



## STAFF REPORT

**TO:** Environment and Planning Committee

**FROM:** Mark Morris, Senior Consent Planner, Subdivision

**REFERENCE:** RM040464

**SUBJECT:** **G THOMSON – REPORT EP05/09/23** – Report prepared for 19 September Hearing

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### 1. INTRODUCTION

#### The Proposal

The proposal is to subdivide two existing titles (CTs NL 69/299 Ltd & CT NL 175/43) as boundary adjustment with the resulting allotments being Lot 1 of 2.4118 hectares and Lot 2 of 3.8349 hectares.

The existing CT NL 69/299 Ltd currently has two existing dwellings, while the CT 175/43 has no buildings. The proposal is to rearrange the title boundaries so that each allotment will have an existing dwelling and CT 175/43 will get incorporated into Lot 2

According to the application, the two current two titles each have a licensed crossing place. It is proposed to close the crossing place (38) for CT NL 175/43 and that this title will get incorporated into the proposed Lot 2.

The two lots will have a shared crossing place, but the applicant has also sought to have a separate new crossing place for Lot 1 that could be formed at a future date.

It was considered by Council staff that the adverse effects of the proposal subdivision were no more than minor, but Transit New Zealand's written consent was required, as new crossing place on to the State Highway was being sought.

This was not able to be obtained, and so Transit New Zealand was served notice under Limited Notification.

Transit New Zealand did put in a submission, requiring a joint crossing for both lots, but not allowing an additional crossing for Lot 1 as requested by the applicant.

The applicant has not agreed to this condition, hence the need for a hearing.

The main area of dispute appears to be the additional separate crossing place for Lot 1.

## **2. STATUS UNDER TRANSITIONAL AND PROPOSED PLANS**

### **2.1 Transitional District Plan**

The site is zoned Rural A in the Transitional District Plan (Waimea) and the activity is a non-complying activity in that both of the allotments are less than 8.5 hectares.

### **2.2 Proposed Tasman Resource Management Plan**

The site is zoned Rural 1 under the Proposed Tasman Resource Management Plan. Under Section 16.3.7 the minimum area for a controlled activity subdivision is 12 hectares. Because both of the allotments do not meet this standard it is considered to be a discretionary activity.

## **3. STATUTORY CONSIDERATIONS**

The operative plan is the Waimea Section of the Transitional District Plan. However, the Proposed Tasman Resource Management Plan was publicly notified on 25 May 1996. Under Section 104(d) of the Resource Management Act 1991 Council is required to have regard to any relevant objectives, policies, rules or other provisions of an operative plan or a proposed plan.

The proposed subdivision requires consent for a non-complying activity. As such the Council, subject to Part II of the Act, shall have regard to the matters set out in Section 104 being:

- (i) Any actual or potential effects on the environment of allowing the activity;*
- (ii) Proposed Regional Policy Statement;*
- (iii) Relevant objectives, policies, rules or other provisions of a plan or proposed plan;*
- (iv) Any other matters Council consider relevant and reasonably necessary to determine the application.*

Under Section 104B Council has the discretion to either grant or refuse the consent, and if granted may impose conditions pursuant to Section 108 to avoid, remedy or mitigate likely adverse effects.

## **4. SUBMISSIONS**

The application was notified under Limited Notification on 21 June 2005.

Transit New Zealand was the only party served notice.

## **Summary of Submissions**

### **Transit New Zealand**

Opposes the application. For the following reasons:

- This portion of State Highway has an unacceptable number of crossing places within close proximity.
- Transit are not willing to support the creation of an additional crossing place for Lot 1, instead its sole access should be the shared access for Lots 1 & 2 with the right-of-way easement to gain access to the crossing.

## **5. ASSESSMENT**

### **5.1 Part II, Resource Management Act**

Part II of the Resource Management Act states several matters to which regard must be had, or which must be recognised and provided for in order to achieve sustainable management of natural and physical resources.

**Section 5 - Sustainable Management** - means managing the use, development and protection of natural and physical resources in a way, or at a rate, which enables communities to provide for their social, economic, and cultural well-being and for their health and safety.

**Section 6 - Matters of National Importance** – This Section sets out the matters that Council shall recognise and provide as matters of national importance.

None are considered to be particularly relevant in this case.

**Section 7 - Other Matters** - In this instance the Council is required to have particular regard to:

- (b) The efficient use and development of natural and physical resources;
- (c) The maintenance and enhancement of amenity values;
- (f) The maintenance and enhancement of the quality of the environment, and;
- (g) Any finite characteristics of natural and physical resources.

### **Section 8 - Treaty of Waitangi**

Although the Resource Management Act is generally enabling, and recognises that the needs of people and communities should be met with respect to their social, economic and cultural well-being, this should not be achieved at the expense of other matters set out in Section 5, which are the environmental parameters which must be observed. In particular the ability of natural and physical resources to meet the needs of future generations must be sustained, and the adverse effects must be avoided, remedied and mitigated.

With respect to the matters of national importance in section and Treaty of Waitangi principles in section 8 and any other matters in Part II of the Act, none are considered to be particularly relevant to this application. However, Section 7 (b) is of relevance.

The State Highway network is considered to be an important physical resource and it is important that subdivisions that adjoin the network do not compromise the efficient functioning of the road network.

## **Part II – Matters**

The proposed subdivision is considered to be consistent with the purpose and principles of Part II of the RMA. The proposal for a boundary adjustment between two existing rural lots and subject to the recommended conditions, is not considered to compromise the efficient use and development of natural and physical resources.

The other major issue with a subdivision of this nature is the need under Section 7(c) to have particular regard to the “maintenance and enhancement of amenity values”. Under Section 2, amenity values means:

*“those natural and physical qualities and characteristics of an area that contribute to peoples’ appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes.”*

In the context of the fact that the subdivision will not result in any additional dwellings or titles, the proposed subdivision should not have an adverse effect on amenity values.

In conclusion it considered that the proposed subdivision is not contrary to Part II of the Resource Management Act.

## **5.2 Actual or Potential Effects on the Environment**

### **5.2.1 Loss of Productive Land**

One of the concerns of Council with rural subdivision is the danger of the loss of productive land for non-productive purposes. This particular site has a classification of Class B under the Agriculture New Zealand Land Capability classification system.

While the site is an area of high productive value, it is unlikely to have any significant effect on productive values, in that it involves no additional dwellings or titles and the existing property is relatively small.

### **5.2.2 Effects on Amenity Values**

As discussed above under Part II matters, small lot subdivisions in rural areas have the potential to adversely affect amenity values.

However, as I have stated earlier, the subdivision does not involve any additional dwellings. It is considered that it will have little or no effect on amenity values.

### **5.2.3 Cross-boundary Effects**

It is considered that proposed subdivision will not create significant cross boundary effects. Each of the dwellings is at least 75 metres from adjoining Rural 1 land.

### **5.2.4 Traffic Effects**

The proposed subdivision will not result in any additional traffic movements as it involves existing dwellings. The property currently has two licensed crossing places, one of which is unused. The applicant is proposing a joint crossing place for both lots, which essentially is the current access arrangement. However the applicant is also wanting the separate access crossing for Lot 1 so that if the title is sold to someone outside the family, the new owner can have their own separate access crossing.

Transit New Zealand, which controls access on to and off the State Highway is seeking a single shared access for both lots, as they consider that there are already too many access crossings on to the State Highway in this immediate area.

### **5.2.5 Archaeological sites**

According to Council's records there are no known archaeological sites on this property or the immediate area.

### **5.2.6 Servicing**

There are no servicing issues with this subdivision as it involves two existing dwellings and additional dwellings are proposed.

### **5.2.8 Natural Hazards**

According to Council's records, there are no known natural hazard issues on this property.

## **5.3 Proposed Regional Policy Statement**

Relevant policies and objectives are:

#### ***Objective 6.1***

*Avoidance of the loss of the potential for land of productive value to meet the needs of future generations, particularly land with high productive values.*

#### ***Objective 6.3***

*Avoidance, remedying, or mitigation of adverse cross-boundary effects of rural land uses on adjacent activities.*

#### ***Policy 6.1***

*Council will protect the inherent productive values of land from effects of activities which threaten those values, having particular regard to:*

- (i) *the effects of land fragmentation on productive values; and*
- (ii) *the protection of land with high inherent productive values; and*
- (iii) *the protection of significant natural or heritage values; and*
- (iv) *the availability of water to support productive values.*

**Policy 6.2**

*The Council will ensure that subdivision and uses of land in the rural areas of the District avoid, remedy or mitigate adverse effects on:*

- (i) *the productive qualities of land; and*
- (ii) *provision of services, including roading, access, water availability, waste treatment or disposal; and*
- (iii) *amenity, natural and heritage values of sites, places or areas including landscape features such as karst terrain; and*
- (iv) *bulk mineral values of areas; and*
- (v) *socioeconomic viability of adjacent areas;*

*and that are not unnecessarily exposed to adverse effects from:*

- (a) *adjacent land uses across property boundaries; and*
- (b) *natural hazards.”*

**5.4 Transitional District Plan (Waimea Section)**

The property is zoned Rural A in Waimea section of the Transitional District Plan. As the Proposed Tasman Resource Management Plan is very close to becoming operative, I consider that very little weight have been given to the Transitional Plan. Because of this, I will have included an assessment of the Objectives and policies of the Transitional District Plan.

**5.5 Proposed Tasman Resource Management Plan**

The area of land which is the subject of this application is zoned Rural 1 in the Proposed Tasman Resource Management Plan. Relevant issues, objectives and policies are as follows:

**“Objective 5.1.0**

*Avoidance, remedying or mitigation of adverse effects from the use of land on the use and enjoyment of other land and on the qualities of natural and physical resources.*

**Policy 5.1.1**

*To ensure that the adverse effects of subdivision and development on site amenity, natural and built heritage and landscape values, and contamination and natural hazard risks area avoided, remedied or mitigated.*

**Policy 5.1.10**

*To exclude from rural areas, those uses or activities (including rural-residential) which would have adverse effects on rural activities and amenity values where those effects cannot be avoided, remedied or mitigated.*

**Issue 7.1(a)**

*Cumulative adverse effects of the subdivision, development, and non-soil based production uses of rural and on:*

- (i) The availability of land for soil-based production opportunities.*
- (ii) Service provision, site amenity, contamination and natural hazard risk, and on heritage and landscape values.*

**5.1.0 Objective**

*Avoidance, remedying or mitigation of adverse effects from the use of land on the use and enjoyment of other land and on the qualities of natural and physical resources.*

**Policies**

**5.1.1** *To ensure that the adverse effects of subdivision and development on site amenity, natural and built heritage and landscape values and contamination and natural hazard risks are avoided, remedied, or mitigated.*

**5.1.2** *To prevent degradation of the quality of groundwater and surface water from urban development or rural activities.*

**5.1.3** *To limit the intensity of development where sewage reticulation and treatment are not available.*

**Objective 7.1.0**

*Avoidance of the loss of potential for land productive value to meet the needs of future generations, particularly land of high productive value.*

**Objective 7.3.0**

*Avoidance, remedying or mitigation of the adverse effects of a wide range of existing and potential future activities, including effects on rural character and amenity values.*

**Policies**

**7.3.3** *To provide for the maintenance and enhancement of rural character, including such attributes as openness, greenness, productive activity, absence of signs, and separation, style and scale of structures.*

**7.3.5** *To exclude from rural-residential areas, uses or activities which would have adverse effects on rural residential activities, health or amenity values, where those effects cannot be avoided, remedied or mitigated.*

7.3.6 *To ensure that adequate physical or spatial buffers or other techniques are applied when allowing new allotments or building primarily or exclusively for residential purposes in rural areas, so that productive land use opportunities are not compromised.*

7.3.9 *To avoid, remedy or mitigate servicing effects of rural subdivision and development, including road access, water availability and waste water disposal.*

These policies seek that subdivision and associated development, do not adversely affect site amenity, and landscape values.

Chapter 11: Land Transport Effects does have some relevant objectives are policies.

#### 11.1.0 Objective

*A safe and efficient transport system, where any adverse effects of the subdivision, use or development of land on the transport system are avoided, remedied or mitigated.*

The relevant policies are as follows:

11.1.2C *To ensure that all subdivision design, including the position of site boundaries, has the ability to provide each allotment with vehicle access and vehicle crossing site to avoid adverse effects on the safety and efficiency of the road network.*

11.1.3 *To control the design, number, location and use of vehicle accesses to roads; including their proximity to intersections and any need for reversing to or from roads; so that the safety and efficiency of the road network is not adversely affected.*

It is considered that the proposed access condition which requires a joint access for both allotments and the closing of Crossing Place 38, will be in accordance with this objective and policies.

In conclusion, in the context of its two existing titles, and if the recommended conditions are implemented, I consider that the proposed subdivision is not contrary to the policies and objectives of the Regional Policy Statement and Proposed Tasman Resource Management Plan.

## 6. RECOMMENDATION

Having considered the application for subdivision consent, I recommend that Council approves consent pursuant to Section 104 of the Resource Management Act 1991.

## 7. REASONS

The reasons for my recommendation are outlined on the course of this report, but in summary they are:



**7.1** While the lots are smaller than what is allowed for in the Proposed Plan as a controlled activity, the overall effect of the two allotments is no more than in minor, in the context of the two existing titles and the fact that there are no additional dwellings being anticipated.

**7.2** It is considered that the proposed subdivision, if adequate conditions can be imposed on access, is not contrary to the policies and objectives of the Regional Policy Statement and the Proposed Tasman Resource Management Plan. The subdivision will not result in fragmentation of highly productive land and the recommended conditions will ensure that the adverse effects are kept to a minimum.

## **8. CONDITIONS**

If the applicant is of a mind to grant consent, I recommend that the following conditions be imposed.

### **8.1. Access**

- i) Access to the proposed Lots 1 & 2 shall be from the proposed right-of-way easement via the existing Crossing Place 37. The existing formation is accepted.
- ii) Crossing Place 38 shall be physically closed and cancelled. Written confirmation from Transit New Zealand shall be provided confirming that this has been completed.

### **8.2. Easements**

All services (including the rights-of-way) located outside the boundaries of the lots that they serve to be protected by an appropriate easement referenced in Council's Section 223 Recital.

Easements shall be provided for power and telephone servicing to ensure that each allotment can be serviced in the future if power and telephone reticulation becomes available to the site in the future.

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