

MINUTES

TITLE: Environment & Planning Subcommittee
DATE: Monday, 19 March 2007
TIME: 9.30 am
VENUE: Tasman Council Chambers, 189 Queen Street, Richmond
PRESENT: Crs E M O'Regan (Chair), R G Kempthorne, N Riley
IN ATTENDANCE: Manager Consents (J Hodson), Development Engineer (D Ley), Consent Planner (D Hewett), Minute Secretary (V Gribble)

1. APPLICATION RM060504 – TAZ-MAN PROPERTIES / D BAULD, MAIN ROAD, HOPE

The hearing was an objection pursuant to Section 357 of the Resource Management Act to Council's decision on the application.

Mr Bacon, Mrs Doreen Bauld and Mr Wayne Bolton (Taz-Man Properties) were in attendance.

Mr Bacon read the evidence on behalf of Mrs Bauld and Mr Bolton.

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

The Committee reserved its decision at 12.20 pm.

RESOLUTION TO EXCLUDE THE PUBLIC

Moved Crs O'Regan / Riley
EP07/03/40

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

Taz-Man Properties / D Bauld

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
Taz-Man Properties / D Bauld	Consideration of a planning application	A right of appeal lies to the Environment Court against the final decision of Council.

**Moved Crs O'Regan / Kempthorne
EP07/03/41**

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

APPLICATION RM060504 – TAZ-MAN PROPERTIES / D BAULD, MAIN ROAD, HOPE

**Moved Crs Kempthorne / O'Regan
EP07/03/42**

**THAT pursuant to Section 104D of the Resource Management Act, the Committee ALLOWS IN PART the objection of Taz-Man Properties / D Bauld as detailed in the following report and decision.
CARRIED**

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

Meeting held in the Tasman Room, Richmond

on 19 March 2007, commencing at 9.30 am

A Hearings Committee ("the Committee") of the Tasman District Council was convened to hear the objection lodged by **Taz-Man Properties Limited and D Bauld** relating to conditions of consent relating to subdivision consent dated 11 January 2007. The objection, made in accordance with Section 357 of the Resource Management Act 1991 ("the Act"), was lodged with the Tasman District Council on 29 January 2007 and refers to the application, RM060504.

PRESENT: **Hearings Committee**
Cr O'Regan, Chairperson
Cr Kempthorne
Cr Riley

APPLICANT: Mr F Bacon- Planning Consultant representing Mrs D Bauld and Mr W Bolton (Taz-Man Properties Ltd)

CONSENT AUTHORITY: **Tasman District Council**
Ms D Hewitt- Subdivision Officer
Mr D Ley- Development Engineer

IN ATTENDANCE: Ms J Hodson , Manager Consents- Assisting the Committee
Mrs V Gribble- Committee Secretary

1. BACKGROUND OF CONSENT AND CONDITIONS

The applicants, Taz-Man Properties Ltd and D Bauld made a joint application to subdivide two adjoining properties at 21 and 23 Main Road, Hope. The proposal is to subdivide 21 Main Road into two allotments and 23 Main Road into three allotments and the creation of rights-of-way to service the allotments. Currently there are two dwellings on 21 Main Road although one of the dwellings is subject to a resource consent requiring that the "relocatable" dwelling to be removed by February 2007. The property at 23 Main Road contains a workshop and a utility building.

2. THE OBJECTION

On 29 January 2007 an objection pursuant to Section 357 was received which is summarised below:

- **Condition 5(d) 'Right-of-Way' – Right-of-Way D only.** The condition requires kerb and channel on one side and adequate provision for drainage, including sumps on Right-of-Way D.
- **Condition 9(b) 'Sewer'** – The condition requires the upgrade of the of the sewer line serving Lots 1-3 from a 100 millimetres pipe to a 150 millimetres pipe.
- **Condition 10(a), (c) and (d) 'Stormwater' – Lots 4 and 5 only.** The condition requires the installation and connection of the existing dwellings and associated accessory buildings to the Council approved stormwater system.
- **Condition 18(a)(i) and (b) 'Financial Contribution' – Reserves -** The condition requires reserves and community services contribution on Lots 1-3. **Access -** The condition requires the contribution of a proportion of the costs for the formation of a footpath along Main Road Hope to Bateup Road.

3. REASONS FOR THE OBJECTION

- **Condition 5(d) 'Right-of-Way' – Right-of-Way D only.** Right-of-Way D is already formed and sealed. There is no need for the condition.
- **Condition 9(b) 'Sewer' –** A 100 millimetres diameter pipe is adequate to serve three lots; further subdivision is unlikely. 100 millimetres diameter pipes serve greater numbers in urban areas. The requirement is inconsistent with the advisory note
- **Condition 10(a), (c) and (d) 'Stormwater' – Lots 4 and 5 only.** Lots 4 and 5 contain existing buildings and hard stand areas and no further development is anticipated thus no increase in coverage. These lots are already provided with stormwater disposal via soak pits which are fully functional, so there is no need for the condition. As there is no new adverse effect related to stormwater disposal being created by Lots 4 and 5 there are no grounds for setting the conditions.

It is doubtful that the piped stormwater disposal will result in any improvement to the existing situation as the fall to the road is minimal.

- **Condition 18(a)(i) and (b) 'Financial Contribution' – Reserves and Access-**
The condition is unreasonable in that subdividers are required to make a contribution to an asset that serves other properties which may not be required to make a contribution. There is already an existing need for a footpath. This should be financed from general rates or the roading development impact levy.

If a contribution is to be paid it should only be based on two lots.

4. PROCEDURAL MATTERS

Mr Bacon, on behalf of the applicants raised issues relating to the vehicle crossing on 19 Main Road and the requirement for power supply to be underground to Lot 1. However, these matters which were not part of the written objection could not be considered by the Committee.

5. 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.

5.1 Applicant's Evidence

Mr Bacon read a submission on behalf of the applicants/objectors and tabled a copy of the application plan and a plan indicating the existing stormwater system for the relocatable dwelling on 23 Main Road. He explained that Mrs D Bauld owned 30% of the property at 23 Main Road while other family members owned the 70% share. He indicated that while the family members were in agreement with the application, they were not in agreement with incurring costs associated with stormwater upgrading as the existing servicing was considered to be adequate. The joint application will formalise the shared access arrangements between 21 and 23 Main Road. He explained that the issue of stormwater servicing was not being avoided, but that a practical means would be for the existing soakage pits to be retained and any overflow from them would flow into a piped system. He requested that the sewer connection for proposed Lot 3 be made to the existing line at the rear of that lot, thus avoiding the need to upgrade the 100 mm line through the reserve. He stated that as there were already two dwellings established on 23 Main Road, that no financial contribution needed to be paid for the subdivision of that lot. He suggested that reserved contribution should only be paid on two lots being Lot 2 and 3. He stated that the requirement to contribute towards a footpath was not equitable and should be paid for by funding obtained from the wider community.

In the right of reply, Mr Bacon said a relatively simple exercise had been unbelievably complicated and confusing. The footpath work does not appear in the LTCCP and he asked is it reasonable to be requiring a payment for something that is not programmed. It has wider community benefit and should be dealt with through "DILs". There is considerable inconsistency in the way applications are dealt with. The sewer line along Collins Road has eight users on it when there should only be five.

Mr Bacon suggested that one of the dwellings has only been there for a few years and he asked why that was allowed without subsequent upgrading of the pipe. The issue of stormwater is of concern. In terms of Lots 4 and 5, regardless of whether the dwelling is temporary, it is an established physical factor. The applicant is not saying that soak pits should be retained as the only method of dealing with stormwater, although it works well, but that having to reconfigure the drainage for that dwelling, why can it not go through the soak pit and then the pipe connected down the driveway would carry the excess. The implication for Mrs Bauld is that it will be less expensive. As far as Lot 4 is concerned that is functioning well enough at the moment, provision can be made for the pipe but the owners are adamant they do not want to carry the cost of any work. When that site is developed further it could be addressed then. A 650 square metre site in Richmond is not very small. Subdivision will provide improved access to both lots. The important thing to focus on is; are these requirements all necessary?

5.2 Council's Reporting Officer's Report and Evidence

Ms Hewett reminded the committee that some of the matters raised by Mr Bacon are not part of the Section 357 objection. Those matters would need to be dealt with under Section 127 of the Resource Management Act. She noted there was a change to the objection relating to condition 18 b). The original objection said it should be deleted and replaced with a condition requiring contribution in respect of two lots. The proposal for Lot 3 to connect to the rear of the boundary is approaching a change of consent condition as the objection did not seek this alternative and some work would be required to determine whether it is feasible.

Mr Ley explained that the existing sewerage reticulation had been there for some time. He demonstrated where the sewer lines are and the size of the pipes. He tabled some contour diagrams.

Mr Ley said soak pits may work for a time but they clog up, hence the requirement for upgraded stormwater pipes. Lots 4 and 5 should be connected to a piped stormwater system. He suggested a 150mm pipe in the right of way.

Mr Ley explained that sometimes stormwater put into the ground will come up downstream and the preference is for a piped system, but in certain circumstances soak pits can work. In this instance piping would be better, although a storage tank could be considered.

Mr Ley said the land had been zoned rural and Council had not planned for footpaths in this area, but because it has now changed to residential, footpaths will be required. He said there are potential for 12 more houses which would benefit from the footpath and with three lots in this application, he believes the applicant should pay for 25% of the footpath cost. He said there is the option of removing vegetation to form the footpath, but there is an area between the kerb and channel to form a footpath if the vegetation was to remain. Mr Ley explained what "walling up" means in relation to access crossings as the formation of a continuous kerb line.

Mr Ley said private sewerage pumps are not the best to have in the long term.

Ms Hewett said in the Richmond South Area stormwater management has been identified as an important matter for consideration and forms part of the framework for subdivision assessment. The property to the west adjacent to this subdivision has an indicative stormwater drainage swale which would assist with mitigating adverse effects of stormwater in the longer term. She said there does remain the risk of flooding on these properties, which is why the reticulation of stormwater was required.

Ms Hewett said one approach would be to assess the market value for all the allotments and average them in order to calculate the reserve contribution. The dwelling on Lot 5 is a temporary dwelling and that was due to be removed this year. Therefore the subdivision should incur a financial contribution.

Ms Hewitt said the proportion of the reserves contribution paid at the time could be offset against the current requirement which is 5.5% of market value of the land in relation to the additional new lots created. In terms of the other development contributions for that allotment they would need to be paid in full.

6. DECISION

Pursuant to Section 357D of the Act, the Committee **Allows In Part** the objection to the extent set out below; in all other respects the objection is dismissed.

A. Condition 5(d) shall be reworded as follows:

5(d) Right-of-Way B and C shall be formed and permanently surfaced to a minimum width of 3.5 metres. Kerb and channel shall be placed on one side and a concrete edge restraint on the other side, with adequate provision for drainage, including sumps. A yard sump shall be constructed in a location that stormwater from Right-of-Way D can be directed and drained to.

B. Condition 9(b) shall be reworded as follows:

9(b) The existing sewer to serve Lots 1-3 shall be upgraded to a 150 mm diameter pipe such that a maximum of five dwellings are connected on the 100 mm diameter pipe line.

C. Condition 10 (a), (c) and (d) shall remain as originally worded.

D. Condition 18(a)(i) shall be reworded as follows:

18(a)(i)

5.5 per cent of the total market value for three lots (at the time subdivision consent is granted). The calculation will be based on the average value of the five allotments created.

Note that the amount of reserve contribution payable will be reduced by the amount of reserves contribution paid at the time that the building consent for the relocatable dwelling was granted.

E. Condition 18(b) and the following advice note shall be deleted

7. REASONS FOR THE DECISION

In relation to each of the issues raised in the objection, the Committee considered as follows:

- A. **Right-of-Way D.** The Committee noted the agreement between staff and the objector regarding the existing sealing of Right-of-Way D and therefore they agreed that the condition should be modified to the extent that sealing of that part is not required, but that it is necessary to deal with stormwater for D.
- B. **Sewer.** The Committee considered that the short length of 100 mm sewer pipe should be upgraded to 150 mm for the length that more than five dwellings are connected to it. The Engineering standards are a benchmark which should be adhered to unless there is a very good and practical reason why this is not possible. In this case it appears there is no such reason.
- C. **Stormwater.** The Committee was satisfied that appropriate upgrading of the stormwater system serving the existing dwellings should be undertaken as part of the subdivision. Although it may appear that the existing soakage pits are coping with stormwater at this stage, the subdivision creates a situation where the second dwelling becomes permanent and there will be additional development on the vacant lots, all of which adds to the stormwater load. The time of subdivision is the appropriate time to deal with this matter so there will be no issues with this aspect in the future for the various owners.
- D. **Financial Contribution for Reserves and Community Services.** The Committee agreed that although there are currently two houses on 23 Main Road, one was granted consent only on a temporary basis. It is fair and reasonable that a reserve contribution should be paid if that dwelling is allowed to become permanent, which is the intention of the application. However, it is agreed that the amount charged should be reduced by the amount paid at the time the building consent for the dwelling was granted in 1997. As the areas (and thus the market value) of the five lots vary, it is reasonable to base the calculation on the average value of the five lots created. It is noted that this valuation is based on land value only.
- E. **Footpath Contribution.** The Committee considered that it was not reasonable for the applicants to have to contribute towards the future construction of a footpath between the frontage of the property and Bateup Road. There is no scheduled programme of work contained within the LTCCP for this footpath and Council cannot guarantee that the work will be funded or completed within any given timeframe.

Issued this day of 4th April 2007

Councillor O'Regan
Chair of Hearings Committee

Date Confirmed:

Chair: