



## STAFF REPORT

**TO:** Environment & Planning Subcommittee

**FROM:** Ross Shirley

**REFERENCE:** RM060168

**SUBJECT:** **R AND P SAMPSON, REPORT EP07/02/13** – Report prepared for 19 February 2007 hearing

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### 1. INTRODUCTION

1.1 The purpose of the hearing is to consider an objection to a condition of subdivision consent relating to stormwater connections.

### 2. BACKGROUND

2.1 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 m<sup>2</sup>.

2.2 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.

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

Lot 1 of 450 m<sup>2</sup> being a vacant front allotment; and  
Lot 2 of 610 m<sup>2</sup> being a rear lot containing the existing dwelling. Refer Appendix A.

2.4 Paragraph 9 of the application under heading Utility Services included the following comment re stormwater:

*“The exact method of stormwater disposal has not been fully investigated and will be dealt with as part of the engineering design.”*

2.5 On 22 May 2006 the following further information was requested:

*“Please provide details of means of servicing the proposed lots with sewer, stormwater, water, power and telephone reticulation. Provision of engineering plans would be a means of complying with this request.”*

The further information letter included the following note on stormwater:

*“There is a history of flooding in this area and therefore it is necessary to address stormwater disposal at subdivision stage and not at some later stage. I note there are stormwater pipes in Iwa Street south of the application site, which may be an option but filling on the site may also be required.”* Refer Appendix B.

- 2.6** On 4 December 2006 the further information was received. The further information included a plan showing existing ponding, the proposed filling, existing and proposed stormwater reticulation and overland flow paths. Refer Appendix C.
- 2.7** On 11 October 2006 consent was issued to the subdivision and included the following condition and advice note.

#### **Condition 2A**

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.

- 2.8** 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.

Refer Appendix E.

### **3. THE LEGAL PROCESS**

Sections 357 to 357D of the Resource Management Act 1991 provide for the rights, procedures and decisions on objections. In summary, Section 357A provides for the rights of an applicant to lodge an objection to any delegated authority decision on a resource consent. Section 357C sets out the procedures for lodging objections. Section 357D provides for decisions on objections. The options available to the Committee are to dismiss the objection or uphold the objection in whole or in part. Section 358 provides for decisions made on objections to be appealed to the Environment Court.

#### **4. COMMENT**

- 4.1** The validity of the condition has not been questioned. However, for the record, it was lawfully imposed under Section 106 and 108 of the Act for resource management reasons, being to mitigate the adverse effect of flooding on the proposed new allotment.
- 4.2** I think the objection questions the fairness and reasonableness of a condition that requires the applicant to undertake works that not only services their subdivision but also result in some community benefit. The total cost of the work has been estimated by the applicant to be \$30,000.
- 4.3** The objection contains no information on the suitability of soak pits as an alternative other than to say the soak pit for the existing house is working well.
- 4.4** The condition in the consent is based on the solution offered by the applicant to mitigate the adverse effect of ponding. The cost to comply with that condition is a legitimate cost of putting effect to that consent.

#### **5. SUMMARY**

- 5.1** If the applicant wishes Council to pay for the cost of stormwater works I understand the applicant should lodge a submission through the Long Term Council Community Plan process and not through a resource consent process. At this stage the works are not programmed or budgeted for.
- 5.2** The assessment of soak pits as an alternative to a reticulated stormwater system has been undertaken by engineering staff and is included as a separate report. The conclusion of that report is that the site is not suitable for soak pits.

#### **6. RECOMMENDATION**

That the objection be dismissed.

R D Shirley  
**Subdivision Officer**



## STAFF REPORT

**TO:** Environment and Planning Subcommittee

**FROM:** Dugald Ley, Development Engineer

**REFERENCE:** RM060168

**SUBJECT:** **OBJECTION PURSUANT TO 357 – R and P SAMPSON, 17 IWA STREET, MAPUA**

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### 1. INTRODUCTION

The above subdivision creating two lots was approved on 11 October 2006.

The consent requires the applicant to provide servicing as per their submitted concept engineering plan, i.e. J&A plan 3102 and responsibility of all water and services resting entirely with the applicant. The applicant now wishes to provide stormwater disposal via soak pits.

### 2. BACKGROUND

The subject site is located in a depression that runs west to east through a number of properties in the locality. This area of Mapua is made up of a series of sand ridges and hollows and over time some have been levelled out to provide housing areas. This remnant swale has remained and fills with stormwater that originates from upstream west of the property. Five or more properties flood with water and this remains for a few days after a storm event.

Levels taken by the applicant show the ground level in the swale area of 17 Iwa Road is approximately RL (ground level of) 2.9 above mean sea level.

Drains have been laid by Council in Iwa Road at approximately 11 Iwa Road where a low point in the road is located. Sump top levels are approximately RL2.70 with the back of the kerb or footpath level some 100 mm higher at RL2.80. Therefore the subject site swale is higher than (100 mm) the existing low point for stormwater at Iwa Road and Iwa Rd cannot be considered to “dam” the swale area.

What, however, does “dam” the area and creates the ponding is a driveway/access immediately to the east of the subject property serving 11/15 Iwa Road. Thus from interpolation the driveway has an existing level of between RL 3.0 and 3.1, hence the ponding upstream of this drive will occur.

The photos presented to Council by the applicant confirm that soakage for stormwater is not an option in this locality and a piped system is all that is available to convey stormwater away from the site.

### 3. DISCUSSION

This is an unusual application where after many months discussing the options to allow subdivision with Council staff, the applicant submits a plan, i.e. J&A plan 3102, which satisfies the disposal of stormwater, only to object to their plan once they have the consent approved. This sounds suspicious if it was only to gain the “foot in the door” to a consent.

The applicant invited Councillor King to visit the site during Queen’s Birthday weekend (3-5 June 2006) to canvass the ponding issue. Councillor King’s only undertaking was to discuss the issues with the Transportation Manager which has been done.

Officers do not agree with the applicant that the construction of Iwa Road has caused the ponding to 17 Iwa Road and properties to the west as outlined above.

We are therefore of the opinion that Council is not in a position to contribute to the private stormwater systems to alleviate the ponding at 17 Iwa Street so they can create a new residential lot.

We also believe that any Development Contributions payable for this new lot are required for other stormwater infrastructure and these are itemised in the LTCCP with the first item being the causeway and new stormwater pipes and flood gates.

Urban stormwater rates are also collected for maintenance of stormwater assets and, in part, some capital projects. Mapua is provided with stormwater systems and residents generally have flood free roads.

### 4. CONCLUSION

Jones and Associates letter of 28 August 2006 would seem to have satisfied all parties, viz:

**“Stormwater**

Following extensive work with Dugald Ley, Engineering Officer, a method of dealing with the ponding has been determined following a detailed survey of the site and surrounding area, together with draft plans. The solution includes 300 mm of filling and some new stormwater pipes, manholes and sumps. The solution will also benefit other properties.”

In summary therefore:

- a) Agreement was reached on how to deal with stormwater disposal at this location.
- b) A plan was presented to Council on how this was to be achieved such that a consent could be granted.
- c) Stormwater disposal via soakage is not viable (refer to photos) and any new dwelling will be located in a low-lying swale.
- d) The present pond which amounts to water depth of some 200 mm disappears after a few days.

- e) The cause for concern now is due to the applicant's request to create a lot in the flood swale area.

## 5. RECOMMENDATION

**THAT the Committee reconfirms the condition of consent granted by the Subdivision officer under delegated authority on 11 October 2006.**

Dugald Ley  
**Development Engineer**