

From: [BDC Lgoima](#)
To: [REDACTED]
Subject: Official Information Request for Permits & Process - Settling Pond, Beach Road, Charleston Ref: OIA 043/24
Date: Tuesday, 14 May 2024 9:00:02 am
Attachments: [image006.png](#)
[building-on-reserve-land-policy.pdf](#)
[dwellings-on-unformed-legal-road-policy.pdf](#)
[FW Consent query ID 1886004300.msg](#)

Dear [REDACTED]

We refer to your official information request dated 15 April 2024, your request was as follows:

Information on process and granting of permits to construct settling pond on ULR, Little Totara river, beach road Charleston.

Pond constructed about 2015 on farm operated by Robert Griffiths

BDC's Response:

1. The normal process is that if a person wants to do something on somebody else's land an access approval is obtained from that landowner, in this case Council.
2. The owner of the land considers the matter and if approved this is subject to obtaining necessary resource consents and building consents.
3. This is also subject to putting in place a licence to occupy agreement.

There are two current Council policies that may have some relevance. These are attached.

- 'building-on-reserve-land-policy.pdf' (This specifically reference bridges, however, may also apply to settling ponds).
- 'dwellings-on-unformed-legal-road-policy.pdf' (There is no dwelling in this case).

Council has also investigated if any regional council consents where required. No consents from the regional council were required. Correspondence on this matter is also attached. Refer to email chain in 'FW: Consent query ID:1886004300 – Outlook item'

Thank you for bringing this matter to Council's attention. It would also appear that no district council resource consents were required, however Council has been unable to discover if access approval was obtained as at this stage no licence to occupy agreement has been found. This is a matter Council will be taking up with the occupier of the unformed legal road.

You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

If you wish to discuss this decision with us, please feel free to contact the Buller District Council by return email to lgoima@bdc.govt.nz.

Please note that it is our policy to proactively release our responses to official information

requests where possible. Our response to your request may be published at <https://bullerdc.govt.nz/district-council/your-council/request-for-official-information/responses-to-igoima-requests/> with your personal information removed.

Kind regards

Eric de Boer | Acting Group Manager Infrastructure Services
DDI 03 788 9645 | Mobile 027 312 2727 | Email eric.deboer@bdc.govt.nz

Buller District Council | Phone 0800 807 239 | bullerdc.govt.nz
PO Box 21 | Westport 7866

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From: [Gemma Rea](#)
To: [Mel Sutherland](#)
Subject: FW: Consent query ID: 1886004300
Date: Tuesday, 9 April 2024 9:45:20 am
Attachments: [image002.png](#)
[image679199.png](#)
[image071932.png](#)
[image990142.png](#)
[image661865.png](#)
[image348141.png](#)
[image440563.png](#)
[image743064.png](#)
[image921239.png](#)
[image006.png](#)

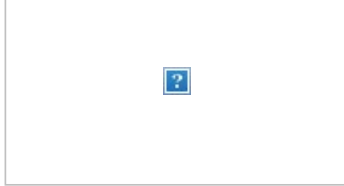
Gemma Rea | PSBU Support
DDI 03 788 9654 | Email Gemma.Rea@bdc.govt.nz

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From: Rachel Clark <rc@wrc.govt.nz>
Sent: Tuesday, April 9, 2024 8:55 AM
To: Gemma Rea <Gemma.Rea@bdc.govt.nz>
Subject: Re: Consent query ID: 1886004300

Morning Gemma,

This dairy farm operates under our permitted activity rules as they irrigate to land. The earthworks for the pond would also have been a permitted activity. We therefore have no resource consents for this property.

Cheers,
Rachel

Rachel Clark

Principal Consents Officer | West Coast Regional Council

rc@wrc.govt.nz | +64 3 744 7317 | 0211924096



From: Gemma Rea <Gemma.Rea@bdc.govt.nz>
Sent: Tuesday, April 9, 2024 8:39 AM
To: Rachel Clark <rc@wrc.govt.nz>
Subject: Consent query ID: 1886004300

Good morning, Rachel

I have a query about a property that has had a settling pond constructed on road reserve, I was given your contact by Mel Sutherland as someone who could potentially assist me?

Buller District Council has no knowledge of any consent being issued and naturally have some reservations and I'm enquiring whether Regional Council has issued any consents for this settling pond.

Details as follow:

RJ & JD Holdings
Hands Road, Charleston
Vaulation # 1886004300
SEC 1 SO 15131 Lot 2 DP 472761, Lots 2-9 DP

Any help would be much appreciated, or if you could please point me in the right direction of somebody who can assist,

Thanks!

Gemma Rea | PSBU Support
DDI 03 788 9654 | Email Gemma.Rea@bdc.govt.nz

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BUILDING ON RESERVE LAND POLICY

Source:	Council Meeting		
Date:	21/01/2009		
Reviewed:	15/07/2014	Next review:	2017
See also:	Building Act 2004, Resource Management Act 1991		

Buildings/Building Extensions

Buildings or building extensions will not be permitted on reserve land or road reserve without the prior, specific approval of the Buller District Council.

Bridges on Road Reserve

Where permission is sought to construct a bridge on road reserve, prior specific approval may be granted by the Manager Operations subject to the following conditions:

- a) The applicant obtains resource consents if required from the West Coast Regional Council and Buller District Council and complies with all conditions of those consents;
- b) The applicant enters into a licence to occupy which will require a bond to be furnished to the Council to cover the cost of removal. The costs to be determined by the Manager Operations;
- c) The applicant agree as part of the licence to occupy to have the bridge/s inspected on a three yearly cycle (or at any other time after a major flood event that in the opinion of the Manager Operations is warranted) by a Chartered Professional Engineer and that any maintenance that is identified as part of the inspection is undertaken at their cost to the standard required by the Engineer who will furnish producer statements for any maintenance undertaken;

- d) That while the bridge/s remain in place that these conditions apply to any successor in title.

In recognition of the fact that reserve land does not generally have certificates of title, building consents are not able to be issued on land which is subject to a natural hazard, as defined within Section 71 of the Building Act.

Verandahs over Road Reserve

Verandah construction over road reserve is permitted providing prior approval is given from the Manager Operations for Council owned land or an encroachment agreement has been obtained from the New Zealand Transport Agency for state highways.

DWELLINGS ON UNFORMED LEGAL ROADS POLICY

Source: Council	
Date: February 2020	
Reviewed:	Next Review: February 2023
See also:	

1. That Council requires all owners of dwellings on Council owned unformed legal road to enter into a licence to occupy.
2. The licence to occupy is non-assignable, the sale and purchase of any dwelling covered by this policy will require a new licence to occupy to be entered into, prior to the completion of the dwelling sale and purchase.
3. Where a licence to occupy is not entered into by dwelling owners before 1 September 2020, Council may require the removal of all improvements and reinstatement of the land back to a suitable condition as determined by Council, by no later than 1 December 2020.
4. That the licence to occupy includes a non-renewable 25-year term as a maximum, expiring on 1 September 2045.
5. That at the termination of the 25-year term of the licence to occupy, dwelling owners are not entitled to any compensation from Council and must remove all improvements from the Council unformed legal road, within three months after the expiry of the licence to occupy, being no later than 1 December 2045.
- 5a. Annual Licence Fee shall be 2.5 percent of the rateable land value of the Licensed Area undertaken by a registered valuer appointed by the Council, and the equivalent rates apportionment on the property by Council. The Annual Licence Fee pursuant to this clause shall be reviewed after every valuation and reported within Council's Long-Term Plan.
6. That any dwellings and/or appurtenances which are considered, in the opinion of the Council, to be unsafe or a health risk shall be removed by the dwelling owner within three months of receiving a notice from Council unless the identified dwelling and/or appurtenance is made safe and/or the health risk is remedied to the satisfaction of Council. If the dwelling owner fails to comply with this order, the Council can remove the dwelling at the dwelling owner's expense.
7. The licence holders shall not restrict public access, allowing them to ingress, egress and regress anywhere along the unformed legal road, excluding access into buildings.

8. That no further additions or improvements to the dwellings are permitted other than:
 - (a) reasonable standard of repairs and maintenance; and
 - (b) upgrading of wastewater systems with the prior consent of council as the landowner in addition to the obtaining of any necessary regulatory consents
9. Dwellings shall not be used for the undertaking of commercial activities.
10. That no new dwellings and/or appurtenances be allowed to occupy unformed legal road.
11. If a licensee requests that Council undertake a road stopping process with respect to the licensed area, any decision on whether or not to undertake the process is entirely at the Council's discretion. Approval may be declined or approved subject to such terms and conditions as the Council thinks fit, including a requirement that the licensee pays the Council's costs, including legal costs, in relation to the road stopping process.
12. Where dwellings and/or appurtenances encroach upon unformed legal road, Council at its discretion shall notify the owners and may require that a licence to occupy be entered into. Where the occupiers of the dwellings choose not to enter into a licence agreement then the policy regarding the removal of any improvements shall apply.
13. Any dwellings, or parts thereof, located on unformed legal road that are not licenced will be managed in accordance with this policy as they come to the notice of council.
14. The licensee shall comply with all terms and conditions of the licence to occupy and any subsequent legal amendments as determined by the licensor.

Interpretation

Definitions:

"Appurtenances" means any structure or artefact that is associated with the dwelling, such as, septic tank and disposal system, water tank, deck, etc.