



STAFF REPORT

TO: Environment and Planning Committee

FROM: Mark Morris, Senior Consent Planner, Subdivision

REFERENCE: RM040761

SUBJECT: **A COOTES – REPORT EP05/05/07** Report prepared for 24 May hearing

1. APPLICATION BRIEF

1.1 Proposal

The application is for a subdivision consent.

The proposal is to subdivide two existing certificates of title NL 8A/659 and NL 8A/660 to create three allotments; Lot 1 being 2.64 hectares, Lot 2 being 11.396 hectares and Lot 3 being 57.329 hectares. The subdivision will result in one additional title that being the proposed Lot 1.

1.2 Location and Legal Description

The property is located on the Pakawau Bush Road, at Pakawau, Golden Bay.

The legal description of the land is Lot 4 DP 13039 Certificate of Title NL 8A/659 and Pt Sec 8 Block VI, Certificate of Title 8A/660.

The two properties are entirely in regenerating bush and scrub with a central spur running through the centre which divides the two catchments. The sites are dissected by many bushed gullies with regenerating bush in the gullies and scrub on the spurs. One of the side spurs that runs off the central ridge contains the proposed building site for Lot 1.

The applicant's existing title does not currently contain a dwelling. According to the application, the owner of the neighbouring property wishes to purchase part of the applicant's property and form a new title for a new dwelling.

1.3 Zoning and Consent Requirements

The land is zoned Rural 2 under the proposed Tasman Resource Management Plan. As there are no outstanding references on the Rural 2 zoning, it is considered that the Rural 2 zoning is operative pursuant to Section 19 of the Resource Management Act 1991. Therefore no assessment is required under the Transitional District Plan.

The subdivision is considered to be a Discretionary Activity under the relevant rules of the Proposed Tasman Resource Management Plan in that the minimum lot size is less than 50 hectares required under the controlled activity rule 16.3.8 for the Rural 2 zoned land.

2. INTRODUCTION

2.1 The Proposal

The applicant wishes to subdivide two existing titles into three allotments Lot 1 being 2.64 hectares, Lot 2 of 11.39 hectares and Lot 3 of 57.329 hectares. The subdivision will result in one additional title on which a dwelling will be built, which is the proposed Lot 1.

Lot 1 will gain its access by way of a right-of-way through the proposed Lot 2 to join up with the present right-of-way access to the site which is shared with one other property, Lot 3 DP 13039, owned by Cronehaven Trust.

2.2 Affected Parties Consent

The application included the signed written consent of the following:

1. Evergreen Forests Ltd who hold the Crown Forest license over Lot 1 DP 14525 (255 hectares) to the southeast of the property and adjoin the southeast boundary of the site.
2. Catherine Heatherbell who is the owner of CT NL 8A/660 which adjoins the applicant's western and southern boundaries and is effectively a party to the application in that part of her property will become part of the proposed Lot 1.
3. RB and N Staples, who are the owners of Lot 1 DP 9527, which adjoins the Heatherbell property and is about 200m down the road from the applicant's property.

3. NOTIFICATION AND SUBMISSIONS

The application was publicly notified on 19th March 2005.

Three submissions were received.

A Popevis and S Ammon

Opposed to the application for the following reasons:

1. The Cronehaven Trust share an access road with the applicant. The additional traffic use of this access will add to the amount of noise, echoes and vibrations.
2. The Trust wished to create a retreat that provides peace and tranquillity for people who are "emotionally, spiritually or physically challenged or socially disadvantaged". The subdivision will threaten the purpose of the trust and compromise the peace and tranquillity necessary for a retreat of this nature.
3. The new access road would be an eyesore as it would be directly across from the retreat at Cronehaven.

C J Heatherbell

Supported the application for the following reasons:

1. The land is marginal for farming, but suitable for dwellings.
2. The Council will not need to provide any additional services for the additional lot.
3. There will be minimal environmental impact.

P Alfred and M Corby

Supported the application for the following reasons:

1. The subdivision will enable Mr Coote to gain easier access to his existing block.
2. The block being subdivided is not much use to the Heatherbells and it lends itself to being used by someone else.

4. STATUTORY CONSIDERATIONS

4.1 Resource Management Act

Part II Matters

In considering an application for resource consent, Council must ensure that if granted, the proposal is consistent with the purpose and principles set out in Part II of the Act.

If consent is granted, the proposed subdivision must be deemed to represent the sustainable use and development of the land resource.

These principles underpin all relevant Plans and Policy Statements, which provide more specific guidance for assessing this application.

Section 104

Subject to Part II matters, Council is required to have regard to those matters set out in Section 104. Of relevance to the assessment of this application, Council must have regard to:

- Any actual and potential effects of allowing the subdivision to go ahead (Section 104 (1) (a));
- Any relevant objectives and policies in the Tasman Regional Policy Statement and the Proposed Tasman Resource Management Plan (Section 104 (1) (b));
- Any other relevant and reasonably necessary matter(s) to determine the consent (Section (1) (c)).

In respect of Section 104 (1) (b), the Proposed Tasman Resource Management Plan is now considered to be the relevant planning document, given the operative status of the Rural 2 zone rules.

Section 104B sets out the framework for granting or declining consent based on the status of an activity as set out in the relevant Plan.

4.2 Tasman Regional Policy Statement

The Regional Policy Statement seeks to achieve the sustainable management of land and coastal environment resources. Objectives and policies of the Policy Statement clearly articulate the importance of protecting land resources from inappropriate land use and development.

Because the Proposed Tasman Resource Management Plan was developed to be consistent with the Regional Policy Statement, it is considered that an assessment under the Proposed Plan will satisfy an assessment against Policy Statement principles.

4.3 Tasman Resource Management Plan

The most relevant Objectives and Policies are contained in: Chapter 5 'Site Amenity Effects' and Chapter 7 'Rural Environment Effects'. These chapters articulate Council's key objectives: To protect rural land from inappropriate subdivision and development and to ensure character and amenity values are maintained or enhanced.

The most relevant Rules which follow from these imperatives are contained in Chapter 16.3 'Subdivision' and Chapter 17.5 'Rural 2 Zone'. The assessment criteria set out in 16.3A, which are provided to guide Council in evaluating the proposed subdivision.

Details of the assessment of the proposed subdivision consent in terms of these matters is set out in the chapters following.

5. ASSESSMENT

In accordance with Section 104 of the Resource Management Act, Council must consider the actual and potential effects on the environment of allowing the activity, have regard for any relevant objectives, policies, rules, and consider any other matters relevant and reasonably necessary to determine the application.

5.1 Assessment of Environmental Effects

Pursuant to Section 104 (1) (a) of the Resource Management Act, the following effects assessment has been set out.

Rural Land Productivity

According to the Agricultural New Zealand Assessment of Land Capability (1994), the soils of this property are classified as Class H which means it very limited productive potential with the main potential use being forestry. This particular property, because of its steep terrain would have limited productive use, and so it is likely that it would remain in its current vegetated state.

The Proposed Plan seeks to avoid the effects of fragmentation on all productive land (Objective 7.1.0) which includes the Rural 2 land that may be of low productive value. To achieve this, Council has set down minimum lots sizes of 50 hectares for the Rural 2 zone. This is considered to be the size, where the adverse effects are considered to be no more than minor.

The general, the policy thrust of the Plan, is that the less productive the land, the larger the minimum lot size, apart from the specific rural-residential zones where opportunities are provided for rural residential allotments. In 7.1.30 it states that the Rural Residential zones are *“intended to relieve ongoing pressure for fragmentation of the rural land resource.”*

The Council could have decided to not have specific rural residential zones and instead made all the Rural 1 and 2 zone open to rural residential subdivision by setting a minimum lot size of say four hectares. This would be a clear policy change.

However the Council has deliberately chosen a different course which involves provided specific areas for rural residential development over 39 individual zoned areas and seeking to prevent further fragmentation of the Rural 1 and 2 zoned area.

While it is considered that the actual effects of the proposed subdivision in terms of productive values may be no more than minor, there would significant cumulative adverse effects if the approval of this subdivision led to other small lot rural residential subdivisions being approved in the Golden Bay Rural 2 zone.

Servicing Effects

According to the application the property will be serviced for power and telephone from the adjoining Pakawau Bush Road.

Water will be supplied from roof tank supplies.

Wastewater by way of on-site septic tank disposal.

Access to the proposed Lot 1 will be by way of a metalled right-of-way running through the proposed Lot 2.

The property accesses on to the Pakawau Bush Road.

While it is accepted that that there are no obvious difficulties in servicing the additional allotment, there is a cumulative effect issue. If this application leads to further applications for rural-residential sized allotments, in particular roading, and effluent disposal.

This can result in pressure put on services such as roading in an area that is currently serviced by mainly narrow metal roads. These are suitable for the development anticipated by the Rural 2 zoning, but not by rural residential subdivision such as what has been applied for in this application.

Rural Character and Amenity Values

The rural character of the Westhaven area is predominantly characterised by a high level of natural amenity with an associated low density of built form and structures.

While it is acknowledged there are a few small blocks in the immediate area, this is very much the exception and most of the area is characterised by large blocks, few buildings and regenerating bush cover which helps provide a high degree of natural amenity. It is this natural amenity that is likely to be compromised if Council continued to approve small allotments such as this one, particularly if the approval led to other similar applications in the area.

The area has important coastal values and the Whanganui (Westhaven) Inlet is listed as an "Area with Nationally Important Natural Ecosystem Values" under Schedule 25.1F of the Proposed Plan and which according to the classification is *"Notable for intact vegetation sequences from estuary to hilltop. Low level of permanent human impact."*

The proposal is a form of development that is not specifically provided for in the Rural 1 and 2 zones. The PTRMP provides for a low-density of development (i.e. one dwelling per 50 hectares for Rural 2 and 12 hectares for Rural 1).

The Council's policies and objectives on the Rural Environment seek to protect the rural environment from the adverse effects of activities including of subdivision and urbanisation and thereby maintaining and enhancing the rural character and amenity values of the area.

Amenity values, as defined in Section 2 of the Resource Management Act 1991, means:

"Amenity values" means those natural or physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes."

The creation of an additional rural-residential lot, has the potential to detract from the amenity values of the area and the rural character of the surrounding environment.

The area of the subdivision has a high degree of natural and rural amenity, with a corresponding low level of built development.

The Rural 2 minimum lot sizes for subdivisions and single dwellings act as a "density control mechanism" that, if consistently applied, should maintain the desired rural amenity that the Council planning documents are seeking.

If the subdivision was approved, then the integrity of the planning documents to maintain that rural amenity would be clearly undermined in that inevitably many other similar subdivision applications would seek similar treatment and lead to a cumulative effect on the existing rural character and amenity of the area.

5.2 Relevant Plans and Policy Statements.

The subdivision and resulting landuse activities must be deemed to be consistent with relevant objectives and policies pursuant to Section 104 (1) (c) and (d) of the Act. The most relevant Plan is considered to be the proposed Tasman Resource Management Plan and will be used in this assessment. Because this was developed to be consistent with the Regional Policy Statement, the assessment would also be considered satisfy an assessment under the Policy Statement.

The following summarises the most relevant plan matters and provides brief assessment commentary:

Chapter 5 - Site Amenity Effects Council must ensure that the rural character and amenity values of the site and surrounding environment are protected, and any actual or potential effects of the proposed subdivision must be avoided remedied or mitigated, including cross boundary effects.

Objectives: 5.1, 5.2, and 5.3 As detailed in the assessment of effects (Chapter 5.1), there will be an effect of the proposed activity on character and amenity values. An additional rural residential allotment

Policies: 5.1.1, 5.1.3A, 5.1.9, 5.2.1, 5.2.7, 5.2.8, 5.3.2, 5.3.3, 5.3.5 would be created in a rural landscape, contributing to 'rural residential' (as opposed to 'rural') character and amenity in the area.

Chapter 7 – Rural Environment Effects The productive potential of land resources must be protected, and used efficiently. Rural character and amenity values must be maintained or enhanced

Objectives: 7.1, 7.2, 7.3 The actual adverse effects on productive values is not considered to be significant.

Policies: 7.1.1, 7.1.2, 7.1.2A, 7.1.3, 7.2.1, 7.2.2, 7.2.4, 7.3.1, 7.3.3, 7.3.7, 7.3.8. Rural amenity values may be affected by the additional residential activity in the area. These matters are discussed in more detail in the assessment of effects (Chapter 5.1).

Chapter 10 – Significant Natural Values and Cultural Heritage Archaeological sites of significance must be protected, including any sites of significance to Maori.

Objectives 10.1 A notation as part of consent if granted may be provided to alert the applicant of her obligations in terms of the Historic Places Trust. There are no known sites of heritage value.

Policies 10.1.3, 10.1.5.

- Chapter 11 - Land Transport Effects* The actual and potential effects of the proposed subdivision on traffic safety must be avoided, remedied or mitigated.
- Objectives 11.1, 11.2* The proposed subdivision and associated dwelling will result in additional traffic on to the roading network.
- Policies 11.1.2B, 11.1.3, 11.1.4A.* This matter is discussed in more detail in the assessment of effects (Chapter 5.1).
- Chapter 16.2 Transport* – Permitted activity performance conditions that manage vehicle access, parking and road standards are contained in this rule.
- Chapter 16.3 Subdivision* – Requires Discretionary Activity resource consent for Rural 2 Zone subdivision, namely the creation of an allotment that will be less than 50 hectares.
- Assessment Criteria: Rule 16.3A* Assessment criteria set out in Rule 16.3A provide guidance in the assessment of the application for determining appropriate conditions. Key matters such as servicing, amenity values and the effect of the proposal on key resources must be addressed when assessing any application for subdivision consent. Matters most relevant to this application have been covered in the assessment of effects of this report (Chapter 5.1).
- Chapter 17.5 Rural 2 Zone Rules* – Any activity on the proposed lots is subject to controlled activity performance standards and conditions set out in Rule 17.5.4, Rural 2 Zone rules.
- Chapter 36.1 Discharges to Land* – The discharge of wastewater to land must comply with performance standards and conditions of this rule or otherwise require separate discharge consent.

Chapter 7 *Rural Environment Effects* is concerned with the effects of land fragmentation on all productive land whether it be highly productive or not.

In Objective 7.1.0 it sets out its principle objective to:

“Avoid the loss of potential for all land of existing and potential productive value”.

Policy 7.1.2 seeks to: *“avoid, remedy or mitigate the effects of activities which reduce the area of land available for soil-based production purposes in rural areas.”*

In this case the subdivision will have minor adverse effects on productive values, but if the effects are repeated through the cumulative effect of further subdivisions in the Rural 2 zone, it could have a significant adverse effect.

Policy 7.1.2A seeks to avoid, remedy or mitigate the *“cumulative effects on the soil resource and productive value of the land.”*

In this particular case, the actual effects on soil productive values may not be significant in terms actual loss of productive land, but its approval is likely to lead to other similar applications in the Rural 2 zone, that if were subsequently approved would create a significant cumulative adverse effect on the rural land resource.

Policy 7.1.3 requires land parcels “upon subdivision” to be of a size that “retains the land productive potential”, having regard to the “versatility of the land”.

The Proposed Plan has set down 50 hectares as the size whereby adverse effects on versatility and productive potential are “no more than minor” by way of it controlled status.

7.1.30 sets out the explanation for the above policies and objectives:

The rural zoning pattern is the basis for administration of the objective and policies. The Rural 1 Zone comprises the most inherently productive and versatile land in the District and includes about five percent of the total land area. Threshold subdivision standards in this area provide flexibility for a range of productive uses to be made of the soil and land resource, while sustaining its long-term availability. Subdivision below the threshold will be limited to that which supports the objective.

Objective 7.2.0 sets out Council’s intention to provide opportunities for rural-residential activities.

Provision of opportunities to use rural land for activities other than soil-based production, including papakainga, tourist services, rural residential and rural industrial activities in restricted locations, while avoiding the loss of land of high productive value.

D 10/98
D 8/99

While objective 7.2.0 does allow for the use of sites for rural residential activities in restricted locations, it is clear from 7.2.20 that the zone framework to achieve this objective is the rural residential and Rural 3 and 3A zones and does not include the Rural 1 and 2 zones.

The additions to 7.2.20 were put in as part of Variation 32 (Dec 2003) to avoid any confusion over interpreting Objective 7.2.0 which some people had assumed that any land of low productive value (i.e 95% of the district) was available to rural residential subdivision and use. The variation made it clear that these objective and policies were to be achieved by the provision of specific zoned areas for rural-residential development.

Objective 7.3.0 states:

“Avoidance, remedying or mitigation of the adverse effects of a wide range of existing and potential future activities on rural character and amenity values.”

The following policies are relevant to this application:

7.3.3 *To provide for the maintenance and enhancement of local rural character including such attributes as openness, greenness, productive activity, absence of signs, and separation and style and scale of structures.*

- 7.3.4 *To exclude from rural areas, uses or activities (including rural residential) which would have adverse effects on rural activities, health or amenity values, where those effects cannot be avoided, remedies or mitigated.*
- 7.3.9 *To avoid, remedy or mitigate servicing effects of rural subdivision and development, including road access, water availability and wastewater disposal.*

Under Methods of Implementation 7.3.20, it states how the Rural 2 zoning framework applies to the above objectives and policies.

- *The Rural 2 Zone covers areas that are generally of lower productive values, but which often have particularly important rural character and amenity values, resulting from a low intensity of use and development and consequently a more open and distinctive rural landscape. In these areas, rules addressing management of detailed effects through the imposition of standards, such as those relating to noise and air quality, are generally similar to those in the Rural 1 Zone, but rural character, general amenity and landscape is maintained through the absence of rules allowing for close subdivision and intensive development.*

I note the second half of the last sentence in this explanation which states:

“...but rural character, general amenity and landscape is maintained through the absence of rules allowing for close subdivision and intensive development.”

It is clear from this, that with the 50 hectares minimum lot size in the Rural 2 zone, that the Council does not anticipate smaller lot rural residential subdivision in the Rural 2 zone.

It is my conclusion that Council’s planning documents and the policies that I have set out above, seek to avoid the adverse effects of fragmentation of all productive land in both the Rural 1 and 2 zones. The priority given to high productive land does not mean that less productive should be available for rural residential subdivision.

The Council has provided ample opportunity for rural-residential development by zoning large areas of the district rural-residential. In 7.1.30 under the *“Principal reasons and Explanation”* it states that these rural residential zones: *“are intended to relieve the on going pressure for fragmentation of the rural land resource.”*

In conclusion it is considered that the proposed subdivision is contrary to the policies and objectives in Proposed Plan in that it seeks to further fragment what is already a small rural block for rural residential purposes that is not envisaged in the Rural zones.

Recent Environment Court Decisions.

Recent Environment Court decisions such as *Jennings v Tasman District Council* (RMA0350/02) and *Collis v Tasman District Council* (RMA 876/03) all focused the Council policies and objectives in relation to creation of rural residential allotments in areas that were generally of low productive value. In these cases the Court upheld Council’s decision to decline consent.

It is important that Council's decision are in accordance with the Courts interpretation of the Plan in these cases.

The Jennings decision in particular is relevant in that it involved less productive land, similar to this site, an existing small lot and the creation of rural residential allotments.

In the Jennings case Judge Sheppard found that:

“although the site is not land of high productive value, Objective 7.1.0 is not limited to land of that quality, and the effects make the subdivision contrary to that objective, and to Policies 7.1.2 and 7.1.2A for achieving it.” [156]

Also in terms of cumulative effects, the Court found that:

“ the development the subdivision is intended to enable would, in combination with other rural-residential development in the vicinity, have cumulative effects on the fragmentation of land, and on the rural character and rural amenities of the locality. In that regard, the adverse effects are significant.” [127]

It is important that Council's decisions are in accordance with the Court's interpretation of the Objectives and Policies of the Plan, and it is my opinion that based on these recent cases, that it is clear that this proposal is contrary to the relevant policies and objectives of the Proposed Plan.

5.3 Part II Matters

The proposed subdivision and associated landuse activities are considered to be inconsistent with the purpose and principles contained in Part II of the Resource Management Act.

Section 6 (a) requires, as a matter of national importance, the “preservation of the natural character of the coastal environment”, and the protection of the coastal environment from “inappropriate subdivision, use and development.”

Part II of the Act is concerned about “maintaining and enhancing amenity values” under Section 7 (c). As I have discussed earlier the proposal will adversely affect the open rural amenity of this area by introducing a higher density of rural residential development, that is incompatible with its Rural 2 zoning.

It is considered that the application is not consistent with the Act's purpose of achieving the sustainable management of natural and physical resources.

5.4 Other Matters

Precedence and Cumulative Effects

Precedence in itself is not an “effect” but the subsequent approval of this subdivision is likely to lead to lead to other similar applications from Rural 2 properties each wanting like treatment. This can lead to a cumulative effect that is very much a relevant adverse effect under Section 3 (d) of the Act.

In resource management terms, the cumulative effect of establishing a pattern of consent decisions based on other applicants wanting similar outcomes, can have adverse effects on significant resource management issues.

In the case of this application to subdivide, the key issue is the potential for a cumulative loss of rural character and amenity values associated with more dense residential development in the rural landscape.

The issue of "precedence" must be acknowledged in practical terms as giving rise to cumulative adverse effects.

- Applications for consent are lodged on the basis that consent to previous applications have been granted under like conditions.
- Council can expect pressure to act consistently in its application of Plan objectives, policies, rules and assessment criterion. That is, Council is expected to be consistent in its decision-making.

In the *Corsan v Taupo District Council*(RMA 058/01) case the Court found that the integrity of the plans and the consistent administration of the planning documents was an important issue. In his conclusion Judge Whiting states:

"We find that the integrity of the plans and confidence in their consistent administration is the major determinant in this case."

This was in a case where the application only involved one additional allotment of around 2 hectares in an area where the minimum lot size is 4 hectares as a discretionary activity under the Proposed Plan.

In this case we have a 50 hectare minimum lot size under the Proposed Plan. Clearly the integrity of the Rural Zone rules in achieving a low density productive rural environment will be undermined by the approval of this application.

Permitted Baseline Test

Under Section 104 (2) of the Resource Management Act, a consent authority may use what is called the "permitted baseline test" to assess what are the actual and potential effects on the environment of allowing the activity.

Under this principle the proposal is compared with what could be done as permitted activity under the relevant Plan.

As there is no subdivision as a permitted activity under the Proposed Plan, and no land use consent has been applied for, it is considered that the permitted baseline test is not relevant to this application.

6. CONCLUSIONS

6.1 The proposal is a Discretionary Activity under the Proposed Tasman Resource Management Plan.

6.2 The property is zoned Rural 2 under the Proposed Plan.

- 6.3 The property is in an area of scrub and regenerating native bush. It is an area that has a high degree of natural amenity and in spite of having a few small allotments, in the immediate area, still has relatively low level of built development and most of the surrounding area is characterised by large allotments. To approve this subdivision would adversely affect this rural amenity, in a way that is not envisaged by the Rural 2 zone rules and the related policies and objectives under the Proposed Plan.
- 6.4 The Westhaven Inlet and the surrounding hills have very high scenic values and the combination of the relatively undeveloped sheltered coastal inlet and regenerating bush give it special landscape qualities. It is these landscape qualities and natural amenity that will be compromised by this subdivision, and significantly compromised if granting of consent leads to further subdivision in the area.
- 6.5 The property does not have any unique characteristics that would enable Council to approve the subdivision without expecting further applications from similar sized Rural 2 properties, all of which would expect similar favourable treatment.
- 6.6 It is accepted that there has been subdivision in the past that created the existing titles in 1987 under the former Golden Bay County.. However the Proposed Plan with the Rural 2 zoning and 50 hectares minimum lot size seeks to stop the perpetuation of incremental rural residential subdivision. If this application was approved it is inevitable that other similar applications would be made in the Rural 2 that would result in a significant cumulative fragmentation effect on the rural landscape.
- 6.7 The policies and objectives of the Proposed Plan seek to avoid the adverse effects of fragmentation on productive values of all rural land (objective 7.1.0) including those in less productive soils the Rural 2 zone.
- 6.8 It is acknowledged that the actual adverse effects of fragmentation are less significant on less productive land in terms of loss of productive potential and cross boundary effects and this is acknowledged in the plan under 7.1.30. However it is still a significant issue in the plan policies and objectives which under 7.1.1 which seek to: *“Avoid the loss the loss of potential of all land of existing and potential productive value to meet the needs of future generations”*.
- 6.9 The Proposed Plan under objective 7.3.0 seeks to avoid, remedy or mitigate the adverse effects of subdivision and associated development on rural character and amenity and under policy 7.3.4 seeks to avoid further rural residential development in Rural Zones. It is considered that the proposed subdivision is contrary to these objectives and policies.
- 6.10 The Plan acknowledges that there will be a demand for rural-residential subdivision in rural areas and has provided for it in “restricted areas” these being the 39 rural residential zoned areas. The rural residential zones are specifically intended to complement the Rural 1 and 2 in order to *“relieve the ongoing pressure for fragmentation of the land resource”* (7.1.30).

For these above policies and objectives to be successful in the long term, the Council needs to be consistent in retaining the availability of Rural 1 and 2 land for land based productive purposes and maintaining the existing rural amenity while allowing rural residential subdivision in the specific rural residential zones. With this particular property that best way to achieve this is to retain the property in its present form.

- 6.11 The application is against the general thrust of the council's planning documents which seek to direct development to specified rural residential zones where the development can be consolidated. Instead this proposal seeks to create an ad hoc rural residential development in a rural area with a high natural amenity which is contrary to the principles of sustainable development of resources required under Part II of the Resource Management Act 1991.
- 6.12 Part II of the Resource Management Act includes a matter of national importance in Section 6, the protection of the Coastal Environment from inappropriate subdivision and development. In this regard it is considered that the proposed subdivision is contrary to Part II of the Resource Management Act.
- 6.13 It is considered that the proposal is contrary to the policies and objectives of both the Regional Policy Statement and the Proposed Plan and the adverse effects on the environment are more than minor. Therefore the application should be declined under Section 104B of the Resource Management Act 1991.

7. RECOMMENDATION

That pursuant to Section 104B of the Resource Management Act 1991 the Tasman District Council **declines** its consent to the application by A Cootes to subdivide CT NL 8A/659 and NL 8A/660 into three allotments (RM040761).

8. RECOMMENDED CONDITIONS

As I have recommended decline of consent and believe that the adverse effects of the proposal cannot be avoided, remedied or mitigated by conditions, I have not included a detailed list of conditions. However if the committee was going to grant consent, the following matters would need to be addressed through conditions:

- Development Impact Reserves Levies on one allotment, based on the value of a 2500 square notional building site.
- The right-of-way AB shall be formed to a 4.5 metre wide metalled formation with watertables to deal with stormwater. The maximum gradient shall be 1:6.
- Power and telephone servicing to the Lot 1 building site in accordance with TDC engineering standards.
- Metalled access (3m wide) to the building site on Lot 1 with a maximum gradient of 1:6.
- Certification of the building site on Lot 2 by a Chartered Professional Engineer in accordance with TDC Engineering standards Section 11 Appendix B and certification that all engineering works have been completed in accordance with

TDC Engineering Standards or to the satisfaction of the Council's Engineering Manager.

- Easements for all services located outside the allotments that they serve.

Mark Morris
Senior Consent Planner
(Subdivisions)