

MINUTES

TITLE: Environment & Planning Subcommittee
DATE: Friday, 5 May 2006
TIME: 10.00 am
VENUE: Council Chamber, 78 Commercial Street, Takaka
PRESENT: Crs E M O'Regan (Chair), S J Borlase, N Riley
IN ATTENDANCE: Manager Consents (J Hodson), Resource Scientist (E Verstappen), Senior Consent Planner Subdivisions (M Morris), Minute Secretary (V M Gribble)

1. APPLICATION No. RM060017 – J N HARRIS AND A C COLE, WAITAPU ROAD, TAKAKA

1.1 Presentation of Application

Mr J Harris tabled and read his application.

Mr Smith (neighbour) said they made an agreement with the applicants and as part of agreeing to them putting the house close to the boundary, there was a condition that they kept any further buildings away from their boundary. He complimented the applicants on the way they are proceeding with their plans and is happy with what they are proposing.

Mr R V Stocker, Consulting Engineer, tabled and read his report.

In reply to a question from Cr O'Regan, Mr Stocker said in this area the LINZ datum and TDC datum are one in the same.

Cr O'Regan asked what the floor level of the house was before it was shifted.

Mr Stocker said approximately 300 mm above the July 1983 flood level. The flood went underneath the house, not through it.

Cr O'Regan said from a visual drive down the road it would appear if there was any overflow from the flood terrace at the back, the damming effect of the road would be the operative factor in the water level on these properties. He asked if the river overflows further up and come from the eastern side as well.

Mr Stocker said there was flood flow from the Te Kakau Stream.

Cr O'Regan said if subdivision was allowed, could a house be built in a similar manner to the one that has been shifted so flood water can flow underneath.

Mr Stocker said any blocking of flood flows on that section would have very little affect at all.

In reply to a question from Cr O'Regan, Mr Stocker said the cut was put through the Takaka River mouth before the 1983 flood. During the 1983 flood, the mouth of the Takaka River was scoured out.

Mr Stocker, in reply to a question from Cr O'Regan, said any rainfall events would be reflected in flows in the river, and they would be recorded by TDC equipment at Kotinga. He is not aware of any flows in the Takaka River since 1983 that came near that flow, regardless of what the bed or mouth have done.

Cr Borlase asked if the piping of Haldane Stream will impact on any of the houses.

Mr Stocker said he could not see Council agreeing to this work if it was going to have an impact.

Cr Riley asked if they have any knowledge of any other mitigating circumstances that may have positively or negatively affected the flood waters and where they may go over Waitapu Road.

Mr Stocker said there has been general degradation of the river bed adjacent to Takaka urban area. Since 1983 flood, there has been the development of Kiwifruit orchard at Kotinga which would tend to block flood flows on the floodplain on the far side of the river. He understood the stopbank below Duncan McKenzie has had low points filled in and that would reduce overflows that went down the Motupipi and push more down the floodplain between Takaka township and Takaka River. He could not say whether the net change would put more or less water down the Takaka River floodplain. He suspected if there was another 1983 flood you would not notice the difference.

Cr Riley asked, referring to possible failures of Cobb or Lake Stanley, what in your view would be the affect of any such failure to the Takaka township.

During recent hearings for a new consent for Cobb Dam, the engineering evidence was that they could not envisage an earthquake of sufficient magnitude that would rupture the reservoir. They believed it was not vulnerable to rupturing and in terms of progressive failure, the monitoring of the dam has been stepped up. Should it fail, with a full reservoir, the scenario is 1.5 metres through the old fire station site which is in the order of 1.3 metres higher than it was in July 1983 flood. That would be between 1 metre and 1.5 metres higher through the section. In terms of Lake Stanley, his investigations into the consequences or issues surrounding Lake Stanley with respect to flooding in Takaka were that currently it holds insufficient water to present a hazard to Takaka. The only conceivable string of events that could lead to a flood would be for a major earthquake to trigger a landslide that would raise the current dam that holds Lake Stanley, sufficient for the level to rise another 20 or 30 metres and then subsequent failure of that dam would cause significant flooding in Takaka. That requires a string of events to happen and the possibility of that is extremely remote, not impossible. We would get a lot of warning of the build up of Lake Stanley.

Cr Riley asked if the adjustment to the culvert at the western end of Waitapu Road had any effect of relieving the water from Te Kakau Stream over Waitapu Road.

Mr Stocker said no, as the amount of water that was discharged under the culvert/bridge would have been small compared to water going down the floodplain.

Cr O'Regan asked if there was any accurate record of where the May 1949 flood got to on this site and its relationship to the 1983 flood.

Mr Stocker said no, we know there was a big flood because of newspaper reports. The problem we have when we go back to historic records, not only in finding a point to refer to, is that they become irrelevant because of subsequent changes. Since 1949 there was construction of a bank and a number of stopbanks built. It may have been significant in terms of process of determining the severity of the 1983 flood, but its usefulness in determining flood levels is very small because of all the changes.

Cr O'Regan asked for background in the difference in relation to Building Act requirements if the land the building is situated on is raised, compared with the situation with the existing house where actual foundations of the house are raised.

Mr Stocker referred to clause e). It says floodwaters from an event of 2% shall not enter, but the Building Act does not state how it will be achieved.

Mr Cashman tabled and presented his report. He said the flow of the water has always come across from Te Kakau Stream and straight across the road. He has seen it on a couple of occasions and on both occasions it was very shallow. Now you can see large areas of gravel below the bridge. The river never had any gravel showing, that shows how far it has dropped. The water does not build up like it did. The debris in Te Kakau Stream is because of lack of flooding in recent years. We had one in July and October 1983 and that was the last decent flow of water. The creek is full of debris, there is no water flowing in the creek from Haldane Creek to the mouth by Waitapu Bridge.

Cr Riley asked Mr Cashman if he knew what the tide level was at the peak of the 1983 flood.

Mr Cashman, said he did not, but it could be found out.

Cr Borlase said Mr Cashman talks about the flood crossing below the house, at a low spot between his property and Maori Road. What about where the cows cross at Fellowes?

Mr Cashman said there are few people left living in Waitapu who can relate flooding to you. In decisions like this you must be careful about the information being used as some is supposition. Flooding was from below my house to Maori Road and spill over in paddocks behind our place.

Cr O'Regan asked Mr Cashman about the condition of Te Kakau flood channel and asked if he believed it needs clearance.

Mr Cashman agreed that it did.

Mr Andrew Cole tabled and read his submission and also a report on flooding issues in respect of the building section for E Hodgkinson, Waitapu Road, Takaka.

Mr Cole tabled and read the submission on behalf of the applicant prepared by Camilla Owen, Duncan Cotterill.

Cr O'Regan said Ms Owen suggested the condition of a floor height on foundation without raising the ground. He asked the applicant if they would accept such a condition.

Mr Cole said they had no intention of putting fill on the property, in fact we have taken it away.

Mr Harris said somewhere in Mr Morris' report he said if Council allows this subdivision then it is open slather for other sections in Takaka to do the same thing. This would be unlikely as this is a large double-sized section. My understanding is that they would need to be 1200 square metres or more.

1.2 Presentation of Staff Reports

Mr Morris acknowledged it is a complying activity in terms of lot size. In terms of further subdivision, in the Takaka area, the minimum lot size is 450 square metres. There is a 600 sq metre minimum in Rototai Road residential. Where there is to be three or more you need an area of 600 sq metres. There are still sections like that in the Takaka area. Controlled activity status fits if it complies with rules in terms of subdivision area, and the assumption is generally the subdivision would be approved but section 106 does override the controlled activity status and so if a property is subject to a flooding hazard there is no "as of right" subdivision on that property and Council can decline or approve subdivisions on that property taking into account flooding and what conditions can be imposed. That is the main issue with this subdivision.

Cr O'Regan asked how far beyond this property does the residential zone extend. In all normal respects this application meets the rules of the residential zones.

Mr Morris said there are no servicing issues, in terms of stormwater or wastewater. He asked the Subcommittee to disregard condition 5 in his report.

Cr O'Regan and the legal question that arises, is whether there is evidence before us of flooding causing damage to the land, actual, or likely, or buildings on the property. The applicants say they will meet Engineering Standards of 500 mm floor level, and asked Mr Morris if he still stands by his recommendation that there is sufficiently likelihood of damage.

Mr Morris said people live on properties and there are issues. You can have a house above the flood level, but if there is a major flood event, they will be completely surrounded by flood water. There was 0.5 metres of water flowing across the property. There are issues that go beyond just setting a minimum floor height. We are concerned about those issues about houses that are inaccessible during a major flood event.

Cr O'Regan said the Subcommittee is faced with a situation where land is zoned residential. At some stage it has been a conscious decision of Council which presumably took into account flooding matters. How long ago was this residential zone established?

Mr Morris, said it was a rollover from the Golden Bay District Transitional Plan 1993 which became operative and has been in place for some time. That aside the whole purpose of Section 106 is that there are areas around the country where they are zoned residential which may allow controlled subdivision. Section 106 is there is to ensure if there are concerns about natural hazards, Council can decline an application. The fact that it is zoned residential and a controlled activity does not mean you have to approve the subdivision. He agrees in terms of the plan there is an assumption there will be residential in the township, but it is subject to Section 106.

Cr Riley said the flood patterns were looked at and considered by Golden Bay County Council in zoning those areas, but in saying that, the records were not that good.

Mr E Verstappen, Resource Scientist, Rivers and Coast, said he was a staff member of Nelson Catchment Board in 1987, but had no knowledge of communications about this between Nelson Catchment Board and Golden Bay County Council. He did not know whether residential zoning was an historic artefact that has been around for a long time. We have a lot of historical subdivision-type developments on paper but not translated to reality. With increasing knowledge and exposure we are more conscious about restricting it or prohibiting, or rezoning.

Mr Verstappen tabled a map of Takaka Township showing the river systems. In terms of flows, the 1983 was not terribly high, but the effect of the rain had a damaging effect of a much larger flood because of its prolonged peak. He took issue with Mr Cashman's remarks over the severity and regularity of flooding over his property. Council has maps showing floods 1983, 1967, 1985 and 1972. He said the flows in 1985 were higher than 1972 from information taken from the Kotinga recorder. Mapping is quite detailed and distinguishes between one property and another. There may be some degree of interpretation with mapping.

As a river engineer he said that because of the land and the location of the Te Kakau Stream, flood waters come unfettered through to this area. Flow records indicate that other floods have done so similarly. There is a flooding issue because 1983 flood was a 30 – 50 year flood event in terms of peak flows. He agreed with Mr Stocker about 2% AEP. Statistically there is a 70% chance of a 50 year flood occurring in the next 50 years. Any new house that might be built on this lot will have a 50 year life at least and the risk of a major threat-type flood in its lifetime is 70%. That is different, but not at loggerheads with Mr Stocker's statement.

Mr Cole commented on April 2006 being particularly wet, with three times the annual rainfall at Kotinga and half fell on one day.

Mr Verstappen said you need to think in terms of how much water fell in the catchment itself. The fact is people may not be able to be rescued readily in an event. The applicants commented that they can mitigate the risk to the house and building and people actually in it by raising the house above flood level. That is better than creating a dry island. Council has to consider placement of a Section 72 notice on a title where the land of that title is subject to a flooding hazard. Section 106 is very specific but he would have to defer to legal interpretation of the section, as presented. He accepts the fact for most part when water is flowing the section is unlikely to suffer significantly unless recently ploughed, when it would lose topsoil.

Mr Verstappen said the only material damage to this land is inundation and possible erosion of embankment of Te Kakau Stream. He suggested the Subcommittee consider how close a house on the second lot might be built to the embankment. It can be built with suitable foundations, so floor level and risk to building are mitigated.

Cr O'Regan noted the main concern is the ability of people to get out of the property in a flood event.

Mr Verstappen said in relation to Section 106 it does not address that issue, but he has taken that human aspect into account in his assessment of whether this is a suitable subdivision to take place in this area. It may be that we simply have to accept the house can be built, but people may not be able to be rescued. They are all issues separate to Section 106 on which this application hangs.

Cr Riley said he assumed that Section 72 of Building Act is on the title to pre-warn future purchasers as well as existing property owners of the hazard risks that are possible on the property.

Cr O'Regan asked the position with the existing house, the building consent presumably had conditions attached or did it have Section 72 because of that action.

Mr Morris said there was a minimum floor height set on building consent. Section 72 notices are put on these building consents.

Mr Verstappen cautioned using evidence in Tony Hewitt's report as any foundation for this application.

1.3 Applicant's Right of Reply

Mr Harris said we know water did not go into the house where it was previously set and the new house is 450 mm higher than it was previously. The area around 41 Waitapu Road was unsubdivided in 1950s when building line restriction was put on the section. All surrounding land was in large titles.

**Moved Crs Borlase / Riley
EP06/05/01**

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

J N Harris and A C Cole

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
J N Harris and A C Cole	Consideration of a planning application.	A right of appeal lies to the Environment Court against the final decision of Council.

CARRIED

**Moved Crs Riley / O'Regan
EP06/05/02**

THAT for the purposes of discussing the application of J N Harris and A C Cole as an "In Committee" item, the Manager Consents be authorised to be in attendance as advisor.

CARRIED

**Moved Crs Riley / Borlase
EP06/05/03**

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

The hearing concluded at 12.45 pm and the decision was reserved.

2. APPLICATION No. RM060017 – J N HARRIS AND A C COLE, WAITAPU ROAD, TAKAKA

**Moved Crs O'Regan / Riley
EP06/05/04**

THAT pursuant to Section 104 and 104A of the Resource Management Act 1991, the Council **GRANTS** consent to J N Harris and A C Cole to subdivide Part Lot 2 DP 65 (CT NL2D/136) into two allotments.

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

CONDITIONS:

1. Financial Contributions

The following Financial Contribution payments are to be made:

Financial Contribution Payment on one Lot (GST inclusive)

Reserves and Community Services

A reserves and community services levy equivalent to 5.5% of the assessed market value of one allotment shall be payable. 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 Contributions 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 allotment in respect of roading, stormwater and wastewater.

2. Access

A separate access crossing on to Waitapu Road shall be provided for Lot 2 in accordance with Tasman District Engineering Standards 2004.

The design and construction of the new crossing shall ensure stormwater is managed so it does not flow onto the state highway reserve.

Advice Note

Prior to the physical work being undertaken, the consent holder should obtain a Section 51 consent to work within the state highway road reserve, as required under the Transit New Zealand Act 1989. Such an application should be made to Transit's network consultant (Opus International Consultants Ltd – Nelson) at least one month prior to work commencing.

3. Sewer

Full sewer reticulation complete with any necessary manholes and a connection to Lot 1 shall be provided. This may include work outside the subdivision.

4. Telephone and Power

Live telephone and power connections shall be provided to Lot 1 and all wiring shall be underground as per the requirements of Tasman District Council.

Confirmation of the above from the line operator and copy of the certificate of compliance will be required prior to the release of the Section 224 Certificate.

5. Engineering Plans

As-built plans detailing access and sewer connections, including exact locations of pipes, laterals, connections, etc., complete with depths of sewer connections shall be provided.

All engineering details are to be in accordance with the Council's Engineering Standards 2004. All necessary fees for plan approval shall be payable.

6. Commencement of Works and Inspection

The Engineering Department shall be contacted two working days **prior** to any engineering works.

7. Engineering Supervision

All work shall be constructed in strict accordance with the Council's Engineering Standards 2004 and are to be to the Engineering Manager's satisfaction.

The applicant shall engage a suitably qualified consultant (registered surveyor/chartered professional engineer) for advice and to supervise/test the construction of the work. The completion certification 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 necessary fees have been paid.

11. Easements

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.

12. Engineering Certification

- a) At the completion of works, a suitably experienced chartered professional engineer or registered surveyor shall provide Council with written certification that the works have been constructed to the standards required.
- b) Certification that a site has been identified on Lot 1 suitable for the erection of a residential building shall be submitted from a chartered professional engineer or geotechnical engineer experienced in the field of soils engineering (and more particularly land slope and foundation stability). The certificate shall be in accordance with Appendix B Section 11 of the Tasman District Engineering Standards 2004.

- c) Where fill material has been placed on any part of the site, a certificate shall be provided by a suitably experienced registered engineer, certifying that the filling has been placed and compacted in accordance with NZS 4431:1989.

13. Consent Notices

Pursuant to Sections 108 and 221 of the Resource Management Act 1991, the following consent notices shall registered on Lot 1 and 2:

- a) The discharge of stormwater from the any proposed dwelling and garaging on Lot 1 and Lot 2 shall discharge in to an approved stormwater soakage or drainage system.
- b) The minimum floor level for any building intended to be used for habitable purposes on Lot 1 and 2 shall be a minimum of 8.2 metres above LINZ datum and the sub-floor area shall not obstruct the passage of flood waters.
- c) Any accessory building on Lot 2 shall be set back at least 8 metres from the boundary of Lot 1 DP 4870.

Note:

Consent Notice “a)” will not impact on the existing house on Lot 2, but any subsequent replacement dwelling must comply with the consent notice.

REASONS FOR THE DECISION:

1. The land is zoned Residential under the Proposed Tasman Resource Management Plan (TRMP). The application is a controlled activity under the Tasman Resource Management Plan. The subject land is on the outskirts of the Takaka residential area, and is adjacent to the Te Kakau reserve.
2. There are no relevant references to the Residential zone 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 not been notified and therefore there were no submissions. The application had been referred to the Committee as there was a negative staff recommendation and it was considered that the application should be determined by the Committee in accordance with the delegated authority in place.
4. The Committee carefully considered the concerns raised by the staff about the potential impact of flooding on the future occupants of a dwelling on Proposed Lot 1. This was clearly the key issue associated with the application and the Committee was referred to Section 106 of the Resource Management Act 1991.
5. It was clear that a flood hazard existed for the Takaka township and surrounding floodplain area and the Committee heard that the flood in 1983 probably equated to a flood of a 2% AEP. The Committee was told that during that flood event approximately 500-600 mm of water would have flowed over the subject land. The applicant in this case had volunteered a condition requiring the dwelling to be constructed at a minimum level of 8.13 metres above LINZ datum which would mean that there would be approximately 500 mm of freeboard above the level of the 1983 flood.

6. The Committee noted the provisions of Section 106 of the Resource Management Act 1991, which provided for subdivisions to be declined if the land or any structure on the land would be likely to suffer material damage by flooding or inundation. The Committee considered that based on the evidence presented, that if the minimum floor level was imposed, there would be no likelihood of material damage being suffered by the dwelling. It was also considered that the land itself would not suffer from material damage by being inundated with water in such an event.
7. The Committee noted that the minimum floor level condition would not prevent the land being affected by a flood in the Takaka floodplain, and therefore a Notice under the Building Act would be applied to the title at the time of a building consent for the dwelling.
8. The Committee considered that if the Council wanted to prevent further subdivision in the Takaka floodplain area, then clear rules should be incorporated into the Tasman Resource Management Plan including a strategic plan regarding where future development should take place. This would involve the appropriate level of community consultation to take place to signal such a change of direction in the Council's planning framework.
9. The Committee noted the agreement between the applicants and the owner of Lot 1 DP 4870 regarding the minimum setback for accessory buildings on Lot 2 and considered that this agreement should be embodied into a consent notice.
10. In summary, the Committee considered that the proposal was consistent with the objectives and policies of the Proposed Tasman Resource Management Plan and the Resource Management Act 1991 and subject to the conditions imposed, the effects on the environment will be no more than minor.

CARRIED

The meeting adjourned at 12.45 pm.

Date Confirmed:

Chair: