



# AN EXAMINATION OF SEPTIC TANKS AND A SUBDIVISION IN THE UPPER HUTT CITY COUNCIL AREA

August 1991

*Office of the*  
**PARLIAMENTARY COMMISSIONER FOR THE ENVIRONMENT**  
**Te Kaitiaki Taiao a Te Whare Pāremata**



**AN EXAMINATION OF SEPTIC TANKS AND A SUBDIVISION IN THE  
UPPER HUTT CITY COUNCIL AREA  
AUGUST 1991**

**1. The Complaint**

In November 1990 Rev B Cox of Upper Hutt wrote to this Office complaining of costly and disappointing delays he had encountered over the past six months from public authorities as he attempted to gain the necessary approvals to relocate a house onto a property in Avian Road subdivision.

**2. Background**

Avian Road and Avro Road comprise a small Rural/Residential subdivision at the end of Blue Mountains Road, north of Stokes Valley. The original subdivision was created in 1929 and lot sizes are small, between 1000m<sup>2</sup> and 4000m<sup>2</sup>.

This area remained in the Hutt County Council until November 1988 when the Hutt County ceased to exist and it then became part of the Upper Hutt City Council. The Operative District Scheme applicable to the land is the Hutt County Operative District Scheme (Review No.2) July 1984.

The land is zoned Rural/Residential in the District Scheme. In that zone the predominant uses include the following:

- (1) A dwelling house provided the lot is suitable for residential purposes and an adequate form of sanitary drainage can be provided to conform with the Building and Health regulations." In addition the Zone Statement contains the following paragraph.

"The properties in Blue Mountains Road (and Moores Valley) areas are not connected up to the common drainage and water supply system and each property relies on its own tank water supply and septic tank."

The subdivision ordinance for the zone was amended by a change in June 1988 so that "no subdivision will be permitted in the zone unless the subdivision is for a minor boundary adjustment or to improve access." The Council has stated it has no plans for sewage reticulation from this area.

The land itself is steep with a natural watercourse running through it. The soil is clay with a layer of peat and has low permeability. There are effluent disposal problems at some existing houses in this area, e.g. effluent is seeping into the creek from one property, effluent is being piped to the creek from another property. There are also odour problems in the vicinity of these dwellings.

There are 11 vacant lots in the vicinity of these existing houses and a total of about 70 vacant lots in the whole subdivision. Enquiries for similar approvals have been made by a landowner adjacent to Rev Cox.

### **3. Responsible Public Agencies**

#### **3.1 Upper Hutt City Council**

The Upper Hutt City Council is responsible for District Scheme planning for this area and is also responsible for issuing any building permit required when a house is to be built or relocated onto a vacant lot. An application for a building permit is scrutinized to ascertain compliance with a Council's planning, building, stormwater and sewage requirements. Council has a responsibility to ensure that an efficient and effective system for the disposal of sewage is provided for each property to be built on. Council must also ensure that the system used for disposal of sewage does not affect any other property or the environment generally or endanger public health. However, before a building permit can be issued, other approvals may be necessary.

#### **3.2 Wellington Area Health Board**

If a system of effluent disposal on any property is to rely, to some extent, on discharge or seepage outside the legal boundaries of a property, then it is necessary to obtain approval of the sewage system from the Medical Officer of Health (Regulation 32(3) of the Drainage and Plumbing Regulations 1978). The regulation is a means of ensuring that there is safe, sanitary disposal of human effluent. It also ensures that an independent public health approach is considered in relation to any cross-boundary effects, including their environmental and public health impacts.

#### **3.3 Wellington Regional Council**

If an effluent disposal system relies on the discharge or seepage of effluent into a natural watercourse or where effluent may percolate through ground to water, then a water right is required from the Regional Council.

Mr Cox subsequently applied for a water right in August and received approval in September or October 1990.

#### **3.4 Delays**

A number of factors delayed stages of the overall process, among them was a lack of detail and cooperation from the plant supplier. Because the proposed effluent treatment system was new to this region, the Area Health Board sought information from other local authorities and the Department of Health before giving approval under Reg 32 of the Drainage and Plumbing Regulations 1978.

The process of obtaining approvals could have been streamlined if one agency had coordinate the required approvals. Time is still a factor in water right applications but the need for a water right should be identified as soon as possible after a building permit application is received by a local authority.

#### 4. Nature of the Problem

The process followed by Mr Cox over a period of 6-8 months to gain the necessary approvals to relocate a house into an existing subdivision has raised a number of issues.

##### 4.1 How should people be given information on any potential constraints associated with land they may wish to purchase or use?

Mr Cox obtained some opinions on the suitability of the land for residential purposes from a Real Estate agent. This opinion was subsequently found by Mr Cox to not be accurate in all respects and Mr Cox complained to the Real Estate Institute about this.

Upper Hutt City Council understand that the provisions of the District Scheme were made known to Mr Cox by a planning consultant. It is reasonable to assume that the provisions of the District Scheme should be checked before entering into any arrangement to purchase or use land.

The issue, in this instance, is whether the wording of the District Scheme in respect of the Avian Road subdivision is sufficiently clear to alert a person to the potential problems of providing for effluent disposal.

There are other ways of providing information on potential constraints to land use. Floodplain management plans are able to alert people to the frequency and extent to which land may flood. A property information register, as undertaken by Manukau City Council, identifies natural hazards including potential subsidence, previous land use for each property in the area. This register is available at the public counter of the Council.

##### 4.2 The approvals that may be required before a lot can be used include a building permit, approval of the Medical Officer of Health and a water right.

A building permit cannot be issued until approval of the Medical Officer of Health is given and a water right is obtained. The approval of the Medical Officer of Health is associated with the person receiving a water right for the discharge of effluent.

The responsibilities of the three public authorities are closely interlinked and may be diagrammatically represented as follows:

UHCC  
Building Permit

AHB  
Approval  
P.D. Regs

RWB  
Water Right

There is no "lead agency" designated by legislation and there is the possibility of delays in each of the three approval processes. The water right approval process is a public process with the right of public objection whereas the other two processes are internal to the agency concerned. A building permit application is referred to a number of divisions with a City Council for their scrutiny before a permit can be issued.

- 4.3 Having inherited or provided for a subdivision in an area in which it is subsequently found that on-site effluent disposal is not working, what are the responsibilities of the local authority? How can a local authority "discourage" development without compromising the rights and expectations of landowners?

There is no provision in current legislation to require amendment to zoning or rezoning of an area based on potential or actual difficulties in on-site effluent treatment and disposal identified after an area has been zoned for residential purposes.

There is also no provision in legislation to veto a building permit application based on the likelihood that an on-site effluent disposal system will not work as expected.

The City Council shows no signs of wanting to plan to reticulate the area either now or in the future. This is an option that should be considered, especially with the known effluent disposal problems and the possibility of future problems.

## **5. Resolution of Issues**

### **5.1 Strategic Planning**

Local authorities have a responsibility to ensure that health hazards and nuisance conditions with respect to on-site effluent disposal systems are prevented s.29 of the Health Act 1956. Prevention of potential environmental and/or health problems is preferable to local authority's disclaiming responsibility for provision of alternative systems when on-site systems fail.

A local authority should be planning for future eventualities. Even though residential development in the Avian Road area may be "discouraged" by the local authority it could well happen that in 5-20 years time many of the vacant lots are occupied by dwellings. It is likely that the on-site wastewater disposal systems may not work and that effluent is not disposed of within each individual lot. Then, in terms of either nuisance or health risks the local authority may have to provide a reticulated sewage and stormwater drainage system for the subdivision. Upper Hutt City Council has indicated that it has no plans to address this issue and that there is no evidence to suggest a need arising to provide a plant in the foreseeable future. The Council's engineers have the matter under review and if the situation changes, Council will readdress the matter.

One of the reasons the Area Health Board took time to enquire into the proposed effluent treatment process was that the Board sought to ensure that any new approvals would not further compromise health or environmental impacts at other sites in this subdivision.

## 5.2 Rezoning of the area

Correspondence with the Upper Hutt City Council has ascertained that the Council is well under way with a review of its District Scheme. The Council has accepted the Commissioner's advice that the Council's attitude to further development in the Avian Road area should be more explicitly set out for the benefit of property owners and potential purchasers. The Council is proposing that the Avian Road area is dealt with by a "Rural Special 2" zone. The Scheme statement has expanded on the 1984 statement to include the sentence:

"The size of the allotments, the nature of the subsoil and the proximity of watercourses means that septic tank disposal of effluent may not be able to be achieved on every site."

A dwelling and accessory building on any vacant lot is to be made a conditional use in the zone rather than a predominant use in the July 84 Scheme.

The Council is intending to control future building through this Conditional Use so that the cumulative effect of many more additional houses should not lead to pollution of the watercourses and land.

## 6. Summary

This subdivision is something of a historical accident and has been inherited by the Upper Hutt City Council. The Council has altered their District Scheme to discourage landowners building on their lots but doesn't appear to have seriously considered the option of reticulating the subdivision to prevent possible future nuisance and/or environmental and public health problems. The Council seems content to let landowners install expensive individual on-site wastewater treatment systems which may or may not operate successfully in the longterm.

