

**NORTHLAND REGIONAL COUNCIL
&
FAR NORTH DISTRICT COUNCIL**

**Report and Decision of the Council, through its Joint Hearings Committee
held in the Opuia Hall, Beechy Street, Opuia
on Monday 27 March 2006,
commencing at 10.00 a.m.**

The Joint Hearings Committee was convened to hear applications lodged by Far North Holdings Ltd relating to a change of use for the Maritime Services Building on Opuia Wharf. (NRC Application No. CON20040838503 and RC 2060405)

PRESENT:

Joint Committee

Cr J L Peters, Chairman
Mr L Robertson

APPLICANT:

Far North Holdings Ltd

Mr M Dunn
Mr M Nicolson
Mr I Butt

CONSENT AUTHORITIES:

Northland Regional Council

Mr A Richards

Far North District Council

Mr M MacDonald

SUBMITTERS:

Opuia & District Ratepayers Assn

M T Leeds

Opuia Marina Liaison Committee

Mr P Sharp

IN ATTENDANCE:

Mr D H Alderton, Committee Secretary
Ms S Froggatt

PRINCIPAL ISSUES

The principal issues that the Hearings Committee saw as being in contention in regard to the application to the Northland Regional Council were whether the proposed changes to the physical dimensions and use were minor in manner and scope.

In regard to the application to the Far North District Council, the Hearings Committee regarded the principal issue being the number of car parks that should be provided in accordance with district plan standards for the amended activity, and the analytical basis for assessing the proposed reduction to the existing condition of consent. Whilst submitters queried whether the applicant was satisfying the existing condition, this was considered to be an enforcement matter for the District Council to investigate.

SUMMARY OF EVIDENCE

The applicant submitted the following plans at the hearing:

- (a) Butt Design Group, Opua Wharf Retail Building, Job No. 2131, plans:
- Site Plan, Sheet 8_001.
 - Ground Floor Plan, Sheet 8_002.
 - First Floor Plan, Sheet 8_003.
 - North and East Elevations, Sheet 8_004.
 - South and West Elevations, Sheet 8_005.
 - Proposed Opua Wharf Retail Building and Previous Proposal of Maritime Services Building (*Isometric plans*), Sheet 8 -006.
 - North, East, South and West Elevation Comparison, Sheet 8_007.
 - GF Tenancy Areas, Sheet 8_008.
 - FF Tenancy Areas, Sheet 8_009.
- (b) Figure 3.14 Opua Cruising Club – Maritime Services Building: Ground Floor and First Floor Plans. (Butt Design Limited plan, undated).
- (c) Figure 4A Plan of Opua Waterfront Area Parking (Northern Civil Consulting Engineers Limited Job No. 1060, Sheet 1 of 1, dated September 2005)

Mr M Dunn, on behalf of the applicant, submitted that the proposed alterations to the location, design and use of the building were relatively minor and would reduce its bulk, height, traffic generation and parking demands. Mr Dunn also considered that the alterations were entirely consistent with the Marine Management 6 (Wharves) Area zoning in the Regional Coastal Plan. In regard to existing parking, Mr Dunn deposed that considerable parking already existed was being developed in the area and that the only real issue was setting a reasonable allocation for the building which allowed for alternative commercial premises, retail and café/restaurant uses.

Mr M Nicolson, also representing the applicant, informed the Hearings Committee that the area that would be created between the proposed Maritime Services Building and the new location of the Opuia Cruising Club building, when the existing Opuia Cruising Club building was removed, was committed by Far North Holdings to public space. Accordingly, it had not been pursued as an alternative. He also described the eight tenants, including activities such as yacht charter/booking, marine insurance, marine electrical, rental/booking offices, game fish accessories and coffee shop/restaurant. Mr Dunn commented further that the suggested tenancies were unlikely to generate commercial activity of an intensive nature.

On the matter of car parking, Mr Nicolson advised that 16 car parks had been created during the establishment of the road running south from the Powder Store location. These were in addition to those required by the original consent for the Opuia Marina and associated development and had been handed to the Far North District Council.

Mr T Leeds, representing the Opuia District Ratepayers' Association, contended that the application did not establish any operational need, that the restricted of public access to the water and adverse visual effects needed to be assessed and mitigated, that the Northland Regional Council staff report failed to assess the application in terms of the operational need and alternative sites. The Opuia District Ratepayers' Association also considered that the application's car parking information was inaccurate and that the consent authorities should review the entire parking situation at Opuia before processing the application, and that there were likely cumulative impacts on traffic congestion that needed assessment and mitigation.

Mr P Sharp, on behalf of the Opuia Marina Liaison Committee, advised that although his committee was in general support of the proposal, it wished to see a further 10 free short term public car parks provided within a 400 metre radius of the base of the Opuia Wharf. Mr Sharp claimed these car parks were necessary for local use, a view that appeared to the Hearings Committee to support the view of the Opuia District Ratepayers' Association on this issue.

The Hearings Committee also noted that comment had been provided by Ngati Manu Trust regarding car parking, although the comment appeared to be based on a misunderstanding of the application, as the 110 car parks commented on were the subject of an already approved previous proposal.

RELEVANT STATUTORY PROVISIONS

In considering Section 127 of the Resource Management Act 1991 (the Act), the Hearings Committee noted that the applications made to both the Northland Regional Council and Far North District Council were classified under Section 127(3)a as discretionary activities.

The Hearings Committee observed that had the application to the Northland Regional Council been made as a fresh application for a new proposed erection, placement, use and occupation of space, this would have been classified as a restricted discretionary application under Rule 31.8.4(h) of the Regional Coastal Plan for Northland.

OTHER RELEVANT PROVISIONS

The Hearings Committee considered the provisions of the respective Regional and Far North District Plans as follows:

- The Regional Coastal Plan for Northland (RCP): Sections 17.3 and 17.4 as they related to the proposed dimensional changes to the structure and its use, together with Sections 30.3. and 30.4, relating to the Marine 6 (Wharves) Management Area.

The Hearings Committee viewed the Regional Coastal Plan as the key relevant document as it applied the provisions of the Act, the New Zealand Coastal Policy Statement and Regional Policy Statement for Northland.

- The Proposed Far North District Plan (PDP): Objective 14.1.3.2 as it related to the adequate provision for on-site parking for all activities.

MAIN FINDINGS OF FACT

The Hearings Committee, in considering the matter of adverse environmental effects of the proposed change on views, concluded that, given the retention of the open space between the proposed Maritime Services building and the proposed Opuia Cruising Club building, the reduction in building height would lead to a small improvement in the available views, particularly of Waikare Inlet. While there would be a small reduction in the viewing corridor between the proposed new site of the Maritime Services building and the former Northland Regional Council building by approximately 3 metres, resulting from the 4 metre translation of the building footprint, this was not regarded by the Hearings Committee as adversely effecting views through this corridor to other than a minor extent. The Hearings Committee noted that its interpretation of the translation distance of the building towards the former Northland Regional Council building, at 3 metres was at variance with the 1.5 metre distance advised by the applicant.

In regard to the evidence of the Opuia District Ratepayers' Association, the Hearings Committee did not see the proposal as restricting public access to the water at the particular location and noted that a full reading of Regional Coastal Plan Policy 17.3.3 enabled consideration of any proposal notwithstanding that there might not be an operational need or practical alternative location. In this case the Hearings Committee considered that this Policy needed to be read in conjunction with Policy 30.4, which was more specific, and therefore more relevant to the Marine 6 zoning. In considering both policies, the Hearings Committee was satisfied that the proposal did not offend the policy provisions of the Regional Coastal Plan, such that, on that basis alone, consent should be refused.

As to the issue of alternative site as raised by the Opuia District Ratepayers' Association, the Hearings Committee considered that as it had come to the conclusion that, as the adverse effects were not more than minor, there was no imperative for an assessment of an alternative site. The Hearings Committee was supported in its view by the approval already granted for such activity at this site and the Fourth Schedule to the Act. The matter of whether part of the building was to be used by the applicant as offices, as distinct from other office tenants was not an issue for the Hearings Committee to consider.

The Hearings Committee, upon considering the matter of traffic congestion and parking that were raised as issues by both the Opuia District Ratepayers' Association and the Opuia Marina Liaison Committee, observed as a general view that Opuia is now well served with car parking, and that car parks need not be provided on the basis of infrequent needs. The Hearings Committee noted that, while no evidence, such as the file records referred to by the applicant in Mr Dunn's evidence, had been provided by any of the parties to substantiate their respective claims on the matter of traffic congestion, any change to traffic congestion, be that less or more, generated by the proposal would be minor and possibly so minor as to be negligible.

In considering car parking numbers, the Hearings Committee found that a reduction in parking was enabled under the Proposed Far North District Plan and that there were no adverse environmental effects in terms of this plan such that consent could not be given. The Hearings Committee did not consider that it was appropriate or necessary for it to revisit issues already dealt with in previous proposals. Consequently, it relied on the conclusions that previous decision makers had reached in this regard, notably the requirement on the applicant to provide 305 car parking spaces by way of consent conditions imposed under the original resource consents issued for the Opuia Marina, which development proposal included the building the subject of this application.

The Hearings Committee noted that the 16 car parks on the road south of the Powder Store building, referred to by the applicant in its evidence, were within the 400 metre radius sought by the Opuia Marina Liaison Committee. If these car parks were under the control of the Far North District Council then presumably they were free and available to the public and that the possibility therefore existed for the District Council to be approached to explore making some of these available on a limited time basis.

The Hearings Committee concluded that the effects of the change in use of the building and reduction in car parks would be minor.

DECISION

The Hearings Committee determined, pursuant to Section 127 of the Resource Management Act 1991, to grant consent as follows:

I Application to Northland Regional Council

To change Condition 1 of Item (x) of Resource Consent CON20050838503 (01-10), as follows (with changes indicated by strike-through and bold underlined):

“(x) To erect a two storey building ~~with an observation facility and~~ a ground floor of approximately ~~360~~ **400** m² for the ~~Opua Cruising Club~~ **offices** and commercial businesses on and adjacent to the Opua Wharf.”

Change to Existing Condition 1

1 “This consent applies only to the area shown on Northland Regional Council Plan No. 3052 and 3394, **and with the Maritime Building as amended by NRC Plan Numbers: 3618A, 3618B, 3618C, 3618D, 3618E and 3618F attached.**

(Note: Section 127 change, granted 20 May 2003 and Section 127 change granted on 13 April 2006.)”

Add new Condition 32

“32 The gross floor area of retail activity within the building, excluding the café/restaurant, shall not exceed 125 square metres.”

All other conditions of the consent to remain unaltered.

II Application to Far North District Council

To change Condition 13 of Resource Consent RC 1991071 as follows (with changes indicated by strike-through and bold underlined):

“13 The Consent Holder shall provide and maintain a minimum of ~~305~~ **260** car parking spaces **(28 of which are for the Maritime Services Building)** as generally shown on ~~Figure 4.1 of the Assessment of Environmental Effects~~ **Parking Layout dated 1/6/99** submitted with the consent applications **and the revised Parking Layout Plan from Northern Civil Consulting Ltd No. 1060 of September 2005.** Where parking spaces are provided on a separate title to that on which the activity is occurring, they shall be protected by way of an easement or other legal means to ensure their ongoing availability for that activity. Evidence that this has been achieved will be submitted for the approval of the Environmental Services Manager, Far North District Council prior to the occupation of the Maritime Services Building.”

All other conditions of the consent to remain unaltered.

REASONS FOR THE DECISION

Overall, having considered all the evidence before it, the Hearings Committee concluded that the environmental effects of the proposed change would be minor, that granting consent to the proposal was consistent with Part 2 of the Act and that, having regard to the relevant provisions of the New Zealand Coastal Policy Statement, the Regional Policy Statement for Northland, the Regional Coastal Plan for Northland and the Proposed Far North District Plan, it was appropriate to grant consent, subject to conditions.

The Hearings Committee, in concluding that the proposed reduction in car parking satisfied Far North District Council parking requirements, and was consistent with the requirements of the Proposed Far North District Plan, considered that it should impose some limit on use of the building for retail purposes to ensure that the reduction in number of car parks authorised by its decision remained valid.

The Hearings Committee also considered that it would be appropriate to include conditions controlling provision of public toilets.

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Cr J L Peters
Chairman
Hearings Committee

13 April 2006