

MINUTES

TITLE: Environment and Planning Subcommittee –
Commissioner Hearing
DATE: Monday, 29 November 2010
TIME: 9.10 am
VENUE: Council Chambers, 189 Queen Street, Richmond

PRESENT: Cr S G Bryant(Chair) and Cr B W Ensor

IN ATTENDANCE: Resource Consents Manager (P Doole), Consent Planner –
Subdivision (W Horner), Consent Planner (R Squire)
Administration Officer (J A Proctor)

APPLICATION – A and W Lane, 57 Baigent Valley Road, Wakefield

A Section 357 objection to conditions 11 and 8(b) of RM100394 and condition 6 of RM100395 that seeks the deletion of these conditions.

The application site is located at 57 Baigent Valley Road, Wakefield, being legally described as Part Section 5 of 143 Waimea South District and Lot 3 DP 13301 and Lot 1 DP 420037.

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

Decision of the Tasman District Council through Hearing Commissioners

Meeting held in the Richmond Office on 29 November 2010, commencing at 9.15 am

The hearing of an objection pursuant to Section 357 of the Resource Management Act 1991 to Council's delegated decision on Subdivision Application RM100394 and Land Use Application RM100395.

COMMISSIONERS: Cr Stuart Bryant (Chairperson)
Cr Brian Ensor

APPLICANT: Mr John Cotton (Land Surveyor)
Mr Andrew and Mrs Wendy Lane (Applicant/Objector)
Rob Ford (Land Surveyor)

REPORTING OFFICERS: Mr Wayne Horner (Consents Planner, Subdivisions)
Ms Ros Squire (Reserves Planner)

IN ATTENDANCE: Assisting the Commissioners:
Mr Phil Doole (Resource Consents Manager)
Ms Julie Proctor (Administration Officer)

1. BACKGROUND TO THE OBJECTION

Consents RM100394 and RM100395 were granted in October 2010 to allow the subdivision of Part Section 5 of 143 Waimea South District and Lot 3 DP 13301 (CT NL8B/183) and Lot 1 DP 420037 (CT 483980), situated at 57 Baigent Road, Wakefield. The property lies within a Rural 1 Zone as defined by the Tasman Resource Management Plan (TRMP) hence a land use consent was also required for establishment of another dwelling in that zone.

The property held in two titles comprises a total of 5.7825 hectares. An existing dwelling straddles the boundary of Part Section 5 and Lot 1 DP 420037. Lot 1 DP 420037 was previously Crown land old river bed. A successful application for possession was made by the previous owner of the adjoining title, resulting in a separate freehold title being issued for the old river bed area in February 2010.

The applications propose to adjust the boundaries of the two existing titles so that the existing dwelling will be on proposed Lot 1 comprising 0.75 hectare, and most of the remaining area of the property will be proposed Lot 2 being 4.1 hectares with a new dwelling site identified on that allotment. The other areas are to vest with Tasman District Council as Wai-iti River bed and esplanade reserve. An esplanade strip will also be created on proposed Lot 2 along the east bank of the Wai-iti River. Financial contributions for reserves and community services are payable on subdivision as provided for in Section 16.5 of the Tasman Resource Management Plan (TRMP). A full reserve fund contribution for one additional allotment has been imposed by Condition 11 on Subdivision Consent RM100394 which states:

“The Consent Holder shall pay a financial contribution for reserves and community services in accordance with [the] following:

- (a) The amount of the contribution shall be 5.62 per cent of the total market value... of a notional 2500 square metre building site within the Proposed Building Site on Lot 2;...”*

Condition 6 on the Land Use Consent RM100395 requires that the exterior of the new dwelling be finished in colours that are recessive and blend in with the immediate environment; and that details of the proposed colours for the roof and walls be submitted for Council approval prior to applying for building consent. There is a cross-reference to this requirement in Condition 8(b) of the Subdivision consent.

2. THE OBJECTION

An objection to the decision to grant consent was received from the applicant on 26 October 2010. The Applicant objected to the imposition of Condition 11 on RM100394 requiring payment of the reserves contribution; and to Condition 6 on RM100395 and Condition 8(b) on RM 100394 concerning the building colours. (A third matter of objection was withdrawn prior to the hearing).

3. PROCEDURAL MATTERS

This objection raises a procedural matter. The financial contribution rule 16.5.2.3(c) provides that reductions or waivers will be considered “upon request”. The application as lodged did not make such a request. Therefore it would not usually be appropriate to consider this as a valid matter of Objection (because Council staff acting under delegated authority cannot consider making a reduction or waiver without a request being made). However, taking account of all aspects of this case we decided that we would continue to determine the matter.

4. REPORT AND EVIDENCE HEARD

A report on the two matters of Objection from the Council’s Subdivision Consents Officer, and evidence from the applicant were circulated prior to the hearing. We heard from the applicant, and a response from Mr Horner. We also asked for comment from Council’s Reserves Planner Ms Ros Squire. The following is a summary of the information presented.

4.1 Officer’s Report - Mr Wayne Horner

In his report Mr Horner referred to TRMP Rule 16.5.2 which states that Council may require a financial contribution for reserves and community services to be paid for each allotment on subdivision, with a credit to be given for any existing certificates of title created by subdivision consent. He set out the circumstances in rule 16.5.2.3(c) when Council may consider a reduction or waiver of the contribution. He elaborated on his assessment of this matter, stating that the title recently issued for Lot 1 DP 420037 did not meet the criteria for a waiver of the reserves and community services financial contribution.

4.2 Applicant’s Evidence - Mr John Cotton

Mr Cotton spoke to his submission which had been pre-circulated. He stated that the application was for a boundary adjustment of two existing titles that could be sold separately and that the proposal would not result in any additional effects that would justify the reserves contribution. He referred to other instances in the District where titles have resulted by means other than Council subdivision approval or similar process.

