



# **SOUTH WAIRARAPA DISTRICT COUNCIL**

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

### **DECISION**

- SUBJECT:** Application for Land Use Consent No 3812
- APPLICANT:** Trust House Ltd
- PROPOSAL:** Commercial development within Featherston Town Centre Historic Heritage Precinct
- LOCATION:** 57-61 Fitzherbert Street, FEATHERSTON
- LEGAL DESCRIPTION:** Lot 1 DP 80203, Lot 2 DP 3363, Lot 4 DP 3363, Lot 1 DP 3363, Sec 363 Town of Featherston, Lot 3 DP 3363, Sec 1 SO 36065
- ZONE:** Commercial, within the Featherston Town Centre Heritage Precinct - **Wairarapa Combined District Plan** (Map 64)
- ACTIVITY STATUS:** **Wairarapa Combined District Plan (District Plan)**  
Discretionary Activity – Rule 21.6(a) for signage not meeting the permitted standards of Rule 21.1.3(b).  
  
Discretionary Activity – Rule 21.6(g) for the demolition of buildings and the construction of new buildings within an Historic Heritage Precinct.

The application is therefore a Discretionary Activity.

The application was heard by the Planning Hearings Committee (a Standing Committee of the South Wairarapa District Council) at a hearing held on 19 April 2012. The hearing commenced at 9.00am.

### **PRESENT**

#### **Hearings Committee:**

Mayor Adrienne Staples - Chair, Hearing Committee

Councillor Mike Gray - Hearing Committee Member

Councillor Jonathan Hooker – External Hearing Committee Member (Masterton DC)

**Council Staff:**

Chris Gorman – Senior Planner

Jen Olson – Resource Management Officer / Hearing Secretary

**Applicant:**

Bernard Teahan, Trust House

Julie Olds, Solicitor, Logan Gold Walsh

Roy Price, Architect, ProArch

**Submitters:**

Julie Collins

Colin Olds, Featherston Promotional Group (observing only)

**In Attendance:**

Tessa Johnstone, Media (Times Age)

Russell Hooper, Planner SWDC

**SUMMARY OF EVIDENCE****APPLICANT**

Bernard Teahan summarised the Trust House Application.

Roy Price addressed the amended plans. Raised question on financial contributions, condition 10 of officer's report – request contribution is withdrawn as before and after areas of buildings are similar, if not less, so there is no increase in infrastructure in this development.

Julie Olds spoke to her written statement regarding the use of the right of way to Fox Street and the proposed conditions. It was her opinion that Council could not impose conditions regarding the use of the right of way.

The Hearings Committee asked, if approval was granted, when the project would proceed. The Committee also sought clarification over the phasing of the development. The applicant outlined the phasing, but could not be certain when development would start. They did hope to see progress in 6 months.

**SUBMITTERS****Julie Collins**

Raised concerns over the use of the right of way and connections to her property through the applicant's site. A traffic study should have been done. She felt the connections (sewer and other services) could be re-laid to Fox Street, and this would make all easements unnecessary. Also concerned that the liquor outlet was adjacent to her property.

The Hearings Committee asked if the right of way was currently being used. Vehicles and pedestrians are using it, because it is there. Although the proposal will make it look less like a driveway for patrons, it will continue to be used. The signs would not be sufficient.

**Featherston Community Centre**

Lucy Cooper had sent in a written statement on behalf of the Featherston Community Centre.

## **COUNCIL OFFICER**

Chris Gorman thought the infrastructure contribution rule did not account for buildings being removed, but thought it would be fair to recognise this in this proposal. There might need to be an amendment to the rule to clarify. The Chair asked if the current rules provided a waiver, which Mr Gorman confirmed there was.

Mr Gorman thought that Council could not impose a condition to replace the sewer, but could require special design of seal if sewer pipe is shallow. Will check with Building Consents team if there are any standards.

The “no customers” sign was offered by applicant, so Council is entitled to impose condition, and condition can be enforced.

## **APPLICANT’S RIGHT OF REPLY**

Applicant was concerned about the new issues raised in the written submission presented by the Featherston Community Centre. Would only address matters that had been in previous submissions. On the additional matters, the Chair confirmed that if consent is granted, it would be up to the applicant to complete any time within the 5 year period. Also, Council only concerned that the minimum number of car parks are provided and up to the applicant if they provide more.

Mr Gorman thought there was scope with respect to the landscape/streetscape issues. A large car park area is not consistent with the heritage character, but the applicant is offering to mitigate this with landscaping.

The applicant did not agree with the concerns regarding parking and landscaping and thought the 6 monthly reports to the community was unnecessary.

With respect to the Collin's submission, the applicant has offered the signage, but considers it inappropriate for Council to monitor the use. The directional arrow indicated on the plans will not be done, so not to indicate the access might be intended for customers to exit. The applicant noted that the sewer must comply with engineering requirements, and the applicant would provide a second sewer pipe to enable a connection to be re-established should the existing pipe be damaged. The applicant would also provide additional ducting for other services.

The Committee asked whether any works would interfere with access given the manhole is within the vehicle crossing. The applicant considered there would sufficient room for one lane of traffic and the site could cope with this and the other entrance onto SH2 for short periods.

The applicant confirmed they were committed to the project, but also needed to take account of current competition. They would be disappointed if not complete in 2 years.

The Committee Chair thanked everyone for their attendance and closed the hearing to deliberate.

## **PRINCIPLE ISSUES IN CONTENTION**

Having read the application, the submissions, and listened to the evidence, the Committee is of the view that the following matters are the principle issues in contention. More detail is provided in the summary of evidence above.

- Right of Way and associated signage
- Services through the site
- Landscaping
- Staging
- Contributions

## **MAIN FINDINGS ON THE PRINCIPLE ISSUES IN CONTENTION**

The Committee noted that the right-of-way to Fox Street does not appear critical to the proposed development, but Trust House have the right to use it. Council could restrict the access if it was below the requirements set in the New Zealand Parking Standards. The design of the parking layout and signage would minimise the use of the access. However, the Committee thought “No Supermarket Access” at Fox Street and “No Exit” at the site boundary with the right-of-way would be better wording. Staff, delivery vehicles etc could be told the access was available if necessary.

Existing services need to be adequately protected, and any new infrastructure would need to be built to withstand the loading from traffic. This can be advised within the decision.

The Committee thought some of the plant selection would not be appropriate for the Featherston climate (wind) and/or may require a lot of attention (olive trees would need to be managed during fruiting time). However, a requirement that all vegetation be native is not warranted.

The Committee thought it was beyond the scope of a resource consent to require the applicant to communicate with the community every 6 months. The site can accommodate additional development beyond stage 2. It is considered important to highlight an appropriate location for such development within the site to be consistent with the Heritage streetscape and reduce open areas within the commercial area fronting Fitzherbert Street/State Highway 2.

The proposed building area is less than the existing building area, therefore the Committee was satisfied an infrastructure contribution was not warranted for the proposal.

## **DECISION AND REASONS**

The Committee considered all of the evidence it had been provided with prior to and during the hearing. The Committee agreed with the assessment against the policies and objectives of the District Plan in the officer’s report. Mike Gray moved that the resource consent be approved, Jonathan Hooker seconded. The Committee unanimously resolved to grant the consent with conditions.

**RESOLVED: that the South Wairarapa District Council hereby GRANTS, subject to conditions, land use consent application no 3812 pursuant to Section 104B of the Resource Management Act 1991. The application is granted as follows:**

## **CONDITIONS**

1. That, except as amended by the conditions below, the development be carried out in general accordance with the Proarch and Richard Bain plans detailed below and documentation provided with the application as amended.
  - a. SK00
  - b. SK63 Revision G (subject to condition 6 below)
  - c. SK64 Revision B
  - d. SK65 Revision B
  - e. SK66 Revision A
  - f. SK67 – 72 Revision A
  - g. SK73
  - h. SK74
  - i. SK75 Revision A
  - j. SK76 Revision A
  - k. SK77 Revision A
  - l. Richard Bain Landscape Plans Sheets 1.0, 1.1 and 2.0 (subject to condition 8 below)
2. That costs, pursuant to Section 36 of the Resource Management Act 1991, be paid by the consent holder.
3. That costs associated with works within SH 2 / Fitzherbert Street are to be met by the applicant. The applicant is also responsible for obtaining any approvals from NZTA as required by Section 51 of the Government Rounding Powers Act 1989.
4. That all development works on the site including earthworks and the use of associated heavy machinery shall be undertaken between the following hours only:-

Monday to Friday:	7:30am to 5:30pm
Saturday:	8.00am to 1.00pm
5. That the entranceways from the road carriageway to the properties be constructed in concrete and redundant entranceways restored to kerb, channel and footpath at the consent holder's expense as indicated in the phasing plans and be in compliance with the requirements of NZS 4404:2004 and to the satisfaction of Council's Roads and Reserves Manager. Plans for this work, including stormwater drainage, are to be approved in writing by Council's Roads and Reserves Manager prior to any work being undertaken. Construction of the access aisles over existing services will need to take account of the depth of those services and minimise loading on any shallow services.
6. That there is to be no painted arrow on the right of way to Fox Street (refer Plan SK63 revision G).

7. That the sign at the Fox Street entrance to the right of way read “No Supermarket Access” and the sign at the site boundary to the right of way read “No Exit”. Signage for the right of way to Fox Street is to be maintained and kept in good condition at all times.
8. That the applicant reconsider the selection of plant species to those more suitable to the Featherston climate and wind. Also consideration should be given to care and maintenance that trees may require. Any changes to the landscaping plans shall be submitted to the Manager, Planning and Environment (South Wairarapa District Council) for approval.
9. Stormwater from buildings and parking areas that is not used for water supply purposes must be disposed of within the sites. Stormwater disposal shall be by properly designed soak pits or other methods approved at the time of building consent. Confirmation that stormwater from the existing building/s is being disposed of within each respective lot shall be provided by a suitably experienced professional at the time of building consent.
10. The consent holder will provide the Council with copies of as-built plans for any connections to water and sewer services. The plans will be provided within 1 month of completion of the building.
11. That the Council may review that conditions of this consent, in accordance with section 128 of the Resource Management Act 1991, for the purpose of dealing with any adverse effects of the proposal. Council will give notice of any review in accordance with section 129 of the Resource Management Act 1991.

**Advice Notes:**

1. Please note that, in accordance with Section 125 of the Resource Management Act 1991, this resource consent will lapse if not given effect to within 5 years.
2. This land use is based on the plans provided with the application. Any changes to these plans could require further resource consent.
3. Compliance in all respects with the Building Act 2004 is required, including the obtaining of a Building Consent.
4. Permits may be required from Council to connect to the water and sewer services. Please contact Infrastructure & Services Administration Assistant at the Council to arrange for these permits.
5. Any additional or replacement services to adjoining sites are to be appropriately constructed and capped to withstand vehicle loadings where any proposed services are to be laid at shallow depths.
6. It is possible that archaeological sites may be affected by the proposed work. Evidence of archaeological sites may include burnt and fire cracked stones, charcoal, rubbish heaps including shell, bone and/or glass and crockery, ditches, banks, pits, old building foundations, artefacts of Maori and European

origin or human burials and modified garden soils. The applicant is advised to contact the New Zealand Historic Places Trust if the presence of an archaeological site is suspected. Work affecting archaeological sites is subject to a consent process under the Historic Places Act 1993. If any activity associated with this proposal, such as earthworks, fencing or landscaping, may modify, damage or destroy any archaeological site(s), an authority (consent) from the New Zealand Historic Places Trust must be obtained for the work to proceed lawfully. The Historic Places Act 1993 contains penalties for unauthorised site damage.

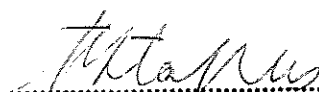
7. The South Wairarapa District Council notes that the proposal has more car parks than are required under the Wairarapa Combined District Plan 2011. On completion of Stage 2, it is suggested that the applicant continually reviews the demand for commercial premises in Featherston, and if commercially viable, the applicant should consider establishing small commercial buildings along the eastern street front of the sites. A separate resource consent would be required.

*In addition to the finding set out above relating to the principle issues in contention, the reasons for the decision are:*

- a) *The proposed application is for new development within a Town Centre Historic Heritage Precinct. While it would establish a large building in an area characterised by smaller buildings, the façade of the building “breaks up” the appearance of the building to appear more in keeping with the surrounding smaller buildings. The second stage of the development would continue the street front in a manner consistent with the Featherston town centre heritage character. The applicant has satisfied NZTA in respect of traffic effects on SH 2 and the proposed use of the right of way over the adjoining site would be consistent with the use by the single underlying title that has that right. The large parking area is not entirely consistent with the heritage precinct, but would be mitigated through the proposed landscape plantings.*
- b) *On balance the proposal is consistent with the objectives and policies and assessment criteria of the District Plan.*
- c) *The proposal would be consistent with Part II of the RMA and would constitute sustainable management of natural and physical resources of the District.*

DATED at Martinborough this 27<sup>th</sup> day of April, 2012.

For and on behalf of the  
SOUTH WAIRARAPA DISTRICT COUNCIL

  
.....

Adrienne Staples  
CHAIR PLANNING HEARINGS COMMITTEE