

## MINUTES

**TITLE:** Environment & Planning Subcommittee  
**DATE:** Monday, 3 September 2007  
**TIME:** 10.30 am  
**VENUE:** Council Chamber, 189 Queen Street, Richmond  
**PRESENT:** Cr E M O'Regan (Chair), Crs M J Higgins and T B King

**IN ATTENDANCE:** Principal Consent Planner (R Askew), Consultant Planner (G Rae), Administration Officer (B D Moore)

### 1. APPLICATION RM070575 - N B and B A RANDALL, PIGEON VALLEY SOUTH BRANCH ROAD, WAKEFIELD

#### 1.1 Proposal

To undertake a subdivision of land described as Pt Sec 3-4 District of Pigeon Valley, comprised in CT NL8A/1113 Pigeon Valley Road, Wakefield, having an area of 16.89 hectares to create three allotments of 7.34 hectares (Lots 1-2), 3.04 hectares (Lot 3) and 5.98 hectares (Lots 4-5) in area, and to vest 0.61 hectare of road reserve aligned to current formation of Pigeon Valley South Branch Road.

The Committee proceeded to hear the application, presentation of submissions and staff reports as detailed in the following report and decision.

The Committee reserved its decision at 12.25 pm

### RESOLUTION TO EXCLUDE THE PUBLIC

**Moved Crs O'Regan / King**  
**EP07/09/01**

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

N B and B A Randall

**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:**

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

**Moved Crs Higgins / King**  
**EP07/09/02**

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

**CARRIED**

**2. APPLICATION RM070575 - N B and B A RANDALL, PIGEON VALLEY SOUTH BRANCH ROAD, WAKEFIELD**

**Moved Crs King / O'Regan**  
**EP07/09/03**

**THAT pursuant to Section 104B of the Resource Management Act, the Committee GRANTS consent to N B and B A RANDALL 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 Tasman Room, Richmond  
on  
Monday, 3 September 2007, commencing at 10.30 am**

A Hearings Committee ("the Committee") of the Tasman District Council was convened to hear the application lodged by N B and B A Randall relating to undertake a subdivision of land described as Pt Sec 3-4 District of Pigeon Valley, comprised in CT NL8A/1113 Pigeon Valley Road, Wakefield, having an area of 16.89 hectares to create three allotments of 7.34 hectare (Lots 1-2), 3.04 hectare (Lot 3) and 5.98 hectare (Lots 4-5) in area, and to vest 0.61 hectare of road reserve aligned to current formation of Pigeon Valley South Branch Road.

The application, made in accordance with the Resource Management Act 1991 ("the Act"), was lodged with the Tasman District Council and referenced as RM070575.

**PRESENT:** **Hearings Committee**  
Cr E M O'Regan (Chair)  
Cr T King  
Cr M Higgins

**APPLICANT:** Mrs J McNae, Staig and Smith Ltd, Planning Consultant for the applicant and Mr R Bennison, Farm Management Consultant and Valuer for the applicant

**CONSENT AUTHORITY:** **Tasman District Council**  
Mr G Rae, Consultant Planner on behalf of Council

**SUBMITTERS:** None In Attendance

**IN ATTENDANCE:** Mr B Askew, Principal Resource Consents Adviser –  
Assisting the Committee  
Mr B Moore – Committee Secretary

## **1. DESCRIPTION OF THE PROPOSED ACTIVITY**

The proposal is to subdivide a 16.89 hectare property on an existing single allotment into three smaller allotments. The land is described as Pt Sec 3-4 District of Pigeon Valley, comprised in CT NL8A/1113 Pigeon Valley Road, Wakefield, having an area of. Allotments of 7.34 hectare (Lots 1-2), 3.04 hectare (Lot 3) and 5.98 hectare (Lots 4-5) in area, and to vest 0.61 hectare of road reserve aligned to the current formation of Pigeon Valley South Branch Road.

The property is currently leased for grazing purposes and contains a dwelling and associated outbuildings intended for uses consistent to small-scale farming. The property is currently for sale.

It has been assumed that the allotments (Lots 1-2, Lot 3 and Lots 4-5) will be sold as rural-residential allotments as no particular farming or horticultural use has been nominated. Building sites have been nominated for one dwelling per allotment being created, and it is expected therefore that these additional allotments will also contain residential dwellings and associated outbuildings as a result of the proposed subdivision. The existing dwelling would be contained within the proposed Lot 3 of 3.04 hectares. The farm buildings on the property would be separated from the existing dwelling on Lot 3 and would be on proposed lot 4.

## **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 2  
Area(s): Land Disturbance Area 1

Rule 16.3.8 (a) of the TRMP requires that the minimum lot size for consideration as a Controlled Activity subdivision in the Rural 2 Zone is 50 hectares. This proposal is for a subdivision to create allotments of only 7.34, 5.98 and 3.04 hectares.

Rule 16.3.9 requires that subdivision in the Rural 2 Zone that does not comply with the standards and terms for a Controlled Activity is a Discretionary Activity. This application is therefore a Discretionary Activity.

## **3. NOTIFICATION AND SUBMISSIONS RECEIVED**

The application(s) was notified on 1 June 2007 pursuant to Section 93 of the Act. A total of four submissions were received. The following is a summary of the written submissions received and the main issues raised:

### **1. Ian D Galbreath**

Mr Galbreath owns the adjacent property west of the site. He supports the application, on the basis that it will fit in well with other properties in the area.

He did not wish to be heard and did not attend the hearing.

## **2. E L and G F Coles**

The Coles property is directly opposite Lot 3 on the subdivision plan. The Coles are not in opposition to the proposed subdivision, provided no further development occurs on the proposed Lot 3, which contains the existing dwelling. Additionally, they request that all native vegetation remain to protect the rural amenity of the area.

The Coles did not wish to be heard and did not attend the hearing.

## **3. Department of Conservation**

The Director-General of Conservation (DoC) made a neutral submission, but highlights the statutory provisions which need to be considered with respect to the provision of esplanade reserves and strips. The submission refers Council to Section 6 of the Resource Management Act 1991, the Tasman Regional Policy Statement and the Tasman Resource Management Plan.

The legal matters raised by DoC were discussed during the hearing and a full response to the matters they raised are contained within the report of the hearing later.

DoC did not wish to be heard and did not attend the hearing.

## **4. New Zealand Fire Service Commission**

The Commission made a neutral submission, while voicing concern with fire fighting capacity for the proposed subdivision. The submitter commented that the proposed subdivision should take into account the operational requirements of the Fire Service to adequately provide for fire fighting activities within the subdivision in a safe, effective and efficient manner as required by the Fire Service Act 1975.

The Commission identified that each fire hazard (proposed dwellings and other structures) must comply with the Code (that being a minimum dedicated static fire fighting water supply of 45,000 litres within 90 metres of any fire hazard). Also the dedicated fire-fighting reservoir must be equipped with a compliant coupling system.

The application states that domestic water supply will be via collection and storage of rainwater. On-site storage for each residence will not be less than 23,000 litres. This falls short of the minimum 45,000 litres required by the NZ Fire Service Commission. If consent is granted for this subdivision the Commission's concerns with regard to the minimum water supply dedicated to fire fighting can be addressed through a Consent Order to require the minimum 45,000 litres. The Commission also stated that residential sprinkler systems with a static capacity of 30,000 litres would satisfy Code requirements.

The submitter wished to be heard but did not attend the hearing. The Commission advised in a letter dated 30 August 2007 that they had received the Council Officer's report and that this correctly summarised the Commission's submission however they requested that a dedicated supply of 45,000 litres capacity be provided rather than the 30,000 litre water storage recommended in the Officer's report.

The Commission requested that the letter be tabled in lieu of its attendance at the hearing.

#### **5. Hancock Forest Management**

Hancock Forest Management is satisfied, that provided their access rights to their forestry interests are adequately protected through an emanations easement, they are not in opposition to the subdivision. The applicants have volunteered a condition requiring them to enter into an agreement to provide this easement. This effectively means the future owners of each lot cannot complain about adverse effects from adjacent forest activities.

The submitter did not wish to be heard, but tabled a letter requesting that the above be formalised as a condition of consent.

#### **4. PROCEDURAL MATTERS**

No procedural matters were raised however two matters of late items were brought to the Council's attention:

1. A letter from the NZ Fire Service Commission dated 30 August 2007 confirming their submission for on-site water storage and that they would not now be attending the hearing.
2. The applicant's consultant planner confirmed to the Council that no affected persons' consents had been lodged with the application; however, since the notification of the application, there have been affected parties that have provided their consent and these were presented to the Council at the hearing. Those consents are from neighbours in the vicinity from A Ralfe, D Krabo and P Priest. These neighbours are immediately adjoining or immediately opposite the subject property.

The Chairmen noted both items which were received by Council.

#### **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

J M McNae, Resource Management Consultant, tabled and read planning evidence for the applicant. The applicants, N B and B A Randall were not present at the hearing. Mrs McNae described the location of the property adjacent to Pigeon Valley South Branch Road. She described how the property is bisected by an unformed legal road and that the allotments separated by this are to be amalgamated so that only three titles are created. She described how the Pigeon Valley Stream and its tributaries flow through the property and the landform is effectively in two terraces. She described the property as being largely on the valley floor with the land behind the subdivision to the north being used for forestry. She described how land on both sides of the road is fragmented into varying lifestyle blocks and that the adjoining allotment known as the Galbreath property is currently having subdivision work completed.

Mrs McNae tabled a copy of the subdivision plan overlaid on an aerial photograph. She tabled a plan to show the range of lot sizes for existing properties in Pigeon Valley. The evidence said that the proposed property sizes ensured that there is sufficient land available to each allotment for productive activity to continue. Mrs McNae listed within her evidence the history of subdivision consents in Pigeon Valley since 1998. She addressed the concerns of submitters. She noted that the Fire Services was requesting a water storage requirement, significantly greater than Council's permitted activity standard. The applicant had volunteered to enter into a standard forestry agreement, which is an emanations easement in respect of the forestry activities. Copies of the affected parties consents from neighbouring property owners A Ralfe, D Krabo, and P Priest were tabled at the meeting by Mrs McNae.

Mrs McNae addressed the concerns raised by Council's planning consultant, Mr G Rae in his report. Mrs McNae said that she did not consider the subject proposal to be contrary in nature to the objectives and supporting policies in the Council's Proposed Tasman Resource Management Plan. She said that the area is rural-residential in character and that the subdivision would retain the attributes of openness, greenness and of productive activity. The evidence noted Council's reluctance to take esplanade reserve and the need to recommend to the Minister of Conservation that a waiver of this requirement is granted.

Mrs McNae said that the subject subdivision is of a size that is appropriate at this location within the valley where the lifestyle blocks end with the Galbreath property.

Mrs McNae did not support that this subdivision be restricted to a two lot subdivision and that the proposal for the three titles is based on issues of rural character, the pattern of development, and the physical features of the property.

Mrs McNae said that in her opinion a grant of consent to this proposal would result in the sustainable management of the land resources and physical resources at this location. She said that it would be an efficient use of those resources and the amenity values, rural character and the quality of the Pigeon Valley environment will be maintained by a grant of consent.

Farm Management Consultant and Registered Public Valuer, Mr R Bennison, tabled and read evidence in support of the application. He said that Pigeon Valley already has 67 rating assessments with an average size of 5.83 hectares. He said that 16 properties are less than 1 hectare and 31 properties are between 1 and 5 hectares. He said land ownership in the valley is already significantly fragmented with only three properties larger than 20 hectares. Mr Bennison described the physical characteristics and potential productivity of the proposed allotments of this subdivision application and noted that Lot 5 is on a lower terrace that is subject to periodic flooding from the Pigeon Valley Stream. He said that this would be amalgamated with proposed Lot 4 to provide a building platform on the higher terrace, out of the flood zone.

Mr Bennison said that the subject property is zoned Rural 2 and is Class D land having less versatility than the Class A, B and C areas. He said that the soil type requires irrigation over the summer months and this is not available in this location. Mr Bennison suggested that low intensity livestock grazing in the form of a dairy support usage would be feasible on the subject land. Mr Bennison said that the natural fertility of the subject land is low and it is prone to severe droughts over the summer months. Mr Bennison said that the proposed subdivision is totally in keeping with the context of the existing fragmentation of the Pigeon Valley South Branch area.

## **5.2 Submitter's Evidence**

A letter dated 30 August 2007 for the submission from NZ Fire Service was tabled and sought that water storage tanks with a minimum capacity of 30,000 litres be installed on Lots 1 and 4 and that these storage tanks be equipped with appropriate firefighting connections. The letter sought the imposition of a consent notice to be registered on the title for Lots 1 and 4 to require a dedicated supply for firefighting purposes with a minimum capacity of 45,000 litres be installed and maintained in compliance with NZ Fire Service Firefighting Water Supplies Code of Practice.

## **5.3 Council's Reporting Officer's Report and Evidence**

Consultant Planner, Mr G Rae, spoke to his report contained within the agenda. Mr Rae acknowledged that ad hoc subdivision that had occurred in recent years in this valley. He said that the lack of productive potential is not to be viewed as a licence to subdivide and further fragment the land resource. He said this activity is a potential adverse effect on rural character at the head of the valley. He commented that this was a difficult application to assess because whilst it was contrary to the Rural 2 Zone provisions, the Pigeon Valley area has experienced considerable smaller lot subdivision and was unusual in a Rural 2 Zone context.

Mr Rae explained that he had presented a Staff Report on a previous subdivision application in Pigeon Valley that was declined by the Council. There have been no other new allotment subdivisions in the valley since that decision and he felt it was important the Council consider the Randall application in light of its decision on that application. His view was that a subdivision of this type further down the valley may be acceptable, but on balance it was inappropriate to allow smaller lot subdivision of a relatively large block in the Pigeon Valley context at the head of the valley where more open rural character prevails.

Mr Rae recommended that the application be declined, or in the alternative that one additional allotment be allowed, with the building site restricted to that as shown for Lot 4, where it would be 'infill' and have less visual effect.

Mr Rae said that a two lot subdivision would lessen his concerns about land fragmentation and the effects on rural character and landscape. The report detailed potential conditions of consent should consent be granted.

Principal Consent Planner, Mr R Askew, said that staff have considered the esplanade reserves and vesting of the Pigeon Valley streambed and that by virtue of Section 218(3) of the Resource Management Act 1991, proposed Lots 1 and 2, and 4 and 5 are considered to be single allotments held together by amalgamation conditions with areas of 7.35 and 5.98 hectares respectively.

#### **5.4 Applicant's Right of Reply**

Mrs McNae responded for the applicant saying that this subdivision cannot be considered to be containing small lots such as in the Tapper and Stott subdivision application and that the subject application maintains the rural character of the Pigeon Valley South Branch locality.

Mrs McNae referred to the objectives and policies under Section 7.2.0 of the Tasman Resource Management Plan. She said that these provisions are enabling and provide opportunities to use rural land for activities other than soil based production and that these provisions do not prevent subdivision. She said that allotments of the proposed size provide open space and rural character.

Mrs McNae said that the proposal is appropriate and fits in the rural character of the end of Pigeon Valley South.

### **6. PRINCIPAL ISSUES**

The subdivision of the 16.89 Rural 2 zoned property is to provide three titles of 7.34, 3.04 and 5.98 hectares with consequential use for residential building.

The principal issues raised and considered were:

- a) whether the subdivision would lead to reduction in productivity of the land;
- b) whether the fragmentation would create precedence for other subdivision to occur in the area;
- c) whether the subsequent residential development on the titles would have an adverse effect on rural character and/or amenity;
- d) whether the addition of two further dwellings would have any effect on road traffic;
- e) whether there would be any issues associated with the dwellings regarding adverse effects from waste and stormwater discharges, effects from any possible flooding and matters raised by the NZ Fire Service Commission in regards to fire safety and



- f) whether the provisions of the Resource management Act would require any waiver to acquire an esplanade reserve or strip to be referred for the Minister of Conservations consent .

## **7. MAIN FINDINGS OF FACT**

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

- a) Land productivity is currently in light grazing and the subdivision would be unlikely to have any significant adverse effect on the current productivity. The existing 16.89 hectare block has proven to be at best marginal in regards to its ability to be an independent economic farming unit as evidenced by historic usage of the property.
- b) The current proposal is able to be distinguished from other subdivisions in the area and notably the Tapper/Stott subdivision by the relatively large allotment areas to be provided (average 5.6 hectares) as compared to the 2.0 hectare allotment size proposed in the Tapper/Stott subdivision.
- c) The location and surrounding land usage pattern is harmonious with the proposed subdivision and land use.
- d) The additional traffic from the development would not be significant and the road has been upgraded to easily accommodate the additional usage. The transfer of proposed Lot 6 for road reserve to vest in Council is a significant benefit to the community who would otherwise have to acquire the land to legalise the formed road within road reserve.
- e) No matters of fact relating to flooding, discharges and/or fire safety appeared to discourage the proposed development.
- f) The Committee has taken advice from Council staff that the provisions of Section 218(3) of the Resource Management Act 1991 provide that, with the amalgamation of Proposed Lots 1 and 2 and proposed Lots 4 and 5, that those Lots, as amalgamated, are deemed to exceed 4.00 hectares in area and that any waiver of requirement for an esplanade are therefore not subject to Ministerial approval under the Act.

The absence of esplanades along Pigeon Valley Stream and the ephemeral nature of the stream in the location of the property has not persuaded the Council that either requiring esplanades and/or vesting of the river bed would have any advantage regarding public access or recreation.

## **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:

- a) Tasman Regional Policy Statement (TRPS);

- b) the Transitional Regional Plan (TRP);
- c) the Proposed Tasman Resource Management Plan (PTRMP);
- d) Policies and Objectives of Council's Community Services Department in regards to the acquisition and use of reserve areas

## 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 purpose of the Act as presented in Section 5.

## 9. DECISION

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

## 10. REASONS FOR THE DECISION

- a) Whilst Objective 7.1.0 notes that the Council is seeking to avoid the loss of potential farmland for productive value, evidence presented by the applicant's farm management adviser was that productivity of the land had soils that were class D under the Agriculture New Zealand classification system and that there productivity and versatility were marginal and that lack of irrigation further impeded the versatility of the productive land use. The adviser's opinion was that the land use was likely to continue as low intensity livestock grazing and that the effects of the subdivision would only impact on that productivity by the areas of land that were taken up by residential buildings and associated driveways and accessory buildings and garden areas within the curtilage of the new dwellings. These effects on productivity would in the adviser's opinion be minor.
- b) Evidence from both the applicant's planning consultant and Council's Reporting Officer referred to the historical pattern of subdivision in the Pigeon Valley area. The history of land subdivision has resulted in 52 allotments having an area less than 10 hectares and with 15 allotments remaining that are above 10 hectares (only three of which have an area in excess of 20 hectares). The pattern of land fragmentation and rural residential/lifestyle usage that exists within Pigeon Valley is therefore quite atypical of Rural 2 zone land which only provides for subdivision as a Controlled Activity down to 50 hectares. Generally the smaller properties, those below 2 hectares are not evident in the upper part of Pigeon Valley South.

Notwithstanding the Rural 2 Zoning it is evident that Pigeon Valley has progressively further developed as a lifestyle area. This pattern of land fragmentation and usage has been driven by the pleasantness and north facing aspect of the valley and its proximity to Wakefield and the services and facilities within that village including the school, a range of commercial and health services. What has resulted in Pigeon Valley is a pattern of rural residential development that has maintained those features of pleasantness and a sense of coherence which Committee considered to only have minor adverse effect.

The Committee also heard evidence and opinion regarding the Tapper/Stott subdivision that whilst that subdivision was declined, that it could be distinguished from the current application on the basis of the much smaller area of the Tapper/Stott land (4.2 hectares into two titles as opposed to 17.8 hectares into three titles, for the Randall proposal) and that the two titles proposed for the Tapper/Stott subdivision could have resulted in further fragmentation of that land and also other similar size allotments in the area (ie under 5 hectares) could have used that subdivision as a precedent for subdivision those existing already smaller parcels.

The Committee also noted that the location of the Randall subdivision was at the head of the valley which was more open in character and the practical end of the road was about 1 km from the subject property after which the road passed through a locked into production forest.

The Committee also noted that the only other property between Randall and the forestry block was Galbreath. That property had a subdivision approved in 2003 to create two 4 hectare allotments and a balance 13 hectare allotment. The matter of whether the Randall subdivision could lead to further subdivision of the Galbraith land was inhibited by a consent notice that would not permit the 13 hectare block being subdivided for ten years from the date of the consent.

- c) The effects on the rural character and amenity of the area were discussed by both the applicant's planning consultant and Council's Reporting Officer.

In regards to any development on proposed Lots 1 and 2 (the 7.34 hectare title) the defined house site was to the rear of a stand of mature trees that would effectively mask the residential building.

In regards to the existing house on proposed Lot 3 the applicant noted in regard to the submission from Mr and Mrs Coles that no further residential development would be carried out in the property (unless further resource consent was sought and granted).

In regards to any development on Lots 4 and 5 (the 5.98 hectare title) the defined house site would provide an effective infill development which was typical of the pattern of rural residential development occurring in Pigeon Valley. It was noted that the Council's reporting officer was more supportive of the residential development on Lots 4 and 5 because of the infilling nature of the development.

The Committee undertook a site visit after the hearing and noted the pattern of development generally in Pigeon Valley and surrounding the subject property and that the proposed development was not unique nor did it compromise the existing pattern of rural residential development in the area.

- d) The Committee considered that the effects on the road usage of Pigeon Valley Road from the two additional dwellings would be negligible compared to the existing traffic from small-holdings and the Committee noted that the current forestry harvesting was by far the dominant traffic use of the road.

Pigeon Valley Road has also been widened and sealed as a result of past subdivision activities and the condition of the road is more than adequate to cater for the additional traffic that may be generated from the subdivision.

- e) The Committee noted that the property comprises terraces with the Pigeon Valley Stream passing within the property. The sites chosen for the dwellings were on the elevated terraces and whilst Council has no specific knowledge of flooding patterns in that area, local knowledge indicated that the sites had not been inundated during past known flooding events.

The area of land available and the nature of the soils indicated that both wastewater and stormwater disposal on the land could be effectively accommodated.

The matter of fire safety which was raised in a submission by the NZ Fire Service Commission has been addressed by the applicant volunteering to accept an increased storage capacity to facilitate fire fighting with the permitted activity requirement of 23,000 litres of on-site storage being increased to 30,000 litres on-site storage.

The matter of the submission raised by the Department of Conservation (DoC) detailing the statutory provisions under the Resource Management Act 1991 were pointed out. Lots 1, 2, 4 and 5 are under 4.00 hectares each and have the Pigeon Valley Stream running through them. DoC has considered that as such these Lots should be required to provide provision for an esplanade under the RMA.

It was noted however, that Lots 1 and 2 and Lots 3 and 4 are to be amalgamated to form title areas in excess of 4.0 hectares.

Reference to the provisions of section 218(3) of the RMA provides that “for the purposes of subsection (2)” [relating to the meaning of “allotment”], “that is subject to the Land Transfer Act 1952 and is comprised in one certificate of title or for which one certificate of title could be issued under that Act, shall be deemed to be a continuous area of land notwithstanding that part of it is physically separated from any other part by a road or in any other manner whatsoever, unless the division of the allotment into such parts has been allowed by a subdivision consent granted under this Act or by a subdivisional approval under any former enactment relating to the subdivision of land.”

The Committee agreed with Council staff that by virtue of Section 218(3) of the Resource Management Act 1991 proposed lots 1 and 2 and 4 and 5 are considered to be single allotments, held together by amalgamation conditions, with areas of 7.34 and 5.98 hectares respectively. As such Rule 16.4.2A not 16.4.2 of the TRMP applies in this situation and compensation is payable if an esplanade reserve is vested or an esplanade strip created.

Also it was noted that Council’s Community Services staff have visited the site and considered it in the wider context of esplanades, reserves and walkways in the area. They have concluded that on balance there would be limited benefit in requiring the vesting of esplanade reserves or esplanade strips adjoining the stream in this location as it is considered to have limited value in terms of the purposes of Section 229 of the Resource Management Act 1991.

In regards to the matter of whether Council should acquire the bed of the Pigeon Valley Stream the Committee considered that such vesting would have limited value for public access and recreation given that no pattern of esplanades and/or river bed vesting has occurred along the Pigeon Valley Stream therefore there being no connecting esplanade linkages evident and that the natural character and ephemeral nature of the stream reduced its value regarding the natural functioning of the water body.

It was also considered that the existing paper road within the property would provide for any future walking access to the stream and that also the stream being ephemeral in nature has limited recreation uses.

The Committee considered that the activity does not offend the Regional Policy Statement and relevant Policies and Objectives of the Tasman Resource Management Plan and is consistent with the purpose and principles of the Resource Management Act as provided by Part 2 of the Act.

## **11. COMMENTARY ON CONDITIONS OF CONSENT**

### **Regarding Conditions 2 and 3:**

The requirement to amalgamate Lots 1 and 2 and Lots 4 and 5 means that, in accordance with the provisions of Section 218(3) of the Resource management Act 1991, that the resulting 'allotments' shall exceed 4.00 hectares and that consequently Councils decision not to require esplanade reserves along the Pigeon Valley Stream does not require the Minister of Conservations approval pursuant to Section 405A for the Council to waiver the requirement for an esplanade reserve pursuant to Section 230.

### **Regarding Condition 4:**

Council notes that the subdivision affords the opportunity to acquire land at no cost to Council, to legalise the road reserve along the formed road fronting the subject property and that this is a significant benefit to Council.

### **Regarding Condition 5 and Condition 20:**

The locations of the proposed future dwellings will ensure that amenity values and the existing rural residential character of the area is maintained and that the site of the proposed dwellings is above known flood events.

### **Regarding Condition 9**

The applicants have volunteered to accept a rural emanations easement regarding effects of forestry operations on land adjoining the subject property. The easement is a common practice and is a legal instrument to afford protection against complaint from residential property owners regarding work associated with normal forest management including harvesting.

## **Regarding Condition 10:**

Council has noted the requirements of the New Zealand Fire Service in regards to provision of additional water storage capacity close to developments to facilitate fire fighting needs. Notwithstanding that the Committee considers that matters of fire protection for the dwellings is more appropriately considered at Building Consent stage and that the Permitted Activity provision for water supply in such situations is for a 23,000 litre water storage tank, the applicants have volunteered to provide an increased water storage capacity for each dwelling of 30,000 litres.

Issued this 10<sup>th</sup> day of September 2007

Cr E M O'Regan  
**Chair of Hearings Committee**

## **RESOURCE CONSENT**

**RESOURCE CONSENT NUMBER:** RM070575

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

### **N B and B A RANDALL**

(hereinafter referred to as "the Consent Holder")

**ACTIVITY AUTHORISED BY THIS CONSENT:** To subdivide an existing title comprising 16.89 hectares into six Lots creating three titles and one Lot to vest, three of which will be rural residential smallholdings (being an amalgamation of Lots 1 and 2 providing a 7.34 hectare title, an amalgamation of Lots 4 and 5 providing a 5.98 hectare title, Lot 3 which contains the existing dwelling providing a 3.04 hectare title and Lot 6 providing 0.61 hectares to be vested in Tasman District Council as road reserve.

### **LOCATION DETAILS:**

Address of property:	Pigeon Valley South Branch Road,
Wakefield.Legal description:	Pt Sec 3-4 District of Pigeon Valley
Certificate of title:	CT NL8A/1113
Valuation number:	1937002301

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

## **CONDITIONS**

### **General**

1. The subdivision shall be undertaken in general accordance with the information submitted with the application for consent and in particular with the plan entitled "Resource Consent Plan, N and B Randall" Job No. 8573, dated 11/08/2005, prepared by CAD Solutions, and attached to this consent. If there is any conflict between the information submitted with the consent application and any conditions of this consent, then the conditions of this consent shall prevail.

## **Amalgamation Conditions**

2. Lots 1 and 2 shall be amalgamated and one certificate of title issued and Lots 4 and 5 shall be amalgamated and one certificate of title issued.
3. The amalgamation conditions shall be shown on the survey plan which is submitted for the purposes of Section 223 of the Act.

### **Advice Note:**

The District Land Registrar will need to confirm that these conditions are practicable provided all the normal requirements apply to the issuing of amalgamated titles. These include requirements that the land is in the same ownership and that any existing joint family settlements are cancelled or extended to include all the land being amalgamated.

## **Vesting Road Conditions**

4. The survey plan which is submitted for the purposes of Section 223 of the Act shall show Lot 6 as vesting in the Tasman District Council Road Reserve at no cost to Council.

## **Building Location and Building Platforms – Lot 1 and 4**

5. The location of any new buildings on Lot 1 shall be located generally in the location the plan entitled “Resource Consent Plan, N and B Randall” Job No. 8573, dated 11/08/2005, prepared by CAD Solutions, and attached to this consent. The building location area shall be shown on the survey plan which is submitted for the purposes of Section 223 of the Act.

## **Easements**

6. Easements are to be created over any services located outside the boundary of the allotment that they serve. Reference to easements is to be included in the Council resolution on the title plan and endorsed as a Memorandum of Easements.
7. Easements shall be created over any right-of-way and shall be shown in a Schedule of Easements on the survey plan submitted for the purposes of Section 223 of the Act. Easements shall be shown on the Land Transfer title plan and any documents shall be prepared by a Solicitor at the Consent Holder's expense.
8. The survey plan which is submitted for the purposes of Section 223 of the Act shall include reference to easements.

## **Rural Emanations Easement**

9. The consent holder shall register a “Rural Emanations’ easement over proposed Lots 1-5 in favour of land adjoining these Lots which are in production forest and are currently owned by Tasman Bay Forests Company and currently managed by Hancock Forest Management NZ Ltd which easement shall be generally of the form attached to this consent as Appendix A. Reference to the Rural Emanations easements is to be included in the Council resolution on the title plan and endorsed as a Memorandum of Easement.

**Advice Note:**

The Council notes that the applicant volunteered this easement condition and it is anticipated that the preparation and execution of such easement shall be carried out in consultation with the proposed dominant tenement holder.

**Power and Telephone**

10. Full servicing for live underground power and telephone cables shall be provided to the boundary of Lots 1 and 4. The Consent Holder shall provide written confirmation to the Council's Engineering Manager from the relevant utility provider that live power and telephone connections have been made to the boundaries of the allotment. The written confirmation shall be provided prior to a completion certificate being issued pursuant to Section 224(c) of the Act.

**Water Supply**

11. Water storage tanks with a minimum capacity of 30,000 litres shall be installed on Lot 1 and Lot 4. These water storage tanks shall be equipped with appropriate fire fighting connections.

**Right-of-Way Access to Lots 3 and 4**

12. The right-of-way shown as "ROW A" on the plan entitled "Proposed Subdivision Pt Sec 3 and Pt Sec 4 Pigeon Valley District" Job No. 8573, Sheet #1 dated 11 August 2005, prepared by Staig & Smith Ltd Ltd, and attached to this consent shall be formed to the following specifications:

<b>Right-of-Way Specifications and Formation Standards</b>					
<b>Right-of-Way</b>	<b>Allotments</b>	<b>Surface width</b>	<b>Shoulders</b>	<b>Side Drains</b>	<b>Legal Width</b>
Right-of-Way A	Lots 3 and 4	4.5 metres	2 x 500 millimetres	2 x 1.0 metre	7.50 metres

13. The right-of-way referred to in Condition 12 shall be formed and surfaced with a minimum requirement of a 150 millimetre depth AP40 compacted basecourse with the formation of side drains to convey stormwater runoff away from the right of way carriageway.
14. A sealed access crossings shall be provided for each of Lot 1 and the Right-of-Way A entrance. For the purposes of this condition, "sealed" shall mean a surface that has, as a minimum, a Grade 4 Chip first coat, overlain by a Grade 6 void fill second coat.
15. The access crossing shall be sealed and constructed in accordance with the Diagram 1 Schedule 16.2C of the Proposed Tasman Resource Management Plan with the sealing extending at least 5 metres inside the boundary."

The access crossing width for Lot 1 shall be at least 3.5 metres at the property boundary.



## **Commencement of Works and Inspection**

16. The Council's Engineering Department shall be contacted at least five working days prior to the commencement of any engineering works. In addition, five working days' notice shall be given to the Council's Engineering Department when soil density testing, pressure testing, beam testing or any other major testing is undertaken.

## **Engineering Works**

17. All engineering works, including construction of the right-of-way for Lots 3 and 4 and the access crossings to Lot 1 and right-of-way A referred to in Condition 13 & 14, shall be constructed in strict accordance with the Tasman District Council Engineering Standards and Policies 2004 or to the Council's Engineering Manager's satisfaction.

## **Engineering Certification**

18. At the completion of works, a suitably experienced chartered professional engineer or registered surveyor shall provide the Council's Engineering Manager written certification that the right of way and access to Lot 1 referred to in Condition 15 have been constructed in accordance with the consent conditions and the Tasman District Council Engineering Standards and Policies 2004.
19. Certification that the building platform and nominated building site on Lots 1 and 4 is suitable for the erection of residential buildings 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 define on Lot 1 within the building location area, the area suitable for the erection of residential buildings and shall be in accordance with Appendix B Section 11 of the Tasman District Engineering Standards and Policies 2004.

The building site certification shall take into account any flooding hazard that may apply to the building site."

## **Financial Contributions**

20. The Consent Holder shall pay a financial contribution for reserves and community services in accordance with following:
  - a) The amount of the contribution shall be 5.5 per cent of the total market value (at the time subdivision consent is granted) of a notional 2,500 square metre building sites within Lot 1 and 4.
  - b) The Consent Holder shall request in writing to the Council's Consent Administration Officer (Subdivision) that the valuation be undertaken. Upon receipt of the written request the valuation shall be undertaken by the Council's valuation provider at the Council's cost.

- c) If payment of the financial contribution is not made within two years of the granting of the resource consent, a new valuation shall be obtained in accordance with (b) above, with the exception that the cost of the new valuation shall be paid by the Consent Holder, and the 5.5 per cent contribution shall be recalculated on the current market valuation. Payment shall be made within two years of any new valuation.

**Advice Note:**

A copy of the valuation together with an assessment of the financial contribution will be provided by the Council to the Consent Holder.

**Advice Note:**

Council will not issue a completion certificate pursuant to Section 224(c) of the Act 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 that are current at the time the relevant development contribution is paid in full.

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

**Consent Notices**

- 21. The following consent notices shall be registered on the certificate of title for Lot 1 and for Lot 4 pursuant to Section 221 of the Resource Management Act. The consent notices shall be prepared by the Consent Holder's solicitor and submitted to Council for approval and signing. All costs associated with approval and registration of the consent notices shall be paid by the Consent Holder.
  - i) That the construction of buildings on Lots 1 and 4 shall be restricted to the building location areas shown on the Title Plan and buildings shall be fully contained within the area identified.
  - ii) Reticulated power and telephone services to any buildings on Lot 1 and Lot 4, where provided, shall be located underground from the property boundary of the property to the building.

**GENERAL ADVICE NOTES**

**Council Regulations**

- 1. This resource consent 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.

## Other Proposed Tasman Resource Management Plan Provisions

2. Any activity not covered in this consent shall either comply with: 1) the provisions of a relevant permitted activity rule in the Proposed Tasman Resource Management Plan; or 2) the conditions of separate resource consent for such an activity.

In respect of stormwater discharges on Lots 1 and 4, the criteria of Tasman Resource Management Plan Permitted Activity Rule 36.4.2 must be complied with or, alternatively, a resource consent (discharge permit) is obtained for the stormwater discharge.

3. In respect of effluent disposal on Lots 1 and 4 the criteria of Tasman Resource Management Plan Permitted Activity Rule 36.1.4 must be complied with or, alternatively, a resource consent (discharge permit) is obtained for the stormwater discharge.
4. Access by the Council's Officers or its Agents to the property is reserved pursuant to Section 332 of the Resource Management Act 1991.
5. Monitoring of this resource consent is required under Section 35 and 36 of the Resource Management Act 1991, and a deposit fee is payable at this time. Should monitoring costs exceed this initial fee, the Council will recover the additional amount from the resource consent holder. Monitoring costs are able to be minimised by consistently complying with the resource consent conditions.
6. Pursuant to Section 127 of the Resource Management Act 1991, the Consent Holder may apply to the Consent Authority for the change or cancellation of any condition of this consent.
7. Council draws your attention to the provisions of the Historic Places Act 1993. In the event of discovering an archaeological find during the earthworks (e.g. shell, midden, hangi or ovens, garden soils, pit depressions, occupation evidence, burials, taonga, etc) you are required under the Historic Places Act, 1993 to cease the works immediately until, or unless, authority is obtained from the New Zealand Historic Places Trust under Section 14 of the Historic Places Act 1993.
8. The site is located on the alluvial floodplain of the Pigeon Valley Stream. A small watercourse crosses the property. Council has limited flood pattern records for this site and the flood hazard has not been accurately determined as part of the application. However, the sizes of the allotment are such that there is adequate scope for flood free house sites to be established (such as on a raised building platform) without adversely affecting neighbouring properties.

Issued this 10<sup>th</sup> day of September 2007

Cr E M O'Regan  
**Chair of Hearings Committee**

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**Date Confirmed:**

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**Chair:**