

# MINUTES

**TITLE:** Environment and Planning Subcommittee  
**DATE:** Tuesday, 26 April 2005  
**TIME:** 9.30 am  
**VENUE:** Arthur Wakefield Conference Room, 294 Queen Street, Richmond

**PRESENT:** Crs R G Kempthorne (Chair), S G Bryant and T B King

**IN ATTENDANCE:** Consents Manager (J Hodson), Consent Planner (M D Morris), Coordinator Resource Consents (R Lieffering), Development Engineer (Ley), Administration Officer (B D Moore)

**1. W A AND G F BAIGENT, CORNER REDWOOD VALLEY LANE AND MOUTERE HIGHWAY, MOUTERE –APPLICATION RM041312**

**1.1 Proposal**

The applicant sought consent to subdivide CT 12B/105 of 1.52 hectares into two allotments, Lot 1 of 0.64 hectares and Lot 2 of 0.88 hectares and erect a dwelling on each allotment.

**1.2 Location and Zoning**

The subject property is located between Redwood Valley Lane and the Moutere Highway and zoned Rural 1.

**1.3 Presentation of Application**

Mr W A Baigent was present at the meeting and Mrs G F Baigent attended the meeting for part of the time. The applicant was represented by Mr F C Bacon who tabled and read a statement of evidence. Access to the site is proposed to be from Redwood Valley Lane and water supply will be from rooftop collection. The Redwood Valley School was located centrally within the site before an earlier subdivision occurred and the subsequent removal of that school. The situation now is that there are two lots zoned Rural 1 but which realistically have extremely limited versatility or potential for productive use. The result is a relatively small area of land surrounded by roads and legal road. The productive potential of the land is limited by the lower quality soil and a relatively large portion of steep broken land. None of the land in the title meets the Rural 1 criteria.

Mr Bacon said that the applicant purchased the subject site, not realising that there was no provision for the right to erect a dwelling on it. Mr Bacon spoke about the subdivision plan which shows that Section 1 SO 15080 of 2295 m<sup>2</sup>, another Crown title, intrudes as a salient on the northern boundary. This allotment is owned by another party and its presence is, in practical terms, a restriction on some forms of productive use of the applicant's land. Similarly the use of the applicant's land could have a profound influence on how the other land is used. Any cumulative effect as a result of the grant of consent to this application, will be very localised and not likely to be repeated elsewhere nearby.

Photographs were tabled with the evidence to show the potential effect on rural character of proposed dwellings to be built on the subdivided land. It was demonstrated that it would be possible to develop the site, with two dwellings, in such a manner that would not noticeably alter the character of the locality and it is most unlikely that it would be obvious that there were two dwellings on the site. Stormwater and effluent disposal can be carried out to meet Council requirements.

The evidence said that the application is a discretionary activity and that uniqueness is not a pre-requisite for granting consent. The evidence concluded that in the very unlikely event that a future owner tried to establish a permitted activity, such as greenhouses. This could have an extremely prominent visual effect. The applicant is prepared to volunteer a protective covenant on some large trees within the site. The evidence listed proposed conditions of consent, in addition to the standard conditions usually imposed by the Council, for the hearing panel to consider during the decision making process.

#### **1.4 Submissions**

Mr D Richards said that the sight lines need improvement where Redwood Valley Lane meets the Moutere Highway and that the land should have been allowed for corner improvements. He said that a private water storage tank of 23,000 litres is only sufficient for about 20 days of water supply. He said that water is not available from the Redwood Valley supply, for this proposed subdivision. Mr Richards said that a dwelling constructed on the site may interfere with the operation of neighbouring orchards and the Redwood Cellars.

Ms G Mason said that she owns land on the other side of Redwood Valley Lane and that there should be only one house on the subject site. She said stormwater runs down the slopes from this property and over the Redwood Valley Lane and onto her property. She was concerned about the potential effects from septic tanks and effluent disposal fields. She also said that Redwood Valley Lane intersection needs safety improvements. She sought that some preservation of the trees on the subject site occur.

A submission on behalf of Albany Trust (Mr W Page) was read by Ms G Mason. She said that the Trust owns a neighbouring nine hectare apple orchard and that the submission supported only a single title for the subject site and not the two proposed lots. The submission noted that Redwood Valley Lane gets frosted in winter when a traffic safety problem occurs.

Ms C Wallis-Tomlins, being an owner of the Crown created Lot 1 SO 15080, adjacent to the subject site, opposed the application and said that access should be via Redwood Valley Road not the Moutere Highway. She said that some of the trees on the subject site need to be removed or pruned. She asked that the driveways to the subject site not be against the boundary of the Lot owned by Wallis-Tomlins.

Mr G Henderson, a resident of Maisey Road, said that flooding over Redwood Valley Lane is a problem and the lane is subject to heavy frost and the corner at the Moutere Highway is dangerous. Mr Henderson said that within reason he would have no objection to one house being built on the subject site.

## **1.5 Staff Reports**

Mr Morris spoke to his report of 12 April 2005 contained within the agenda and referred to the conclusions of his report and his recommendation that consent be declined. Mr Morris said that the site location and vegetation should not be a reason for further subdivision.

Development Engineer, Mr D Ley said that traffic counts had been carried out about a year ago on Redwood Valley Lane which showed that 300 vehicles per day were registered and on Moutere Highway the figure is 2,300 vehicles per day. Mr Ley agreed that the intersection of Redwood Valley Lane and the Moutere Highway is a traffic safety problem and that some roadworks were carried out and tree removal work was completed. He referred to the reported accident history of this intersection.

Mr Ley said that the sight distance is 90 metres visibility and an improvement would require a 30 metre cut into the applicant's land which would be a very expensive task. Mr Ley said that Council may need to close this intersection at some time in the future and that an interim measure on Redwood Valley Lane may require a stop sign to be installed.

## **1.6 Adjournment and Consideration of Legal Issues**

Mr Bacon suggested that the Committee could consider granting consent for the consent for construction of one house on the existing lot subject to this application.

Following an adjournment, the meeting resumed and Cr Kempthorne advised that the Committee had discussed the potential for the application to be considered and a decision, however the Committee had decided that the application would be considered as applied for.

## **1.7 Right of Reply**

Mr Bacon responded for the applicant. He said that he still believed that the two lots as applied for are satisfactory but that the application can be considered as one house on the existing title. He said that one of the main issues is safety at the existing intersection. Mr Bacon said that two additional houses will create only a minor increase in traffic flow.

He encouraged the Committee to consider that if a contribution condition was to provide for remedial work by the applicant that the applicant should have to provide a pro-rata 1/16<sup>th</sup> contribution to the full cost of the intersection upgrade, or all 16 properties having frontage to Redwood Valley Lane, should contribute. He said that alternatively, Council should consider closing the intersection.

Mr Bacon acknowledged that the building site on Lot 2 may need to be relocated. He said that it appeared impractical to protect the existing trees on the site but they can be protected if Council insists on this. He said that it would probably be better if 40,000 litres of water storage is provided. Wastewater disposal fields need to be larger on this soil type but that matter could be resolved at building consent stage. Noise conflicts with the adjacent Redwood Cellars operation could be mitigated by double-glazing or the use of hush glass in windows and a condition to that extent would be entirely appropriate.

Mr Bacon suggested that the Committee, in its decision, enlarge on the reasons for consent to this discretionary activity, to indicate the context for showing why the decisions have occurred. He said that sufficient reasons exist to differentiate this site from others. Mr Bacon said that a stormwater detention facility could be provided, in conjunction with an excess volume pump dispersal unit so that flooding onto and over Redwood Valley Lane is reduced. The separation distance and height of the building sites will help mitigate any potential effects from neighbouring orchards spray drift. Mr Bacon said that a grant of consent together with mitigating conditions are entirely appropriate.

The Committee reserved its decision at 1.40 pm.

**Moved Crs Kempthorne / Bryant  
EP05/04/22**

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

W A and G F Baigent

**The general subject of the matter to be considered while the public is excluded, the reason for passing this resolution in relation to the matter, and the specific grounds under Section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:**

<b>Subject</b>	<b>Reasons</b>	<b>Grounds</b>
W A and G F Baigent	Consideration of a planning application.	A right of appeal lies to the Environment Court against the final decision of Council.

**CARRIED**

**Moved Crs Bryant / Kempthorne  
EP05/04/023**

**THAT for the purposes of discussing the application of W A and G F Baigent as an "In Committee" item, the Manager Consents be authorised to be in attendance as advisor.**

**CARRIED**

**Moved Crs King / Kempthorne  
EP05/04/24**

**THAT the public meeting be resumed and that the business transacted during the time the public was excluded be adopted and that the following resolutions be confirmed in open meeting.**

**CARRIED**

**2. W A AND G F BAIGENT, CORNER REDWOOD VALLEY LANE AND MOUTERE HIGHWAY, MOUTERE –APPLICATION RM041312**

**Moved Crs Kempthorne / King  
EP05/04/25**

**THAT pursuant to Sections 104, 104B and 104C of the Resource Management Act 1991, Council declines consent for W A and G F Baigent to subdivide Section 2 Survey Plan Office 15080 into two allotments and to construct a dwelling on the land shown as proposed Lot 1 and to construct a dwelling on land shown as proposed Lot 2.**

The reasons for these decisions are stated below.

**REASONS FOR THE DECISION – SUBDIVISION CONSENT AND LAND USE CONSENT:**

The land is zoned Rural 1 under the Proposed Tasman Resource Management Plan (PTRMP). The subdivision is a discretionary activity under Rule 16.3.7A of the PTRMP in that both allotments that would be created by such a subdivision would be less than the 12 hectares required under rule 16.3.7(b) for a controlled activity subdivision in the Rural 1 zone. Schedule 16.3A of the PTRMP sets out the matters the Council will have regard to when assessing the subdivision application.

The application has been considered subject to Part 2 of the Act (i.e. the purpose and principles of sustainable management of natural and physical resources), and Section 104 of the Act.

The Committee noted that eight submissions were received, one in support of the application, five in opposition and two providing conditional approval. One of the submitters who initially indicated conditional support for the proposal in his submission (Mr D Richards) subsequently advised the Committee at the hearing that he now opposed the subdivision.

The proposed subdivision is in an area of strong rural character. The land was previously part of the Redwood Valley School and the school building no longer exists. The site is currently occupied by mature trees (redwoods and eucalypts) as well as scrubby vegetation. The Committee notes that the land is likely to have limited productive capacity given the soil types and its ability to be used in conjunction with adjacent productive land (by way of amalgamation) is limited by the presence of roads around the piece of land.

The Committee considered that the creation of two allotments less than 1 hectare in area would result in a "rural residential" area and this is considered to be inappropriate in this location. The character of the area is not currently rural residential nor is it planned to be so in the future because if it were the Council would have zoned the land as such. The surrounding area is characterised by relatively large farm and forestry allotments with an associated low density of built form and structures. The Committee, however, acknowledges that there are some small allotments in this area, including the allotment which is the subject of this application, however the overall character of the area is still of a productive landscape of pastoral farming, forestry and commercial orcharding. If consent was granted for this subdivision, it would create an additional rural residential allotment and this is considered to have a more than minor adverse effect on the rural landscape of the area.

Fragmentation of rural land is a matter which is of major concern to the Council and features prominently in the issues, policies and objectives of the PTRMP, particularly Objective 7.1.0. The general aim of these objectives and policies, as explained by Mr Morris at the hearing and in his staff report, is to ensure that the allotments created in the Rural 1 and 2 zones as a result of subdivision are of a size to ensure the allotments have a degree of versatility of productive uses. This is stated in Policy 7.1.3. It was considered that the subdivision of the land in this case would not achieve this outcome.

The Committee noted the discussion about the productivity of the land in question. However, it was considered that the policy in relation to the creation of lots with a degree of versatility applied both to land of high productive potential as well as land such as this which was clearly productive but may not necessarily meet the definition of highly productive. The policy applies to all rural land.

The Committee agreed that the principle associated with the PTRMP was that the less productive the land the greater the lot size should be to ensure versatility of the use of the land for future generations. Therefore the argument was not accepted that the subdivision of this allotment to below the 12 hectare threshold would achieve the policy of the PTRMP (Policy 7.1.3).

The Committee considered that the policies and objectives of the PTRMP, when taken as a whole, could be construed as "providing for" rural residential subdivision in the rural areas of the district. In this case, creating two small allotments within an area characterised by larger allotments, would contribute to the loss of rural character, amenity and open space values and could clearly be seen as fragmentation of rural land.

The Committee were concerned about the issue of precedent, leading to cumulative adverse effects of further fragmentation of Rural 1 zoned land, if this application was to be granted. It was considered that the approval of this application may send a signal to the community that rural residential subdivision of lots of this size in rural areas were acceptable and this message is incorrect. The subject land had no distinguishing features that would warrant further fragmentation to create additional rural residential allotments. The framework established by the PTRMP is such that rural residential subdivision and development should be focused in the areas zoned for that purpose or where distinguishing features mean that there would be no adverse effects. There was concern about consistent administration of the PTRMP and that like applications should be treated as like in the future.

The application also included a land use consent to “*construct a dwelling on each new lot*”. It is noted that there is currently no dwelling on the existing allotment and the construction of a dwelling on it is deemed to be a restricted discretionary activity because the site was not created by a subdivision approved by the Council prior to 25 May 1996 and the allotment is less than 12 hectares.

The Committee asked each submitter whether they had any major concerns with a single dwelling being built on the existing allotment and the responses received suggested that none of the submitters appeared to have major concerns with a single dwelling being constructed. As such, if the applicants wish to construct a single dwelling on the existing allotment, they should have applied for a land use consent for it and the processing of such an application may not have resulted in a hearing being required (i.e. it may be considered on a non-notified basis).

It was considered that the granting of such a consent as part of this decision was not appropriate as the application was quite specific in its wording, that is, the construction of a dwelling on “each new lot”. Because the application for subdivision consent has been declined, there will be no new allotments created. The Committee also noted that if the applicants are considering applying for a separate land use consent for a dwelling on the existing allotment, that the location of any such dwelling should be carefully considered and the Committee noted that the “building site” on proposed Lot 2 shown on the plans submitted with this application would not be a sensible location for such a dwelling because part of this land may need to be utilised in the future if the Moutere Highway were to be realigned to make it safer. The Committee considered that a separate application for consent to erect one dwelling would be more appropriate.

In summary, the Committee considered that the application was inconsistent with the purpose and principles of Part 2 of the Resource Management Act and the policies and objectives of the Proposed Plan and the Regional Policy Statement. It was considered that the creation of two rural residential allotments in this area would be out of character with the existing pattern of titles in the area.

**CARRIED**

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**Confirmed:**

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**Chair:**