

MINUTES

TITLE: Environment & Planning Subcommittee
DATE: Monday, 19 February 2007
TIME: 9.30 am
VENUE: Council Chamber, 189 Queen Street, Richmond

PRESENT: Crs E M O'Regan (Chair), T B King and E J Wilkins

IN ATTENDANCE: Manager Consents (J Hodson), Subdivision Officer (R D Shirley), Development Engineer (D Ley), Administration Officer (B D Moore)

1. R J AND P A SAMPSON, 17 IWA STREET, MAPUA RM060168 OBJECTION TO CONSENT CONDITION

The applicants appeared at the hearing together with surveyor, Mr S Jones of Jones and Associated Limited. The applicant had objected to condition 2A of Council consent RM060168 issued on 11 October 2006. Condition 2A required that Lots 1 and 2 of this subdivision be provided with sewer and stormwater connections to an approved Council reticulation system. The connections are to be to the main body of the lots. A letter received from Jones and Associates dated 30 October 2006 asked that the consent be amended to require the Council to either:

1. pay for the extension to the stormwater network in Iwa Street; or
2. allow soakpits and filling without any extension of the Iwa Street stormwater pipes.

The Committee proceeded to hear the application, presentation of submissions and staff reports as detailed in the following report and decision.

The Subcommittee reserved its decision at 10.55 am

RESOLUTION TO EXCLUDE THE PUBLIC

Moved Crs O'Regan / Wilkins
EP07/02/28

THAT the public be excluded from the following parts of the proceedings of this meeting, namely:

R J and P A Sampson

The general subject of the matter to be considered while the public is excluded, the reason for passing this resolution in relation to the matter, and the specific grounds under Section 48(1) of the Local Government Official Information and Meetings Act 1987 for passing this resolution are as follows:

General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Ground(s) under Section 48(1) for the passing of this resolution
R J and P A Sampson	Consideration of a planning application	A right of appeal lies to the Environment Court against the final decision of Council.

CARRIED

**Moved Crs King / Wilkins
EP07/02/29**

THAT the open meeting be resumed and the business transacted during the time the public was excluded be adopted.

CARRIED

2. R J AND P A SAMPSON, 17 IWA STREET, MAPUA RM060168 OBJECTION TO CONSENT CONDITION

**Moved Crs O'Regan / King
EP07/02/30**

THAT pursuant to Section 104D of the Resource Management Act, the Committee DISMISSES the objection of R J and P A Sampson as detailed in the following report and decision.

CARRIED

1. BACKGROUND OF CONSENT AND CONDITIONS

The applicants, Russell and Pam Sampson, own a residential section located at 17 Iwa Street, Mapua. The legal description of the land is Lot 1 DP 8529 (CT 4A/583) containing 1,062 m². An existing dwelling accessed via a right-of-way over adjoining land is located towards the rear of the site. The front part of the site is in lawns and garden and is low-lying and is prone to flooding.

On 14 March 2006 an application was received from Jones & Associates to subdivide the land into two lots:

- Lot 1 of 450 m² being a vacant front allotment; and
- Lot 2 of 610 m² being a rear lot containing the existing dwelling. Refer Appendix A.

There was a request for further information associated with resolving the matter of stormwater disposal as there is a history of flooding in this area affecting the site.

On 11 October 2006 consent was issued to the subdivision and included the following condition and advice note.

Condition 2(a)

That Lots 1 and 2 be provided with sewer and stormwater connections to an approved Council reticulation system. The connections are to be to the main body of the lots.

Advice Note

The proposed earthworks and servicing are generally shown on Jones & Associates Plan 3102 to provide a building platform free from flooding and an adequate and appropriate level of servicing for the proposed subdivision. The responsibility for completing the works and services rests entirely with the applicant. Refer Appendix D.

2. THE OBJECTION

On 30 October 2006 an objection was received relating to the condition requiring the lots to be connected to a reticulated stormwater system at the applicants' cost. Relief sought was an amendment to the consent to either:

- a) Council to pay for the proposed stormwater reticulation; or
- b) allow soak pits as an alternative.

At the hearing the objectors confirmed that they would offer:

“a \$5,000 contribution to the necessary stormwater work in Iwa Street with Council paying for the rest when funding is available:

This offer is conditional upon:

- 1. The engineering department supporting the Iwa street stormwater work being added to the LTCCP as urgent work (this or next financial year)*
- 2. The existing soak pit servicing the existing house being accepted as a permanent solution for Lot 2.*
- 3. Titles for this subdivision being allowed to issue subject to a stormwater connection being put in place for Lot 1 in anticipation of connection to the new pipes and temporary kerb discharge for Lot 1 in the mean time. “*

3. PROCEDURAL MATTERS

The Committee accepts the financial offer as a part of the objection matters although the “offer” was received after the closing date for objections and was not included in the original objection as lodged on 20 October 2006.

4. EVIDENCE HEARD

The Committee heard evidence from the applicant/objector and the Council's reporting officers. The following is a summary of the evidence heard at the hearing.

4.1 Applicant's Evidence

Mr Sampson tabled and read a signed submission and in summary said that the applicants wish to continue using existing soakpits to take stormwater for the existing house, i.e. Lot 2. He also said that the applicants want to contribute fairly to the solution of Iwa Street flooding issues, not pay 100% of the cost. He said that the applicants have offered a contribution of \$5,000.00 towards the solution.

Mr S Jones then tabled and read a submission. He tabled and referred to a photograph which had been taken from within 19 Iwa Street showing the ponding which occurred following heavy rainfall at Easter 2006, Mr Jones also tabled a plan to show the location of the old stormwater overland flow path and demonstrated how the construction of driveways, on site land fill and curb and channel had worsened the stormwater ponding situation and that this ponding can take seven to 10 days to dissipate. He said that the applicant objected to paying the total of the stormwater upgrading costs. He noted that the Engineering Services Department staff have rejected the applicants offer to pay a contribution of \$5,000.00 for stormwater pipe upgrading. Mr Jones said that onsite stormwater ponding is a problem for many residents in Iwa Street.

In the right of reply, Mr Jones noted that the Council required the installation of a 375 mm pipe for stormwater in the public road and the applicants needed only a 150 mm pipe for disposal of stormwater from the subject property. He claimed that the long section provided by Mr Ley is "pretty misleading and erroneous" and said that it was not a long section down the channel or swale. Mr Ley provided the start and finish reference points for the long section of the swale.

Mr Jones repeated that the applicant is objecting to the "cost share" not the condition for stormwater disposal. He advised the Subcommittee that the existing four soakpits do work for the existing house. He said the secondary stormwater flow path exists now and will be maintained. Mr Jones reminded the Subcommittee that the applicant offered \$5,000.00 for the new stormwater disposal pipe work.

4.2 Council's Reporting Officer's Report and Evidence

Subdivision Officer, Mr Shirley, outlined the main points contained within his report of 1 February 2007 contained within the agenda and recommended that the objection be dismissed.

Development Engineer, D Ley, tabled an aerial photograph of the locality and a long section diagram of the ground levels and ponding levels for properties from 13 to 23 Iwa Street. He said that soakage is poor as indicated by the ponding. Mr Ley said that all the properties are connected to the sewer main. Mr Ley acknowledged that a driveway access immediately to the east of the subject property, serving 11-15 Iwa Street dams the stormwater. Mr Ley was concerned that the applicant requested to create a lot in the flood swale area. He sought that the Subcommittee reconfirm condition 2A of Council's consent issued on 11 October 2006.

5. DECISION

Pursuant to Section 357D of the Act, the Committee **DISMISSES** the objection regarding Condition 2(a).

6. REASONS FOR THE DECISION

The Committee considered that the development of Proposed Lot 1 was not appropriate without a solution being put in place in terms of the ponding of stormwater. It appeared to the Committee that the applicant agreed that a solution must be found, but the objection was more in relation to the fact that they did not wish to have to bear the entire cost of the work associated with extending the stormwater pipes to reach the subject property. Effectively the applicant was willing to pay \$5000 towards this work under certain conditions.

The applicant suggested that the requirement to pay the full cost of the works would be unreasonable as there would be significant benefit to other land owners. The size of the stormwater pipe was raised as a demonstration of this view, however it is clear that the minimum size stormwater pipe permitted to be constructed in road reserve where it is to be maintained by Council is 375 mm diameter and this is the case even if it was only ever going to service one property, therefore the Committee did not consider the pipe size requirement was a sufficient reason to consider compensation or cost sharing.

The applicant also suggested that soakpits should be allowed for Lot 2 and that a combination of raising the ground level of Lot 1 and a "kerb entry" stormwater pipe would mitigate the effects of stormwater. The Committee did not agree with these suggestions and considered that would be likely to increase the ponding effect on the adjacent property (which would not be acceptable). A proper engineering solution needed to be put in place prior to further development being appropriate.

The Committee was clear that the correct forum for debating and deciding on the funding and timing of Engineering programmes of work is through the Long Term Council Community Plan (LTCCP) submission process and not through a hearing of an objection to a condition of consent under Section 357. This Committee has no powers to commit the Council to any spending whatsoever.

Given that the consent to subdivide the land is not tenable without a proper solution to the stormwater problem, the Committee considered that the applicant has the choice of either completing the works required under condition 2(a) or seeking that Council will agree to doing the stormwater upgrade and waiting for that to take place.

Issued this day of 23rd February 2007

Councillor O'Regan
Chair of Hearings Committee

Date Confirmed:

Chair: