

BEFORE THE PORIRUA CITY COUNCIL AND GREATER WELLINGTON REGIONAL COUNCIL

IN THE MATTER OF

land use and subdivision consent (RC RC6922-SL0046/15) to:

- **undertake a 149 lot subdivision consisting of residential lots, road and reserves to vest and balance lots, which includes contravening permitted activity standards in respect to earthworks, financial contributions, outdoor living area, private ways and driveways, site coverage, vehicle movements and front yard; and**
- **vary or cancel a consent notice; and**
- **vary or surrender existing easements; and**
- **waive esplanade reserve requirements**

discharge permits, diversion and land use consents (WGN160028) to:

- **divert Duck Creek; and**
- **discharge sediment and chemical flocculant in treated stormwater runoff; and**
- **discharge into water; and**
- **discharge to land; and**
- **undertake various works in respect to the bed of any river; and**
- **place a stormwater pipe and a sewage pipe; and**
- **construct temporary bridges, three permanent bridges, place stormwater inlet and outlet structures, and construct an outlet pipe to Duck Creek, a forebay in a pond system and an outlet channel from the pond to land where it will enter Duck Creek; and**
- **undertake bank stabilisation works; and**
- **reclaim the bed of Duck Creek**

APPLICANT

Jagger NZ Limited

**1ST MINUTE OF COMMISSIONERS GINA SWEETMAN, GLENICE PAINE, NIGEL MARK-BROWN
AND KATE MACARTHUR
HEARING PROCEDURES AND COMMISSIONERS DIRECTIONS
DATED 3 FEBRUARY 2016**

**Minute of the Hearings Panel #1
Duck Creek North / Brookside
GWRC WGN160028 and PCC RC6922-SL0046/15**

Hearing

1. The hearing to consider and decide the resource consent applications set out above will commence on Wednesday 9th March 2016 at 9:30am, at the Porirua City Council Chambers and continue on the 10 and 11 March as required.

Commissioners

2. Porirua City Council (PCC) and Greater Wellington Regional Council (GWRC) have appointed Gina Sweetman, Glenice Paine, Kate MacArthur and Nigel Mark-Brown to hear and determine these applications. All Commissioners hold current independent commissioner accreditation. Gina Sweetman has been appointed as Chair of the Hearings Panel, and holds Chair accreditation.

Exchange of evidence

3. The Hearings Panel notes that section 103B, requires that a consent authority must provide the section 42A reports to the applicant and submitters who wish to be heard, at least 15 working days prior to the hearing. In addition, section 103B requires the applicant to provide the consent authority with briefs of evidence 10 working days before the hearing, and for submitters calling expert evidence to similarly provide that evidence 5 working days before the hearing. The Hearings Panel further notes that the consent authority must give written or electronic notice to the parties, that the applicant's evidence and any submitter expert evidence is available at the consent authority's offices.

Accordingly, unless the applicant suspends the application pursuant to s91A of the RMA prior to the commencement of the hearing:

4. Pursuant to section 103B(2) of the RMA, the Hearings Panel directs that the PCC and GWRC section 42A report be provided to the parties, by way of email/mail, directing the parties to the GWRC website no later than 5pm on Wednesday 17th February 2016.
5. Pursuant to section 103B(3) of the RMA, the Hearings Panel directs that Jagger NZ Limited (the Applicant) is to provide written briefs of all their evidence to Amber Owen, Environmental Regulation Administrator at GWRC, no later than 5pm on Wednesday 24th February 2016.
6. The Hearings Panel requests that as soon as practicable following receipt of any such evidence received pursuant to Direction 5, GWRC provides a copy to all other parties to these proceedings by way of email/mail, directing the parties to the GWRC website and advising that hard copies are available at the GWRC and PCC offices.
7. Pursuant to section 103B(4) of the RMA, the Hearings Panel directs that if any person who has made a submission intends to present expert evidence at the hearing, including expert planning evidence, then that party is to provide a written brief of that expert evidence to Amber Owen, Environmental Regulation Administrator at GWRC, no later than 5pm on Wednesday 2nd March 2016.
8. The Hearings Panel requests that as soon as practicable following receipt of any such evidence received pursuant to Direction 7, GWRC provides a copy to all other parties to these proceedings by way of email, directing the parties to the GWRC website and advising that hard copies are available at GWRC and PCC offices.
9. In terms of Directions 4, 5 and 7 the reports and evidence should be provided to GWRC electronically by email or be made available for downloading from the GWRC website

www.gw.govt.nz/duckcreeknorth. Hard copies of the evidence should only be provided on request.

Hearing Procedure

10. Pursuant to s41C(1) of the RMA, the Hearings Panel directs that in respect of expert evidence pre-circulated in accordance with these Directions, the hearing will be conducted in the following manner:
 - The section 42A report(s) and all pre-circulated evidence will be taken as read;
 - The applicant or submitter that have provided the pre-circulated evidence is to call the witness in person;
 - The witness should be introduced and asked to confirm his or her qualifications and experience;
 - The witness should be asked to confirm the matters of fact and opinion contained in the brief of evidence;
 - The witness will then be given an opportunity to draw to the attention of the Hearings Panel the key points in the brief. No new evidence shall be introduced, unless it is specifically in response to matters raised in other pre-circulated briefs of evidence supplied by another party – in such cases the new evidence shall be presented in written form as an Addendum to the primary brief of evidence and it may be verbally presented by the witness. If there is any variation between what the witness says and what is in the brief of evidence, the Hearings Panel will assume that the written brief is the evidence unless the content of the brief is specifically amended by the witness;
 - The witness may then be questioned by the Hearings Panel.
11. Non-expert evidence (including submitter lay evidence and legal submissions) should be tabled and read aloud on the day that the relevant party appears at the hearing.

Conferencing

12. The Hearings Panel also requests that all parties (the PCC and GWRC reporting officers, Jagger NZ Limited as the applicant, and submitters) calling expert witnesses liaise amongst themselves in order to facilitate their respective experts conferencing on matters relevant to their specific areas of expertise prior to the preparation of their reports or evidence (including any applicable conditions of consent). The aim of the conferencing should be to identify areas of agreement and disagreement which can then be noted in the reports and evidence. The Hearings Panel will attempt to focus on the issues of contention during the hearing and in deliberations thereafter and so the assistance of the parties to clearly identify areas of expert agreement and disagreement in this manner will be greatly appreciated.
13. As part of the pre-circulation of evidence and conferencing, the Hearings Panel requests that the following matters are addressed and reported on:

Erosion:

 - There will be an increase in impervious area, compared with existing, within the catchment of Duck Creek, that will be due to the proposal. We would like to know what this increase will be and to see an assessment of the potential effect of this increase on stream channel erosion arising from associated increased volumes of stormwater runoff. We would also like the applicant to describe how any such potential increase in stream channel erosion will be avoided or mitigated including discussion of options including stormwater runoff management such as extended detention and ground soakage, together with stream bank and bed works.

Aquatic matters

 - With the increase in impervious area in the Duck Creek catchment, what are the potential effects of the proposal, in conjunction with the cumulative effects in the catchment on ecosystem health and native fish abundance and diversity resulting from the increased impervious cover?

- Will there be ongoing effects on the Pauatahanui Inlet from contaminants (i.e. sedimentation), following the construction phases? If so, what is the nature, scale and duration of any ongoing effect?
- What effect on annual sediment loads to the Pauatahanui Inlet will the bulk earthworks for each stage have (and the total contribution from the bulk earthworks for the project as a whole)?
- How do the annual sediment loads (from both the construction stages and finished project) compare with other relative annual inputs of sediment to the catchment of the Inlet?
- Please specifically assess the potential effects of increased sediment discharge/annual load to the Pauatahanui Inlet against NZCPS Policies 21, 22 and 3.
- What is the effect of any predicted increase in annual sediment loads to the Inlet in the context of the Porirua Harbour and Catchment Strategy?
- Did the predicted and potential Stream Ecological Valuation (SEV) measures and the Ecological Compensation Ratio (ECR) calculation include the stream bank engineering proposed to reduce flooding risk (e.g. rock rip rap lining)? Please also identify who reviewed the SEV and whether they are a suitably qualified person.
- Please confirm whether there is Inanga spawning within the tidally inundated areas of Duck Creek? If spawning is confirmed, please advise how effects on spawning will be avoided, remedied or mitigated
- Please provide any compliance monitoring results for the Duck Creek South development, particularly with regards water quality results or effects on aquatic life from the stream diversion method and adaptive monitoring and management plans.

Terrestrial matters

- Please provide more contextual assessment of habitat values and assessment of proposed loss within this context.
- Please provide direct assessment of the impacts on the Ecosites of clearing vegetation on the boundaries of these sites?
- Please confirm whether these Ecosites are Significant Natural Areas with respect to s6c RMA.
- Please provide details of how the 'no net loss' principle will be applied to mitigating clearance of terrestrial vegetation consistent with the aquatic offset – please include the working.
- Please provide direct evidence for the lack of species values (e.g. Checked threatened species records, fauna records, Council records of Ecosites etc).

Flooding:

- The existing contours of the site as well as the alignment and banks of the existing stream channel are to be modified by the proposed bulk earthworks. In addition, the proposal will result in an increase of impervious surfaces which may result in an increase in stormwater runoff. We would like to know what effects these works will have on flooding?

Site visit

14. The Hearings Panel will be undertaking a site visit prior to the hearing commencing. They will do so unaccompanied by any other parties. The Hearings Panel may undertake a further site visit during or after the hearing.

Correspondence

15. Any correspondence to the Hearings Panel should be directed through Amber Owen, Environmental Regulation Administrator at GWRC.

A handwritten signature in blue ink on a light green rectangular background. The signature reads "Sweetman" in a cursive style, with a large, stylized initial "S" that loops back.

Gina Sweetman
Independent Commissioner – Chair
For and behalf of the Hearings Panel