

MINUTES

TITLE: Environment & Planning Subcommittee
DATE: Monday, 26 February 2007
TIME: 9.10 am
VENUE: Motueka Service Centre, 7 Hickmott Place, Motueka

PRESENT: Crs E M O'Regan (Chair), T B King and E J Wilkins

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

1. B A SMITH (TRADING AS ABEL TASMAN PEMAKO), MARAHAU VALLEY ROAD, MARAHAU, HORSE TRECKING AND EQUESTRIAN CENTRE – APPLICATION RM060855

The applicant, Brittany Smith, attended the hearing and was accompanied by Legal Counsel, Mr R Farr of C & F Legal.

1.1 Proposal

The applicant sought land use consent to establish and upgrade a horse trekking and equestrian centre. The activity involves up to three horse treks on the applicant's property. The operational times will be between 7.00 am and 9.00 pm, seven days a week. Up to 16 additional vehicle trips per day are expected.

The Committee reserved its decision at 11.00 am.

RESOLUTION TO EXCLUDE THE PUBLIC

Moved Crs King / Wilkins
EP07/02/53

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

B A Smith

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 passing this resolution are as follows:

General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Ground(s) under Section 48(1) for the passing of this resolution
B A Smith	Consideration of a planning application	A right of appeal lies to the Environment Court against the final decision of Council.

Moved Crs Wilkins / King
EP07/02/54

THAT the open meeting be resumed and the business transacted during the time the public was excluded be adopted.
CARRIED

2. B A SMITH (TRADING AS ABEL TASMAN PEMAKO), MARAHAU VALLEY ROAD, MARAHAU, HORSE TRECKING AND EQUESTRIAN CENTRE – APPLICATION RM060855

Moved Crs Wilkins / King
EP07/02/55

THAT pursuant to Section 104D of the Resource Management Act, the Committee GRANTS consent to B A Smith as detailed in the following report and decision.
CARRIED

Report and Decision of the Tasman District Council through its Hearings Committee

Meeting held in the Committee Room, Motueka

on Monday, 26 February 2007 commencing at 9.00 am

A Hearings Committee (“the Committee”) of the Tasman District Council was convened to hear the application lodged by **B A SMITH** relating to establish and horse trekking and equestrian centre at Marahau Valley Road, Marahau. The application, made in accordance with the Resource Management Act 1991 (“the Act”), was lodged with the Tasman District Council and referenced as RM 060855.

PRESENT: **Hearings Committee**
Cr O’Regan, Chairperson
Cr King
Cr Wilkins

APPLICANT: Mr R Farr of C & F Legal and Ms B Smith

CONSENT AUTHORITY: **Tasman District Council**
Ms M Bishop- Consent Planner- Land

SUBMITTERS: Mr D McDonald
Mr J Hollingworth

IN ATTENDANCE: Ms J Hodson , Manager Consents- Assisting the Committee
Mr B Moore- Committee Secretary

1. DESCRIPTION OF THE PROPOSED ACTIVITY

The application is for land use consent to establish and operate a horse trekking and equestrian centre. The activity will involve up to three horse treks on the applicant's property as well as off-site treks and riding lessons will also be offered. The operational times will be between 7.00 am and 9.00 pm, seven days a week, and operated initially by the applicant but may in the future employ up to two additional staff. Up to 15 additional vehicle trips per day are expected and some of these may be via a pick-up or drop-off service. Access to the applicant's property is via Harvey Road, a legal right-of-way through "Old MacDonald's Farm" along a section of legal road then another right-of-way on the applicant's land and across the Marahau River via a newly constructed bridge owned by the applicants.

The property is located at Marahau Valley Road, Marahau and the legal description of the land is Lots 1 and 2 DP 13077, Certificate of Title NL 8A/819.

2. PROPOSED TASMAN RESOURCE MANAGEMENT PLAN ("PTRMP") ZONING, AREAS AND RULE(S) AFFECTED

According to the PTRMP the following apply to the subject property:

Zoning: Rural 1
Area(s): none

The proposed activity does not comply with Permitted Activity Rule 17.4.2(vii) of the proposed Tasman Resource Management Plan and is deemed to be a restricted discretionary activity in accordance with Rule 17.4.3 of the Plan.

3. NOTIFICATION AND SUBMISSIONS RECEIVED

The application(s) was notified on 28 November 2006 pursuant to Section 93 of the Act. A total of three submissions were received, one in support, one in opposition and one neutral. The following is a summary of the written submissions received and the main issues raised:

R Seager and A Opie

They are neutral in regards to the application stating concerns over increased traffic causing congestion on the narrow right-of-way and increased traffic noise. They state the majority of vehicles using the right-of-way do not go beyond "Old MacDonald's" camping ground at present and seek a condition of consent (if granted) limiting the number of vehicle movements generated by the residential and business activities on the subject site to 15 one-way movements per day.

Abel Tasman Deer Farm Ltd (J and A Hollingworth)

They oppose the application based on concerns regarding traffic and road conditions, the rural zoning pattern and the effects on the coastal environment. They feel the condition of the single-lane, unsealed road is not suitable for the expected increase in traffic volume and the blind spots, lack of turning bays and numerous potholes, combined with increase in traffic movements, will create a high risk of accident and danger to existing road users. They are also concerned about the maintenance of the road (currently by voluntary neighbour contributions) from increased traffic movements and heavy vehicles such as horse trucks and floats.

They also suggest additional signage would be required along the Marahau Beach front and the granting of this consent will encourage ribbon tourism services development, thereby compromising the rural character and amenity of the area with the increase in traffic and people to the area. The third concern relates to the cumulative effects of horse trekking businesses on the ecosystems of the area such as disturbance of native sea birds, cockle beds and sea grass forests.

Marahau Estates Ltd (D MacDonald)

Supports the application and would like conditions imposed on the resource consent, if granted, to address their concerns for the safety of existing road users, the nuisance of horse droppings and the potential for the existing vegetation on "Old MacDonald's Farm (OMF)" being interfered with. They propose all traffic be restricted to 15 kilometres per hour, all horse droppings to be removed immediately and no vegetation on OMF be interfered with.

4. PROCEDURAL MATTERS

There were no procedural matters.

5. EVIDENCE HEARD

The Committee heard evidence from the applicant, expert witnesses, submitters, and the Council's reporting officer. The following is a summary of the evidence heard at the hearing.

5.1 Applicant's Evidence

Mr Farr tabled and read a submission for the applicant and in addition provided a bundle of supporting annexures. He explained that this home occupation is located on a shared access or private way and there will be visitors and clients to the site using this shared access. The application is a restricted discretionary activity as a result of the shared access. In his submission Mr Farr outlined the potential effects pursuant to Rule 17.4.12B of the PTRMP.

Mr Farr referred to the comments in the staff report by Consent Planner, M Bishop, and concluded that the effect on the rural character is unchanged by this proposal. The submission referred to the access to the subject site which is from a public road then through a private accessway to another public road. Mr Farr said that horse trekking already takes place through MacDonald's Farm which is the route of the right-of-way or private access and the proposed additional traffic movements would

have no more than a minor effect, especially considering the existing vehicle usage of the right-of-way and public road.

The presentation addressed the concerns of the submitters, Marahau Estates Limited (Old MacDonald's Farm) and Ms Seager and Mr Opie. Mr Farr described those concerns mostly as road safety and dust nuisance and proposed that these be mitigated by restricting vehicle speeds to a maximum of 20 kph and ensuring that visitors and clients are aware of the road safety issues.

In addition the applicant agreed to maintain the speed restriction of 15 kph through MacDonald's Farm. The submission addressed the proposed conditions of consent as outlined in the staff report contained within the agenda.

In the right of reply, Mr Farr stated that controlling the speed of vehicles is most important and he saw this as the prime issue in the application. He said that the application process has given parties an opportunity to discuss the issues. He said that the speed limits would be written into the promotional material for the proposed venture and the speed issues and road safety matters would be taken seriously by the applicant.

He said there is ample reason to think and conclude that the applicant will take a large part in the proceedings and traffic safety issues.

5.2 Submitters Evidence

The submission for Marahau Estates Limited (Old MacDonald's Farm) was addressed by Mr D MacDonald who said that tourism enterprises within Marahau need to be encouraged and controlled. He repeated that his main concern was to ensure a speed restriction of 15 kph for road safety and to reduce dust nuisance. He said that speed humps created on the road have helped and that neither the existing bridge nor the ford are on legal road.

The submission for Abel Tasman Deer Farm was read by Mr J Hollingworth and he tabled and read a letter which provided conditional support to the application. This submitter sought a speed restriction of 15 kph through the Old MacDonald's Farm to the base of the large cutting on the west of the MacDonald property. In addition a speed restriction of 20 kph was sought with the implementation of traffic coming measures on the public road, from the MacDonald property to the applicant's boundary. The submission sought that the applicant pay a fair and reasonable contribution to the maintenance of the public road section.

The submitter sought that the applicant commission and engineering report on the safety of the homemade bridge over the section gully stream.

5.3 Council's Reporting Officer's Report and Evidence

Consent Planner, M Bishop, spoke to her report contained within the agenda and addressed the proposed conditions of consent. She said the maximum number of vehicle trips associated with a horse trekking and equestrian centre should be limited to 16 movements per day. Movements are defined as one way. She said the hours of operation should be limited to 7.00 am and 9.00 pm seven days a week.

Ms Bishop said it was unnecessary to require the payment of development contributions for this application. She said that any work on the public/legal road will require Council approval and that Council does not actively maintain this public road. She said that to change the speed limit may require a gazette notice but advisory signs could be erected provided Engineering Department agreed where they were placed on legal road reserve.

6. PRINCIPAL ISSUES

The principal issues that were in contention were:

- a) Would the increased traffic and riding activity on the right-of-way and roads associated with this proposal create an unacceptable safety issue?
- b) Would there be any other significant adverse effects on the rural amenity values?

7. MAIN FINDINGS OF FACT

The Committee considers that the following are the main facts relating to this application:

- a) That the additional traffic and horses which would be using the right-of-way and the access road would not create a significant traffic safety hazard.
- b) That the activity would not create any significant adverse effects on the rural character and amenity values of the area.

8. RELEVANT STATUTORY PROVISIONS

8.1 Policy Statements and Plan Provisions

In considering this application, the Committee has had regard to the matters outlined in Section 104 of the Act. In particular, the Committee has had regard to the relevant provisions of the following planning documents:

- (i) Tasman Regional Policy Statement (TRPS);
- (ii) the proposed Tasman Resource Management Plan (TRMP);

8.2 Part II Matters

In considering this application, the Committee has taken into account the relevant principles outlined in Sections 6, 7 and 8 of the Act as well as the overall the purpose of the Act as presented in Section 5.

9. DECISION

Pursuant to Section 104C of the Act, the Committee **GRANTS** consent subject to conditions.

10. REASONS FOR THE DECISION

The Committee noted the comments made by Mr Farr in relation to the “home occupation” rules, particularly the wording *“the home occupation is not undertaken on a site which is located on a shared access or private way....”*. Mr Farr advanced the argument that the site was not located on a shared access in a literal sense, but the Committee considered that it was pragmatic to proceed with the assessment on the usual understanding of the meaning of the rule i.e. that the site is served by a shared access, and therefore requires resource consent.

The Committee considered that the proposed horse trekking and equestrian centre as a “Home Occupation” was an appropriate use of the land. It was noted that the only reason this resource consent was required was that the land concerned was accessed over a right-of-way. Otherwise it would have complied with permitted activity standards.

It was clear that the main issue was the use of the right-of-way and the length of legal road which together connect the subject land to Harvey Road and serve other properties along the way. It was recognised that the Council’s ability to “enforce” speed of vehicles on private land is limited, but it appeared to be a matter of agreement between the parties that if vehicle speed could be kept low (15 kph) then the adverse effects of additional traffic on the right-of-way would be mitigated. The applicant was in agreement with the need to manage this effect. Although some informal speed advisory signage was present the Committee considered that it would be appropriate to impose a condition of consent relating to this aspect.

The Committee noted the agreement between the applicant and Abel Tasman Deer Farm Ltd regarding the use of the bridge and the need to ensure its safety. This is a private matter and outside the control of the Council.

The Committee considered that it was appropriate to limit the scale and intensity of these horse related activities so that they are aligned to a “home occupation” through the number of horse treks and traffic movements which occur per week. The method of measurement to be used will be an average of the daily number of treks and vehicle movements taken over a weekly period. The consent holder is must keep records of these for self monitoring purposes and to have them available to Council should they be needed.

11. COMMENTARY ON CONDITIONS OF CONSENT

The Committee considered that it was appropriate to impose a condition of consent requiring payment of a development contribution for roading as per the Development Contribution policy contained within the Long Term Council Community Plan (LTCCP). It is noted that the imposition of the Condition does not necessarily mean that the money paid will be spent on upgrading any particular road in the area. The LTCCP policy on roading explains that the money will be spent in accordance with the District wide roading programme included in the back of the LTCCP. All non-residential activities which generate traffic movements and require carparks are assessed in accordance with the LTCCP Policy and payments required either as a condition of resource consents or at the time of the issuing of a building consent or the creation of a service connection. Also given that the consent allows for up to 32

vehicle movements per day, the Committee considered that the requirement to pay one roading Household Unit of Demand (HUD) was not unreasonable.

Issued this 7th day of March 2007

Councillor O'Regan
Chair of Hearings Committee

RESOURCE CONSENT NUMBER: RM060855

Pursuant to Section 104C of the Resource Management Act 1991 ("the Act"), the Tasman District Council ("the Council") hereby grants resource consent to:

B A SMITH

(hereinafter referred to as "the Consent Holder")

**ACTIVITY AUTHORISED BY THIS
CONSENT:**

To establish and operate a horse trekking business and an equestrian centre.

LOCATION DETAILS:

Address of property: Marahau Valley Road, Marahau
Legal description: Lots 1 and 2 DP 13077
Certificate of title: NL 8A/819.
Valuation number: 1931007602

Pursuant to Section 108 of the Act, this consent is issued subject to the following conditions:

CONDITIONS

1. The average maximum number of vehicle trips associated with the horse trekking and equestrian centre must not exceed 32 movements per day. The movements shall be calculated by averaging the movements over 7 days, Sunday to Sunday.
2. No more than 21 horse treks per week may be operated on or from Lots 1 and 2 DP 13077.
3. The Consent holder shall keep appropriate records of the numbers of vehicle trips and horse treks for self monitoring purposes. These records shall be made available to Council on request.
4. The hours of operation for the horse trekking and equestrian centre shall be limited to between 7.00 am and 9.00 pm seven days a week.
5. Horse droppings from the consent holder's horses shall be removed as soon as practicable and no later than six hours after defecation. This applies only from the end of Harvey Road to the entrance to the property.

6. The consent holder shall replace any landscaping vegetation on the right-of-way destroyed by horses in the consent holder's care within two weeks of any such occurrence.
7. The Consent holder shall erect three "15 KPH" speed advisory signs; one at each end of the right-of-way and one approximately half way between. If the signs are to be erected on road reserve, the consent of the Engineering Department must be obtained.
8. A Development Contribution the equivalent of one Household Unit of Demand for Roothing shall be paid before the commencement of the activity. The exact amount to be paid shall be determined by the Long Term Council Community Plan (LTCCP) which is current at the time payment is made.
9. Council, pursuant to Section 128 of the Resource Management Act 1991, may review any of the foregoing conditions after a one year period from the date of commencement of this consent or by giving written notice of its intention to do so at any other time deemed necessary by Council staff.

The purpose of such review would be to deal with any adverse effect on the environment which may arise, and is appropriate to deal with at a later stage, because it is not presently known what would be required of the consent holder to adopt the best practical option to reduce the adverse effects on the environment.

The particular issues, which Council will consider in its review, would be in regard to matters relevant to the number and type of vehicle trips, number of horse treks, collection of horse droppings, hours of operation and access formation. The Council may add or amend conditions of this consent to mitigate any adverse effects on the environment resulting from the operation of the horse trekking and equestrian centre.

10. The consent holder shall advise Council when the activity this consent authorises commences so monitoring of conditions can be programmed.

ADVICE NOTES

1. This is not a building consent and the Consent Holder shall meet the requirements of Council with regard to all Building and Health Bylaws, Regulations and Acts.
2. This consent is issued pursuant to the Resource Management Act 1991 and the Proposed Tasman Resource Management Plan. There may be other requirements under other legislations this proposal is also required to meet, including obtaining a Concession from the Department of Conservation.
3. The horses should not be permitted to graze or trample plantings on property known as "Old MacDonald's Farm" on Part Section 115 Motueka District.
4. Any matters not referred to in this application for resource consent or are not otherwise covered in the consent conditions must comply with the Proposed Tasman Resource Management Plan (PTRMP) or the Resource Management Act 1991 or separate consent.

Note:

Permitted Home Occupation standards 17.4.12A(a) to (da) and dated 20 August 2005 (below) must be complied with, or a variation or new consent is required to be obtained.

HOME OCCUPATIONS**17.4.12A Permitted Activities (Home Occupations)**

A home occupation on the site of any dwelling is a permitted activity that may be undertaken without a resource consent, if it complies with the following conditions:

- (a) The activity does not contravene any other applicable rule in Chapters 16, 17.4 or 18 of this Plan.
- (b) A home occupation which is visitor accommodation:
 - (i) accommodates no more than six visitors at any time;
 - (ii) occupies a building which is a dwelling which either existed on 25 May 1996, or is otherwise permitted by the Plan.
- (c) A home occupation (which is other than visitor accommodation):
 - (i) occupies no more than 75 square metres gross floor area;
 - (ii) employs or engages no more than two full-time equivalent persons who reside elsewhere than on the site.
- (d) The conditions for dust, odour and noise, set out in 17.4.2(c) and (d).
- (da) Retailing is permitted in accordance with the rural selling place provisions in Rule 17.4.2 and is in accordance with the definition of rural selling place.
- (e) The home occupation is not undertaken on a site which is located on a shared access or private way, except where:
 - (i) the activity is carried out solely by a person or persons permanently resident on site;
 - (ii) there are no visitors, clients or deliveries to the site.

Issued this 7th day of March 2007

Councillor O'Regan
Chair of Hearings Committee

Date Confirmed:

Chair: