



**Subject:** Notified Resource Consent Application: To erect two dwelling units, each with an attached self contained unit, accessed via a 3.5 metre wide accessway at 58A Paraone Road

**Applicant:** Arthur Kale

**Consent Number:** PD 2009-103853-00

**Prepared By:** Chris Duncan (Planner Development Control)

**Meeting Date:** 2 June 2010

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## Report to HEARINGS Committee for decision

### SUMMARY

The applicant, Arthur Kale, proposes to erect two dwelling units, each with an attached self contained unit at 58A Paraone Road (a total of four units). The subject site is located behind 58, 60 and 60A Paraone Road and is accessed via a 3.5 metre wide accessway. The accessway for 58A Paraone Road runs between the south eastern boundary of 58 Paraone Road and the north western boundaries of 60 and 60A Paraone Road.

The proposed development requires resource consent due to the legal width of the accessway which is half a metre narrower than the District Plan requirement of 4.0 metres for this number of dwellings.

The main issues discussed in the report relate to the effect on amenity values.

The use of a driveway of 3.5m width will not lead to effects on neighbouring properties greater than those expected for a driveway of 4 metres width. The access provisions are expected to function safely and effectively.

The actual and potential environmental effects are deemed to be no more than minor and the activity is not considered to be contrary to the objectives and policies of the relevant plan.

### RECOMMENDATIONS

#### That the Hearings Committee

1. **approves the application to erect two dwelling units, each with an attached self contained unit, accessed via a 3.5 metre wide driveway at 58A Paraone Road pursuant to Section 104 and 104C of the Resource Management Act (1991).**

Prepared by:

Chris Duncan  
Planner (Development Control)

Released for distribution by:

Hans van Kregten  
Environment and Planning Manager

## 1. INTRODUCTION

### 1.1 Site and Locality

The subject property is located at 58A Paraone Road, legally described as Lot 6 DP 6793. A copy of the application including the location is shown in **Attachment A** of this report.

The subject site is located behind 58, 60 and 60A Paraone Road and is accessed via a 3.5 metre wide accessway. The site has an area of 2,1893m<sup>2</sup>. The indicative location of the proposed dwelling units is on flat land directly behind existing dwelling units on Paraone Road.

The subject site is to the north and east of an area of residential housing.

### 1.2 Background

The site has been used as grazing land up to now and is made up mainly of steeply sloping land with a small flat area behind the existing dwellings on Paraone Road. The accessway is covered with grass and unformed at present and appears to have been used for occasional access to the fields.

### 1.3 Proposal

The applicant wishes to erect two dwelling units, each with an attached self contained unit at 58A Paraone Road (a total of four units).

The applicant has not produced a full geotechnical report or building plans as they first wish to establish the right to use the existing 3.5 metre wide accessway to access the four units.

## 2. REASONS FOR REQUIRING RESOURCE CONSENT

Part Operative Combined Regional Land and District Plan (the District Plan).

The subject site is located within the Rural Residential zone (dwelling sites) and the General Residential zone (accessway) and triggers the following rule in Chapter 17 (Rural Zones).

### 2.1 Rural Zone Rules

In accordance with Rule 21.9.3.1 of the District Plan.

Activities listed as Permitted but which do not comply with the General Rules with respect to roading, accessways and parking are deemed to be a **Restricted Discretionary Activity**.

Discretion is restricted to matters including:

- a. Amenity values including shading
- b. Health and safety
- c. Parking and access
- d. Financial contributions
- e. Effect on neighbours and on the soil resource.

## **2.2 Roads, Accessways and Parking Rules**

Rule 15.3.8(a) Table 6 states that the legal site access for up to 4 units must be at least 4 metres wide while the carriageway must be at least 3 metres wide.

The existing accessway does not comply with the legal width requirement as it is 3.5 metres wide.

## **3. CONSULTATION**

The application was circulated within Council to the Roading Section. They were satisfied that the required carriageway width would be provided and noted that services would probably have to be located under the sealed carriageway.

### **3.1 Notification and Submissions**

The applicant approached the owner of 58 Paraone Road in an attempt to come to some agreement before requesting that the application be notified.

The application was subject to limited notification on 6 April 2010 in accordance with section 94(1) of the Resource Management Act (1991). Two submissions were received; one (Housing New Zealand) supported the proposal and one opposed the proposal (Emma Whittle). One additional representation which has been added to the body of the application was received from the partner of the applicant. The submissions are summarised below. See **Attachment B** for full submission details.

### **3.2 Housing New Zealand – 60, 60A, 62 and 62A Paraone Road**

The submitters, who own the above dwellings adjoining the site, support the application.

### **3.3 Emma Whittle – 58 Paraone Road**

The submitter, who owns 58 Paraone Road, opposes the application on the grounds that:

- The amenity values of the 58 Paraone Road would be adversely affected as the driveway would pass directly along the side of the house without any buffer zone or nature strip as in normal streets.
- The multiple passing of the cars of residents, visitors and service vehicles (including trucks during construction of the dwellings) would make a previously quiet suburban home unbearable.
- It would create a hazard and hardship to the occupants
- It would devalue the property
- Car noise, exhaust fumes, dust, headlights and a lack of privacy would have a significant impact on all of the living spaces on the side of the house closest to the driveway including a bedroom, the kitchen/dining area, a bathroom and toilet and the outdoor living area.
- That erecting a fence to gain privacy and reduce noise would result in significant reductions in daylight and air circulation to the above living spaces.

## **4.0 STATUTORY ASSESSMENT**

### **4.1 Statutory Provisions**

The matters to be considered when assessing an application for resource consent are set out in Section 104 of the Resource Management Act 1991. Amongst other things, these matters require consideration of any actual and potential effects on the environment arising from the proposal, together with an assessment as to whether the application is consistent with relevant objectives, policies and rules of any relevant plan and any other matters the consent authority considers relevant and reasonably necessary to determine the application.

Under Section 104C, the consent authority may grant or refuse a resource consent application for a restricted discretionary activity and if it grants the application may impose conditions under section 108.

### **4.2 Section 104 (1) (a) – Actual or potential effects on the environment**

The Act gives "Environment" a wide-ranging definition. It encompasses ecosystems, including people and communities, all natural and physical resources, and amenity values. The latter is defined to include natural and physical elements. Section 3 of the Act provides a broad ranging definition of what constitutes an effect. For the purpose of this assessment the main issues are related to access and amenity values. These effects will be addressed below.

### **4.3 Access**

The proposed units are to be accessed via a carriageway of 3 metres width within a driveway of 3.5 metre legal width.

The reduced legal width of the accessway will not affect the proper functioning of the accessway as this will be largely dependent on the width of the carriageway (the carriageway width complies with District Plan requirements). There is no requirement to make the area outside the carriageway width available for use by vehicles or pedestrians (it may be planted or fenced off for instance).

### **4.4 Amenity Values**

The proposed units are within a rural area while the driveway and the three properties closest to it are within a residential area. The dwelling on 58 Paraone Road is about 1.0 metre from the boundary with the accessway at the closest point. The proposal will lead to a marked change in the existing immediate environment due both to the dwellings and the activity associated with them.

The effects due to the units and their use may include the partial loss of rural views, the potential loss of privacy and increases in the general levels of noise, light and odour.

However, the reasonable effects due to the erection and use of the dwellings may be put to one side as they comply with all the District Plan provisions (apart from accessway legal width). It should be noted that if access to the site were gained by another means (possibly over land to the north) or the legal width was increased (through the addition of a right of way easement with a neighbouring property) the proposed dwelling units would be a permitted activity.

The effects due to the use of the accessway may include the potential loss of privacy and increases in the general levels of noise, light and odour.

The use of the existing access to 58A Paraone Road for one dwelling unit would comply with the District Plan and would be a permitted activity. The effects due to the use of the accessway to access one unit are therefore minor or less than minor.

The proposed use of a carriageway of 3 metres physical width to access the four units complies with District Plan provisions. The use of an accessway with an overall width less than 4 metres legal does not meet District Plan requirements.

However, the required 3.0 metre carriageway may be formed and sealed anywhere within the legal width of the accessway (including up to the boundary with 58 Paraone Road for example) or also the legal width could be increased to four metres through the setting up of a Right of Way easement over an adjoining property (without any increase in the physical size or location of the carriageway). In this respect the provision of a 4.0 metre legal width accessway, would not provide for any greater separation between vehicles using the accessway and neighbouring properties. So in one respect it can be considered that the effects associated with the use of an accessway with a legal width of 3.5 metres, are no greater than if the legal width were 4.0 metres.

Nevertheless granting consent to the use of the existing accessway for access to 2 dwelling units and 2 self contained units will increase the level of effects due to vehicle movements (such as noise) on adjoining properties over and above those expected for one dwelling unit. Also in this regard there is an expectation on the part of the owner of 58 Paraone Road that the District Plan Rules should be adhered to and that the 3.5 metre wide accessway will not be used for access to more than one dwelling. The subject accessway is relatively close to the adjoining dwelling at 58 Paraone Road (approximately 1.0 metre), which may lead to the increase in the effects being particularly noticeable to the occupants.

However, in terms of the accessway being used to serve the two dwelling units and two self contained units the increase in effects will not be equivalent to that associated with four dwelling units as the rules for the rural residential zone restrict self contained units to only two habitable rooms. In this regard, given the constraints on the development of the self contained units it is expected that the level of vehicle use would not necessarily be the same as that of a normal sized dwelling. Taking this into account and as stated above, the effects on any neighbouring property would not necessarily be reduced by the use of a 4 metre wide accessway as the carriageway may be located anywhere within the accessway, the proposed development will not adversely affect amenity values. Some consideration of additional mitigation measures such as solid clad fencing could be given, however the adjoining property owner has concerns over the height of any possible fencing.

#### **4.5 Section 104 (1) (b) – Plan Provisions**

##### The Part Operative Combined Regional Land and District Plan

#### 4.5.1 Relevant objectives and policies:

##### **17.5 Objective (Amenity Values)**

2. *Maintain or enhance residential amenity values.*

##### **17.6 Policies (Amenity Values)**

2. *Manage the adverse effects of activities in residential areas by ensuring that:*
- *buildings and structures are located so as to avoid, remedy or mitigate any adverse effect on the adjoining properties;*
  - *the scale of the development is appropriate for the site and the location of the site in the street, and will not cause a loss of residential amenity values for surrounding residents;*
  - *the safety and amenity values of the neighbourhood are protected;*
  - *the character and amenity of the residential environment shall be maintained or enhanced and conflicts with adjoining land users avoided, remedied or mitigated.*

**Comment**

The proposed units are to be located and designed such that they will comply with all the relevant Plan rules. The scale of the development is not out of keeping with the existing residential development in the area. The safety of the neighbourhood will be protected. The character and amenity of the residential environment will be affected due to the change in the adjoining rural environment, however, the effect will not be greater than that expected within the residential environment.

3. *Manage the effects of traffic generated by activities in residential areas by:*
- *ensuring that the level of traffic potentially generated by the proposal can be accommodated without compromising the safety of traffic and residents on the district's roads.*
  - *giving consideration to the nature of adjacent roads, to ensure that entry, exit and maneuvering of vehicles onto a public road, can be conducted safely from all sites in a residential zone.*

**Comment**

The proposal will lead to an increase in traffic on Paraone Road and the existing accessway to 58A Paraone Road. It is expected that the potential level of traffic generated by the proposal can be accommodated without compromising safety. It is expected that the entry, exit and maneuvering of vehicles onto Paraone Road can be conducted safely.

**Part 2 Matters**

Section 5 – Purpose of the Act

*'The purpose of this Act is to promote the sustainable management of natural and physical resources. In the Act, "sustainable management" means managing the use, development and protection of natural and physical resources in a way and at a rate, which enables people and communities to provide for their social, economic and cultural wellbeing and for health and safety while:*

- *sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations*
- *avoiding, remedying or mitigating any adverse effects of activities on the environment'.*

It is considered that the social, economic and cultural wellbeing of people and the community are provided for as a result of this application. The development will benefit the local community by providing housing located close to amenities and avoid the loss of more valuable agricultural land.

Any adverse effects on the environment including effects on residential amenity can be adequately avoided, remedied, or mitigated.

### **Section 7 – Other matters**

*(b) The efficient use and development of natural and physical resources*

The application site is next to a residential area on poorer agricultural land. This promotes an efficient use of resources by locating the development near existing infrastructure and facilities and avoiding the loss of more productive agricultural land.

*(c) "The maintenance and enhancement of amenity values"*

Amenity values will be maintained through the location of the units and the forming and sealing of the shared accessway.

## **5.0 CONCLUSION**

The proposed dwellings comply with all District Plan requirements apart from the accessway legal width, which is 3.5m instead of the 4m required for 4 units. The effects of the use of the narrower accessway on neighbouring properties will, however, be no greater than that of the same development with a 4m wide accessway as the carriageway may be located anywhere within the accessway.

Therefore, it is considered the activity meets the purpose and principles set out in the Resource Management Act 1991 and the subsequent policies in the District Plan, which aim to achieve those requirements.

## **6.0 RECOMMENDATION**

That pursuant to Sections 104 (1) and 104C of the Resource Management Act 1991, consent be granted to Arthur Kale to erect two dwelling units, each with an attached self contained unit, accessed via a 3.5 metre wide accessway at 58A Paraone Road, legally described as Lot 6 DP 6793 (Ref: PD 2010-104244-00), subject to the following conditions:

1. The activity shall be carried out in general accordance with the details submitted with the application (Reference: PD 2010-104244-00).
2. The shared accessway shall be formed and sealed to minimum of 3 metres width in accordance with Chapter 15 of the District Plan and GDC Engineering Code of Practice 2000.
3. The vehicle crossing shall be constructed and sealed in accordance with Chapter 15 of the District Plan and GDC Engineering Code of Practise 2000.

Advice notes:

- a) This consent has only assessed the suitability of the 3.5 metres wide accessway for two dwelling units with attached self contained units. It has

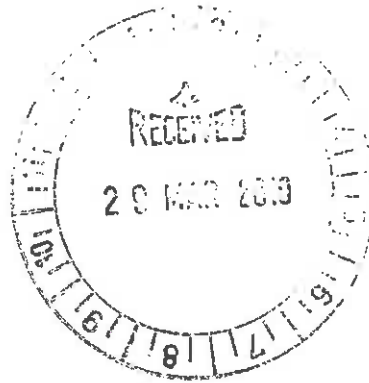
been assessed on the basis that any units will comply with all the relevant District Plan requirements.

- b) Any work within the road reserve (for example any new entranceway or upgrading of an existing entranceway) must have the written approval of the Engineering and Works Division of the Gisborne District Council.

## Attachment A: Application

144010

Gisborne District Council  
Planning Division  
Attention Chris Duncan



Dear Sir

Please find the map of the 2.1717 hectare site showing 2 building platforms, which would comply geotechnically at present.

It is our proposal to subdivide the site into two blocks in excess of one hectare in size, which is a permitted use. To enable each of these one hectare sites to erect a main dwelling with the opportunity to erect a secondary dwelling, i.e. granny flat, with 2 inhabited rooms. This also falls inside the permitted use as per the district scheme.

While in the future the position of one of these building sites may be in a different position to that shown, it would be in excess of 30 meters from any other dwelling.

The only area which our proposed subdivision does not comply is the width of the right of way from Paraone Road into the site.

The Council require a 4 meter wide right of way with a 3 meter carriageway. The site presently has a 3.5 meter wide right of way, therefore there is no problem complying with the 3 meter carriageway, however it would be 250m short on either side as far as the overall width.

I would like the Council to proceed with a limited notification consent application for dispensation regarding right of way width.

I have paid the deposit of \$2000 into the Council so as this can proceed.

Yours faithfully

A handwritten signature in black ink, appearing to be "AKL".

Arthur Kale



## Attachment B: Submissions

ENTERED

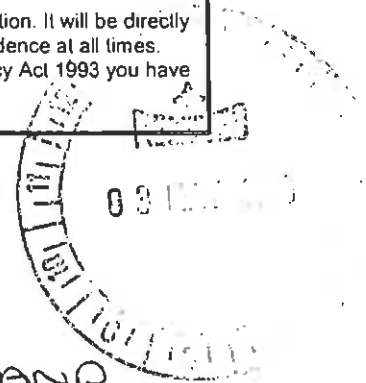
EDP 148269

OFFICE USE ONLY	
RECEIVED DATE	4 / 5 / 2010
<input checked="" type="checkbox"/> SUPPORT	<input type="checkbox"/> OPPOSE
W.T.B.H	<input checked="" type="checkbox"/> N.B.H

**SUBMISSION ON AN APPLICATION FOR RESOURCE  
CONSENT UNDER SECTION 96 OF THE RESOURCE  
MANAGEMENT ACT 1991**

Privacy Act 1993  
The information provided on this form will be used to enable the Council to process your application. It will be directly available to those people involved in determining your application and will be treated in confidence at all times. Insufficient information may lead to delays and/ or rejection of your application. Under the Privacy Act 1993 you have the right of access to personal information held about you by the Council.

TO: **GISBORNE DISTRICT COUNCIL  
ENVIRONMENT AND PLANNING DEPARTMENT  
P O BOX 747  
GISBORNE**



1. I (full name): HOUSING NEW ZEALAND  
OF (address): 60, 60A, 62 and 62A PARAOONE ROAD  
GISBORNE

**SUPPORT ~~OR OPPOSE~~**  
(Delete whichever is not applicable)

THE APPLICATION FROM:  
(name of applicant): A KALE

FOR A: Dispensation from yard width requirement:  
(state type of resource consent applied for & resource consent number)

TO: Reduce width of ROW  
(state proposal or activity of application)

2. **THE PARTICULAR PARTS OF THE APPLICATION  
I SUPPORT OR OPPOSE ARE:**

(clearly indicate which parts of the application you support or oppose or wish to have amendment made to)

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(PLEASE SEE OVER PAGE)

3. THE REASONS FOR MAKING MY SUBMISSION ARE:  
(state in summary the nature of your submission, giving reason, attach further pages as necessary)

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4. I WISH THE CONSENT AUTHORITY TO MAKE THE FOLLOWING DECISION:  
(give details, including the nature of any conditions sought)

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5. ~~I DO WISH TO APPEAR~~ OR I DO NOT WISH TO APPEAR  
AT THE HEARING IN SUPPORT OF MY SUBMISSION  
(Delete whichever is not applicable)

 or \_\_\_\_\_  
(signature of person making submission) (person authorized to sign on behalf of person making submission)

DATE 30 / April / 2000 2010

ADDRESS FOR SERVICE OF PERSON MAKING SUBMISSION:

Housing NZ  
Private Bag 6007, Napier

PHONE NO: 06 8336801 FAX NO: 06 8350062

CONTACT PERSON: Rita Sweetapple  
Regional Asset Manager.  
(name and phone number if different from above)

NOTE : A COPY OF YOUR SUBMISSION MUST ALSO BE SENT AS  
SOON AS POSSIBLE TO THE APPLICANT



EDP 148261

ENTERED

OFFICE USE ONLY	
RECEIVED DATE	4 / 5 / 2009
SUPPORT	<input checked="" type="checkbox"/> OPPOSE
W.T.B.H	N.B.H

### SUBMISSION ON AN APPLICATION FOR RESOURCE CONSENT UNDER SECTION 96 OF THE RESOURCE MANAGEMENT ACT 1991

Privacy Act 1993

The information provided on this form will be used to enable the Council to process your application. It will be directly available to those people involved in determining your application and will be treated in confidence at all times. Insufficient information may lead to delays and/or rejection of your application. Under the Privacy Act 1993 you have the right of access to personal information held about you by the Council.

**TO: GISBORNE DISTRICT COUNCIL  
ENVIRONMENT AND PLANNING DEPARTMENT  
P O BOX 747  
GISBORNE**

1. I (full name): Emma Nell Whittle  
 OF (address): 157 Kahibah Rd / 58 Parraone Rd  
Charlestown / Gisborne  
NSW, 2290

**SUPPORT OR OPPOSE**

(delete whichever is not applicable)

THE APPLICATION FROM: Arthur Kale  
 (name of applicant):

FOR A: Dispensation from yard width requirements  
 (state type of resource consent applied for & resource consent number)

Reference #  
 PD2010-  
 104244-00

TO: \_\_\_\_\_  
 (state proposal or activity of application)

2. THE PARTICULAR PARTS OF THE APPLICATION

I **SUPPORT OR OPPOSE** ARE:

(clearly indicate which parts of the application you support or oppose or wish to have amendment made to)

I oppose the entire application

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(PLEASE SEE OVER PAGE)

3. **THE REASONS FOR MAKING MY SUBMISSION ARE:**  
(state in summary the nature of your submission, giving reason, attach further pages as necessary)

Please read letter provided.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. **I WISH THE CONSENT AUTHORITY TO MAKE THE FOLLOWING DECISION:**  
(give details, including the nature of any conditions sought)

Decline the application  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. 19.5.1000  
**I DO WISH TO APPEAR OR I DO NOT WISH TO APPEAR**  
**AT THE HEARING IN SUPPORT OF MY SUBMISSION**  
(delete whichever is not applicable)

[Signature] or \_\_\_\_\_  
(signature of person making submission) (person authorized to sign on behalf of person making submission)

DATE 27, 4 2010  
~~2009~~

ADDRESS FOR SERVICE OF PERSON MAKING SUBMISSION:

157 Kahibah Rd  
Charlestown, NSW, 2290, Australia.

PHONE NO: 0061 2 49 433104 FAX NO: \_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_

(name and phone number if different from above)

**NOTE : A COPY OF YOUR SUBMISSION MUST ALSO BE SENT AS SOON AS POSSIBLE TO THE APPLICANT**

The reasons I am making this submission to oppose the application by Arthur Kale, for dispensation from yard width requirements (so he can make an access road for his proposed subdivision) are as follows.

Gisborne District Council's own planning rules, detailed in Chapter 17 of the District Plan, preclude the creation of such an access road. To allow for this access road, the amenity value (see 17.2.3 of District Plan) of the adjacent house - 58 Paranoe Rd - would be adversely affected. The road would pass directly along the side of my house with no buffer zone of a nature strip as is provided in normal residential streets.

Multiple passings of cars of residents, their visitors and service vehicles (and in stages of construction, workers trucks) would make life in this previously quiet suburban home unbearable. It would create hazard and hardship to the occupants and also devalue the property. Car noise, exhaust fumes, dust, headlights and a lack of privacy would have a significant impact on all of the living spaces that have windows on this side of the house - a bedroom

- kitchen / dining area
- bathroom
- toilet
- outdoor living area.

Gisborne District Council Policies 17.6.4 and 17.6.5 should prevent this from happening.

If one attempted to gain privacy and noise reduction by erecting a fence, this would have to be so close to the house as to significantly reduce daylight and air circulation (17.2.3; 17.6.5) to these living spaces.

I would like to add that perhaps it is for reasons such as ~~I have explained~~ these that the council has regulations of the width of right of ways. ie. the 4m right of way as mentioned in Arthur Kale's letter to Chris Duncan (dated 29/3/10).

*AK*

