

STAFF REPORT

TO: Environment & Planning Committee

FROM: Sonya Leusink- Sladen, Policy Planner

REFERENCE: R435-2

SUBJECT: **PRIVATE PLAN CHANGE REQUEST - FAIRHOLME CREATIVE LTD: EAST TAKAKA - REPORT REP11-04-09** - Report prepared for meeting of 21 April 2011

1. INTRODUCTION

1.1 Purpose of report

The purpose of this report is to recommend approval of Private Plan Change Request (PPCR) Fairholme Creative Ltd: East Takaka rezoning, as a Plan Change to the Tasman Resource Management Plan.

A copy of the Private Plan Change Request is attached (see Attachment 1).

2. THE REQUEST

2.1 In Brief

A PPCR can be made by any person to amend any part of an operative plan.

The PPCR is for the re-zoning of 12.1406 ha of land at East Takaka held in a single title (Part Section 35 Square 11 CFR NL69/59 Ltd), from Rural Residential Zone Closed (Gorge Creek) to Rural 1. The land is owned by the Westerink family, who are also the plan change requestors.

A site plan showing the land and re-zoning request is attached (see Attachment 2).

The given purpose of the request is to address current limitations of the zoning, which prohibits land subdivision. The Rural 1 Zone status requested is consistent with the surrounding land-use character and current zoning of adjoining land, and would enable limited subdivision opportunity in a manner consistent with rural expectations.

The applicant acknowledges that, subject to approval of this PPCR, an application for subdivision under Rural 1 Zone rules will be made to Council. Although not the subject of this PPCR, it is the applicant's intention to apply to Council to subdivide the land title based on two land parcels physically separated by East Takaka Road.

An intended subdivision Plan is attached (see Attachment 3).

More detail about the proposal and future subdivision intention is outlined in PPCR application (see Attachment 1)

2.2 Background

It is relevant to consider the reasons underpinning the Rural Residential Closed Zone status of the subject land.

In 1996, when the Proposed Tasman Resource Management Plan was notified, the land was zoned Rural 1. By way of a submissions request by the late Marie Westerink, the land was re-zoned to Rural Residential Closed.

It is fair to acknowledge that her actual submission request did not refer to “closed” rural residential. It is likely that she was unaware that the rural residential zone she was requesting was a closed one.

The reasons underpinning the closure of the East Takaka Rural Residential Zone relate to geotechnical instability of the land terrain and limitations of East Takaka Road which, narrow and unsealed, cannot support rural residential development in its current condition.

Approval of the PPCR would return the land to Rural 1 Zone.

2.3 Legal Matters

The original PPCR was made in accordance with Schedule 1, Part 2 of the Resource Management Act. Such a request must follow the form of a Council-initiated plan change or variation, including Section 32 analysis of alternatives and relevant supporting documentation. The PPCR submitted met these requirements.

Under Schedule 1, a PPCR is able to be assessed, modified by agreement with the requester, and then either adopted, accepted, rejected or treated as an application for resource consent.

Council staff assessed the application and determined the need for a minor modification in accordance with Section 24. The modification related to the deletion of a Rural 1 Zone rule, which would allow for the subdivision of the property as a Controlled Activity. Staff felt that such a rule was not necessary, and that it was more appropriate to assess any future subdivision consent application on its merits under the existing Rural 1 Zone rules.

The modification sought by staff was accepted by the requestors, and the amended PPCR was accepted by the Policy Manager under delegated authority for public notification in accordance with Section 25 (2) (b).

No submissions were received.

In determining the fate of the PPCR Council must consider it as it would a Plan Change, in accordance with Section 29 of the First Schedule. Because no submissions were received and the staff recommendation is positive, no hearing is required.

3. STAFF ASSESSMENT

3.1 Submissions

No submissions were received

3.2 Discussion

In considering the private request, Council must take into account issues associated with a Rural 1 Zoning, and the implications of development opportunity which arise from the uplifting of a “closed” subdivision status over the relevant land.

In relation to Rural Zone issues:

1. Rural land use is the predominant land use in the locality. Rural amenity and character attributes, such as open space, rural land-use activities and a largely unbuilt environment characterise the area.
2. Land directly adjoining the subject land is Rural 1. A “spot” zone will not be creating by re-zoning the land parcel.
3. The land was originally zoned Rural 1 by the Council when the Tasman Resource Management Plan was notified in 1996.

While any future subdivision application would need to be assessed on its merits through the consenting process, it is relevant to consider the general implications of an approval of the intended subdivision as a consequence of approving this PPCR:

4. The subdivision would be a Discretionary Activity (Restricted) under Rural 1 Zone rules, as the 12 hectares Controlled Activity minimum allotment size would not be met.
5. The intended subdivision application would result in one additional land parcel. The two titles created, 1.57 hectares and 10.45 hectares, would be defined by physical separation of the East Takaka Road.
6. No additional dwellings would be required as a result of the subdivision as proposed, as each of the intended new land parcels currently contains an occupied dwelling. No additional traffic is expected for the same reasoning.
7. No land use change is anticipated, with no change to built development or rural activity intended.

Although no longer applicable to the subject land if re-zoned, issues underpinning the “closed” status of the Rural Residential Zone have been considered in light of the intended subdivision:

8. Regarding road issues, the East Takaka Road seal extends beyond the boundary of the property, and no additional traffic is expected (see 4 above).
9. Geotechnical instability is not a relevant consideration to a Rural 1 zoning, given that continued rural land use anticipated by the zone. It is also noted that only a small portion of one of the future potential land parcels is affected by karst terrain. Most of the land is flat - rolling pasture. Furthermore, as a potential constraint to built development, both dwellings and accessways already exist.

3.3 Conclusion

Staff consider that the PPCR is an appropriate and acceptable change to the Tasman Resource Management Plan

4. RECOMMENDATIONS

In accordance with the First Schedule, Part 2, Section 29 (4) it is recommended that the Committee **Approve Private Plan Change Request of Fairholme Creative Ltd: East Takaka**, to rezone Part Section 35 Square 11 (CFR NL6959 Ltd) from Rural-Residential Zone Closed (Gorge Creek) to Rural 1 Zone, to become operative from 1 May 2011 as Change 31 to the Tasman Resource Management Plan.

Reasons

1. Rural land use is the predominant land use in the locality.
2. Rural amenity and character attributes, such as open space, rural land use activities and a largely unbuilt environment characterise the area. Such attributes can be maintained by a rural zoning.
3. Land directly adjoining the subject land to the north is Rural 1, ensuring continuity of Rural 1 Zone land in the locality.
4. The land was originally zoned Rural 1 by the Council when the Tasman Resource Management Plan was notified in 1996.
5. Future potential subdivision would be a Discretionary Activity (Restricted) under Rural 1 Zone rules, as any further subdivision would create a title or titles that would not meet the 12 hectares Controlled Activity minimum allotment size.
6. Regarding road access issues associated with the original "closed" zone status, the East Takaka Road seal extends beyond the boundary of the property.
7. Regarding geotechnical issues associated with the original "closed" zone status, this is not considered to be a relevant development constraint for development activity anticipated by a Rural 1 zoning.

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