

# MINUTES

**TITLE:** Environment & Planning Subcommittee  
**DATE:** Monday, 15 August 2005  
**TIME:** 9.30 am  
**VENUE:** Council Chamber, 189 Queen Street, Richmond

**PRESENT:** Crs E M O'Regan (Chair), T E Norriss and N Riley

**IN ATTENDANCE:** Environment & Planning Manager (D C Bush-King) Consent Planner (M D Morris), Administration Officer (B D Moore)

## 1. **SLM HOCKADAY – SELWYN STREET, POHARA, GOLDEN BAY – APPLICATION RM050314**

### 1.1 **Presentation of Application**

Mr Hockaday appeared at the hearing to speak to his Section 357 objection to Condition 1 requiring the payment of development impact levies, for Resource Consent RM 050314 of 31 May 2005, regarding his property at Selwyn Street, Pohara. The subject site contains two dwellings on Lot 16 DP 9422, CT 4C/1193.

Mr Hockaday tabled and spoke to a written submission objecting to the requirement for the payment of development impact levies pursuant to Sections 16.5.2 and 16.5.5 of the proposed Tasman Resource Management Plan that are required relating to one allotment and the Reserves and Community Services levy on one lot is to be assessed at 5.5% of the registered value of the lot. The development contribution on the one allotment will be in respect of roading, wastewater and water.

Mr Hockaday requested a waiver of levies and contributions on the basis that the TRMP and LTCCP policies show that no development levies and contributions should be collected in this case. He reminded the Committee that there are two existing houses on site and no physical or use changes will occur and no adverse effects are caused by the proposed subdivision. He quoted from Section 16.5.1 of the TRMP to support his claim that no development levy should be collected in this case.

Mr Hockaday listed the paragraphs from the Development Contributions Policy of the Longterm Council Community Plan which she said supported his claim that no development contribution should be collected in this case. The submission said that the existing houses were built under Council regulations that applied prior to the operation of the new TRMP and LTCCP. All applicable Council fees were paid.

Mr Hockaday noted that there is not a water service provided by Council to the subject site. He said that no significant precedent or any serious negative financial consequences will occur, if Council waives the levies and contributions, because this is a special case in which the development and impact occurred prior to the operational date of the TRMP and LTCCP. The houses were built and occupied, applicable TDC fees were paid and any adverse effects occurred prior to the dates of the effect of the TRMP and LTCCP. The original house was built in 1987 and the garage converted to a residential unit in 1991.

Mr Hockaday said he was prepared to make some financial contribution but not the full amount stated in the subdivision consent.

## **1.2 Officer's Report**

Senior Consent Planner, Subdivision M D Morris, spoke to his report contained within the agenda and recommended that proposed Condition 1 of this consent RM 050314, remain unchanged. Mr Morris spoke of the clear causal link between subdivisions and residential development and the demand on Council services. He acknowledged that in this case the building was erected before the proposed subdivision occurred.

Mr Morris said that Section 16.5.3(e) of the TRMP is not a loophole that will allow people to build second dwellings first and apply for subdivision later, in order to escape the reserves contribution. Mr Morris said that it is not uncommon for people to build dwellings first and subsequently apply for a subdivision consent. He said that the subdivision is a trigger point where levies are imposed by Council, to mitigate the effects of the subdivision.

## **1.3 Right of Reply**

Mr Hockaday referred to the confusion which may occur when applicants consult the TRMP and LTCCP relating to the requirements for levies and contributions. He reminded the Committee that the second dwelling was in place before the LTCCP and there is no additional housing demand being created as a result of the subdivision.

Mr Hockaday suggested that a compromised situation should occur in regard to the proposed levies and contributions sought by Council in Condition 1 of the consent letter dated 31 May 2005.

The Committee reserved its decision at 10.35 am.

**Moved Crs O'Regan / Riley  
EP05/08/05**

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

**SLM Hockaday**

**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>
SLM Hockaday	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 / Riley  
EP05/08/06**

**THAT for the purposes of discussing the application of SLM Hockaday as an "In Committee" item, the Environment & Planning Manager be authorised to be in attendance as advisor.**

**CARRIED**

**Moved Crs Norriss / Riley  
EP05/08/07**

**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. SLM HOCKADAY – SELWYN STREET, POHARA, GOLDEN BAY – APPLICATION  
RM050314**

**Moved Crs O'Regan / Norriss  
EP05/08/08**

**THAT pursuant to Section 357 of the Resource Management Act 1991 the Council UPHOLDS the objection that Condition 1 be deleted.**

**REASONS FOR THE DECISION**

1. It is accepted that the proposed subdivision will have little adverse effect on the environment because no new dwelling will be built as a result of the subdivision. The new allotment areas simply reflect the existing tenancy "boundaries" that have historically been delineated by fences.
2. The purpose of development impact levies is to help mitigate the effects on Council's infrastructure that will result from new subdivision and development. Because no new development will result from this subdivision, as the dwellings have existed for many years and are independently occupied, it was considered inappropriate to impose development impact levies on this subdivision.
3. Under Rule 16.5.3, one of the circumstances that would warrant a reduction or waiver of development impact levies is:

*"Where an activity is to be established which will have no adverse impact on the environment, particularly the infrastructure, reserves and community services of the District."*

It is accepted that the subdivision in this instance will have no adverse impact on the environment, because all the dwellings are already established, and the location of the dwellings and size of the lots will eliminate any potential for any future dwellings. The area is also generally well serviced with open space and reserve areas.

**THAT pursuant to Section 10 of Council's Development Contribution Policy, Councillors O'Regan and Norriss, acting under delegated authority, DECLINE jurisdiction to consider the issue of waiver in respect of the subdivision of Lot 16, DP 9422.**

**REASONS FOR THE DECISION**

1. The Council's Development Contribution Policy ("the Policy") provides that the subdivision of land shall constitute the trigger for the payment of a development contribution prior to the release of the section 224 certificate. In relation to the creation of allotments used for non-residential purposes, the Policy provides for a review of any staff decision.
  
2. We find this instance that while a dwelling will exist on each of the two allotments created by this subdivision, the Policy provides that it is the creation of the new allotment which requires payment of the development contribution for those utility services provided or to be provided under the Long Term Council Community Plan (LTCCP). In this case, one roading and one wastewater HUD is required because the services exist and one water HUD is required because the service is to be provided within the life of the LTCCP.

**CARRIED**

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**Confirmed:**

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**Chair:**