

# STAFF REPORT

**TO:** Chairman and Members, Engineering Services Committee

**FROM:** Dugald Ley, Development Engineer

**REFERENCE:** S616

**DATE:** 2 October 2006

**SUBJECT:** **DEVELOPMENT/CUSTOMER SERVICES – CUSTOMER SERVICES THREE MONTHLY UPDATE – JULY – SEPTEMBER 2006**

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## 1 PURPOSE

This report reviews and highlights development and service levels to customers throughout the Tasman District.

## 2 SUBDIVISION/DEVELOPMENT

Major developments occurring around the district are:

- Katania Heights – Lord Rutherford Road, Brightwater
- CBH – SH60/Research Orchard Road
- Galeo – Maisey Road
- Fearon Gardens – Fearon Street, Motueka

New proposed developments presently in the processing stage:

- Research Orchard Road – 15 lots
- Stringer Road – approximately 125 lots
- Beechrest – St Arnaud, SH63 – 62 lots

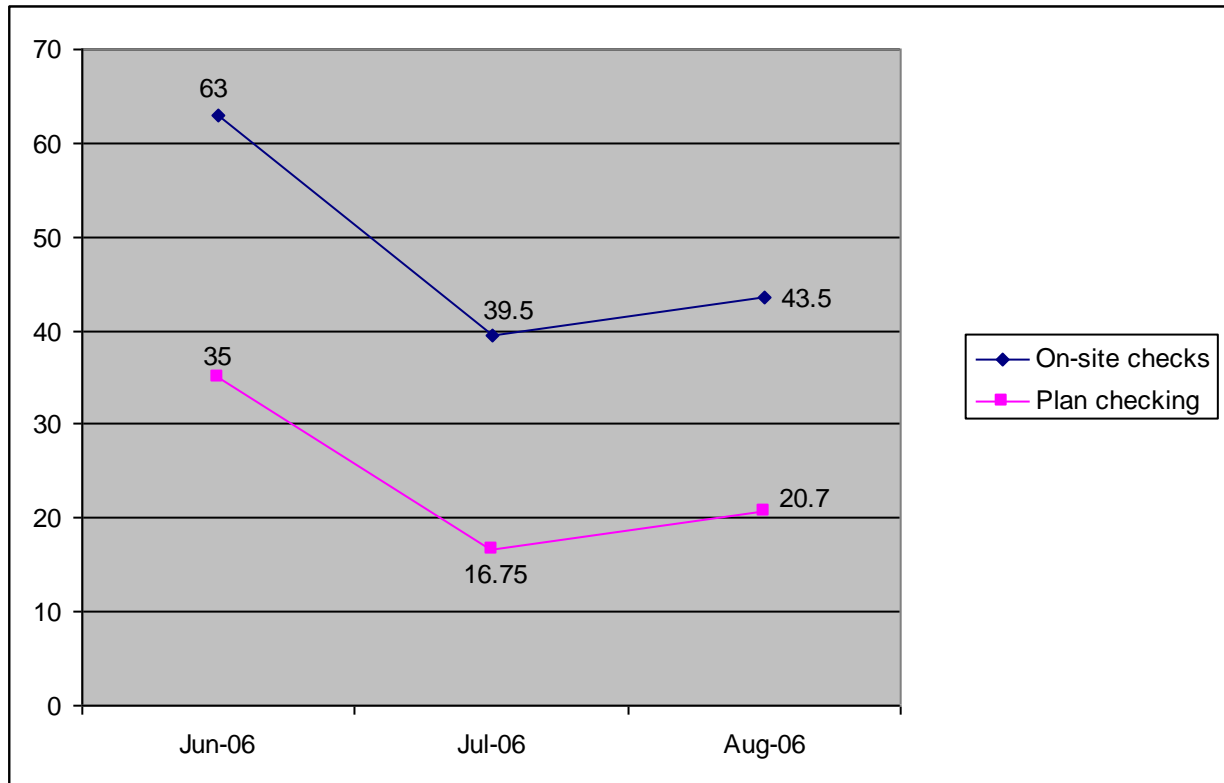
(In NCC area)

- Wahanga – Champion Road – 76 lots
- Sutton – Champion Road/Hill Street – 117 lots

A number of larger subdivisions in most centres have, it would seem, satisfied demand for sections in the short term and this has been confirmed from media articles.

Section valuations have decreased slightly. This may mean a slowing of future development around the region.

The following graph gives an indication of hours spent by TDC representatives in regard to inspections and plan checking.



### 3 CUSTOMER SERVICES

The table below gives a summary of the service requests entered into the CONFIRM system in the last three months:

Category	Number of complaints		
	June 2006	July 2006	August 2006
Water	124	152	142
Wastewater	40	32	27
Stormwater	13	8	12
Roading maintenance	108	91	85
Refuse/rubbish collection	3	1	3
Street lighting	12	9	16
Footpaths/Carparks	12	7	11
Rivers			2
Total	312	300	298
Outstanding	-	-	-

In general, an ordinary few months and the pattern is consistent with the end of the winter season and no major events causing problems. The contractor has generally achieved a 95% completion rate for resolving service request within the required time frames.

#### 4 INAPPROPRIATE DEVELOPMENT / CLOSED ZONES FOR DEVELOPMENT

In recent months there has been a number of subdivision consents/development where Engineering staff consider that development in a particular location would be unwise and that the subsequent development on a lot may give rise to a claim for negligence against Council in the future. By this, I mean development occurring in an area where it is known the level of service is far below that set out in the asset activity management plans and LTCCP.

A couple of cases in point:

- Developments in known flood plains and various infill developments, Takaka;
- Developments in areas at or below the high water level of the sea – Everett Street/North area, Motueka.

The above cases relate to land that is presently zoned residential and/or the areas permit the addition of a further residential dwelling “as of right”, ie a controlled activity.

Councillors will be well aware of the risks placed on Council where properties flood to some extent on the surrounding ground/gardens. Many examples are evident of this such as properties along Stafford Drive and properties in areas of Motueka that flood. Council’s contractor is regularly required to clean up the site (sewage and stormwater mix) and disinfect the surrounding area – all at a cost to the ratepayer. In some cases, wet areas under houses remain for months.

To continue to allow development with this outcome would not be in the best interests of Council in the long-term. It increase volumes of wastewater overflows and potential new Stormwater pump stations required in low lying areas.

Council’s LTCCP states that one of its Core Values for Stormwater and level of service is that “reticulation systems to prevent surface ponding/flooding of private property in all storms up to and including the 1-in-5 year event”. This is an unrealistic achievement when Council continues to allow development in substandard serviced areas where Council knows it will have ongoing problems.

This problem will continue in more severe events (as predicted by NIWA) and Council will undoubtedly incur increased costs. As Councillor’s are aware, climate change is already having adverse effects around other parts of New Zealand.

It is this Officer’s opinion that Council has the power to restrict development and should be more proactive in administering these requirements with the following being a number of options:

- **Subdivision and Resource Management Act 1991**  
(Underline emphasis added by the writer)

*Section 106. Consent authority may refuse subdivision consent in certain circumstances*

- (1) *Despite section 77B, a consent authority may refuse to grant a subdivision consent, or may grant a subdivision consent subject to conditions, if it considers that –*
- (a) *the land in respect of which a consent is sought, or any structure on the land, is or is likely to be subject to material damage by erosion, falling debris, subsidence, slippage, or inundation from any source; or*
  - (b) *any subsequent use that is likely to be made of the land is likely to accelerate, worsen or result in material damage to the land, other land, or structure by erosion, falling debris, subsidence, slippage, or inundation from any source; or*
  - (c) *sufficient provision has not been made for legal and physical access to each allotment to be created by the subdivision.*
- (2) *Conditions under subsection (1) must be –*
- (a) *for the purposes of avoiding, remedying, or mitigating the effects referred to in subsection (1); and*
  - (b) *of a type that could be imposed under section 108.*

**Section 406.** *Grounds of refusal of subdivision consent (previous transitional provisions that applied as now the TRMP is operable)*

- (1) *Notwithstanding anything to the contrary in Parts 6 or 10, a territorial authority -*
- (a) *May refuse to grant a subdivision consent if it considers that either –*
    - (i) *The land in respect of which the subdivision is proposed is not suitable; or*
    - (ii) *The proposed subdivision would not be in the public interest.*
  - (b) *May refuse to grant a subdivision consent if in the case of any allotment in respect of which a subdivision consent is sought, adequate provision has not been made or is not practicable -*
    - (i) *For stormwater drainage; or*
    - (ii) *For the disposal of sewage; or*
    - (iii) *Except in the case of any allotment to be used solely or principally for rural purposes, for the supply of water or electricity.*

(2) *This section shall cease to have effect in a district on the date that the proposed district plan for the district becomes operative, not being a proposed district plan constituted under section 373.*

- **TRMP – Clause 17.1.4A “Construction of a second dwelling on a site is a controlled activity.....”**

A resource consent is required and may include conditions on the following matters which Council has reserved control.

Amendments need to be made to move second dwellings into a discretionary activity on the grounds of adequate service may or may not be available or the location is a high-risk area.

- **Plan changes to “close” zones**

This will place a moratorium on any further development in some areas until servicing is upgraded.

- **Plan change to rezone some presently “residential” properties to perhaps a “rural” zone where substandard services can be accommodated in a realistic manner.**

- **Section 71 of the Building Act 2004 states:**

*“A building consent authority must refuse to grant a building consent for construction of a building.....if*

- (a) *the land on which the building work is to be carried out is subject or is likely to be subject to one or more natural hazard.....”*

*(natural hazard meaning erosion, falling debris, subsidence, inundation (including flood, overland flow, storm surge, tidal effects, and ponding), slippage.*

However Section 72/73 tags Section 71 with the following:

### **Section 72 Building consent for building on land subject to natural hazards must be granted in certain cases**

*Despite section 71, a building consent authority must grant a building consent if the building consent authority considers that –*

- (a) *the building work to which an application for a building consent relates will not accelerate, worsen, or result in a natural hazard on the land on which the building work is to be carried out or any other property; and*
- (b) *the land is subject or is likely to be subject to 1 or more natural hazards; and*
- (c) *it is reasonable to grant a waiver or modification of the building code in respect of the natural hazard concerned.*

### **Section 73 Conditions on building consents granted under section 72**

- (1) *A building consent authority that grants a building consent under section 72 must include, as a condition of the consent, that the building consent authority will, on issuing the consent, notify the consent to, -*
  - (a) *in the case of an application made by, or on behalf of, the Crown, the appropriate Minister and the Surveyor-General; and*
  - (b) *in the case of an application made by, or on behalf of, the owners of Maori land, the Registrar of the Maori Land Court; and*
  - (c) *in any other case, the Registrar-General of Land.*
- (2) *The notification under subsection (1)(a) or (b) must be accompanied by a copy of the project information memorandum that relates to the building consent in question.*
- (3) *The notification under subsection (1)(c) must identify the natural hazard concerned.*

In regard to the building act, it is my view that if there is still a concern with a risk to Council, then the appropriate notice on the Certificate of Title absolving Council's liability in this regard should be entered into.

I believe that the Council should be more proactive at discouraging development in the high risk areas (to be mapped) of Tasman district and has powers available to reinforce these requirements.

## **5 RECOMMENDATION**

### **THAT**

- i) the report be received;**
- ii) the Engineering Services Committee recommends to the Environment and Planning Committee that options including those noted in this report be investigated and reported back to the Engineering Services Committee (or appropriate committee) with a view to curtailing developments in high risk areas (in regard to inundation/flooding hazards) in the Tasman region.**

Dugald Ley  
**Development Engineer**