

MINUTES

TITLE: Environment and Planning Subcommittee
DATE: Monday, 29 August 2005
TIME: 9.30 am
VENUE: Council Chambers, 189 Queen Street, Richmond
PRESENT: Crs E M O'Regan (Chair), P K O'Shea, M J Higgins

IN ATTENDANCE: Consents Manager (J Hodson), Consent Planner (R Squires), G Russell (MWH NZ Ltd), Corporate/Engineering Administrator (V M Gribble)

1. P and M CLINTON-BAKER, ARANUI ROAD, MAPUA – APPLICATION No. RM040802

1.1. Presentation Of Application

Mr F C Bacon, Bacon Planning Group, presented the application on behalf of Mr and Mrs Clinton-Baker who were present at the hearing. He referred to a right-of-way widening condition affecting the neighbouring Bone subdivision and said that the applicants would accept the same condition and were prepared to contribute their share of the costs.

The application seeks to subdivide Lot 2 DP 11197 into two allotments of 7,200 square metres and 6.39 hectares. The boundary between the two proposed lots will partly follow a stream which passes through the property. Consent is also sought to erect a dwelling on lot 2. Both the subdivision and the land use consent are discretionary activities under the PTRMP.

Cr Higgins commented on public access issues. He said it is an urban-style section application and if it was in an urban area, these issues would just happen and reserves would be taken.

Mr Bacon agreed, but said in urban situations if the walkways pass alongside a stream there would be some sort of attempt to restrict public access for safety reasons. Public access raises several issues, privacy and security important, and public safety issue because it is a walkway that will be used 50% to 80% by children in Mapua walking to school.

Cr Higgins assumed that applicants have endeavoured to farm the land properly and was interested in comments as to why they want to subdivide. As a Council we are looking at the future of Mapua and not sure at this stage where the development will extend to.

Mr Clinton-Baker said they had tried a variety of crops, but water is the main issue and they struggled to get a good, consistent supply.

Mrs Clinton-Baker said they want to build and they have no plans to further subdivide. They want to keep the rural nature of where they live.

Cr O'Shea asked Mr Bacon to comment on issues raised in Mr Bone's written submission on turn around areas.

Mr Bacon said as far as turnaround areas are concerned, they would be expected to be on properties they service. The right-of-way is not a public right-of-way. The only rights the public will have is the ability to pass to and fro across between the walkway. Council officers have assessed the right-of-way for traffic movement etc and there has been discussion about whether there should be passing bays, but transport officers said it was not necessary. The right-of-way already has to be widened to give two-way traffic access. The Clinton-Bakers will benefit and are willing to pay their share of it. The right-of-way width is significant as to what can happen in the future. Engineers are adamant that once they get beyond six users they want a far higher standard of accessway.

Cr O'Shea said there is a suggestion that this might be an opportunity for Council to look at the pattern of walkways and also comment on safety issues if there was public access to part of stream. Are there any issues that have arisen with the walkway to southeast.

Mr Bacon said there is no history of use yet. If you create a walkway along a water body which is going to be used a lot by children there will be an issue.

Cr O'Regan asked about comment on the valuation tabled today which was unsigned. He asked the intention of Mr Bacon's clients with relation to land on the west side of the creek adjacent to the 7100 square metre proposed Lot 1 and whether access can be achieved from east side of creek.

Mr Bacon said early on it was suggested the thin area could be vested as reserve.

Mrs Clinton-Baker said it had been proposed it would be a reserve vested in the Council and the piece between there and the home section be part of Lot 2 as it has a firewood Lot. We would need to put a bridge over the stream or come to an arrangement with owners of Lot 1 for access.

Cr O'Regan asked if they would have any objection to a reasonable turn around to be provided.

Mrs Clinton-Baker said they would not have any objection to a turn around.

Cr O'Regan asked if the configuration of the creek is a constraining factor to floodwaters upstream in heavy rain conditions. There were stringent conditions placed on an upstream subdivision previously in enlarging pond and stream size to provide better outlet.

Mr Bacon thought it would be part of the issues being looked at as part of the future of Mapua. He said there does not appear to be a problem on the property.

Cr O'Regan asked if the clients have witnessed problems arising from the capacity of stream appearing to be insufficient.

Mr Clinton-Baker said there have been major flooding events and the water has not come out of the stream onto the flat-lying property. It has always been constrained within the ditch. Constraint seems to be at the causeway to the Leisure Park, a considerable distance downstream.

Cr O'Regan asked the difference between an esplanade strip and esplanade reserve.

Mr Bacon said an esplanade strip remains the property of the land owner and there are legal instruments drawn up to define its purpose and what can and cannot take place. The reserve is vested in the local authority and has its own title. Esplanade reserves can be created for a variety of purposes.

2. HEARING OF SUBMISSIONS

2.1 Department of Conservation

Roger McMichael, Planning Supervisor, Department of Conservation presented the submission on behalf of Department of Conservation.

Mr McMichael said there was a letter from Mr Bacon on 9 August 2005 which sought clarification in terms of esplanade strip. They understood the applicant was offering an esplanade strip on the eastern side, but now acknowledge the strip will be offered along both sides of the stream which would satisfy the Department Conservation's submission. He said what staff have recommended would also satisfy the Minister. In terms of Lot 1 there is a specific obligation because it is less than 4 hectares and the Minister has a role in approving a reduction in width.

Cr O'Shea noted the submitter's statement that the suggestion for Lot 1 was appropriate and asked for comment regarding the applicant's concerns that the suggestion has an impact on the existing dwelling.

Mr McMichael said a 15 metre reserve would be close to the house on Lot 1. Department of Conservation would support the 15 metre reserve. He acknowledged it may be an issue for the owners, but it is the Minister's role in seeking a reduction in width from 20 metres. Whether there is a dwelling that would be impacted probably would not feature strongly in the Minister's consideration.

2.2 Haydn and Angela Bone

Mr H Bone presented the submission on behalf of Messrs H and A Bone.

Cr O'Regan asked if there has there been any discussion between the applicants about sharing the use of the sewer line.

Mr Bone said they would not object to discussion about shared use of the sewer line.

Cr O'Regan asked about the users of the right-of-way and noted Mr Bone mentioned two people hold easements from Aranui Road to the culvert.

Mr Bone said the current titles in the immediate locality were created from the Tidswell subdivision. Some of these titles appear to give access rights over only part of the right-of-way.

Cr O'Shea asked do you mean both dwellings should connect to Council's wastewater system.

Mr Bone said preferably, but we did intend for Lot 2. We note that the existing septic tank is very close to the waterway and a drainage engineer said it could be leaking into the stream.

2.3 Thawley Orchard Company

Mr Thawley presented the submission on behalf of the Thawley Orchard Company.

2.4 Mr L Bone

Mr Bone presented a submission on behalf of L and J Bone.

Cr O'Regan asked for clarification about whether the easements extend over the culvert.

Mr Bone said they are some distance from it. The proposed walkway extending down to the estuary is on the landward side of the Seaton Valley Stream and the current layout achieves that but the intended layout set out in Council documents is contradictory to that arrangement and by definition would mean that Council would need to get access across private land and the culvert area to access the strip on the other side.

Cr O'Regan asked if the public walkway from western side of the culvert alongside the Bones' own property to estuary had ever been formed.

Mr Bone said it has not been formed. Bone Family Trust land extends across Seaton Valley Stream by about a metre and the proposed walkway on the western side is intended. The stream is little more than a ditch, but has been categorised as river by virtue of RMA definition. It is on our title.

Cr O'Regan said if the walkway were to be developed, and I understand it is unlikely to be done until deferred residential zone is lifted, there will be walking access from the access beyond the school right through and alongside the stream to the estuary.

Mr Bone said more or less correct, albeit some does not follow the stream presently.

Cr O'Shea said there have been comments on different number of people with easements and access rights, you mentioned that the extended Tidswell family are regular and frequent users. Where are they going?

Mr Bone said the Tidswell Family owned a large portion of land and they have an easement that goes through our land, which is effective for as long as the family own the land. They own substantial property on the beach front next door to Mapua Leisure Park.

Cr O'Shea asked if this issue arose in previous subdivision applications.

