

MINUTES

TITLE: Environment & Planning Subcommittee
DATE: Friday, 28 April 2006
TIME: 9.00 am
VENUE: Tasman District Council, 189 Queen Street, Richmond

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

IN ATTENDANCE: Manager Consents (J Hodson), Subdivision Officer (R D Shirley), Development Engineer (D Ley), Administration Officer (B D Moore)

1. R W AND A S BALDWIN, VALHALLA DRIVE, RICHMOND – SUBDIVISION RM030138 OBJECTION TO CONDITIONS

The applicants had objected to conditions of consent contained within Council's decision dated 7 February 2005, particularly Condition 1(c) maximum grade of right-of-way and Condition 3 requiring the relocation of the existing Council water main crossing the proposed Lot 3. The applicants' surveyor Mr R Aubrey tabled and explained a roading and water layout plan and used photographs to demonstrate that the route of the Council's new walkway is partly over Lot 3 and he showed the location of the Council water pipeline easement which is estimated to be about 3 metres wide. The Council's Subdivision Officer, Mr R D Shirley, explained the background to the application.

Mr and Mrs Baldwin, owners of 30 Valhalla Drive were present at the hearing and Mr Baldwin tabled and read a statement of evidence. He said that Mr Karaitiana of the Council had provided advice on the subdivision and he said that the situation was now seen differently by Council's Development Engineer Mr Ley. He spoke of how the proposed driveway was designed at a gradient of 1:4.5 and spoke of the limited easement that the Council has over the right-of-way to maintain the water tanks above the applicants' site. Mr Baldwin spoke of the location of the existing water pipe in the gully and that to relocate this would be a waste of money.

Mr R Aubrey tabled and read a submission on behalf of the applicant. He said the main reason for seeking to use 1:4.5 gradient on the right-of-way was because it would fit with the existing access and would minimise the amount of earthworks required. Mr Aubrey tabled photos of examples of other similar subdivisions with steep access including some at Hill Street, Hart Road and Valhalla Drive. He said that the proposed gradient would not compromise safety. Mr Aubrey said that discretion is something that it is routinely used in subdivisions and that only the Council has legal access over the right-of-way by four wheel drive vehicle. He sought that Council amend proposed Condition 1, whereby the gradient required is 1:4.5 and the last sentence is deleted.

Mr Aubrey then explained why Condition 3, to relocate the Council water pipeline was unnecessary and unreasonable. He said that the water pipeline is located in a gully and well clear of the proposed building site. It is located in an easily accessible gully. He said that the applicant had no intention to build near the walkway or existing Tasman District Council water pipeline. Mr Aubrey said that to re-lay the water main in a right-of-way is very expensive in terms of construction and would be expensive to maintain. He suggested that Council could reroute the pipeline onto its own land or buy the land where the existing pipeline is laid. The applicant sought that the last sentence of Condition 3 be deleted.

Mr A J Fon, an engineer of Connell Wagner, said the proposed 1:4.5 gradient would apply to a section of right-of-way about 100 metres in length between chainage 43 and 152. He said the proportions of the right-of-way either side, excluding the existing access to the water reservoir, met the minimum grade requirements of the consent. He said the proposed gradient of 1:4.5 would be a more practical solution, avoiding mass earthworks or extensive retaining. He explained that the surfacing of the right-of-way would be asphaltic concrete and provide a durable surface resistant to increased vehicle braking forces.

Subdivision Officer, R Shirley, said the original consent provided right-of-way easements F and G to the Kennedy property and the applicant may wish to volunteer deletion of that part of the consent.

Development Engineer, D Ley, spoke to his engineering report and said that the extent of the present on site work to form the proposed right-of-way and retaining walls, has precluded achieving the correct grade of 1:5. He referred to the plans which were submitted with the application and a letter of 19 August 2004 from Knapps Lawyers. Mr Ley said that consideration could be given to allowing the water main to remain in its present position and to increase the width of the easement through the use of consent notices. He suggested an easement width of a minimum of 5 metres for the water pipe. Mr Ley said two consent notices would be required, firstly the position of the proposed house and secondly the acceptance of responsibility for damage in the future, from the water main. Mr Ley said that the existing retaining walls have compromised the right-of-way gradient.

The applicant provided a demonstration to the hearing panel to show that over a length of 100 metres for the proposed right-of-way, that the top end would be 2.2 metres higher for a 1:4.5 gradient than for a 1:5 gradient.

Mr Ley suggested that the applicant raise the level of the drive at the lower level between levels 30 and 40 and that this would meet the required grade. He said that Council would require retaining walls to be built up to achieve that level. A fill height of 800 millimetres to 1 metre would be required. He agreed that the area closest to Valhalla Drive would have to be almost level. Stormwater control would be required on the upper 1:4 gradient section where only one user is involved. Mr Ley explained that the reasons for the gradient rules are for safety and maintenance purposes. He said that a chip seal surface would need more maintenance and that an asphaltic concrete surface drive would go a small way to alleviate future maintenance. Mr Ley said that the water pipe is PVC and is under pressure going both in and out of the water tanks. He said that more damage would occur with a blow out of the water pipe if it was located on the hillside rather than within the roadway.

1.1 Right of Reply

Mr Aubrey suggested that the right-of-way would have to be made 1.1 metres higher at the lower point and 1.1 metres lower at its upper level. He said that this is a very expensive engineering solution that is totally unnecessary. He said there is ample protection for the pipe and if it bursts the water would not go through the proposed building site. He said that an engineer has to certify that the house foundations will not compromise the water pipeline. He said the pipe is about 1 metre deep and there is no need to change the easement or reroute the pipe. He said it was best practice to leave the water pipe out of any proposed carriageway.

Mr Baldwin also responded saying that Area B of the proposed right-of-way had been the subject of negotiation with Council officers, especially Mr J K Frater. He said that the cost to fill the right-of-way and to achieve the gradient of 1:5 is considerable. Mr Baldwin acknowledged that earthworks on the driveway and the achievement of the existing gradients were carried out prior to consent being obtained. The retaining walls were then done and only after Council applied a stop work notice to the retaining wall construction, the Council building inspector later certified the existing wall. Mr Baldwin said that the applicant had waited a year to proceed with this work and that the extra construction costs for the gradient of 1:5 required by the Engineering Manager would cost the applicant \$20,000.00 to \$30,000.00.

The Committee reserved its decision.

Moved Crs O'Regan / Bryant EP06/04/08

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

R W and A S Baldwin

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
R W and A S Baldwin	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 / Bryant EP06/04/09

THAT for the purposes of discussing the application of R W and A S Baldwin as an "In Committee" item, the Manager Consents be authorised to be in attendance as advisor.

CARRIED

**Moved Crs O'Regan / Henry
EP06/04/10**

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. R W AND A S BALDWIN, VALHALLA DRIVE, RICHMOND – SUBDIVISION
RM030138 OBJECTION TO CONDITIONS**

**Moved Crs O'Regan / Henry
EP06/04/11**

THAT pursuant to Section 357D of the Resource Management Act 1991, the Council, resolves that the objection by R and A Baldwin (lodged by Aubrey Survey and Land Ltd.) be allowed and the consent amended as follows:

- A.** Condition 1 (c)
Replace “1:5” with ‘1:6 from chainage 0-40 and 1:4.5 from chainage 40-152”
- B.** Condition 1(d)
replace “a two coat chip seal” with “asphaltic concrete.”
- C.** Condition 3
Delete “ Council’s water main traverses the site and will need to be relocated with the right-of-way and at the applicant’s expense.”
- D.** Condition 5(e)
Amend to read “ The right-of-way easement created by Easement Certificate 319090.13 to be extinguished with respect to the right-of-way and widened to a minimum of 5 metres with respect to the water pipeline.
- E.** Condition 6
Add new condition 6 (ca) “ That the foundations and location of any building to be constructed on Lot 3 be designed and certified by a chartered professional engineer to ensure there is no risk of damage to the building in the event of failure of any part of the water pipeline.”
- F.** Condition 9
Add the phrase “unless otherwise permitted by this consent” after the word “satisfaction”.

REASONS FOR THE DECISION:

- 1.** The land the subject of the subdivision consent is zoned Residential and does not fall within any area relating to instability.

2. The Committee considered that the gradient of the right-of-way would be acceptable at 1:4.5 (rather than 1:5) in this instance as this would enable the lower part of the right-of-way near to Valhalla Drive to be at a more gentle gradient (approximately 1:6.7) which is considered to have traffic safety benefits and allow for better access to the existing house on Lot 2 DP 18810 . In addition it is noted that the right-of-way will be 4.5 metres wide which is a greater width than is required in the Plan. The applicant has offered to construct the right-of-way in asphaltic concrete rather than two coat chip seal and this is considered to be an important factor as this provides a more durable surface to cope with the steep gradient and the pressure exerted during vehicle braking. Therefore this volunteered superior construction surface is added as an amended condition.
3. The Committee also noted that the management of stormwater from the right-of-way must be appropriately designed and constructed. The Committee noted that the objection did not specifically relate to the requirement to reinstate the access to the Council's water tanks at a gradient no steeper than 1:4. However, this aspect was discussed at the hearing for the objection and subsequently the applicant confirmed that this requirement could be met, therefore the requirement stands.
4. With regard to the location of the existing water supply pipeline, the Committee considered that generally it is appropriate to locate public services outside of private land. However in this case the Committee considered that the water pipe which crossed a corner of proposed Lot 3 could be allowed to remain in place. It was considered that provided an adequate easement was in place (at least 5 metres wide) to allow for access for maintenance purposes and that any building on the lot was designed to take the constraint of the pipeline into consideration, then there was little risk associated with leaving the pipe where it is.

The Committee considered that adding a consent notice to the title to Lot 3 ensuring that the design of any building must take account of the risk of failure of the pipeline was appropriate. It was also considered that relocating it into the right-of-way could potentially create a greater risk to adjoining property, as in the event of a serious failure, water (currently) would flow into a gully where no house exists, but this may not be the case if the pipe had to be constructed in the right-of-way.

5. In summary, the majority of the Committee were satisfied that the two aspects of the objection could be accepted in the circumstances. It was considered that each situation must be judged on its own merits. In this case, existing topography and on-site constraints meant that the standards normally imposed could be relaxed slightly to allow for a better practical solution and that it was satisfied that no adverse environmental effects would result.

CARRIED

The hearing concluded at 12.00 pm.

Date Confirmed:

Chair: