

MINUTES

TITLE: Environment and Planning Subcommittee
DATE: Wednesday 16 February 2005
TIME: 9.30 am
VENUE: Council Chamber, 189 Queen Street, Richmond.

PRESENT: Cr R G Kempthorne (Chair), Crs T B King and P K O'Shea.

IN ATTENDANCE: Manager, Consents (J S Hodson), Consent Planner (S Leusink), Administration Officer (B D Moore).

1. D N and M J LATHAM, TRASS VALLEY ROAD, WAI-ITI – APPLICATION RM041056

1.1 Proposal

The application sought consent to subdivide Pt Section 48 Square 4, CT NL 11B/493 at Trass Valley Road, Wai-iti. Proposed Lot 1 would be 2.5 hectares and proposed Lot 2 will be the balance of 15.564 hectares and contain an existing dwelling.

1.2 Presentation of Application

Mr N McFadden, solicitor, introduced the application and the applicants, Mr and Mrs Latham. A model of the proposed new dwelling on Lot 1 was displayed at the hearing. Mr McFadden described the application as a discretionary activity in the Rural 2 Zone. The submission said that no submissions in opposition had been received and that all of those most likely to be affected have given their approval. It was stated that there are sufficient distinguishing factors about this application to set it apart from the generality of other cases. The submission addressed the issues of precedent and cumulative effect in relation to this application.

Mr McFadden read a letter of 15 February 2005 from Traffic Design Group, which assessed the traffic impacts associated with the effects of the proposed two lot subdivision in Trass Valley Road, Wai-iti. This assessment report concluded that the proposed subdivision can be readily accommodated without any adverse effect on other road users, either along Trass Valley Road or at its intersection with State Highway 6. The very low level of traffic generated by the site can be readily accommodated without affecting the efficiency or safety of the road network.

Mr D N Latham read a statement of evidence and described the history of use and development of the site. He described that during the 16 years on this site they had cleared the gorse and planted 9.6 hectares of *Pinus radiata* trees and established a pottery. He said that with the new subdivision consent the pottery would be decommissioned and that the applicants propose to plant 2 hectares of olives on the new 2.5 hectare site. He volunteered a rural emanations easement and Mr Latham said he did not think there is further potential to subdivide the balance area.

Planning consultant, Ms J Hilson, read a statement of planning evidence and advised that the applicants' new house will incorporate a small pottery studio so that they can continue to create and wholesale their work. Mrs Hilson said that the applicants propose to collect and store roof water for domestic supply. The applicants had obtained the written consents of all 10 of their neighbours and residents of Trass Valley in the course of preparing their application.

Ms Hilson said that Carter Holt Harvey Forests Ltd operates a commercial forest further up the road and uses Trass Valley Road for log harvesting purposes and that this company wishes new landowners of the subject sites to be advised of that company's operations and use of the road. An appropriate consent notice will be required. Ms Hilson described the District Plan provisions and an assessment of effects on the environment. This evidence also addressed the objectives and policies in the Council planning documents. The evidence addressed proposed conditions of consent and suggested proposed covenants. In addition, the applicants volunteered covenants for a proposed olive grove and a restriction on the further subdivision of the balance area of land.

1.3 Staff Report

Consent Planner, Ms S Leusink, spoke to her planning report contained within the agenda. She advised that in 1994 the applicants had subdivided their land under the retirement rule and then sold the retirement block. The planner's report said that in considering the concept of precedents, the adverse cumulative effects being considered are potential effects. She said Council must exercise reasonable judgement as to whether or not precedents would result in adverse effects that are more than minor. Ms Leusink said that just because neighbours had supported the proposal, consent need not be granted. Examples of recent applications declined by Council were quoted.

1.4 Right of Reply

Mr McFadden responded for the applicants and repeated comments about precedence, potential effect and cumulative effect. He said Council's reporting officer must put forward the basic facts and not advocate to the Council. Mr McFadden stated volunteered conditions of consent on behalf of the applicants. In relation to the proposed olive trees he suggested that no Section 224 certificate be issued until such time that the olive trees are planted and following the planting of the olive trees that these be thereafter maintained pending the further consent of Council. He said that there are substantial trees on the property and provided a plan marked in blue supplied by Mr Latham to indicate the location of these trees. Mr McFadden said that substantial significant trees such as the totara trees should be protected by covenanting.

Mr McFadden also repeated that a consent notice should be imposed so that no further subdivision of Lot 2 balance area occur. Mr McFadden encouraged the Subcommittee to grant consent to this application, which he described as in a small valley and asked for consideration of the volunteered conditions of consent and reminded the Committee of the unique situations and characteristics involved with the application.

The Subcommittee reserved its decision at 1.00 pm.

**Moved Crs Kempthorne / King
EP05/02/09**

THAT the public be excluded from the following part of the proceedings of this meeting namely:

D N and M J Latham

The general subject of the matter to be considered while the public is excluded, the reason for passing this resolution in relation to the matter, and the specific grounds under Section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

Subject	Reasons	Grounds
D N and M J Latham	Consideration of a planning application.	A right of appeal lies to the Environment Court against the final decision of Council.

CARRIED

**Moved Crs King / O'Shea
EP05/02/10**

THAT for the purposes of discussing the application of D N and M J Latham as an "In Committee" item, the Manager Consents be authorised to be in attendance as advisor.

CARRIED

**Moved Crs O'Shea / Kempthorne
EP05/02/11**

THAT the public meeting be resumed and that the business transacted during the time the public was excluded adopted and that the following resolutions be confirmed in open meeting.

CARRIED

**2. D N and M J LATHAM, TRASS VALLEY ROAD, WAI-ITI – APPLICATION
RM041056**

**Moved Crs Kempthorne / King
EP05/02/12**

THAT pursuant to Sections 104 and 104B of the Resource Management Act 1991, Council declines consent for D and M Latham to subdivide Part Section 48 Square 4 into two allotments.

The reasons are stated below.

REASONS FOR THE DECISION - SUBDIVISION:

The land is zoned Rural 2 under the Proposed Tasman Resource Management Plan. The subdivision is a discretionary activity under rule 16.3.9 of the Proposed Tasman Resource Management Plan in that the proposed lots are less than the 50 hectares required under rule 16.3.8(b) for a controlled activity subdivision in the Rural 2 zone. Schedule 16.3A of the Proposed Plan sets out the matters the Council will have regard to in assessing the application.

The Committee is aware that there is one reference pertaining to the subdivision rules and policies and objectives particularly relating to the Rural 1 zone. It is not considered that this reference could have the effect of altering the relevant rule or zoning of this land and therefore the provisions of the Transitional Plan are not considered to be relevant and all the weight will be placed on the Proposed Plan.

The application has been considered subject to Part 2 of the Act i.e. the purpose and principles of sustainable management of natural and physical resources, and Section 104 which requires the Committee to have regard to:

- a) any actual and potential effects on the environment of allowing the activity
- b) the relevant provisions of:
 - Regional Policy Statement
 - Plan or Proposed Plan
 - Any other matter considered relevant and reasonably necessary to determine the application.

The applicants explained that the subdivision was desired to create a rural residential size allotment on which the applicants wish to build an eco-friendly home for themselves and to continue the pottery home occupation on a reduced scale than currently.

The Committee noted that four submissions were received, three being from nearby property owners in support of the application and one from Carter Holt Harvey Forests providing comment regarding the fact that Trass Valley Road is used for logging and future purchasers should be aware of that.

The proposed subdivision is in an area of mixed land uses including grazing, forestry and some small blocks of a rural residential nature, but the character of this part of the Valley is considered to be very rural in nature and not rural residential. The property is currently used for grazing of sheep along with the well established pottery business. It was noted that there was a different character nearer to the State Highway where there was more dwellings and thus more of a rural residential character.

The Committee considered that the creation of another small rural-residential style allotment would not be appropriate. It was considered that an additional dwelling between the Halls' property and the existing Latham house would create a cluster of dwellings which is out of character with the pattern of development in this area and would lead to a loss of rural amenity. Considerable thought was given to the issue of precedent and cumulative effects arising from the granting of such an application. The Committee noted the list of features which the applicants considered distinguished this application from other possible Rural 2 application scenarios. However the Committee did not consider that the list of features was distinguishing enough. To approve this subdivision (and thus allow an additional dwelling to be constructed as a permitted activity) would be inconsistent with the policies, objectives and rules under the Proposed Plan in terms of the issue of fragmentation and inappropriate development in the rural area. The incremental addition of residential activities in the rural zone contributes to a loss of rural character and amenity and open space values that the Plan identifies as issues to be protected.

The Committee considered that approval of the subdivision would create a rural-residential character in this part of the Valley, thus causing an erosion of the existing rural character, amenity and open space values and may well lead to more pressure for further subdivision. This has been seen in other valleys in the district.

The Committee noted the support from surrounding property owners but the issue of rural character and amenity protection is a "public good" therefore the effects on it cannot be signed away by private parties.

The Committee noted the mitigation measures offered by the applicant but considered that these measures would be unable to mitigate the concerns held.

The Committee is aware that throughout the Rural 2 zone there are many small "lifestyle" properties which may not contain land of high productive value. It is clear that this feature is not a reason for further subdivision of land.

The Committee had concerns in principal about the cumulative effects of additional demand on the rural infrastructure including the roading network.

In summary, the Committee considered that the application was inconsistent with the purpose and principles of Part 2 of the Resource Management Act and the granting of the consent would not result in sustainable management of the land. In addition, the granting of the consent would be inconsistent with the policies and objectives of the Proposed Plan and the Regional Policy Statement and the adverse effects on the rural character, amenity and open space values of this part of the Trass Valley would be unacceptable.

CARRIED

Confirmed:

Chair: