

(F)

EXTRACT

MP: 45/46

MEETING OF THE JUDICIAL COMMITTEE HELD FRIDAY 18 MARCH 1994

6. **LAND USE CONSENT - KILN STREET - UPPER HUTT CITY COUNCIL** (350/62/308)

Report by the City Planner. (Refer Agenda pages 108-135).

Submissions were received from the following:

1. Mr Barry Dinan, 7 Kiwi Street, Upper Hutt
2. Land Professional Ltd., 197 Hill Road, Belmont, Lower Hutt
3. Silver Stream Railway Inc., C/- K.R. Davis, 122 McLeod Street, Upper Hutt
4. Wellington Regional Council, PO Box 11-646, Wellington
5. Mallaby Mills Ltd., 26 Golf Road, Heretaunga 6007

Laurie Harding, Property Manager, Steven Kerr, Senior Planner and Kevin Jamieson, a Forestry Consultant gave evidence and made submissions on behalf of the Applicant.

Mr Keith Davis made submissions on behalf of Silver Stream Railway Incorporated. Mr W.G.M. Goodwin, the Chief Executive of Mallaby Mills Ltd., gave evidence and made submission on its behalf.

Land Professional Limited submitted a letter dated 17 March 1994 advising that it was satisfied with the Planner's report, and would not be present at the Hearing.

RECOMMENDED

1. THAT the report be received.
2. THAT pursuant to Section 105 of the Resource Management Act 1991, Council grant consent to the undertaking of a commercial forestry operation on that part of the applicant's land (being the land described as Section 1, SO 34755 and situated at 70 Kiln Street, Silverstream), as is zoned Residential Conservation, subject to the following conditions:
 - (a) That the visual debris stop barrier be planted in native vegetation and a combination of exotics, to be arranged with taller species towards the inside edge of the barrier.
 - (b) That during vegetation clearance, the line be cut to follow the contours of the site as closely as possible.
 - (c) That any significant groupings of native bush are to remain and be protected. In this regard, the applicant's attention is drawn to Ordinance 5.1.7 of

District Plan Review No.4 and the requirement for on-site management to ensure minimal damage occurs to any such areas.

- (d) Access to the site is to be provided via the existing road off Reynolds Bach Drive.
- (e) The standard procedures of the Forestry Code of Practice (New Zealand Logging Industry Research Organisation), or its equivalent at the time of harvesting, are to be applied at all times during the operation.

Reasons:

1. Forestry is a permitted activity on that part of the Applicant's land as is zoned Rural B and so a Resource Consent is not required in respect of that part of the land.
2. The part of the land which is zoned Residential Conservation is appropriate for forestry development in conjunction with the balance of the land which has a Rural B Zoning.
3. The conditions imposed and the controls in the District Scheme will ensure that adverse effects emanating from the forestry use on the part of the land zoned Residential Conservation are minimised.
4. Once the forestry venture is established, the land will provide an important visual amenity as a backdrop to the surrounding area and the city's southern boundary.
5. The proposal is in accordance with the Policies and Objectives of the District Plan.

**CHAIRMAN AND MEMBERS
JUDICIAL COMMITTEE (MARCH)
(From: Planning Officer)**

**Item: A.6
File: 350/62/308
DH:JKR
kr:reports/jud183**

8 March 1994

RESOURCE CONSENT APPLICATION

**APPLICANT: MR L.S. HARDING
PROPERTY MANAGER
ON BEHALF OF THE UPPER HUTT CITY COUNCIL**

LOCATION: 60 KILN STREET, SILVERSTREAM

LEGAL DESCRIPTION: SECTION 1, SO 34755

ZONE: RURAL B (RESTRICTED) AND RESIDENTIAL CONSERVATION

**PROPOSAL: TO UNDERTAKE A COMMERCIAL FORESTRY OPERATION, WHICH WILL
REQUIRE CLEARANCE OF VEGETATION**

SUBMISSIONS:

**SILVER STREAM RAILWAY SOCIETY INC.
REYNOLDS BACH DRIVE
PO BOX 30-786
LOWER HUTT**

**MALLABY MILLS LTD.
26 GOLF ROAD
HERETAUNGA**

**BARRY DINAN
7 KIWI STREET
HERETAUNGA**

**LAND PROFESSIONAL LTD.
197 HILL ROAD
BELMONT
LOWER HUTT**

**MANAGER POLICY & PLANNING
WELLINGTON REGIONAL COUNCIL
PO BOX 11-646
WELLINGTON**

THE PROPOSAL:

An application has been submitted by the Upper Hutt City Council to undertake a commercial forestry development involving clearance of vegetation on the property known as Landcorp Spur.

The site is located at the southern end of Kiln Street, adjoining the unformed road, with an area of 35.5017 hectares. The site rises upwards from both the Kiln Street and the Silverstream Railway sides to the ridgeline which separates Upper Hutt City Council and Hutt City at an altitude of 160m. Gullies dissect the area forming natural watercourses.

Gorse is the main vegetative cover on the site, with large pockets of regenerated pine trees and native bush throughout.

Access to the site is provided via a road off Reynolds Bach Drive. The road is metalled for a distance and travels across the adjoining property before entering the subject site.

The applicants forestry proposal will involve clearing of the area by cutting 2m strips through the gorse at 5m intervals. This method has been chosen due to the prominent location of the site and the close proximity of residential activities. The cut gorse would be stacked on each side as much as possible.

The area will then be planted with an initial density of 1,000 stems per hectare to be thinned to 250 stems per hectare ready for harvesting in 30 years. It is envisaged that the existing stands of self-sown radiata pines will remain and be included in the management of the site for harvesting.

Existing regenerated native bush areas will remain, as indicated on the attached plan.

The applicant proposes to plant eucalyptus in a 4 hectare area on the northernmost end of the property for the purpose of amenity. It is stated that it is unlikely to be harvested, but the area will be thinned and pruned.

A 20m non-millable visual and debris stop barrier is provided around the boundary, but due to the limited area of the site, the applicant wishes to utilise the unformed portion of Kiln Street on the southern side.

Standard forestry practices will be followed throughout the operation.

STATUTORY PROVISIONS:

In considering this application for Resource Consent, Section 104 (subject to Part II) of the Resource Management Act 1991 requires that the consent authority shall have regard to:

- (a) Any actual and potential effects on the environment of allowing the activity; and
- (b) Any relevant regulations; and
- (d) Any relevant objectives, policies, rules or other provisions of a plan or proposed plan; and
- (i) Any other matters the consent authority considers relevant and reasonably necessary to determine the application.

Section 105 applies to decisions on applications, whereby after considering an application for -

- (1) ***A resource consent for a discretionary activity, a consent authority may grant or refuse the consent, and (if granted) may impose conditions under Section 108:***

Provided that, where the consent authority has restricted the exercise of its discretion, conditions may only be imposed in respect of those matters specified in the plan or proposed plan to which the consent authority has restricted the exercise of its discretion:

- (2) ***A consent authority shall not grant a resource consent***
 - (b) ***Notwithstanding any decision made under Section 94(2)(a), for a non-complying activity unless it is satisfied that -***
 - (i) ***The adverse effects on the environment (other than any effect to which Section 104(6) applies) will be minor; or***
 - (ii) ***Granting the consent will not be contrary to the objectives and policies of the plan or proposed plan; or***

TRANSITIONAL DISTRICT PLAN PROVISIONS:

The subject site is zoned Rural B (Restricted) on the top half consisting of approximately 16 hectares. The remaining area, approximately 19 hectares, is zoned Residential Conservation. The requirements of each zone are as follows:

Rural B (Restricted):

Permitted Activity - Forestry.

Discretionary activity - the clearance of any vegetation other than trees planted and managed in forestry purposes, covering greater than 1 hectare of land in the restricted category.

Restricted Category Land:

In respect of any restricted category land, the Council must be satisfied that any use and/or development of the land will not give rise to any hazard from erosion or land slippage on subsidence or result in any visual or other detraction from the amenities of the District. In making an assessment under this Ordinance, the Council will have regard to the purpose of the restriction applying to any land in the Restricted Category.

Residential Conservation :

Non-Complying activity - Forestry:

For all zones, the requirements for a Forestry Development Notice in Ordinance 4.8.3 must be satisfied. The consultant's report attached to the application provided the information for the Notice. This Ordinance also requires a Forestry Harvesting Notice at the time of harvesting.

The various policies within the District Plan will also require consideration.

SUBMISSIONS:

Five submissions have been received upon notification of the application. The various concerns raised are summarised as follows:

1. **Silver Stream Railway Society Inc.**, as owners of adjoining land, expressed concerns over possible disturbance of the steep slopes of the common boundary if vegetation were to be removed. This would in turn make the land vulnerable to slippage, causing damage and disruption to the Railway Operation. They would be satisfied if environmental management conditions were applied to ensure risk is minimised.

The Society stated that they wished to remain neutral in regards to the development.

2. **Mallaby Mills Ltd** supported the afforestation of the Rural B land, but not the Residential Conservation land for the following reasons:
 - (a) there is a large area on top of the site that is relatively flat;
 - (b) from the top of the site there is a magnificent view of the upper valley which has benefits for various uses;
 - (c) once established in forestry, the land will be lost to housing forever;
 - (d) electricity and gas services are close.

The submission also raised concerns over the use of eucalyptus and questioned the ability of the species to survive in the area.

3. **Land Professional Ltd.** opposed the applicants proposed use of the unformed road as a visual debris stop barrier. The objector owns the adjoining land which has received approval for a residential development known as Sylvan Heights and is concerned about the close proximity of the forestry plantation. The objection would be satisfied by providing the 20m buffer within the applicant's boundary.
4. **Barry Dinan** of 7 Kiwi Street, opposes the application for the following reasons:
 - (a) the lack of soil depth in the area will require heavy fertilisation for any trees to grow.
 - (b) the area is prone to fire every five years and the trees will not survive.

The objector wishes the applicant to adopt The Hutt City Council's Management Plan for the eastern hills to establish regeneration of native bush.

5. **Wellington Regional Council** did not object to the proposal, but their comments require consideration:
 - (a) the applicant is to be made aware of the Wellington Regional Council's requirements concerning discharge from silt control structures.
 - (b) in their role as a Rural Fire Authority stated that afforestation will not reduce fire risk, but will represent an asset requiring better protection. The method for stacking of gorse poses a major fire hazard.

EVALUATION:

As a result of the sites high visibility, any development will involve some alteration and disruption to the area. It is a site obviously suited to such a proposal, as suggested by the zoning and the similar use of the surrounding hills of "Pinehaven".

Many issues need to be considered in the evaluation and have been grouped as follows:

Visual and Landscape aspects:

Due to the high visibility of the site from various directions, mitigation measures need to be included to reduce the impact as much as possible. The most visible periods during the development will be at the establishment and the harvesting phases, two ends of the operation.

To establish the forestry operation, clearance of the site is necessary. The method proposed is line cutting. In order to reduce the visibility of the cut lines, the natural contours of the area should be followed as much as possible. There will still be an effect, but not as visible as if the vegetation were to be cut in vertical strips up and down the hillsides.

The proposal to establish a 4ha amenity planting of eucalyptus trees is not well thought out. In the first instance, such a location would only screen a portion of the site from the users of State Highway 2 travelling south. The remaining viewpoints are not screened at all. It would also appear that this particular species was suggested due to its harvesting potential, although that is not the intention of the applicant.

As mentioned in a submission, the viability of eucalyptus is questioned in this area. In addition, they would pose an added fire risk, as evidenced by the recent Australian bush fires.

It would appear that the species does not fit into the surrounding landscape and would be unnatural.

The solution is to disregard the use of eucalyptus and to establish a more appropriate buffer to benefit the area. Obviously there is no way that the whole operation can be screened, nor would that be a wise option. The site provides the opportunity to complete the backdrop of Pinehaven.

As befits the surrounding hills of Upper Hutt, natives should be established in a buffer zone, namely the debris stop barrier, to achieve an end result similar to that of the Cannon Point area behind Totara Park. Native vegetation provides a graduated transition to the radiata pines. During harvesting, such a buffer would remain to shield the operation. If developed properly, the buffer could become an asset to the residents in the area and provide a habitat for wildlife.

The native buffer area is to be provided around the site.

The retention of existing regenerated native bush and radiata pines will assist in reducing the area to be exposed for planting of seedlings.

Upon harvesting, in approximately 30 years, if the site is not replanted for a further harvest, then it should be returned to native bush. This would ensure the landscape and amenity value of the site is continued.

Native Bush Areas:

As the subject site contains significant tracts of regenerated bush throughout, the areas have been identified on the Management Plan to be retained and protected. Measures should be taken to prevent damage to these areas during the operation. Much of the vegetation, along with existing pines, has established in gullies. In addition to the retention of native bush for its intrinsic values, the benefits for minimising natural runoff and filtration of sediments should be recognised. Benefits may also arise as vegetation provides protection for land prone to slipping.

The applicant should endeavour to protect the existing native vegetation as much as possible, even outside the areas marked on the plan. Obviously a compromise over small areas of bush will need to be made to enable a viable forestry operation. Although the applicant is not a member of the Forest Owners' Association, it would be appropriate to consider the contents of the New Zealand Forest Accord, particularly Section 2(ii). Refer to attached document.

Visual Debris Stop Barrier:

The debris stop barrier, shown on the attached plan, surrounding the site, does not respect the topography. The main concern is the area adjoining the Railway Society, which contains steep slopes. The 20m separation would not appear reasonable in some instances and planting of such steep slopes would be unwise.

These concerns were expressed by the Railway Society in their submission, raising some valid points regarding possible land slippage.

On inspection of the subject site after the recent fire in the area, it would appear that the soil depth is thin in these areas of concern. In some places, the burnt gorse had fallen down onto the Railway Society land, with some small slippages also occurring.

The request that environmental management conditions be imposed from the Railway Society will be in the form of requiring the area for the debris stop barrier to respect topography and underlying soil structure on the northern boundary. This may necessitate supplementing existing vegetation with natives that would provide stability.

As stated in the landscape aspects, this barrier should be planted in natives, utilising taller species at the closest point to the forestry plantation.

The concerns of the objection by Land Professionals Ltd. to the use of the unformed road as the debris stop barrier are also valid. The area of the unformed road contains regenerated native bush which should be protected and retained to provide added separation from the proposed forestry area and the objectors residential development. As a result of the close proximity to residential uses on the southern boundary, the buffer is to be provided within the applicant's property boundary. It will also provide an added visual buffer to residents in sight of this part of the property.

Roading:

The existing access via Reynolds Bach Drive is to be maintained and utilised as the only access to the site. No further roading is to be provided additional to the existing track and required upgrades.

Land Clearance Methods:

The use of line cutting and the stacking of cut material to either side as much as possible raises questions of fire hazard risk. To reduce this risk, the cut material should be removed from the site or an alternative method of vegetation removal be sought. Although it is considered that the method chosen is the most appropriate for the subject site.

Public Access And Recreation Potential:

To reduce fire hazard and risk to the forestry investment, the applicants accompanying report advised that no public access should be allowed onto the site. Admittedly, this is difficult to control completely.

Obviously the planted seedlings will need to be given an opportunity to establish without being damaged. The applicant should consider access rights of the public once the forest is well established. Combined with the native bush buffer and existing native areas, the site could develop into a valuable local resource and an attractive passive recreation area, which members of the public should be allowed to access at all times.

Soil Depth:

The objection by Barry Dinan raised the issue of shallow soil depth making the growth of pines difficult. This characteristic is recognised by the Rural B (Restricted) Zoning imposed on the site. The soil type, Taita Hill, is similar to adjoining sites on the ridge along the city's southern boundary and is obviously capable of growing pines. The subject site has growing capability, as evidenced by the existing self-sown pines which have survived with little or no application of standard forestry practices. The addition of fertiliser will no doubt prove beneficial.

The lack of soil depth is recognised on the northern boundary and the reduction of this risk was discussed previously.

Fire Risk:

The susceptibility of high fire risk in this area was also pointed out by Barry Dinan's submission. The applicant is well aware of this fact, as would any forestry owner. This fact alone should not prevent the development from taking place. Whether left in gorse or turned to forestry, the risk is there. In light of this fact, an area of forestry for investment would lend to added precautionary measures and protection of the land. As outlined in the section on land clearance, other measures to reduce fire hazard have been mentioned.

Zoning Requirements:

As the zoning indicates, the land is appropriate for a forestry development and is often the only viable option on such land. As a precaution clearance of vegetation, which is a necessary part of a forestry operation, is a Discretionary Activity in Rural B (Restricted). In this part of the site, there is a large portion of regenerated pines to be retained, reducing the area required for clearance. Using the methods proposed with the suggested alterations, this would reduce any adverse erosion effects.

In regards to the Residential Conservation land, it has the same characteristics as the Rural B portion. In the usual sense of the Conservation Zone, this area could not be considered representative.

The issues raised by Mallaby Mills submission cannot be regarded as adequate grounds to refuse the application. Admittedly, it would provide spectacular building sites, but in the current climate, it is uneconomic to develop the site for residential purposes. With the abundance of residential land currently available, this site would not be developed in the foreseeable future and should therefore be allowed to be put to an alternative use.

In fact, the forestry use would appear more appropriate than the location of residential dwellings on this area, which would detract from the amenities. As it stands, this site provides the ideal separation between Hutt City and Upper Hutt.

It would appear that the proposal does not challenge the Policies and Objectives of the District Plan. The Rural Zone promotes forestry activities and is appropriate. Initially, the site will detract from any visual amenity, but will develop into a more attractive area in future.

The afforestation into exotics and natives is a more appropriate use of the site and does not challenge the policies. Rather, one would suggest that it is working towards attaining an improved amenity value for the area in future.

It is recommended that the application for forestry development be granted approval.

RECOMMENDATIONS:

1. **THAT** the report be received.
2. **THAT** pursuant to Section 105 of the Resource Management Act 1991, Council hereby resolve to grant Land Use Consent to the Upper Hutt City Council to undertake a commercial forestry operation involving clearance of vegetation over 1ha as a Discretionary Activity (Rural B Restricted) and forestry as a non-complying activity (Residential Conservation) on the property located at 60 Kiln Street, Silverstream, Section 1, SO 34755, subject to compliance with the following conditions:
 - (a) The visual debris stop barrier on the southern boundary is to be provided within the property boundary.
 - (b) The width of the visual debris stop barrier on the northern boundary is to be reviewed to take into consideration the topography and the minimisation of risk to the adjoining property. The barrier is to be no less than 20m in width.
 - (c) The Eucalyptus amenity planting is not permitted.
 - (d) The visual debris stop barrier is to be planted in non-millable native vegetation to be arranged with taller species towards the inside edge of the barrier.
 - (e) During vegetation clearance, the lines to be cut are to follow the contours of the site as close as possible.

- (f) Significant groupings of native bush are to remain and be protected. On-site management is to ensure minimal damage occurs to these areas of bush.
- (g) Access to the site is to be provided via the existing road off Reynolds Bach Drive and will be upgraded to the required standard at the time of harvesting.
- (h) The standard procedures of the Forestry Code of Practice (New Zealand Logging Industry Research Organisation), or its equivalent at the time of harvesting, are to be applied at all times during the operation.
- (i) The Wellington Regional Council is to be consulted to determine whether any consents are necessary, particularly with respect to discharge from silt control structures.

Reasons:

1. The subject site is appropriate for a forestry development and the application of the above conditions will ensure any adverse effects are minimised, particularly with respect to the visual landscape aspects.
2. Once established, the site will provide an important visual amenity backdrop to the surrounding area and the city's southern boundary.
3. The provision of the visual debris stop barrier within the boundaries of the subject site, which will also respect the topography, will ensure any effects upon adjoining land is minimised.
4. The retention of established vegetation will assist in improving amenity, reducing runoff, stabilising slopes, and reduce the amount of land exposed during the establishment phase.
5. The removal of cut vegetation during clearance will assist in reducing the potential fire risk.
6. The retention of existing vegetation, the land clearance method chosen and additional precautions on the northern boundary will minimise the potential for erosion and land slippage.
7. In the existing economic climate, the possibility of residential development on this site is not viable and should be utilised for another appropriate use.
8. The proposal does not unduly challenge the Policies and Objectives of the District Plan.



R.G. Birkinshaw,
CITY PLANNER.