

**BEFORE INDEPENDENT COMMISSIONER**

**AT NEW PLYMOUTH**

Under the Resource Management Act 1991

**In the Matter of** an application by Heinrich and Sophie Fourie under s221(3) of the RMA to vary a consent notice condition applying to the property at 263 Weld Road Lower, Oakura

---

**Hearing Statement of Nicholas Hackling**

**Date 15 July 2025**

---

## **HEARING STATEMENT OF Nicholas Hackling**

### **Introduction**

1. My name is Nicholas (Nick) Graham Hackling
2. Together with my wife, Abigail (Abi) Jane Hackling, and legal Trustee Paul Carrington we own the property at 247B Weld Road, Tataraimaka, Hackling Family Trust
3. I am making this statement in support of the submission against this application by our neighbours at 263 Weld Road to vary the consent notice on their property which will mean the authorised dwelling location will move from what is currently 'Area Z' on the consent notice, to 'Area A' – the location of their current 'shed' & where they are now residing.

### **Our Property**

4. We purchased our Land (property) in 2010, and built our own house in 2011 & subsequent second dwelling in 2018 as per the RMA & our resource consent. Our first, smaller dwelling is currently tenanted. As our eldest son is disabled, our long term plan is to use the first dwelling as a separate, self contained house on our land in order for him to live a more independent life in whatever capacity this may look like.

### **The original subdivision**

5. We were approached in August 2021 by our neighbours, Tracey and Graeme Beaton, who wanted to subdivide their land next door.
6. We were worried about the fact that the land would become developed instead of remaining as pastoral land (as per the last 2 or 3 resource consents). Furthermore, it could be developed on the embankment with a view over our own land creating a lack of privacy .
7. We were also concerned that the stand of pines that we had negotiated to have removed by the previous landowner (Kevin Thomas) to prevent shadowing to our property, would be replaced by high planting or trees along the embankment that would do the same.
8. The Beatons took on board our concerns, and when they presented us with the concept of 'Area Z' being the specified location for any dwelling, this addressed the concern that people would build too close to the embankment between our properties & that there

wouldn't be a need to plant trees to mitigate a building in this area. We gave our approval on this basis, and the number of dwellings was restricted to one.

### **Background to the Fourie's application**

9. In November 2022 the Fourie's put a note in our letter box wanting approval to '*shift the title of the property to further into the middle of the lot*'.
10. On the 3rd December 2022 Heinrich visited our house. I was at work but he spoke to my wife, Abi, & handed over a plan with a circle indicating where they wanted to move their house building platform to. She told him that we all needed a group meeting with all the affected parties & that our main concerns were the planting of trees & the build up of development as 247D already planned for a 2nd dwelling in that same area. She reiterated to Heinrich that he needed to speak to everyone concerned (as there were 9 affected parties on the Beaton's subdivision consent).
11. On the 22nd December 2022 Sophie Fourie & Brent Anderson (Sophie's father) visited our house. Again I was at work & they spoke to my wife, Abi. She repeated the same information as she had to Heinrich about the problem with planting trees along the embankment & that we didn't want a dwelling over looking us. She also pointed out that the plan that they had wasn't accurate & they had even omitted our house. Brent told her she was 'a silly girl' & tried to claim that our shed on the plan was in fact our house. Abi told them that we were a close knit community & this needed consultation with everyone concerned.
12. The Andersons & Fouries directly and indirectly threatened to remove us and our neighbours as patients at Oakura Medical Centre if we didn't comply with their resource consent change. This occurred on two or more occasions; primarily when trying to coerce signatories & after they removed fencing from our right of way, without consent & proceeded to drive over planting on 20th January 2023 in order to access their land.
13. On the 6th February 2023 Heinrich & Sophie came to our house unannounced. It was Waitangi Day & we had visitors, so told them it wasn't a good time.
14. I met with Heinrich on their land on the 22nd February 2023. I asked him to reach a middle ground with input from the Sheffields so that their proposed dwelling didn't impact

us all as much. Heinrich refused. He also refused to meet with Greg Sheffield at the same time so that the matter could be discussed, favouring trying to broker an individual deal.

15. Heinrich visited the house & spoke to me again on the 10th February 2025 (having been residing in the property for the past 4 months). Heinrich told me that they were suffering financial & health problems & it affected them building their house in the designated zone. He also told me that he would remove the poplar trees if it meant that we could come to some kind of agreement. I informed him that none of the decisions that we or any of the neighbours have made have put the Fouries into the position that they now find themselves in.
16. On the 11th February 2025 a letter was received by a number of neighbours (271, 255, 247D & 247A) in an Oakura Medical Centre envelope from Susie Anderson (Sophie Fourie's mother) that pleaded with those that received it to sign their consent & vilifying my character. ( There is a copy of this appended to our original submission.)

### **Response to NPDC Planners Report**

17. We agree with a substantial amount of Mr Brad Dobson's evidence, including the visual & non-visual affects that a dwelling in Zone A would have on our property, 247D & 271.
18. We also agree with Mr Dobson's & Ms Jacqui Manning's recommendations for the removal of the poplars to prevent additional shading to us.
19. We disagree with the recommendation by Ms Manning that consent be granted.
20. We disagree with Ms Manning's statement: *'the effects related to the proposal to vary the consent notice can be sufficiently managed through additional conditions, should consent be granted, such that the proposal will result in no more than minor adverse effects on rural character and amenity.'*
21. We don't understand how the NPDC can have no regard for the circumstances that led to the creation of the consent notice to protect us. We've relied on it, and it seems far too easy to dismiss it & get it wiped. We had no idea this would even be possible.

### **Response to Applicants Evidence**

22. Mr Bain's involvement in the resource consents for Mr & Mrs Beaton (sub14/46269 in 2014 & sub22/48035 in 2021) & now for Mr & Mrs Fourie, has appeared to be contradictory.
23. Mr Bain previously submitted a report for the Beaton's to subdivide their land to create 255 (Shaw's) & 249 (Beaton's) Weld Road. Based on input from affected neighbours and RMA planning guidance parameters, this resulted in Mr Bain creating a 'no-build zone' on the lower levels of Lot 1 (249), (which is now Lot 2, where the Fourie's are proposing Area A) due to the impact on surrounding neighbours.
24. The second subdivision by The Beatons of Lot 1 (249) to create 263 Weld Road, also used Mr Bain's services. Again, he used input from affected neighbouring property owners to create Area Z as the only building platform on the section due to the affect that any other areas may have.
25. By advising & working in the Fourie's interests to vary the consent notice, Mr Bain's previous reports have now been contradicted by himself & he has used previous information & knowledge against the neighbouring property owners.
26. It appears to us that the Fouries have planted the Poplar trees in order to cause us & our neighbours irritation & upset & to give themselves leverage over us to sign their paperwork. There are three separate situations that the Fourie's were made aware of our concerns about the planting of large trees along the embankment; two of which were before they even started building or planting.
27. If the poplars are planted as a shelter belt (as determined by Mr Bain's evidence) then shelter belts typically have height & width limitations to ensure they are effective for their intended purpose while minimising shading or other potential impacts on neighbouring properties. Mr Bain has failed to address these mitigating issues. With respect, Mr Bain does not have to live here & his remarks are made without any personal insight or consideration to his previous assessments for past subdivisions.
28. We live in a close knit enclave of houses, with neighbours sharing grazing land, skill sets for mutual benefit & meetings/barbecues for social interaction. It is important that everyone works together as a community so that we don't impede each other's views or privacy (as was the consideration in agreeing to Area Z). An example of this is that ourselves & the neighbour at 247C have recently shared costs & labour to plant a screening between their property & ours. The planting types, heights & species were

discussed & agreed upon & mutually benefit both of our properties, unlike the proposed & existing planting at 263.

29. Within the bounds of the RMA at the time, myself & the other neighbours invested in building two properties on our allotments (our reasoning mentioned above), resulting in above average housing in a relatively condensed area. On the entirety of Weld Road Lower there are approximately 30 residential dwellings, 11 of which (not including the Fourie's proposed shed/dwelling) sit clustered around the Fourie's land (as indicated by Ms Manning in her assessment of affected parties). That is why it is so important that dwellings are positioned carefully, & that is why Area Z has been insisted upon when this land has been subdivided. With this in mind, it is to be expected that there would be some covenant/restrictions on any future development, of which there was when the subdivision was proposed & subsequently purchased by the Fourie's. This was clearly shown on the plan/title deed that the Fouries purchased.

### **Effects on us**

30. Moving the dwelling to 'Area A' would be significant for us, as this portrays our 'worst case scenario', i.e. tall trees planted along the ridge line & a dwelling within the same area.
31. During construction at 263, we could clearly hear the conversations of the builders & construction noise. We now feel that we cannot have a private conversation on our own deck. It is also an uncomfortable feeling when the Fouries and others are riding horses & mowing along the embankment & around the outer perimeter of the paddocks looking down into ours & our tenant's living areas.
32. The high planting, that has already occurred in the form of poplar trees, along the embankment, will create shading to our property & our garden. Mr Dobson has identified these trees as *Populus × euramericana* 'Crow's Nest' Poplars, a fast growing tree that typically reaches a height of 20-30 metres. *Populus × euramericana* can reduce pasture production due to shading, particularly as the trees mature & the canopy closes & we are concerned on the effects this will have on our lawn, flowerbeds & green house areas.
33. Having negotiated the removal of a stand of pine trees in this area & subsequent self sown trees, we already know of the impact that tall trees will have in this area & their effects on our own property. The effect, which is considerably more than the simulation

that was undertaken by Mr Dobson, shaded our property until the middle of the day during the winter.

### **Effects on other neighbours**

34. We agree with the recommendations from Mr Dobson & Ms Manning to remove the poplar planting to prevent potential shading & the potential effects from roots on the effluent disposal field at 247D in order to comply with the RPROZ-R2/S3 shelter belt standard.
35. We agree with the recommendations from Mr Dobson to replace the Poplar shelter belt with a 5m (minimum) width native planting buffer that would also benefit the Sheffield's property (271) in terms of further screening of residential activities within their view.
36. Moving the dwelling to Area A would significantly impact quite a few of our neighbours as we are now currently living with this scenario!
  - a) 247D would be impacted by the proximity & reduced privacy to their own dwelling & their second consented dwelling. This is both in terms of visual & non-visual effects that comes from the noise of children playing outside, outside entertainment areas, light spill & mitigating planting that encroaches on their sunlight. The planting of *Populus × euramericana* trees, which are known for their extensive root systems, can sometimes cause problems by growing into sewer lines or septic systems or damaging building foundations which I believe would affect the second consented dwelling at 247D (& even those at 263!).
  - b) 271 now have reduced privacy as their own living areas & outside entertainment areas are in direct view of Area A. Mitigation planting that consists of tall poplar trees, now impacts the views & sunlight for 271.
  - c) The owners of 255 bought their property based on the LIM report that showed the lower part of Lot 2 (263 Weld Road) as a no-build area. They have developed a plan & are near finishing the renovations on their own property based on the land that lies within sight of theirs, not being a building platform.

- d) The Blairs at 247C have recently completed an extension to their own property relying on the resource consent restricting the building platform to Area Z. They will now be visually affected by the development in Area A, mitigating planting to disguise this development & the light spill & noise that comes with a dwelling.

