

MINUTES

TITLE: Environment & Planning Subcommittee
DATE: Friday, 20 October 2006
TIME: 9.30 am
VENUE: Council Chamber, 189 Queen Street, Richmond

PRESENT: Councillors E M O'Regan (Chair), E E Henry and R J Kempthorne

IN ATTENDANCE: Manager Consents (J Hodson), Consent Planner (J R Andrew),
Administration Officer (B D Moore)

1. TRANSIT NZ - NOTICE OF REQUIREMENT FOR ALTERATION TO DESIGNATION D121, STATE HIGHWAY 60, APPLEBY HIGHWAY - APPLICATION RM060374

1.1 Application

The applicant, Transit NZ, sought a Notice of Requirement pursuant to Section 181(3) of the Resource Management Act 1991, to request that Council alter the existing designation of State Highway 60, to encompass the new strips of land required for road widening. State Highway 60 is listed in Part II, Appendix 1 of the PTRMP as D121 for State Highway purposes, with Transit NZ being the requiring authority.

Transit NZ is intending to undertake safety works on a portion of State Highway 60 known as Appleby Straight. This work will improve the safety of the intersection of McShane and Pugh Roads and along a length of about 1.2 kilometre of the State Highway from the old rail-bridge, beside the Three Brothers Roundabout, to a point just to the west of Pugh Road/McShane Road/State Highway intersection.

The work includes installing a flush median (painted centre island) and appropriate turning lanes at the intersection. In order to undertake the works, land is to be acquired from seven landowners on this section of highway and McShane and Pugh Roads. Therefore the designation of State Highway 60 will need to be altered to include the land required for this project. The area of land to be taken is described as CT NL3A/247 – 346 m²; CT NL10A/431 – 583 m²; CT NL10A/431 – 1100 m²; CT NL4A/30 – 409 m²; CT 70070 – 757 m²; CT NL84/132 – 1290 m²; CT NL12A/706 – 86 m².

The Committee reserved its decision at 1.15 pm.

RESOLUTION TO EXCLUDE THE PUBLIC

Moved Crs Kempthorne / Henry
EP06/10/20

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

Transit New Zealand

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 passing this resolution are as follows:

General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Ground(s) under Section 48(1) for the passing of this resolution
Transit New Zealand	Consideration of a planning application	A right of appeal lies to the Environment Court against the final decision of Council.

Moved Crs Henry / O'Regan
EP06/10/21

THAT the open meeting be resumed and the business transacted during the time the public was excluded be adopted.
CARRIED

2. TRANSIT NZ - NOTICE OF REQUIREMENT FOR ALTERATION TO DESIGNATION D121, STATE HIGHWAY 60, APPLEBY HIGHWAY - APPLICATION RM060374

Moved Crs O'Regan / Kempthorne
EP06/10/21

THAT Pursuant to Section 171(2) of the Act, the Committee Recommends that Transit New Zealand confirms the requirement to alter the existing designation (D121) for State Highway 60 at this location subject to conditions as detailed in the following report and decision.

Report and Recommendation of the Tasman District Council through its Hearings Committee

Meeting held in the Tasman Room, Richmond

on Friday, 20 October 2006, commencing at 9.30 am

A Hearings Committee ("the Committee") of the Tasman District Council was convened to hear the application lodged by Transit New Zealand relating to a notice of requirement for an alteration to Designation 121 being State Highway 60 to facilitate the Appleby Upgrade Project. The application, made in accordance with the Resource Management Act 1991 ("the Act"), were lodged with the Tasman District Council and referenced as RM060374.

PRESENT:

Hearings Committee
Cr O'Regan, Chairperson
Cr Henry
Cr Kempthorne

APPLICANT: **Transit New Zealand**
Ms S Bradley – Counsel for Applicant
Mr A Ferguson- Roading Engineer,
Mr M Lord- Senior Environmental Planner, Opus International
Consultants, for the Applicant

CONSENT AUTHORITY: **Tasman District Council**
Mr J Andrew-Senior Consent Planner- Land

SUBMITTERS: Mrs R Woods
Mr S Jones and Mr D Pryor on behalf of Phimai Holdings

IN ATTENDANCE: Ms J Hodson , Manager Consents- Assisting the Committee
Mr B Moore- Committee Secretary

1. DESCRIPTION OF THE PROPOSED ACTIVITY

The applicant, Transit NZ, sought a Notice of Requirement pursuant to Section 181(3) of the Resource Management Act 1991, to request that Council alter the existing designation of State Highway 60, to encompass the new strips of land required for road widening. State Highway 60 is listed in Part II, Appendix 1 of the PTRMP as D121 for State Highway purposes, with Transit NZ being the requiring authority.

Transit NZ is intending to undertake safety works on a portion of State Highway 60 known as Appleby Straight. This work will improve the safety of the intersection of McShane and Pugh Roads and along a length of about 1.2 kilometre of the State Highway from the old rail-bridge, beside the Three Brothers Roundabout, to a point just to the west of Pugh Road / McShane Road / State Highway intersection.

The work includes installing a flush median (painted centre island) and appropriate turning lanes at the intersection. In order to undertake the works, land is to be acquired from seven landowners on this section of highway and McShane and Pugh roads. Therefore the designation of State Highway 60 will need to be altered to include the land required for this project. The area of land to be taken is described as CT NL3A/247 – 346 m²; CT NL10A/431 – 583 m²; CT NL10A/431 – 1100 m²; CT NL4A/30 – 409 m²; CT 70070 – 757 m²; CT NL84/132 – 1290 m²; CT NL12A/706 – 86 m².

2. PLAN RULE(S) AFFECTED

The Notice of Requirement would have the effect of altering Designation 121 in Part II, Appendix 1 of the proposed Tasman Resource Management Plan.

3. NOTIFICATION AND SUBMISSIONS RECEIVED

The application(s) was notified on Saturday 10 June 2006 pursuant to Section 93 of the Act. A total of 5 submissions were received. The following is a summary of the written submissions received and the main issues raised:

Two submitters, Mr M C Doyle and Mr and Mrs Lissant-Clayton supported the requirement.

Mrs R Woods made a submission seeking that additional works relating to access to her properties be included in the project. It is understood that this matter has been agreed to by Transit NZ.

Appleby Village Developments Ltd also made a submission seeking that additional works relating to their property be included in the project. Transit NZ and Appleby Village Developments Ltd have reached a satisfactory agreement and Appleby Village Developments Ltd have formally withdrawn their submission.

Phimai Holdings Ltd is opposed to the requirement on four grounds as follows:

1. That the required work could be redesigned and carried out without needing to take land from Phimai Holdings Ltd.
2. That a reduction of speed limit would reduce the work required and hence not require land to be taken from Phimai Holdings Ltd.
3. That even a small loss of productive land is significant as often stated by Council in their decisions relating to Rural Land.
4. That the compensation offered for the land is not commensurate with the value assigned to it by Phimai Holdings Ltd.

4. PROCEDURAL MATTERS

No procedural matters arose as a consequence of this hearing.

5. EVIDENCE HEARD

The Committee heard evidence from the applicant, expert witnesses, submitters, and the Council's reporting officer. The following is a summary of the evidence heard at the hearing.

5.1 Applicant's Evidence

Counsel for Transit NZ, Ms S M Bradley, tabled and read an introductory submission. She said that the Notice of Requirement (NOR) was required as not all affected owners had agreed to the alteration to the designation and this was then publicly notified. A total of five submissions were lodged, of which three were in opposition and two were in support.

Following consultation with the directors of Appleby Village Developments Limited, (AVD), concerns have been met and its submission has been formally withdrawn pursuant to a letter dated 27 September 2006. This introductory evidence outlined the duties of this committee in relation to the NOR and legal matters for consideration and determination.

Ms Bradley said that Transit NZ does not consider that a condition of consent on the designation, restricting the final design is reasonable, or in accordance with the approach of the Resource Management Act as regards outlined plans under Section 176A. She sought that proposed Condition 1 of the officer's report be amended as follows:

The designation shall be undertaken in general accordance with land plans in Appendix D to the Notice of Requirement, being Plans 5544, sheets 10 and 20 to 25.

Ms Bradley provided an appendix to her written submission which outlined the land acquisition process for land to be acquired for a public work.

Roading Engineer, Mr A J Ferguson, of Opus International Consultants Limited read a statement of evidence in his capacity as Project Manager. Mr Ferguson said that this section of the highway has experienced significant land use development pressure over the past few years and a steady history of crashes at the intersection of McShane and Pugh roads. He said the provision of a flush median is considered necessary to cater for the number of vehicle entrances on this section of the highway and the turning traffic generated by these properties.

The proposed road design is required to accommodate the expected traffic growth rate. The proposed highway design provides a flush median of 2.5 metres wide with two moving lanes, one in each direction, of 3.5 metres wide each with sealed shoulders, nominally 2 metres wide.

Mr Ferguson outlined the options considered to achieve the proposed widening and also the options considered for the intersection upgrade. He said the existing speed restriction is 100 kph but that an 80 kph speed restriction is currently being considered by other agencies such as the police and Automobile Association.

Mr Ferguson noted that the submission from Appleby Village Developments had been withdrawn. He said that he supported the Council officer's recommendations regarding sealing of the access to the property owned by Rachel Woods. Mr Ferguson said that it is not possible to achieve the necessary improvements proposed, without encroaching into the land owned by Phimai Holdings Limited and every effort has been made to minimise the impact of the proposed works on that property. Mr Ferguson said that the project is necessary to provide for the steady growth in traffic volumes in the area. He considered that the project, including its design, is appropriate.

Senior Environmental Planner of Opus, Mr M T Lord, tabled and read a statement of planning evidence. The evidence discussed the merits of the proposal and Mr Lord said that he considered that a designation alteration is the preferable planning mechanism for the intersection upgrade and highway improvements. He explained that the designation alteration shows the public that such a work is proposed. The evidence described the extent and process for consultation that had been undertaken throughout the project. Mr Lord addressed the concerns raised by submitters and the proposed level of mitigation which the applicant had offered.

Mr Lord said that if the project is unable to proceed, this is likely to have an adverse effect on the long term sustainability of the State Highway network at this location.

5.2 Submitters' Evidence

Rachel Woods sought that Transit NZ provide safe sealed access to her property and relocate a set of bollards on the cycle / pedestrian part at the front of the property to allow vehicle access via the roadway under the overbridge. She said that she had already paid for the erection of two replacement fences and said she was satisfied with the condition proposed by Transit NZ but sought that there be some action or a letter of

undertaking from Transit NZ. She explained that turning into her property from the overpass bridge road, is too unsafe.

The submission from Phimai Holdings Limited for Market Gardeners Limited, was addressed by Mr S Jones, Surveyor and Mr D Pryor. The submitter sought that the work be redesigned and carried out without needing to take land from Phimai Holdings Limited. The submitter said that a reduction of speed limit would reduce the work required and hence not require land to be taken from Phimai Holdings Limited. The submission said that even a small loss of productive land is significant. The submitter said that 40 kilograms of tomatoes could be grown per square metre in a glasshouse per year.

Mr D Pryor, Company Secretary for Market Gardeners Limited, tabled and read a statement of evidence. He noted that the Council's Transportation Manager, Mr Ashworth, had commented in the staff report that "while a reduction in speed would hopefully improve the road safety for road users in this area, I do not believe that it would allow a significant departure (if any) from the land take requirement at this intersection".

Mr Pryor said that the proposed upgrade, is in relation to various development proposals and therefore other land owners should not be adversely impacted. He said the transportation safety issues, can be adequately addressed through redesigning and assessing other options, including speed limits. He said that the submitting company would accept the closure of Pugh Road.

5.3 Council's Reporting Officer's Report and Evidence

Consent Planner, Mr J Andrew, spoke to his staff report contained within the agenda and said that the recommended Condition 2 is as Council would have treated it. He referred to proposed Condition 1 from Transit NZ noting that Transit NZ does not want to go over the approval process again and that he was happy with their proposed wording. Mr Andrew said that the Council's Transport Manager's advice supports the proposed amended designation. He said the proposed land take is neither too great nor too little. Mr Andrew suggested that the Hearing Panel may wish to consider a proposed condition concerning Borcks Creek which would require Transit NZ to investigate the capacity of the existing Borcks Creek culvert for flooding purposes.

5.4 Right of Reply

Counsel for the applicant, Ms S Bradley, asked the Panel to note that the lowest speed limit that could apply to this location is 80 kph but that the corner treatment of the Phimai site would still be the same and the land take be the same. She said that a speed limit lowering proposal would not benefit Phimai. She acknowledged that the Appleby Village Development/Grape Escape site is just one development which had to be considered but this designation alteration is part of an integrated whole project including the median strip for turning purposes. She said that the work on Pugh Road was just a band aid and that right turning lanes are needed. She said that work on other intersections has already been done and that work on others is planned.

Ms Bradley said that moving the proposal to the north would still require the use of a lot of productive land. She quoted the definitions from Chapter 2 of the Plan for "productive value" and "productivity". She noted these definitions do not express preference for land use type and that the growth of things such as tomatoes is done in

bags and that the land can still be used productively. She said that whatever Transit NZ does, it is going to require productive land to be taken.

Ms Bradley said that she didn't think that the proposed designation alternation and project would have an effect on the Borcks Creek culvert.

6. PRINCIPAL ISSUES THAT WERE IN CONTENTION (Section 113 (1) (ac))

The principal issues that were in contention were:

- a) Has adequate consideration been given to alternative methods of achieving the objective associated with the change of the designation?
- b) Is the change to the designation reasonably necessary for Council to make its recommendation? This issue particularly relates to the land owner in opposition.

7. MAIN FINDINGS OF FACT

The Committee considers that the following are the main facts relating to this application:

- a) Has adequate consideration been given to alternative methods of achieving the objective associated with the change of the designation?

Comment- It was heard that consideration had been given to various options including; closing the side roads to eliminate the intersection and have a round about , to reduce the speed limit , to achieve the necessary road width by taking land on the northeast side only, both sides or the southwest side only and various intersection designs were considered too. The Committee considers that adequate consideration had been given to alternative methods of achieving the objective of Transit NZ in relation to the objective of this project.

- b) Is the change to the designation reasonably necessary for Council to make its recommendation?

Comment- The Committee heard that the objective of the project was "to ensure the efficiency and safety of SH 60 particularly the intersection with McShane and Pugh roads." The Committee heard from Transit that :

"The proposed works will increase safety for users of the State Highway. This section of the State highway network has a high number of users, with an estimated annual average daily traffic count of 8000 vehicles per day (vpd) using the Appleby Straight, 860 vpd using McShane Road, and 640 vpd using Pugh Road. Traffic growth on SH60 at this location is estimated to be approximately 5% per annum, with further growth anticipated due to the creation of the Rural 3 Zone within the coastal Tasman area.

The land around this section of State Highway 60 is under development pressure for a wide range of activities. As a result the intersection of McShane Road, Pugh Road and SH60 requires upgrading to ensure the safety of the networks users is maintained. The improved intersection layout includes room for vehicles to move left before turning from the highway. This improved road shoulder can also be utilised by cyclists. The flush medians and turning lanes will provide separate

lanes for those turning at the intersection and will take the turning traffic out of the main State Highway lane. This will improve the flow of traffic and minimise the likelihood of accidents between turning and straight ahead traffic.”

The Committee was satisfied that the designation alteration was reasonably necessary and appropriate in terms of securing authority to give effect to the objectives of the project. The Committee was satisfied that the projections of traffic growth are reasonable and those projections necessitate the suggested designation extension.

8. RELEVANT STATUTORY PROVISIONS

8.1 Policy Statements and Plan Provisions

In considering this application, the Committee has had regard to the matters outlined in Section 171 of the Act. In particular, the Committee has had regard to the relevant provisions of the following planning documents:

- a) the Tasman Regional Policy Statement (RPS);
- b) the proposed Tasman Resource Management Plan

8.2 Part II Matters

In considering this application, the Committee has taken into account the relevant principles outlined in Sections 6, 7 and 8 of the Act as well as the overall the purpose of the Act as presented in Section 5.

9. DECISION

Pursuant to Section 171(2) of the Act, the Committee **Recommends** that Transit New Zealand confirms the requirement to alter the existing designation (D121) for State Highway 60 at this location subject to conditions.

10. CONDITIONS

1. The designation shall be undertaken in general accordance with the Land Plans in Appendix D to the notice of requirement, being Plans 5544 Sheet 10 and 20 to 25.
2. That Transit New Zealand meets both the cost of forming a sealed access from the existing access lane to the property boundary of Pt Sec 108 Waimea East District (valuation number 1957017900, owner R Woods located at 36 Appleby Highway). That Transit New Zealand also meets any Limited Access Road costs associated with changing the position of this access.
3. That Transit New Zealand discuss the adequacy of the capacity of the Borcks Creek culvert with the Engineering staff of Tasman District Council with a view to ensuring that any upgrade work takes into account future stormwater demands.

11. REASONS FOR THE DECISION

The Committee considered that the case for the project was well made. It is clear that the growth in the population and traffic flows has made this upgrade necessary to ensure the safe and efficient operation of the State Highway.

The Committee was satisfied that reasonable consideration and analysis had been made in relation to alternatives to the need to take additional land and was convinced that the proposed designation was appropriate.

The Committee acknowledged the issue raised by Phimai Holdings with respect to the loss of productive land. The Committee considered that the loss of a relatively small amount of productive land is an important issue, however the benefit of allowing for appropriate designation for an efficient roading network significantly outweighed this loss of land, in this instance.

The Committee noted that an alteration to the speed limit was under consideration but was satisfied that even with a change, the designation is required.

The Committee was satisfied that reasonable consideration and analysis had been made in relation to alternatives to the need to take additional land.

The Committee was satisfied that the loss of a relatively small amount of productive land in relation to Phimai Holdings was justified to ensure the State Highway was able to provide a safe and efficient major transportation route within the District.

The Committee acknowledged that all parties understood that the issue of compensation for land taken for the project was outside of the scope of this part of the process under the Resource Management Act 1991.

The Committee acknowledged the agreements reached between Transit New Zealand and R Woods and Appleby Village Developments Ltd.

12. COMMENTARY ON CONDITIONS OF CONSENT

The Committee considered that the suggested amendment to the wording of Condition 1 was appropriate.

The Committee considered that providing for safe vehicle access for the property owned by R Woods was appropriate.

It was also considered appropriate for the capacity of the Borcks Creek culvert to be investigated to ensure work done will be appropriate in considering future stormwater flow requirements.

CARRIED

Date Confirmed:

Chair: