

MINUTES

TITLE: Environment & Planning Subcommittee
DATE: Monday, 13 March 2006
TIME: 9.30 am
VENUE: Motueka Service Centre, 7 Hickmott Place, Motueka

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

IN ATTENDANCE: Manager Consents (J S Hodson), Consent Planner, Subdivision (D A Hewett), Development Engineer (D Ley), Administration Officer (B D Moore)

1. O C, D B, D L, H O & F Q GROOBY, MOTUEKA VALLEY WEST BANK ROAD – APPLICATION RM050952

1.1 Proposal

The applicant sought consent to subdivide Lot 1 DP 14916, CT 18137, of 23.2 hectares into two titles. Proposed Lot 1 is 7,000 square metres including an existing dwelling and proposed Lot 2 is 22.5 hectares.

1.2 Presentation of Application

Mr N McFadden tabled and read an introductory legal submission on behalf of the applicant Grooby family. Proposed Lot 1 is zoned Rural 1 and the balance of Lot 2 is largely zoned Rural 2 but contains a small portion of land zoned Rural 1. The application was considered as a discretionary activity and Mr McFadden noted that the Council planning officer had recommended that consent be granted to the application for subdivision. The legal submission addressed the concerns of two submitters and recognised that the reporting officer had proposed the imposition of conditions of consent to mitigate those concerns. Mr McFadden referred to those conditions of consent where the applicant was not fully in agreement, particularly concerning the formation of the right-of-way, vehicle access adjacent to the West Bank Road and access to proposed Lot 2. The applicant was also not satisfied with the proposed limitation on the building height and the wording of the proposed landscaping condition.

Planning evidence was tabled and read by Mrs J Hilson. It was stated that no submitters were present to speak to their submissions. Mrs Hilson noted that the applicants had obtained the written consents of two of their neighbours closest to the proposed building site on Lot 2. The evidence discussed how the proposed subdivision will meet the objectives and policies contained within the Council's planning documents.

Mr McFadden suggested the use of a forestry emanations easement to avoid any future cross-boundary or reverse sensitivity impacts.

The Hearing Panel sought further clarification of the proposed formation of the access from West Bank Road and the proposed right-of-way route and formation. The Hearing Panel requested that the applicant's representatives and staff officers discuss the access situation during an adjournment.

1.3 Staff Reports

Mr Ley sketched and explained a proposed access arrangement which had been agreed to with the applicant and he responded to the questions of the Hearing Panel regarding the width, gradient and formation of the proposed access and right-of-way.

Consent Planner, Subdivision, Ms D Hewett, sought that her planning report be taken as read by the Hearing Panel and addressed the matters raised in the conclusion to her report together with the proposed conditions of consent. She said that the practical access to the building site should be formed as this would give certainty of location. She sought the maximum building height be restricted to 6 metres and that the applicant provide a consent notice for the provision of a landscape and planting plan, by an experienced, qualified person.

Cr O'Regan questioned the location of the stone dam referred to by submitter, Mr M Jones but neither staff nor applicant were aware of that location.

1.4 Right of Reply

Mr McFadden tabled and read a proposed condition wording for the access formation and a sketch plan of this access was provided for the Hearing Panel. He said that access could be formed to the boundary of Lot 2 but not to the building site as there had been no application for land disturbance lodged with the Council. He said that conditions of consent must be made for resource management reasons. He questioned why the Council would wish to impose a building height restriction condition as the building site is backdropped by the hillside and trees. Mr McFadden said there is nothing wrong with having houses in a landscape. He said that a landscaping plan could be provided to the Environment & Planning Manager's satisfaction but Council should not require this to be provided by a landscape architect because of the potential expense to the applicant. He said a condition of consent should include the purpose for the landscape plan, and that this would be provided and implemented within a certain time and be required to be maintained.

Mr Grooby said that whoever is building a new house on the proposed new lot would wish to protect themselves from views of buildings in the adjacent Renaissance property.

The Subcommittee reserved its decision at 12.00 noon.

**Moved Crs Higgins / Bryant
EP06/03/01**

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

O C, D B, D L, H O and F Q Grooby

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
O C, D B, D L, H O and F Q Grooby	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
EP06/03/02**

THAT for the purposes of discussing the application of O C, D B, D L, H O and F Q Grooby as an "In Committee" item, the Manager Consents be authorised to be in attendance as advisor.

CARRIED

**Moved Crs O'Regan / Bryant
EP06/03/03**

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. O C, D B, D L, H O & F Q GROOBY, MOTUEKA VALLEY WEST BANK ROAD – APPLICATION RM050952

**Moved Crs Higgins / Bryant
EP06/03/04**

THAT pursuant to Sections 104 and 104B of the Resource Management Act 1991, Council GRANTS consent to subdivide Lot 1 DP 14916 into two allotments subject to the following conditions.

The reasons are stated below.

CONDITIONS - SUBDIVISION:

1. Plan

The subdivision shall conform with application Plan RM050952 dated September 2005, prepared by Selwyn Light Surveyors Ltd, and attached to this consent.

2. Easements

Easements are to be created over any services located outside the boundaries of the lots that they serve as easements-in-gross to the Tasman District Council for Council reticulated services or appurtenant to the appropriate allotment.

Reference to easements is to be included in the Council resolution on the title plan.

3. Rural Emanation Easement

A rural emanations easement shall be registered against Lot 1 in favour of productive land use activities and their associated effects on Lot 2.

4. Services

Full servicing for underground power and telephone shall be provided to the boundary of Lot 2. The relevant utility provider shall be required to provide written confirmation to the Tasman District Council Engineering Manager that live power and telephone connections have been made to all lots.

Confirmation that these requirements have been met shall be provided in a written statement from the supply authority. A copy of the supplier's certificate of compliance shall be provided to the Tasman District Council Engineering Manager prior to a completion certificate being issued pursuant to Section 224(c) of the Resource Management Act 1991.

All servicing shall be accordance with Tasman District Engineering Standards and Policies 2004.

5. Right-of-Way and Vehicle crossing

That the right of way reserve be extended but not formed, is to include the area marked "#" on the plan annexed hereto.

The entrance to the right-of-way shall have a level perpendicular depth (where it adjoins the public road carriageway) of 6 metres to accommodate a vehicle or vehicles stopping before entering the West Bank Road.

Such right-of-way entrance shall be sealed to 4.5 metres in width to the tangent point of the entranceway curve, and thereafter basecourse, if 1:6 or flatter.

Such right-of-way formation otherwise to be as shown on the attached plan together with shoulders and side drains complying with the Tasman District Council Engineering Standards.

6. Site Distance

Re-contouring of the bank either side of the vehicle crossing access shall be undertaken to provide the following sight distances in either direction specified below:

- a) a minimum site distance of 50 metres south of West Bank Road
- b) a minimum site distance of 85 metres north of West bank Road

7. Access For Lot 2

The access for Lot 2 shall have a minimum carriageway width of 3.5 metres wide and shall be constructed with:

- a) 1.0 metres side drains

- b) Metalled access (compacted basecourse)

The access shall be constructed from the end of Right-of-Way A to the western corner of Lot 1 prior to the issue of the section 223 certificate.

Note:

This condition was volunteered by the applicant so that any adjustment to the boundary between Lot 1 and 2 can be made in order to accommodate the access and any cuts or batters.

8. Building Location Plan

A building location plan in accordance with the application plan RM050952 dated September 2005 prepared by Selwyn Light Surveyors Ltd shall be prepared that accurately defines the location of the 30 metre diameter building area and shall be submitted to the Environment and Planning Manager for approval as part of the section 223 title plan.

The 30 metre diameter building area shall be setback a minimum distance of 30 metres from DP 14962 and from any other adjoining property boundary.

The building location area shall be shown on the section 223 plan.

9. Building Location Lot 2 – Consent Notice

The following consent notice shall be registered on the certificate of title for Lot 2 pursuant to Section 221 of the Resource Management Act:

- a) That the construction of a dwelling shall be restricted to the building location area shown on DP

The consent notice shall be prepared by the applicant's solicitor and submitted to Council for approval and signing. All costs associated with approval and registration of the consent notices shall be paid by the consent holder.

10. Building Height and Colour – Consent Notice

The following consent notice shall be registered on the certificate of title for Lot 2 pursuant to Section 221 of the Resource Management Act:

- a) The maximum height of the dwelling shall be restricted to 6 metres.
- b) The exterior colour(s) of the dwelling, including the roof, shall be recessive and any exterior cladding material shall be non-reflective.

The consent notice shall be prepared by the applicant's solicitor and submitted to Council for approval and signing. All costs associated with approval and registration of the consent notices shall be paid by the consent holder.

11. Planting Plan Lot 2 – Consent Notice

The following consent notice shall be registered on the certificate of title for Lot 2 pursuant to Section 221 of the Resource Management Act,

That prior to the issue of a building consent for the dwelling on Lot 2:

- a) A planting plan shall be prepared by a landscape architect or suitably experienced and skilled person, at the cost of the consent holder, that identifies the type, location, and height at maturity of planting to be undertaken to screen the dwelling on Lot 2. The plan shall identify plant species and a management and maintenance programme and shall be sensitive to the surrounding landscape.
- b) The planting plan shall show how the proposed building will integrate with the site and natural landforms. The purpose of the plan is to ensure the dwelling is screened to a degree that it does not appear dominant in the landscape.
- c) A planting plan shall be submitted with the building consent for the dwelling on Lot 2 for approval by the Environment and Planning Manager.
- d) The planting plan shall be completed within two years of the issuing of the building consent for the dwelling. The completion of the work in accordance with the planting plan shall be confirmed by a suitably qualified landscape architect or suitably experienced and skilled person.
- e) The planting shall be maintained in accordance with the planting plan and management and maintenance programme.

The consent notice shall be prepared by the applicant's solicitor and submitted to Council for approval and signing. All costs associated with approval and registration of the consent notices shall be paid by the consent holder.

12. Engineering Plans

Engineering plans detailing the access to the Lot 2 building site, Right-of-Way A and access out to the existing road carriageway design and formation, stormwater discharge and all services are required to be submitted to the Tasman District Council Engineering Manager for approval prior to the commencement of any works. All engineering details are to be in accordance with the Tasman District Council Engineering Standards and Policies 2004. All necessary fees for engineering plan approval shall be payable.

As-built plans detailing the Right-of-Way A formation and access out to the existing road carriageway, stormwater discharge and services shall be provided to the Tasman District Council Engineering Manager.

The Section 223 title plan shall not be submitted until the engineering plans have been approved by the Tasman District Council Engineering Manager, so that easement areas can be accurately determined.

13. Commencement of Works and Inspection

The Tasman District Council Engineering Department shall be contacted two working days prior to the commencement of any engineering works. In addition, two working days' notice shall be given to the Engineering Department Inspectors when soil density testing, pressure testing, beam testing or any other major testing is undertaken.

No works shall commence on-site until the engineering plans as required to be submitted for approval in accordance with Condition 12 of this consent have been approved by the Tasman District Council Engineering Manager.

14. Engineering Works

All works shall be constructed in strict accordance with the Tasman District Council Engineering Standards and Policies 2004 or to the Tasman District Council Engineering Manager's satisfaction.

15. Engineering Certification

- a) At the completion of works, a suitably experienced chartered professional engineer or surveyor shall provide the Tasman District Council Engineering Manager with written certification that the works have been constructed in accordance with the approved engineering plans, drawings and specifications and any approved amendments.
- b) Certification that the nominated building site on Lot 2 is suitable for the erection of a residential building shall be submitted from a chartered professional engineer or geotechnical engineer experienced in the field of soils engineering (and more particularly land slope and foundation stability). The certificate shall define on Lot 2 the area suitable for the erection of residential buildings and shall be in accordance with Appendix B Section 11 of the Tasman District Engineering Standards 2004.
- c) Where fill material has been placed on any part of the site, a suitably experienced chartered professional engineer shall certify that the filling has been placed and compacted in accordance with NZS 4431:1989 Code of Practice for Earth Fill for Residential Development. The certification statement of suitability of earth fill for residential development shall be made in accordance with Appendix A Section 11 of the Tasman District Engineering Standards and Policies 2004 and shall be provided to the Tasman District Council Engineering Manager.

16. Financial Contributions

Payment of financial contributions assessed as follows:

Reserves and Community Services

5.5% of the assessed market value of a 2,500 m² building site within Lot 2

If payment is not made within two years of the granting of this resource consent, a revised valuation must be provided and the contribution recalculated. The cost of any valuation shall be paid by the consent holder.

ADVICE NOTE

Council will not issue the Section 224(c) certificate in relation to this subdivision until all development contributions have been paid in accordance with Council's Development Contributions Policy under the Local Government Act 2002.

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 the amount to be paid and will be in accordance with the requirements that are current at the time the relevant development contribution is paid in full.

This consent will attract a development contribution on one allotment in respect of roading.

REASONS FOR THE DECISION – SUBDIVISION:

The land is zoned partly Rural 1 and partly 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 and also less than the 12 hectares under rule 16.3.7(b). Schedule 16.3A of the Proposed Plan sets out the matters the Council will have regard to in assessing the application. The land is zoned Rural C under the Transitional Plan (Waimea Section) and lots below 25 hectares are considered as Discretionary Activity. Greater weight has been accorded to the policies and objectives of the Proposed Plan than the Transitional Plan as it has progressed a significant way through the public process under the Resource Management Act 1991 and the land under consideration is not Class A.

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.

The applicant explained that the new lots created will be closely aligned to the productive capability of the land i.e the flatter land near the road is contained within Lot 1 along with the existing house. The balance of the land is contained within Lot 2 but there is a suitable building platform identified.

The proposed subdivision is in a rural area which includes forestry, regenerating native vegetation, grazing pastures, various agricultural uses and houses.

The Committee noted that four submissions were received. Three in support (one being conditional) and one in opposition. The issues raised by the submissions includes:

- Concerns about access to Lot 2
- Visual effects of dwelling on Lot 2
- Historic items need to be protected
- Subdivision of Rural 1 and Rural 2 land is inappropriate and contrary to the objectives and policies of the Plan

- adverse environmental effects will be more than minor
- The application will create a precedent effect and open the door for other rural landholders to subdivide
- The application is contrary to sections 5 and 7 of the Resource Management Act 1991.

Generally speaking, the Committee is concerned about the subdivision of rural land. The Plan policies seek to avoid the effects of fragmentation on all productive land which includes Rural 2 land as well as Rural 1. In this case the Committee was satisfied that the land had very low, productive value and the subdivision would not lead to any significant loss of land of productive value.

The Committee noted that the existing vehicle access serving the existing dwelling on the Lot 1 would need only relatively minor upgrading and therefore the amount of earthworks associated with the provision of vehicle access was limited and this was an advantage to the proposal. However the access to Lot 2 would be best constructed at least to the end of Lot 1 so that the boundary between Lot 1 and 2 could be adjusted if it was necessary after construction work to ensure the access to Lot 2 was wholly contained within that lot. This was volunteered by the applicant.

The Committee considered that the proposed dwelling platform would not be highly visible from a wide area but that landscaping would be required to mitigate the effect on the landscape from nearby properties. It was considered that the future dwelling should be limited to the proposed building site to ensure a good level of privacy and amenity is maintained between the dwellings on Lot 1 and 2 and also limited in height to ensure they do not appear dominant on the skyline as it was considered that the building site was at a relatively high elevation. The Committee was satisfied that the one additional dwelling in this location would have only a minor effect in terms of rural character and amenity.

The Committee considered that a rural emanations easement was appropriate to assist with ensuring that potential cross-boundary effects associated with forestry and rural activities were recognised as being present by any future owners of Lot 1.

The Committee was satisfied that the existing vehicle entrance onto Motueka West Bank Road could be upgraded to a safe standard.

The Committee noted that there was no conclusive information available on the existence of the historic water pipeline and storage tank mentioned by a submitter. However, the applicant indicated there was no intention to interfere with such and they were aware of their responsibilities under the Historic Places Act.

The Committee was satisfied that in this application there was an unusual set of circumstances which separated it from the generality of Rural 2 land and therefore that granting consent would not send a signal to the public that the subdivision of rural land for non-rural related activities was acceptable. The effects of the subdivision were considered to be relatively minor.

The Committee was satisfied that issues such as domestic wastewater disposal and other servicing issues could be adequately dealt with through the imposition of conditions.

CARRIED

Date Confirmed:

Chair: