

# MINUTES

**TITLE:** Environment & Planning Subcommittee  
**DATE:** Monday, 19 February 2007  
**TIME:** 1.00 pm  
**VENUE:** Council Chamber, 189 Queen Street, Richmond

**PRESENT:** Crs E M O'Regan (Chair), T B King and E J Wilkins

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

## 1. M G HUME AND K L JARRETT, 19 WAITAPU ROAD, TAKAKA RM060545 - OBJECTION TO SUBDIVISION CONSENT

The applicant had objected to condition 3 for right-of-way formation and upgrade of subdivision consent RM060545 of 10 October 2006. Mr T Gowland of Gowland Surveyors attended the hearing and apologised for the non attendance of the applicants. He referred to his letter of 20 October 2006 sent in response to Council's consent letter of 10 October 2006 and the objections which were contained within his letter regarding the imposition of additional charges for processing the applicant and secondly the formation requirements for the proposed right-of-way.

The Committee proceeded to hear the application, presentation of submissions and staff reports as detailed in the following report and decision.

The Subcommittee reserved its decision at 1.50 pm.

## RESOLUTION TO EXCLUDE THE PUBLIC

**Moved Crs O'Regan / Wilkins**  
**EP07/02/31**

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

M G Hume and K L Jarrett

**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:**

<b>General subject of each matter to be considered</b>	<b>Reason for passing this resolution in relation to each matter</b>	<b>Ground(s) under Section 48(1) for the passing of this resolution</b>
M G Hume and K L Jarrett	Consideration of a planning application	A right of appeal lies to the Environment Court against the final decision of Council.

**Moved Crs Wikins / O'Regan  
EP07/02/32**

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

**CARRIED**

**2. M G HUME AND K L JARRETT, 19 WAITAPU ROAD, TAKAKA RM060545 -  
OBJECTION TO SUBDIVISION CONSENT**

**Moved Crs O'Regan / King  
EP07/02/33**

**THAT pursuant to Section 104D of the Resource Management Act, the Committee DISMISSES the objection of M G Hume and K L Jarrett as detailed in the following report and decision.**

**CARRIED**

**1. BACKGROUND OF CONSENT AND CONDITIONS**

The subdivision involves two adjoining properties on Waitapu Road Takaka, where effectively the back half of 21 Waitapu Road is transferred to 19 Waitapu Road and a right of way created over the existing driveway serving 21 Waitapu Road. The right-of-way is split into two parts and the requirement to upgrading it only relates to Right-of-Way A which serves both properties.

**2. THE OBJECTION**

On 25 October 2006 an objection was received relating to the requirement to upgrade the Right-of-Way "A" stating:

*"All conditions relating to the upgrade of the proposed right-of-way be deleted and substituted with a condition requiring that the existing sealed surface of the driveway be repaired/re-sealed to the satisfaction of the Council Engineer."*

At the hearing an offer was made by Mr Gowland on behalf of the objectors, that a new condition of consent be imposed requiring the creation of a consent notice or covenant stating that the right-of-way would have to be upgrade before any further subdivision or development leading to increased use of the right-of-way was granted consent.

**3. PROCEDURAL MATTERS**

Part of the objection raised the issue of the cost of processing the consent. The Committee were unable to deal with this matter as the charges are not "additional charges" under Section 36 (3) of the Resource Management Act 1991. The Committee noted that this matter had been already dealt with in terms of a letter dated 7 November 2006 from the Co-ordinator Consents.

## **4. EVIDENCE HEARD**

The Committee heard evidence from the applicant/objector and the Council's reporting officers. The following is a summary of the evidence heard at the hearing.

### **4.1 Applicant's Evidence**

Mr T Gowland of Gowland Surveyors attended the hearing and apologised for the non attendance of the applicants. He referred to his letter of 20 October 2006 sent in response to Council's consent letter of 10 October 2006 and the objections which were contained within his letter regarding the imposition of additional charges for processing the applicant and secondly the formation requirements for the proposed right-of-way.

Mr Gowland made a verbal presentation seeking that the right-of-way formation requirements be reviewed as the existing formed right-of-way is predominately sealed and of sufficient width to meet Council requirements but only requires the formation of a kerb and channel for stormwater disposal purposes.

Mr Gowland said he had received instructions from the applicants to volunteer a consent notice to be noted on the title for the subject property, to prohibit further subdivision or the construction of an additional dwelling on Lot 2, unless the right-of-way is upgraded to the required Council engineering standards.

Mr Gowland noted that the upgrade required relates only to Right-of-Way A shown on the right-of-way plan.

In the right of reply Mr Gowland said that a consent notice secured on the certificate of title for the property is perfectly adequate. He repeated that the applicants have no intention to carry out further subdivision and that the right-of-way is only for access to the existing car shed. Mr Gowland said that this is a minor boundary relocation and as such is a minor job and doesn't justify this requirement for upgrading work to the right-of-way.

### **4.2 Council's Reporting Officer's Report and Evidence**

Ms D Hewitt, Consent Planner Subdivision, explained that the existing right-of-way is substandard and the seal is potholed and the surface not up to standard and that additional stormwater management is needed. She explained that the applicant did not apply to not comply with the right-of-way requirements in the Plan, at the time of making the application for subdivision. She said that a further dwelling could use the right-of-way and that consistency of administration of the PTRMP is desirable. She noted that the application is a discretionary activity as the intention is to have two accesses formed onto the property.

Cr O'Regan questioned the need for the upgrading work in light of there being no usage changes proposed as a result of the subdivision/boundary relocation application. Ms Hewitt explained that the subdivision created a legal right-of-way where none had previously existed, and would lead to a change of land ownership and it is best to deal with the issue of the right-of-way upgrading at this subdivision time as this is the time when the effects are created in terms of the Resource Management Act 1991 process.

Development Engineer, D Ley, tabled an aerial photograph to demonstrate the potential for further subdivision on the subject site and stressed that the right-of-way needs to be formed to the correct engineering standards. He said there is potential for the right-of-way to be tested for adequate base course and if the result is satisfactory, it may only need resealing and kerb and channel.

Mr Ley demonstrated that the stormwater system presently exists will allow the applicant to provide drainage to the kerb and channel from the right-of-way. Mr Ley recommended to the Subcommittee that the right-of-way consent condition be confirmed. He acknowledged the applicants' consent notice offer but indicated he did not support this proposal.

## 5. DECISION

Pursuant to Section 357D of the Act, the Committee **DISMISSES** the objection regarding Condition 3 (b), (c) and (d).

## 6. REASONS FOR THE DECISION

The Committee considered that the condition imposed was not unreasonable. Staff indicated that some testing of the existing driveway subsurface would reveal how much additional work was required to bring the right-of-way up to the standards required by Council for two users.

The Committee considered that the offer of the covenant or consent notice would not deal with the situation adequately and this was rejected as a means of mitigation of the effects of the right-of-way not meeting the required standards.

The Committee noted that once the right-of-way is legally created it runs with the land and is not tied to any specific land use or number of vehicle movements. They did not believe it was valid to dispense with the upgrading requirement based on the current limited use of the driveway serving the vintage car in the garage. They noted that circumstances can change, ownership can change and the matter of the upgrade of the right-of-way should be undertaken at the time it is legally created.

Issued this 23<sup>rd</sup> day of February 2007

Councillor O'Regan  
**Chair of Hearings Committee**

---

**Date Confirmed:**

---

**Chair:**