

BEFORE THE HEARING PANEL

IN THE MATTER OF THE Resource Management Act 1991

AND

IN THE MATTER of application RC LU5959 by Soul Friend Pet Cremations (Applicant) to the Palmerston North City Council for resource consents to establish pet cremation business, public memorial garden and other ancillary activities at 94 Mulgrave Street, Ashhurst.

REPORT TO COMMISSIONER

MARK ST CLAIR

PRESENTATION OF SUBMISSION IN OPPOSITION BY MR & MRS DENTON

15 OCTOBER 2021

1 INTRODUCTION

- 1.1 The Submitters, Mr Dave and Mrs Elaine Denton have engaged Phil Pirie, Consulting Surveyor, to assist in the presentation of their submission.
- 1.2 I have over 40 years experience in the fields of surveying, resource management, land development and civil engineering. I am the owner of Pirie Consultants Ltd and have been in business in the wider Manawatu region and lower North Island for over 30 years. I consider myself suitably qualified and experience to provide assistance to Mr and Mrs Denton and to make the comments in this presentation.
- 1.3 Mr and Mrs Denton own and reside at No 106 Mulgrave Street, have tenants at No 106A, own the now closed abattoir at No 102 and own the property at No 114 Mulgrave Street. These properties are adjoining the Applicant's site on its southwestern boundary and Mr and Mrs Denton are directly affected by the proposal.
- 1.4 Mr and Mrs Denton oppose the Applicant's proposal on various grounds and consider the proposal in appropriate in the location.

2 HISTORY

- 2.1 Mr and Mrs Denton purchase their property in 1976 and have resided in their ever since. In 1976 their business, Ashhurst Stock Processing, established a certified abattoir for the processing of stock for the home kill market. The business was sold in the late 2000s due to Mr Denton's health and then ceased in 2010.
- 2.2 The abattoir was built, certified and managed to comply with all of MAF standards to comply with the requisite international standards. Consent for the operation of the abattoir was sought and obtained prior to commencement pursuant to the previous Oroua District Scheme. The business was deemed and still is an appropriate rural industry to be located within the Rural zone to service the needs of the rural community.
- 2.3 In 2001 Mr and Mrs Denton performed a subdivision being granted consent as RM 1736 to change the boundaries and create a separate title for the abattoir. The pattern of development resulting from this was a follows:

- No 102 Mulgrave Street Lot 2 DP 302981 5869m² Containing the abattoir
- No 106/106A Mulgrave St Lot 1 DP 302981 2.3781ha Containing the two houses
and approximately 2 ha of grazing
- No 114 Mulgrave Street Lot 2 DP 302981 2.4641ha Being grazing land.

- 2.4 The subdivision was performed to enable the business to be retained on a separate title, the two houses to be held in another title and for a separate title that Mr and Mrs Denton intend to build a house on and continue to reside in during their retirement.
- 2.5 Ever since purchasing their property Mr and Mrs Denton have grazed stock on the land and continue to do so. The property is a typical larger lifestyle block with all of the appropriate facilities for such a venture.

3 SUBMISSION OF OPPOSITION

- 3.1 Mr and Mrs Denton oppose the proposal for various reasons, primarily that it is inappropriate activity in its location and summarised as follows:
- The proposal is an Industrial activity located in a Rural zone.
 - It is inappropriate being adjoining and nearby land zoned or to be zoned Residential.
 - The effects of the proposal are significant and not minor or less than minor.
 - The location of the activity is on land identified and subject to inundation.
 - The proposal is contrary to the Objectives and Policies for the Rural Zone of the District Plan.
- 3.2 Mr and Mrs Denton support the submission of Mr & Mrs Currie in opposition to the proposal as they agree that the activity is highly inappropriate being in a location immediate beside land that is to be used for residential housing.
- 3.3 The visual effects can't be mitigated as although the building could be screened it is not possible to hide the four 10m high chimneys from view.
- 3.4 Industrial Activity

The proposal is an industrial activity without any connection to the rural environment but being located within land zoned Rural. While it could be argued that the effects of the activity are similar to other rural activities, it is not a rural activity and it is not essential for it to be located in a Rural zone. The District Plan states that activities in the Rural zone must be rural in nature and/or support the rural community. Council has refused consent for non-rural activities, being industrial activities, with the rural zone when these activities are not necessary to be located in the Rural zone. An example of such is the application from Maskill Contracting Ltd to site a transport warehouse at No 572 Kelvin Grove Road in 2005. The consent sought was for an extension to be business, being farm contracting, to enable a change to line transport of various goods including hay and farm machinery. Consent was refused as the activity was essentially industrial, not essential to be located in a rural area, not a rural activity and there were ample opportunities for the business to exist within areas of the City zoned Industrial. An appeal to the Environment Court was unsuccessful. The Maskill case is

very similar to the Applicants as there is not any justifiable reason for the activity to be located within the Rural zone particularly when suitable and available industrial land exists 120m away.

3.5 Residential land

The Applicant's property adjoins or is nearby land that is zoned or is to be zoned Residential. The establishment of an industrial activity on land not zoned for that purpose is not appropriate particularly when that land adjoins land to be developed into housing. The situation is not the same as for residential properties on the south side (opposite side) of Mulgrave Street where these properties adjoin land zoned Industrial. It is an accepted principle that those residents must accept the effects and have an expectation that industrial development will occur on properties adjoining theirs. The District Plan has controls and standards that are required to be met at the interface of land zone Residential and Industrial. For the Applicant's proposal, there is not any expectation or acceptance that an industrial activity will occur on their neighbouring land but rather the reverse that the District Plan provides the surety that rural activities will continue until such time as a plan change is proposed. The Applicant's proposal is not involve a plan change but rather a less rigorous approach of seeking approval for an industrial activity. It is without doubt that the connotations of a crematorium beside residential land are immense. This occurred when the Beachamp Funeral Home at 167 John F Kennedy Drive, Palmerston North applied to Horizons Regional Council for a discharge to air consent for a crematorium. Despite the activity being in an industrial zone, there was immense opposition from nearby residents, some directly opposite the site and that the proposal was for one chimney, approximately 8m high. It is considered in my opinion and that of the submitters that the Applicant's proposal to create four 10m high chimneys will have a significant detrimental effect on not only them but also all future residential occupiers on the surrounding land.

3.6 Adverse Effects

The primary concern of Mr and Mrs Denton and other submitters, in particular Mr & Mrs Currie is the negative connotations of the crematorium, the building in particular the chimneys, and the presence of an industrial activity in the rural zone. It has been stated in Mr Hindrup's report that it is impossible to screen the visual effects of the chimneys. Of concern is the effects of the chimneys not just on the neighbouring properties but also the wider Ashhurst environment. While it could be argued that there will be little difference between the chimneys being sited on the land on the south side of Mulgrave Street compared to the proposed site, the difference is that the former land is expressly zoned for such activity whereas the proposed site is not. While it is accepted that adverse effects of noise, traffic and parking areas can be mitigated and be no greater than any other rural activity, the effects chimneys can't. Reference to the retention of trees to assist the screening of the chimneys in the Landscape Assessment fails to state that the trees that presently provide the most effective screening are owned by Mr & Mrs Currie who will be removing these as part of the

future residential development. There is not any proposal to plant trees to screen the building and even if this was to happen it would be many years before these obtain a suitable height and density to effectively provide at least moderate screening. All of the photos from the view points in the Landscape report do not provide an impression of what the views will be when the building is complete and use the assumption that all existing vegetation on neighbouring properties will remain. There is an expectation that neighbours will retain and establish more planting to screen their view of the activity so as limit the adverse effects upon themselves. Reference in the Landscape report that the activity is not out of character for the locality is considered misleading. While the industrial activities, including the transfer station are close by, they are specifically located on industrial zone land and the abattoir is an approved industry for a rural activity in a rural zone. As stated previously development and the associated adverse effects are an expected and accepted consequence whereas an industrial activity in the rural zone is not. Overall it is considered that the impact of the building and activity in the proposed location will have significant adverse effects upon the neighbours not low-moderate or very-low effects.

3.7 Inundation

Horizons Regional Council has identified the area as being subject to flooding in events up to 1:200 years. While this matter can be mitigated by setting minimum floor levels it is of concern that the development is occurring within an area that is operating as a secondary flow path. The building and access have been proposed on the part of the property that is significantly affected by inundation not the part of the property that is free of inundation. It is presumed that not choosing the inundation free site was made to avoid further adverse effects upon the neighboring Currie property. It is considered that the activity is inappropriate in the location due to the aspects of flooding even though some aspects of this are able to be mitigated.

3.8 Resource Management and District Plan

The application is deemed a Non-Complying activity. Pursuant to s104D Resource Management Act 1991, the activity is required to pass one of two tests being:

- Either the effects will be minor
- Or there is compliance with the District Plans Objectives and Policies.

It is not considered that the effects will be minor but rather significant. Much attention has been given to the activities effects, particularly the visual, but it is without doubt that four chimneys, 10m high will have an intrusive effect that will be more than minor. Furthermore the connotation of crematoria whether real or perceived will have significant effects on adjoining residents both existing and future. To rationalize this a simple question to be asked is 'would you like to live next to a crematorium?' While I don't have any evidence of a survey asking such, it is a reasonable

expectation that in most instances the answer will be no, as shown by the Beachamp Funeral Home case.

The relevant Objectives and Policies of the Rural zone to this application are:

- Objective 2, Policies 2.1 – 2.5
- Objective 3, Policies 3.2 & 3.3
- Objective 4, Policies 4.1 & 4.3

These Objectives and Policies seek to protect the rural environment from inappropriate activities and by inference activities that do not need to be in the rural zone. While the land is not considered to be high productive land being a lifestyle block, the creation of an industrial activity is not seen as appropriate in the rural environment. The activity will result in a significant loss of the existing pasture and will have significant effects on adjoining rural and residential properties. It is not essential for the activity to be located in a rural environment as it is not serving a rural need and it is considered that the disadvantages far exceed any advantages for its need to be in the chosen location.

Consequently as the proposal is deemed a Non-complying activity and does not pass either of the required tests, that approval is not able to be given for the activity.

4 CONCLUSION

- 4.1 It is considered that the proposal has significant adverse effects and is inappropriate for the location because it is an industrial activity within the Rural zone.
- 4.2 The arguments for supporting the proposal fail to meet the criteria for an activity in the Rural zone and is contrary to the objectives and policies.
- 4.3 The proposed mitigation while able to deal with some of the effects is essentially trying to disguise an industrial building in a rural environment.
- 4.4 Mr and Mrs Denton seek to have the proposed consent for the activity refused. Furthermore they do not consider any conditions will mitigate the effects and the industrial activity is inappropriate in the rural environment.

Phil Pirie

Consulting Surveyor

15 October 2021