those agencies, you are still responsible for considering the interests of the community. While households and businesses should be given primacy, we consider that costs to others (such as central government and the community/voluntary sector) should be considered too.

The previous Minister has publicly suggested that he considers this will see local authorities doing more cost-benefit analysis and/or preparing more robust business cases to support some expenditures. This suggests that local authorities should be considering different options for achieving the same end objective (as is required in the present section 77), and looking at the cost and likely effectiveness of each.

To take a relatively simple example, suppose demand for a particular activity has risen to design capacity. When married with section 77 the purpose clause may point local authorities in considering expanding capacity, managing demand by pricing, rationing and the like (depending on the service).

In the case of a proposed new activity, your local authority should consider why it might undertake the new activity (i.e. its rationale for service delivery), and whether there are other options (e.g. provide a community agency with incubator funding, advocate to central government). The council would then perform an assessment of benefits from the activity as against the cost of each option.

In the absence of other qualifiers, it is reasonable to assume that what is cost-effective is a policy judgment for elected members to make. That being the case the Courts are most likely to intervene in a policy decision if it is clear your local authority has not turned its mind to the requirement, or on administrative law grounds.

This should not be taken as a licence to treat the new purpose statement lightly. In particular, requests that councils undertake new activities should be treated with

caution, especially those coming in during the latter stages of long-term or annual plan processes where there might be a temptation for “seat of the pants” judgment.

Another place to be wary is in the undertaking of activity “for strategic reasons”. Be clear what these reasons are – and don’t forget to undertake an analysis of the costs.

8. *What analysis should we undertake to support decision-making in the light of the new purpose clause?*

We see two key requirements.

Firstly, you should establish whether and how the proposal under consideration sits with the general “business” listed in new purpose. This is most readily applicable to new activities, but might equally apply to a proposal to cease activity. In other words, does the proposed activity fit within the definitions of local infrastructure, a local public service or the performance of a local regulatory duty.

The second part, the establishment of cost-effectiveness applies to a wider range of decisions. This involves the consideration of the desired objective, options and costs as stated in the answer to question 7. above.

9. *Do the changes to the Local Government Act mean that local authorities are prohibited from undertaking investments and commercial activities?*

The Local Government Act does not contain a blanket prohibition on investments and commercial activities..

Section 14(1)(fa) requires local authorities to periodically assess the expected risks and returns from investing in or undertaking a commercial activity, and that a local authority should satisfy itself that returns outweigh risks. That this requirement exists, and has not been changed, suggests Parliament has no intent to prohibit commercial activity outright. In a similar vein the investment policy provisions (section 105) have been retained unchanged.

The distinction between what is an investment, and what is a commercial activity is not always clear. An activity that involves holding an asset in expectation of a financial return is more likely to be an investment activity, and an activity that involves holding an asset in an organization that is trading is more likely to be a commercial activity.

The distinction is important because the answers are slightly different. The main issue with an investment activity will be whether it is most cost-efficient for households and businesses. An investment activity demonstrates this by

demonstrating that it is actually generating the rate of return, and that is greater than other potential uses of the funds. You should be wary of investments that are not generating a return, or generating a return lower than the council could have expected from other opportunities – especially if the activity has underperformed over a period of time.

A commercial activity not only needs to demonstrate that it is most cost-effective for households and businesses, but that also that the activity itself is local infrastructure, a local public service, or performance of a regulatory function.

What about otherwise commercial assets held for “*strategic reasons*” such as port company shares? Generally these involve a judgment that public ownership is important for its own sake. This in itself may not be sufficient to comply with the new purpose of local government – especially the requirements around cost-effectiveness for households and businesses.

We cannot understate the importance of section 14(1)(fa) analysis as an important evidence base to support your local authority undertaking commercial and investment activities. For existing activities this should take place as soon as possible after enactment, an analysis for proposed new activity should be done as part of the decision-making process.

10. *Suppose we already deliver an activity that we doubt is covered by the new purpose clause. What should we do then?*

SOLGM considers local authorities are most likely to find themselves in this situation where they propose to undertake an activity that is already being conducted by central government or the public sector. All of the examples cited in the *Better Local Government* announcements were things that would sit with central government. That is to say that it is the “localness” of a proposed activity (or otherwise) that is most likely to fall foul of the new statement of purpose.

The dictionary definition of public service is wide enough to encompass most activities.

Before going further, check the rest of the legislation to ensure that there are no other provisions that contemplate that local authorities would/could undertake the activity. For example, on first glance it appears commercial activities fall outside the scope of section 10, but on reading sections 14, 99A and 105 it is clear such activity is permitted. This type of analysis would best be done by a lawyer.

In the event that the activity falls outside the new purpose clause your local authority will need to cease/exit the service as soon as possible. If the service is a significant activity, that will mean an amendment to the LTP (and the associated

consultation and audit requirements). Depending on the facts of the particular case your local authority may have to amend other policies, or avail itself of the section 80 provision regarding inconsistent decisions.

11. *Suppose we wish to deliver a new activity – how do we establish that this is a “local public service”? Whose judgment is this to make?*

Establish the need – in most instances there would be a business case (or similar) that supports the new activity – establishes it’s a service ... Clear statement of objectives, costing of activities (this will help establish effective and efficient legs of good quality).

Consider who is providing the service – is this something private sector, or central government are delivering in your local area (and if not, why not ... ). Is it something the private sector could provide, and if so is there some temporary “bridging or support role” that your local authority could provide in the meantime.

12. *Do we need to amend any strategy, policy or plan that has the four well-beings embedded in them?*

The removal of references to “the four well-beings” in legislation does not necessarily mean that any strategy or policy or plan rooted in wellbeing (we’ll call this a wellbeing approach) is ultra vires and needs amendment.

The Act still requires local authorities to take a sustainable development approach which includes taking the social, economic and cultural interests of the community into account, as well as the need to maintain and enhance the quality of the environment. The dictionary definition of interests that sits most logically in this context is ‘*principle or cause*’. In this context the term interests is far from incompatible with wellbeing as we presently conceive it.

Most strategies, policies and plans result in some form of policy, service delivery, or activity choice. We advise that all services and activities be checked against the purpose clause to ensure that they are local infrastructure, local public services or local regulation.

A strategy, policy or plan adopted under other legislation will generally be governed by that legislation, and the requirements therein.

13. *We have a contractual obligation to fund an activity that we consider sits outside the new purpose? What should we do then?*



The answer in any individual case will turn on facts specific to the contract or agreement, as well as application of statute such as the Illegal Contracts Act. Take legal advice.

## **Appendix 2 – Proposed 2013/14 Annual Plan Timeline**

<b>2013/14 Draft Annual Plan Timetable</b>			
February	Wed	6	<b>Waitangi Day</b>
	Wed	20	<b>Council / Policy &amp; Finance Meetings</b>
	Wed	27	Workshop with Councillors on issues and seek guidance
March	Wed	20	Draft first cut AP to Councillors
	Friday	29	<b>Good Friday</b>
April	Mon	1	<b>Easter Monday</b>
	Wed	3	<b>Council / Policy &amp; Finance Meetings</b>
	Wed	3	Annual Plan workshop
	Thur	10	Deliver final Draft Annual Plan to Mayor / Councillors
	<b>Tue</b>	<b>17</b>	<b>Adopt Draft Annual Plan- Special Meeting</b>
	Thur	25	<b>ANZAC Day</b>
May	Mon	6	Public consultation Martinborough
	Tue	13	Public consultation Featherston
	Wed	14	Public consultation Greytown
	Wed	15	<b>Council / Policy &amp; Finance Meetings</b>
	Thur	16	Public consultation Rural
	Mon	20	Submissions close
	Fri	31	Submission summary to Mayor / Councillors
June	Mon	3	<b>Queen's Birthday</b>
	Mon	10	Hearing of submissions
	Tue	11	Hearing of submissions
	Wed	26	<b>Council / Policy &amp; Finance Meetings</b>
	Wed	26	<b>Adopt AP</b>

# PLANNING AND ENVIRONMENT GROUP

## 1. Planning

### 1.1 Resource Consents

#### 1.1.1. Consent statistics

Officers processed 11 resource consents since 1 December 2012, all 100% within the statutory timeframes. The resource consent statutory processing clock was “stopped” between Christmas and the New Year, with any applications received after 20 December being processed after 10 January 2013. Officers now provide detailed fortnightly updates on all consents direct to Councillors and Community Board members, so consent details are not listed here.

### 1.2 Policy

#### 1.2.1. Coastal Reserves Plan Consultation underway

The Draft Coastal Reserves Management and Development Plans are out for public consultation with submissions welcome for a two month period from 30 January 2013 – 3 April 2013.

#### 1.2.2. Bylaws

The Masterton and South Wairarapa District Council Consolidated Bylaws were notified on 24 November 2012 and submissions closed 18 January 2013. Submissions have been collected by officers and a report is being prepared for the Masterton and South Wairarapa Councils to consider in the near future (meeting date to be decided).

## 2. Building

### 2.1 Building consents

Processing statistics for: 1 December 2012 to 31 December 2012

Item	Period	Year to date	Same period last year	Annual Plan
Consents received	11	200	27	N/A
Consent processing performance (within 20wd's)	100%	97.33%	85.29%	90%
COA processing performance	0%	0%	0%	N/A
CCC processing performance	90.91%	98.45%	100%	100%

COA                      Certificate of Acceptance

CCC                      Code Compliance Certificate

Consents granted by project: 1 December 2012 to 31 December 2012

Type	No. of consents	Value
New Milking Sheds	1	700,000
Education Bldgs - alterations & addition	1	25,000
Garage	3	95,000
Dwelling - unattached	4	1,174,280
Dwelling - alterations	2	360,000
	11	2,354,280

Processing statistics for: 1 January 2013 to 31 January 2013

Item	Period	Year to date	Same period last year	Annual Plan
Consents received	23	196	22	N/A
Consent processing performance (within 20wd's)	100%	97.10%	92.31	90%
COA processing performance	0%	0%	0%	N/A
CCC processing performance	92%	98%	100%	100%

COA                      Certificate of Acceptance

CCC                      Code Compliance Certificate

Consents granted by project: 1 January 2013 to 31 January 2013

Type	No. of consents	Value
New Farm Buildings - Other	1	5,000
New Public Toilets	1	150,000
Shops, restaurants - Alterations & addit	2	53,000
Other entertainment, recreational and cu	1	150,000
Retail outlet/Shop eg hairdresser, travel	1	23,000
Spa/Swimming Pool	2	70,000
Sewage and Drainage System (treatment pl	1	15,000
Garage	4	2,036,000
Dwelling - unattached	4	1,185,000
Dwelling - alterations	3	305,000
Heater	1	5,000
Solid Fuel Heater	2	7,300
	23	4,004,300

Building consent numbers from 1 July 2012 to 4 February 2013 show as 227. For the same period the year before the number was 208.

## **2.2 Enforcement**

None to report

## **2.3 Policy**

None to report

## **2.4 Other matters**

Since the last council report approval was given to employ another building control officer due to the increased number of consents South Wairarapa District Council has experienced. I can confirm that Derek Staines from Hutt City Council will take up this position on a 12 month contract. Derek will be charged with dealing with all plumbing and drainage leaving Mike Sims to help with the building inspections and processing. This will be reviewed in 12 months.

# **3. Environmental Health**

## **3.1 Liquor Licensing**

### ***3.1.1. LA De DA concert Martinborough***

*Council staff actively monitored the stringent liquor licence conditions imposed. The event operated under a comprehensive alcohol management plan. Overall the event was well run with no significant concerns regarding intoxicated persons and minors.*

A Liquor Ban area was in place for the immediate environs around the event and Lake Ferry Road and the Martinborough square. A very small number of people were observed drinking on the side of the road. Generally the ban appeared to work well and there were no concerns raised.

### ***3.1.2. Liquor Licencing Statistics***

39 liquor licences were issued during the period of November 2012 through to end of January 2013.

Five Off Licences were issued or renewed during the period of November 2012 through to end of January 2013.

11 On Licences were issued or renewed during the period of November 2012 through to end of January 2013.

22 General Manager's Certificates were issued or renewed during the period of November 2012 through to end of January 2013.

One Temporary Authority was issued during the period of November 2012 through to end of January 2013.

### ***3.1.3. Sale and Supply of Alcohol***

Legislation reforming New Zealand's alcohol laws was passed by Parliament on 11 December 2012, received Royal assent on 18 December 2012 and is now law.

In the initial stages of the Parliamentary process, the legislation was known as the Alcohol Reform Bill, but it was split into three bills during the Committee of the Whole House stage. The alcohol reform legislation now comprises three Acts:

- Sale and Supply of Alcohol Act
- Local Government (Alcohol Reform) Amendment Act
- Summary Offences (Alcohol Reform) Amendment Act.

The new laws replace the Sale of Liquor Act 1989 in stages by 18 December 2013.

### **Changes and timelines**

The purpose of the legislative change is to improve New Zealand's drinking culture and reduce the harm caused by excessive drinking. Key features include:

- increasing the ability of communities to have a say on local alcohol licensing matters
- allowing local-level decision-making for all licence applications
- requiring express consent of a parent or guardian before supplying alcohol to a minor
- requiring anyone who supplies alcohol to under 18-year-olds to do so responsibly
- strengthening the rules around the types of stores eligible to sell alcohol
- introducing maximum default trading hours for licensed premises
- restricting supermarket and grocery store alcohol displays to a single area.

The new Acts come into force in stages to allow time for everyone to prepare for the new system. The main changes include:

- from 19 December 2012:
  - the new Alcohol Regulatory and Licensing Authority (ARLA) replaces the Liquor Licensing Authority
  - only interim one-year licences can be issued for new liquor licences. When interim licences expire, holders must apply for a new licence under the criteria of the new laws
  - local authorities can start drafting local alcohol policies (LAPs)
- from 18 June 2013:
  - all licence applications have to meet new, expanded criteria (eg, whether the licence is likely to increase alcohol-related harm or negatively impact the community)
  - all licence applications also are subject to new grounds for objection
- from 18 December 2013, when the rest of the new laws come into force:
  - anyone who supplies alcohol to under 18 year olds must do so responsibly (eg, by supplying food and non-alcoholic drinks and

arranging safe transport). The penalty for failing to do so is a fine of up to \$2,000

- territorial authorities can implement local alcohol policies (LAPs)
- new national maximum trading hours apply on-licences, such as bars, will have to provide water, low-alcohol beverages, food and information about safe transport
- using a fake ID, using someone else's ID and giving or lending an ID to an underage person knowing they intend to use it to buy alcohol becomes an offence
- new offences apply for irresponsible advertising and promotions
- licences and managers certificates can be cancelled for five years for specified repeat offences
- District Licensing Committees (DLCs) replace District Licensing Agencies. DLCs will decide all applications for new or renewed licences and managers certificates.

As signaled in previous reports the changes to the legislation will require a significant increase in resources and training for Council over the coming year so that Council is ready for full implementation in December 2013.

### **3.2 Food Bill Update**

There has been no further update on progress with this Bill.

Council staff are part of the Wellington cluster group which has been working for some time to have consistency across the region. This group meets on a regular basis with the Ministry of Primary Industry staff and also holds workshops to develop forms and procedures for undertaking audits of food control plans and calibration of auditing staff.

#### **3.2.1. Martinborough Fair**

All participating food operators at Martinborough Fair were inspected as usual during the February Fair. In general terms there was good compliance.

### **3.3 Noise Control**

There were 54 noise control complaints within South Wairarapa from November 2012 through to January 2013.

32 noise control complaints in Featherston

Four noise control complaints in Greytown

18 noise control complaints in Martinborough



### 3.4 Dog and Stock Control

#### Incidents reported

##### ***Attack on Persons***

Martinborough 1    Featherston 2    Greytown 1  
(One Dog was classified as menacing; the other was already classified and received an infringement)

##### ***Attack on Pets***

Martinborough 1    Featherston 2    Greytown 0

##### ***Barking and whining***

Martinborough 0    Featherston 3    Greytown 2

##### ***Lost Dogs***

Martinborough 2    Featherston 4    Greytown 3

##### ***Found Dogs***

Martinborough 5    Featherston 2    Greytown 2

##### ***Rushing Aggressive***

Martinborough 0    Featherston 3    Greytown 1

##### ***Wandering***

Martinborough 1    Featherston 8    Greytown 3

##### ***Welfare Concerns***

Martinborough 0    Featherston 0    Greytown 0

##### ***Stock***

Martinborough 1    Featherston 5    Greytown 3

##### ***Total Overall***

Martinborough 11    Featherston 27    Greytown 14

### 3.5 Dog Registration

Dog registrations as at 7<sup>th</sup> February 2013:

Registered 2780    Unregistered 13    Total number of dogs 2793

Total numbers of owners 1558

99.5% of dogs are now registered.

### **3.6 Bylaws**

#### **3.6.1. Coastal**

*Colin Olds was employed during summer 2012-2013 as Coastal Ranger. The position began on 14 December 2012 and ended on 7 February 2013. Colin was responsible for monitoring the coastal camping areas (Te Awaiti, North Tora, South Tora and Ngawi) to ensure visitors comply with the Coastal Camping Bylaw 2009. He also serviced the coastal toilet blocks including the barrage, lake reserve. Excess rubbish was taken to the Martinborough Transfer Station. This year 840kg of excess rubbish was taken to the Transfer Station. Rubbish at the coast continues to be a problem with locals using the rubbish drum at Tora and Ngawi instead of using the routine rubbish bag collection. A number of locals were spoken to by the Ranger about this.*

There was good compliance with the Coastal Camping Bylaw with only minor issues that were able to be resolved on site.

The problem with people taking their dogs to the prohibited areas continues to be a minor issue, but improved from previous years as more people become aware of the Bylaw requirements.

Colin assisted the Police in the tragic boating incident at Sandy Bay.

The revised Coastal Bylaw information pamphlet was widely distributed and well received. This was also used as an opportunity to advise coastal people of the Draft Coastal Reserves Management Plan review. The Ranger actively encouraged the public to use Council's website for submissions.

#### **3.6.2. Long Grass**

Bylaw Officers have been actively checking and issuing long grass notices to properties where conditions are likely to cause a hazard.

**29** Long grass notices have been issued

**22** have complied with the notice

Council is in the process of having the work completed where the owners have failed to comply.

Contact Officer: Vanessa Tipoki, Group Manager Planning and Environment

# **INFRASTRUCTURE & SERVICES GROUP**

## **1. Consents**

### **1.1 Wastewater**

Further progress has been made with consent acquisition processes at the three WWTP sites.

### **1.2 Martinborough**

Following the Regional Council acceptance of the new consent application submitted on December 5<sup>th</sup> 2012 and taking note that further information is needed the Regional Council has agreed to extend the time limit for public notification to 30 June 2013.

This will enable Council to consolidate its current in river studies, future land treatment options and review the technology aimed at providing the incremental improvement to river discharge quality that will be required in the early stages of a new consent.

### **1.3 Featherston**

Council officers and advisors re-submitted to the application and associated requests prior to 24 December 2012.

The Regional Council have since asked that additional consent applications are submitted for discharge to land and until this is achieved the application remains on hold.

### **1.4 Greytown**

This consent expired in March 2008. The new application was submitted and accepted in January 2008 subject however to a number of requests for additional information.

In 2010 officers decided to proceed with a revised consent application. Whilst has been subject to a series of unexpected delays we expect to be able to respond before April 2013.

### **1.5 Strategy Overall**

Efforts are now to be applied to undertaking more in depth assessment of adjacent land that might be available (Council owned land included) for land treatment in the future for all sites

The consenting strategy agreed with the Regional Council aims to notify Martinborough and Featherston at the same time with the Greytown application to be dealt with separately.

### **1.6 Water**

All water take consents have been renewed and are up to date. There have been consent conditions triggered from the new Martinborough consent that was granted in November last year. As this is a new (renewed) consent some of the

conditions on monitoring and information have changed. Council will put in place more automated measures around these processes over the next year.

### **1.7 Coastal**

Consents for coastal works are underway, these are both respective and for new works required. Meetings have been held with NZTA on site as well as regional Council and Spire, Council's road consultant.

### **1.8 Land Fill Consent**

The Martinborough landfill consent application is still in progress.

### **1.9 Wastewater**

Greytown, Martinborough and Featherston Wastewater treatment plants operated routinely over the period. Normal monitoring for flow and compliance reporting continued throughout the period with no non-compliance issue reported.

9 pipeline blockages were reported and rectified during the period.

#### **1.9.1 Capital**

Planning and delivery for capital work will be initiated this year at all sites when the consent acquisition processes progress to a point where there is certainty of agreed environmental outcomes be.

### **1.10 Water Supply**

Martinborough and the Featherston/Greytown Water Treatment Plants operated routinely throughout the period.

An incident report for a transgression to the Martinborough water supply in December has been forwarded to DWA and MoH. No fault identified, thought to be a laboratory testing error.

There was a 12 hour power supply outage at the UF treatment plant early January. There was a risk of compromising the Featherston water supply. The situation was handled without incident. Council officers are to have discussions with Meridian about prioritising power supply to this plant.

Community water usage records and trending is attached for Council's information in Appendix 1. Addition of rainfall has been added as per council request.

#### **1.10.1 Capital**

The Capital Assistance Funding application continues to be developed ready for submission at the end of February.

### **1.11 Water Races**

City Care Ltd has been performing the routine inspections of the water race network since October 2012. Resulting from these inspections a number of land owners have been advised to do maintenance cleaning of the water race on their property particularly in the Longwood scheme. Satisfactory flows have been maintained through both networks over the summer months.

### **1.12 Waste Management**

Operations continued on a routine basis throughout the period. Waste export and recycling tonnage data for the period is attached in Appendix 2.

### **1.13 E-Waste Collection Region Wide and Kerbside Waste Audit**

Officers in order to consider moving forward either on its own or in association with CDC in order to get a programme underway are awaiting a further specific response from Earth-care Environmental.

The results from the recent kerbside waste audit have been made available and will be the subject of a separate report.

## **2. Roding**

### **2.1 Roding Maintenance – Oldfield Asphalts**

Routine grading, pothole repairs, and signs maintenance is satisfactory.

Most of Oldfield's work over the past month has been in preparation for resealing. These works have included pavement dig out repairs, repair of broken edges and filling depressions.

Now that the reseal preparation is complete Oldfield's are carrying out pavement and drainage repairs on White Rock Rd which will be followed by repair of slumped areas on the Hinakura Hill.

## **3. Parks and Reserves**

### **3.1 City Care Contract**

The general level of maintenance is satisfactory although berm mowing is causing quite a bit of concern amongst residents. City Care has yet to learn which berms will be maintained by residents and which ones they need to cut regularly.

City Care have also undertaken ordered work and dayworks over the holiday period responding promptly to requests to provide extra litter collection and servicing of toilets through to drainage repairs at Dorset Square and safety improvements at playgrounds.

## **4. Property and Facilities**

### **4.1 Properties**

Martinborough Library – The library continues to operate via the temporary Portacom. Despite some delays in the negotiations, we still expect to move to the new library (6 Kitchener St, behind the Village Café) at the end of February. Fit-out works are now underway.

### **4.2 Pensioner housing**

All pensioner flats were tenanted as of 31 January 2013. The occupancy rate for the 2012/13 year to date is 96%. There are 12 people on the waiting list for

flats. We have done some minor repairs on flats in Martinborough and Featherston, and purchased a new stove for one of the Featherston flats.

### **4.3 Cemeteries**

In December there was one burial, at Featherston, and one ashes interment at Martinborough.

### **4.4 Pools**

	Greytown	Featherston	Martinborough
January swimmer numbers	1250	666	1268
Change from previous month	↑ 47.2%	↑ 25.9%	↑ 97.2%
Concessions as % age of total swimmers	23.5%	29.1%	16.2%
Peak day	06-01-13 : 128	30-01-13 : 77	20-01-13 : 107
Number of unattended days (no swimmers)	1	2	1

There was one incident at Greytown pool where a child fell off the slide. One complaint was received from a member of the public about pool opening hours – that the pool (Greytown) should remain open longer in the evening so that working people are able to use it.

### **4.5 Leases and Licenses**

Old Stella Bulla Park –the availability of the land on the north side of Pierce St makes possible the development of a dog park for Greytown, and this is being costed for a future report to Council.

Current expired leases/building vacancies include:

- Stella Bull Park Building – the short lease for the art exhibition has concluded and a new tenant is being sought. Several queries have been received but no proposals have yet resulted.
- Greytown Town Centre Upstairs Office – the office vacated by Rightway remains vacant. This space has been advertised however no interest has yet been received.

Pain Farm Homestead – the tenants have indicated that they will not renew after the expiry of the current lease at the end of April 2013. Public tenders will be called shortly.

### **4.6 Toilets**

The new toilets at Cape Palliser and East-West access road have been completed. The new Martinborough toilets are expected to be completed in February. Featherston toilets are being vandalised every evening – generally just mess with toilet paper. A fire was set in the toilet paper holder, which was fortunately

found and extinguished by the arriving cleaner – the plastic toilet paper holders will now be replaced with stainless steel units

## **5. Civil Defence and Emergency Management**

There are 3 Civil Defence Centres being set up in the South Wairarapa. i.e Greytown (Town Hall), Featherston (ANZAC Hall) and once the plans have been completed the three teams will receive training. Martinborough (Lions Club) their respective team leaders are Mike Gray, Colin Olds and Karen Stephens.

Featherston has completed their plan and Greytown and Martinborough are currently developing there's and these are progressing well. Paul Walker has commenced equipping the centres with basic items but expects that to grow over time.

There is an Incident Management team in Martinborough based in the Council with Mark Allingham, Kara McKelvey, Keith Sexton and Bill Sloan and other council representatives that would have a role during an event like roading, water etc.

On Wednesday 6 February 2013 a Tsunami warning was issued. This highlighted the need for clear processes for the newly established civil defense units in each town. More work will be done on this in the coming month.

## **6. Appendices**

Appendix 1 – Monthly Water Usage

Appendix 2 – Waste Exported to Bonny Glen Including Recycling

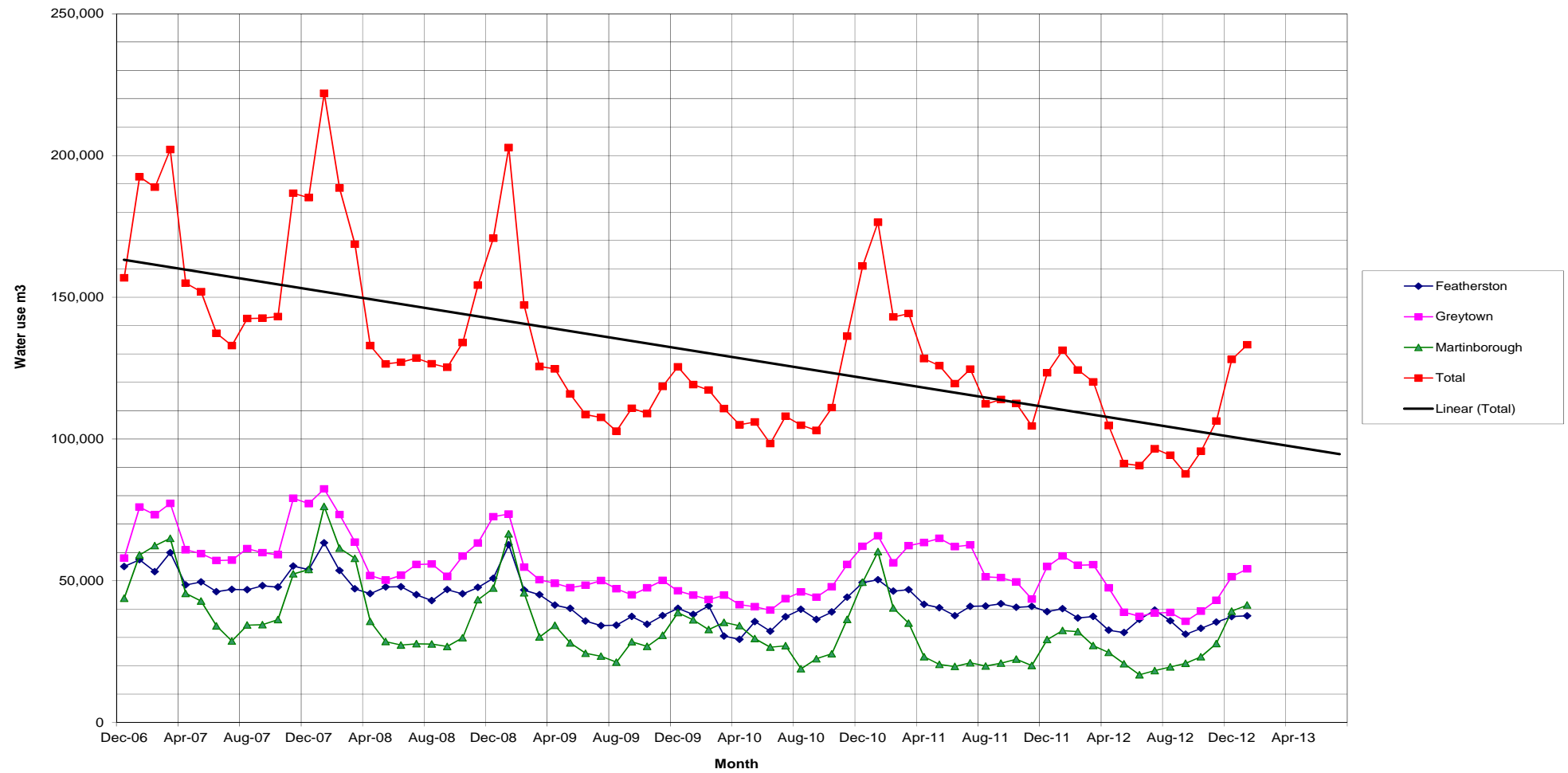
Appendix 3 – Library Statistics

Contact Officer: Mark Allingham, Group Manager Infrastructure and Services

# **Appendix 1 – Water Usage**

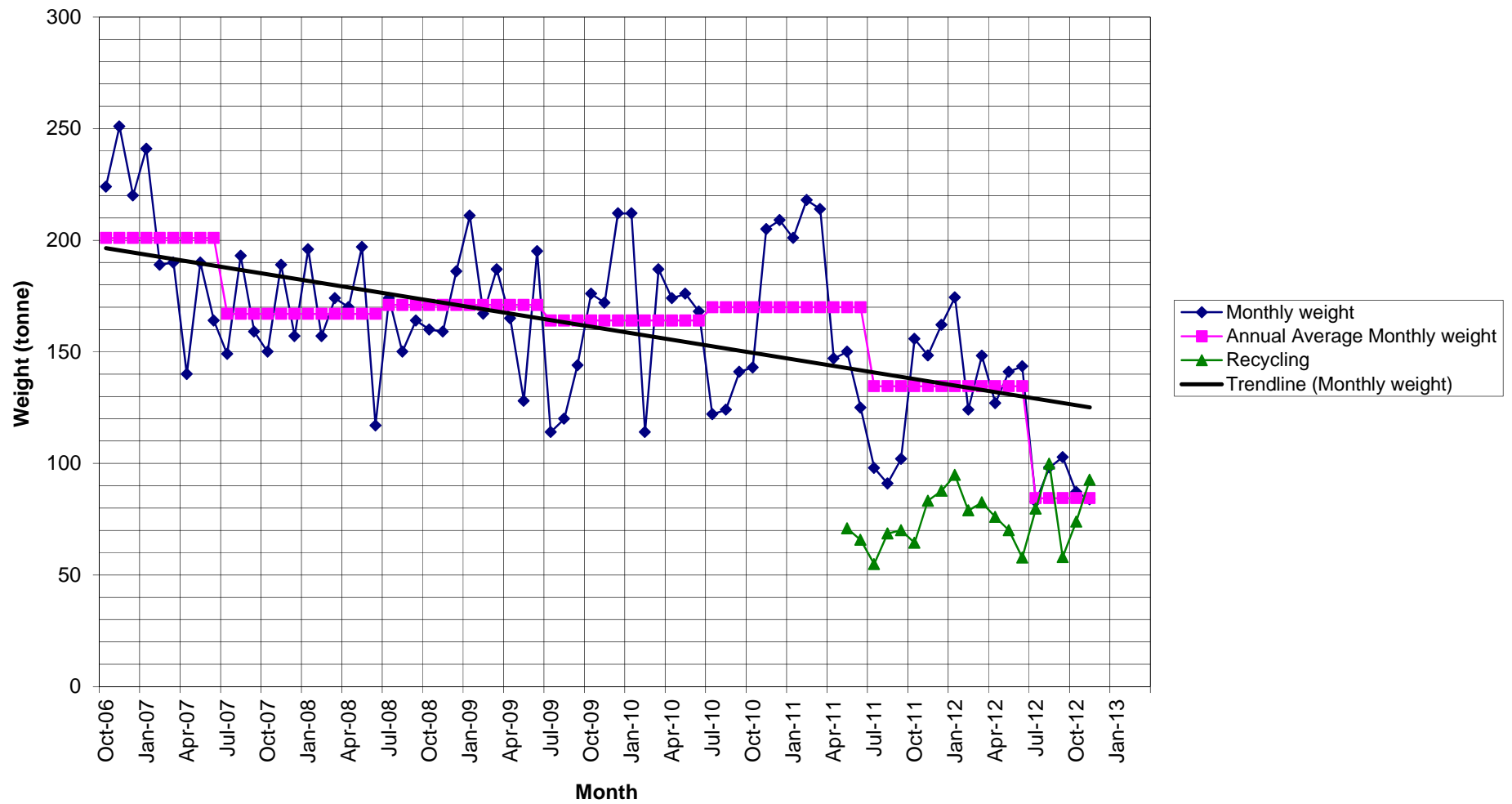


Water use South Wairarapa District Council



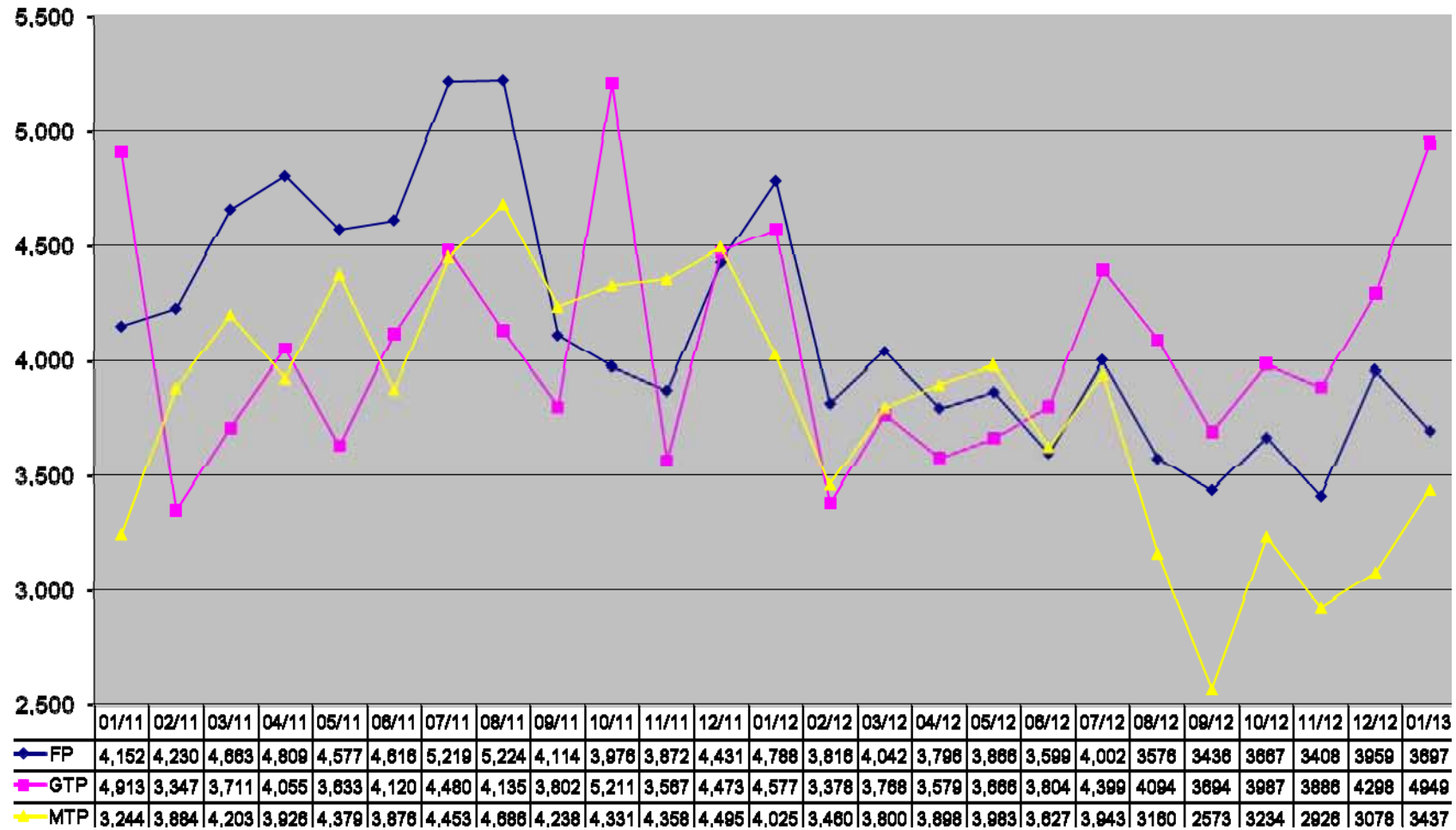
## **Appendix 2 – Waste Exported to Bonny Glen Including Recycling**

Monthly weight of waste transferred from Martinborough transfer station to Bonny Glen

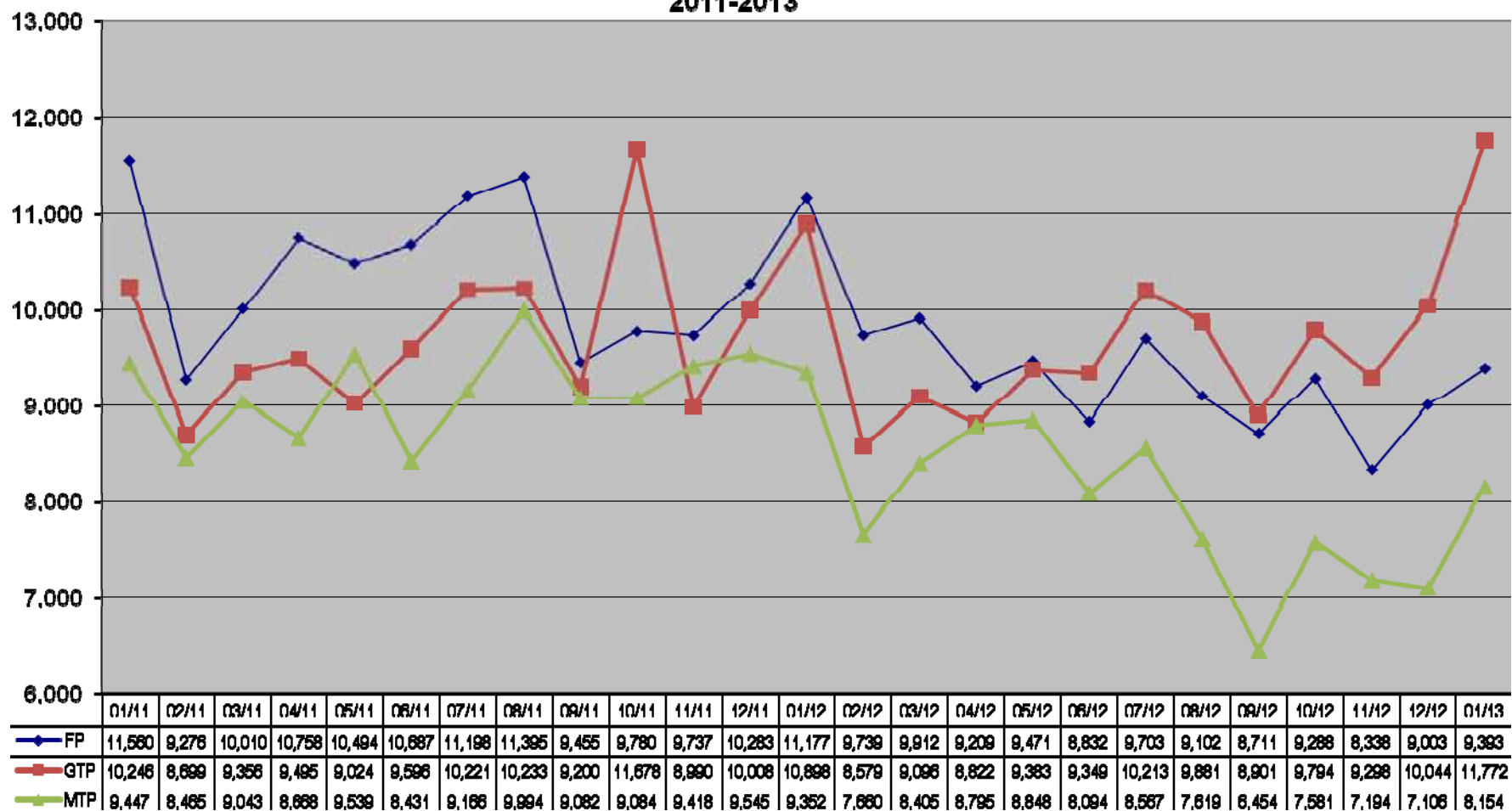


# **Appendix 3 – Library Statistics**

**Issues: Featherston, Greytown and Martinborough Libraries: 2011-2013**



**Transactions (excluding Council functions) for Featherston, Greytown and Martinborough  
Libraries  
2011-2013**



# MAORI STANDING COMMITTEE

18 MARCH 2013

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## AGENDA ITEM 4.3

### RESOURCE MANAGEMENT TIMEFRAMES

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#### **Purpose of Report**

To inform Maori Standing Committee (MSC) members of the process for sending consent applications directly to them between scheduled meetings and the reasons behind it.

#### **Recommendations**

Officers recommend that the Committee

1. *Receive the information.*

## **1. Resource consent applications and the MSC**

Maori Standing Committee members have recently expressed concerns about why all subdivision consents are not regularly included in MSC agendas.

## **2. Background**

The Maori Standing Committee was established in the late 1990s in direct response to statutory requirements and to enable Maori to participate in, and consult on, matters affecting Maori within the territorial boundaries of the South Wairarapa. One of the roles of the MSC is to advise or make recommendations to Council on matters of significance to Maori, including feedback on resource consent applications.

### **2.1 Resource Management Act (RMA)**

The RMA promotes the sustainable management of natural and physical resources in a way that enables communities to provide for their environmental, social, economic and cultural well-being. The RMA contains specific provisions for consulting and working with tangata whenua.

Against this backdrop any applications in the South Wairarapa District that propose developments that have the potential to impact on natural or physical resources (including rural subdivisions and development near water) are to be referred to the MSC.

## **2.2 RMA timeframes**

The planning team at Council is responsible for processing all resource consent applications. Council is required by law (section 15 of the RMA) to issue a decision report within 20 working days from the time the application is received. If reports are issued after the 20 working day limit, financial penalties ensue for Council (brought about by the Resource Management Streamlining and Simplifying Act "RMSSA").

The timeframes may tighten even more at the end of the year, when the second phase of the RMSSA comes into effect. It has been mooted that any consent applications that meet the standards for controlled activities under the District Plan would need to be processed within 10 working days.

## **2.3 Existing reporting methods**

This strict adherence to statutory timeframes, and the fact that the MSC only meets formally every 6 weeks, has created difficulties for Officers. In 2010 (and in response to two factors – the RMSSA and the shift from MSC four weekly to six weekly meetings) Officers and the MSC agreed on a new consultative process. If placing an application on a MSC agenda would cause processing to go beyond the statutory timeframes, Officers would email the application to MSC members for consideration between meetings.

While wanting to engage meaningfully with Maori, it is not possible for Officers to put "on hold" resource consent applications pending MSC meetings. Any consent applications received in time are added to the MSC agenda for group discussion.

It is worth noting that any significant developments (such as coastal developments) are notified both to iwi and the MSC, and in these situations the 20 working day timeframe is no longer relevant.

## **3. Conclusion**

While the current process of seeking feedback between MSC meetings does not necessarily provide for a collective response or for a group discussion on the application, Officers do seek feedback from each MSC member. If issues are raised Officers are able to seek further information from the applicant (giving Officers another 15 days on the clock).

Contact Officer: Vanessa Tipoki, Acting Group Manager Planning and Environment



# MAORI STANDING COMMITTEE

18 MARCH 2013

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## AGENDA ITEM 5.1

### RESOURCE CONSENT SUBDIVISION APPLICATIONS

---

#### **Purpose of Report**

To provide the Maori Standing Committee (MSC) with information about one recent subdivision consent application received by Council.

#### **Recommendations**

Officers recommend that the Committee:

1. *Receive the information, and*
2. *Provide feedback to Officers on the subdivision application.*

#### **1. Background**

Maori Standing Committee members have been provided with copies of one recent subdivision application for Tahora Dairy Limited (ref 130021). We have included the application on the agenda so that the MSC can discuss the proposal at the meeting and provide feedback to officers.

#### **2. Discussion**

The application is for a 4 lot rural subdivision on Kahutara Road, the Tahora Dairy land (Lot 2 DP 4854, CT WN281/4). It is proposed to create a 11.3ha lot around the old homestead, a 2.6ha lot, a 3.1ha lot, and a 189.7ha balance lot. There are no water bodies in the subdivision area, and to the knowledge of the applicant and their agent there are no specific sites of significance to Tangata Whenua.

#### **3. Conclusion**

The planning team when assessing the applications must consider Maori cultural and traditional relationships with their ancestral lands, water, sites of significance, waahi tapu, and other taonga. Any knowledge of these resources that the MSC is able to share with Council will be greatly appreciated and we can consider that information when developing conditions of any consent.

Contact Officer: Jen Olson, Resource Management Officer

Reviewed By: Vanessa Tipoki, Group Manager Planning & Environment

## PROPOSAL SUMMARY

<b>To</b>	South Wairarapa District Council
<b>Proposal</b>	4 lot subdivision
<b>Applicant</b>	Tahora Dairy Limited (Mr G Vollebregt)
<b>Location</b>	Kahutara Road - Kahutara
<b>Zoning</b>	Rural (Primary Production) Zone. Some Flood Hazard Area
<b>Legal Description</b>	Lot 2 DP 4854 (CT WN281/4)
<b>Activity Status</b>	Subdivision – Discretionary Activity
<b>Address for Service</b>	Tahora Dairy Limited (Mr G Vollebregt) C/ AdamsonShaw PO Box 696 MASTERTON Attn: Phillip Adamson

### Location diagram



Since receiving instruction the applicant has developed worker accommodation and is milking from the site, that was not previously a dairy farm.

All services required to service the developed areas of the property are existing. This includes on site stormwater disposal, onsite effluent disposal, electricity, telephone and access. Other than perhaps minor upgrading of these services as the property is re-developed no additional servicing is anticipated until and if separate certificates of title are ever required for the proposed lots 2 and 3.

As per the Greater Wellington Regional Council records, see photograph 5 below, the Te Marie Fault runs through lots 2 and 3, the homestead area and continues south west through the balance land. It is not clear how accurately the fault is mapped and there is little that can be done about the position of the homestead relative to the fault, but clearly due consideration needs to be given to this at the time of any future site development.



*Photograph 5: Fault Line. Te Marie fault running through homestead area*

To the best of our knowledge there are not any heritage features, or any specific sites of significance to Tangata Whenua located within the subject land holding or in the immediate vicinity. The District Planning Maps do not identify any such features.

## 4 PROPOSAL DESCRIPTION

### 4.1 OVERVIEW

This application seeks resource consent from the South Wairarapa District Council to subdivide lot 2 DP 4854 into four lots. Lot 2 DP 4854 is comprised in Certificate of title WN281/4 that has a total area of 206.5920 hectares. This description and underlying area will vary once the minor boundary adjustments in the north eastern corner have been completed. See 3.1 above. It is however essential that this resource consent be granted prior to the completion of the boundary adjustment to ensure that the date provisions of the District Plan, that allow for the creation of two lots of area less than 4 hectares, can be



exercised.

The application site, being a part of an estate, has been purchased by the applicant and is now a part of their larger family dairy farm operation.

As a part of the agreement one of the shareholders, is to subdivide of the substantial homestead, grounds and supporting area of approximately 17 hectares. This is the land area within the proposed lots 1, 2 and 3 on the supporting plan 1293 SC-01 Rev A, attached at Appendix A. At this stage of the planning process for the farming and housing operation, it is logical to exercise the right provided within the District Plan, to the creation of two lots of area between 1 and 4 hectares.

The proposed subdivision is shown on Adamson Shaw Scheme Plan AS 1204 SC-01 attached at Appendix A. Details of the proposed development are outlined in the following sections.

## 4.2 PROPOSED ALLOTMENTS

The proposed subdivision is configured as follows:

Lot No.	Area	Description
1	11.3 ha	Homestead block to be re-developed and retained by the applicant.
2	2.6 ha	Vacant lot to be amalgamated and retained.
3	3.1 ha	Vacant lot to be amalgamated and retained.
4	189.7 ha	Balance land to be retained.

## 4.3 ACCESS AND SERVICING

Access into the proposed lot 1 is via a well formed drive that has been there for many years. This access will remain as such and appears to be of a suitable standard that meets the District Plan requirements.

Access to the proposed lots 2 and 3 is to be at the northern corner of the property being ideally positioned for visibility along Kahutara Road, on the outside bend. It is proposed that a single entranceway be formed and be used by both lots, leading to individual access strips for each lot. This access will be formed should separate titles ever be required for lots 2 and 3, as satisfaction of the anticipated access formation condition in the consent.

Access to the balance of the farm is existing utilising points along the extensive road frontage of both Kahutara and Pukio West Roads.

All other services, excluding those to lots 2 and 3, exist and adequately service the property. It is not envisaged that any upgrading works will be required as a part of this consent process.

## **6 ASSESSMENT OF ENVIRONMENTAL EFFECTS**

### **6.1 INTRODUCTION**

In accordance with Section 88(2)(b) of the Act and Clause 1(d) of Schedule 4 to the Act, this assessment of environmental effects for the proposed activity has been prepared in such detail as corresponds with the scale and significance of the effects that it may have on the environment.

Subject to the purpose and principles set out in Part II of the Act, the consideration of this application by Council will involve a judgement of whether the proposed activity will promote the sustainable management of resources in a manner or at a rate that enables people and communities to provide for their social, economic and cultural well being, health and safety while avoiding, remedying or mitigating any adverse effects on the environment.

It can be concluded from our assessment of the above matters, and our experience with this type of proposal, that the actual and potential effects of the proposal on the environment primarily relate to:

### **6.2 EFFECTS ON RURAL CHARACTER AND AMENITY**

The Act defines amenity values as “those natural and physical qualities and characteristics of an area that contribute to people’s appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes”. Amenity values can be affected by such things as noise, lighting and glare, vehicle movements, available parking spaces, shading effects, visual dominance of a large structure in close proximity, levels of privacy and general visual appearance of a site and activities on the site.

In accordance with the Act, the District Plan has been developed through an extensive process, involving full public consultation, to establish a set of subdivision rules and standards which set a level of development of which the effects are considered acceptable.

As noted the principal reason for the application is to facilitate the separation of the homestead block from the entity of the farming company to one of the individual shareholders. Other than the necessary renovation of the homestead (which will require the necessary building consents) and re-development of the gardens no further works are proposed at this stage. Any future development of the property will either have to comply with the Permitted Activity standards and accepted land practices or be subject to specific land use consent. Any potential or perceived effects can be addressed at that stage.

Should lots 2 and 3 be developed there will be a visual landscape change. However the zoning and District Plan rules anticipate this change with sizes, number and density controls minimising potential or perceived effects.

We consider that the proposal will have less than minor effects on rural character and amenity.

### **6.3 REVERSE SENSITIVITY EFFECTS**

Given that all proposed allotments are large enough to contain dwellings which meet the District Plan’s rural setback rules we consider that reverse sensitivity effects will be less than

minor.

#### 6.4 EFFECTS FROM NATURAL HAZARDS

The Te Marie Fault runs through the subject block. There is little that can be done about the location of existing development but due consideration will need to be given when any future development is being considered.



*Photograph 6: Fault Map - Te Marie Fault through property*

It has also been noted that areas of the balance land, lot 4, are within a Flood Hazard Zone. This is well documented and the applicant has knowledge of this and experience with the management of it. This zone is well clear of the specific area being the subject of this application.

We have not identified any other natural hazards which could have an impact on this proposal.

We therefore consider that the provisions of Section 106 of the Act have been met, and any potential adverse effects relating to natural hazards will be no more than minor.

#### 6.5 ACCESS EFFECTS

The existing structure and standard of the well formed drive and the standard of both Kahutara and Pukio West Roads indicates that they are capable of carrying traffic to and from the proposed lots.

The existing entrance to the homestead is well formed and considered to be to a standard in excess of the minimum requirements.

Given the above, we consider that any adverse traffic and access effects arising from the proposed development will be no more than minor.



Photograph 7: Entrance to the Homestead, Lot 1

## 6.6 POTENTIAL EFFECTS ON THE INTEGRITY OF THE DISTRICT PLAN

This is a proposal which does comply with the Controlled Activity subdivision rules. However the Flood Zone within the main farm pushes the proposal to Discretionary status. This is a zone that does not have any impact upon the proposal or vice versa.

With the absence of any identified adverse effects, we do not consider that Council should be concerned that the approval of this proposal will have any implications on the processing of any future Discretionary Activities. All proposals must be taken on their merits and only those which have effects deemed to be less than minor can be approved.

By addressing potential effects on the environment (particularly rural amenity effects) we believe we have shown that the proposed subdivision can be approved without having an adverse effect on the integrity of the District Plan. We note that an assessment of the applicable District Plan Objectives and Policies follows at Section 7 of this application.

## 6.7 ENVIRONMENTAL EFFECTS CONCLUSION

The assessment of environmental effects presented above is guided by the provisions of the Act and the assessment criteria of the District Plan.

Overall, this assessment shows that the actual and potential effects of the proposed subdivision on the environment will be no more than minor.

## 7 MITIGATION MEASURES

Clause 1(g) of Schedule 4 to the Act states that an application should include "a description of the mitigation measures (safeguards and contingency plans where relevant) to be undertaken to help prevent the actual and potential effect". Mitigation measures are addressed in the assessment of environmental effects at Section 6.0 of this application, which found that the adverse effects of the proposed activity on the environment will be no more than minor.





PC 130021

## DRAFT PLAN

Not yet approved by the  
South Wairarapa District Council

Project  
LOTS 1 - 4 BEING PROPOSED  
SUBDIVISION OF LOT 2 DP 4854

Site  
CT Reference: WN281/4  
Local Authority: SOUTH WAIRARAPA  
Physical Address: KAHUTARA ROAD

Client  
MR G VOLLEBREGT

**Disclaimer / Legal**  
This Scheme Plan has been prepared for the purpose of gaining Resource Consent pursuant to Section 88 of the Resource Management Act 1991. Adamson Limited accepts no responsibility for its use for any other purpose. The areas and dimensions shown on this Scheme Plan have not been checked by survey and are likely to change upon final survey.

**AdamsonShaw** >

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Date 19-11-12 Scale ( A3 Original ) 1: 7500

Project No	Drawing No	Revision
1293	SC - 01	A



# KAHATURA SETTLEMENT

KAHUTARA ROAD  
SEALED FORMATION

LOT 1  
DP 4854

COMMON  
ACCESS  
POINT

LOT 1  
DP 451475

LT 454766

BOUNDARY ADJUSTMENT TO  
BE ADDRESSED SEPARATELY  
SEE APPLICATION

LOT 1  
DP 71955

1  
11.3ha

2  
2.6ha

3  
3.1ha

COTTAGE

HOMESTEAD

PROPOSED  
HOUSE SITES

4  
BALANCE  
189.7ha APPROX.

LOT 2  
DP 451475

PUKIO WEST ROAD  
METAL FORMATION

Whakawiriwiri Stream

AMALGAMATION CONDITION:  
LOTS 2, 3 & 4 HEREON SHALL BE  
AMALGAMATED AND ONE CERTIFICATE OF  
TITLE TO ISSUE FOR ALL PARCELS

RC 130021

## DRAFT PLAN

Not yet approved by the  
South Wairarapa District Council

Project  
LOTS 1 - 4 BEING PROPOSED  
SUBDIVISION OF LOT 2 DP 4854

Site  
CT Reference: WN281/4  
Local Authority: SOUTH WAIRARAPA  
Physical Address: KAHUTARA ROAD

Client  
MR G VOLLEBREGT

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Date 19-11-12 Scale ( A3 Original )  
1: 7500

Project No	Drawing No	Revision
1293	SC - 01	A

# MAORI STANDING COMMITTEE

18 MARCH 2013

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## AGENDA ITEM 5.2

### RESOURCE CONSENT SUBDIVISION APPLICATION 130016

---

#### **Purpose of Report**

To provide the Maori Standing Committee (MSC) with information about one recent subdivision consent application received by Council.

#### **Recommendations**

Officers recommend that the Committee:

1. *Receive the information, and*
2. *Provide feedback to officers on the subdivision application.*

#### **1. Background**

Maori Standing Committee members have been provided with copies of one recent subdivision application for ML & CG Moran and GJ Daysh (ref 130016). We have included the application on the agenda so that the MSC can discuss the proposal at the meeting and provide feedback to officers.

#### **2. Discussion**

The application is for a 2 lot rural subdivision at 167a Ponatahi Road, Martinborough (Lot 4 DP 64829, CT WN38A/281). It is proposed to create a 2.8ha lot around the existing dwelling and a balance lot of 52.6ha. The balance lot is in the Rural (Special) zone and is almost entirely within the flood hazard area. The Flood Hazard area overlay is what triggers the need for a resource consent in this case. The proposed house lot is not within the flood hazard area and is in the Rural (Primary Production) zone, thus allowing it to be less than 4ha.

According to the applicant and their agent there are no known cultural sites or features associated with this application.

#### **3. Conclusion**

When assessing the applications the planning team must consider Maori cultural and traditional relationships with their ancestral lands, water, sites

of significance, waahi tapu, and other taonga. Any knowledge of these resources that the MSC is able to share with Council will be greatly appreciated and we can consider that information when developing conditions of any consent.

Contact Officer: Jen Olson, Resource Management Officer

Reviewed By: Vanessa Tipoki, Group Manager Planning & Environment



# Resource Consent Application for:

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**M L and C G Moran and G J Daysh**

**Ponatahi Road  
Martinborough**

**South Wairarapa District Council**

2 Lot Rural Special and Primary Production Subdivision



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**REGISTERED SURVEYORS &  
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**To the best of my knowledge the information given in this  
report is accurate and correct**



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# Tomlinson and Carruthers Surveyors Ltd

## APPLICATION FOR RESOURCE CONSENT UNDER SECTION 88 OF THE RESOURCE MANAGEMENT ACT 1991

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### 1. SUMMARY

<b>Our Ref</b>	13-001
<b>Date</b>	26 February 2013
<b>Consent Type</b>	Subdivision
<b>Applicant</b>	M L and C G Moran and G J Daysh
<b>Proposal</b>	2 Lot Rural Special and Primary Production Zone subdivision
<b>Location</b>	167A Ponatahi Road Martinborough
<b>Legal Description</b>	Lot 4 Deposited Plan 64829 contained within Certificate of Title WN38A/281
<b>Zone</b>	Rural Special and Primary Production Zone – Wairarapa Combined District Plan

### Activity Status

#### Wairarapa Combined District Plan

Under the Plan a Resource Consent is required prior to any subdivision of land (Rule 20).

This subdivision has been assessed as a Discretionary Activity under Rule 20.1.5(i)(iii).



## 2. SITE DESCRIPTION

The application site is located on Ponatahi Road approximately 1.7km straight line distance north from Martinborough town square. The property has a total area of 55.4 hectares more or less and has an existing access onto Ponatahi Road.

The Huangarua River (WS06) forms the western boundary of the site. This river flows to the north where it joins with the Ruamahanga River (WA02). There is an established stop bank (Ds025) within the property in response to the influences of these two water systems. There are periods of flooding that part of the site experiences in certain weather patterns and times of the year. There is some vegetation along some stretches of these waterways and stop banks associated with them.

The subject site is an active primary production unit. There is one dwelling with associated garaging, structures and landscaping. The site also has farm purpose sheds and structures such as fences and farm dams.

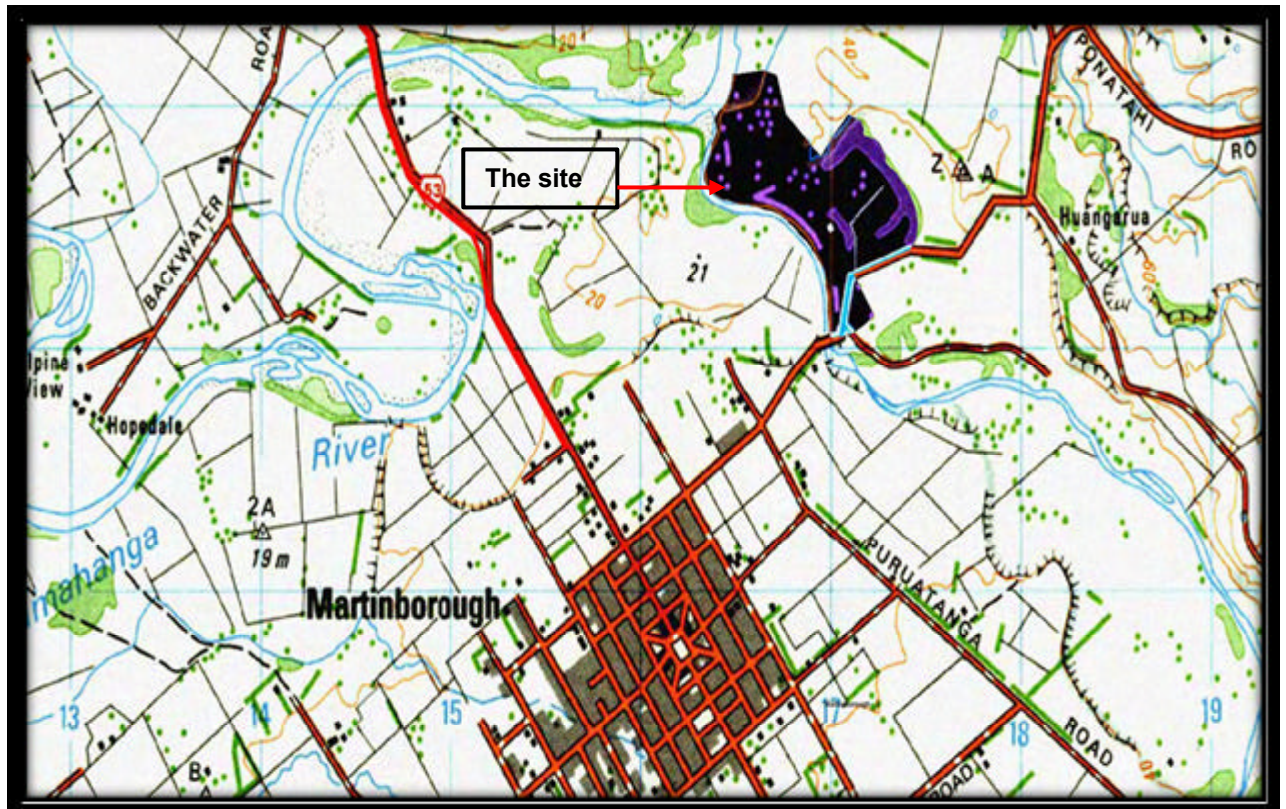
There are scatterings of some mature trees both native and exotic located within the site. These mature trees provide shade, shelter and privacy both within the site and from neighbouring properties.

The balance of the site is in pasture due to it being a working primary production unit and is fenced according to this use. The property has farm purpose tracks and is predominantly flat in character with some undulations.

The surrounding area is dominated by rural and residential activity being relatively close to Martinborough town and the influences of the above mentioned waterways.

Please refer to the location and aerial maps below, photos located in the appendix and the scheme plan for further information.





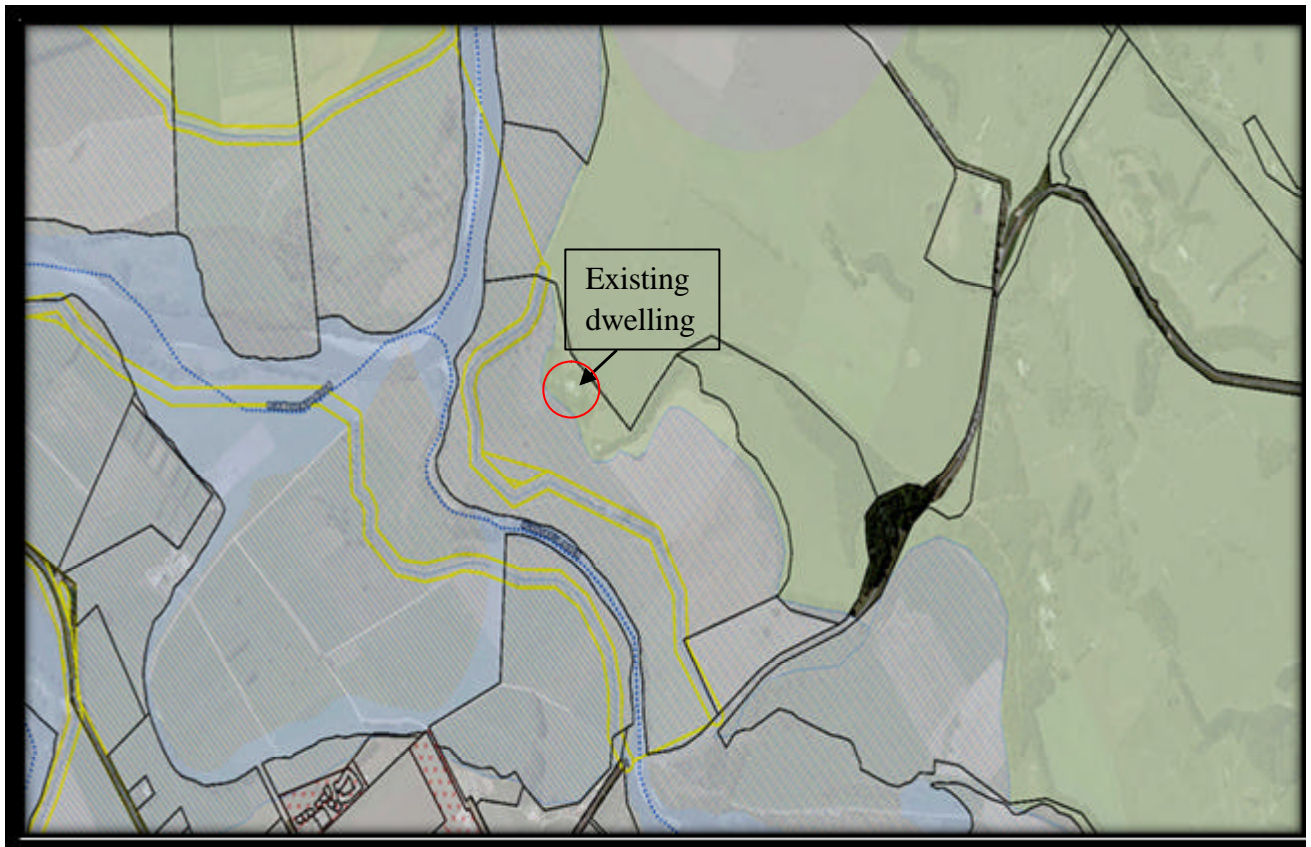
Courtesy of Quick Map



(Courtesy of Wairarapa Combined District Map Viewer)

**Moran**  
Rural Special Subdivision  
South Wairarapa District Council





The Wairarapa Combined District Plan Map (67) showing zoning and designations (Courtesy of Wairarapa Combined District Map Viewer)

### 3. LEGAL DESCRIPTION

The site is legally described as Lot 4 Deposited Plan 64829 contained within Certificate of Title WN38A/281.

The following interests are placed upon the title:

- 765251 Certificate of consent pursuant to Section 115 Public Works Act 1981
- 8057628.1 Caveat by Powerco Transmission Services Limited

All necessary and relevant interests will follow over to the new titles. A copy of the Title is located in the Appendix of this application.



## 4. THE PROPOSAL

Please refer to the attached scheme plan for further details.

The proposal is to subdivide the existing Certificate of Title into 2 lots.

Lot	Area
Lot 1	52.6ha
Lot 2	2.8 ha

All lot areas are subject to final physical survey.

Lot 2 will contain the existing dwelling, garaging and associated structures. This lot has extensive landscaping within its curtilage and shelter specimens along some of the proposed boundaries. The access to this lot is secured by a right of way easement.

Lot 1 is the farm balance and has an area of approximately 52.6 ha. There are scatterings of trees within the site and the existing stop bank previously mentioned is located within this lot.

There is no building development anticipated or intended with this application. The balance farm area (Lot 1) is almost entirely within the flood hazard zone where the existing farming practices are to continue.

## 5. NOTIFICATION ANALYSIS (S95A-95F RMA)

The new notification provisions of the Resource Management Act 2009 are in sections 95 to 95F. There is no longer a presumption that a council must publicly notify a resource consent application unless the proposal meets certain tests (either that the application relates to a controlled activity, or the effects are minor).

Under section 96A the council has discretion whether to publicly notify an application for resource consent if:

- The council decides under section 95D that the activity will have or is reasonably likely to have adverse effects on the environment that are more than minor, or
- If the applicant requests it, or



- If a rule or national environmental standard requires it.

Based on the assessment above, none of the above circumstances apply in this case.

## 6. ASSESSMENT OF ENVIRONMENTAL EFFECTS

The assessment of Effects on the Environment has been prepared in accordance with the Fourth Schedule of the Resource Management Act 1991 and the relevant assessment criteria in the District Plan.

The application is considered to create some minor effects. These, however, will be short-term in nature on any person. The area is zoned special rural and the proposed activity is entirely appropriate and consistent in comparison to the existing land use patterns and rural residential activity of the area.

The zoning of the area as mentioned is rural special and primary production. The rural special zoning is because of the risk to the site from flooding from the Huangarua and Ruamahanga River systems. The flooding aspect of the property has already influenced the site in terms of where the existing dwelling has been located and the associated access to it.

In terms of the planning for this proposal the effects of flooding has been taken into account as there is no further residential development intended or anticipated. The existing dwelling and its associated services will be placed on its own Title and the balance of the property will continue to be utilized as a working primary production unit.

The existing dwelling, its complementary services such as sewage and a farm purpose shed have been constructed on a terrace which is situated well above the lower lying land that is at times at risk of being flooded.

Because there is no further development associated with the proposal there will be no visual change apparent to neighbouring property owners or any disturbance that may occur during any construction phase. The current rural residential amenity of the area will not be affected from this proposal.

The vegetation and mature trees within the subject site and along the rivers riparian edge are intended to remain and these will aid in containing any perceived visual effect within the sites boundaries.

The application site is located within the rural zone and as such this activity is an expected and complementary component. The scope of the application is acceptable and consistent with the surrounding rural residential land use patterns.



There are no known cultural sites or features associated with the application or within the site boundaries. As mentioned there are two river systems that influence the site however this proposal is not anticipated to create any effect on it.

The proposal does not create any specific or unique adverse visual impact that requires management or mitigation further than the standard development rules within the District Plan.

No other environmental effect has been identified as a result of this application to subdivide.

## 7. DISTRICT PLAN ANALYSIS

The application has been assessed under the Wairarapa Combined District Plan and the relevant assessment criteria contained in Section 22 of the Plan.

The proposal will result in 2 lots contained within 2 Certificates of Title. Proposed Lot 2 will contain the existing residential dwelling and structures. Proposed Lot 1 will consist of the working farm unit.

The site is located within Planning Map 67 and is within the rural special zone because of the flood hazards arising from the Huangarua and Ruamahanga River systems. The site also has a part of the primary production zone predominantly where proposed Lot 2 is located. Please refer to the Map on page 7 of this application.

The application has been assessed as a Discretionary activity under Rule 20.1.5(i)(iii) of the Wairarapa Combined District Plan.

An application for subdivision for a site within rural special zone must meet the 4ha minimum area. The balance lot (Lot 1) is almost entirely within the rural special zone and has a total area of 5.2.6ha (subject to final survey) and so clearly complies with the required standard of 4ha minimum area.

Lot 2 with the existing dwelling is located within the primary production zone and so the area of 2.8ha complies with the required standards for this zone.

Therefore the application while cannot be considered as a controlled activity, because of the rural special zone influence, or a restricted discretionary activity it has been assessed as a discretionary activity.

Lot 2 has of a total area of 2.8ha subject to final survey. The reason for this arrangement is that the boundaries for the dwelling lot complement the physical features of the site. The existing dwelling is situated on a raised

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### Moran

Rural Special Subdivision  
South Wairarapa District Council



platform above the influences of flooding and the lower area is the balance farm Lot 1. In other words this lot is contained by the physical features of the site, the raised platform that the structures are positioned upon<sup>1</sup>.

If proposed Lot 2 was for example 4ha in area the lot would not be a logical shape configuration because of the physical attributes of the site. It would also take away land currently utilised for primary production activities. The proposed lot layout allows for maximisation of the primary production which is the dominant factor of the rural zone.

In this situation it is considered that the policies and objectives of the rural zone in the Plan are being met. The predominant primary production land use has been identified in the proposal and will continue to operate and develop effectively. The attributes that contribute to the rural character, including the openness and predominance of vegetation and the productive working landscape will be preserved.

All other factors of the proposal are compliant and consistent with the standards and rules of a Complying activity for the rural special zone.

Any potential effects of the proposal are considered to be minor. There is no further residential development and the existing dwelling and structures are contained within the logical physical perimeters of the property. The proposal maximises the primary production elements of the site

There is one new title being creation therefore Financial Contributions (Section 23) are applicable.

In summary overall the proposal is considered to create no more than minor environmental effects and is considered to be consistent with the relevant objectives and policies of the District Plan.

## 8. CONCLUSION

The application consists of a 2 lot rural special zone subdivision. The proposal is considered to be an appropriate and logical activity. There are no more than minor effects anticipated and the proposal sits comfortably with the policies and objectives of the District Plan for the rural zone.

There is one new title being created but no further residential development intended or anticipated with this application because of the flooding hazards associated with the site.

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<sup>1</sup> Please refer to the site photos located in the appendix



The proposal is consistent with the purpose and principles of the Resource Management Act 1991 and the objectives and policies of the Regional Policy Statement and the Wairarapa Combined District Plan including the relevant assessment criteria.

No other party has been identified as being potentially adversely affected by the proposal and it is considered that the proposal will have no more than minor effects on the environment.

Accordingly it is suggested that the application be granted with appropriate conditions.



## 9. ATTACHMENTS

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- 1 Proposed Scheme Plan** (at front of application or attached to email)
- 2 Certificate of Title**
- 3 Site Photos**





COMPUTER FREEHOLD REGISTER  
UNDER LAND TRANSFER ACT 1952

Search Copy



R. W. Muir  
Registrar-General  
of Land

Identifier **WN38A/281**  
Land Registration District **Wellington**  
Date Issued 27 September 1990

**Prior References**  
WN29D/696

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<b>Estate</b>	Fee Simple
<b>Area</b>	55,4000 hectares more or less
<b>Legal Description</b>	Lot 4 Deposited Plan 64829

**Proprietors**  
Michael Lawrence Moran, Carolyn Grace Moran and Gary James Daysh

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**Interests**  
765251 Certificate of consent pursuant to Section 115 Public Works Act 1981 - 5.3.1985 at 2:30 pm (affects the part formerly in CT WN9B/1193)  
7808858.1 Mortgage to Willtang Trustee Services Limited - 8.5.2008 at 9:00 am  
8057628.1 CAVEAT BY POWERCO TRANSMISSION SERVICES LIMITED - 29.1.2009 at 9:00 am  
8740510.1 Variation of Mortgage 7808858.1 - 30.6.2011 at 11:50 am  
8848574.1 Mortgage to ANZ National Bank Limited - 27.9.2011 at 12:22 pm

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Transaction Id  
Client Reference *ajerling001*

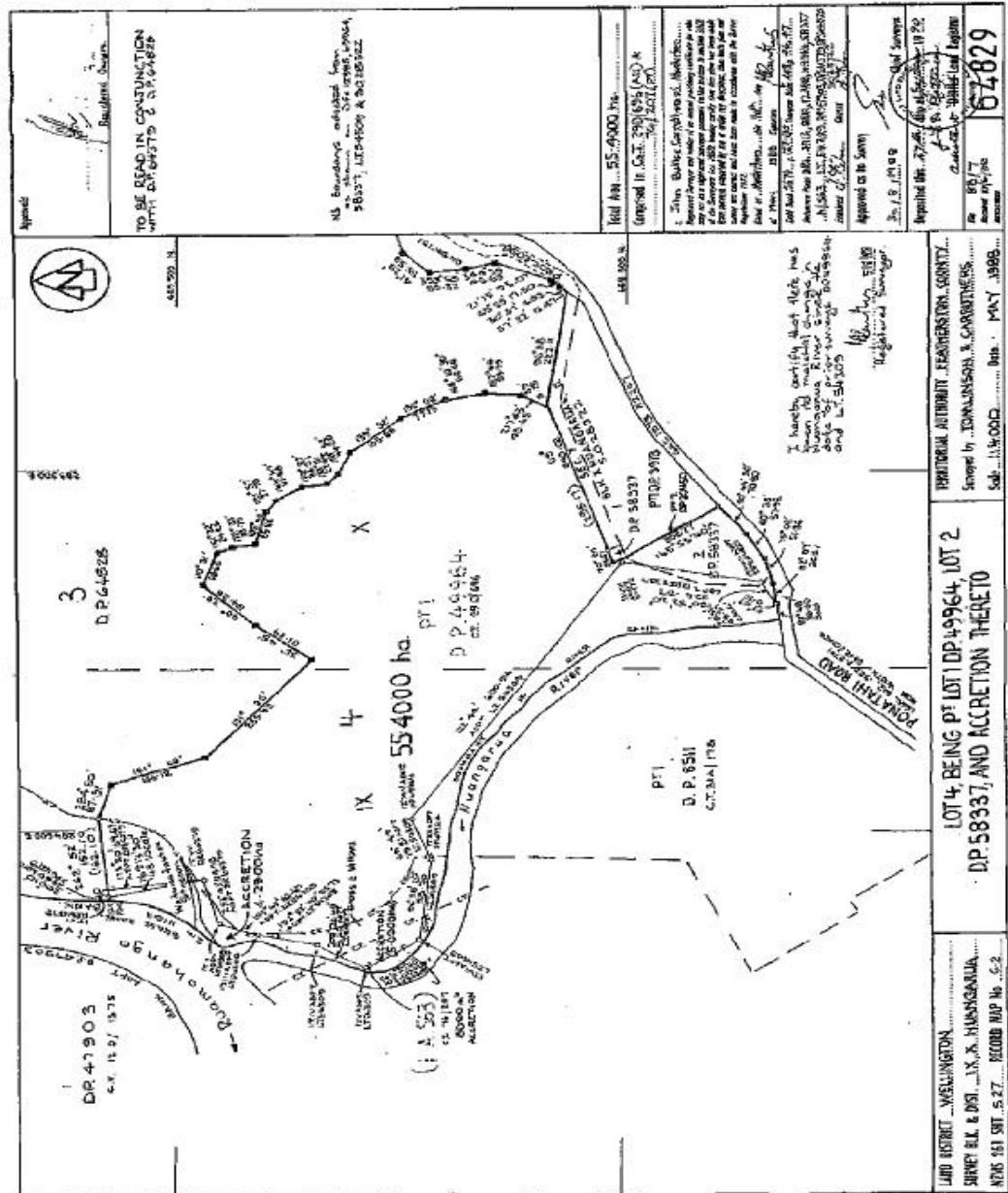
Search Copy Dated 14/01/13 11:47 am, Page 1 of 2  
Register Only

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Identifier

WN38A/281



Transaction Id  
Client Reference ajerling001

Search Copy Dated 14/01/13 11:47 am, Page 2 of 2  
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South Wairarapa District Council



The accessway showing elevated terrace and powerlines



Panning to the east from the accessway – raised terrace





Looking further to the east from the accessway



Accessway up to the existing dwelling



Looking at the existing shed (Lot 2) from the accessway



Looking towards the proposed new boundary of Lot 2