In response to questions, Mr Cotton provided further information relating to his comments in respect of financial hardship. He stated that if the titles were in separate ownership, then a request could be made to demolish the house or make a claim for the land under the Property Law Act. Mr Cotton emphasised his view that the application was not a subdivision but a boundary adjustment.

Mr Cotton stated that Lot 3 had been volunteered to be vested to Council at the time of the application by Mr and Mrs Lane. It was acknowledged that owning this land may have been problematic in terms of maintenance as it was the other side of the river. It could have been sold to a neighbour but as a gesture of goodwill the Lanes volunteered to vest it to Council.

4.3 Applicants Evidence - Mr Andrew Lane

Mr Lane provided an historical account of how the initial resource consent application came about. He said that a pre-consultation meeting with Council took place and the preferred option of a boundary adjustment to include the original homestead was chosen. It was envisaged that the new lot created would be built on. Mr Lane stated that the vesting of Lot 3 to Council as an esplanade reserve was a gesture of goodwill by them to “sweeten” the initial resource consent application. Mr Lane continued that he was builder and could have moved the homestead but it was easier to do a boundary adjustment. At the pre-consultation meeting, Council staff advised that it was possible to proceed with a boundary adjustment. Subsequently, river levels were assessed and the whole property was surveyed at considerable cost.

Mr Lane believed it was unfair to impose the reserve contribution as it had been an extremely costly and stressful exercise to them. Mr Lane reiterated that the initial application was a “win win” situation for all as Council obtained an esplanade reserve and strip, and they would have another title on which to build.

In response to our questions, Mr Lane explained the rationale behind the creation of Lot 1 and stated that it was to ensure that the area of Lot 2 was in excess of 4 hectares. He said that there are several other properties of similar size to Lot 1 in the local vicinity. He advised that the river did not have rock protection but that the land was higher and covered in scrub.

4.4 Council Officers - Mr Wayne Horner and Ms Ros Squire

Mr Horner stated that we should focus on the main issue which was that financial contributions for reserves and community services were payable. He advised that the title for the old river bed had been granted by Land Information NZ to the previous owners who had claimed it via a process that did not involve Council, although Council was aware of it.

Mr Horner referred to Section 16.5.2.1 of the TRMP which recognised that titles would be created through a non subdivision route. At the time of the creation of the title for the old river bed, no contributions were payable to Council. Mr Horner continued that in his view creation of the proposed new titles would mean that further development could take place with an increased demand on Council facilities.

In response to a question from Mr Lane, Mr Horner provided a definition of subdivision.

Mr Horner advised that had been no formal agreement entered into with regards to proposed Lots 3, 4 and 5 being vested to Council. Council staff had accepted the offer made by the applicant and had not sought the land. He advised that Council staff had not taken into consideration any reserve or community values on Lots 3, 4 and 5 as the land vesting had been volunteered by the applicant. He agreed that vesting the land was of benefit to Council as it would provide for public access along the river.

Ms Squire confirmed that Lots 3, 4 and 5 had been volunteered by the applicant during discussions. She continued that it was not unusual to have strips of land in isolation and that Council had adopted the approach of taking reserves when it had

the opportunity. She advised that the land would form part of a plan to link Wakefield and that access to the reserve would be in consultation with a neighbouring landowner.

Ms Squire confirmed that there were a number of reserves like this within the District. In response to questions Ms Squire advised that normally compensation was paid when land was vested to Council for Lots over 4 hectares, but as it had been volunteered, then this rule did not apply in this instance.

Mr Horner spoke about the recessive colour condition and advised that it was a tool employed to protect the rural amenity but did acknowledge that the site was not highly visible. In response to questions, Mr Horner advised that the condition was not imposed on every resource consent for a dwelling in Rural 1 zones. In this case the condition would provide limits and was intended to reduce potential impacts of the proposed building.

Mr Lane was asked if they had chosen the colours of the building yet and he advised that he had not. Mr Lane questioned why Council required a colour consultant to be used when submitting their colour choices? Mr Horner advised that that aspect was just an advice note and not a condition of consent.

4.5 Applicant's Right of Reply

Mr Cotton stated that each application should be judged on its own merits and imposing a recessive colour condition was not necessary in this case.

Mr Cotton spoke about the pre-consultation with Council staff and stated that it was informal and was a regular occurrence in his experience. It was an effective way of judging Council's appetite for an application and there was no formal agreement made at that time to vest land to Council. He continued that Council did not like to pay for esplanade reserves and that was why it had been offered by the applicant. The total amount of land vested was 0.88 hectares which did not include the esplanade strip. Mr Cotton stated that had it not been volunteered and Council had requested it, then compensation would have been paid to the applicant.

Mr Cotton argued that the application was a boundary adjustment and not a subdivision and that the District Plan did not provide a definition of a boundary adjustment. He stated that Section 16.5.2.3 of the TRMP was crucial to this application because the proposal would not have any adverse impact on the environment. Mr Cotton was concerned that Council staff had encouraged boundary adjustments historically and had not imposed the reserves financial contribution in this way.

5. PRINCIPAL ISSUES AND FINDINGS

We consider that the principal issues in contention are:

- a) Whether consideration should be given to the fact that there are two existing titles in determining whether reserve and community services financial contribution should be payable?**

The applicant argues that the proposal is simply a boundary adjustment, and there is no reason to impose a financial contribution on subdivision because the number of titles will remain the same. The Objection implies hardship on the applicants, however the encroachment of the existing house across the boundary could be simply resolved by amalgamating the two titles, hence it is evident to us that the Lanes took on the risk (including the costs) of purchasing the combined titles for redevelopment as two separate properties.

We accept Mr Horner's interpretation of the financial contribution provisions in the TRMP with regard to how they apply to the subdivision proposal. Although Mr Cotton suggested that other options could be used to overcome the encroachment problem, it is clear to us that the subdivision proposal will enable a rural-residential development opportunity which is currently not practicable with the two titles as they exist now.

Our finding is that the reserves and community services financial contribution rules are applicable to this proposal.

b) Whether consideration should be given to the proposed vesting of esplanade reserve and riverbed in determining what amount of financial contribution should be payable?

We heard that the vesting of proposed Lots 3, 4 and 5 had been volunteered by the applicant, and because of that no consideration had been given to whether some level of "credit" could offset the reserves and community services financial contribution.

Having considered the various factors presented to us we find that a reduction in the contribution should be made in recognition that some community benefit will be gained from the vesting. Further, taking account of the probable land values as mentioned in the Objection, as well as the future land maintenance costs that will fall to Council, we find that a reduction of fifty percent would be fair and reasonable.

6. RELEVANT STATUTORY PROVISIONS

6.1 Plan Provisions

In considering this objection, we have had regard to Section 108 of the Act and the relevant provisions of the Tasman Resource Management Plan (TRMP).

6.2 Part II Matters

In considering this objection, we have 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.

7. DECISION

Pursuant to Section 357D(1) of the Act, we hereby:

UPHOLD the objection to Condition 11 on Consent RM100394 **IN PART**; and

UPHOLD the objection to Condition 6 on Consent RM100395 and Condition 8(b) on Consent RM100394.

Condition 11 on Consent RM100394 is hereby amended to read as follows:

"11 The Consent Holder shall pay a financial contribution for reserves and community services in accordance with [the] following:

(a) The amount of the contribution shall be fifty percent (50%) of 5.62 per cent of the total market value... of a notional 2500 square metre building site within the Proposed Building Site on Lot 2;..."

Condition 8(b) on Consent RM100394 is hereby amended as shown on the attached copy of the consent document.

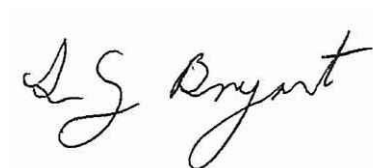
Condition 6 on Consent RM100395 is hereby deleted.

Advice Note 5 on Consent RM100395 is hereby amended as shown on the attached copy of the consent document.

8. REASONS FOR THE DECISION

- a) A financial contribution condition has been lawfully imposed on the proposed Lot 2.
- b) Reducing the maximum reserves and community services financial contribution by fifty percent is considered to be fair and reasonable having regard to the volunteered vesting of proposed Lot 3 as esplanade reserve and proposed Lots 4 and 5 as riverbed.
- c) Although the intent of the conditions relating to exterior colours of the proposed dwelling is acknowledged, we accept the applicant's view that imposing restrictions and the requirement for Council approval is not necessary for the landscape setting of the proposed building site on proposed Lot 2. Therefore Condition 6 on Consent RM100395 has been deleted, but the advice note has been amended to encourage use of colour finishes on the exterior of the dwelling that are recessive and blend in with the immediate environment.

Issued this 20th day of December 2010



Cr S Bryant
Hearings Commissioner (Chairperson)



RESOURCE CONSENT DECISION

Resource Consent Number: RM100394

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

Andrew Howard Lane and Wendy Lane

(hereinafter referred to as “the Consent Holder”)

Activity authorised by this consent: To subdivide the land described as Part Section 5 of 143 Waimea South District and Lot 3 DP 13301 (CFR NL8B/183) and Lot 1 DP 420037 (CFR 483980) into five lots with:

- (a) Lot 1 containing an area of 0.75 hectares including the existing dwelling and garage;
- (b) Lot 2 containing an area of approximately 4.1 hectares;
- (c) Lot 3 containing 0.3 hectares to vest in Council as Esplanade Reserve;
- (d) Lot 4 containing an area of 0.08 hectares of riverbed to vest in Council;
- (e) Lot 5 containing an area of 0.5 hectares of riverbed to vest in Council.

Location Details:

Address of properties: 57 Baigent Valley Road, Wakefield

Legal descriptions: Part Section 5 of 143 Waimea South District and Lot 3 DP 13301 and Lot 1 DP 420037

Computer Freehold Register: NL8B/183 and 483980

Valuation numbers: 1937005800 and 1937005802

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 accordance with the scheme plan prepared by Cotton & Light Limited titled *A H Lane, 57 Baigent Valley Road, Wakefield* and attached to this consent as Plan A. If there is conflict between the information submitted with the consent application and any conditions of this consent, then the conditions of this consent shall prevail.

Easements

2. 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.
3. The survey plan that is submitted for the purposes of Section 223 of the Act shall include reference to easements.

Access Formation

4. New crossings shall be constructed for Lot 1 along the frontage with Baigent Valley Road. This crossing shall be formed with 150 mm of basecourse as shown on the attached Plan B.
5. The entrance gates for Lots 1 and 2 shall be set back 6.0 metres into the lots with the gates opening into the lots.
6. A Crossing Permit application is required to be made prior to the construction of the new crossing for Lot 1. Please contact Council's Engineering Department to submit this application.

Shed Removal

7. The existing shed on the front Lot 1 shall be removed and new internal access formed to the dwelling on Lot 1.

Consent Notice

8. The following consent notices shall be registered on the certificates of title for Lot 2 pursuant to Section 221 of the Resource Management Act. The consent notices shall be prepared by the Consent Holder's solicitor and submitted to the Council for approval and signing. All costs associated with approval and registration of the consent notices shall be paid by the Consent Holder.
 - (a) The construction of all dwellings on Lot 2 shall be restricted to the Proposed Building Site shown on the plan prepared by Cotton & Light Limited titled *A H Lane, 57 Baigent Valley Road, Wakefield* and attached RM100394 as Plan A.
 - (b) The owner shall comply with all conditions of land use consent RM100395, which authorises the construction of a dwelling on Lot 2 created by

subdivision consent RM100394. Land use consent RM100395 includes restrictions in respect of minimum ground and floor levels and building colours.

- (c) A tank containing not less than 23 000 litres and fitted with an accessible 100 millimetre female camlock coupling to enable connection with firefighting equipment shall be provided on Lot 2.

Esplanade Strips

9. The banks of the Wai-iti River within Lots 2 - 5 shall be shown on the Scheme Plan submitted for Section 223 approval.
10. An instrument shall be registered on the new titles containing Lot 1 and Lot 2 that allows the creation of esplanade strips in favour of Tasman District Council in accordance with the following:

An esplanade strip 5.0 metres wide shall be created over the land contained in Lot 2 adjoining the bank of the Wai-iti River if the area of Lot 2 is more than 4.0 hectares OR an esplanade strip 20.0 metres wide shall be created over the land contained in Lot 2 adjoining the bank of the Wai-iti River if the area of Lot 2 is less than 4.0 hectares. The purpose of this strip is to enable public access to or along the Wai-iti River and to enable public recreational use of the strip and the Wai-iti River. All the prohibitions of Clause 2 of the Tenth Schedule apply to the strip, with the exception of subsection (e); Clause 3 shall apply to allow the esplanade strip to be fenced with any existing fencing relocated or removed; Clauses 4 and 7 shall not apply, however Clauses 5 and 6 shall apply.

Financial Contributions

11. 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 fifty percent (50%) of 5.62 percent of the total market value (at the time subdivision consent is granted) of a notional 2500 square metre building site within the Proposed Building Site on Lot 2;
 - (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 5.62 per cent contribution shall be recalculated on the current market valuation. Payment shall be made within two years of any new valuation.

Advice Notes:

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

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 the 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 one lot in respect of roading.

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 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 Tasman Resource Management Plan; or 2) the conditions of separate resource consent for such an activity.

Resource Management Act 1991

3. Access by the Council's officers or its agents to the property is reserved pursuant to Section 332 of the Resource Management Act 1991.
4. Monitoring of this resource consent will be undertaken by the Council, as provided for by Section 35 of the Act and a one-off fee has already been charged for this monitoring. Should monitoring costs exceed the initial fee, Council reserves the right to recover these additional costs from the Consent Holder. Costs can be minimised by consistently complying with conditions, thereby reducing the necessity and/or frequency of Council staff visits.
5. 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.

REASONS FOR THE DECISION**Background to Proposed Activities**

This site contains two existing titles, which contain 4232 square metres (CFR 483980) and 5.3593 hectares (NL8B/183) respectively. CFR 483980 has been recently issued by LINZ to the owners of NL8B/183 as it was an unmatched parcel with no legal ownership. It was shown on NL8B/183 as a section of old riverbed and the dwelling and

shed on NL8B/183 have been confirmed by survey as being constructed over the boundary of these two titles.

The application as presented did not include a detailed assessment of the effects on the land productivity that would result from this proposal. Council's Resource Scientist (Land) has subsequently carried out a detail assessment of the land productivity effects of this proposal. Council's Resource Scientist, Rivers & Coast (Mr Eric Verstappen) has also visited this site to consider effects from flooding on the proposed building location. Minimum ground and floor levels have been set by conditions of this consent.

It is proposed to construct a new access to the existing dwelling on Lot 1 and remove the old shed.

A 5.0 metre wide Esplanade Strip along the bank of the Wai-iti River has been volunteered as part of this application.

Tasman Resource Management Plan ("TRMP") Zoning, Area, and Rules Affected

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

Zoning: Rural 1 Zone
Area(s): Surface Water Protection Area
Land Disturbance Area 1
Flood Hazard Area

No person may subdivide land within Tasman District as a permitted activity according to the TRMP. The subdivision authorised by this resource consent is deemed to be a restricted discretionary activity under Rule 16.4.2.2 and a discretionary activity under Rule 16.3.5.2 of the TRMP. It has been assessed as a discretionary activity overall.

Principal Issues (Actual and Potential Effects on the Environment)

The principal issue(s) associated with the proposed activities involve the actual and potential effects on the environment. For this application these include:

Rural Land Fragmentation Patterns

This site is within the Rural 1 Zone and contains Class B Soils and Class F Soils. A minimum lot size of 12.0 hectares is required to meet the Controlled Activity criteria for subdivision within this zone.

Council's Resource Scientist, Land (Mr Andrew Burton) has identified four soil types on this site with the majority of the site containing Class B soils. There is an area of Class F soils on the northern part of the site and a number of mature totara trees within the southern part of the title that limit the areas of highly productive soils. Mr Burton considered that this site has some existing limitations for productive use. There are productive areas of up to 1.0 hectare in size within this existing site that do have productive potential and this would be compromised with this subdivision.

The proposed building site is on the edge of the Class B/Class F soils.

Access

A new crossing is required to be formed for Lot 1 and Lot 2 will use the existing access crossing. The gates are required to be set back and open internally.

Public Access

An esplanade strip with a width of 5.0 metres has been volunteered along the bank of the Wai-iti River for public access and recreational use of the river.

While the riverbank has not yet been defined, it may be that Lot 2 will be less than 4.0 hectares in area following the identification of the Wai-iti River bank, in which case a 20.0 metre wide esplanade strip will be required in accordance with the requirements of the Tasman Resource Management Plan.

Flooding

The proposed new building location is close to an area that is known to have flooded in the past and is within a flood hazard area. Council's Resource Scientist, Rivers & Coast (Mr Eric Verstappen) has advised that the land within proposed building location would need to be raised for the construction of a new dwelling with a concrete floor or a minimum floor level set for a piled foundation building to ensure floodwater would not enter the building during a heavy rain event.

The Council considers that the adverse effects of the activity on the environment will be no more than minor for the following reasons:

- (a) while there would be some loss of productive potential resulting from this proposal, this is not considered to be significant in this case due to the mix of soil classes and the existing small areas of productive soils. The proposed building site is close to the Class B/F land class boundary;
- (b) while there will be an additional dwelling site created as a result of this proposal, it is set back from Baigent Valley Road and not readily visible from other dwellings beyond this site;
- (c) there will be no increase in the number of titles as a result of this proposal and to that extent there will be no additional land fragmentation within the Rural 1 Zone;
- (d) the proposed building site may be covered by floodwaters during a heavy rain event. However, the minimum floor levels and ground levels required will minimise the risk of water entering the buildings.

Servicing

Electricity and telephone services are reticulated within this area and can likely be provided to the new lot. Stormwater from the new lot will need to be discharged in accordance with the permitted activity status of Rule 36.4.2. On-site wastewater servicing is also possible due to the size of the new lot.

Development Contributions and Reserve Fund Contribution

At present there are two titles within this proposed subdivision with CFR 483980 containing 4232 square metres, which follows the course of the old Wai-iti River bed. The existing dwelling has been constructed over the boundary of the two existing titles. Within Council's Development Contributions Policy it states that "Council will require development contributions at resource consent stage or at the service connection stage where additional units of demand are created and development contributions for those additional units of demand may not otherwise be covered".

When looking at the creation of CFR 483980 it can be seen that:

- CFR 483980 was issued by the Registrar General of Land on 16 February 2010 following a claim by the previous owner for this part of the old Wai-iti River bed;
- Council was involved in the creation of CFR 483980 and it would not have been approved under the TRMP due to its small size and irregular shape. Its width varies between 8 metres to approximately 20 metres;
- the shed and the existing dwelling have been constructed across the boundary of both titles. Therefore, these titles are effectively amalgamated as it is very unlikely that they could be sold independently as any new owner inherits ownership of any buildings or structures on their title;
- this proposal will create additional residential demand above the existing situation;
- no contributions have been paid on CFR 483980.

Therefore, when taking all of the above into account it is considered appropriate to require Development Contributions and a Reserve Fund Contribution in this case for the creation of Lot 2.

Relevant Statutory Provisions

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

- (a) the Tasman Regional Policy Statement (TRPS);
- (b) the Tasman Resource Management Plan (TRMP).

Most of the objectives and policies contained within the TRPS are mirrored in the TRMP. The activity is considered to be consistent with the relevant objectives and policies contained in Chapters 5 and 7 of the TRMP.

Part II Matters

The Council has taken into account the relevant principles outlined in Sections 6, 7 and 8 of the Act and it is considered that granting this resource consent achieves the purpose of the Act as presented in Section 5.

Notification and Affected Parties

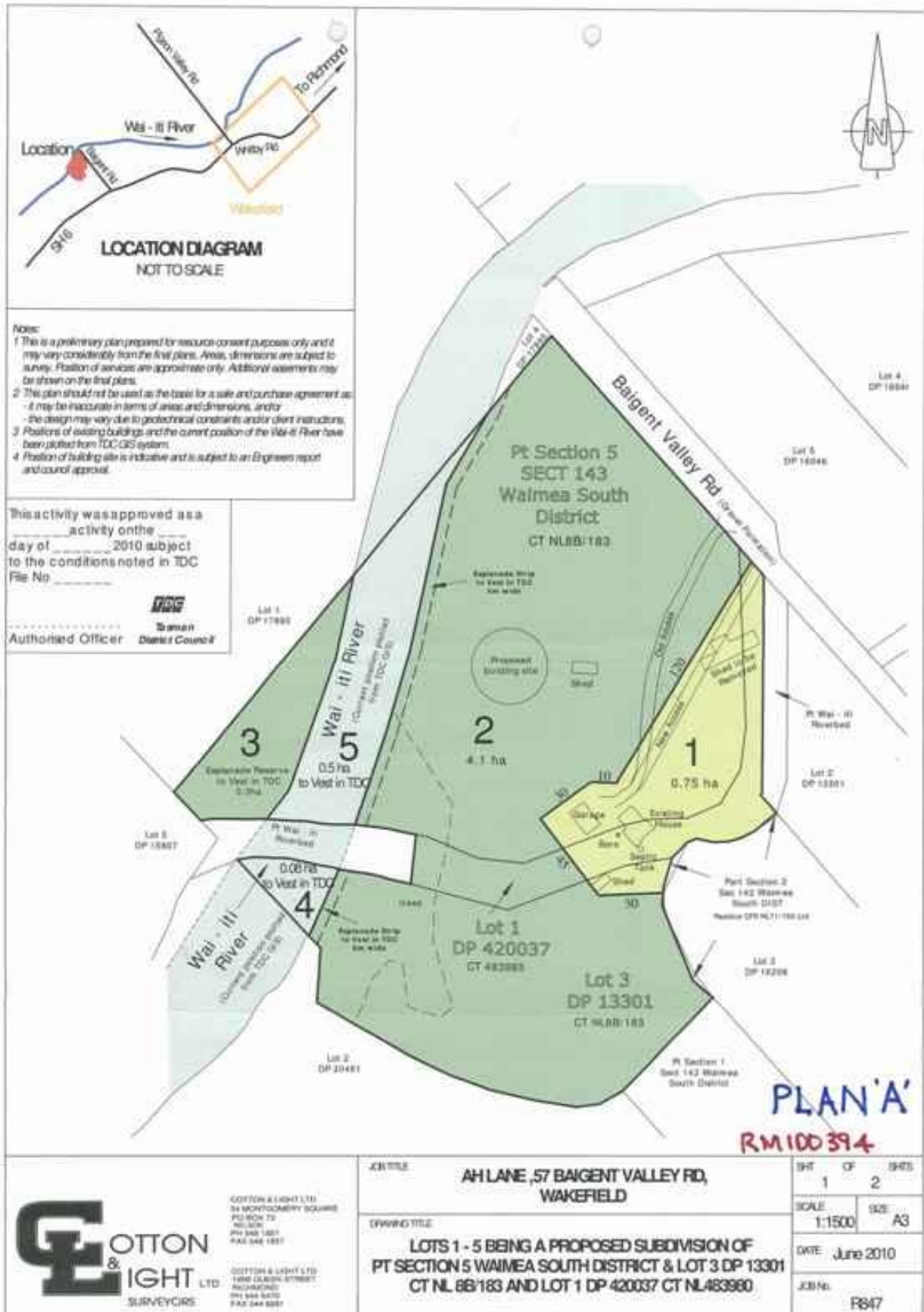
The adverse environmental effects of the activity are considered to be no more than minor. The Council's Resource Consents Manager has, under the authority delegated to him, decided that the provisions of Section 95 of the Act have been met and therefore the application has been processed without notification.

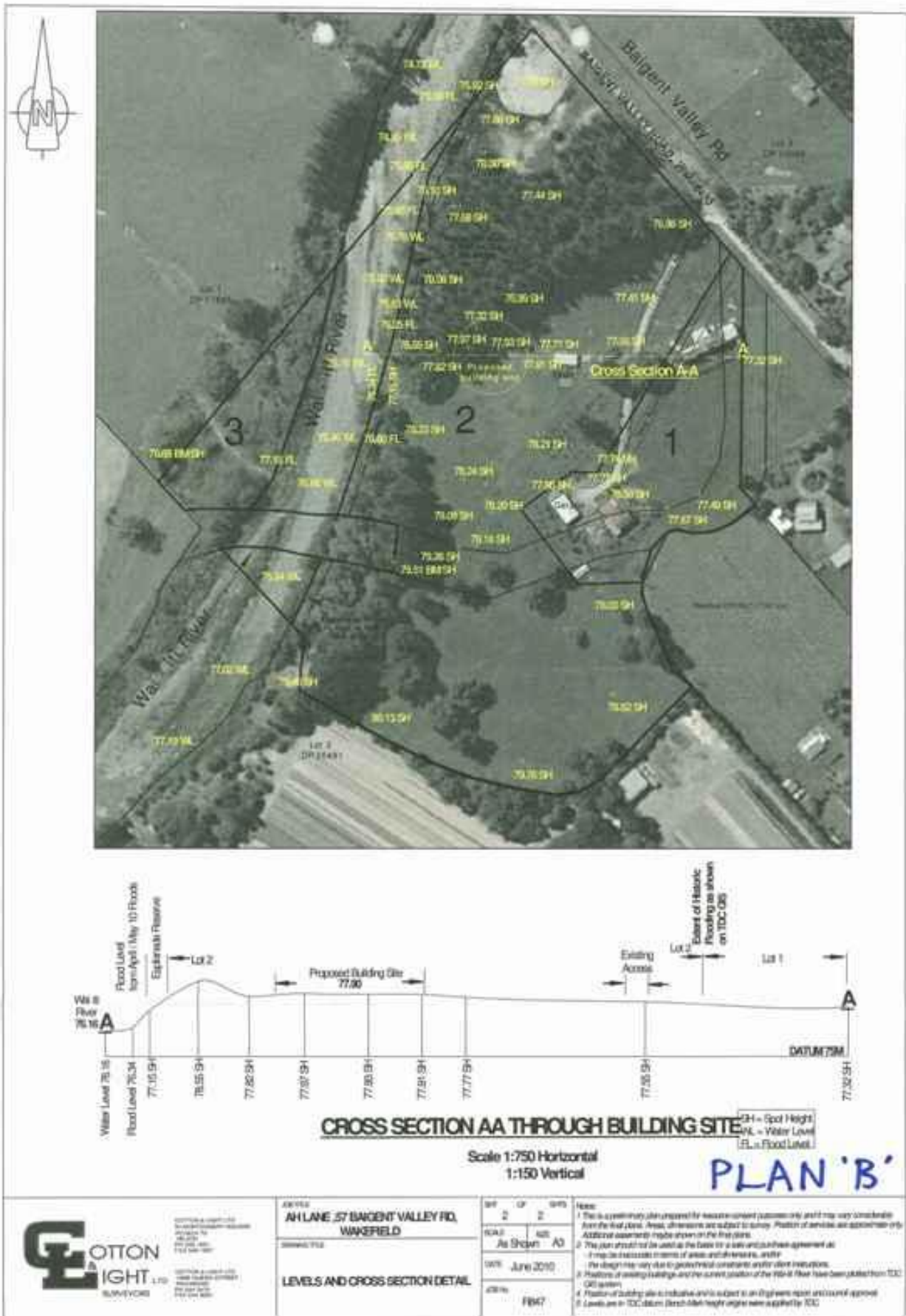
This consent is granted on 12 October 2010 under delegated authority from the Tasman District Council by:

