

# MINUTES

**TITLE:** Environment and Planning Subcommittee  
**DATE:** Friday, 25 November 2005  
**TIME:** 1.30 pm  
**VENUE:** Golden Bay Service Centre, 78 Commercial Street, Takaka

**PRESENT:** Crs N Riley (Chair), S J Borlase and E J Wilkins

**IN ATTENDANCE:** Manager Consents (J Hodson), Consent Planner (L Davidson),  
Administration Officer (B D Moore).

## 1. EATERY ON THE ROCK LIMITED, STATE HIGHWAY 60, TAKAKA – APPLICATION RM050215 AND RM030417

### 1.1 Proposal

1. To construct and use five tourist accommodation units for up to ten people that will contain ablutions, but no cooking facilities.
2. To construct a two bedroom managers' residence, that will become a second - dwelling on a title of 1.23 hectares of Rural 1 land.
3. To construct and use a "crazy golf" course consisting of 18 holes.
4. To upgrade and use the existing workshop as an artisan's studio with retail space open to the general public.
5. To erect an on-site advertising sign that is 3m<sup>2</sup> in area, to be erected at the road boundary of the property.

On land at 29 Main Road, Takaka (State Highway 60), described as Lot 1 DP 7933 and Part Section 5 of Section 22, District of Takaka, Block X Waitapu Survey District, all land contained in Certificate of Title NL 3D/1, being land zoned Rural 1 where the area of the title is 1.23 hectares.

Consent is also sought to increase the volume of waste water discharged from 2.32 m<sup>3</sup> to 3.5 m<sup>3</sup> per day.

### 2.2 Presentation of Application

Registered Surveyor, Mr M Potter, appeared at the hearing together with Mr C Churcher for the applicant. Mr Potter tabled and read a statement of evidence and advised that the discharge consent had been approved under delegated authority. The applicant accepted proposed condition of Mr Davidson's staff report restricting the operating hours for the Crazy Golf and the Artisan Studio to between 9.00 am to 7.00 pm except that they are seen as an undue restriction on the Artisan Studio.

The applicant has identified a market for restaurant functions that combine exhibitions of art work in the studio and restricting the studio hours to 7.00 pm would prevent such activity. The evidence noted that the District Plan has no restriction on operating hours for the permitted activity for a self employed artist's studio. The applicant sought that the closing time for the studio would be aligned to that of the restaurant for the purpose of this occasional use.

Mr Potter disputed the claim from Transit NZ that there will be an adverse cumulative effect that may result in pressure for future commercial development in the rural zone. He said that evidence would be presented by Traffic Design Group to give assurance that the actual result in traffic will be well within the prescribed limits for the access from the State Highway. Mr Potter said that there are 25 existing car parks to provide for restaurant customers. A further two parks would be provided for the artist's studio and a new car park for the golf course, to provide a total of eight additional car parks. The accommodation unit, car parks and manager's residence car parking are to be adjacent to the respective units.

Mr D Petrie, a Traffic Engineer of Traffic Design Group Limited, tabled and read a statement of evidence to assess the traffic impacts of the proposed expansion of the commercial activities on the site, on the safety and efficiency of State Highway 60, especially the accessway to the site. He said that there is ample site distance to and from the existing crossing place. He said that the hourly and daily traffic flows are low by State Highway standards, nationally. The evidence provided traffic flow details and said that there had been no crashes within 300 metres of the site, recorded in the Land Transport NZ Accident Database for the most recent five year period, 2000-2004.

Mr Petrie said that the proposed 42 car parking space is more than adequate to accommodate the highest demands. The access has already been formed and the State Highway widened in accordance with Transit NZ requirements. The evidence provided estimates of the expected traffic generation from the proposed activity. He noted that the applicant is only seeking approval for a single 3 m<sup>2</sup> sign located on the applicant's property.

Mr Petrie said he did not think it was necessary or appropriate to restrict the number of guests in the tourist accommodation units to 10 as suggested by the Council Planner. He said he had assessed that even in the peak summer season, the number of vehicle movements will typically be less than 100 vehicles per day. Mr Petrie said that the layout of the existing access is the safest and most practical access for both the existing and additional commercial activities proposed for the site and already meets the requirements previously agreed to with Transit NZ for the existing restaurant activity. Additional traffic generation associated with this site will have little, if any, effect on the overall traffic pattern.

Mr Potter said that the Council Development Engineer's suggested condition of consent for the payment of a development contribution in respect of roading, equivalent to five household units of demand should be waived and the existing all weather metal surface is more than adequate and that there is no requirement for the sealing of all common access areas and car parks.

The submission from Transit NZ was presented in the form of a statement of evidence tabled and read by Traffic Safety Manager B J Holland. Mr Holland disputed the traffic generation figures provided by the applicant's Traffic Engineer and claimed that the peak potential traffic generation at the facility would be about 30% higher. He claimed that as a consequence the current excess standard is not appropriate for the intensification proposed. The submission sought that the application be declined as there will be an increase in the risk to motorists.

A statement of evidence on behalf of Transit NZ was tabled and read by Resource Management Planner, Mr G Rae. He said the main concern of Transit is the commercial and vehicle generating nature of the proposal on a 100 km/h section of limited access State Highway. He said that in his view, Transits previous approval for this access to the diagram D standard should not be interpreted as encouragement for this activity to expand in the manner proposed in this application.

Mr Rae stated in these conclusions to his evidence that while there is a commercial crossing already in place, the proposal would still have potential adverse traffic safety effects and effects on the long term sustainability of the State Highway resource, given the sites location, the type of traffic it will generate and its reliance on the one direct access.

### **2.3 Staff Report**

Consents Planner, L Davidson, spoke to his report contained within the agenda together with the recommended conditions of consent. He spoke of the need to apply a limitation on the development to the extent provided in the recommended conditions of consent. He referred also to those suggested conditions recommended by the Development Engineer, D Ley, in a memorandum of 4 November 2005, contained within the agenda.

### **2.4 Right of Reply**

Mr M Potter responded for the applicant and said that a lot of guess work is going on about proposed traffic movements. He said that only two trucks come onto the site per week and disputed the calculations provided by Transit NZ submitters. He said that the average vehicle movements are only about one third of the expected peak traffic.

Mr Potter said that the restaurant trade is derived from 60% local residents which reduces the tourist trade predictions provided by submitters. The applicant volunteered that the Crazy Golf activity should close at 3.00 pm and that part of the application should be considered separately. He said that the predictions of the growth of traffic on the State Highway may be unrealistic as the Golden Bay population is only growing at 1% a year.

The Committee reserved its decision at 4.15 pm.

**Moved Crs Riley / Borlase  
EP05/11/57**

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

Eatery on the Rock Ltd

**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>
Eatery on the Rock Ltd	Consideration of a planning application.	A right of appeal lies to the Environment Court against the final decision of Council.

**CARRIED**

**Moved Crs Wilkins / Riley  
EP05/11/58**

**THAT for the purposes of discussing the application of Eatery on the Rock Ltd as an "In Committee" item, the Manager Consents be authorised to be in attendance as advisor.**

**CARRIED**

**Moved Crs Borlase / Wilkins  
EP05/11/59**

**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. EATERY ON THE ROCK LIMITED, STATE HIGHWAY 60, TAKAKA –  
APPLICATION RM050215 AND RM030417**

**Moved Crs Riley / Wilkins  
EP05/11/60**

**THAT pursuant to Sections 104B of the Resource Management Act 1991, Council GRANTS consent to Eatery on the Rock Ltd to:**

1. To construct and use five tourist accommodation units for up to ten people that will contain ablutions, but no cooking facilities.
2. To construct a two bedroom managers' residence, that will become a second dwelling on a title of 1.23 hectares of Rural 1 land.
3. To upgrade and use the existing workshop as an artisan's studio with retail space open to the general public.

4. To erect an on-site advertising sign that is 3m<sup>2</sup> in area, to be erected at the road boundary of the property.

**(Note that consent to operate the “crazy golf” has been DECLINED.)**

The consent is granted subject to the following conditions and for the following reasons and part of the application is DECLINED for the following reasons:

**CONDITONS - LAND USE - RM050215:**

1. Consent is granted for five accommodation units to be erected and used, with a floor area not exceeding 46 m<sup>2</sup> for each unit, to be used solely for visitor accommodation.
2. Consent is granted to erect a two bedroom dwelling with a floor area not exceeding 100 m<sup>2</sup> to be used solely as a managers' residence in relation to on-site activities.
3. The units and managers' residence shall be sited as indicated on the site plan submitted with the application and no closer than 5 metres to the property boundary.
4. No more than ten guests shall be accommodated in the proposed units at any one time.
5. Prior to the issue of a Code Completion Certificate for the managers' residence, the consent holder shall have a covenant registered on the title of the property, to restrict the use of the dwelling to a managers' residence and requiring removal of the building from the property if it is no longer used for that purpose.
6. The consent holder shall submit a schedule of finishes for the proposed units and the managers' residence with the building consent application, providing details of the exterior finishes of the buildings and demonstrating that they will be recessive and blend with the natural environment.
7. On site parking shall be provided for 25 vehicles with the area formed to an all-weather metalled surface, as indicated on the site plan submitted with the application. In addition, one carpark shall be provided beside each tourist accommodation unit and two carparks for the managers' residence, all formed to the same standard.
8. The accommodation units and managers' residence shall be connected to the existing waste water treatment plant currently serving the restaurant.
9. Consent is granted for one on-site advertising sign shall not exceed 3 m<sup>2</sup> in area and located within the consent holders' property. The sign shall contain lettering not less than 200 mm in height that clearly contrasts with the signs' background.
10. The hours of operation of the artisan gallery and associated retail sales is restricted to between 8.00 am and 9.30 pm.
11. The conditions of the land use consent may be reviewed by Council in accordance with Section 128 of the Resource Management Act 1991 within a period of one month after six months of the consent becoming operational and thereafter at intervals of twelve months, for the purpose of:

- Dealing with any adverse effect on the environment arising from the exercise of the application;
  - Requiring the applicant to adopt the best practicable option to remove or reduce any adverse effect on the environment.
12. That the consent holder shall, no later than the time of uplifting the building consent for the works, pay a financial contribution for reserves and community services. The amount of the financial contribution shall be based on the value of the building consent component in accordance with the following table (from Figure 16.5B of the Proposed Tasman Resource Management Plan):

<b>Financial Contribution – Building</b>	
Component	
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%
<p><b>Notes:</b></p> <ol style="list-style-type: none"> <li>1. The financial contribution is GST inclusive.</li> <li>2. The building consent value is GST exclusive.</li> <li>3. 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.</li> <li>4. The contribution due on a building should be identified separately from other contributions set for any resource consent for an activity that includes buildings.</li> </ol>	

**ADVICE NOTES:**

1. The applicant shall meet the requirements of Council with regard to all Building and Health Bylaws, Regulations and Acts.
2. Attention is drawn to the Drinking Water Standards New Zealand and the consent holder is advised to contact the Nelson Marlborough Health Board for information regarding this.
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.
4. The consent holder is advised that the Council will require the payment of a development contribution in accordance with the Council’s Development Contributions Policy under the Local Government Act 2002 for the development which is the subject of this resource consent.

The Development Contributions Policy is presented 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.

At the subject property, the roading contributions are payable.

5. 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 can be minimised by consistently complying with conditions and thereby reducing the frequency of Council visits.

#### **DECISION – VARIATION TO DISCHARGE CONSENT- RM030417:**

**THAT pursuant to Sections 104B and 127 of the Resource Management Act 1991, Council GRANTS consent to Eatery on the Rock Ltd to increase the volume of waste water discharged from 2.32 m<sup>3</sup> to 3.5 m<sup>3</sup> per day.**

**The application is granted subject to the following conditions and for the following reasons:**

#### **CONDITIONS – DISCHARGE CONSENT- RM030417:**

1. This resource consent granted by the council is subject to its servants or agents being permitted access to the relevant parts of the property at all reasonable times for the purpose of carrying out inspections, surveys, investigations, tests, measurements or taking samples.
2. An access point to allow sampling of the treated wastewater before being discharged to the disposal field must be provided.
3. The discharge shall be disposed of to an area not less than 700 m<sup>2</sup> in the location marked “disposal site” on the plan attached to this consent (Plan A) and dated 23/11/01.
4. The discharge is not more than 3.5 m<sup>3</sup> per day.
5. All effluent shall be treated by way of a Stempflow Aerated Wastewater Treatment Plant (or equivalent) to provide effluent that meets the requirements of Rule 36.1.5 of the Tasman Resource Management Plan
5. The quality of the treated wastewater at the outflow pipes shall not exceed the following standards:
  - BOD 20 milligrams per litre
  - Total suspended solids 30 milligrams per litre
  - Faecal Coliforms 100 cfu’s per 100 mls
6. The wastewater treatment plant shall be regularly maintained to ensure it meets the prescribed output standards.

7. The treated wastewater is discharged via subsurface dripper lines at a maximum discharge application rate not exceeding 10 mm per day.
8. The discharge shall not create an offensive or objectionable odour discernible beyond the property boundary.
9. The resource consent holder shall advise Council when the activity this consent authorises commences so monitoring of conditions can be programmed.
10. Council may review conditions of this consent by serving notice of its intention to do so pursuant to Section 128 and 129 of the Resource Management Act 1991. The time of the review and service of any notice may occur at any time after the first year of exercise of this consent.

The purpose of the review is:

- To deal with any adverse effect on the environment which may arise from the exercise of this consent and which is appropriate to deal with at a later stage.
- To deal with any unforeseen effects on the environment arising from the exercise of this consent.
- To deal with any other adverse effect on the environment on which the exercise of this consent may have an influence.

#### **NOTATION:**

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.

#### **REASONS FOR THE DECISION – LAND USE AND VARIATION TO DISCHARGE CONSENT:**

1. The land is zoned Rural 1 in the Proposed Tasman Resource Management Plan. The construction and operation of the discretionary activity under the Proposed Plan as it falls within the definition of “commercial activity”. The application to vary the discharge consent is a discretionary activity under the Proposed Plan. Due to the progress of the Proposed Plan through the statutory process the provisions of the Transitional Plan are not considered relevant as there are no relevant references to the relevant rules of the Proposed Plan. The application has been considered pursuant to Part 2 and Sections 104B of the Resource Management Act 1991.
2. Part 2 of the Act, i.e. the purpose and principles of sustainable management of natural and physical resources, and Section 104 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.
3. The property currently contains a dwelling, a restaurant, accessory buildings and carparking for 25 cars. The property has also been used as a church in the past. The land is undulating and contains limestone karst outcrops and is accessed from State Highway 60.
  4. The Committee noted that two submissions were received. There was one in support from an adjoining land owner and one in opposition from Transit New Zealand. The main issues of concern raised in relation to this application were:
    - Adverse traffic effects on State Highway 60 associated with the extension and intensification of commercial activity on the site
    - Businesses of this nature being able to locate in the rural area where they are dependent on access via a Limited Access Road
    - Potential of such activities having a cumulative adverse effect in relation to ribbon development
  5. The Committee carefully considered the concerns and the relevant assessment criteria in terms of:
    - Amenity values and rural and character
    - Cross boundary effects
    - Productive land value
    - Servicing issues
    - Traffic matters
  6. The Committee considered the effects on amenity and rural character were no more than minor as would the potential for cross-boundary effects. The area intended for the tourist accommodation was not highly visible and the adjoining land uses were not intensive. The land had limited productive potential and thus these effects were considered to be minor. The Committee was satisfied that the servicing issues could be adequately satisfied in relation to the upgrading of the on-site domestic waste water system.
  7. The main area of contention was the traffic effects on State Highway 60 as raised by Transit NZ. The Committee noted that the vehicle entrance to the property had been upgraded to "Diagram D" standard at the time the restaurant was approved. The Committee was told that this standard was suitable for land uses generating up to 100 vehicle movements per day.

The Committee considered that the safety issues associated with the proposed additional activities was a serious matter. In relation to the five proposed tourist accommodation units, the Committee considered that the traffic movements would not be entirely those of “strangers” as once the visitors had become acquainted with the location they would be competent in terms of the access arrangements. The Committee considered that the vehicle movements associated with the gallery would be acceptable.

8. However, the Committee did not consider this to be the case with the proposed “crazy golf”. The vehicle movements which could be generated by this use would be more spontaneous, being mainly associated with visiting families and tourist groups unfamiliar with the roading pattern in the area. The Committee were concerned that the number and kind of visitors (vehicles) potentially attracted to this activity would exceed that which could be acceptable in terms of traffic safety.
9. The Committee considered the issue of potential cumulative effect and ribbon development in this area. It was noted that any future proposal for a commercial use would require a resource consent for a discretionary activity and thus the Council would have control over the effects and outcomes. It was not considered that the approval of part of this application would send a signal to others in the area that it was appropriate for ribbon development on this road or any other.
10. The Committee considered that a condition limiting the use of the proposed manager’s residence for that purpose and to require it to be removed if no longer needed for that purpose was appropriate.
11. The Committee was satisfied that the proposed tourist accommodation and gallery was not contrary to the objectives and policies of the Proposed Plan in terms of site rural character and amenity, productive values and traffic safety effects.
12. In summary the Committee considered that the proposed tourist accommodation, gallery and sign should be approved as it was considered that it would have no more than a minor adverse effect on the environment, but that the “crazy golf” should not be approved due to the impact on traffic safety.

**CARRIED**

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**Confirmed:**

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**Chair:**