

MINUTES

TITLE: Environment and Planning Subcommittee
DATE: Wednesday 19 October 2011
TIME: 10.30 am
VENUE: Tasman Council Chamber, 189 Queen Street, Richmond.

PRESENT: Crs B Ensor (Chair), C M Maling and E Wilkins

IN ATTENDANCE: Resource Consents Manager (P Doole)
Subdivisions Officer (W Horner)
Resource Scientist (A Burton)
Matt Davidson - Pentewan Farms Ltd
Joanna Perrett - Pentewan Farms Ltd
Richard Bennison - Registered Valuer
Administration Officer (G Woodgate)

1 RESOURCE CONSENT APPLICATION NO. RM110322 - PENTEWAN FARMS LTD, TASMAN VIEW ROAD, UPPER MOUTERE

The application seeks to subdivide a 45.5 hectare title to create the following:

- Proposed Lot 1 comprising 37.5 hectares;
- Proposed Lot 2 comprising 8.0 hectares.

The site is zoned Rural 2 as defined by the Tasman Resource Management Plan.

The application site is located at Tasman View Road adjacent to Coastal Highway (State Highway 60), Upper Moutere, being legally described as Lot 2 DP 424341 (CFR 495852).

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.

RESOLUTION TO EXCLUDE THE PUBLIC

Moved Crs Wilkins/Maling
EP11-10-18

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

Pentewan Farms Ltd

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
Pentewan Farms Ltd	Consideration of a planning application	A right of appeal lies to the Environment Court against the final decision of Council.

CARRIED

**Moved Crs Wilkins/Maling
EP11-10-20**

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

CARRIED

2. RESOURCE CONSENT APPLICATION NO. RM110322 - PENTEWAN FARMS LTD, TASMAN VIEW ROAD, UPPER MOUTERE

**Moved Crs Maling/Wilkins
EP11-11-19**

THAT pursuant to Section 104B of the Resource Management Act, the Committee DECLINES consent to Pentewan Farms Ltd as detailed in the following report and decision.

CARRIED

TASMAN DISTRICT COUNCIL

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

**Meeting held in the Tasman Room, Richmond on 19 October 2011
Site visit undertaken on 19 October 2011
Hearing closed on 19 October 2011**

A Hearings Committee (“the Committee”) of the Tasman District Council (“the Council”) was convened to hear the application lodged by **Pentewan Farms Ltd** (“the Applicant”), to subdivide land west of State Highway 60 between Gardner Valley Road and Tasman View Road in Upper Moutere. The application, made in accordance with the Resource Management Act 1991 (“the Act”), was lodged with the Council and referenced as RM110322.

- HEARING COMMITTEE:** Cr Brian Ensor, Chairperson
Cr Eileen Wilkins
Cr Kit Maling
- APPLICANT:** Mr Matt Davidson (for Pentewan Farms Ltd)
Mr Dick Bennison (Registered Valuer & Farm Management Consultant)
- REPORTING OFFICERS:** Mr Andrew Burton (Resource Scientist)
Mr Wayne Horner (Subdivision Officer)
- IN ATTENDANCE:** Mr Phil Doole (Resource Consent Manager) - Assisting the Committee
Mr G Woodgate (Administration Officer)

1. SUMMARY

The Committee has **DECLINED** consent to subdivide Lot 2 DP 424341 (CFR 495852) to create two new lots.

2. DESCRIPTION OF THE PROPOSED ACTIVITY

Pentewan Farms Limited applied to subdivide Lot 2 DP 424341 (CFR 495852) comprising 45 hectares to create two new lots, proposed Lot 1 comprising 37 hectares and proposed Lot 2 comprising 8 hectares. There is an existing dwelling and workshop on proposed Lot 1 and no buildings on proposed Lot 2. The application included a report prepared by farm management adviser Mr Dick Bennison regarding the soil classification and productive qualities of the land. He described the property as easy to moderate sloping Moutere Hills land now re-established in pasture after logging of the last rotation of plantation pines.

An assessment of the proposed dwelling site on proposed Lot 2 was prepared by a landscape architect Mr David Sissons as part of further information provided, and a number of changes were proposed to reduce the visual impact of the proposal. The applicant volunteered a no further subdivision consent notice.

We were advised by Mr Horner that the current 45 hectare title was created as part of subdivision consent RM070886V1 that was applied for when the new road boundaries for the State Highway 60 Ruby Bay Bypass were defined in 2009. That consent allowed the land that had been severed on the eastern side of the Bypass route to be divided into three smaller titles; at the same time the boundaries of the current 45 hectare title on the western side of the Bypass were established to contain the Class E land within a larger title close to the Controlled activity minimum of 50 hectares, while most of the Class B land was contained within Lot 1 DP 424341 that fronts Gardner Valley Road to the south of the subject land.

3. TASMAN RESOURCE MANAGEMENT PLAN (TRMP) ZONING, AREAS AND RULE AFFECTED

The subject land is zoned Rural 2 and the site is within Land Disturbance Area 1. Tasman View Road that would provide access to proposed Lot 2 is classified as a Collector Road under the TRMP. The application is considered to be a Discretionary Activity under subdivision rule 16.3.6.2 in that the proposal has allotment areas less than the Controlled Activity standard of 50 hectares.

4. NOTIFICATION AND SUBMISSIONS RECEIVED

The application was publicly notified on 20 August 2011. One submission was received from the New Zealand Fire Service, seeking a fire fighting water supply to the new dwelling that complies with the New Zealand Standard SNZ PAS 4509:2008. They advised that this is best achieved by the installation of a domestic sprinkler system constructed in accordance with NZS 4517:2010. They were neutral with regard to the granting of the application.

5. EVIDENCE HEARD

We heard evidence from the applicant, their expert witness, and the Council's reporting officers. The New Zealand Fire Service sent a letter to be tabled at the hearing. The following is a summary of the evidence presented during the hearing.

5.1 Applicant's Evidence

Dick Bennison - Registered Valuer

Mr Bennison tabled and read a Statement of Evidence. Referring to the Officers' reports, Mr Bennison said that the differences of opinion relate to the impacts on future productivity resulting from the proposed subdivision.

His opinion is that the subdivision itself will not materially change the productive capacity of the land, other than a limited area of around 3000 m² that will be covered by buildings and an access track. He does not accept the proposition that fragmentation of the land will reduce the opportunities for soil based production.

Mr Bennison referred to the numerous examples of small rural holdings or "lifestyle blocks" throughout the District that are operated on a small-scale but productive basis; and while larger properties do benefit from economies of scale there is no guarantee that they will be used productively and efficiently.

Mr Bennison considered the 45 hectare property to be too small to be a viable, economic stand alone proposition and so it will always be used in conjunction with adjacent land or on a part-time basis by a resident property owner. He said that the land is only suited to semi-intensive livestock grazing, and that the proposed subdivision could assist with future gorse control, by having the resources of two owners rather than one.

Cr Maling asked if the land was only suitable for sheep and cattle. Mr Bennison confirmed, yes, as the main limitations are:

- The land dries out very quickly

- The land has a very thin layer of top soil
- There is a lack of a suitable water source and
- Regenerating gorse.

In response to a question from Cr Wilkins, Mr Bennison advised that further down Gardiners Valley the soil types change to more moisture retentive and they support intensively grown crops such as apples and boysenberries.

Cr Ensor asked if subdividing the land into two blocks would compromise its water collection capacity. Mr Bennison stated that both proposed lots had areas suitable to collect water but that retention dams would probably be necessary.

In response to a question from Cr Ensor regarding the stock carrying capacity over the whole of the land, Mr Bennison reiterated his opinion that productivity and efficient use are not determined by the size of a property but are more determined by the personal objectives and aspirations of the individual property owners. He added that the fragmentation of this piece of land would not lead to a loss in its productivity as it would continue to be leased for stock grazing.

Cr Ensor asked what makes this parcel of land unique and therefore suitable for subdivision while not setting a precedent in doing so. Mr Bennison replied that the property "is what it is".

Cr Ensor asked why this parcel of Rural 2 land should be approved for subdivision while there was a large amount of Rural 3 land specifically set aside for lifestyle blocks close to the applicant's land. Mr Bennison said that the Rural 3 land was not the good productive land expected. He added that "open spaces" within the Rural 3 land for aesthetics and productivity had created a myriad of problems such as multiple owners (with associated management problems) and their not wanting spraying, fertilising etc. Mr Bennison added that there would be no cross boundary problems on the applicant's land.

Matt Davidson

Matt Davidson tabled an Explore Tasman Map showing where the Pentewan Farms property sits within a Rural 2 zone adjacent to Rural 3, Rural 1 and Rural Residential zones. He noted that there is more demand for Rural 2 properties due to the problems encountered with Rural 3 developments, as Mr Bennison had mentioned. He then made the following points:

1. Loss of Productivity through Fragmentation

Productivity loss would be minimal on the subdivided blocks because of the fact that the current lessee of the land wished to continue grazing stock over both blocks. He added that he had asked Mr Parks (the Lessee) why he had not purchased the block himself and advised that Mr Parks had said it was not worth it - the leasing option was the best financial option for him.

2. Topography

Lot 2 was the steeper block and access was an issue.

3. Security

Security over the block was considered to be a genuine concern as Tasman Valley Road was a through road and that you cannot see the back of Lot 2 from the house on Lot 1. A lot of fires had been lit in nearby forestry and it was felt that a house on Lot 2 might help eliminate some of this negative activity.

4. No Further Development

Mr Davidson stated that the applicant was volunteering a “no further subdivision” restriction on proposed Lots 1 and 2 so that no additional sites for dwellings could be created unless there was a District Scheme zone change made by Council over this land to allow this.

5. Personal Circumstances

Mr Davidson advised us of his following personal circumstances:

- He and his partner have lived on the property for over 13 months;
- He has over 800 beehives within the District;
- He is losing his driver’s licence due to eyesight issues;
- He wants his parents to buy proposed Lot 2, build a house and live there;
- They will continue to lease both Lots to Mr Parks for grazing stock.

Cr Maling advised Mr Davidson that stock theft was not considered to be a problem by local Police and asked if fly tipping had ever been a problem on his land. Mr Davidson replied that it had not but fires in the forestry block were of more concern.

5.2 Submitter

A letter sent on behalf of the NZ Fire Service Commission dated 18 October 2011 was tabled. The letter requested that if consent is granted for the subdivision, then compliance with SNZ PAS 4509:2008 should be required by way of a consent notice for proposed Lot 2.

5.3 Council Officers’ Reports and Evidence

Andrew Burton (Resource Scientist)

Mr Burton’s report was taken as read. He addressed the following points raised by the Applicant:

1. Loss of Productivity through Fragmentation

Mr Burton referred to the recent Wilkes subdivision application in Redwood Valley that was declined - that proposal had similar issues to this current application (ie, soil types, topography, land fragmentation issue etc.). The integrity of the TRMP was given the utmost weight in that decision with regard to land fragmentation and impacts on productive potential. Mr Burton

also referred to the results of a nationwide study on the effects of land fragmentation, which indicated that 50% of lifestyle blocks surveyed had no income derived from them. A study by Dunedin City Council on lifestyle blocks there showed that 78% produced no income.

2. Topography

Mr Burton noted that other properties in the area have steep areas.

3. Security

Mr Burton said that other properties in the area face this same problem.

Mr Burton then gave examples of how land fragmentation had a detrimental effect on rural land values. In response to a question from Cr Wilkins, he said that the economies of scale will be reduced for the proposed 8 hectare allotment - once land is subdivided there is usually no going back.

Cr Ensor asked Mr Burton to explain his statement that “there were no positive land productivity effects resulting from this subdivision”. He clarified that he was referring to land fragmentation and what this land would be used for in the future.

Wayne Horner

Mr Horner’s report was taken as read. He explained how the current 45 hectare title was created, as we have summarised in Section 2 above.

Mr Horner advised that he saw four main issues with this application:

1. Effects of Fragmentation on the Productive Values of Land

As per item 6.1.3 in his report.

2. Precedent Effect

As per item 6.2 in his report.

3. Cumulative Effect

As per item 6.2 in his report.

4. Loss of Productivity

As per item 6.1.3 in his report.

His report also addresses effects on rural character and visual effects of the new dwelling site on proposed Lot 2.

Mr Horner tabled copies of the Jennings vs TDC decision of the Environment Court [W046/2003] which addressed the issue of cumulative effects of land fragmentation in Tasman District and the question of “precedence effect”, his point being that if this application is granted then it is probable that other applications for

similar rural-residential type subdivisions in Rural 2 Zones would be made with a reasonable expectation of being successful. Mr Horner advised that he saw no reason to change his recommendation that the application be declined.

Cr Maling noted that Mr Horner had stated that the cumulative effect of fragmentation was significant within the District and requested him to define the term "significant". Mr Horner replied that the cumulative effects compounded loss of land productivity with each land fragmentation that occurred.

Cr Ensor asked that if the Committee was minded to grant consent was there a need to discuss the conditions to be applied. Mr Horner advised that the draft conditions as listed in Section 9 of his report were full and comprehensive.

5.4 Right of Reply

Mr Davidson emphasised the following points in his right of reply:

1. The property is a lifestyle property;
2. The property is in an area close to Rural Residential development that is moving closer to this block and is a good family environment;
3. There is high demand for rural lifestyle properties.

6. PRINCIPAL ISSUES AND OUR MAIN FINDINGS

The principal issues that were in contention and our findings on those issues are:

a) Are the concerns regarding fragmentation of productive land applicable to this subdivision proposal?

We heard differing opinions between Mr Bennison and the reporting officers. Mr Bennison made the point that there is no guarantee that rural land will be used productively - it depends on the land owner. We accept that point in the general sense, however it applies in all cases, and in terms of controls on subdivision, the issue is protecting the productive potential of the land resource, whether or not the land owner for the time being chooses to utilise that potential. Mr Burton explained his view as to why the proposed division of the 45 hectare block would adversely affect the overall productive potential of the land; and Mr Horner referred to the compounding or cumulative effects of the land fragmentation associated with each rural subdivision that creates additional titles.

Having weighed up the evidence presented, and having regard to the relevant TRMP policies and objectives, we find that the proposed subdivision will have an adverse cumulative effect on fragmentation of productive rural land.

b) What weight should be given to the pattern of land zoning and rural lifestyle development near the site?

Mr Davidson pointed out the rural lifestyle development that has occurred, and can occur in the Rural 3 Zones, and in the Rural Residential Zone across the State Highway. In that regard, we consider that the TRMP zoning provides a strong demarcation along what was Old Coach Road as to the relative value of rural land uses, with opportunities for rural lifestyle development provided for on the eastern side, but not in Gardner Valley. We accept that the State Highway Bypass separated the land at the top of Gardner Valley, thereby creating a situation from which three lifestyle blocks were able to be created on the west side of Old Coach Road (now Stage Coach Road). However that occurred as part of a wider set of boundary adjustments which included creation of Lot 2 DP 424341 at 45 hectares. We do not see the proximity of the Rural 3 and Rural-Residential zoning as being sufficient justification in itself to allow incremental expansion of rural lifestyle activity west of the State Highway.

c) Are there other factors that should influence our decision?

The applicant raised several other matters to support their proposal. With regard to security concerns and personal circumstances, we accept that they are concerns to the applicant, however they can arise at any time for any land owner and we can give them little weight within a resource management context.

d) Would the granting of this application establish a precedent.

The evidence presented did not indicate to us any particular merits of this subdivision proposal that would outweigh the TRMP policies regarding land fragmentation and protection of land productivity. We find that the proposal, if granted consent, would be likely to set a precedent for similar proposals seeking to subdivide rural lifestyle blocks in the Rural 2 zone.

7. RELEVANT STATUTORY PROVISIONS

7.1 Policy Statements and Plan Provisions

In considering this application, we have had regard to the matters outlined in Section 104 of the Act. In particular, we have had regard to the relevant provisions of the following planning documents:

- a) Tasman Regional Policy Statement (TRPS); and
- b) the Tasman Resource Management Plan (TRMP).

7.2 Part 2 Matters

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

8. DECISION

Pursuant to Section 104B of the Act, we hereby **DECLINE** consent.

9. REASONS FOR THE DECISION

9.1 Effects on the Environment

The principal adverse effect on the environment that would result from this application is the effect on potential land productivity through fragmentation, adding to the cumulative effects of rural land fragmentation within the Tasman District. In this case there is nothing to differentiate this application that would avoid setting a precedent for similar applications if it was granted.

9.2 Objectives and Policies of the TRMP

In his Officers Report, Mr Horner presented an assessment of the relevant objectives and policies of the TRMP that relate to land productivity, specifically Objective 7.1.2 and Policies 7.1.3.1 and 7.1.3.3 - 7.1.3.6. He advised us that those provisions seek to retain or improve the productive potential of the land as a result of subdivision and that the application from Pentewan Farms Ltd is contrary to them. We find that we agree with, and adopt Mr Horner's assessment of those provisions.

9.3 Purpose and Principles of the Act


There are no Section 6 matters of national importance relevant to this case.

We have had particular regard to the Section 7 matters listed below:

- Section 7(b) the efficient use and development of natural and physical resources;
- Section 7(g) any finite characteristics of natural and physical resources.

Adopting a broad overall judgement approach to the purpose of the Act, we are not satisfied that the proposal is consistent with Part 2 and would achieve sustainable management of natural and physical resources as set out in Section 5 of the Act.

Issued this 9th day of November 2011



Councillor Brian Ensor
Chair of Hearings Committee

Date Confirmed:

Chair: