

MINUTES

TITLE: Environment & Planning Subcommittee
DATE: Monday, 17 October 2005
TIME: 9.30 am
VENUE: Council Chamber, 189 Queen Street, Richmond.

PRESENT: Cr R G Kempthorne (Chair), Crs R G Currie and E E Henry

IN ATTENDANCE: Manager, Consents (J S Hodson), Development Engineer (D Ley), Senior Consent Planner, Subdivision (M D Morris), Administration Officer (B D Moore).

1. B E AND M C HALSTEAD FAMILY TRUST, NEUDORF ROAD, UPPER MOUTERE - APPLICATION RM050490

1.1 Proposal

Mr B E Halstead, registered valuer and farm management consultant, advised that the proposal was for subdivision consent to subdivide two existing titles (CT NL 12A/1090 and NL 12A/1092) of 16.2 hectares and 26.6614 hectares into four allotments, Lot 1 being 12.9 hectares, Lot 2 being 11.9 hectares, Lot 3 being 10.7 hectares and Lot 4 being 8.3 hectares. The bulk of Lot 3 and a small part of Lot 1 are proposed to be protected by a QE II Trust covenant, which is designed to protect native bush areas on the property in perpetuity.

1.2 Presentation of Application

Mr Halstead explained that the subject site is located at Neudorf Road and is all hill, apart from approximately 2 hectares of stream flat, and the hill area is cut by three large, gorse-covered gullies, with streams feeding into the Neudorf Stream. He explained that although some of the land is in pasture, this has been difficult to establish because of the shallow topsoil of low fertility and gorse has found it easy to colonise. He said that the property does not display the features for land having high productive value, outlined within the Tasman Resource Management Plan.

Mr Halstead tabled and read a submission and explained how access would be provided to the site and that a right-of-way would be provided for Lots 1 and 2. He spoke on the issues of land fragmentation, saying that the proposed subdivision does not take any land out of high productivity. He said there are very few full-time farmers in this location and that the adverse effects are minor. He said he believed that the cumulative effects of this subdivision will be minimal because there are few situations similar to this application.

Mr Halstead spoke about how the proposed QE II covenants will be used to retain, protect and maintain the native bush areas within the subdivision. He suggested the use of a rural emanations easement to satisfy the concerns of neighbouring forestry company, Weyerhaeuser New Zealand Inc.

The evidence said that the creation of two extra allotments is hardly going to interfere with Weyerhaeuser's forestry activities, which are not to commence for at least 15 years.

He addressed the concerns of the submitter, E K Kiddle, saying that the subdivision will not cause a significant change to the rural nature of the area and that the Neudorf area is characterised by generally smaller holdings. Mr Halstead said that he could agree to a 100 metre setback from the Weyerhaeuser boundary. He said that gorse control will continue to be a matter requiring the attention of buyers of the subject land and that there is potential for more land to be grazed with more intensive use on smaller lot sizes. Mr Halstead explained that the productivity value of the pastureland on the existing site was not high and as the land dries out in summer, there is no certainty of being able to retain and fatten stock.

1.3 Presentation of Submissions

A submission from Weyerhaeuser New Zealand Inc was read by Ms J Beale. She said that Weyerhaeuser owns 93 hectares of forestry in Blackbird Valley and was concerned about cross-boundary effects that this subdivision may have on the adjoining forest, especially during the harvesting period from around about 2025. The submission provided examples of potential conflict between rural-residential and forestry activities, speaking from the experience of Weyerhaeuser in other similar situations. The submitter claimed that the subdivision application fails to comply with the criteria under zone Rule 16.3.9 relating to potential and cumulative effects. The submitter provided an example of an "activities easement" to register on titles, with a view to alerting potential purchasers of the forestry activities that will occur next to them.

A submission from R E Kiddle was tabled and read at the hearing by Manager, Consents, Ms J Hodson. The submitter opposed any more decrease in the size of land blocks in the Rural 2 Zone and noted that there was a subdivision on the subject land in 1994. The submitter said that this productive land needs protection from subdivision to maintain an economic base for agriculture. The submitter agreed with the Council staff report in regard to approval of this subdivision leading to a cumulative effect on existing rural character and amenity. The submitter said that the applicant does not need a subdivision for the QE II protection of the bush blocks.

1.4 Staff Reports

Senior Consent Planner, Subdivision, Mr M Morris, spoke to the conclusions presented within his report, contained within the agenda. He acknowledged that the applicant is seeking to protect a large area of native bush by a QE II covenant, however, the subdivision has the potential to adversely affect the rural amenity and to create a cumulative effect by encouraging similar applications for subdivision.

Mr Morris said that the locality of this subject site does not mean that subdivision should occur. He said that the main issue is the progressive fragmentation of Rural 2 land. He said that modification of the application to a three lot proposal would be more acceptable and noted that the applicant can build on both original titles.

Mr Morris said that where there is no positive benefit, Council could decline the application. He said that the proposed QE II Trust covenant on the bush areas gives justification for a support of approval of one extra lot. He said that although the use of a rural emanations easement will make future buyers aware of the effects of the adjacent forestry area, this does not stop cross-boundary effects. He said that a 100 metre setback from the boundary of the forestry area for the proposed building site is satisfactory.

Development Engineer, Mr D Ley, spoke to his report contained within the agenda and referred to the proposed right-of-way and servicing issues. Mr Ley said that to achieve a complying right-of-way width would create slippage and other vegetation destruction.

1.5 Right of Reply

Mr B E Halstead responded for the applicant and referred to the proposed upgrading of the right-of-way and that some hollows and low points can be used to contain fill from widening and upgrading work. Mr Halstead said that a full 6.5 metre wide right-of-way can be achieved. He explained the process required to complete the work in relation to the QE II covenant. He said he did not want the general public to be visiting the bush areas but would encourage school group visits. Mr Halstead said that he could provide the QE II documentation to Council if this was required.

The Subcommittee reserved its decision at 12.30 pm.

Moved Crs Henry / Currie EP05/10/15

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

B E and M C Halstead Family Trust

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
B E and M C Halstead Family Trust	Consideration of a planning application.	A right of appeal lies to the Environment Court against the final decision of Council.

CARRIED

**Moved Crs Currie / Kempthorne
EP05/10/16**

THAT for the purposes of discussing the application of B E and M C Halstead Family Trust as an "In Committee" item, the Manager Consents be authorised to be in attendance as advisor.

CARRIED

**Moved Crs Henry / Currie
EP05/10/17**

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. B E AND M C HALSTEAD FAMILY TRUST, NEUDORF ROAD, UPPER MOUTERE
- APPLICATION RM050490**

**Moved Crs Henry / Currie
EP05/10/18**

THAT pursuant to Sections 104 and 104B of the Resource Management Act 1991, Council DECLINES consent to subdivide Lot 2 DP 18153 and Parts Section 8 Block XV Motueka SD and Pt Sections 116 SQ 2, Certificates of Title NL 12A/1092 and NL 12A/1090 into four allotments.

The reasons are stated below.

REASONS FOR THE DECISION – SUBDIVISION:

The land is zoned Rural 2 under the Proposed Tasman Resource Management Plan. The subdivision is a discretionary activity under rule 16.3.9 of the Proposed Tasman Resource Management Plan in that the proposed lots are 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 Proposed Plan sets out the matters the Council will have regard to in assessing the application.

The Committee is aware that there is one reference pertaining to the subdivision rules and policies and objectives particularly relating to the Rural 1 zone. It is not considered that this reference could have the effect of altering the relevant rule or zoning of this land and therefore the provisions of the Transitional Plan are not considered to be relevant and all the weight will be placed on the policies and objectives of the Proposed Plan.

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 104D which requires the Committee to have regard to:

- (a) any actual and potential effects on the environment of allowing the activity
- (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 applicant explained that there was an intention to create a covenant over some remnant native bush on the land with the Queen Elizabeth II National Trust. It is understood that the Trust has approved the registration of the covenant and the final signing of the paperwork is to be done upon completion of some fencing of the regenerating bush area.

The proposed subdivision is in an area of mixed land uses including grazing, forestry, other tree crops and some non-rural related commercial activity.

The Committee noted that two submissions in opposition were received. These submissions raised the following concerns:

- The application is contrary to the Proposed Tasman Resource Management Plan.
- Increase the potential for complaints from future residents in respect of noise and safety issues associated with log truck and ancillary vehicle movements when tree harvesting occurs.
- Further development creates more traffic on rural roads and means that that more neighbours will be affected by vehicle movements along roads.
- Properties such as this attract purchasers who have urban expectations, who can seek to restrict activities that would normally be undertaken in the rural environment.
- Fragmentation of rural land
- Significant change to the rural nature of the area.
- Build precedent for the continued subdivision of rural land.

The Committee acknowledges and commends the applicant for the efforts being made to protect the remnant bush area on the land. It is noted that the bush remnant has regionally significant values.

However, the Committee was concerned about the progressive subdivision of this area of land. The Plan policies seek to avoid the effects of fragmentation on all productive land which includes Rural 2 land. The Committee considered that the thrust of the Plan was that the less productive the land is in general, the larger the lots had to be in order to protect the productive value that it had. The Committee did not consider that the resource consent process was the avenue through which a challenge to Council's strategic policy should be made, as seemed to be the case here with the case being made by the applicant that subdivision of unproductive hill country should be allowed rather than in the more productive Rural 3 area. The framework of the Plan directs rural residential subdivision and development towards the areas appropriately zoned "rural residential" and now towards the Rural 3 zone provided that productive and landscape values can be protected. A change away from this framework would represent a significant change in direction.

The Committee is aware that throughout the rural zone there are many “lifestyle” properties but the fact that they are only able to be used for “lifestyle” rather than as an “economic unit” is not considered to be a justification for subdivisions. This conclusion was in line with the reasoning used by Judge Willie (P10, RMA 320/94) which was referred to in the staff report at this hearing.

The Committee was aware of the issue of “reverse sensitivity” and cross-boundary effects where rural residential activities come into conflict with legitimate rural land uses which caused effects perceived as undesirable by residential occupants in the rural areas. This effect, if allowed to continue unabated, could lead to a curtailment of many legitimate rural activities, including forestry in some areas, and the Committee considered that this was of significant concern.

The Committee was concerned about the cumulative effect of Council granting such consents. They considered that the incremental addition of residential “lifestyle” activities in the rural zone contributes to a loss of rural character and amenity and open space values that the Plan identifies as issues to be protected. It was considered that although there were examples of lots less than the 50 hectare controlled activity size in the area, the Committee considered that the area was by no means characterised as ‘rural residential’ and that the approval of more lots below this size would have an adverse effect on the open space and rural character of the area.

The Committee considered that an increase in “lifestyle” subdivisions in this area would contribute to an increase in land values in the area, which may well contribute to increasing pressure on the ability of landowners to generate an economic return from the productive use of the land.

The Committee also had concerns about the cumulative effects of additional demand on the rural infrastructure including the roading network.

The Committee was also concerned about the potential adverse impact on the stream of fairly major earthworks which would be needed to make the existing farm track into a right of way.

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 granting of the consent would not result in sustainable management of the land.

CARRIED

Confirmed:

Chair: