



**AGENDA FOR A MEETING OF THE REGULATORY
COMMITTEE TO BE HELD IN THE COUNCIL CHAMBERS,
MANUKAU ROAD ON MONDAY 8 JUNE 2009 COMMENCING
AT 10:00 AM.**

Committee Members:

Councillor M Ranchhod (Chairperson),
The Mayor M Ball,
Councillors S Jackson, M Kay, P Sands and J Rennie.

Alternate Committee Members:

Councillors J Hayman, D Lynch and L Petersen.

Index

Item	Page No
1. Apologies	2
2. Confirmation of Minutes:	2
 <u>Hearing</u>	
3. G Webber and A Mills , 433B Pinnacle Hill Road, Bombay – Application for Earthworks to Construct a Horse Arena	3

1. APOLOGIES

2. CONFIRMATION OF MINUTES OF THE REGULATORY COMMITTEE HELD ON MONDAY 20 APRIL 2009 AND RECONVENED ON THURSDAY 23 APRIL 2009 :

Recommendation of Chief Executive:

That the minutes of the meeting of the Regulatory Committee held on Monday 20 April 2009 and reconvened on Thursday 23 April 2009 be confirmed.

3. G WEBBER AND A MILLS , 433B PINNACLE HILL ROAD, BOMBAY – APPLICATION FOR EARTHWORKS TO CONSTRUCT A HORSE ARENA

Report of Regulatory Planner (File L08220 and 03740/634.07):

See Attachment 1.

To be heard at 10.00 am.

For more information on this report, please call Lloyd Weeber, 237 1304 ext 486.

<u>Applicant:</u>	Geoffrey Webber and Abby Mills
<u>Proposal</u> (brief):	To undertake earthworks to construct a horse arena on a rural property.
<u>Type of Consent:</u>	Land Use
<u>Type of Activity:</u>	Discretionary Activity, operative Franklin District Plan (February 2000) Restricted Discretionary Activity, Plan Change 14 to the operative Franklin District Plan: Rural Plan Change (Decisions Version July 2006)
<u>Date Received:</u>	23 November 2008
<u>Location:</u>	433B Pinnacle Hill Road, Bombay
<u>Legal Description:</u>	Lot 2 DP 192269 (CT NA121D/506)
<u>Zone:</u>	Rural, operative Franklin District Plan (February 2000) Rural, Hunua Rural Management Area, Plan Change 14 to the operative Franklin District Plan: Rural Plan Change (Decisions Version July 2006)
<u>Files:</u>	L08220 and 03740/634.07.

1.0 Introduction/Proposal

An application has been received for resource consent for earthworks involving an area of approximately 2,000m² which have been mostly completed to construct a horse training arena, vehicle driveway and a parking/manoeuvring area on the site. The application details are attached in Attachment 1-1.23. The application was submitted once the applicants

were informed that resource consent was needed, following a complaint to Council. A written assurance has been given by the applicants that the arena will only be used for horse training.

The Site

The property known as 433B Pinnacle Road, identified as Lot 2 DP 192269, is located to the west of Pinnacle Hill Road and south-east of an unnamed lane which forks off Pinnacle Hill Road towards the south-west.

The property is mainly in steep pasture. A stream originates on the property and drains to the south, approximately 70 metres from the arena.

Aerial photographs show that a rough vehicle track existed in the approximate location of the now formed driveway prior to the works. Photographs submitted by the applicant and the neighbour at 433C Pinnacle Hill Road show that the location of the arena prior to the works was grassed and somewhat flatter than the surrounding slope.

The unnamed lane serves six dwellings identified as 433A through to 433F Pinnacle Hill Road. The arena is located on the south side of the unnamed lane and the driveway entrance to the arena commences close to the southern corner of 443C Pinnacle Hill Road and approximately 45 metres from the end of the lane, as shown on the plans submitted (see Attachment 1.12). The arena is approximately 50 metres from the dwelling located at 433C Pinnacle Hill Road on Lot 1 DP 192269. The only portion of the boundary of Lot 1 DP 192269 not in contact with Lot 2 DP 192269 is the frontage onto the unnamed lane.

The Existing Works

The arena has an area of approximately 1,800m². Additionally the earthworks have involved:

- a cut slope up from the north-west side of the arena;
- a batter on the fill on the south-east side of the arena,
- the access driveway and parking/turning area next to the arena; and
- two sediment traps which discharged onto grass.

The applicant has supplied the following information with the application

- area of earthworks undertaken for arena, access track and carparking: 2000m²;
- volume of earthworks for roads and carpark: 200m³; and
- volume of earthworks for arena 900m³.

Additional to the above, the agent for the applicant has advised that the earthworks already undertaken included the deposition of approximately 454m³ of "soft pit run" rock fill and 7.5m³ of GAP 65 road metal. (see Attachment 1.24)

The arena is fenced with post and rail fencing, suitable for working with horses. A small paddock was to be formed against the boundary with Lot 1 DP 192269, however this has not been completed.

Other than a sand and shredded tyre surfacing of the arena the proposed earthworks have been completed. The foot of the batters down the driveway and around the cut face of the arena have been formed into a swale and most of the sloping surfaces exposed by the earthworks have been grassed. Planting of landscaping shrubs has been undertaken, mainly along the sides of the driveway.

Site Visibility

The arena and surrounding earthworks, especially the cut face alongside the access driveway, are clearly visible from the south and west sides of the dwelling at 433C Pinnacle Hill Road. This dwelling has apparently been orientated so occupiers can appreciate the vistas to the south down the valley across the Waikato River and on in the direction of Onewhero

The earthworks already undertaken for the arena are visible from several dwellings both across and down the valley. The view down from the dwellings at 398, 416 and 438 Pinnacle Hill Road is obscured somewhat by trees and shrubs, but the residents of these properties can all see the arena across the valley approximately 250 metres away. Residents at 349 and 369 Pinnacle Hill Road look up the valley from approximately 430 and 500 metres respectively. Approximately half a dozen dwellings down the valley at greater distances also have views of the earthworks.

The applicants' dwelling, located approximately 150 metres from the arena, is screened from views towards the arena by the dwelling at 433C Pinnacle Hill Road and the ancillary buildings and landscaping of both dwellings.

Further Work Proposed

The final portion of work proposed is for a surfacing of the arena area with a mixture of sand and shredded tyres with a volume of up to 200m³. The proposal is to include approximately six parts sand to one of shredded car tyre. Reportedly shredded tyres are a widely used material for horse training areas. The applicants state that the surface delivery will take two to three days.

2.0 Notification/Submissions

The application was processed by way of Limited Notification on 7 April 2009 with a copy of the application served on the following persons:

Address	Owner's Names	Consent Given?
433A Pinnacle Hill Road	Martin Braunton and Bernadette Braunton	Yes
433C Pinnacle Hill Road	David Lloyd-Barker and Lucy Lloyd-Barker	No
433D Pinnacle Hill Road	Bruce Hill	Yes

433E Pinnacle Hill Road	Dawn Rennell	Yes
433F Pinnacle Hill Road	Alister Fookes and Gillian Raynor	Yes
438 Pinnacle Hill Road	Alan Craig	Yes
416 Pinnacle Hill Road	Bob Dykgraaf and Muriel Dykgraaf	Yes
398 Pinnacle Hill Road	Andrew Fowler	Yes
349 Pinnacle Hill Road	Angela Readings	Yes

A site plan showing the location of the application site in relation to the above identified persons is attached (see Attachment 1.26).

At the close of submissions on Monday 11 May 2009, six submissions had been received. A copy of all submissions is attached (see Attachment 1.27 – 1.59).

The submissions are summarised as follows. Comments on the submissions are included where appropriate in the following sections of the report.

David and Lucy Lloyd-Barker, 433C Pinnacle Hill Road, Bombay

The submitters oppose the application and seek to have the site returned to its original condition and raised the following concerns:

- The applicants undertook excavation without consent.
- Notification of the works to the submitters was minimal.
- The excavations and the resulting arena are in the line of sight of the submitters, affecting the view from their dwelling.
- Loss of privacy has occurred and will continue to occur if the arena is continued to be used.
- The use of the arena and its associated road will cause increased traffic/increased noise/increased dust/danger to children and animals.
- Possible future building could be associated with the arena.
- Use of the arena for commercial activity.

The submitters request that if consent is granted the following conditions be placed on the consent holder:

- No commercial use be permitted, with immediate revocation of consent if this should occur;
- No further buildings, e.g. stables be permitted;
- No floodlighting;
- No PA or sound systems;
- Use restricted at weekends and public holidays to one hour per day;
- No use after 1700hrs on weekdays

- Road to be surfaced past submitters' premises at applicant's cost;
- No horse floats to be used;
- Arena to be dampened prior to use to limit dust.

The submission also contains an extensive correspondence with Council on the earthworks.

Angela Readings, 349 Pinnacle Hill Road, Bombay

This submission supports the application.

Martin and Bernadette Braunton, 433A Pinnacle Hill Road, Bombay

This submission supports the application. The submitters are happy there are no adverse effects on the environment.

Ms G Raynor, 433F Pinnacle Hill Road, Bombay

This submission supports the application. The submitters feel there is no impact on their dwelling and is an asset to the neighbourhood.

B and M Dykgraaf, Rosedale Farms Limited, 416 Pinnacle Hill Road, Bombay

This submission supports the application.

Dr E Prumm, Owner, 398 Pinnacle Hill Road, Bombay

This submission supports the application. The submitter states that the "Equestrian Ring" is both tastefully and tidily constructed and blends in with the contour of the surrounding hills. The submitter supports the horse training proposal and suggests this is a practical use of land which is unsuitable for dairy farming etc.

3.0 Internal Comments

The site was visited by Council's Compliance Officer following a complaint in regard to the earthworks. The Compliance Officer promptly advised the property owners that the earthworks required resource consent and that works should stop.

Following the original resource consent application the site was inspected by Council's Consultant Development Engineer, who noted that:

- the works do not present a significant adverse effect;
- all earthworks are well constructed and both cut and fill batters had a beginning of grass re-growth; and
- no engineering conditions are required.

Council's Environment Health Officer had no concerns as to the proposal, other than to question the use of shredded tyres. The issue was referred on to Environment Waikato, as set out in 4.1 below.

4.0 External Comments

The proposal was referred to Environmental Waikato's Contaminated Land and Waste Advisor, Ms Michelle Begbie, who stated that tyres have the potential to create contamination issues, primarily when they are stored in large quantities. She further advised that tyres contain zinc and polycyclic aromatic hydrocarbons similar in content to diesel. Release of these contaminants is slow but Environment Waikato (EW) is primarily concerned where the tyres or tyre material is in contact with water. Following discussion with other members of the EW team Ms Begbie advises that the shredded tyre material is most likely to have a de minimus effect given the amounts likely to be used. She goes on to recommend that disposal of the material following end of the arena surface life should be to a landfill.

5.0 Status of Activity

5.1 Operative Franklin District Plan

The subject property is zoned Rural in terms of the operative Franklin District Plan (District Plan). "Horse Training Centres" are included in the definition of "Farming" which is a Permitted Activity in the Rural zone under the District Plan. Fencing is not specifically included in the District Plan's definition of 'Farming'; however it is generally considered as a normal part of any farming involving livestock and therefore can be assumed to be a Permitted Activity in this case. Therefore, the proposed horse training activity in the arena and the fencing that has occurred subsequent to the earthworks are Permitted Activities under the District Plan.

The earthworks for a farming activity are outside any development setback and the land use classification of the site is LUC Class VI. As such the earthworks are a Permitted Activity under Rule 23.1.

Following consideration of advice from EW on the deposition of approximately 25m³ of shredded tyre material included in the up to 200m³ proposed surfacing material, the applicant's agent has been advised that this is not considered to be deposition of a "contaminant". The deposition of the surfacing is therefore to be considered as "cleanfill". The importation of the surfacing material and the already deposited cleanfill material on site exceed the 100m² volume permitted under Rule 15.1.2.8 and therefore the application falls to be considered as a Discretionary Activity.

Under Rule 15.1.2.8, Discretionary Activities will be assessed in terms of the matters set out in Rule 15.1.2.9.

To clarify the use of the arena Ms Mills has supplied a description of the proposed activities on site being breaking in and schooling of her ponies and horses. This is included as Attachment 1.3 - 1.4. The applicants do not intend to charge fees for riding of horses or to charge for riding lessons. This is in line with the definition of "Horse Training Centres" in the District Plan which is included in the definition of the Permitted Activity of "Farming". The

applicants do not set out whether the horse training centre is to be run as a commercial business, but the definition of horse training centre includes commercial horse training.

Horse Training Centres are defined in the District Plan as:

“Facilities for the housing and training of thoroughbred and standard horses, and usually involves some form of training track but does not include any form of racing or show jumping or other activity to which the general public is permitted, whether or not an entrance fee is paid.”

This can be compared to the definition of “Equestrian Centre” in the District Plan which is:

“land or buildings where;

- *People are trained to ride, or can show horses, for a fee; or*
- *Horses are raced or showed competitively (including trotting, galloping, show jumping, cross country and dressage).”*

5.2 Plan Change 14: Rural Plan Change (PC 14)

The subject property is zoned Rural in terms of Plan Change 14 to the Operative Franklin District Plan: Rural Plan Change (Decisions Version July 2006) (Plan Change 14) and is located within the Hunua Rural Management Area.

It could be argued that work undertaken on the driveway has been maintenance of an existing track and therefore is a Permitted Activity; however for the purposes of this report the earthworks for driveway will be included with the arena work as the track has been upgraded considerably and this can be considered to be more than merely maintenance of the track.

The proposed earthworks have exceeded the 250m³/year volume and the 1,000m² area standards for Permitted Activities in Rule 23A.2.1.4; therefore the proposed earthworks are deemed to be a Restricted Discretionary Activity pursuant to Rule 23A.1.3.1 of Plan Change 14 and will be assessed against the Standards and Criteria for Restricted Discretionary Activities in Rule 23A.4.1

5.3 Conclusion as to Status

Overall, the application is considered as a Discretionary Activity. This is the most onerous status when looking at the provisions of the District Plan and PC14. Further it is noted that the earthworks rules under PC14 are subject to an appeal which at the time of writing has not been resolved.

6.0 Assessment

6.1 Rule 15.1.2.8 Operative Franklin District Plan

Assessment of Discretionary Activities under Rule 15.1.2.8 are carried out with regard to the matters in Rule 15.1.2.9, as follows:

- **Location:**

The site is a Rural zoned lot. The location of the arena appears to have been one of the flatter areas on the steep sloped property reducing the amount of earthworks required to produce a horse arena.

A farm track formerly appears to have been in the approximate location of the now constructed driveway. As such the works appear to be located in an appropriate position on the site.

- **Appearance:**

The area of works will be progressively screened from the nearest dwelling on Lot 1 DP 192269 by proposed and already undertaken landscape planting. Should consent be granted it is recommended that a condition of consent be that the landscaping proposed in the application be completed and that the screening landscape vegetation be maintained by the consent holder. Re-grassing has already softened the visual impact of the batters above and below the arena. Generally the most prominent feature of the proposal will eventually be the permitted fencing. The other feature that will be most obvious only from locations looking down onto the arena and especially from Lot 1 DP 192269 will be the surfacing of the arena. The surfacing is discussed below.

- **Adverse Effects on Environment:**

The earthworks in the application have been mainly undertaken and the potential negative effects of dust production, noise generation and erosion of deposited material do not appear to have occurred. Future work proposed includes the deposition of a surfacing layer on the arena. The impact of the shredded tyre material on the environment has been described as most likely to be de minimus, given the amounts used. The removal of the material from the site to a sanitary landfill site can be considered as a precautionary condition of consent at the end of its useful life and is therefore recommended.

Other potential effects on the environment of the proposed activity include the generation of dust from the arena during horse training activities. This effect will be mitigated by the proposed surfacing and any effects on the closest neighbour at Lot 1 DP 192269 will be further mitigated by the already undertaken and proposed landscape planting.

It is noted that one of the purposes of inclusion of the shredded tyre material in the arena surface is reduction of dust production. Dust production is likely to be greater from other surfacing materials such as bark or bare soil.

It is also noted that restoration of the site to contours existing before works commenced is likely to generate greater negative dust and potential erosion effects than leaving the modified contours of the site in place, no matter what the outcome of this consent application is. If the surface were to be fully re-grassed and left unfenced the area of the

works is likely to be unnoticeable to a casual inspection within a couple of years.

- **Alternative Locations:**

There are limited locations on the site for creation of a roughly level surface suitable for horse training. The applicants state that the area chosen for the arena required the least earthworks of any location on their site. As such the applicants appear to have considered alternatives.

- **Structures:**

Only fencing has been erected on the earthworks. No structures or floodlighting is included in the proposal. It is noted that accessory buildings for farming are a Permitted Activity on the site provided they comply with the performance and activity standards and therefore the effects of such structures may have on the environment may be disregarded.

- **Effect on Amenity Values, Especially Visual Amenities:**

Due to its location below the level of the dwelling at Lot 1 DP 192269 the arena and its fencing is clearly visible at present from persons on the deck or at the south facing windows of this dwelling. Photographs submitted by the owners of 433C Pinnacle Hill Road demonstrate that the fencing of the arena obscures a small portion of the view across the valley towards a neighbouring paddock. Views to the distance across the Waikato River are not obscured. As the floor level of the dwelling and its associated deck at 433C Pinnacle Hill Road is approximately six metres above the level of the arena, a person on the deck has a "grandstand" view of the arena and its surface and of any activities occurring in the arena.

The arena surface is most likely to remain distinctive from the surrounding pasture as long as it is being used and for some time afterwards, unless resurfaced. The arena fencing may impinge upon sightlines from the dwelling towards the closest fields, but does not obscure views of distant ridges. Post and rail fences are structures regularly found in a rural environment and as such their effect is considered minimal. Landscape planting already undertaken and proposed planting will assist in screening of the arena.

It is noted that the visual impact of the arena is less than that which could occur from other permitted agricultural activities on the site, such as ploughing the land for agricultural purposes or from accessory buildings, glasshouses or other similar structures.

As the inclusion of lighting and sound systems is not part of the application, any such effects can not be considered. There are no controls on light spill and noise levels in the Rural zone.

The presence of the arena has not increased the view into the property at Lot 1 DP 192269 from the applicant's property as the arena is at a

lower level than Lot 1 DP 192269; therefore privacy cannot be considered to be reduced by the construction of the arena.

- **Maori Cultural Values:**

Organisations representing iwi groups in the district have been advised that this application has been received by Council and have been invited to provide comments. No comments have been received from any iwi organisation. There are no known sites of interest to local Iwi on the site.

- **Risks of Activity:**

Off-site risks from the activities undertaken are no greater than those of a permitted farming activity. Dust, as discussed above, would appear to be the most probable off-site effect; however the proposed surfacing material is intended to reduce dust generation. Landscape planting already undertaken or proposed will also reduce potential for dust to be carried off site.

- **Vehicle Trip Generation, Access, Loading and Parking:**

The work undertaken has provided a metalled driveway and parking area with sufficient space for the parking and manoeuvring of large horse-float trailer/SUV vehicle combinations typically used for the transportation of one or two horses. This provision would appear to be appropriate for the intended horse-training use. In view of the proposed activity the driveway is not expected to be used frequently. Vehicle generation and parking is expected to be no greater than that of a permitted farming activity.

The applicants suggest that the arena may reduce their need to take horses off site and therefore may reduce some existing traffic from the site.

As the proposal is not expected to generate significant traffic above and beyond a permitted use of the property the submission that the private lane be sealed outside the neighbouring dwelling would seem unneeded.

- **Social and Economic Benefits:**

The proposed horse training activity is unlikely to have wide social benefits, but the proposal is a practical 'farming' use of a small rural lot with steep terrain that is not an economic lot for general pastoral farming.

6.2 Rule 23A.4.1 - Plan Change 14

Matters to be considered for Restricted Discretionary Activities under PC 14 will be restricted to those in Part 53 (assessed below) and the following items:

1. Access and Parking

As discussed in the consideration of 'Vehicle trip generation, access, loading and parking' in section 6.1, above, the proposal is not expected to generate any significant increase in traffic and any increase will be no more than that expected from a permitted use.

2. Buildings and Landscape

No buildings are proposed in the application and therefore any effects of buildings need not be considered.

The visual effect on the immediate foreground of Lot 1 DP 192269 by the earthworks on the adjacent lot can be considered minor. The landscaping included in the application will progressively mitigate any effect by screening the arena from the neighbouring dwelling.

3. Wastewater and/or Stormwater

There is no wastewater disposal involved in the application. Stormwater disposal from the metalled track is handled by the swales in a satisfactory manner. The proposed surface of the arena is unlikely to have any run-off, but the surrounding grassed surfaces appear sufficient to catch any minor dispersal of water-borne particulates from the arena surface.

4. Soils

The soils are classified throughout the property as being LUC class VI soils which are subject to erosion. No elite or versatile soils are involved in the area of works.

5. Outstanding Natural Features

No areas of outstanding natural features listed in Schedule 5A, 5B or 5C of the District Plan in the neighbourhood. The proposal will not damage any habitat of indigenous animals, any ecosystem or wetland, or the visual integrity of any outstanding natural feature.

6. Minerals

There are no known mineral resources in the neighbourhood.

7. Heritage Items

There are no recorded heritage items in Schedule 5A, 5B or 5C of the District Plan in the neighbourhood. An Advice Note with regard to archaeological sites should be included in any consent.

8. Yards

No building in the front or side yard is proposed.

9. Earthworks or Farm Quarry

The earthworks already undertaken exceed both the area and annual volume standards for Permitted Activities in the Rural zone. In considering this it is concluded that:

- a. The work has had a de minimus effect on ecological values of the area. The proposed activity on site will replace the grassed area of the arena with a softer loose material suitable for horse training.

The landscape has been altered by the works to a minimal amount from most viewpoints from which they are visible. Following completion of works and mitigation planting the most obvious feature of the proposal from most points of view will be the permitted fencing of the arena. The regrassing and mitigation planting are increasingly blending the earthworks back into the pasture of the surrounding slope.

The surface of the arena will not be visible from most properties within the viewscape of the arena and therefore will have no effect on those properties. The surfacing material will be an obvious element in the visual impact of the arena from the property which has views down onto the arena, Lot 1 DP 192269. This effect will be no greater than that of Permitted Activities which can alter the appearance of rural properties such as cultivation of the soil.

The landform has been altered to a minor degree, with an increase in the flattened area of an already existing 'bench' on the hillside. Were the area to be fully regrassed without the arena fencing it is considered that within a year or two the majority of the worked area would be indistinguishable from the surrounding land.

There is no effect from the earthworks on public access to the sea, lakes or rivers.

The possibility of erosion due to the sloping nature of the site has been dealt with adequately by the careful manner in which the earthworks have been undertaken and regrassed.

The works have no noticeable impact on the roading infrastructure. The proposed activity is not expected to cause any greater effect upon the roading infrastructure than a permitted farming activity on the site.

- b. The vegetation clearance resultant from the earthworks has been mitigated by re-grassing much of the earthworked area. Landscape planting has been undertaken and more is proposed. There has been no concerns raised that run-off or eroded material from the earthworked area will affect any adjacent sites. The effects of the bare surface prior to seeded grass growth appear to have been de minimus.

- c. Mitigation methods undertaken have been appropriate. A condition of consent should be for the completion and maintenance of the planting proposed.

The earthworks have been undertaken in a careful manner and further conditions in relation to the works so far undertaken do not appear to be needed. Conditions as to the disposal of the arena surfacing material to a certified landfill appear to be required.

10. Development Setbacks

The works are all well clear of the stream on site and there have been no reported effects on the stream as a result of the works.

6.3 Part 53 of the Franklin Operative District Plan

Assessment of the effects of the proposal under Part 53 are as follows:

1. Effects on People in the Neighbourhood and Wider Community

The earthworks undertaken and the proposed horse training activity have had and will have little or no effect upon people in the neighbourhood other than those which are similar to effects from permitted activities. There do not appear to be any issues of interest to Tangata Whenua raised by the work so far undertaken or by the activity proposed. The proposal does not appear to cause any real risk to the public. Road safety would not appear to be compromised and little increase in traffic is expected. No negative effect on the local economy is expected as a result of the activity undertaken and proposed on the site. Minor employment has occurred as a result of works so far undertaken.

2. Physical Attributes

The visual effects of the proposal have been discussed in part of 6.1 above headed 'Effect on Amenity Values, Especially Visual Amenities'. The effects are minor and no greater than those which can be expected from Permitted Activities in the Rural zone.

3. Ecosystems

There are no effects on ecosystems as the only vegetation affected by the earthworks was pasture.

4. Natural and Physical Resources

The works have apparently caused no erosion and no concerns have been raised with regard to potential for erosion. The site contains no 'versatile land'. The proposal will not affect water resources and potential dust effects will be mitigated by the proposed surfacing and landscaping.

The works so far undertaken have had no noticeable effect upon roading and there is no other likely effect upon Council's structural resources.

The proposal does not affect access to any known Tangata Whenua resources of spiritual, cultural or historical significance. There are no known or reported archaeological or historical sites in the area of the earthworks. A standard advice note on archaeological sites would still be appropriate in any consent for the application.

There are no known non-renewable energy resources or mineral resources on site. The proposal is unlikely to compromise any resources in a manner which will make them unavailable for future generations.

5. Discharge of Contaminants

The proposed surfacing material contains shredded tyre rubber which according to advice received from EW has potential to be a contaminant. The contaminant effect of the volume proposed mixed in a one in six ratio with sand however is expected to be de minimus. A condition of consent that the surfacing material containing shredded rubber be removed to an authorised landfill upon completion of the life of the material would appear to be an appropriate precautionary requirement for the use of this material. The condition should be couched in a manner that will allow the rubber material to be left in situ if it can be demonstrated to the satisfaction of Council that the material will have no effect on the site and the surrounding neighbourhood.

One of the reasons given by the applicants for the shredded rubber tyre material mixed with sand in the arena surface is for the reduction of dust. Replacement of the shredded rubber material in the surfacing of the arena with sand or any other material is likely to create a greater potential for dust to be carried from the surface in windy conditions when the arena is being used for horse training. Landscape vegetation planted and proposed to be planted will assist in catching any dust blown from the arena towards the nearest adjacent dwelling. As the landscaping grows this screening effect will increase.

It is noted that no complaint about dust from the earthworks so far undertaken has been received to date.

6. Effects on Public Services

The only public service likely to be affected by the proposal is roading, specifically road damage from heavy vehicles. No report of road damage has been attributed to the works so far undertaken. Since the completion of the works will require only minor volumes of fill to be deposited on the site compared to that already undertaken no further effect is expected. No financial or development contributions appear necessary.

Part 53 Conclusion

Any effects of the earthworks undertaken have so far have been no greater than those that could be resultant from permitted activities that can occur in the Rural areas. These effects can be mitigated by proposed landscape planting and appropriate conditions.

7.0 Objectives and Policies of the Operative Franklin District Plan

The following comments are made in relation to the identified objectives and policies:

Rural Issues, Objectives and Policies in the Rural Zone

Part 16 of the Plan identifies a number of issues relating to rural land. The strategy of the Plan, as stated in its objectives and policies, focuses on the desire to sustain natural land, soil and water resources of the district.

The land issues contained in Section 16.1.1 of the Plan are primarily related to subdivision and activities within the rural environment. The soil issue focuses on the matter of soil erosion and the effect of maintaining the versatility of soils of the district. It is considered that there are only minimal impacts from the proposal upon the soil resources of the district. Section 16.1.3 – Water, refers to particular stream catchments and aquifers in the Franklin District. The site is not within nor does it affect any of the significant catchments and aquifers in the district.

From a landuse point of view the control of stormwater/sediment discharge has been managed by appropriate engineering and revegetation.

Conflict Between Activities

Part 16.2 highlights the issue of conflicts that may arise between various activities in the Rural Zone. It notes that there is an increasing conflict between those seeking to live in the rural areas for “lifestyle” reasons, and the effects of productive rural activities. The proposed activity on the arena will generate farming related noise similar to noise from dogs, farming machinery or other farming related activities given as examples in this section of the District Plan. Similarly the proposed activity may generate dust, but this is likely to be at a much lower level than the example of mineral extraction given in the District Plan.

The particular thrust of Part 16.2 is that the principal activities provided for in the Rural Zone, the permitted, restricted or discretionary activities, which include cleanfill and horse training activities and their effects, are part of the typical rural environment and can be expected to be experienced by all rural residents at some time. The point Part 16.2 emphasises is that the Rural Zone is not an exclusive “lifestyle” zone, but allows, as of right, a range of activities that will inevitably have effects that may well be in conflict with country lifestyle activities.

Part 16.2 concludes that these conflicts can be managed by the setting consent of conditions to mitigate these effects.

Rural Objectives

Part 17 of the District Plan includes the Objective 17.2.5, Managing Conflicts and Objective 17.2.6 Rural Amenities which are relevant in assessing this application.

Policies under Objective 17.2.5 that are relevant to the application are:

- “1. Activities in the Rural zone shall not create effects of noise, odour, dust and spray that would not normally be expected from a predominantly rural environment.*
- 2. Activities in the Rural zone shall not cause an adverse effect that would result in those activities that are dependant on the productive potential of land and soil resources being prevented from operating.”*

Methods under Objective 17.2.5 that are relevant are:

- “1. The Plan gives priority within the Rural zone to those activities that are dependant upon the productive resource base of the District. Activities not reliant for their location on such resources are provided for in other zones.*
- 3. The Council will provide information to rural residents about the type and effects of rural activities.”*

Comment

These policies and methods are biased towards allowing productive use of land to occur which may have effects that can be expected from these uses. The proposed use of the site for horse training is more or less in line with these policies and methods as it will allow the applicants to train horses using the productive grazing capabilities of their land to maintain the horses.

The submission from Mr Lloyd-Barker that he is concerned that the applicants will undertake commercial activities on their land seems to be contrary to the general aim of Part 17.2.5. As the applicants can undertake a Horse Training Centre on their land as a Permitted Activity (whether or not it is a commercial undertaking) the proposal is in line with Part 17.2.5 of the Operative Plan.

Relevant Policies in Part 17.2.6 Objective – Rural Amenities to the application are:

- “1. That buildings and structures be so sited and designed that they do not visually compromise outstanding natural features or the values of significant habitats of indigenous fauna as identified in Schedule 5A, or the natural character of the coastal environment.*
- 2. That adverse visual impacts of rural-residential development on the rural landscape shall be avoided, remedied or mitigated.*
- 6. That buildings and structures be so sited and designed that they do not visually compromise items listed in Schedule 8A.”*

Relevant Methods under Part 17.2.6 are:

“Requiring development setbacks along the coastline and the edge of streams.

Identifying outstanding natural features and significant habitats of indigenous fauna and protecting them from inappropriate subdivision, use and development.

Providing a Rural-Residential Zone near the main urban areas.”

Reasons and explanation for the objectives policies and methods are:

“The rural amenity of the District is a significant resource which has in the past been largely ignored. This Plan seeks to provide a degree of protection without placing unnecessary controls on activities. Even with a community accepted comprehensive landscape assessment of the District it is difficult to offer any additional protection to the amenity of the District given the impact that traditional rural activities can have, such as horticulture.”

Anticipated Results are:

- *“Retention of the open nature of much of the rural areas of the District;*
- *Avoidance of adverse visual impacts.”*

Comment

The earthworks to create the arena have not affected any outstanding landscape features identified on Council’s schedules; they have not affected any natural fauna or flora; are well clear of stream setbacks coastal; and are not in the coastal area. The proposal includes methods to mitigate the visual effect of the arena on the adjacent dwelling by planting screening vegetation, which is in line with policy 2. The Reasons And Comments of part 17.2.6 acknowledge that traditional rural activities such as horticulture can have an impact on the amenity of the rural area. It is considered that the visual effect of the proposed arena fits this situation and that the landscape effects and therefore the visual amenity of the site will be in line with the anticipated results as the site will still remain as an open rural lot and the visual impact will be less than permitted activities on the site.

7.1 Objectives and Policies of Plan Change 14

The Main Objectives of the Rural and Coastal parts of Plan Change 14 which appear relevant to the application are, with comment, as follows:

- 1. Recognise and provide for enhancement those landscape values that contribute to the sense of enjoyment and appreciation of living in rural and coastal areas.***

The earthworks that have been undertaken will, following mitigation by grassing and planting of landscape vegetation, cause insignificant change to the landscape values of most of the neighbours with views of the arena, as is shown by those submissions in support of the arena. The only significant change in view is from the dwelling of the only submitter opposing the application. Whilst the view from the dwelling has been changed, mainly by the fencing and the surface of the arena, even from this closest dwelling the landscape following completion of the proposed works will still be ‘rural’ in nature.

2. *Maintain and enhance the quality and quantity of water resources.*

There have been no effects detected from the earthworks completed on local waterways. The presence of shredded tyres in the surfacing of the arena creates a concern as to potential effects on water resources, but the volumes involved are small and long-term effects can be mitigated by removal of the surfacing to a landfill at the end of the life of the surface material or cessation of activity on the arena. A condition to this effect is recommended.

4. *Protect natural character, outstanding landscape features and values.*

The works undertaken and proposed will not affect any scheduled landscape features. The work will not affect the natural character of the neighbourhood to any significant degree as it can be argued that although the rural character has been changed, the natural character following the completion of the proposed works and the undertaking of the Permitted Horse Training Activity, will still be rural in nature.

7. *Enhance opportunities to utilise the productive potential of natural resources in an environmentally sustainable manner.*

The proposed horse training centre is a practical use of the potential of the site for a Permitted Rural Activity.

11. *Manage rural land use conflicts that balance the expectations of new residents with the need to recognise and protect existing rural activities and their typical effects and characteristics to ensure conflicts and reverse sensitivity issues are avoided, remedied or mitigated.*

The application involves a rural activity undertaken by a recent owner of rural land affecting an older rural-life-style resident of a rural zoned lot. The intent of this objective seems to be to allow rural commercial activities to continue without impacting too heavily upon the expectations of residents who have moved to the country for a 'quiet' rural lifestyle.

Mr Webber and Ms Mills appear to be aiming to carry out semi-commercial horse-training that is a permitted rural activity. Only the earthworks are at issue in this consent and any objections by one of the submitters to the horse training arena for that specific purpose must be discounted. If the applicants use the arena for activities that are classified as an equestrian centre a resource consent must be obtained and an advice note to this effect should be included in the consent.

The relevant Objective for the Hunua Management Area in part 17.2.3.3 of PC14 is;

- 2. *To provide for a wide range of rural, recreation, tourism, visitor, countryside living and environmental activities in ways which complement each other.***

The proposed activity appears to fit into this objective. The use of rural land means that change will occur to the rural landscape and the steep topography of the subject site limits the practical use of the land. Recent and proposed landscape planting will screen the arena from the residents at Lot 1 DP 192269 and as such the proposal appears in line with the objective.

7.2 Conclusion - Policies and Objectives of the Franklin District Plan and Plan Change 14

The overall thrust of the policies and objectives towards visual amenity in the rural area is to protect identified landscape features and discount visual effects from Permitted Rural Activities. Concern is expressed at the effects of rural-life-style development in the rural area.

The earthworks do not affect any scheduled landscape feature and are intended to create a place on-site appropriate for a permitted rural activity of a horse training centre and therefore discounting effects on rural amenity, including visual effects from the earthworks would be appropriate in assessing the application. Mitigation of visual and dust effects has been included in the proposal which is also in line with the policies and objectives.

8.0 Statutory Assessment – Resource Management Act 1991 (RMA)

Section 104(1) Preamble

Where a territorial authority is considering a resource consent application in accordance with section 104 of the Act, consideration must be given to Part II of the Act. Part II sets out the purpose and principles of the Act and these are contained in sections 5, 6, 7 and 8 of the Act.

Section 5 - Purpose

Section 5 of the RMA outlines the purpose of the Act as being the promotion of sustainable management of natural and physical resources, which is defined as managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety.

The section goes on to include sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and avoiding, remedying, or mitigating any adverse effects of activities on the environment.

Sustainable management is about providing for people and communities to undertake activities which may create adverse effects which are avoided, remedied or mitigated. The purpose of the Act is promoted through the provisions, objectives and policies of the District and regional Planning documents. Based on the assessment undertaken in sections 6 and 7 of this report it is considered that the proposal does not run counter to the overall purpose of sustainable management of natural and physical resources. The adverse effects identified are limited to the immediate vicinity of the site and with appropriate conditions are not contrary to the purpose of safeguarding the life-supporting capacity of air, water, soil and ecosystems or the

sustaining of the potential of natural and physical resources to meet the needs of future generations.

Section 6 – Matters of National Importance

Section 6 of the Act sets out a number of matters of national importance, which includes:

- “(a) The preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:*
- (b) The protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:*
- (c) The protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:”*

The earthworks are well clear of setbacks from the stream on site, there are no identified outstanding natural features or landscapes on the site and there was no existing indigenous vegetation on the site prior to the commencement of works.

There are no additional matters in the section that are appropriate to the application.

Section 7 - Other Matters

Section 7 of the Act sets out a number of matters that all persons exercising functions and powers under the Act shall have regard to in managing the use, development and protection of natural and physical resources. The relevant matters are considered to be:

- (c) The maintenance and enhancement of amenity values:*
- (d) Intrinsic values of ecosystems:*
- (f) Maintenance and enhancement of the quality of the environment:*

The amenity values of the neighbourhood have been considered in the application and in the assessment in sections 6 and 7 of this report. The earthworks will have no effect on ecosystem values of the neighbourhood and overall the quality of the environment has not been compromised.

Accordingly it is considered that the proposal is in line with section 7 of the Act.

Section 8 – Principles of the Treaty of Waitangi

No concerns have been raised by any iwi organisation in relation to this application and no specific issues of concern have been raised in respect to cultural issues.

An Advisory Note concerning the discovery of historic sites should be placed on any consent that may be granted.

Section 104(1)(a) and (b)

The requirement for consideration of any actual or potential effects on the environment has been carried out in line with these sub-sections of the Act in sections 6 and 7 of this report. Any effects are minor and the proposal includes mitigation of these effects.

Section 104(2)

This section specifically states a consent authority may disregard an adverse effect on the environment if the plan permits an activity with that effect. This section is pertinent to the application, especially when considering the effect of fences and the undertaking of a permitted horse training centre activity on the applicant's site.

Section 104(3)(d)

The application has been dealt with by limited notification given that potentially affected parties were identified.

9.0 Conclusion

The earthworks and fencing to form a horse training arena, driveway and parking/manoeuvring for vehicles with trailers next to the arena have been undertaken. The earthworks are approximately 2,000m² in area and involved the importation of approximately 454m³ of rock. The application is mainly retrospective as the major portion of the earthworks had been undertaken prior to lodgement.

Risk of slope failure or erosion from the earthworks is unlikely, due to the standard to which the earthworks have been undertaken. The steeper faces of the earthworks have been completed and stabilised. Final deposition proposed will involve up to 200m³ of sand mixed with shredded rubber in a six to one ratio. A precautionary consent condition requiring removal of the surfacing material at the end of its life or the cessation of use of the arena should be included in any consent seems appropriate .

Visual effects from the earthworks upon the view of the immediate neighbour are considered no more than minor. Any visual effects of the earthworks can be mitigated by landscape planting included in the proposal.

The horse training activity proposed to be undertaken on the site following completion of the arena will be the Permitted 'Farming' Activity of a Horse Training Centre and does not require a resource consent. An Advice Note will be included to advise the consent holder of activities that will be regarded as those of an Equestrian Centre which would require resource consent.

Overall the effects of the proposal are considered to be minor and the proposed activity resultant from the earthworks is a permitted farming activity which uses the productive ability of the site. It is therefore recommended that the application be granted, with appropriate conditions.

Recommendation of Regulatory Planner

That pursuant to sections 104, 104B and 104C of the Resource Management Act 1991, Council resolves to **grant** consent to Land Use Consent Application Number L08220 by Geoffrey Webber and Abby Mills to undertake earthworks to construct a horse training arena on a Rural zoned property at 433B Pinnacle Hill Road, Bombay, on Lot 2 DP 192269 (CT NA121D/506) involving completed work over an area approximately 2000m² and deposition of 454m³ of fill and approximately 7.5m³ of GAP road metal, and the deposition of up to 200m³ of a 6:1 sand and shredded tyre arena surface material, for the following reasons:

- i. That the earthworks that have already been undertaken have occurred in an appropriate location on the site and have been undertaken in a satisfactory manner.
- ii. That visual effects of the earthworks can be mitigated by the re-grassing and planting already undertaken and the proposed landscape planting.
- iii. That the proposed deposition of cleanfill/landfill of up to 200m³ of sand/shredded tyre mix in a 6 to 1 ratio will have de minimus contamination effects and that any effects can be mitigated by appropriate removal conditions.
- iv. That the proposal is considered to be consistent with the purpose and principles of the Resource Management Act 1991, as included in Part II of the Act.

The consent is subject to the following conditions;

a. **Plan Information**

That the earthworks to construct a horse training arena, driveway and parking area be completed as set out in the application and amended information submitted to Council and referenced by Council as L08220.

b. **Landscape planting and maintenance**

The consent holder shall ensure the completion of the proposed landscape planting and the ongoing maintenance of the pasture, screening landscaping vegetation and arena surface to minimise off-site effects, to the satisfaction of the Group Manager: Environmental Services.

c. **Dust Control**

The consent holder shall carry out all operations on the site in such a manner as to ensure that dust emissions are kept to a practicable minimum and that no dust, as a result of the activities authorised by this resource consent, causes any objectionable or offensive effect beyond the boundary of the site, to the satisfaction of the Group Manager: Environmental Services.

d. Removal of arena surfacing

Due to the concern that the sand and shredded tyre surfacing mixture may produce zinc and polycyclic hydrocarbon contamination of soil, subsoil and ground water, the consent holder shall remove the sand/shredded tyre surfacing material from the site to a sanitary landfill site at the end of its useful life, or within one (1) year of the cessation of horse training activity in the arena. The removal and regrassing of the arena area shall be to the satisfaction of the Group Manager: Environmental Services.

e. Lapsing of consent

In accordance with section 125 of the Resource Management Act 1991, this consent shall lapse five (5) years after the date on which it was granted unless it has been given effect to before the end of that period.

Advisory Notes:

1. The consent holder is advised that any activities which can be defined as operating an 'Equestrian Centre' on site require a resource consent. Council considers an 'Equestrian Centre' is operating where:
 - people are trained to ride or can ride horses for a fee;
 - horses are raced or showed competitively (including trotting, galloping, show jumping, cross-country and dressage), and
 - horse riding or showing activities to which the general public are invited whether or not an entrance fee is charged.
2. That in accordance with Section 35 of the Resource Management Act 1991, compliance monitoring of the resource consent and conditions may be undertaken by the Council at any time. In accordance with Section 36 of the Resource Management Act 1991, a charge has been included in the resource consent cost for the carrying out of such functions under Section 35. Any further actual and reasonable costs of compliance monitoring must be met by the consent holder within one month of receipt of an invoice.
3. Please note that all archaeological sites are protected under the Historic Places Act whether or not they have been recorded or registered. If evidence of any historic site is found on the property, the Act requires that the Historic Places Trust be advised of the situation.
4. Rights of appeal against this decision may be exercised by the applicant or any person who made a submission on the application, in accordance with the provisions of section 120 of the Resource Management Act 1991. The time for lodging appeals is within 15 working days of receipt of this decision. Any party contemplating appealing should discuss the matter with a solicitor.

S Davis
CHIEF EXECUTIVE