## Conclusion

- 37. The last 3.5 years have been a source of significant stress & anxiety to both myself & my wife, Abi. Our property is our retreat & we have been made to feel scared & bullied by the Fouries & the Andersons & let down by their professional advisors & NPDC.
- 38. We negotiated Area Z in good faith, so that the effects of the original subdivision would be acceptable. We would not have agreed to the original subdivision without it. We've relied on Mr Bain's assessment & in his words that the: *'effects from the creation of Lot 2 are reduced by the identification of a Proposed Building Platform (Area Z on Subdivision Scheme Plan). This tucks the dwelling towards the embankment and prevents the wider open space on Lot 2 being built on.'* We have since made decisions in the knowledge that any dwelling & residential activity will be on Area Z next door & have created our own home & garden based on this.
- 39. NPDC should never have let the applicant move into this 'shed'. They have let us all down significantly & enabled the Fouries to completely disregard the requirements on their land. The NPDC haven't supported us & have reassured us with false ideals each time that we approached them with concerns:
  - (a) A failure on the part of the NPDC to act on our emails, visits & phone calls, when outlining the initial intentions of the Fouries which may have avoided the situation we are in today.
  - (b) Failure on the part of the NPDC to uphold their promises such as when Bridget Rook emailed on the 2nd June 2023 saying *'In the mean time I would really appreciate it if you and your neighbours can trust that I will follow the correct RMA process.....They definitely cannot start building a dwelling without consent to move the building platform so please be assured that all they can do is build the shed.'*
  - (c) NPDC's failure in issuing a sign off to the 'shed' despite many concerns from neighbouring properties regarding the resource consent rules & the shed being



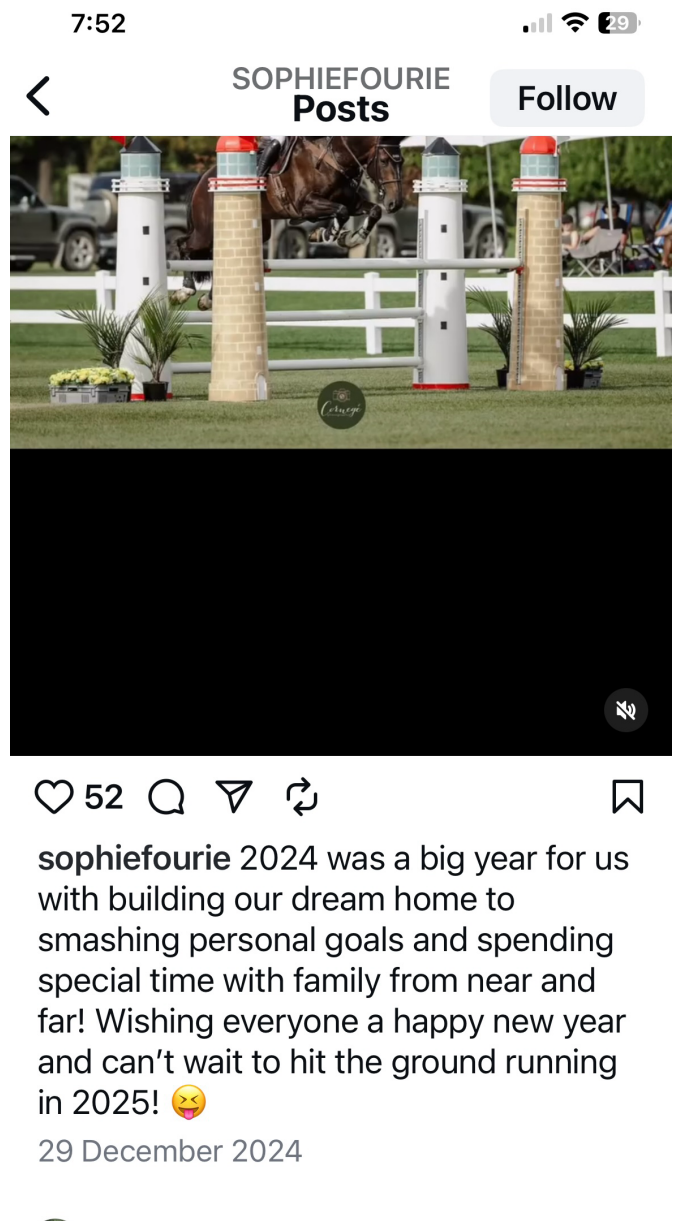
used as a dwelling. (See email from Abednico Ndlovu, Consents Monitoring Officer, in Attachment 2).

- (d) Failure of the NPDC to impose any sanctions on the illegal occupancy of the dwelling at 263.

- 40. If other people were considering signing off on a subdivision based on a consent notice, I would tell them not to because the NPDC will simply disregard it & someone down the track could completely ignore it & change it. Similarly, if I had one on my own land, I feel like I could safely ignore it with little or no ramifications, such has been the attitude of Council.
- 41. Fundamentally, it seems very unfair & inappropriate that we, along with four other neighbours, are having to provide solutions to mitigate the adverse effects on us (at an additional financial cost) in order to provide evidence for the NPDC to uphold the resource consent & rules that they imposed in the first place.
- 42. We are disappointed that the Fouries have been 'economical' with the truth & played neighbours against each other for their own benefit whilst also playing the NPDC's building & consent systems to gain a dwelling outside of the allotted building zone. Ultimately, as per our submission, we believe that if they should have done due diligence & if they didn't like the designated building platform land at 263, then they shouldn't have chosen to purchase it.
- 43. It has demonstrated to us that the Fouries don't have any respect for the previous processes, & that this may affect others. By living in the 'shed' (that they now refer to as their 'Home Sweet Home' & their 'dream home' - see below), shows that they are not at all repentant for breaking the law.
- 44. Furthermore, given this indifference to comply with the current resource consent, we question whether they would be likely to follow any new one or any other future variations.

Nicholas Hackling

## Attachment 1. Instagram Post



## **Attachment 2. Appendix Detailing concerns and background**

## Appendix

*Notes in Italics are by author N Hackling.*

- HEINRICH AND SOPHIE FOURIE 249c Weld Road, Oakura PROPOSED AMMENDMENT TO CONSENT NOTICE – CHANGE IN LOCATION OF PERMITTED DWELLING PLATFROM (Sub22/48035)

Taylor Patrick Limited

Date 08/05/2023

### THE PROPOSAL

The proposal is to make one change to the provisions of the existing Consent Notice, being to relocate the area designated for habitable dwelling from Area Z on LT 582431 to Area A shown on the Attached Taylor Patrick Scheme Plan “Area A being proposed habitable dwelling Area” dated 27 April 2023.

The reason that the applicants request this change is it is a more practicable location in terms of driveway access and to reduce the quantity of earthworks and cut faces compared to Area Z building platform area.

- *Drive including metal was already established 17/05/2023*

The applicants are advance with the design of the dwelling, which is a barn house concept, as shown in Appendix 10. The applicant confirms that this is the design concept they intend to build, but may extend the length by one additional bay. This barn dwelling would meet the requirements of the existing consent

Version: 3, Version Date: 08/05/2023 Document Set ID: 8973408.

- Heinrich and Sophie Fourie 27 April 2023

249c Weld Road, Oakura 23019

TAYLOR PATRICK LIMITED Page 4

The proposed relocation has been assessed by Blue Marble Landscape Architects and their report is attached in the appendices. Blue Marble undertook the original. Those neighbours identified in the Blue Marble report as being potentially affected by the change in location of the dwelling have all signed written approval forms. These are provided in the appendices.

- *This is not factual 271 and 247c were deemed affected (see Richard Bains emails below) and did not supply written approval.*

- From: "Bridget Rook"

Sent: Wed, 17 May 2023 12:41:02 +1200

To: "Stefan Kiss" <stefan@taylorpatrick.co.nz>

Subject: Section 92 Request for further information - SUB22/48035.02 – 249c Weld Road

Lower, Tataraimaka

Hi Stefan,

Thank you for your application for resource consent. As discussed on the phone, our Development Engineer and I undertook a site visit on Monday. Consideration has now been given to your proposal and it has been determined that we require further information to be able to fully understand the effects of the proposal on the environment and how they are to be managed. Our concerns are regarding liquefaction and effects on neighbouring persons. In accordance with Section 92 of the Resource Management Act 1991 (the Act), can you please provide the following further information:

1. Please engage a suitably qualified engineer (refer Grounds for interference | Engineering NZ) to undertake a Preliminary Site Evaluation, and prepare a geotechnical assessment report in order to establish whether or not the ground is suitable for the proposed development. Natural hazards including slope stability, liquefaction and lateral spread shall be addressed as part of this report in accordance with relevant MBIE and NPDC guidance on liquefaction.

Reason: This is required under the MBIE and NPDC guidance on liquefaction.

2. Please ensure that the scheme plan signed by neighbours is the most up to date site plan and shows the building platform in the proposed location.

Reason: The written approvals include a circled building platform that differs from the proposed site plan.

3. Please provide written approvals or alternatively provide an updated Landscape assessment from Richard Bain on the potential adverse effects on neighbouring properties at 271 Weld Road, 247C Weld road and 247B Weld Road. These persons gave written approval for SUB22/48035, therefore I need to need to thoroughly assess effects on these persons in my report if no written approvals have been provided.

- From: Bridget Rook <Bridget.Rook@npdc.govt.nz>

Sent: Monday, June 19, 2023 3:30 PM

To: Stefan Kiss <stefan@taylorpatrick.co.nz>

Subject: RE: [#TP23019] Response to s92 request - Sub22/48035.02 - 249c Weld Road

Lower

Hi Stefan,

I note that Richard Bains report has identified that some parties will be affected so I am just working through the next step and will send another email soon. This is new for me. Are your clients aware that some parties have been identified as affected to a minormoderate degree?

Kind regards,

Bridget

Bridget Rook

Consents Team | Environmental Planner

On 20/06/2023, at 8:21 AM, Stefan Kiss <stefan@taylorpatrick.co.nz> wrote:

Hi Richard

This is the job that keeps on giving.....

Can you take a look at your report and see how we should respond to Bridget? thanks

Regards

Stefan Kiss | Registered Professional Surveyor

Huatoki Business Centre, 17a Brougham Street, New Plymouth

PO Box 8258, New Plymouth 4340, NZ | P: 06 758 1021 | m: 021 543 69

From: Richard Bain <richard@bluemarble.co.nz>

Sent: Tuesday, June 20, 2023 9:06 AM

To: Stefan Kiss <stefan@taylorpatrick.co.nz>

Subject: Re: [#TP23019] Response to s92 request - Sub22/48035.02 - 249c Weld Road Lower

Hi Stefan, In my memo dated May 2023 (Viewer assessment table) I have identified four properties that

I consider meet or exceed the assessment rating of minor or greater (ie 'affected').

These are:

249 Weld Road Lower

247 Weld Road Lower

247c Weld Road Lower

271 Weld Road Lower

However in paragraph 1.9 I have listed five properties, inadvertently including 247a in the summary.

So to clarify, I consider the potentially affected properties to be (as listed and discussed in the viewer assessment table on page 6 of my report.

249 Weld Road Lower

247 Weld Road Lower

247c Weld Road Lower

271 Weld Road Lower

Ngā mihi

Richard

From: Stefan Kiss <stefan@taylorpatrick.co.nz>

Sent: Tuesday, 20 June 2023 11:31 am

To: Bridget Rook <Bridget.Rook@npdc.govt.nz>

Subject: FW: [#TP23019] Response to s92 request - Sub22/48035.02 - 249c Weld Road Lower

Hi Bridget

Please see reply from Richard, apologies there was a typo in his report.

With 271 Weld, I had a conversation with Richard about that today, his opinion is that with mitigation the effects are low (minor) which means Council can grant consent on the basis that the mitigation will be imposed/required

Regards

Stefan Kiss | Registered Professional Surveyor

Huatoki Business Centre, 17a Brougham Street, New Plymouth

- *This all smacks of coercion and corruption,*  
E.G. “This is the job that keeps on giving.....”, “see how we should respond to Bridget?”
- *Then within a conversation between Bain and Kiss they have decided they are not affected o through mitigation and advising the NPDC on what they should do “which means Council can grant consent on the basis that the mitigation will be imposed/required”.*
- **From: Bridget Rook** <Bridget.Rook@npdc.govt.nz>

**Sent: Monday, June 26, 2023** 10:32 AM

Subject: RE: [#TP23019] Response to s92 request - Sub22/48035.02 - 249c Weld Road Lower

Hello Stefan,

Please find attached my preliminary assessment on neighbouring properties. It’s essentially just to organise my thoughts. At this stage **I have identified 5 properties as being affected.**

You are welcome to share this with your clients as this may provide **some guidance as to whether they**

**wish to proceed with limited notification.**

Please note that the base fee for limited notification will be \$6,872.00 base fee. I see your client has already paid a base fee of \$1,363.00 so the balance would be \$5,509.

Kind regards,

Bridget

Bridget Rook

Consents Team | Environmental Planner

New Plymouth District Council | Liardet St | Private Bag 2025 |

- *Thank you, Bridget, for not bending to the will of these questionable ‘professionals’*

**From: Stefan Kiss** <stefan@taylorpatrick.co.nz>

**Sent: Wednesday, 26 July 2023** 1:06 pm

To: Bridget Rook <Bridget.Rook@npdc.govt.nz>

Hi Bridget

Our client has **confirmed they would like to withdraw** their Consent application to change the Consent

Notice Condition related to Habitable building location.



Instead, they plan to construct a non-habitable shed. A building consent will be lodged for that nonhabitable shed in generally the same location and style as was previously submitted for the Resource

Consent.

Our client has indicated to me their intention to eventually build a habitable dwelling within the already

approved building platform area. But this is not imminent, the non-habitable shed will be the primary

focus for now.

Regards

Stefan Kiss | Registered Professional Surveyor

Huatoki Business Centre, 17a Brougham Street, New Plymouth

PO Box 8258, New Plymouth 4340, NZ | P: 06 758 1021 | m: 021 543 693

- *Surely within Planning and Consent departments alarm bell are ringing at this point. Around this time I also had a phone conversation with Mr Lilley at NPDC and was assure the NPDC will front foot this and make it very clear this will not be allowed to be a dwelling.*

- From: "Abednico Ndlovu" <abednico.ndlovu@npdc.govt.nz>

Sent: Fri, 8 Nov 2024 08:58:44 +1300

To: "Kate Keegan" <Kate.Keegan@npdc.govt.nz>

Subject: Background - 263 Weld Road Lower

Hi Kate,

I conducted my initial site visit at 263 Weld Road Lower on 31 July 2024, where I met with Heinrich Fourie and Sophie Elizabeth Fourie. At the time, they were working on building inside the shed. I asked about its intended use, and they explained that it would serve as a canteen for individuals involved in horse training activities.

During our conversation, I informed them that a shed would be classified as a residential unit if it contained sleeping, cooking, bathing, and toilet facilities. At that point, I did not consider the shed to be a habitable building, as there were no beds or other signs indicating the presence of sleeping facilities.

When I inquired about the other rooms, Heinrich mentioned that they would be used as offices.

I also advised them that if they intended to change the use of the shed to a residential unit, they would need to apply for resource consent.

Later, on 26 September 2024, I conducted another site visit at 263 Weld Road Lower following a further complaint from the neighbours regarding potential residential use of the shed.

During this visit, I did not meet anyone on-site. I could only observe the interior of the shed through the glass sliding door.

From what I could see, there was no evidence suggesting that people were living in the shed.

The floor was cluttered with tools, and the fridge and stove appeared the same as they had during my initial site visit on 31 July 2024, with the stove still covered in the same manner as seen in the earlier photos.

Ngā mihi

Abednico Ndlovu

CONSENTS MONITORING OFFICER

- *Pretty naive on the part of the NPDC especially as within a month the conversation detailed below transpired.*

*Exert from LPB.govt.nz below.*

## **BUILDING CONSENT AUTHORITIES' ROLES AND RESPONSIBILITIES**

All building consent authorities (BCAs) process building consent applications and undertake building inspections. BCAs check that building work meets the requirements of the Building Act and the Building Code. Functions performed by BCAs include:

- › considering building consent applications and deciding whether an application shows how the work will comply with the Building Code
  - › inspecting building work at key stages during the construction process
  - › certifying that the work complies with the building consent by issuing the CCC.
- Territorial authorities are responsible for keeping records about all the properties in their area, to address breaches of the Building Act and to protect people and other buildings.

## **OBTAINING A CCC**

At the end of the building process, the BCA will undertake a final inspection. This is where they perform a detailed check of whether the building consent has been followed. If everything lines up and all the required supporting information has been provided to the BCA, a CCC will be issued.

This certificate certifies that the BCA is satisfied that the building work has been completed in accordance with the building consent.

- From: "Kate Keegan"

Sent: Fri, 22 Nov 2024 12:56:50 +1300

**NON-COMPLIANCE WITH CONSENT NOTICE FOR LOCATION OF HABITABLE DWELLING – 263 WELD ROAD LOWER**

4. Heinrich confirmed that at the time of our phone conversation the shed was being used as a habitable dwelling, and that your family had permanently occupied the shed as of 'a couple of weeks ago'. A photo of the shed which Heinrich confirmed as being the shed which is occupied, is attached as Appendix 2.

5. The photo attached as Appendix 2 was taken during a site visit on 31 July 2024 by NPDC Monitoring Officer Abednico Ndlovu who responded to an earlier complaint about use of the shed. On 31 July the shed was not being used as a habitable dwelling. Mr Ndlovu provided you with verbal advice that a resource consent would need to be granted before the shed could be used as a habitable dwelling, due to restrictions set by the consent notice described in paragraph 2 of this letter.

6. During the 7 November conversation, I confirmed the location of the shed being used as a dwelling with Heinrich and understand it to be in the location circled in red shown in Appendix 3.

This area sits outside the location marked 'Z' on the title plan of the site. This is the same shed Mr Ndlovu spoke with you about on 31 July.

7. Use of the shed in this location as a habitable dwelling is in breach of the consent notice. The RMA allows local authorities to enforce a condition of a consent notice through an enforcement order or abatement notice and failure to comply constitutes an offence against either Section 338(1)(b) or Section 338(1)(c).

12. To address additional building work undertaken on the shed at the site, it was agreed at the 18 November meeting that a Certificate of Acceptance (COA) will be applied for to address compliance with the Building Act. Please direct any questions regarding the COA to Karl on [karl.steer@npdc.govt.nz](mailto:karl.steer@npdc.govt.nz)

- *Even following numerous conversation re- the repercussions for actions of breaking the RMA no enforcement action was taken.*

- Meeting

27.3.2025 Interview Room 1 @ NPDC

NPDC - Kate Keegan, Richard Watkins, Jacqui Manning (Planner)

Applicant - Sophie and Heinrich Fourie, Tanya Hansen, Sarah Ongley (Legal Rep)

Discuss current application and options. Applicant to advise by 5pm Monday 31 March on is they will proceed with Limited Notification x3 written approvals have been obtained.

KK - advised that while current application remains to be processed, previous comms advising enforcement response is on hold will stand. If the application is withdrawn, ENF response decision will be revisited. Also advised Building have no record of a COA being applied for - Heinrich confirmed he had not applied as previous indicated they would.

JM to email applicant and their team with follow up from the meeting. KK

- **From:** Nick Hackling <[nhackling@hotmail.com](mailto:nhackling@hotmail.com)>  
**Sent:** Saturday, 23 November 2024 7:34 am  
**To:** Kate Keegan <[Kate.Keegan@npdc.govt.nz](mailto:Kate.Keegan@npdc.govt.nz)>  
**Subject:** Re: SUB22/48035.03 - [263 Weld Road Lower](#) - Consent Notice Variation

Hey Kate,

Thanks for the update. I know you are probably aware, but figure I should point out that I am not the only person unhappy with the goings on at 263, I just seem to be the person everyone asks about it, so I then in turn I ask you. I just don't really want to be labeled as the sole antagonist in all this, and made to feel that I am in the wrong to sticking to what was agreed when the subdivision resource consent came to us from G Beaton.

I am happy to provide you with names and contact information so all can be cc'd in.

I will forward this email on to the others.

Again thanks for the update.

Kind regards

Nick

Sent from  
Nick Hackling  
027 7527965

On 25 Nov 2024, at 11:12 AM, Kate Keegan <[Kate.Keegan@npdc.govt.nz](mailto:Kate.Keegan@npdc.govt.nz)> wrote:

Good morning Nick,

Thank you for your response. I am aware there are multiple complainants in this matter, and you are welcome to share my recent correspondence. Not a problem to send the same updates to all parties, if you respond to this email with the names/contacts.

Jacqui and Richard (in their involvement with the application to vary the consent notice) have been kept up to date on Council's response to non-compliance with the shed.

Ngā mihi

Kate Keegan  
MONITORING SUPERVISOR

On Wed, 19 Feb 2025 at 10:51 AM, Becs & Leanne Shaw <[becsandleanne@gmail.com](mailto:becsandleanne@gmail.com)> wrote:

Hello fellow neighbours and further recipients,

Further to what Greg has mentioned, we had a visit from Heinrich a couple of weeks ago with forms to sign and a copy of the plan. I was not home at the time of his visit and I promptly advised him that I would not be supporting his application for resource consent due to improper processes being followed. A couple of days later I also received a hand written letter in my letterbox from Susie Anderson and this was also in an Oakura Medical Centre letter. I found this deeply unsettling as a patient at the clinic and promptly changed medical centres the next working day! I plan to reach out to one of the other doctors who has shares in the business, and who has been a great doctor to my family, and advise of this letter writing business. As a former Detective, I will not stand for any form of coercion and will be happy to hear from any one as to the nature of their letters.

I also hope the Council take this seriously as none of us neighbours have done anything wrong and don't deserve this. I would appreciate the Council to use some common sense with this and see that there will be very little, if any support, and should move this process along promptly! I would also like to point out that any grounds for building the house outside of the building platform due to health issues, specifically Heinrich's cardiac arrest, pre dates them purchasing the land.

Regards,  
Becs - 255 Weld

- Exerts from LBP Hand Book: <https://www.lbp.govt.nz/assets/lbp/documents/lbp-handbook.pdf>

## WELCOME TO THE LICENSED BUILDING PRACTITIONER (LBP) SCHEME

- As part of your application to become an LBP, you need to demonstrate your knowledge of the regulatory environment that relates to your work in the building and construction industry.

This handbook outlines the information that you need to know to meet this requirement, so please take the time to read and understand the content.

It's important to keep in mind that rules do change from time to time and, as an LBP, it is your responsibility to keep up to date with these changes. You can do this by subscribing to LBP Updates and the Codewords newsletter on the **LBP website**, and by visiting the **Building Performance website** for the latest versions of documents and guidance.

After you have read this handbook, you should be able to demonstrate your knowledge of:

- › the key features of the LBP scheme
- › restricted building work
- › operating within the scope of your own competence
- › skills maintenance
- › your roles, responsibilities and rights
- › health and safety requirements
- › the Building Act 2004
- › the Building Code
- › the building and resource consent process
- › certificates of design work/records of building work
- › the Construction Contracts Act 2002.

During your assessment for the licence class that you are applying for, an assessor will ask you questions based around the information from this handbook.

Please note that the information in this handbook relates to all classes.

If you have any queries, please contact:

**Licensed Building Practitioners**  
[www.lbp.govt.nz](http://www.lbp.govt.nz)  
 Phone number: 0800 60 60 50  
[info@lbp.govt.nz](mailto:info@lbp.govt.nz)

**Building Performance**  
[www.building.govt.nz](http://www.building.govt.nz)  
 Phone number: 0800 242 243  
[info@building.govt.nz](mailto:info@building.govt.nz)

## COMPLAINTS ABOUT LBPS

LBPs are accountable to the Board for their work and conduct. Anyone can make a complaint against an LBP to the Board, and the Board must investigate the complaint. The Board can also initiate its own inquiries into a matter.

[Complaints to the Building Practitioners Board](#) has information on the complaint and investigation process.



An investigation may result in the LBP being disciplined if they:

- › have carried out or supervised work negligently or incompetently
- › have carried out or supervised work that does not comply with a building consent
- › held themselves out to be licensed for work that they are not licensed to do
- › have carried out or supervised building work or building inspection work they are not licensed for
- › have been convicted of an offence that affects their fitness to do building work
- › gave false information to get licensed
- › failed to provide a certificate of design work for a building consent application
- › failed to provide a record of building work to the council or the property owner
- › have misrepresented their competence
- › have carried out or supervised work outside their competence
- › failed to produce their licence or notify a change in circumstances (eg, their legal name has changed)
- › have conducted themselves in a manner that brings, or is likely to bring, the LBP scheme into disrepute.



**Penalties**

If the Board finds the LBP's conduct comes within the grounds for discipline, it can:

- › cancel their licence
- › suspend their licence for up to 12 months
- › restrict the type of work that they can do or supervise
- › order them to do training
- › fine them up to \$50,000.

As a result of a disciplinary sanction, an LBP can also be ordered to pay some of the costs of the Board inquiry and hearing.

If the Board decides the matter is serious enough, it can publicly announce its decision.

**This section outlines the roles and responsibilities of key parties involved in the design and building process. Even on the simplest building project you will interact with other parties who have their own roles and responsibilities.**

The success or failure of a project often depends on how well people understand their roles, and how they cooperate with each other to achieve them.

Everyone involved in the design and building process should:

- › understand their own roles and responsibilities
- › have a good understanding of the roles of their colleagues.

### **LBP ROLES AND RESPONSIBILITIES**

As all LBPs are licensed under the same regime, they all have the same obligations when it comes to ensuring that they work within their competence and comply with the requirements of their specific licence class. Their responsibilities can be summarised as follows.

An LBP must:

- › not breach the grounds for discipline
- › provide a certificate of design work or record of building work where required
- › comply with other regulations or laws that affect their work.

You will often encounter other LBPs on-site and it is important to understand what they are there to do and how that may impact on your work.

### **Establishing your legal obligations as an LBP**

The Building Act and its regulations (including the Building Code) set out the rules for building work. All building work in New Zealand must meet the requirements of the Building Act and the minimum performance requirements of the Building Code, even if that work doesn't require a building consent.

Other than the Building Act and its regulations, the other important laws that may impact your work are the:

- › Resource Management Act 1991
- › Construction Contracts Act 2002
- › Health and Safety at Work Act 2015.

There are also council bylaws, laws for historic places and fire safety, as well as laws to ensure certain plumbing, gas and electrical work is done by qualified professionals.

You will often be engaged to carry out work according to a contract. When you agree to a contract you are bound by the terms and conditions of that agreement and there may be penalties or implications if you do not follow what has been agreed. If you have a dispute about a contract, you should consider getting some legal advice or assistance.

## HOMEOWNER ROLES AND RESPONSIBILITIES

In general, the same rules apply to homeowners, whether they're doing the work themselves (DIY) or contracting someone to do it for them (an agent can act on behalf of the owners).

Building owners' responsibilities include:

- › applying for a building consent for proposed building work, if it's required (including construction, alteration, demolition and site works)
- › providing the necessary information with the building consent application to confirm compliance with the Building Code
- › notifying the council about:
  - › who will do any RBW (provide the name(s) of the LBPs who will do or supervise the work)
  - › any changes to the consented plans as work progresses
  - › a proposed change of use for the building, even when it doesn't require a building consent
  - › an extension of life for a building with a specified life
  - › subdividing a property with an existing building
- › applying to the council for a code compliance certificate (CCC) on completion of work that requires a building consent
- › ensuring that the building has a compliance schedule where this is a requirement of the Building Act (for example, if you have a cable car)
- › ensuring inspection, maintenance and reporting procedures are carried out where required by any compliance schedule for specified systems
- › maintaining the building in a safe and sanitary condition at all times

**Under the Building Act, all building work must comply with the Building Code and all building work requires a building consent unless that work is exempt work.**

A building consent is the formal approval to begin building work. A building consent must be obtained before building work starts and there can be consequences for starting building work before a consent is issued.

Building work includes work for, or related to, the construction, alteration, demolition or removal of a building.

[Building work that does not require a building consent on the Building Performance website has information on exempt work.](#)



### **APPLYING FOR A BUILDING CONSENT**

It is the homeowner's responsibility to apply for and obtain a building consent. However, this can be done by others on their behalf, with their consent.

If you are applying for a building consent, on behalf of the homeowner, you will need to prove that once work is completed the building will comply with the Building Code. You can use Acceptable Solutions and Verification Methods to do this or you can provide some evidence to support your other solution. You cannot just state that a project complies with the Building Code. The design of any RBW must be done or supervised by a licensed Design LBP.

The building consent must be formally granted and issued before you begin building work. Once the consent has been issued, and before you begin building work, you should check the building consent for any important conditions. Some building consents require a resource consent before building work may begin – it is important to adhere to these conditions.

### **BUILDING WITHOUT CONSENT WHERE ONE WAS REQUIRED**

Carrying out building work without a building consent is an offence (unless it is exempt).

If someone undertakes building work without a building consent, they risk:

- › a fine
- › being ordered by the BCA to rectify, or in some cases remove, the building work
- › making it harder to sell the building or get insurance.

As an LBP, if you begin building work without a building consent where one was required, your licence could be at risk. The Board has previously considered that this demonstrates negligence or incompetence and has disciplined LBPs for not ensuring a building consent was obtained.

### **AMENDING OR VARYING A BUILDING CONSENT**

Once a building consent has been granted and issued, you cannot change what you have decided to build without approval from the BCA. There are two ways of obtaining this approval, depending on the complexity of the change you want to make.

If you want to substitute a similar product or make a minor change to the building then it may be a minor variation. A minor variation generally does not include a change that affects the primary structure, building footprint or fire safety aspects. A minor variation must be approved by the homeowner and BCA before it is carried out onsite.

[Minor variations to building consents on the Building Performance website has further details](#)



## RESOURCE CONSENT


The Resource Management Act 1991 (RMA) provides for the sustainable management of New Zealand's natural and physical resources.

The RMA establishes a framework within which the environmental effects of our activities, including building, can be identified and properly managed.

### **How the RMA relates to building work**

District plans set out the planning rules or permitted activities in each territorial authority area:

- › If the district plan says that work is a permitted activity, then resource consent is not needed.
- › If the district plan says that a resource consent is required for particular building work, then resource consent is required.
- › If the district plan does not identify the work as being permitted, resource consent may be required.

 Building work cannot start until the resource consent has been granted.

Territorial and regional authorities (councils) can sometimes each require resource consent for different aspects of the same building project.

**BUILDING CONSENT  
SECTION 51, BUILDING ACT 2004  
FORM 5**

Consent Number: BC23/132234

<b>THE BUILDING:</b>	
Street address of building:	263 Weld Road Lower TATARAIMAKA, NEW PLYMOUTH 4374
Legal description of land where building work is located:	LOT 2 DP 582431
Building name:	N/A
Location of building within site/block:	As per approved plans
Level/unit no:	N/A

<b>THE OWNER:</b>			
Name of owner(s):		Heinrich Fourie & Sophie Fourie	
*Contact Person:		Heinrich Fourie	
Mailing Address:		385 Weld Road Lower, RD 4, NEW PLYMOUTH 4374	
Street address/registered office:		263 Weld Road Lower TATARAIMAKA, NEW PLYMOUTH 4374	
Phone number:	N/A	Mobile:	0274457105
Landline:	N/A	After hours:	0274457105
Daytime:	0274457105	Email address:	<a href="mailto:h.fourie@clelands.net.nz">h.fourie@clelands.net.nz</a>
Facsimile number:	N/A	Website:	N/A

<b>FIRST POINT OF CONTACT FOR COMMUNICATIONS WITH THE BUILDING CONSENT AUTHORITY:</b>			
Full name:		Heinrich FOURIE	
Contact person:		N/A	
Mailing Address:		385 Weld Road Lower, RD 4, NEW PLYMOUTH 4374	
Phone number:	0274457105	Mobile:	027 445 7105
Daytime:	0274457105	After hours:	027 445 7105
Facsimile number:	N/A	Email address:	<a href="mailto:h.fourie@clelands.net.nz">h.fourie@clelands.net.nz</a>

<b>THE BUILDING WORK:</b>	
The following work is authorised by this building consent:	
Pole shed with a bathroom.	
Including Amendment: BC23/132234-1: Extending concrete floor to veranda.	
This building consent is issued under section 51 of the Building Act 2004. This building consent does not relieve the owner of the building (or proposed building) of any duty or responsibility under any other Act relating to or affecting the building (or proposed building). This building consent also does not permit the construction, alteration, demolition, or removal of the building (or proposed building) if that construction, alteration, demolition, or removal would be in breach of any other Act.	

Version 1, January 2024

Page 1 of 5

Document Set ID: 9298104  
Version: 1, Version Date: 17/07/2024

Print Date: 16 June 2025, 10:16 AM

This information is provided from TechnologyOne ECM

BC23/132234 NPDC Approved for Building Consent - 10/03/2024



<b>This building consent is subject to the following conditions:</b>
Section 90 of the Building Act 2004 allows the building consent authority to take reasonable steps to ensure that the building work is being carried out in accordance with the building consent by inspecting building work (including the land and work being carried out off site) and to ensure any provisions endorsed on the building consent are being carried out. It entitles agents authorised by the building consent authority, at all times during normal working hours or while building work is being done to carry out the inspections.

<b>COMPLIANCE SCHEDULE:</b>
A compliance schedule is not required for the building.

- It is pretty clear what the building consent notice covers and the limitations (Boxes in Blue) and it is also abundantly clear within the LBP scheme, the responsibilities on the LPB and subsequent ramifications of not following them.