Mr Bone said they've just learned of Zondag and Cunliffe access rights because of a staff report and have not had time to look at it thoroughly. Whether or not it is shown on respective CTs is unknown, but we understand that access does prevail. Information that we've been given is that neither Zondag nor Cunliffe may know of that right. If they have right of access from Aranui Road across the culvert area, they can use it any way they wish. There is a physical way of getting through our land. Families drive, cycle and walk through. We see no harm now but it concerns us with children, particularly unsupervised children, being close to the stream. If either Cunliffe or Zondag want to formalise the agreement they would need to get an easement or formal agreement to get access through our land.

Cr O'Shea asked in Mr Bone's view is it seen by the public as a way of getting there or is it really just pedestrian and cyclist traffic you are concerned with? Do you have an issue with public traffic in and out?

Mr Bone said traffic is not a major issue at the present time. Activities of the informal walkways group in the area and publicity it generates tends to raise interest and tends to attract more people and it will increase when Council clarifies positioning of walkways.

Cr O'Regan noted that your submission is that the right-of-way does not need passing bays constructed on it. Are you quite satisfied with its current configuration?

Mr Bone said provided there is no further increase in traffic, it is a safe stretch of right-of-way and does not see a need for upgrading it.

Cr O'Regan noted that there were conditions placed on the Bone subdivision and that the applicant has offered to work in conjunction with some of those conditions. Would you have any objection to working in with the applicant in upgrading that section?

Mr Bone said as long as there is a fair and equitable share they have no objection.

Cr O'Regan asked if at the western point of the H and A Bone property there was some provision for sight lines and passing ability.

Mr Bone said there was provision for a setback in relation to the walkways access.

The meeting adjourned for lunch.

3. STAFF REPORTS

G Russell, MWH, presented his report which was contained in the agenda.

He addressed the issues of building platform and building height. He recommended a minimum floor level of 3.9 metres above mean sea level. He noted the submission requesting a 4.5 metre building height and the applicant's comments about that. He said that upon reflection and given the Plan rule and location of the building he had no problem with a 7.5 metre building height.

Mr Russell tabled a suggested condition and consent notice in relation to the building colours. These would be suitable to replace the suggested conditions in the agenda.

Mr Russell tabled a replacement recommendation on Financial Contribution and Development Contribution.

Mr Russell tabled a map showing the 3.5 metre contour line in the surrounding Mapua area.

Mr Russell tabled a map showing that the proposed turning bay would be on Clinton-Baker's property.

Mr Russell said a better understanding will be gained from a site inspection concerning the culvert. Engineering standards need to be looked at in terms of formation width and the area to be sealed.

Mr L Bone commented that it would be undesirable to see hard surfaced kerb and channel put in place.

Mr Russell concurred and would like grass swales put in. He said the cost sharing approach seems a good way forward.

Mr Bone also commented "as long as it is a fair and equitable approach".

Mr Russell noted the proposed consent conditions, currently under "Consent Notice". They could be added to for the control of effluent disposal.

Cr Higgins noted comments about cost sharing. He said he has seen no evidence that agreement would be reached and was interested in comments from the applicant and asked what prescriptive requirements would be required of the applicant.

Mr Russell said the title has four rights of way noted and given Mr Bone's comments about fair and equitable sharing, I think the parties will find a way forward.

Cr O'Shea asked if it has been firmly established what ground level we are talking about. Is it 3.9 metres above mean sea level.

Mr Russell said that 3.9 metres above mean sea level was the recommended minimum floor height. He said that at 6.2.6 of his report a minimum ground level of 3.5 metres was recommended.

Mr Russell said that the exact point of entry to Lot 2 had not been confirmed but there appeared to be room for a turning bay in the general location. He said any turning bay should be sealed but grass swales, as opposed to kerb and channelling, should be suitable for the right-of-way and the proposed turning bay.

Cr O'Shea asked are we leaving the applicant in a position where they will not know what is required until the engineering department looks at the application?

Cr O'Regan said if the committee wanted grassed swales instead of kerb and channel it should be specified in the consent because it is a departure from engineering standards.

Cr O'Regan asked if the proposed condition is the same as that applying to the Bone subdivision and has that been checked out?

Mr Russell said he has not looked at the Bone subdivision.

Cr O'Shea pointed out the engineering approval came at some later stage. She noted the comment that a bargaining thing could happen between parties and asked is it not the case that they may agree on a construction and style and engineering not approve that? She asked if the Committee could establish exactly where the lines of rights of way start and finish and the status of what is referred to by Right-of-Way A.

Mr Russell said it can be measured out from the plan on the title.

Ms R Squire spoke to her report contained in the agenda and commented that all her comments are made without prejudice subject to Council approving the subdivision. She was confident that the river exceeds 3 metres and the application itself mentioned 6 metres. The subdivision is discretionary by virtue of the fact that a water course runs through and Council is required to decide whether an esplanade reserve is required. It is important to get a valuation so Council could have an idea of the expected contribution. Council may consider reviewing it in view of the suggested reduction of the esplanade reserve on proposed Lot 1.

Cr Higgins said discussions have been held with the Minister of Conservation. The Director General was willing to reduce the 20 metre reserve requirement to 15 metres on proposed Lot 1. You're suggesting there would be willingness to go to 5 metres on full length of western bank.

Ms Squire said they had a pre-hearing meeting but no agreement was reached and had had discussions with Ministry of Conservation. The bed of the river would be vested as Crown land. The Esplanade reserve would be from the edge of the river and vested in Council.

Cr Higgins said we would need a very clear steer from the applicants given that it is the proposed option to this point and asked for comment in the right of reply.

Cr O'Regan referred to the current configuration of stream and asked if staff had any feedback from Council's river engineer as to suitability for future capacity for Seaton Valley Stream?

Ms Squire said they have had discussions with Engineering. Mr Ley was comfortable that there was sufficient width to maintain the channel. An integrated stormwater management study has been undertaken.

Mr Russell said stormwater upgrades were taking place from Seaton Valley through to the tidal creek and the engineering requirements have been taken into account.

Cr Higgins asked if Council reserve levies apply in addition to the taking of land so there is no Council contribution to that 10 metre reserve. Could the value of the proposed 10 metre reserve be offset against the Reserve Development Impact Levy?

Ms Squire said as the area is greater than 4 hectares there is compensation payable unless the applicant waives it. She sought a valuation to show the level of contribution that would be required. The valuer's estimate was between \$9,000 and \$11,000. She said it would be simplest to impose a Reserve fund condition then negotiate the contribution with the applicant separately. Community Services is comfortable with costs incurred in securing access along the river.

Cr O'Regan asked if the existing configuration of walkway gave public access from the right-of-way behind the school, down existing walkway, down right-of-way, then down alongside narrow existing esplanade reserve without Council messing around with the culvert.

Ms Squire said as far as she was aware we do not have legal access across that part of the right-of-way. She acknowledged there is access which is undeveloped because Council does not have linked legal instruments.

Cr O'Shea said if there was esplanade reserve on the eastern side of the creek you would need to go across the culvert, would that require a new negotiation for crossing the right-of-way or is it covered in present agreement?

Ms Squire said it would involve negotiation or alternatively, if it becomes Council road, will not necessarily need to involve negotiation.

Cr O'Regan noted the applicant's offer of 700 square metres on the north west corner as reserve, but Community Services did not support that.

He also noted a substantial portion of the 700 square metres may be taken up in a five metre strip.

4. RIGHT OF REPLY

Mr Bacon said he suspects the stream is over three metres wide and probably could be six metres. Clinton-Bacon's position is that they are not happy about public access along the stream as largely a privacy issue, but also public safety. However, in discussions their position would be they do not believe there should be public access on the western side, partly because the house is quite close and it is a small lot and one would wonder why there needs to be extra access when there is already a walkway which gives direct access to three properties on the other side of Lot 1.

The applicants would agree to an esplanade reserve on the eastern side of the stream over the whole length, and reluctantly, for public access. They asked if there could be an understanding that public access would not be available until they do not own the allotment or it is subdivided further. The compensation issue had not been discussed but earlier on there was willingness to forego compensation if that would help in making sure there was not public access. There are a number of practical difficulties with access across the stream, and they probably would not be allowed or of right to build a bridge. It would need resource consent. If esplanade reserves or strips there as well there are certain prohibitions in the 10th schedule.

Whilst most prohibitions do not apply to the owner, for some reason running a vehicle in or along strips or reserves it does (unless excluded specifically). Therefore, the western portion of Lot 2 would be better off becoming part of Lot 1 which would bring Lot 1 up to 1 hectare. That is a change to the application that has absolutely neutral effect. It does not create an additional allotment, and is not going to be a disadvantage to any other party. They are happy for it to be a volunteered condition.

Mr Bacon said on title documents, there are three recorded users of the right-of-way, but one of those three users, Tidswell property, was subdivided so a couple of other users have been added through the subdivision process. That has not been recorded on all property documents and might be where some confusion and assumptions have come from.

A condition required is to have the carriageway widened to 4.5 metres and there is still some discussion on whether berms should be sealed or grassed. If there is an increased number of users, it is probably better to have it sealed. Clinton-Bakers have no problem in contributing their fair share to the work on the right-of-way. As far as the culvert goes, they do not have a problem in upgrading it as their access into Lot 2 will be as close as practical to it. The use of the culvert by the property will not be greatly more than it is now. There would need to be negotiation between parties that use the right-of-way.

Mr Bacon said he can not confirm whether there is a right-of-way agreement. If there is, it probably sets out rights and responsibilities, but all upgrade costs should not fall completely on the Clinton-Bakers. If the culvert is not up to scratch that should not be a significant issue as to whether consent is granted. A turning bay at the end of their right-of-way A is fine and can be done. A drawing was produced to show where sealing is to go to, probably just past the stream, where the right-of-way splays out and sealed width within that length be 4.5 metres and whatever instructions engineers give about construction of swales on either side. Concerning connecting to the sewer, the applicant sees no reason for that, and staff considered pumping into sewer was an inappropriate condition.

The hearing concluded at 3.03 pm.

**Moved Crs O'Shea / O'Regan
EP05/08/34**

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

P and M Clinton-Baker

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
P and M Clinton-Baker	Consideration of a planning application.	A right of appeal lies to the Environment Court against the final decision of Council.

CARRIED

**Moved Crs O'Shea / O'Regan
EP05/08/35**

THAT for the purposes of discussing the application of P and M Clinton-Baker as an "In Committee" item, the Manager Consents be authorised to be in attendance as advisor.

CARRIED

**Moved Crs O'Regan / Higgins
EP05/08/36**

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. P and M CLINTON-BAKER, ARANUI ROAD, MAPUA – APPLICATION No. RM040802

**Moved Crs Higgins / O’Shea
EP05/08/37**

THAT pursuant to Sections 104, 104B, 220 and 221 of the Resource Management Act 1991, the Council GRANTS consent to P and M Clinton-Baker to subdivide Lot 2 DP 11197 (CT NL6C/1399) to create two allotments.

The consent is subject to the following conditions:

CONDITIONS – SUBDIVISION:

Amended Plans

1. The consent holder shall submit an amended plan to Council within 15 working days of the date of this consent showing all the land to the west of the creek as Lot 1 and all the land to the east of the creek as Lot 2.

In addition the plan shall show the 5 metre wide esplanade strip on the west of the creek and the 10 metre wide esplanade reserve on the east of the creek and the bed of the river to vest.

Vehicle Crossings

2. That the vehicle entrance for Lot 2 be designed and constructed as follows:
 - a) The crossing is to intersect the right-of-way at right angles.
 - b) The first 5 metres from the edge of the right-of-way seal be finished with a two coat bitumen chips seal.
 - c) Adequate provision for the control and discharge of storm water.

That the existing vehicle entrance to Lot 1 be upgraded such that the first 2 metres from the edge of the right-of-way seal be finished with a two coat bitumen chips seal. (Patching of the existing surface may be sufficient to comply with this condition.)

Access and Culvert Upgrade

3. Part of the right-of-way formation shall be upgraded to a sealed standard with a minimum width of 4.5 metres by the consent holder as detailed below.

The upgrade required is for the part of the right-of-way beyond the point to be upgraded by the Bones as part of their consent (RM 030258), to the vehicle crossing to proposed Lot 2 and shall include a turning circle in the vicinity of the crossing to Lot 2 which will enable a medium rigid truck to turn around at that point.

The existing culvert shall be upgraded with concrete end buttresses to allow for the additional width of the required formation and shall have 150 mm high concrete nib on each side of the formation over the culvert.

The sealed formation shall be a two-coat bitumen chip seal (grade 4 bitumen chip seal and grade 6 locking coat). Water tables shall be provided to adequately dispose of stormwater.

All works are to be in accordance with Rule 16.2.2 of the Proposed Tasman Resource Management Plan (PTRMP) (unless specified otherwise in this consent) and otherwise constructed in accordance with Council Engineering Standards to the satisfaction of Council's Engineering Manager.

Advice Note:

The consent holder may choose to carry out these works at the same time as the Bones' upgrading work and may also wish to share in the cost of the upgrade of the right-of-way as indicated at the hearing.

Servicing

4. Live telephone and electric power connections shall be provided to the proposed building site on Lot 2 and all wiring and connections shall be located underground and be to the standard required by the supply authority. Confirmation that these requirements have been met shall be provided by way of a statement from the supply authority and a copy of the supplier's certificate of compliance shall be provided to the Council prior to a completion certificate being issued pursuant to Section 224(c) of the Resource Management Act 1991.

Water Supply

5. Proposed Lot 2 shall be connected to the Tasman District Council reticulated supply and an approved water meter shall be located at the road boundary which complies with current Tasman District Council engineering standards.

Possible Upgrade of Existing Wastewater Disposal System on Lot 1

6. The consent holder shall commission a report by a suitably qualified person on the existing waste water disposal system associated with the dwelling on Lot 1. The report shall be submitted to Council. If it is shown that the system does not comply with the standard for a permitted activity in Rule 36.1.4 of the TRMP, the system shall be upgraded to comply with that Rule or a resource consent shall be obtained.

Consent Notices

7. That Consent Notices pursuant to Section 221 of the Resource Management Act 1991 be prepared and registered against the title of proposed Lot 2. The consent notices shall specify:
 - a) That the dwelling and any accessory buildings shall be connected to a specific design on-site stormwater soakpit or into the creek. The design and capacity shall be to the satisfaction of the Tasman District Council Engineering Manager prior to installation.
 - b) That any dwelling on Lot 2 shall have a minimum floor level of at least 3.9 metres above mean sea level and a maximum height of 6.5 metres.

- c) A site specific wastewater disposal system is to be designed by a suitably qualified Chartered Professional Engineer and constructed to be in compliance with ASNZS 1547, noting the limitations of Category 1 soils present on the site.
- d) All buildings shall have foundations specifically designed by a suitably qualified Chartered Professional Engineer based on the results of site specific soil investigations.
- e) That the materials, landscaping and colour of the dwelling to be built on Lot 2 shall be designed and constructed having regard to the amenity and natural character of the locality. The building consent for the dwelling shall be accompanied by a report from a suitably qualified person certifying that the above matters have been incorporated into the design of the dwelling.

Such consent notices shall be prepared by a solicitor at the consent holder's expense and shall be complied with on an ongoing basis.

Building Platform

- 8. The building site shall be filled if necessary to provide a minimum finished ground level of 3.5 metres above mean sea level.

It shall be necessary to provide penetrometer test results for the building site on proposed Lot 2 to assess that the ground is suitable for building foundations to be designed in terms of NZS 3604:1999. The test results will form part of a report from a suitably qualified, chartered professional engineer detailing compliance with NZS 3604:1999 and any recommended conditions shall be incorporated into consent notices on the title.

Notation:

NZS 3604:1999 requires a minimum of four penetrometer tests together with test pit results for each test.

Engineering Plans

- 9. Prior to the commencement of works, engineering plans shall be submitted for approval by the Council's Engineering Manager, detailing the access, right-of-way and culvert works required above.

As-built engineering plans detailing access and services indicating exact locations of pipes, laterals, connections shall be provided.

Engineering Works

- 10. All of the above engineering works shall be constructed in accordance with the Council's Engineering Standards (unless otherwise authorised by this consent) and are to be to the District Engineer's satisfaction. The Tasman District Council Engineering Department shall be contacted at least 48 hours prior to the commencement of any engineering works on this subdivision.

The consent holder shall engage a suitably qualified consultant (chartered professional engineer or registered surveyor) for advice and to supervise/test the construction of the work. The Completion Certificate pursuant to Section 224 of the Resource Management Act 1991 shall not be released by the Tasman District Council until a "Certificate of Supervision" signed by the consultant is provided and all the necessary fees have been paid.

Easements

11. Easements are to be created over any services located outside the boundaries of the lots that they serve as easements-in-gross to the Tasman District Council or appurtenant to the appropriate allotment.

Reference to easements is to be included in the Council resolution on the title plan.

Esplanade Reserve and Esplanade Strip and Bed of River to Vest

12. An Esplanade Reserve 10 metres wide shall be created over lot 2 adjoining the eastern side of the tidal creek and vest in Council as Local Purpose Reserve (Esplanade).

An esplanade Strip 5 metres in width shall be created along the western side of the tidal creek adjoining Lot 1. The purpose of the strip shall be to contribute to the protection of conservation values and to enable public access to the creek. All the provisions of Clause 2 of the Tenth Schedule shall apply to the strip. The provisions of Clause 3 (Fencing) and Clause 7 (Closure) shall not apply.

Note:

The consent holder must comply with the provisions of Section 237A of the Resource Management Act 1991 (vesting of the bed of a river).

Comment:

No financial contribution for Reserves and Community Services is required to be paid on this subdivision and furthermore, no compensation will be paid for the Esplanade Reserve to be provided on the eastern side of the tidal creek.

ADVICE NOTE – ARCHAEOLOGICAL

That should any archaeological or waahi tapu sites be uncovered at any time during any earthworks or construction, then all works shall cease and the Ngati Rarua Iwi Trust and New Zealand Historic Places Trust be consulted prior to any works being re-commenced.

ADVICE NOTE - DEVELOPMENT CONTRIBUTIONS

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 one allotments in respect of roading, and water.

DECISION – LANDUSE:

THAT pursuant to Sections 104 and 104B of the Resource Management Act 1991, the Council, GRANTS consent to P and M Clinton-Baker to construct a dwelling on Lot 2. The consent is granted subject to the following conditions.

CONDITIONS – LANDUSE:

Location of Dwelling

1. The dwelling on Lot 2 shall be erected on the building site specified on the application.

Commencement of Consent

2. The commencement date shall be the date of the signing of the title for the respective allotment.

Appearance

3. That the materials, landscaping and colour of the dwelling built on Lot 2 shall be designed and constructed having regard to the amenity and natural character of the locality. The building consent for the dwelling shall be accompanied by a report from a suitably qualified person certifying that the above matters have been incorporated into the design of the dwelling.

NOTATIONS:

1. The dwelling shall comply with all bulk and location rules for a Rural 1 dwelling under rule 17.4.4 of the proposed Tasman Resource Management Plan unless otherwise limited by this consent.
2. This resource 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.
3. 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.

REASONS FOR THE DECISION - SUBDIVISION AND LANDUSE:

1. The land is zoned Coastal 2 under the Waimea Section of the Transitional District Plan under which the activity is deemed to be a non-complying activity. Under the Proposed Tasman Resource Management Plan the land is zoned Rural 1 and the minimum lot size for a controlled activity is 12 hectares thus the application would be deemed to be a discretionary activity as it does not comply with this rule.

2. The Committee notes that there are no outstanding references regarding the zoning of the land. The Committee is aware of an unresolved reference seeking further investigation of the extent of Class A soils and associated non-complying status of subdivision thereof; or, alternatively makes subdivision of both Rural 1 and Rural 2 land containing Class A soils non-complying activities (*Klaus Thoma v Tasman District Council* - dated 24 December 1998 - RMA 001/99). The application has therefore been considered as non-complying in relation to the subdivision and discretionary in relation to dwelling construction. However, greater weight has been accorded to the policies and objectives of the Proposed Plan than the Transitional Plan as it has progressed a significant way through the public process under the Resource Management Act 1991.
3. 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 104D which states that the Committee may only grant the application if one of the two gateways of Section 104 D are met i.e:
 - If the adverse effects on the environment will be minor, or
 - If the activity will not be contrary to the objectives and policies of the relevant plan (including the proposed plan if one exists).

In addition Section 104 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.

Greater weight has been accorded to the subdivision provisions and zoning of the Proposed Plan as it has progressed a significant way through the public process under the Resource Management Act 1991.

4. The Committee noted that the application had received nine submissions, three being in support, one requiring conditions, and five in opposition.

The concerns raised were:

- Potential adverse effects on fish habitat
- Need for appropriate esplanade reserves/strips along margins of tidal creek
- Need to upgrade right-of-way and reach fair cost sharing arrangement
- Increased traffic leading to safety issues associated with other users of the right-of-way, particularly in the area of the bends and the culvert,
- Need for underground services, restricted height of future dwelling and appropriate colours and materials to be used.
- Loss of rural character and amenity associated with an additional dwelling
- Loss of productive land
- Provision of public walkway

5. In terms of the need for adequate provision of esplanade reserves/strips along the tidal creek, the Committee considered that a 10 metre wide reserve on the eastern side and a 5 metre wide strip on the western side would be appropriate to provide for conservation values and public access. The Committee noted the acceptance of the Department of Conservation to the reduction of the 20 metre Esplanade Reserve normally required, to 5 metres on the western side of the creek. The Committee noted the proximity of the existing dwelling to the creek and did not consider that the above requirements were unreasonable. The Committee was clear that there was no opportunity through this consent application to change or “review” the provisions in place for walkways in the area, as this needed to be done through open negotiations with all affected landowners.

The Committee consider that the best means of dealing with the question of “compensation” for the esplanade reserve taken on the eastern side of the creek was to waive the Financial Contribution payment and to “off-set” the reduction on the western side against the land taken on the eastern side of the creek. In the view of the Committee this was a very reasonable outcome for the applicant and no further claims for compensation will be accepted. The Committee agreed with the recommendation of the staff in relation to not wanting to accept the area of land shown as proposed Lot 3 as “reserve.” The Committee also noted the amended layout offered by the applicant in terms of making all the land to the west of the creek into Lot 1. The Committee agreed that this was a sensible arrangement in terms of the possible difficulties in crossing over the creek.

6. The Committee was concerned that the existing right-of-way needed to be upgraded to provide for the increased traffic associated with another user. It was clear that the long length of the right-of-way was to be upgraded by July 2006 by another party and thus the additional upgrading from that point including upgrading of the culvert and the construction of a turning area should fall to this applicant. In addition the Committee recognized the offer made by the applicant to pay their fair share of the long length of right-of-way upgrading and hoped that this would eventuate. It is the hope of the Committee that the total cost of the combined upgrades of the right of way will be equally shared between the applicant and the Bones. The Committee considered they were constrained from imposing any conditions in relation to this matter.
7. The Committee considered that it was appropriate to put a modest limitation on the height of the dwelling on Proposed Lot 2 but given that it would be a reasonable distance from other dwellings and accesses, it was not necessary to constrain the house to single storey.
8. The Committee agreed with the assessment and evidence of the Planner and considered that the effects of the subdivision on rural character and amenity and loss of productive land, in this location would be no more than minor. In particular they considered that the size and shape of the existing title and the availability of a secure irrigation water supply limited its potential productive value and an additional house in this area of Mapua would have only a minor effect in terms of amenity values. The Committee also noted the report provided by the applicant on the soil values and also the agreement of the staff with regard to the limitations of the soil. It was noted that the proposed dwelling site was a reasonable distance from other dwellings and existing vegetation screened the visual effects and ensured amenity would be protected. The Rural 1 boundary setbacks requirements were met by the proposal.

9. The Committee noted the issue of potential flooding hazard associated with the land and considered that the conditions of a minimum floor level of 3.9 metres above mean sea level would adequately address this issue. It was also considered that the building site should be raised slightly (to 3.5 metres above mean sea level) as offered by the applicant to provide a satisfactory platform for a future dwelling.
10. The Committee considered that on-site wastewater disposal would be feasible given the area of the new allotment being created, however as the soil is known to be very sandy and free draining a specific design system will be required. In addition, no information is known about the efficiency of the existing system associated with the existing dwelling and therefore a report is required and possible upgrading of that system if it may be causing adverse effects on the environment. It is also noted that that it is currently not feasible to connect the proposed dwelling to Council reticulated wastewater system.
11. In summary the Committee considered that the proposal was consistent with the objectives and policies of the Proposed Tasman Resource Management Plan, the Regional Policy Statement and the Resource Management Act 1991 and that the adverse effects would be no more than minor provided the recommended conditions were fulfilled.

CARRIED

Confirmed:

Chair: