

MINUTES

TITLE: Environment and Planning Subcommittee
DATE: Tuesday, 26 April 2005
TIME: 1.40 pm
VENUE: Arthur Wakefield Conference Room, 294 Queen Street, Richmond

PRESENT: Crs R G Kempthorne (Chair), S G Bryant and T B King

IN ATTENDANCE: Consents Manager (J Hodson), Consent Planner (M D Morris), Administration Officer (B D Moore)

1. D A HODGES, GEORGE HARVEY ROAD, UPPER MOUTERE – APPLICATION RM041389

1.1 Proposal

The applicant sought consent to subdivide 51.3 hectares at George Harvey Road, into four allotments of 14.8 hectares, 12.5 hectares, 12 hectares and 12 hectares. The site is in the Rural 2 Zone where the minimum lot size is 50 hectares as a controlled activity.

1.2 Presentation of Application

The applicant, Mr D A Hodges, was present at the hearing and Mr F C Bacon, Planning Consultant, tabled and read a statement of evidence. He described the proposal to create four allotments with proposed dwellings. Mr Bacon said that the proposed subdivision will alter opportunities for this land to be used more productively. Potential crops are grapes or olives but some land may remain used for grazing. The applicant is unable to apply for a plan variation for rezoning this land because of the present status of the proposed Tasman Resource Management Plan.

The applicant volunteered to covenant titles, to prevent further subdivision below 12 hectares. Photographs were tabled to show the potential land use and redevelopment. Mr Bacon referred to the enabling provisions of s5(2) of Part II of the Resource Management Act, so that people can provide for their wellbeing by providing an environment in which people can provide for their own wellbeing. Mr Bacon referred to caselaw which reinforces that issue. The evidence said that what is likely to arise from consent to the proposed subdivision is development highly consistent with the diverse landscape of the Moutere/Mahana locality.

Mr Bacon tabled a map to show lot sizes in this locality especially those of 14 hectares and below. Mr Bacon said that there can be no precedent in law created by consent to a discretionary activity. It is not a forgone conclusion that other applications have to be granted consent. The evidence suggested proposed conditions of consent and the proposed consent notices, should consent be granted. Attached to this evidence was a list of examples of landuse on other lots, as referred to in the earlier pages of evidence.

Mr J D Bealing, read a statement of evidence on the subject of land productivity for the subject site. He said that this 51 ha block contains about 77% class B land and only 23% class E land, and pointed out that Class E land fits the Rural 2 zone whereas Class A and B fits the Rural 1 zone. He said that if the TRMP was operative, Mr Hodges could have sought a reclassification of his 51.3 hectare property from its present zone of Rural 2 to Rural 1. He said that any irrigation water would have to come from capturing runoff from the catchment areas that drain into the three streams that begin on this block and flow to the north-east. If a dam was placed on each of these streambeds, about 40 metres back from the point that they cross the eastern boundary, then the catchment area flowing into these dams would amount to about 35 hectares.

Mr Bealing provided estimates of the level of potential water runoff from this catchment which would be sufficient to establish grapevines. Mr Bealing provided the example of the Collis subdivision, near the top end of Golden Hills Road which was 60 hectares and used to run livestock and now is in seven units and has been planted in grapes and in avocado. Mr Bealing said that the houses should be located on the Class E land for example close to the ridges.

1.3 Submissions

Ms Hodson read a letter of 20 April 2005 from Transpower advising that this organisation would not attend this hearing.

1.4 Staff Report

Mr Morris spoke to his report of 14 April 2005 contained within the agenda. He said that the main concern was the effect of fragmentation of rural land and that the application did not involve any particular productive use proposal such as planting in olives or grapes prior to title issue. He said that there are no plans to provide irrigation water to each allotment. Instead it would appear that the lots would be sold as large lifestyle lots, whereby much of the value would be based on the ability to erect a dwelling on the lot. Mr Morris said that if the potential uses of the land are specified, there may be a better outcome. He expressed concern about the effect of a dwelling on these proposed smaller blocks which can diminish the profit and make soil based production uneconomic.

Mr Bealing tabled a copy of an aerial photo which had been prepared with the applicant's agreement and this was marked with the proposed relocated boundaries in order to make better use of productive land.

Mr Morris said that his recommendation would be for two lots only being one lot of Class E land and one lot of class B land. Mr Morris suggested that dwellings should not be located on top of the ridgeline.

1.5 Right of Reply

Mr Bacon responded that the applicant believes there is scope for more lots than just two. He suggested a minimum of three lots and no less than 12 hectares. He said it was not realistic to develop land first, followed by obtaining consent before sale to buyers. He said that serious horticultural growers are likely to look for land to lease. Mr Bacon said that Council needs to consider changing the subdivision rules from discretionary to non-complying if it wishes to move definitively to stop fragmentation of rural land.

Mr Bacon said that the proposal will create opportunities and not make it impossible to develop the land. He suggested that the creation of three allotments is a reasonable, sensible and sustainable use of the subject land. Mr Bacon said that a variation application to the Council is not practical. The applicant sought that rather than specifying house sites, that a condition be developed to require houses to be located below the ridgeline.

The Committee reserved its decision at 5.20 pm.

Moved Crs Kempthorne / King EP05/

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

D A Hodges

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 A Hodges	Consideration of a planning application.	A right of appeal lies to the Environment Court against the final decision of Council.

CARRIED

Moved Crs Bryant / King EP05/04/27

THAT for the purposes of discussing the application of D A Hodges as an "In Committee" item, the Manager Consents be authorised to be in attendance as advisor.

CARRIED

Moved Crs Kempthorne / Bryant EP05/04/28

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

CARRIED

2. D A HODGES, GEORGE HARVEY ROAD, UPPER MOUTERE – APPLICATION RM041389

**Moved Crs Kempthorne / Bryant
EP05/04/29**

THAT pursuant to Section 104, 104B, 220 and 221 of the Resource Management Act 1991, Council grants consent to D A Hodges to subdivide NL 11B/737 into three allotments as follows:

- Lot 1 = 21 hectares
- Lot 2 = 19 hectares
- Lot 3 = 10.7 hectares

The consent is subject to the following conditions and granted for the following reasons.

CONDITIONS - SUBDIVISION:

1. Amended Plan.

The survey plan shall be amended in accordance with the Aubrey Survey and Land Development Consultancy Plan named D A Hodges attached to this consent.

2. Development Impact Levies

The following development impact levy payments are to be made on two allotments in accordance with Section 16.5.2 and 16.5.5 of the Proposed Tasman Resource Management Plan as follows:

Calculation of Development Impact Levy Payment (all GST inclusive)

Reserves and Community Services

A reserves and community services levy equivalent to 5.5% of the assessed market value of two lots shall be payable. The valuation shall be based on the value of a 2,500 square metre notional building site within each lot. The valuation shall be by way of a special valuation undertaken by a registered valuer at the applicant's request and cost. The applicant is requested to forward a copy of the consent plan to the registered valuer when the valuation is requested. This valuation is to be forwarded to the Tasman District Council for calculation of the reserve fund contribution.

ADVICE NOTE

Council will not issue the Section 224(c) certificate in relation to this subdivision until all development contributions have been paid in accordance with Council's Development Contribution Policy under the Local Government Act 2002.

The Development Contributions Policy is found in the Long Term Council Community Plan (LTCCP) and the amount to be paid will be in accordance with the requirements which are the amount to be paid and will be in accordance with the requirements that are current at the time the relevant development contribution is paid in full.

This consent will attract a development contribution on new allotments in respect of roading.

3. Vehicle Crossings

That vehicle crossings for each lot be designed and constructed in accordance with Appendix B attached to this consent and as follows:

- a) Be more or less level for the first 6 metres.
- b) The first 5 metres be sealed with a two coat bitumen chip seal.
- c) Intersect the existing carriageway at right angles.
- d) Provision made for the control and discharge of stormwater.
- e) Be located to maximise the sight distance between the crossing and traffic with site distance no less than 115 metres.
- f) An engineering plan shall be provided showing the proposed accessways as required in e).

4. Power and Telephone

Provision of underground power and telephone connections to Lots 1, 2 and 3 to the satisfaction of the relevant authorities.

5. Consent Notice – Lots 1, 2 and 3

- a) Location – that all buildings shall be located so that they are completely below the ridgeline which runs north-south along the eastern side of the Moutere Highway.
- b) Height- that all buildings shall be no higher than six metres above natural ground level.
- c) Building finishes– that the cladding and roof of the dwelling and any other buildings, be finished in recessive colours and non-reflective materials which are consistent with the surrounding natural environment.
- d) Transmission lines- as per Appendix 1 attached to this consent.
- e) All power and telephone services shall be underground.

The above conditions are to be complied with on a continuing basis and are therefore to be subject of consent notices issued under Section 221 of Act, such notices to be prepared by the applicant and forwarded to Council for approval.

6. Works and Services

All works undertaken and services provided to be in accordance with Council's engineering standards.

NOTATIONS:

1. This consent does not constitute building consent and if the project involves any form of building, consent should be sought pursuant to the Building Act 1991.
2. Monitoring of the consent is required under Section 35 of the Resource Management Act 1991 and a deposit fee is payable at this time. Should the monitoring costs exceed the initial fee, Council will recover this additional amount from the resource consent holder. Costs can be minimised by consistently complying with conditions and thereby reducing the frequency of Council visits.
3. If any artefact or koiwi is encountered during earthworks then work shall cease immediately. The site shall be assessed by a suitably qualified person acceptable to the New Zealand Historic Places Trust and in consultation with local Tangata Whenua. The results of the survey shall be forwarded to the Environment and Planning Manager, Tasman District Council. Work shall not commence until approval has been granted by the Environment and Planning Manager, Tasman District Council to do so.
4. All land use activities, including earthworks, located on Lots 1 and 2 must comply with the New Zealand Electrical Code of Practice for Electrical Safe Distances NZECP 34.2001.
5. All trees and vegetation planted on Lots 1 and 2 of the subdivision must comply with the Electricity (Hazards from Trees) Regulations 2003.

REASONS FOR THE DECISION:

1. The land is zoned Rural 2 under the Proposed Tasman Resource Management Plan. The minimum lot size for a controlled activity subdivision is 50 hectares according to Rule 16.3.8(b), thus the application would be deemed to be a discretionary activity, as it does not comply with this rule.

The application has been considered pursuant to Part 2 and Section 104B of the Resource Management Act 1991.

2. It is understood that there are no references to either the zoning of the land or the relevant subdivision objectives, policies and rules of the Proposed Tasman Resource Management Plan and therefore in accordance with Section 19 of the Amendment Act, no weight is given to the Transitional Plan.
3. The Committee noted that the application had received three submissions; two in opposition and one raising issues.

The concerns raised were:

- No need for subdivision of land contrary to Plan provisions
- Poor site distance for access to Lot 4
- Proposal not for good land management reasons
- Stormwater run-off and possible contamination problems
- Transmission lines cross the property which must be protected

4. The Committee carefully considered these concerns along with the expert evidence provided on the land quality and the matters of rural character and amenity, visual effects and open space values associated with the future dwellings likely to follow on from the subdivision and the creation of new titles.
5. The Committee accepts the evidence regarding land quality and agreed that the land which comprises the bulk of the property falls within Class B which is included in Rural 1 zoned land. The Committee acknowledged the amended plan put forward by the applicant that shows three lots instead of four as originally proposed. Lot 1 and 2 are comprised of the Class B land and are roughly equal in size with the proposed boundary running along the ridgeline. Both lots would contain a small stream (which may be able to be dammed in the future to assist with providing irrigation water to enable better productive use of the land). Lot 3 contains the Class E land of the western facing terrace which has very little potential productive value. The Committee considered the amended plan was more appropriate than the original plan submitted in terms of maximising the productive potential of the land in Lots 1 and 2.
6. The Committee is satisfied that the amended plan put forward is of a lesser scale and effect than that originally proposed and therefore can be considered by the Committee. Furthermore, it is considered that as the land which is Class B is proposed to be subdivided into lots which meet the controlled activity standard (being more than 12 hectares) this is a sound proposal. The creation of Lot 3 which comprises the Class E land does not detract from the productive versatility of the property as a whole.
7. The other primary factor considered by the Committee in relation to this application is the affect on the rural open space values and character of the area. It is considered that the western terrace represents a prominent feature and it is important that the visual amenity associated with this landscape feature is not eroded through inappropriate development. It is considered that one dwelling, sensitively located below the ridgeline will not have a significant adverse visual effect.
8. The Committee was satisfied that the proposed accessways for the three new lots would not have any adverse traffic effects and that both Bests Road and the Moutere Highway can cope with the additional traffic expected to be generated by the future dwellings on the three lots.
9. The matters of stormwater and wastewater disposal will be dealt with at the time of building consent.
10. The Committee noted that agreement of the applicant with the conditions as sought by Transpower New Zealand Ltd.
11. The Committee endorsed the limitations put forward by the applicant in terms of height and location and finishes of future dwellings to mitigate visual effects.

12. In summary, the Committee was satisfied that the amended application was consistent with the policies and objectives of the Proposed Plan and was also consistent with the purpose and principles of the Resource Management Act 1991 and that the effects on productive values and visual effects would be no more than minor.

Appendix 1

1. Buildings and structures, or any part of a building or structure on Lots 1 and 2 must not be located within 8.5 metres vertically and 12.5 metres horizontally of the conductors on the Stoke-Upper Takaka B transmission line. Please note that the distances specified include an allowance for climatic conditions (ie maximum conductor swing and sag).

Where any part of a building or structure needs to be constructed within these restricted areas, the consent holder must submit to the Tasman District Council (and a copy to Transpower) a certificate from a suitably qualified electrical engineer confirming that the buildings or structures comply with the minimum safe distances specified in Table 3 of the NZECP 34:2001.

2. Buildings and structures, or any part of a building or structure on Lot 2 must not be located within 10 metres vertically and 21 metres horizontally of the conductors on the Stoke-Upper Takaka B transmission line. Please note that the distances specified include an allowance for climatic conditions (ie maximum conductor swing and sag).

Where any part of a building or structure needs to be constructed within these restricted areas, the consent holder must submit to the Tasman District Council (and a copy to Transpower) a certificate from a suitably qualified electrical engineer confirming that the buildings or structures comply with the minimum safe distances specified in Table 3 of the NZECP 34:2001.

3. Buildings or any part of a building on Lots 1 and 2 must not be located within 6 metres of the closest visible edge of any high voltage transmission line support structure foundation.
4. All machinery and mobile plant operated on Lots 1 and 2 must maintain a minimum clearance distance of 4 metres from the transmission line conductor at all times.
5. All buildings, structures and vegetation located on Lots 1 and 2 must not be located to preclude existing four-wheel drive access to the existing support towers on these lots.
6. In the case of any pole supporting any conductor, no person may excavate or otherwise interfere with any land:
 - a) at a depth greater than 300 millimetres within 2.2 metres of the pole; or
 - b) at a depth greater than 750 millimetres between 2.2 metres and 5 metres of the pole; or
 - c) in such a way as to create an unstable batter.

7. Excavated or other material shall not be stockpiled or deposited under or near the Stoke-Upper Takaka B transmission line so as to reduce the vertical distance from the ground to the conductors to a distance less than:
- a) 6.5 metres vertically, across or along roads or driveways or on any other land traversable by vehicles, but excluding across roads or driveways;
 - b) 5.5 metres vertically, on any land not traversable by vehicles due to inaccessibility; and
 - c) 3 metres in any distance other than vertical on all land.

CARRIED

Confirmed:

Chair: