**WAIPA DISTRICT COUNCIL**

**LAND USE CONSENT APPLICATION FOR 582 PARALLEL ROAD, CAMBRIDGE**

**KIWIFRUIT INVESTMENTS LIMITED**
**Applicant**

**N & V JENNINGS**
**Submitter**

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# MEMORANDUM OF COUNSEL FOR THE SUBMITTERS

Dated: 1 November 2022

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Counsel Acting
Phil Lang - Barrister
Riverbank Chambers
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HAMILTON
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The directions of the Commissioner dated 20 October 2022 include at paragraph 5 a direction that the Applicant and Submitter advise whether there is any prospect of a negotiated or mediated agreement, without the need for a hearing **and** that the Submitter advises whether they wish to withdraw their request to be heard or wish to proceed to a hearing.

**Updated Application**

1. The Submitter received details of amendments to the existing resource consent application on Tuesday 25 October 2022 and has taken expert advice and recommendations on the amended proposal. It is noted that, apart from the change to a new proposed shelterbelt species, the proposal is not materially altered. The Submitter's landscape expert proposed alternative mitigation in her evidence and that has been rejected.

2. If the amended proposal is to be progressed in its current form, there is no prospect of agreement being reached, from the Submitter's perspective.

**Further resource consent required**

3. The expert advice given to the Submitter about the use of Karo trees as a shelterbelt at this location indicates that that this would also require a resource consent as in the case of the Cryptomeria trees. The advice is that Karo trees will grow to a mature height of up to 9 metres and are encountered in a variety of locations in the Central Waikato at a height exceeding 6 metres.

4. A Memorandum from the Submitter's landscape and visual expert is **attached** to this Memorandum, with photographs of existing Karo trees in the Central Waikato at heights exceeding 6 metres.

5. Even if the Karo trees were not likely to grow to a height of exceeding 6 metres, they are not accepted as suitable for their proposed

purpose at this location and pruning them at a height of 5 metres would not provide an adequate visual screen.

6. The submitter's position is that there are more appropriate ways of screening the existing and proposed artificial shelter and there should be a greater separation of the artificial shelter from the boundary of the Submitter's property.

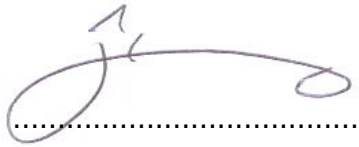
**New Application**

7. A copy of the new Application was received from the Council yesterday after enquiry was made about whether it had been lodged. There has not yet been any time to consider that Application properly and respond to it, however, the following comments can be made prior to a fuller response being given.

8. The new Application should be notified to the Submitter (and potentially other neighbours) as an affected party, as 10 metres of the proposed shelterbelt are very close to the eastern and western boundaries of the property and the shelterbelt will be a prominent feature in the Submitter's locality at and near to the entrance to their home. The effects of the shelterbelt on the submitter cannot be considered "less than minor".

9. There is no expert evaluation of the landscape and visual effects of the shelterbelt, or its adequacy in screening the artificial shelter building along the road frontage of the development site or along the submitter's boundary. The only assessments of effects contained in the AEE are made by a person not qualified to express opinions on the types of effect that are considered.

Dated: 1 November 2022



....., P M Lang, Counsel for the Defendant

Boffa Miskell

# Memorandum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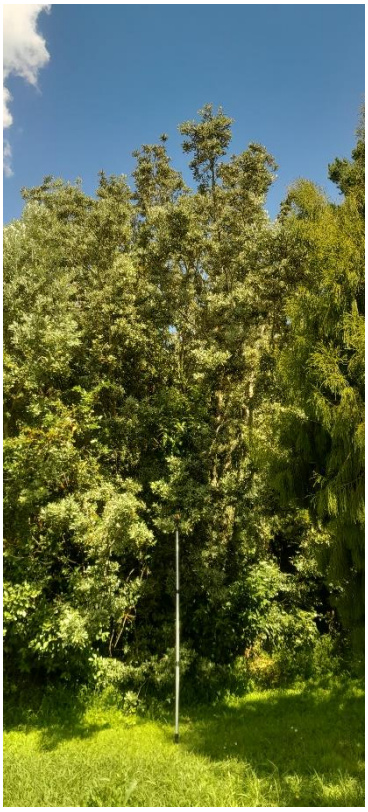
|---|---|
| Attention: | Phil Lang |
| Company: | Phil Lang Barrister |
| Date: | 1st November 2022 |
| From: | Jo Soanes, Principal Landscape Architect, Boffa Miskell |
| Message Ref: | Memorandum *Pittosporum crassifolium* (karo) Plant Heights |
| Project No: | BM220967 |

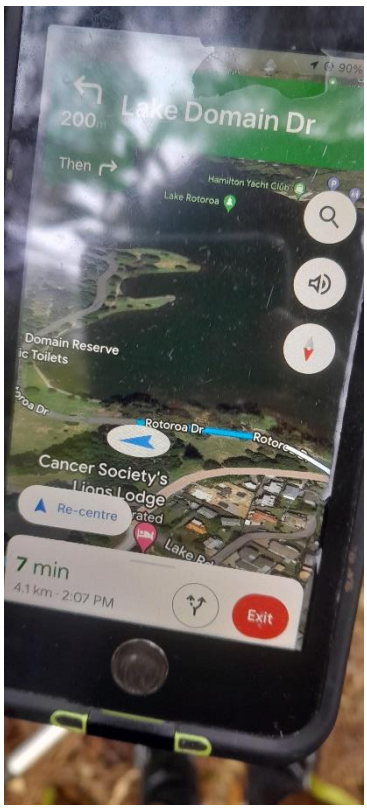
In response to the applicant's expertise in relation to the height of *Pittosporum crassifolium* (karo) growing to a maximum height of 5 metres in height the Waikato. The following link provides technical specification that Karo can grow up to 10 metres tall. Flora of New Zealand | Taxon Profile | Pittosporum crassifolium (nzflora.info).

We have sought examples of Karo from Central Waikato exceeding 6 metres and provided photos examples of these, locations and approximate heights below.

*Pittosporum crassifolium (karo).*
*Approx. height 7 m (person 1.96m tall)*
*Location: Hamilton City Holiday Park*



*Pittosporum crassifolium (karo).*
*Approx. height 7 m (2.7m high bat hook).*
*Location: Dinsdale, Melva Street.*




*Lake Domain Reserve, Hamilton Lake.*

*Approx. height 6 m. (2.7m high bat hook).*

*Located within mixed native and exotic bush.*

Prepared by

Boffa Miskell

Jo Soanes
Principal | Landscape Architect

TE PAPA



# *Pittosporum crassifolium* Banks & Sol. ex A.Cunn.

Based on: Flora Committee

Image: P.B. Heenan © Landcare Research 2014

- Taxon
- Weed
- Gallery

^ Classification
Class
*Magnoliopsida* Brongn.
Order
*Apiales* Nakai
Family
*Pittosporaceae* R.Br.
Genus
*Pittosporum* Banks & Sol. ex Gaertn.
^ Nomenclature
Scientific Name:
*Pittosporum crassifolium* Banks & Sol. ex A.Cunn., *Ann. Nat. Hist.* 4: 106 (1840)
Synonymy:

- = *Pittosporum crassifolium* var. *strictum* Kirk, *Trans. New Zealand Inst.* 4: 266 (1872)

Vernacular Name(s):
Kaikaro; Karo; Kīhihi
^ Description

Shrub or tree up to 9 m. tall, bark dark brown; branches erect to ascending, sts almost fastigiate; branchlets, lvs below, petioles and peduncles densely clad in white to buff subappressed tomentum (sts ferruginous in aged herbarium specimens). Lvs alt., very coriac., lamina 5–7–(10) × 2–2.5 cm., on stout petioles up to 2 cm. long, obovate-cuneate to obovate-elliptic to narrow-obovate, margins revolute. Fls functionally unisexual, in terminal umbels of 5–10 ♂ or 1–2 ♀. Sepals subulate to oblong-lanceolate, tapering, tomentose, c. 6 mm. long, petals narrow-oblong, c. 1 cm. long, dark red. Capsules subglobose to ovoid, tomentose, 2–3 cm. long, on stout decurved peduncles up to 1·5 cm. long; valves 3 or rarely 4, thick, woody.

[From: Allan (1961) Flora of New Zealand. Volume 1.]

^ Biostatus
Indigenous (Endemic)
^ Phenology

Fruiting: Sep.–Dec.

^ Bibliography
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Cunningham, A. 1840: Florae insularum Novae Zelandiae precursor; or a specimen of the botany of the islands of New Zealand. *Annals of Natural History 4*: 106–111.
de Lange, P.J.; Rolfe, J.R.; Barkla J.W.; Courtney, S.P.; Champion, P.D.; Perrie, L.R.; Beadel, S.N.; Ford, K.A.; Breitwieser, I.; Schönberger, I.; Hindmarsh-Walls, R.; Heenan, P.B.; Ladley, K. 2018: Conservation status of New Zealand indigenous vascular plants, 2017. *New Zealand Threat Classification Series.* No. 22. [Not Threatened]
de Lange, P.J.; Rolfe, J.R.; Champion, P.D.; Courtney, S.P.; Heenan, P.B.; Barkla, J.W.; Cameron, E.K.; Norton, D.A.; Hitchmough, R.A. 2013: *Conservation status of New Zealand indigenous vascular plants, 2012. New Zealand Threat Classification Series 3.* Department of Conservation, Wellington. [Not Threatened]
Howell, C. 2008: Consolidated list of environmental weeds in New Zealand. *DOC Research & Development Series 292*: 42.
Kirk, T. 1872: On the New Zealand species of *Pittosporum*, with Descriptions of New Species. *Transactions of the New Zealand Institute 4*: 260–267.
^ Links
Weeds Key – interactive key to the weed species of New Zealand

- Classification
- Nomenclature
- Description
- Biostatus
- Phenology
- Bibliography
- Links

- ˅ Expand all
- ^ Collapse all

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