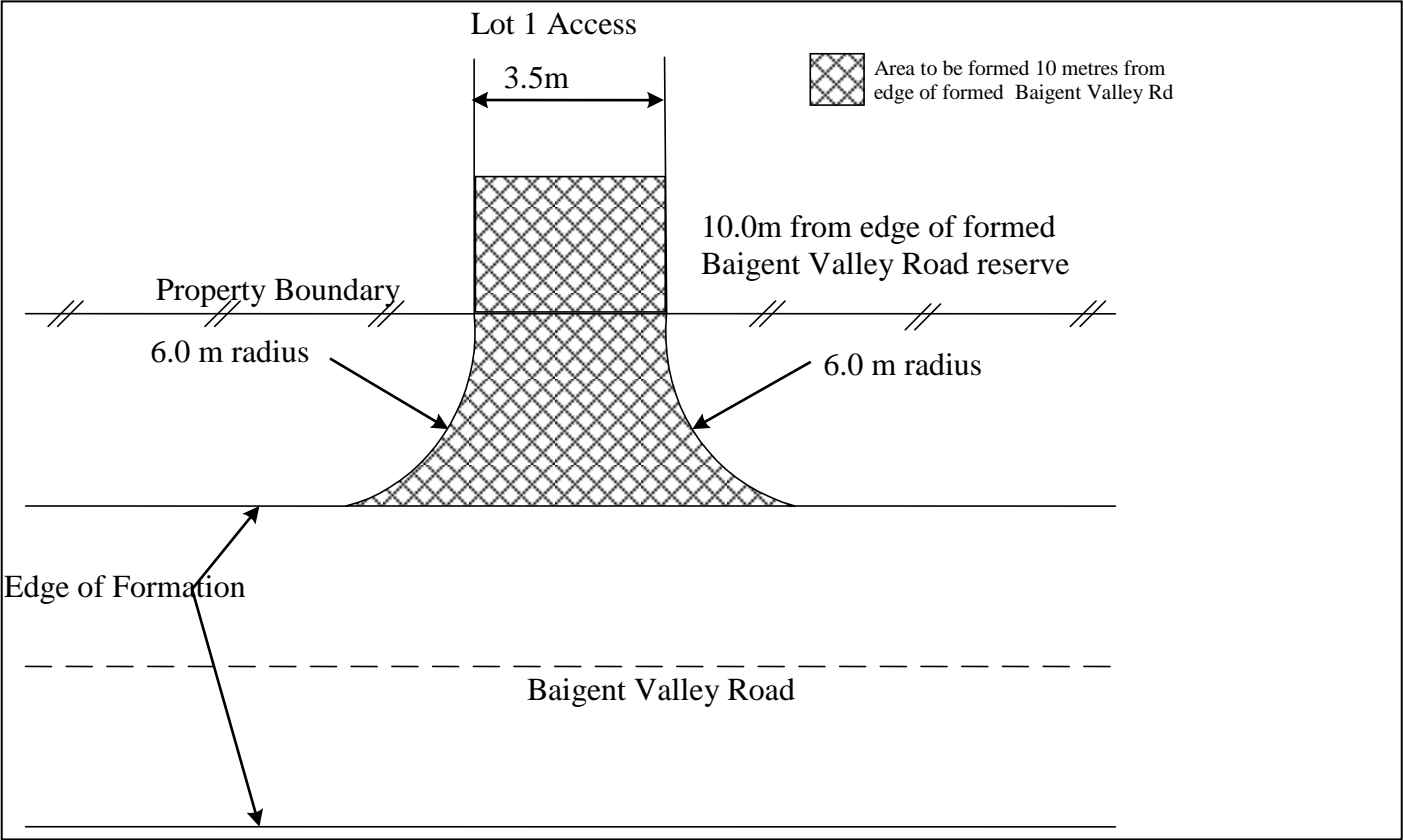


Wayne Horner

Consent Planner, Subdivision









RESOURCE CONSENT DECISION

Resource Consent Number: RM100395

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

Andrew Howard Lane and Wendy Lane

(hereinafter referred to as “the Consent Holder”)

Activity authorised by this consent: To construct a dwelling in the Rural 1 Zone within a Flood Hazard Area.

Location details:

Address of properties: 57 Baigent Valley Road, Wakefield

Legal descriptions: Part Section 5 of 143 Waimea South District and Lot 3 DP 13301 and Lot 1 DP 420037

Computer Freehold Register: NL8B/183 and 483980

Valuation numbers: 1937005800 and 1937005802

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

CONDITIONS

Commencement Date and Lapsing of Consent

1. The commencement date for the land use consent shall be the issue date of the certificate of title for the respective allotments. Lapsing of the consent, subject to Section 125 of the Act, will apply 5 years after that date.

Building Location Restrictions

2. The construction of a dwelling on Lot 2 shall be restricted to the Proposed Building Site as shown on Plan A attached to this consent, and the dwelling shall be fully contained within the Proposed Building Site.

Building Heights

3. All buildings on Lot 2 shall have a maximum height restriction of 7.5 metres above ground level.

Ground Levels and Floor Levels

4. For a dwelling having a concrete slab-on-ground design within the Proposed Building Site identified on Plan A, the minimum FGL is 78.70 metres and FFL 78.925 metres above mean sea level as identified on Plan B.
5. For a dwelling on timber pile foundations within the Proposed Building Site identified on Plan A, the minimum FGL is 78.2 metres and minimum FFL 78.9 metres above mean sea level as identified on attached Plan B.

Advice Note:

Council may issue the building consent subject to Section 72 of the Building Act 2004 if the ground levels are not raised in accordance with Condition 4.

Colour

6. *[deleted - refer Advice Note 5]*

Provision of Water Storage

7. The dwelling shall be provided with on-site water storage of not less than 23 000 litres. The tank is to be fitted with an accessible 100 millimetre female camlock coupling to enable connection with firefighting equipment.

ADVICE NOTES

Council Regulations

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.

Other Tasman Resource Management Plan Provisions

2. This resource consent only authorises the activity described above. Any matters or activities not referred to in this consent or covered by the conditions must either: 1) comply with all the criteria of a relevant permitted activity rule in the Tasman Resource Management Plan (TRMP); 2) be allowed by the Resource Management Act; or 3) be authorised by a separate resource consent.

Consent Holder

3. This consent is granted to the abovementioned Consent Holder but Section 134 of the Act states that such land use consents “attach to the land” and accordingly may be enjoyed by any subsequent owners and occupiers of the land. Therefore, any reference to “Consent Holder” in the conditions shall mean the current owners and occupiers of the subject land. Any new owners or occupiers should therefore familiarise themselves with the conditions of this consent as there may be conditions that are required to be complied with on an ongoing basis.

Development Contributions

- The Consent Holder is liable to pay a development contribution in accordance with the Development Contributions Policy found in the Long Term Council Community Plan (LTCCP). The amount to be paid will be in accordance with the requirements that are current at the time the relevant development contribution is paid.

Council will not issue a Code Compliance Certificate until all development contributions have been paid in accordance with Council's Development Contributions Policy under the Local Government Act 2002.

Colour

- The Consent Holders are encouraged to finish the exterior of the dwelling in materials and colours that are recessive and blend in with the immediate environment. The following colour group information is provided as a guide:

Colour Group*	Walls	Roofs
Group A	A05 to A14 and reflectance value $\leq 50\%$	A09 to A14 and reflectance value $\leq 25\%$
Group B	B19 to B29 and reflectance value $\leq 50\%$	B23 to B29 and reflectance value $\leq 25\%$
Group C	C35 to C40, reflectance value $\leq 50\%$, and hue range 06-16	C39 to C40, reflectance value $\leq 25\%$, and hue range 06-16
Group D	D43 to D45, reflectance value $\leq 50\%$, and hue range 06-12.	Excluded
Group E	Excluded	Excluded
Finish	Matt or Low-gloss	Matt or Low-gloss

- * Based on BS5252:1976 (British Standard Framework for Colour Co-ordination for Building Purposes). Where a BS5252 descriptor code is not available, the Council will compare the sample colour chip provided with known BS5252 colours to assess appropriateness.

REASONS FOR THE DECISION

Background to Proposed Activity

The application is to construct a dwelling on a site in the Rural 1 Zone that is within a Flood Hazard Area.

Tasman Resource Management Plan ("TRMP") Zoning, Area, and Rules Affected

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

Zoning: Rural 1 Zone
Areas: Land Disturbance Area 1
Surface Water Protection Area
Flood Hazard Area

The activity authorised by this resource consent does not comply with Permitted Activity Rule 17.5.3.1(c) (dwelling in Rural 1 Zone) of the TRMP and is deemed to be a restricted discretionary activity in accordance with Rule 17.5.3.3 of the TRMP.

Principal Issues (Actual and Potential Effects on the Environment)

The principal issues associated with the proposed activity involve the actual and potential effects on the environment. For this application these were:

- (a) the potential availability of productive land;
- (b) amenities and rural character;
- (c) cross-boundary effects;
- (d) water supply;
- (e) wastewater treatment and disposal;
- (f) traffic effects;
- (g) natural hazards;

The Council considers that the adverse effects of the activity on the environment will be no more than minor for the following reasons:

- (a) the effect on the potential availability of productive land will be no more than minor. The dwelling is to be located close to the Land Class B/F boundary and will leave the remainder of the property for potentially productive land-based use;
- (b) while there will be an additional dwelling site created as a result of this proposal, it is set back from Baigent Valley Road and not readily visible from other dwellings beyond this site;
- (c) as the building exceeds all applicable setbacks by a large quantum, there is little possibility of cross-boundary effects arising. There are no horticultural plantings near to the proposed building site;
- (d) a potable and reliable water supply will need to be provided. A water tank with a camlock coupling to meet the 23 000 litre water storage permitted activity criteria is required;
- (e) the traffic movements generated by the presence of a single dwelling on the site can be accommodated by the nearby roading network. Ample parking is available on the site;
- (f) Council's Resource Scientist has considered the risk of floodwaters entering the future building on Lot 2 and has recommended raising the ground levels by approximately 1.0 metre for a concrete floor building and has also recommended raised floor levels to minimise the risk of water entering the building. The minimum finished floor levels and finished ground levels are required by conditions of this consent and also by consent notice on the title allowed by the subdivision consent RM100394.

Relevant Statutory Provisions

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

- (a) the Tasman Regional Policy Statement (TRPS);
- (b) the Tasman Resource Management Plan (TRMP).

Most of the objectives and policies contained within the TRPS are mirrored in the TRMP. The activity is considered to be consistent with the relevant objectives and policies contained in Chapters 5 (site amenity), 7 (rural effects), and 11 (transport) of the TRMP.

Part II Matters

The Council has taken into account the relevant principles outlined in Sections 6, 7 and 8 of the Act and it is considered that granting this resource consent achieves the purpose of the Act as presented in Section 5.

Notification and Affected Parties

The adverse environmental effects of the activity are considered to be no more than minor. The Council's Resource Consents Manager has, under the authority delegated to him, decided that the provisions of Section 95 of the Act have been met and therefore the application has been processed without notification.

This consent is granted on 12 October 2010 under delegated authority from the Tasman District Council by:



Wayne Horner
Consent Planner, Subdivision

Date Confirmed:

Chair: