



## STAFF REPORT

**TO:** Environment & Planning Subcommittee

**FROM:** Mandy Bishop, Consent Planner

**REFERENCE:** RM060717

**SUBJECT:** **D J HORNCastle & M J MEAR – REPORT EP07/02/16** - Report prepared for 26 February 2007 Hearing.

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### Personal Background

I graduated with first class honours from Massey University in 2002 with a Bachelor of Resource and Environmental Planning. I have approximately four years equivalent full time experience in resource consent processing for regional, district and unitary authorities. I am a graduate member of the New Zealand Planning Institute.

### 1. APPLICATION BRIEF

#### 1.1 Proposal

The application is for land use consent to establish and operate a commercial upland game hunting preserve releasing a minimum of 1,000 ringneck pheasants onto the property. The operational times will predominantly be weekends (on-call during the week), from April to August, 9.00 am to 4.00 pm. The maximum hunters on the site at any one time will be eight, plus between two and eight staff. One or two staff will also visit the site at other times for pest control and to fill feeder bins.

#### 1.2 Location and Legal Description

The property is located at Tadmor Valley Road, Tapawera (see Annex 1 and 2 attached).

The legal description of the land is Proposed Lot 1 of subdivision consent RM060638 (granted 6 December 2006) to be amalgamated with the land in CT 137721.

#### 1.3 Zoning and Consent Requirements

The land is zoned Rural 1 and 2 under the Proposed Tasman Resource Management Plan (PTRMP). This zoning is considered to be operative (as there are no outstanding appeals of relevance to this proposal), so no analysis is given of the Transitional Plan provisions. Tadmor Valley Road is a Collector Road in the roading hierarchy of the PTRMP.

The application is considered to be a Discretionary Activity under the relevant rules of the Proposed Tasman Resource Management Plan in that the proposal involves a commercial activity in the Rural 1 and 2 Zones. The Council has not restricted matters over which the Council has reserved its control.

## **2. INTRODUCTION**

### **2.1 The Setting**

The site is to be approximately 102 hectares on the south-eastern side of the Tadmor Valley Road in a predominantly farming and forestry area approximately 5 kilometres south-west from the Tapawera township. There are four smaller holdings containing dwellings ranging in size from 0.4 hectares to 0.65 hectares within 700 metres of the entrance to the subject site and one 1.5 hectare site (see Annexe 2). Tadmor Valley Road is a sealed road that bisects the relatively flat floor of the valley, with steep hillsides rising up on both sides.

## **3. NOTIFICATION AND SUBMISSIONS**

- 3.1** The application was limited notified to 11 parties on 6 November 2006 to the owners of properties within an approximate 500 metre radius from the subject site. Nine of the parties had provided written approvals for the proposal.

Three submissions were received; two opposing, one supporting (and had already provided written approval), with one requesting to be heard.

### **Shayne Nathan**

Mr Nathan opposed the application, stating concerns over the noise of the shotguns and vehicles. He suggested checks were made to see whether the noise emissions are within acceptable limits for the rural area. He did not wish to be heard in support of his submission.

### **G W Scott and Family**

They oppose the application based on concerns of the commercial hunting and its effects on the lifestyle and environment of the area. The Scott family live approximately 1 kilometre from the proposed activities and wish to enjoy listening to birdlife or nothingness in the weekends, not repeated shotgun noise. They wish to be heard in support of their submission.

### **S and D Phillips**

Support the application and understand the grazing use of this land will continue with minor disruption. If nuisance factors exist, they believe them to be very minor and tolerable considering economic and diversification benefits and retaining good neighbour relations. They do not wish to be heard in support of their submission.

## **4. STATUTORY CONSIDERATIONS**

### **4.1 Resource Management Act**

#### **Part II Matters**

In considering an application for resource consent, Council must ensure that if granted, the proposal is consistent with the purpose and principles set out in Part II of the Act.

If consent is granted, the proposed activity must be deemed to represent the sustainable use and development of a physical resource and any adverse effects of the activity on the environment are avoided, remedied or mitigated. The critical issue of this consent is whether the proposal represents sustainable use of the rural zoned land resource, whereby traffic and activity adverse effects are no more than minor.

These principles underpin all relevant Plans and Policy Statements, which provide more specific guidance for assessing this application.

## **Section 104**

Subject to Part II matters, Council is required to have regard to those matters set out in Section 104. Of relevance to the assessment of this application, Council must have regard to:

- any actual and potential effects of allowing the activity to go ahead (Section 104 (1)(a));
- any relevant objectives and policies in the Tasman Regional Policy Statement and the Proposed Tasman Resource Management Plan (Section 104(1)(b));
- any other relevant and reasonably necessary matter(s) to determine the consent (Section (1)(c)).

In respect of Section 104(1)(b), the Proposed Tasman Resource Management Plan is now considered to be the dominant planning document, given its progress through the public submission and decision-making process.

Section 104B sets out the framework for granting or declining consent based on the status of an activity as set out in the relevant Plan.

## **4.2 Tasman Regional Policy Statement**

The Regional Policy Statement seeks to achieve the sustainable management of land and coastal environment resources. Objectives and policies of the Policy Statement clearly articulate the importance of protecting land resources from inappropriate land use and development.

Because the Proposed Tasman Resource Management Plan was developed to be consistent with the Regional Policy Statement, it is considered that an assessment under the Proposed Plan will satisfy an assessment against Policy Statement principles.

## **4.3 Tasman Resource Management Plan**

The most relevant Objectives and Policies are contained in: Chapter 5 “Site Amenity Effects”, Chapter 7 “Rural Environment Effects” and Chapter 11 “Land Transport Effects”. These chapters articulate Council’s key objectives: To ensure land uses do not significantly adversely affect local character, to provide opportunities for a range of activities in rural areas and ensure land uses do not significantly adversely affect the safety and efficiency of the transport system.

The most relevant Rules which follow from these imperatives are contained in Chapters 17.4 “Rural 1 Zone Rules”, 17.5 “Rural 2 Zone Rules” and Chapter 16.2 “Transport (Access, Parking and Traffic)”.

Details of the assessment of the proposed activity in terms of these matters are set out in the chapters following.

## **5. ASSESSMENT**

In accordance with Section 104 of the Resource Management Act, Council must consider the actual and potential effects on the environment of allowing the activity, have regard for any relevant objectives, policies, rules, and consider any other matters relevant and reasonably necessary to determine the application.

### **5.1 Matters of Discretion and Control in the Plan**

The proposal is a discretionary activity where the Council has not restricted matters over which it has reserved its control.

### **5.2 Assessment of Environmental Effects**

Pursuant to Section 104(1)(a) of the Resource Management Act, the following effects assessment has been set out:

#### **Permitted Baseline**

Section 104(2) gives a consent authority the ability to disregard adverse effects on the environment of activities that the Plan permits, if it so wishes. This is the “permitted baseline” and can provide a yardstick for the effects that otherwise might arise.

The Plan does not permit commercial activities except those permitted under Home Occupation activities in the rural zones but it would allow this activity had it been for recreational purposes only, where no profit was gained from the activities. The Plan also restricts noise levels for activities except noise from any intermittent or temporary rural activity. “Rural activity” is not defined in Chapter 2 of the Plan but definitions of “rural character” incorporate a productive element that would infer rural activities are associated with the productive use of the land and not any activity in a rural setting.

Council’s Co-ordinator, Regulatory Services is confident the application will not result in a breach of the rural noise emission rules, particularly in view of the required 10 minute minimum noise measurement period (see David Lewis’ report attached in Annex 3). Chapter 16 details sign, access and parking standards where conditions of consent, if granted, can ensure these standards are met before commercial hunting commences on the property.

## **Rural Character and Amenity Values**

Pheasants are commonly found in the rural area and the hunting of wild animals for recreation, food provision and pest control are common activities. Game preserves by their very nature need to be located in a rural environment and occur elsewhere in New Zealand. Amenity values, as defined in Section 2 of the Resource Management Act 1991, mean:

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

The proposal visually retains the open space and low residential population features appreciated in the rural environment but will increase noise from gunfire and traffic movements associated with the commercial game hunting preserve. While some submitters state their enjoyment of the quietness will be disrupted by the proposal, noise is anticipated in the rural environment from horticulture and agricultural equipment, forest harvesting activities, quarrying, animals, bird scarers and hail cannons. The rural areas are primarily working environments, with peaceful countryside living without an associated productive use of the land perhaps being more suited to rural residential zonings, or an unrealistic ideal.

Existing quiet rural areas can at any time have their peace shattered by permitted rural activities, as demand on land and associated products increases with increasing populations. This proposal is not significantly different in nature and scale than other production-based rural activities and retains many rural features. The effects on some nearby residents may cause a noise nuisance, but overall the proposal is considered to maintain rural character and amenity values and provide a new type of activity for residents and visitors to the area.

## **Transport Effects**

The access to the property is currently an occasional farm access and will require upgrading for the proposed increased usage. Ample parking can be provided on-site to meet the one space per four person standard for the maximum eight hunters and eight staff on the site at any one time. The Tadmor Valley Road has a Collector Road Hierarchy Class capable of up to 500 vehicle movements per day or over 60 household lots.

It is likely hunters and staff will share transport to the site, thereby not increasing the traffic movements in the area by a significant amount. The type of vehicles will also largely be cars or four-wheel drive vehicles that will be less noisy than large logging trucks, for example. The hours of operation also limit traffic noise to daytime and not evening or night-time, when traffic noise can be more noticeable and disruptive.

## Cumulative Effects

As discussed in Transport Effects above, the additional traffic movements associated with this activity over and above that normally associated with existing activities is not considered to be significant and would not result in overall movements being above a threshold beyond which the safety and efficiency of the road and access is compromised. The cumulative effect on amenities and rural character is also considered to be no more than minor, as the hunting activity retains the visual rural character and the additional noise is considered by some to be a nuisance and not at unacceptable levels for the rural area.

## Summary of Effects

The proposal is of a similar nature and scale in terms of noise type and levels that can occur as of right in the rural environment. The proposal can only be located in the rural setting and the subject property is of sufficient size and isolation to not have any cross-boundary effects that are more than minor.

### 5.3 Relevant Plans and Policy Statements.

The land use activity must be deemed to be consistent with relevant objectives and policies pursuant to Section 104(1)(b) of the Act. The most relevant Plan is considered to be the proposed Tasman Resource Management Plan and will be used in this assessment. Because this was developed to be consistent with the Regional Policy Statement, the assessment would also be considered satisfy an assessment under the Policy Statement.

The following summarises the most relevant Plan matters and provides brief assessment commentary:

*Chapter 5 - Site Amenity Effects* Council must ensure that the character and amenity values of the site and surrounding environment are protected, and any actual or potential effects of the proposed activities must be avoided remedied or mitigated, including cross-boundary effects.

*Objectives: 5.1, 5.2* As detailed in the assessment of effects (Chapter 5.1), the existing character and amenity values are maintained for the nature and scale of the proposed activity that would be permitted had no fiscal profit be gained.  
*Policies: 5.1.1, 5.1.4, 5.1.12, 5.2.1 5.2.8 and 5.2.10.*

*Chapter 7 – Rural Environment Effects* Development in rural areas can potentially detract from the environmental quality and rural character and conflict with existing or potential permitted rural activities.

*Objectives: 7.1, 7.2, 7.3* The Plan seeks to provide for a range of activities in rural areas while managing their effects.

*Policies: 7.1.2, 7.1.2A, 7.2.4, 7.3.3, 7.3.4 and 7.3.9*

*Chapter 11 – Land Transport Effects* The Plan seeks to provide a safe driving environment and safety for people in the environment where vehicles are driven.

*Objective: 11.1*

*Policies: 11.1.2B, 11.1.3, 11.1.4 and 11.1.7* Adverse effects of traffic generation are to be avoided, remedied or mitigated and access to properties and signs are located and designed to have no adverse effects on the safety and efficiency of the road network.

*Chapters 17.4 and 17.5 – Rural 1 and 2 Zone Rules* The proposed activity is subject to permitted activity performance standards set out in Rules 17.4.2 and 17.5.2.

*Chapter 16.2 – Access and Parking Rules* Access and parking permitted standards are set out in Rule 16.2.2.

Chapter 5 “Site Amenity Effects” is concerned with the effects of land uses that cross property boundaries that may add to or detract from the use and enjoyment of neighbouring properties. They may also affect local character.

*The effect on the rural character is unchanged by this proposal, as the visual rural features of the property are retained except the addition of a sign, upgraded access and small toilet block and office. The gunfire may cause some noise nuisance for nearby residents but the noise levels are deemed to comply with permitted standards.*

Chapter 7 “Rural Environment Effects” is concerned with the fragmentation of rural land, the availability of rural land for a range of purposes, and the protection of rural character and amenity.

Objective 7.1.0 and related policies seek to avoid the loss of potential for all land of existing and potential productive value. Objective 7.2.0 seeks to provide opportunities to use rural land for other activities not associated with soil based production while avoiding conflicts with existing rural activities. Objective 7.3.0 and related policies are concerned with the adverse effects of uses or activities in rural areas.

*The proposed activities will not fragment the land, will retain the productive potential of the land even though most of the land will only be used as a habitat for the pheasants, and will not adversely affect existing grazing, horticulture or forestry activities in the area or be affected by them. The application site is largely Rural 2 zoned hilly terrains that precludes more intensive soil based production activities.*

Chapter 11, “Land Transport Effects” seeks to provide a safe driving environment for people and vehicles.

Objective 11.1.0 and associated policies seek to provide a safe and efficient transport system by locating development that avoids, mitigates or remedies the adverse effects of traffic generation and avoids an increase in traffic safety risk. Adequate access and efficient parking spaces are also to be provided with signage designed and placed to not distract drivers.

*The additional traffic movements from this proposal are considered to maintain the existing safety and efficiency of the collector road as they are low in volume and are smaller vehicles. Proposed signage complies with permitted standards and parking and access permitted standards will be able to be complied with.*

In conclusion, it is considered that the proposed commercial activity is not contrary to the site amenity, rural environment and transport policies and objectives of the Proposed Plan.

#### **5.4 Part II Matters**

The proposed commercial activity is considered to be consistent with the purpose and principles contained in Part II of the Resource Management Act.

Part II of the Act is concerned about:

- sustaining physical resources to meet the needs of future generations (Section 5(a));
- avoiding, remedying or mitigating any adverse effects of activities on the environment (Section 5(c));
- the efficient use and development of physical resources (Section 7(b));
- maintaining and enhancing amenity values (Section 7(c));
- maintaining and enhancing the quality of the environment (Section 7(f)); and
- recognising any finite characteristics of natural resources (section 7(g)).

It is considered that the commercial activity is consistent with the Act's purpose of maintaining or enhancing the amenity values and quality of the environment currently enjoyed by existing rural properties. Some more residentially natured properties believe their amenity values will be compromised by the proposal but this is based on noise nuisance rather than noise levels. The road network is deemed to be able to receive additional traffic thereby achieving the sustainable management of natural and physical resources. While other users of this environment may not agree with the changes to their area, this proposal can maintain the quality of the environment, maintain and enhance amenity values and efficiently use the rural land resource while retaining its productive potential should soil based production be undertaken in the future.



## 5.5 Other Matters

### Precedence Effects

Precedence in itself is not an “effect” but the subsequent approval of this proposal may lead to other similar applications seeking to establish home occupation activities on shared access properties, each wanting like treatment. This can lead to a cumulative effect that is very much a relevant adverse effect under Section 3(d) of the Act.

In resource management terms, the cumulative effect of establishing a pattern of consent decisions based on other applicants wanting similar outcomes, can have adverse effects on significant resource management issues. The issue of "precedence" must be acknowledged in practical terms as giving rise to cumulative adverse effects:

- applications for consent are lodged on the basis that consents to previous applications have been granted under like conditions; and
- Council can expect pressure to act consistently in its application of Plan objectives, policies, rules and assessment criterion. That is, Council is expected to be consistent in its decision-making.

The effects arising from the grant of other applications for resource consent must satisfy the requirement that there is a high probability that the effects will occur, or that they will have a significant impact on values that the RMA and the Plan seek to preserve. More commercial activities in a rural environment will not necessarily lead to adverse effects on amenity or on existing rural activities. The rural area can already be used for visitor accommodation and recreational hunting activities where traffic movements are of similar nature and scale to this proposal.

It is unlikely there is sufficient demand to need more Game Preserves so there is a low probability of effects resulting from the granting of this consent leading to other applications and should this occur the effects themselves are unlikely to be significant as long as the activity is suitably located.

## 6. CONCLUSIONS

- 6.1 The proposal is a Discretionary Activity under the Proposed Plan.
- 6.2 The proposed activities maintain the amenity values of surrounding rural zoned properties and do not interfere with existing rural activities.
- 6.3 The noise levels are expected to comply with permitted standards and while are a nuisance for some are of a similar impact as other rural production and recreational activities.
- 6.4 The granting of this consent will not set a precedent where there is a high probability other resource consent applications of a similar nature will be made and the effect on values the RMA and the Plan seek to preserve will not be significant.

- 6.5 Conditions of consent can ensure adverse effects of this proposal are similar in nature and scale to permitted activities and are of less significance than existing activities.
- 6.6 It is considered that this proposal, on this particular site, subject to recommended conditions of consent, is consistent with the policies and objectives of the Proposed Plan and with the Act's purpose of achieving the sustainable management of natural and physical resources.

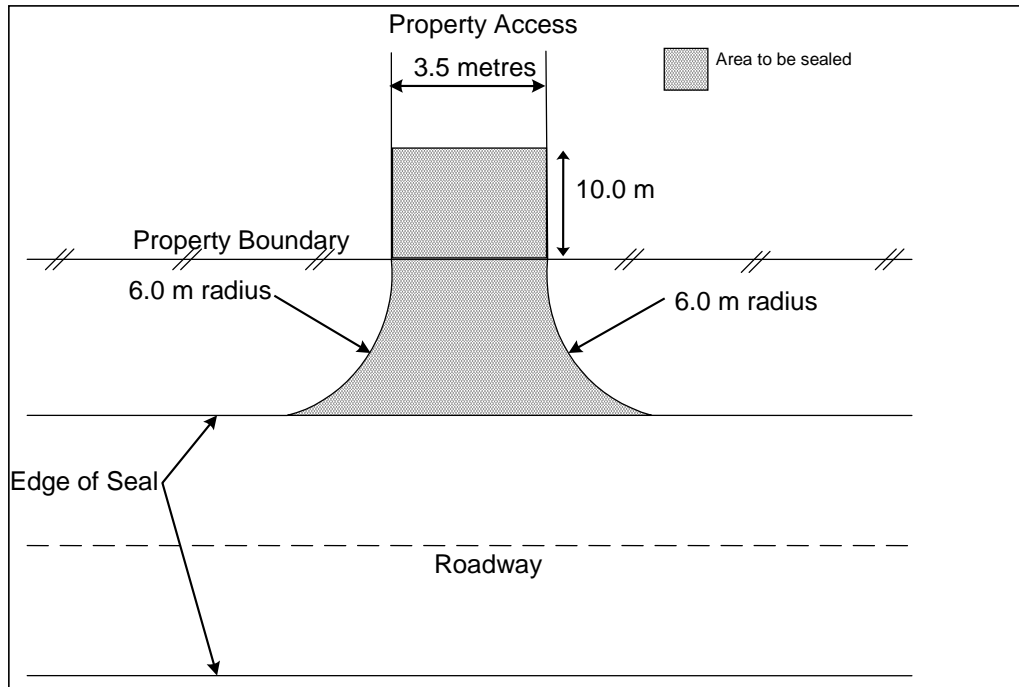
## **7. RECOMMENDATION**

That pursuant to Section 104B of the Resource Management Act, I recommend the application to operate a commercial upland game hunting preserve be granted.

## **8. CONDITIONS**

Should the Hearing Committee grant consent I recommend the following conditions be imposed:

1. The maximum number of hunters on the site at any one time shall be eight.
2. The maximum number of staff on the site at any one time shall be eight.
3. A maximum of three horse treks per day may be operated on or from Lots 1 and 2 DP 13077.
4. The operational times for the commercial hunting activity shall be from 1 April to 31 August, 9.00 am to 4.00 pm.
5. The vehicle crossing and on-site access to Proposed Lot 1 of subdivision consent RM060638 shall be formed to a minimum width of 3.5 metres and shall be designed and constructed in accordance with Figure 1 prior to any commercial activities commencing on the subject property, with:
  - (i) a sealed surface provided between the edge of the carriageway of the road to the property boundary;
  - (ii) an extension of the road carriageway area of seal into the on-site access for a distance of 10 metres;
  - (iii) any access gate shall be set back 10 metres from the road reserve carriageway and shall be inward-swinging;
  - (iv) the vehicle access crossing shall be located to provide a minimum sight distance between any vehicle crossing and traffic on the road of not less than 290 metres in either direction.



**Figure 1:** Vehicle Access Crossing and On-Site Access Standard for Lot 3

6. A minimum of four car parks shall be provided on-site prior to the commencement of the commercial activities.

#### Advice Notes

1. This is not a building consent and the Consent Holder shall meet the requirements of Council with regard to all Building and Health Bylaws, Regulations and Acts.
2. Any matters not referred to in this application for resource consent or are otherwise covered in the consent conditions must comply with the Proposed Tasman Resource Management Plan (PTRMP) or the Resource Management Act 1991 or separate consent.

#### Note:

Permitted noise standards in 17.4.2 (d) and 17.5.2 (d) and dated 3 December 2005 (attached as Annexe 4) must be complied with, or a variation or new consent is required to be obtained.

3. This consent is issued pursuant to the Resource Management Act 1991 and the Proposed Tasman Resource Management Plan. There may be other requirements under other legislations this proposal is also required to meet including obtaining approvals from the Department of Conservation and the Fish and Game Council of New Zealand.

Mandy Bishop  
**Consent Planner**

