

MINUTES

TITLE: Environment and Planning Subcommittee
DATE: Tuesday, 10 May 2005
TIME: 9.30 am
VENUE: Council Chamber, 78 Commercial Street, Takaka

PRESENT: Cr E M O'Regan (Chair), Crs S J Borlase and E E Henry.

IN ATTENDANCE: Co-ordinator, Resource Consents (R E Lieffering), Senior Consent Planner, Subdivision (M D Morris), Administration Officer (B D Moore).

1. R J CALLAGHAN, STATE HIGHWAY 6, MILNTHORPE, GOLDEN BAY – APPLICATION No. RM041338

1.1 Proposal

The applicant sought consent to subdivide Lot 1 DP 18457, CT NL 12B/567 of 2.035 hectares into Lot 1 of 9,700 square metres with an existing house and Lot 2 of 1.07 hectares. The application is located in the Rural 2 Zone, where the minimum lot size for a controlled activity is 50 hectares, making this application a discretionary activity.

1.2 Location

The subject site is located in steep country with regenerating bush and some exotic plantation in a gully on a hillside overlooking Parapara Inlet.

1.3 Presentation of Application

Mr R J Callaghan made a verbal presentation of evidence and said that as the Council's Community Services Department declined an offer of an area of land on the southern side of the subject site for reserve purposes, the proposed subdivision would be restricted to two lots in order to restrict the amount of traffic movement. Mr Callaghan said that the relocated access point was considered in consultation with Ms A Lewis of Opus and that the access formation had been completed except for surface sealing. He explained that the section of State Highway 60 between Parapara causeway and Collingwood township had been declared a limited access road by Transit New Zealand by means of gazette notice but crossing place notices and registration of these notices on the certificates of title for properties adjacent to that highway had not been registered within the three years since gazetting.

Mr Callaghan said that trees near the access entrance will require trimming to improve sight distances along the highway. The effluent disposal system had already been installed on the site by Let's Go Enterprises and is a stemflow system with more than sufficient capacity to handle the proposed two lots and that a regular maintenance agreement can be arranged. Water supply is presently from a creek on the Randle's property and on-site storage of sufficient capacity will be provided. The land is of low productivity and the regenerating bush has a weed problem with banana passionfruit and some self seeding tamarillo sprouting.

Mr Callaghan said that the one additional lot will have little impact on the highway and amenity values will not be compromised. He said that the road to the building site is existing and has an existing connection to the state highway and little or no earthworks will be carried out. He referred to objectives within the Tasman Resource Management Plan which allow for rural-residential activity and to previously approved similar subdivision applications which Council had granted and asked that this application be considered on its own merits.

Mr Callaghan said that the second lot would have to come off the accessway which has Transit New Zealand approval. The new access driveway may need to be sealed at the point where it has a steep corner but that the road has been formed for about a year and had not deteriorated. Mr Callaghan said that there is a huge land area available to extend the existing effluent disposal field. An easement would have to be created at building consent stage but there are merits in servicing one field and one system only.

1.4 Presentation of Submissions

The submission for Transit New Zealand was tabled and read by Ms K Tootell of Opus International Consultants. She confirmed that the limited access road status is not yet registered on certificates of title but was gazetted in July 2002. She said that a legal opinion had been obtained by Opus to confirm that the limited access road is operative from the time it is gazetted. She said the new access to the subject site does not meet the sight distance requirements of Transit's Planning and Policy Manual. In addition, it does not meet the lesser Austroads sight distance requirements. The evidence expressed a concern that granting consent could encourage similar proposals, resulting in intensification of existing accesses or new access causing a significant effect on the state highway network. Ms Tootell said that the application was opposed on the basis of a potential cumulative effect.

Mr T H Riley expressed concern about traffic safety on the state highway, especially where vehicles are turning in or out of the proposed accessway. He tabled and read a statement of evidence and the first one and a half pages were the same as originally submitted. He spoke of his concern about effluent disposal within this gully, which is subject to high rainfall. He said there is a danger where the access drives are mostly steep and square onto State Highway 60. Mr Riley opposed formation of the access drive opposite to Kowhai Point Reserve. He was concerned what impression prospective subdividers may have from a grant of consent for this application. He said that the subject pakahi land needs to be protected from the removal of vegetation coverage. He stated a preference for the locality to be subdivided from available accesses along the ridgeline.

The submission from A J and M E Bell was read by Mrs Bell, with the first 18 paragraphs of the submission relating to the setting of this hearing date.

Cr O'Regan directed that this information need not be read out at this hearing.

The submitter was concerned that a grant of consent would be inconsistent with previously declined subdivision applications and that the rural character would be compromised by the small allotment sizes. Concern was expressed by the submitter about the adverse cumulative effect of subdivision fragmentation within the Rural 2 Zone and that this may undermine community confidence in the resource consent process. The point where the access to the subject site meets the state highway was considered a threat to road safety. The submission warned against the potential risk of sewage pollution to the Parapara Estuary, the effect of high rainfall on the effluent disposal area located in a heavy soil type.

1.5 Staff Report

Senior Consent Planner, Subdivision, Mr M Morris, spoke to his report of 28 April 2005 contained within the agenda. He referred particularly to the Tasman Resource Management Plan Chapter 7 about rural environmental effects of land fragmentation of all productive land whether it be highly productive or not and the importance of cumulative adverse effects. Mr Morris said he did not think that Council should set a condition regarding the access to the proposed allotment where Transit New Zealand had not yet given its approval. He spoke about the Resource Management Act 1991 Part II Section 6(a), which requires as a matter of national importance the preservation of the natural character of the coastline environment and the protection of the coastal environment from inappropriate subdivision, use and development.

Mr Morris said that consent to this application will undermine the objectives and policies contained in the Tasman Resource Management Plan. He said that the coastal environment rule is very limiting and that in future people who own the land may clear their sites of vegetation. He said that the cumulative effect of dwellings in the coastal area can result in an adverse run-off into the estuarine area. Mr Morris provided recommended conditions of consent, should the Committee decide contrary to his recommendation that consent to the application be declined.

1.6 Right of Reply

Mr Callaghan exercised a right of reply and noted that the letter of declaration from Transit New Zealand about the limited access road has had no follow up in the last three years. He said adequate sight distance can be achieved at the point where the access road meets the state highway. He said that a high quality effluent disposal system is already in place and that run-off can be controlled. Mr Callaghan questioned the adequacy of the sewage systems which submitters Riley and Bell presently have on their properties next to the estuary. Mr Callaghan reminded the Committee of other similar applications which had been granted consent by Council.

The Committee reserved its decision at 2.15 pm.

**Moved Crs O'Regan / Henry
EP05/05/09**

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

R J Callaghan

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:

Subject	Reasons	Grounds
R J Callaghan	Consideration of a planning application.	A right of appeal lies to the Environment Court against the final decision of Council.

CARRIED

**Moved Crs Henry / Borlase
EP05/05/10**

THAT for the purposes of discussing the application of R J Callaghan as an "In Committee" item, the Co-ordinator Resource Consents be authorised to be in attendance as advisor.

CARRIED

**Moved Crs Henry / Borlase
EP05/05/11**

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. R J CALLAGHAN, STATE HIGHWAY 6, MILNTHORPE, GOLDEN BAY – APPLICATION No. RM041338

**Moved Crs Henry / Borlase
EP05/05/12**

THAT pursuant to Sections 104 and 104B of the Resource Management Act 1991, Council DECLINES consent for R J Callaghan to subdivide Lot 1 DP 18457 into two allotments.

The reasons for these decisions are stated below.

REASONS FOR THE DECISION – SUBDIVISION CONSENT:

The land is zoned Rural 2 under the PTRMP. The subdivision is a discretionary activity under Rule 16.3.9 of the PTRMP in that both allotments that would be created by such a subdivision would be less than the 50 hectares required under rule 16.3.8(b) for a controlled activity subdivision in the Rural 2 zone. Schedule 16.3A of the PTRMP sets out the matters the Committee has had regard to in assessing this subdivision application.

The application has been considered subject to Part 2 (i.e. the purpose and principles of sustainable management of natural and physical resources) of the Resource Management Act 1991 (RMA), and Section 104 of the RMA.

The Committee noted that seven submissions were received, two in support of the application, and five in opposition. Three submitters appeared at the hearing (Transit New Zealand, Mr T H Riley, and Mrs M Bell on behalf of A J and M E Bell). In addition, one submitter, M E and C M A Randall, were present at the hearing but did not wish to be heard.

The proposed subdivision is in an area of scrub, regenerating native bush and some exotic plantation. The area has, in the past, been subdivided to create an area that is characterised by long narrow allotments which have frontages on State Highway 60 and extend in a westerly direction up to a high ridgeline. The existing allotment overlooks the Parapara Inlet and the area surrounding the inlet has high scenic value. The Committee considered that the creation of two allotments, each of approximately 1 hectare in area, would result in a “rural residential” area and this is considered not to be in keeping with the character of the surrounding area. If this area was intended to be rural residential by the Council it would have zoned it as such. The Committee, however, acknowledges that there are some smaller 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 rural nature. The Committee considered that although the granting of this subdivision application would not, by itself, adversely affect the rural landscape qualities and natural amenity of the area, it would set a precedent for further similar subdivisions in the area and as such the cumulative effects of such subdivisions could significantly affect both the rural landscape and natural amenity values of this area.

The Committee considered that this subdivision would be contrary to the relevant objectives and policies of the PTRMP. 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 2 zone 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 that the land is likely to have limited productive capacity given the soil types and topography of existing allotment. However, 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 noted that there is an increasing demand for rural residential type subdivision in this area, however the current planning framework provides for these types of subdivisions in restricted areas, these being the areas zoned as “rural residential” in the PTRMP, which includes such zoned land at nearby Milnethorpe and Tukuru/Parapara. These rural residential zones were specifically provided for to compliment Rural 1 and 2 zones in order to “*relieve the ongoing pressure for fragmentation of the land resource*” (Policy 7.1.30).

The Committee noted that this area may be suitable for rural residential purposes in the future but that this would require a change or variation to the PTRMP and an associated evaluation as to the extent to which such a re-zoning of land would achieve the purpose of the RMA, whether there are alternatives, and the benefits and costs of any such re-zoning (as required by Section 32 of the RMA). However, the Committee considered that the subdivision is contrary to the general thrust of the objectives and policies of the PTRMP at this time.

The Committee noted the steep nature of the access and the proposed house site on Lot 2, and that no geotechnical report was provided.

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 2 zoned land in this area, if this consent was to be granted. It was considered that the approval of this application may send a signal to the community that rural residential subdivisions of lots of this size in rural areas were acceptable and this message is incorrect. The subject land had no distinguishing features compared with the surrounding area 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.

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 PTRMP 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

Confirmed:

Chair: