

MINUTES

TITLE: Environment & Planning Subcommittee
DATE: Monday, 4 July 2005
TIME: 9.30 am
VENUE: Council Chamber, Motueka Service Centre, 7 Hickmott Place, Motueka

PRESENT: Cr E M O'Regan (Chair), Crs R G Kempthorne and M J Higgins

IN ATTENDANCE: Manager, Consents (J S Hodson), Consent Planner, Land (M Bishop), Administration Officer (B D Moore).

1. W D MANLEY, BLACKBIRD VALLEY ROAD, NEUDORF – APPLICATION RM041295

1.1 Proposal

The applicant sought to erect two dwellings on a 16.5 hectare property at Blackbird Valley Road, Neudorf. The legal description of the land is Lot 2 DP 19327, CT NL 13B/719 and is zoned Rural 2.

1.2 Presentation of Application

Mrs K and M Manley were present at the hearing, representing the applicant, and were accompanied by their surveyor, Mr R I Aubrey. Mr Aubrey introduced the application by reading from the original application letter of 1 April 2005. He said that the application was not to subdivide the land and that the applicant was prepared to enter into a covenant such that no subdivision would be proposed for a period of 10 years. He also said that the applicant was prepared to covenant that a further consent must be obtained if the second dwelling is to be used for some other purpose other than by occupation of a dependent relative. The assessment of effects said that the net effect on the neighbourhood would be limited to those effects associated with the construction of one additional dwelling and effluent disposal. The applicant has some temporary accommodation on the site. Currently, the land is used to graze a few sheep and cattle.

Mr Aubrey tabled and read a further submission and gave examples of properties where dependent relative dwellings have been constructed. He quoted examples at 185 Main Road, Hope and an additional property at George Harvey Road. He said that there was nothing unique about these applications.

Mr Aubrey said that the unique aspects of the subject application are that the site is located out of the way and the soil has low fertility and productive potential. Mr Aubrey said that when the second dwelling is no longer required by the applicant's family members, or used as tourist accommodation, it could be removed from the property or rendered an accessory building.

Mr K Manley tabled copies of a landscape plan and tabled and read a submission. He explained that of the 16 hectare property only about 11 could be grassed. He said that the second dwelling was intended to be 100 metres from the main dwelling. Mr Manley commented on the submissions received to the application and was unconcerned about the productive forest operations on the adjacent property. He said when landscaping has been established the houses will blend into the landscape.

1.3 Presentation of Submissions

A submission from K A Dickerson and W L Baggenstos opposed the construction of the two dwellings on the property. The submitters claimed that this would lead to a request for subdivision of the property in the future.

Mr G Garnett said that Blackbird Valley has a distinct flavour and character of rural and rural-residential uses. He opposed the construction of two dwellings, saying it was likely to encourage a future subdivision. He said that as there are no houses presently on the site, an application for a second dwelling is premature.

A submission from Weyerhaeuser New Zealand Inc was tabled and read by Ms J Beale. The submission spoke about the potential conflict between rural-residential properties and forestry activities, especially during forestry harvesting operations. The submitter anticipated that there would be concerns raised by residents in respect to noise and safety issues associated with log truck and ancillary movements along Blackbird Valley Road, especially when harvesting occurs. The submitter spoke of potential cumulative effects of allowing residential intensification in a rural area. The submission sought the imposition of a condition of consent to require an easement to be registered on the present title and replacement titles, in the form of the example supplied.

1.4 Staff Report

Consent Planner, Ms M Bishop, spoke to her report of 8 June 2005 contained within the agenda. She said that two self-contained housekeeping units on a Rural 2 property are potentially a permitted activity, subject to the units being contained under the same roof and one of the units is no more than 60 square metres in floor area, as well as meeting bulk and location and servicing requirements. She advised that the Tasman Resource Management Plan does not restrict the building coverage for dwellings in this zone and that other buildings can potentially cover up to 2,000 square metres. However, the plan specifically does not permit more than one dwelling per site.

Ms Bishop said that the proposal is a discretionary activity under the Proposed Plan. The report said that once the effects of two dwellings on a site are established, the argument for subdivision and further residential activities in the area are strengthened. She said that this is due to the progressively decreasing productive land value and increasing capital value of the property. The report concluded that the effects of the two dwellings and two residential activities on the rural environment will be more than minor. Ms Bishop claimed that the cumulative effects of allowing residential intensification in a rural area are significant and unsustainable. The report said that the subject proposal is contrary to the policies and objectives of the Proposed Plan and the adverse effects on the environment will be more than minor.

1.5 Right of Reply

Mr Aubrey responded for the applicant, saying that he believed there was only one new title created in Blackbird Valley in the last 10 years. He said that the subject application is not something that is going to cause a lot of change. He noted that Weyerhaeuser already has a right to harvest their forest using the proposed route. He said that however the applicant may no longer be in occupation of this site at the time the forest is due for harvesting. He did not think that the forestry easement was necessary but that the applicant volunteered an emanations easement in favour of the forestry operation.

Mr Aubrey said that the effects of a second dwelling are the same as two separate dwelling units under one roof. He said that a second dwelling would not add significantly to the capital value of the property and there would be no pressure for subdivision. He said that Blackbird Valley Road is in good condition and could easily handle the additional vehicles per day generated from the subject application. He said there is a positive effect of the proposal, as this means less pressure on development in the urban residential area.

Mr Aubrey reminded the Subcommittee that this is ex-forestry land that has been root-raked and pine trees have degraded the land, which now has little productive potential. Use of the land is compromised by a non-forestry consent notice applied to the title. He said a proposed covenant on the title to prevent further subdivision is enforceable by the Council. Mr Aubrey said that the subject proposal has the potential to improve the productive use of the land and that no dangerous precedents would be created by a grant of consent.

Mr K Manley told of his experiences as a builder and said that a relocateable house can be constructed in modules of 8 metres by 6 metres so that at some future time it can be carted away on a standard truck tray.

Mr Aubrey commented on the proposed conditions of consent and the level of acceptability by the applicant.

The Subcommittee reserved its decision at 1.00 pm.

**Moved Crs O'Regan / Kempthorne
EP05/07/01**

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

W D Manley

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
W D Manley	Consideration of a planning application.	A right of appeal lies to the Environment Court against the final decision of Council.

CARRIED

**Moved Crs O'Regan / Higgins
EP05/07/02**

THAT for the purposes of discussing the application of W D Manley as an "In Committee" item, the Manager Consents be authorised to be in attendance as advisor.

CARRIED

**Moved Crs Higgins / O'Regan
EP05/07/03**

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 D MANLEY, BLACKBIRD VALLEY ROAD, NEUDORF – APPLICATION
RM041295**

**Moved Crs Higgins / O'Regan
EP05/07/04**

THAT pursuant to Sections 104 and 104B of the Resource Management Act 1991, Council grants consent for construction of two dwellings on Lot 2 DP 19327subject to the following conditions and for the following reasons.

CONDITIONS:

General

1. The dwelling proposed to be constructed first shall be known as the "parents dwelling".
2. The parent's dwelling shall be constructed generally in accordance with the plans tabled at the hearing and attached to this consent Marked Plan A and B.

It shall be built in a manner so that it can be easily disassembled.

3. Both the parent's dwellings and the main building shall be located generally in accordance with the landscape plan attached to this consent Marked Plan C.

Covenants

4. Prior to any building consent being issued for the second dwelling, a covenant under Section 108 of the Resource Management Act 1991 shall be entered into and registered against the certificate of title. The covenant must state that:
 - a) The “parent’s” dwelling, that is not the main dwelling on the property, is for the use of K and M Manley only and shall be removed when it is no longer required for that purpose.
 - b) The two dwelling status shall not provide a future basis for subdivision of the title; and
 - c) The owners and occupants of Lot 2 DP 19327 shall not attempt directly, or through action with a third party, to prevent or restrict any permitted or consented activity associated with the normal management and operations of the adjoining forestry on Lot 1 DP19438 and Lot 1 DP19327. The draft wording in attachment 2 would satisfy this condition.

The covenant shall be entered into pursuant to Section 108(2)(d) of the Act and shall be registered against the title pursuant to Section 109 of the Act. All cost incurred in preparing and registering the covenant shall be paid for by the consent holder.

(Note that this condition was offered by the applicant.)

Amenity

5. The exterior of the dwellings shall be finished in colours that are recessive and which blend in with the immediate environment. The Consent Holder shall submit to the Council for approval prior to the issue of the building consent for each dwelling the following details of the colours proposed to be used on the walls and roof of the dwelling:
 - i) The material to be used (e.g. paint, colour steel);
 - ii) The name and manufacturer of the product or paint;
 - iii) The reflectance value of the colour;
 - iv) The proposed finish (e.g. matt, low-gloss, gloss); and
 - v) Either the BS5252:1976 (British Standard Framework for Colour Coordination for Building Purposes) descriptor code, or if this is not available, a sample colour chip.

The dwellings shall be finished in colours that have been approved by the Council (see notation 5 below).

Landscaping

6. The consent holder shall implement the attached landscaping plan (Plan C) that will have the effect of blending the proposed dwellings with the surrounding rural environment to minimise the visual impact of the development on nearby properties. The plantings shall also be chosen to maintain a sense of privacy for adjoining landowners.

7. Plantings shall commence within the first growing season from the date of issue of consent with all plantings completed for each dwelling site within the first growing season following the completed construction of each dwelling.
8. The consent holder shall maintain the plantings in general accordance with the aforementioned landscaping plan that will form part of this consent.

Access

9. The consent holder shall apply to Council's Engineering Department prior to Building Consent being issued for the first dwelling to upgrade the access including the sealing of the access a minimum of 10 metres on-site.
10. The access is to be maintained and watered down if necessary to ensure adjoining properties do not experience any resulting dust problems.

Financial Contribution

11. The consent holder shall pay to Council a financial contribution at the time of uplifting the building for the second dwelling. The sum shall be calculated in accordance with Figure 16.5B. (See Note 6 below).

(See notation 4 below in relation to Development Contributions).

Monitoring

12. The resource consent holder shall, in order to allow for the monitoring of consent conditions, provide a minimum of three working days written notice to Council's Manager, Environmental Information or his agent before the completion of plantings for each dwelling site.

NOTATIONS

1. Monitoring of the consent is required under Section 35 of the Resource Management Act 1991 and a deposit fee is payable at this time. Should monitoring costs exceed this initial fee, Council will recover this additional amount from the resource consent holder. Costs are able to be minimised by consistently complying with conditions and thereby reducing the frequency of Council visits.
2. This consent is issued pursuant to the Resource Management Act 1991 and the Proposed Tasman Resource Management Plan. It does not constitute building consent and the proposed dwellings shall obtain the necessary approvals pursuant to the Building Act 2004.
3. 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 further resource consent is required to be obtained, including water storage and wastewater disposal.

- Council will require payment of a development contribution in accordance with Council's Development Contributions Policy under the Local Government Act 2002 for the development subject of this resource consent.

The Development Contributions Policy is found in the Long Term Council Community Plan (LTCCP) and the amount to be paid will be in accordance with the requirements which are current at the time the relevant development contribution is paid in full. A 5% discount is available if the payment is made prior to the uplifting of the building consent (see attached brochure).

- As a guide, the Council will generally approve colours which meet the following criteria:

Colour Group*	Walls	Roofs
Group A	A05 to A14	A09 to A14
Group B	B19 to B29	B23 to B29
Group C	C35 to C40	C37 to C40
Group D	D43 to D45	Generally excluded
Group E	Generally excluded	Generally excluded
Reflectance Value	≤50%	≤25%
Finish	Matt or Low-gloss	Matt or Low-gloss

* Based on BS5252:1976 (British Standard Framework for Colour Coordination for Building Purposes). Where a BS5252 descriptor code is not available, the Council will compare the sample colour chip provided with known BS5252 colours to assess appropriateness.

- Financial Contribution – Building

Component	Contribution
Building Consent (\$0 to \$50,000 value)	0%
Building Consent (\$50,001 to \$200,000 value)	0.5%
Building Consent (above \$200,001 value)	0.25%

Notes:

- The financial contribution is GST inclusive.
- The building consent value is GST exclusive.
- The financial contribution is for reserves and community services where a development contribution has been required for infrastructure services under Council's Development Contributions Policy in its Long Term Council Community Plan prepared under the Local Government Act. Where this has not been required, the financial contribution is double the percentage contribution shown in the figure and is divided evenly between infrastructure services and reserves and community services.
- The contribution due on a building should be identified separately from other contributions set for any resource consent for an activity that includes buildings.

REASONS FOR THE DECISION:

The land is zoned Rural 2 under the Proposed Tasman Resource Management Plan. The application for two dwellings on one title of this size falls to be considered as a Discretionary Activity despite the fact that Rule 17.5.6 (a) states that if two dwellings are located on one lot it must be greater than 50 hectares. This is because of the effect of Section 77C(1)(b) of the Resource Management Act 1991 which was part of the amendments to the Act in 2003. Before that amendment, the application would have fallen to be considered as a Non-Complying Activity.

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 and 104B which requires the Committee to have regard to:

- a) any actual and potential effects on the environment of allowing the activity and
- b) the relevant provisions of:
 - Regional Policy Statement
 - Plan or Proposed Plan
 - Any other matter considered relevant and reasonably necessary to determine the application.

The Committee noted that six submissions were received. The submissions raised the following concerns:

- Second dwelling is fine but should not be allowed to subdivide land later
- Parents are not dependent therefore there are no special circumstances
- Second dwelling should be removed when no longer occupied by the parents
- Granting consent may set a precedent for others
- Visual impact as second dwelling is in full view of half the valley
- Security issues associated with use of dwelling for homestay
- Subdivision potential could lead to reduced amenity and character of the Valley
- Adverse traffic effects associated with additional dwelling, in particular conflict with logging traffic
- Application is contrary to policies and objectives seeking to exclude rural residential development where pressure can occur to limit legitimate rural activities
- Potential reverse sensitivity issues relating to adjoining forestry
- Cumulative effects more than minor

The subject site is in an area of varied rural land uses including grazing, crops, forestry and some rural residential properties. The property is currently used for grazing and some weed clearance and amenity planting has been undertaken. Previously the land had been planted in pine trees which had been required to be removed.

The Committee noted the desire of the applicant to build two dwellings on the property. The first one to be built would be for the applicant's parents and subsequently he would return to New Zealand and construct the main dwelling for the property. During the course of the hearing it was confirmed (on behalf of the applicant) that the dwelling could be constructed in such a way as to facilitate its easy removal when the time comes.

The Committee noted the various mitigation measures offered. These included landscaping, restriction on the size of dwelling intended to be used by the parents, a covenant to ensure no subdivision would be sought within 10 years, limiting the use and duration of the second dwelling to either the parents or farmstay / tourist type accommodation, a "rural emanations" easement or covenant in favour of Weyerhaeuser New Zealand Inc.

The Committee are aware that additional dwellings have the potential to create immediate and "downstream" effects on the rural environment. However, the Committee considered that there would be limited adverse effects in terms of loss of productive land, loss of open space and rural character and other visual effects associated with the construction of two dwellings on this property. The Committee considered that the nature of the land was such that allowing the parents to live on the property in conjunction with the applicant would be beneficial in terms of managing the land. The Committee noted the highly unusual situation with the title in terms of the "no forestry" covenant on it. This meant that the options for use of the land were limited to that of grazing with the associated more intensive land management requirements.

The Committee accepted the offer made by the applicant with regards to creating a covenant on the title stating that no subdivision of the land would be sought. The Committee considered that this would be a useful reminder of the intention of the applicant at the time the consent was granted. In addition the Committee considered that limiting the use of the second dwelling to just the applicant's parents would be reasonable and in line with the stated intentions. Allowing it to be used subsequently for farmstays/visitor accommodation was not seen as being necessary and would mean that the second dwelling would be likely to remain for a much longer time.

The Committee was satisfied that the second dwelling would not have more than a minor effect in terms of rural amenity and rural character values associated with the Blackbird Valley. The landscaping would ensure that the buildings were not visually dominant. The Committee was aware of the potential cumulative effects of such applications, but considered that the conditions imposed and the circumstances of this case would be a natural limitation in terms of other families being willing or able to meet the same strict conditions. The Committee was satisfied that the "no subdivision" covenant would be a strong signal which would be taken into account in the future if any application was made to subdivide the land.

The entrance to the right of way should be upgraded as required by the rules in the Plan. Other than this, the Committee was satisfied that the traffic effects would be no more than minor.

The Committee considered that the granting of the consent and the associated requirement to create a rural emanation easement on the title would have a beneficial effect for the adjoining forestry landowner, as currently no such protection exists.

In summary, the Committee concluded that the application to construct two dwellings on one title was acceptable and the effects on the environment would be no more than minor in this situation although it was agreed that it was generally not consistent with the policies and objectives of the Rural zone.

CARRIED

Confirmed:

Chair: