



STAFF REPORT

TO: Environment & Planning Committee

FROM: Grant Russell - MWH Consultant Consent Planner

REFERENCE: RM040802

SUBJECT: **P and M CLINTON-BAKER - REPORT EP05/08/19 - Report prepared 29 August 2005 Hearing**

1. INTRODUCTION

The Site

The site is located at 130 Aranui Road, Mapua. The property currently contains one existing residential dwelling. An implement shed is located at the rear of the subject site.

Access to the site is via a right of way from Aranui Road which is formed to approximately 3 metres in width.

The property is generally flat with a small tidal creek located close to the western side of the property. A crop of olive trees is growing on the western side of proposed Lot 2, adjacent to the tidal creek.

The scheme plan of subdivision and a locality map can be found in Appendix A.

The Proposal

The proposal is to subdivide Lot 2 DP 11197 into 2 allotments as follows:

- Lot 1 - 0.7 hectares (containing existing dwelling)
- Lot 2 - 6.39 hectares (bare land)

And to construct a dwelling on proposed Lot 2 in the Rural 1 zone.

Access will be gained via the existing right of way from Aranui Road, currently serving the existing lot, and serving three other properties.

2. STATUS UNDER TRANSITIONAL AND PROPOSED PLANS

2.1 Transitional District Plan

The site is zoned Coastal 2 (Map 3.2.3) in the Transitional District Plan (Waimea) and the activity is a Non Complying Activity.

2.2 Proposed Tasman Resource Management Plan

The site is zoned Rural 1 under the Proposed Tasman Resource Management Plan (PTRMP). For the subdivision application, under Section 16.3.7(b) the minimum area for a controlled activity subdivision in this zone is 12 hectares. Because the application does not meet this standard it is considered to be a discretionary activity. For the land use application, a new dwelling in the Rural 1 zone for this proposal is deemed a discretionary activity under Rule 17.4.6.

3. STATUTORY CONSIDERATIONS

The operative plan is the Transitional District Plan. However, the Proposed Tasman Resource Management Plan was publicly notified on 25 May 1996, and is considered to be the dominant document under which to assess applications for resource consent.

Under Section 104 (1) of the Resource Management Act 1991 when considering an application for resource consent and any submissions received, the consent authority must, subject to Part II of the Act, have regard to -

- a) any actual and potential effects on the environment of allowing the activity; and
- b) any relevant provisions of –
 - iii) a regional policy statement or proposed regional policy statement
 - iv) a plan or proposed plan; and
- c) any other matter the consent authority considers relevant and reasonably necessary to determine the application.

Under Section 104B – Determination of applications for discretionary or non-complying activities

After considering an application for a resource consent for a discretionary activity, a consent authority –

- a) may grant or refuse the application; and
- b) if it grants the application, may impose conditions under Section 108.

4. WRITTEN APPROVALS

Prior to the formal notification of the Clinton-Baker application three written approvals and one letter in support of the proposal were received.

The Tasman District Council were in receipt of written approvals from:

1. Douglas William and Patricia White (124 Aranui Road – Lot 1 DP 6355)
2. Sarah Glazebrook (for Ruby Bay Farms) (144 Aranui Road – Lot 1 DP11197)
3. Thawley Orchards Company Limited (128 Aranui Road – Lot 3 DP11197)

The letter in support of the proposal was from the Mapua Ruby Bay and District Walkways Group.

The written approval from Thawley Orchard Company Limited is effectively invalidate as a submission opposing the Clinton-Baker proposal was received from Thawley Orchard Company Limited Solicitors prior to the close of the submission period.

The letter in support of the proposal from the Mapua Ruby Bay and District Walkways Group is effectively repeated in their written submission supporting the application and in particular the walkway link.

5. PUBLIC NOTIFICATION AND SUBMISSIONS

The application was publicly notified in the Nelson Mail on 31 July 2004. Upon examination of the public notice prior to the preparation of this Staff Report, it was noted that the consent type in the public notice was only limited to a subdivision consent. The Clinton-Baker application however states, "Peter and Maureen Clinton-Baker hereby apply for subdivision and land use consent to erect a dwelling on a property situated at 130 Aranui Road, namely Lot 2 Deposited Plan 11197 (CT NL6C/1399)."

However submissions received identified some land use issues, for example "the dwelling should be built in recessive colours and be restricted to a height of 4.5 metres". Furthermore it is considered that there is an inference that a land use consent for a dwelling would be sought either with this application, which it was, or at a later date. It is considered therefore that those people genuinely interested in the Clinton-Baker application, over and above those who were sent the application as directly affected parties, would have requested the documents for further examination. As such, the details in the public notice would not unduly effect this application and those who wish to participate, and therefore it is prudent to proceed with the Hearing.

At the close of the submission period on 27 August 2004, nine submissions were received, three being in support, one requiring conditions, and five in opposition.

Summary of Submissions

In Support

- Mapua Ruby Bay & Districts Walkways Group (c/- Sarah McLeod)

These submitters acknowledge the Clinton-Bakers community spirit and willingness to provide a walkway connection (i.e. a proposed 700 m² reserve area) located in the south western corner of their property. They do not wish to be heard in support of their submission.

- Barry and Linda Evans

This submission states that in their opinion the land is not overly productive and the proposed location of the new dwelling will not affect their lifestyle.

- Mapua School

The submission states that there will be no impact on the school.

Requires Conditions

- Nelson Marlborough District Health Board (NMDHB)

NMDHB suggest that the new lot should connect into Council's reticulated sewage and water systems servicing the Mapua and Ruby Bay area.

In Opposition

- Department of Conservation (DOC)

DOC expressed concerns regarding the destruction of habitat in which native fish lay their eggs. The tidal creek running through the property supports important whitebait spawning habitat. DOC would like an esplanade strip to be created along the margins of the creek to assist in avoiding potential adverse effects on the life-supporting capacity (i.e. fish spawning habitats) of the tidal creek. They initially requested to be heard at any Hearing but have expressed their desire to withdraw their right to be heard after they have viewed the recommendations of this Staff Report and relevant conditions with respect to an esplanade reserve and/or strip.

- Haydn and Angela Bone

These submitters would like to see the right of way upgraded to provide for additional traffic use. The Bone's recently approved subdivision required them to increase the sealed width of the right of way and they feel that the Clinton-Bakers should share the cost. They would like power and telephone cables underground, the dwelling built in recessive colours and be restricted to a height of 4.5 metres. They do wish to be heard at any Hearing.

- Thawley Orchard Company Ltd

The Thawleys feel that the subdivision will result in traffic effects on the right of way and that any widening/sealing should be deferred until all users reach an agreement. They also feel that the subdivision would compromise the rural character and amenity of the rural land. They do wish to be heard at any Hearing.

- Lew and Jan Bone

Lew and Jan Bone dispute the fact that the subject property is unproductive and the reasons given in the application for the failure of the boronia and lavender crops on the subject property. They also have concerns regarding the increased use of the right of way in terms of traffic and pedestrian safety and feel that the effects of the right of way have not been given sufficient consideration in the application.

6. ASSESSMENT

6.1 Part II, Resource Management Act

(Refer to Appendix B)

6.2 Actual or Potential Effects on The Environment

6.2.1 Loss of Productive Land

The soil-based productive potential of the District's rural land is reduced by subdivision into smaller lots for residential purposes. This 7 hectare property is not of a size to be particularly productive in terms of large scale cropping, but has been used for growing boronia and lavender although according to the applicants, not very successfully. However, should this subdivision be approved then proposed Lot 2 (the balance lot) will still be large enough for future owners to continue to grow crops on a small scale or use the property for grazing purposes in conjunction with the residential activity.

A report from AgBio Research Limited (dated September 2003) has been provided with the application which describes the soils as having low fertility and poor structure, thus being difficult to manage and not classified as being of "high productive value". Council's Soil Scientist has reviewed this report and concurs with these findings.

6.2.2 Effects on Amenity Values

Smaller lot sizes in rural areas have the potential to adversely affect the qualities and character of rural areas.

Both the Thawleys and L and J Bone expressed concerns in terms of loss of rural character and amenity.

It is noted that although this land is still zoned Rural 1 it is now surrounded by residential and deferred residential land (refer Appendix C) with a distinctly residential flavour, and more land in the immediate area may be re-zoned residential in the future.

H and A Bone also requested conditions of consent in terms of issues such as such as height restriction and use of non-reflective recessive colours. These matters have been addressed in the conditions attached to this recommendation. The setback requirements for the Rural 1 zone shall also apply.

6.2.3 Cross-boundary Effects

Cross boundary effects, resulting in potential reverse sensitivity issues, are often experienced between rural and residential land use. These effects are primarily derived from rural activities such as herbicide and pesticide spraying from horticultural practices. There are setback requirements of 30 metres in Rural zones between dwellings and orchards outlined in the PTRMP.

In this instance there are no orchards within close proximity to proposed Lot 2, dwelling. Also the tidal creek, acts as a natural buffer between proposed Lot 1 and 2. Furthermore the plants and shrubs planted on the banks reduce effects associated with rural type activities related to maintaining the established olive grove.

6.2.4 Effluent Disposal

One of the major issues with this proposed subdivision is effluent disposal in close proximity to the coastal environment and waterways. The soils on this site are exceptionally free-draining sandy soils and as such do not retain effluent long enough for sufficient treatment.

The applicant has provided an engineering report from Tasman Consulting Engineers (dated April 2004), which states that an improved septic tank with reduced area for the disposal field would provide good soakage rates in the sandy soils on this property.

Council's Consent Planner – Discharges has assessed this report and recommends that a system which incorporates secondary treatment is installed to cope with disposal into such free draining soils if an on-site system is to be used. However, the discharge of domestic wastewater is deemed a permitted activity under Rule 36.1.4 and thus may occur as of right provided those terms and conditions for that Rule are complied with. The applicant submitted a sewage disposal engineering report with limitations. The limitations and references to relevant New Zealand Standards, as noted by the Engineer will form part of a condition should the Committee grant this application.

Council's engineers have stated that a connection to the Tasman District Council reticulated system is not feasible, due to ground levels being too low to generate sufficient gravity flow to the reticulated scheme. This issue is addressed by the sewage investigation and the recommendation that an Improved Septic Tank and appropriately sized disposal field is constructed.

Given the potential flooding in the area it is suggested that an appropriate disposal field ground level commensurate with the floor level of the dwelling, as noted below is constructed to ensure the potential effects of flooding the disposal field is reduced.

It is also brought to the attention of the applicant that the 50 metre setback from the water course as shown in the figure appended to the Tasman Consulting Engineering Report should correctly be shown as 50 metres from the groundwater bore, more or less located on the boundary of the fence next to the olive grove. As a matter of information the permitted activity standard for the discharge of domestic wastewater disposal field is to be not less than 20 metres from any bore for domestic water supply and any surface water body. (Refer Rule 36.1.4 (d)(i) and (ii)).

6.2.5 Stormwater Runoff

Stormwater will be disposed on via on-site soakage pits or into the creek which will be specifically designed to the satisfaction of the Council's Engineering Manager. A consent notice to that effect is appended.

6.2.6 Potential Flooding

An assessment of potential flooding was done for the subdivision of Ruby Bay Farms in 2001. Sea levels at Mapua have been identified as a combination of forecast tide levels, storm surge, Waimea flood water and sea level rise. Past events indicate that a storm surge of 1.2 metres is possible in the Waimea Estuary.

In terms of the subject site, Council Officer's confirm that the ground level is to be a minimum of 3.5 metres (with mean sea level = 00.00). The applicant noted the Ruby Bay Farms subdivision received a minimum floor level of 3.9 metres. Given that fact, it may be considered appropriate that floor levels of any future dwellings should be set a minimum of 3.9 metres to protect the house from any high tide, storm surge or Waimea flood. A condition requiring this level is appended.

6.2.7 Traffic Effects

Vehicular access to the site will be via an existing right of way, which currently serves the subject site, and three other properties (including the additional lot recently approved for the Bone subdivision). This subdivision will result in one more user on this right of way, totalling five. This right of way currently has a formation width of approximately 3 metres which does not currently provide for two-way traffic.

A condition was imposed on the Bone subdivision that this right of way be widened to 4.5 metres to allow for two-way traffic. Under Rule 16.2.2 (Figure 16.2A Standards for Onsite Access) this width complies for up to 6 users on a right of way. It may be appropriate if the Bone's and Clinton-Bakers were to share the cost of the upgrade, but this is not enforceable through the subdivision process, and will have to be a private agreement between the parties.

It was concluded during the Bone subdivision assessment that passing bays were not required as the sight distances are adequate in both directions. It is therefore considered a similar approach is advisable for the Clinton-Baker proposal.

6.2.8 Public Walkways/Esplanade Reserves/Strips

Extensive consideration was given to the provision of public walkway links during the processing of the Bone subdivision. The outcome of that process was that the link to the Ruby Bay Farms Walkway was achieved (refer Appendix C). The applicants have given consent for access over their portion of the right of way at the south eastern part.

As part of this process the applicants are prepared to give a portion of their land at the south western corner where the Ruby Bay Farms walkway and the stream intersect to create a 700m² reserve to be vested in the TDC. This reserve was offered in lieu of the creation of any esplanade strips or vesting of reserves along the creek.

The Department of Conservation have in their submission outlined their concerns regarding fish habitats within the tidal creek and the need to create an Esplanade Reserve or Strip along the margins of the creek.

The suggested vesting of land and compensation (if any) on proposed Lots 1 and 2 are set out in the Council Officer's Memorandum attached to this Staff Report (refer Appendix E).

6.2.9 Archaeological Sites

According to Council's records there are no known archaeological sites on this property, but Ngati Rarua Iwi Trust have expressed concerns. As a precaution, should consent be granted by the Committee, an advice notice should be annotated requiring that if an archaeological or Maori cultural site is uncovered that work should cease immediately and a survey be carried under the direction of the New Zealand Historic Places Trust and local iwi.

6.2.10 Cumulative Effects

The granting of smaller lot subdivisions in the rural zone can lead to cumulative effects on rural character, land productivity and cross boundary effects, as well as inconsistent administration of the district plan. This area is already characterised by residential and rural residential type development and this proposal is in keeping with that emerging trend.

A number of similar size subdivisions have now been granted in this area such as Ruby Bay Farm subdivision, and along with the residential deferred status on the Glazebrook lot, it is not considered that the approval of this proposal will result in inconsistent administration of the district plan.

6.3 Proposed Regional Policy Statement/Transitional District Plan/Proposed Tasman Resource Management Plan Objectives And Policies

(Refer Appendix D)

7. CONCLUSION

The Rural 1 zone rules provide for lots of 12 hectares as a controlled activity and lots of less as a discretionary activity. As a discretionary activity Council ensure that any adverse effects of the proposal on the environment can be avoided, remedied or mitigated.

The potential effects of this subdivision primarily relate to loss of productive land, amenity values, rural character and fish habitat. The issue of esplanade reserves and strips has also been a matter for discussion. As discussed above the site has limited productive potential due to its size and the soil types, which are of low fertility.

A productive activity has been carried out on the property being the growing of boronia and lavender crops. The subdivision is such that by separating the existing dwelling in a small lot of 7,000 square metres, the balance, being 6.4 hectares will still be of a size for the new owners to grow small-scale crops or graze if required.

The amenity and character of this area has become more residential/rural-residential in nature, so this proposal is not considered to be out of character with the surrounding environment.

The requirement for a site-specific assessment by a wastewater specialist will ensure that the wastewater disposal system will be designed specifically for this site and that it meets the permitted activity standards and terms of Rule 36.1.4. This will be underpinned by the sewage disposal engineering report recommendations set out by Tasman Consulting Engineers. The assessment will take into account soil types and topography, and a disposal system will be recommended that will produce a high quality effluent to ensure that land and groundwater will not be subject to contamination.

Another part of the Mapua and Ruby Bay Walkway links will be achieved, and an esplanade reserve will be created along the margins of the tidal creek to preserve the important fish habitat.

The proposal is considered to be generally consistent with the relevant objectives and policies of the PTRMP, and the effects can be mitigated by the attached conditions of consent.

The cumulative effects on rural character, land productivity and cross boundary effects, as well as inconsistent administration of the district plan are considered to be no more than minor.

8. RECOMMENDATION

Having considered the application by Peter and Maureen Clinton-Baker for subdivision consent to subdivide Lot 2 DP 11197 (Certificate of Title NL6C/1399) into two new lots, it is recommended that Council **grants consent** pursuant to Section 104 & 104B of the Resource Management Act 1991, subject to the following conditions:

A. RM040802 SUBDIVISION CONSENT

Plans

1. The subdivision development shall be undertaken in general accordance with the information, reports and plans submitted with the application for the subdivision and land use consent for P and M Clinton-Baker.

Access

2. That the right of way "A" shall be upgraded to a sealed standard with a minimum formation width of 4.5 metres. No passing bays are required as the visibility along the right of way is in no case less than 150 metres along any part of the access.

The sealed formation shall be a two-coat bitumen chip seal (grade 4 bitumen chip seal and grade 6 locking coat). Water tables shall be provided to adequately dispose of stormwater.

All works are to be in accordance with Rule 16.2.2 of the Proposed Tasman Resource Management Plan (PTRMP) and constructed in accordance with Council Engineering Standards to the satisfaction of Council's Engineering Manager.

Servicing

3. Live telephone and electric power connections shall be provided to the bulk Lot 2 and all wiring and connections shall be located underground and be to the standard required by the supply authority. Confirmation that these requirements have been met shall be provided by way of a statement from the supply authority and a copy of the supplier's certificate of compliance shall be provided to the Council prior to a completion certificate being issued pursuant to Section 224(c) of the Resource Management Act 1991.

Water Supply

4. Proposed Lot 2 shall be connected to the Tasman District Council reticulated supply and an approved water meter shall be located at the road boundary which complies with current Tasman District Council engineering standards.

Effluent Disposal

The site specific wastewater disposal system is to be designed and implemented in accordance with the information, reports and plans submitted with the application.

Consent Notices

5. That Consent Notices pursuant to Section 221 of the Resource Management Act 1991 be prepared and registered against the title of proposed Lot 2. The consent notices shall specify:
 - a) That the dwelling and any accessory buildings shall be connected to a specific design of on-site stormwater soakpit or into the creek. The design and capacity shall be to the satisfaction of the Tasman District Council Engineering Manager prior to installation.
 - b) That the dwelling on Lot 2 shall have a minimum floor level of at least 3.9 metres above mean sea level.

Such consent notices shall be prepared by a solicitor at the applicant's expense and shall be complied with by the applicant and subsequent owners on an ongoing basis.

Advice Notice

- a) That should any archaeological or waahi tapu sites be uncovered at any time during any earthworks or construction, then all works shall cease and the Ngati Rarua Iwi Trust and New Zealand Historic Places Trust be consulted prior to any works being re-commenced.

Building Site

6. It shall be necessary to provide penetrometer test results for the building site on proposed Lot 2 to assess that the ground is suitable for building foundations to be designed in terms of NZS 3604:1999. The test results will form part of a report from a suitably qualified, registered engineer detailing compliance with NZS 3604:1999 and any recommended conditions that shall be incorporated into consent notices on the respective titles.

Notation:

NZS 3604:1999 requires a minimum of four penetrometer tests together with test pit results for each test.

Engineering Plans

7. As-built engineering plans detailing access and services indicating exact locations of pipes, laterals, connections, complete with depths of sewer shall be provided.

All engineering details are to be in accordance with Council's Engineering Standards.

Engineering Works

8. All of the above engineering works shall be constructed in strict accordance with the Council's Engineering Standards and are to be to the District Engineer's satisfaction. The Tasman District Council Engineering Department shall be contacted at least 48 hours prior to the commencement of any engineering works on this subdivision.

The applicant shall engage a suitably qualified consultant (registered surveyor/engineer) for advice and to supervise/test the construction of the work. The Completion Certificate pursuant to Section 224 of the Resource Management Act 1991 shall not be released by the Tasman District Council until a "Certificate of Supervision" signed by the consultant is provided and all the necessary fees have been paid.

Easements

9. Easements are to be created over any services located outside the boundaries of the lots that they serve as easements-in-gross to the Tasman District Council or appurtenant to the appropriate allotment. The easement shall include the public access right over the right of way as set out in Condition 2.

Reference to easements is to be included in the Council resolution on the title plan.

Development Impact Levies

10. Development impact levies as set down in DP2 are required on one allotment. The following will apply:

Reserves and Community Services

Payment of a reserves and community services levy assessed at 5.5% of the value of proposed Lot 2. Valuation shall be by way of a special valuation undertaken by a registered valuer at the applicant's request and cost.

[Staff Report Note] The final outcome of this condition needs to be examined in accordance with the Council Officer Memorandum in Appendix E.

Roading

A roading network levy of \$1,165.

Water Supply

An urban water supply levy of \$544.

Public Walkways

11. [Staff Report Note] The final outcome of this condition needs to be examined in accordance with the Council Officer Memorandum in Appendix E.

Esplanade Reserve

12. [Staff Report Note] The final outcome of this condition needs to be examined in accordance with the Council Officer Memorandum in Appendix E.

B. RM040802 LAND USE (DWELLING):

Having considered the application by Peter and Maureen Clinton-Baker for land use consent to construct a dwelling on proposed Lot 2 of a subdivision of Lot 2 DP 11197 (Certificate of Title NL6C/1399), it is recommended that Council **grants consent** pursuant to Section 104 & 104B of the Resource Management Act 1991, subject to the following conditions:

1. That any dwelling and any accessory buildings on proposed Lot 2 shall be a maximum height of 4.5 metres, and shall comply with the setback requirements of the Rural 1 zone of the PTRMP, being at least 10 metres from road boundaries and 5 metres from internal boundaries, 8 metres from the top of the bank of the tidal creek (with a bed less than 5 metres in width and 20 metres from the top of the bank of the tidal creek if the bed is greater than 5 metres in width).
2. The exterior of the building shall be finished in colours that are recessive and which blend in with the immediate environment. The Consent Holder shall submit to the Council for approval the following details of the colours proposed to be used on the walls and roof of the building:

- i) The material to be used (e.g. paint, colour steel);
- ii) The name and manufacturer of the product or paint;
- iii) The reflectance value of the colour;
- iv) The proposed finish (e.g. matt, low-gloss, gloss); and
- v) Either the BS5252:1976 (British Standard Framework for Colour Co-ordination for Building Purposes) descriptor code, or if this is not available, a sample colour chip.

The building shall be finished in colours that have been approved by the Council.

Advice Note:

As a guide, the Council will generally approve colours that meet the following criteria:

Colour Group*	Walls	Roofs
Group A	A05 to A14 and reflectance value $\leq 50\%$	A09 to A14 and reflectance value $\leq 25\%$
Group B	B19 to B29 and reflectance value $\leq 50\%$	B23 to B29 and reflectance value $\leq 25\%$
Group C	C35 to C40, reflectance value $\leq 50\%$, and hue range 06-16	C39 to C40, reflectance value $\leq 25\%$, and hue range 06-16
Group D	D43 to D45, reflectance value $\leq 50\%$, and hue range 06-12.	Excluded
Group E	Excluded	Excluded
Finish	Matt or Low-gloss	Matt or Low-gloss

* Based on BS5252:1976 (British Standard Framework for Colour Coordination for Building Purposes). Where a BS5252 descriptor code is not available, the Council will compare the sample colour chip provided with known BS5252 colours to assess appropriateness.

9. REASONS

The reasons for my recommendation are as follows:

- 9.1 The effects of the subdivision can be avoided, remedied or mitigated by conditions of consent, and therefore it is considered that the effects on the environment will be no more than minor.
- 9.2 The effects of the land use on proposed Lot 2 can be adequately mitigated by the consent conditions in terms of building location, height and design.

- 9.3** The proposed subdivision is considered to be generally in accordance with the objectives & policies of the Regional Policy Statement, the Transitional District Plan and the Proposed Tasman Resource Management Plan.

The objectives and policies of the Regional Policy Statement and the relevant plans relate primarily to land with high productive potential and the avoidance, remedying and mitigation of adverse effects from the use of this land.

The subject property is not considered to be of a size or to contain soil types that have high productive values, and the balance lot (proposed Lot 2) will still be large enough for small scale crop production if the new owners wish to do so.

- 9.4** Although the property is zoned Rural 1, it directly adjoins land that is deferred for residential zoning, and the surrounding land does have a distinctly residential character.
- 9.5** The site does not contain any known archaeological or waahi tapu sites, and the consent notice will ensure that should anything be discovered measures will be taken not to destroy it.
- 9.6** Another part of the walkway link between the Waimea Estuary and Mapua School will be achieved.
- 9.7** All available services will be provided, and a site specific wastewater disposal system will be designed and implemented in accordance with New Zealand Standards.

Grant Russell
MWH Consent Consultant Planner

Part II of the Resource Management Act states several matters to which regard must be had, or which must be recognised and provided for in order to promote sustainable management of natural and physical resources.

Section 5 - Sustainable Management - means managing the use, development and protection of natural and physical resources in a way, or at a rate, which enables communities to provide for their social, economic, and cultural well-being and for their health and safety.

Section 6 - Matters of National Importance – Council shall recognise and provide for the following matters of national importance:

- a) The preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers, and their margins, and the protection of them from inappropriate subdivision, use, and development;
- b) The protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development;
- c) The protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna;
- d) The maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers;
- e) The relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.
- f) The protection of historic heritage from inappropriate subdivision, use, and development.

None of the above are considered to be particularly relevant in this instance.

Section 7 - Other Matters - In this instance the Council is required to have particular regard to:

- (b) The efficient use and development of natural and physical resources;
- (c) The maintenance and enhancement of amenity values;
- (f) The maintenance and enhancement of the quality of the environment, and;
- (g) Any finite characteristics of natural and physical resources.

This proposal is considered to generally uphold the above matters.

Section 8 - Treaty of Waitangi

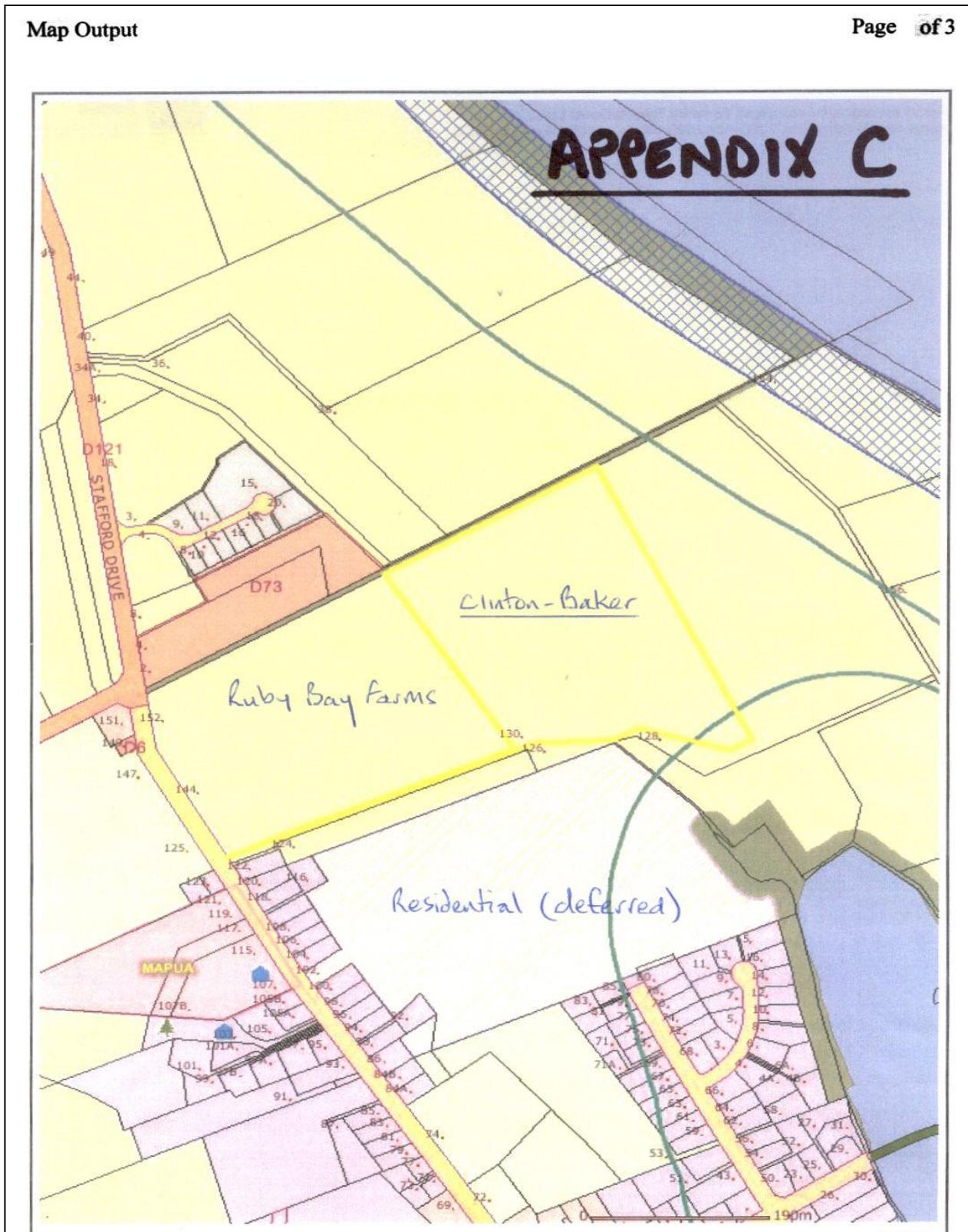
There are no known Treaty issues associated with this property.

Comment

The proposal is considered to be consistent with the purpose and principles of Part II of the Resource Management Act 1991, in that it can be sufficiently controlled so that the efficient use and development of a resource will not be compromised. It is considered that the application is consistent with the Act's purpose of promoting the sustainable management of natural and physical resource in that the proposal:

- maintains productive potential, existing amenity values and rural character;
- maintains the potential of the resource to meet the needs of future generations; and any potential or actual adverse effects on the environment can be adequately avoided, remedied or mitigated.

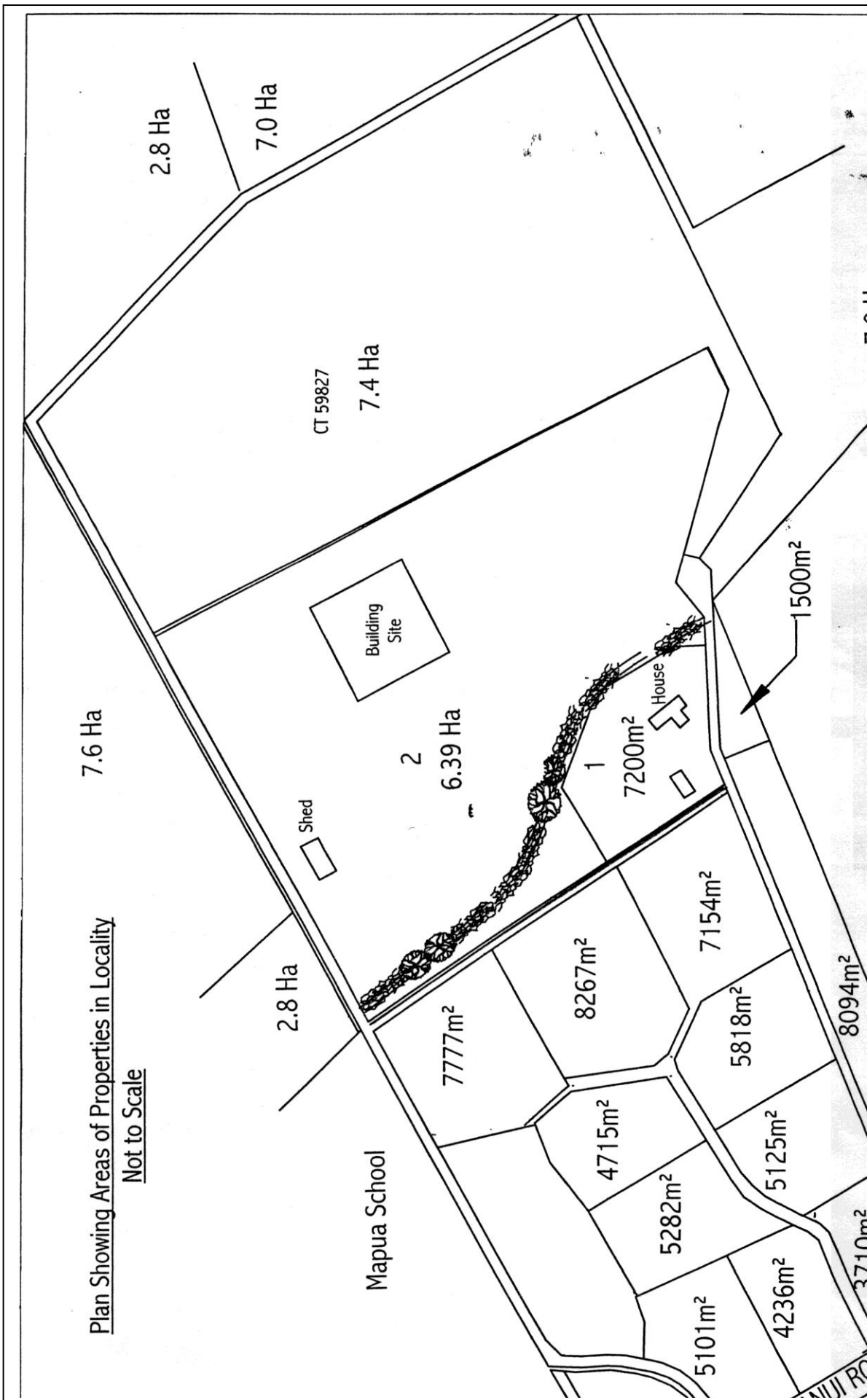
- a) PTRMP Zone map (showing residential (deferred))
- b) Plan showing Areas of Properties in Locality (not dated)
- c) Subdivision of P & M Clinton-Baker (Lot 2 DP 11197) (June 2003)

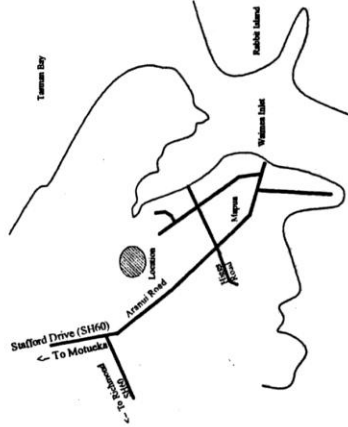


ExploreTasmanMap

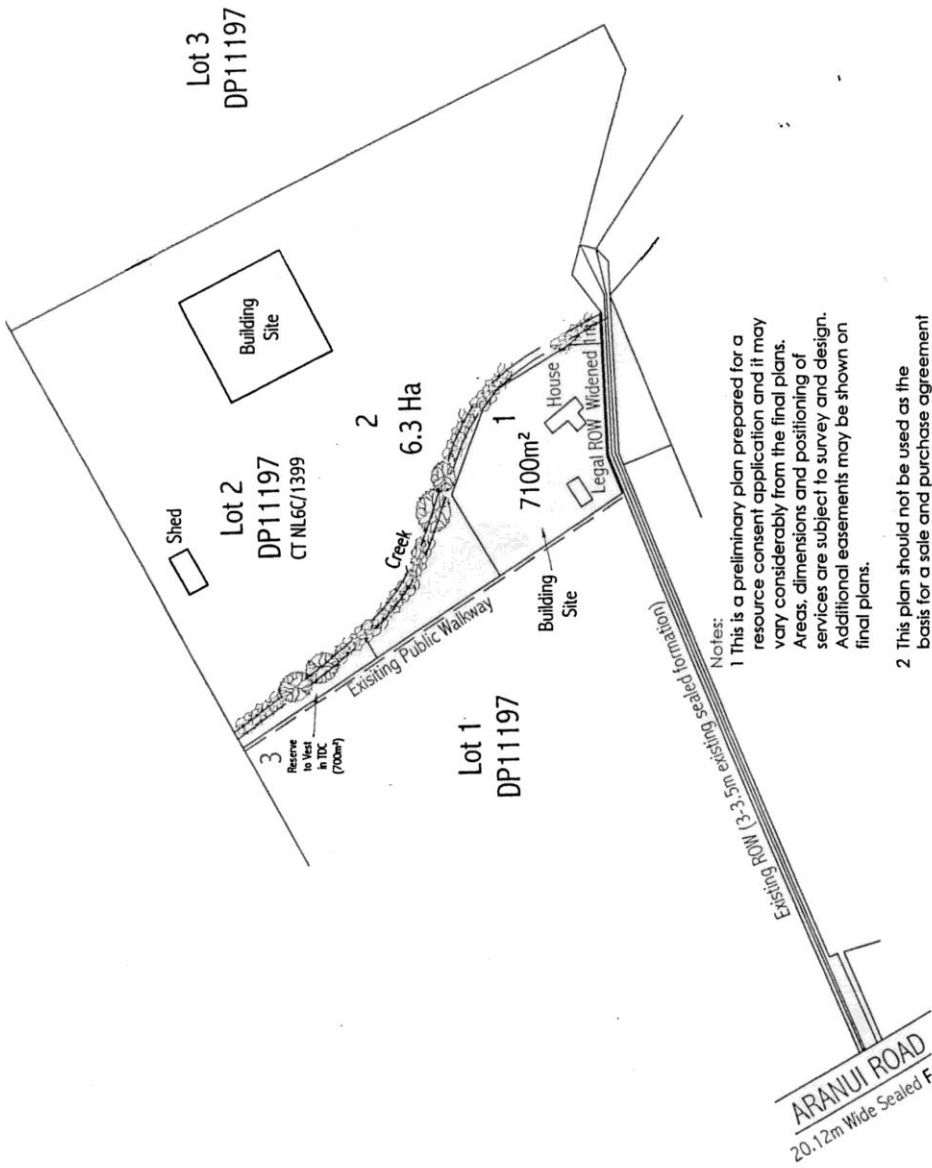
13/7/2004 DISCLAIMER:

This map is derived from ExploreTasman and has generally been compiled from data generated by and supplied to the TDC. It has no legal status and is known to be incomplete. To ascertain the exact location of any item, TDC advises that the customer arrange onsite verification. TDC will not be liable for any damages or loss whatsoever suffered from the use of this information. Cadastre sourced from Land Information New Zealand data. Crown Copyright reserved.





Location Plan



Notes:

- 1 This is a preliminary plan prepared for a resource consent application and it may vary considerably from the final plans. Areas, dimensions and positioning of services are subject to survey and design. Additional easements may be shown on final plans.
- 2 This plan should not be used as the basis for a sale and purchase agreement as it may be inaccurate in terms of areas and dimensions.

COTTON & LIGHT SURVEYORS		SHT 1 OF 1	BRIS
<small>COTTON & LIGHT SURVEYORS LTD 44 MONTROSE SQUARE 141 WILSON ST NELSON, 6100 FAX: 541 1847</small>		SCALE	1:2500
<small>COTTON & LIGHT SURVEYORS LTD 10 RICHMOND STREET RICHMOND, 6140 FAX: 541 1847</small>		SIZE	A3
Subdivision for P & M Clinton-Baker.		DATE	June 2004
Proposed Subdivision Lot 2 DP11197.		JOB No.	R. 545
JOB TITLE			
DRAWING TITLE			

Proposed Regional Policy Statement

Relevant policies and objectives are:

“Objective 6.1

Avoidance of the loss of the potential for land of productive value to meets the needs of future generations, particularly land with high productive values.

Objective 6.3

Avoidance, remedying, or mitigation of adverse cross-boundary effects of rural land uses on adjacent activities.

Policy 6.1

Council will protect the inherent productive values of land from effects of activities which threaten those values, having particular regard to:

- (i) the effects of land fragmentation on productive values; and*
- (ii) the protection of land with high inherent productive values; and*
- (iii) the protection of significant natural or heritage values; and*
- (iv) the availability of water to support productive values.*

Policy 6.2

The Council will ensure that subdivision and uses of land in the rural areas of the District avoid, remedy or mitigate adverse effects on:

- (i) the productive qualities of land; and*
- (ii) provision of services, including roading, access, water availability, waste treatment or disposal; and*
- (iii) amenity, natural and heritage values of sites, places or areas including landscape features such as karst terrain; and*
- (iv) bulk mineral values of areas; and*
- (v) socioeconomic viability of adjacent areas;*

and that are not unnecessarily exposed to adverse effects from:

- (a) adjacent land uses across property boundaries; and*
- (b) natural hazards.”*

Transitional District Plan (Waimea Section)

The property is zoned Coastal 2 in the Transitional District Plan. As the Proposed Tasman Resource Management Plan is very close to becoming operative, it not considered necessary to go into details on the policies and objectives except that it seeks to avoid fragmentation of productive rural land, particularly those lands suited to horticultural production and seeks to reduce the conflicts between productive rural activities and residential activities.

Proposed Tasman Resource Management Plan

The area of land which is the subject of this application is zoned Rural 1 in the Proposed Tasman Resource Management Plan. Relevant issues, objectives and policies are:

Issue 7.1(a)

Cumulative adverse effects of the subdivision, development, and non-soil based production uses of rural and on:

- (i) The availability of land for soil-based production opportunities.*
- (ii) Service provision, site amenity, contamination and natural hazard risk, and on heritage and landscape values.*

Objective 7.1.0

Avoidance of the loss of potential for land productive value to meet the needs of future generations, particularly land of high productive value.

Policies

7.1.1

To limit the subdivision of rural land, particularly land of high productive value.

7.1.3

To require land parcels upon subdivision to be of a size and shape that retains the land's

7.1.4

To facilitate the amalgamation of land parcels where this would enable a greater range of soil-based production activities.

Objective 7.2.0

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.

Policies

7.2.1

To enable activities which are not dependent on soil productivity to be located on land which is not of high productive or versatile value.

7.2.2

To enable the subdivision of land and amalgamation of land parcels for the preservation of:

- (a) significant natural values, including natural character, features, landscape, habitats and ecosystems;*
 - (b) heritage and cultural values;*
- where preservation is assured through some statutory instrument and statutory manager.*

7.2.3

To enable sites in specific locations to be used primarily for rural industrial or rural residential purposes (including communal living and papakainga) with any farming or other rural activity being ancillary, having regard to:

- (a) the productive and versatile values of the land;*
- (b) natural hazards;*
- (c) outstanding natural features and landscapes, and the coastal environment;*
- (d) cross-boundary effects, including any actual and potential adverse effects of existing activities on such future activities;*
- (e) servicing availability;*
- (f) the availability of specific productive natural resources, such as aggregates or other mineral sources;*
- (g) transport access and effects;*
- (h) potential for cumulative adverse effects from further land fragmentation;*
- (i) maintaining variety of lot size;*
- (j) efficient use of the rural land resource;*
- (k) cultural relationship of Maori to their land.*

7.2.4

To ensure that activities which are not involved or associated with soil-based production do not locate where they may adversely affect or be adversely affected by such activities.

Objective 5.1.0

Avoidance, remedying or mitigation of adverse effects from the use of land on the use and enjoyment of other land and on the qualities of natural and physical resources.

Policies

5.1.1

To ensure that the adverse effects of subdivision and development on site amenity, natural and built heritage and landscape values and contamination and natural hazard risks are avoided, remedied, or mitigated.

5.1.2

To prevent degradation of the quality of groundwater and surface water from urban development or rural activities.

5.1.3

To limit the intensity of development where sewage reticulation and treatment are not available.”

Comment

The objectives and policies most relevant to this application deal with productive potential, amenity, rural character, groundwater quality, and provision for activities which are not dependent on soil productivity to be located on land which is not of high productive or versatile value.

As stated under the assessment of effects the subject site has limited productive potential due to the soils having low fertility and poor structure. The property is currently fallow apart from a portion of land planted in olive trees.

This surrounding area now has a variety of lot sizes, similar in size to what is proposed with some being of a more lifestyle nature rather than large rural farming blocks. The amenity values and rural character of the surrounding neighbourhood particularly that on the Ruby Bay Farm subdivision and in the future the residential (deferred) lot located to the south, is generally more rural-residential than rural.

Any potential contamination of land and groundwater from waste water disposal will be mitigated through the condition of consent requiring a specifically designed disposal system, which must comply with the Tasman Resource Management Plan requirements.

It is therefore considered that this proposal is generally consistent with the above objectives and policies.

**Memorandum****Environment and Planning Department**

To: Environment and Planning Consents Committee

From: Ros Squire – Consent Planner, Community Services

Date: 18 August 2005

Subject: RM040802 Clinton-Baker – Reserves and walkways

The report by the principal planner outlines the proposed subdivision. My memo summarises the issues with respect to reserves and walkways and makes a recommendation with respect to the acquisition of reserves in relation to this subdivision proposal. Staff from the Community Department have visited the application site, considered it in the wider context and make the following recommendations. The recommendations are made without prejudice, subject to Council approving the application.

Background and Legislative Context

The parent title is 7.1 hectares in area and is accessed off Aranui Road by a right of way adjoining the southern boundary. The applicants have applied to subdivide their title into two separate allotments as follows:

Proposed Lot 1 – 0.72 hectares (contains the existing dwelling)

Proposed Lot 2 – 6.39 hectares (this balance area bisected by a six metre wide tidal creek which drains from Seatoun Valley)

The applicants volunteered that an area of land in the north western corner of the site be vested as a Council reserve in lieu of the reserve fund contribution.

Section 230 (3) and (5) of the Resource Management Act 1991 (RMA 1991) provide for the vesting of esplanade reserves and strips on subdivision and Section 237E and 237F provide for the payment of compensation for the taking of esplanade reserves and strips.

The general provision of the Act is that where any proposed allotment is less than 4 hectares an esplanade reserve of 20 metres in width is to be created adjacent to rivers. However, the Act allows specific Plan rules, or any resource consent, to waive or amend the width of an esplanade reserve.

Where a proposed allotment greater than 4 hectares, the Act provides that a plan rule may require an esplanade reserve or esplanade strip to be set aside, and that a resource consent may waive or amend the width of the esplanade reserve or strip.

The Act also provides that where an allotment of less than 4 hectares is created, no compensation is payable for esplanade reserves or esplanade strips of 20 metres or less in width. Compensation is payable to the registered proprietor for any width above 20 metres. Where an allotment of 4 hectares or more is created, and an esplanade reserve or esplanade strip is required, compensation is payable.

Resource Management Act 1991

The purpose of the Resource Management Act 1991 is to manage the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety. Providing access to and along rivers and the coast is a matter of national importance. These are both reflected in the objectives and policies in chapters 8 and 14 of the Proposed Tasman Resource Management Plan.

Proposed Tasman Resource Management Plan

Objectives and Policies

Chapter 8 outlines Councils objectives and policies for the margins of rivers, lakes and the coast.

Objective 8.1.0 aims to maintain and enhance public access to and along the margins of lakes, rivers, wetlands and the coast.

Policy 8.1.1 provides for the maintenance and enhancement of public access to and along the margins of water bodies and the coast while avoiding, remedying or mitigating adverse effects on other resources or values, including: indigenous vegetation and habitat; public health, safety, security and infrastructure; cultural values; and use of adjoining private land.

Policy 8.1.5 seeks public access linkages between reserves and public access adjoining water bodies or the coastal marine area in the vicinity.

Policy 8.1.7 aims to ensure that adequate public access is available to outstanding natural features and landscapes in the coastal environment or the margins of lakes, rivers or wetlands, except where the impact of such access is incompatible with the duty to protect these areas or access across private land cannot be negotiated.

TRMP Rules Relating to Esplanade Reserves

The subdivision of land adjacent to a river whose bed has an average width of 3 metres or more is a discretionary activity pursuant to 16.4.2. Under this rule Councils discretion is limited to the following:

Whether an esplanade reserve is required for any of the following purposes:

- provision of public access;
- provision for public recreation;
- protection of conservation values, including:

- landscape
- natural character
- heritage sites
- indigenous vegetation
- water quality
- aquatic habitat and ecosystems
- water quantity
- potential for regeneration
- natural functioning of the river and its margin and mitigation of natural hazards.

(1A) Whether an esplanade reserve should not be required, for reasons of public health and safety, or to ensure a level of security consistent with the purpose of a resource consent, or in other exceptional circumstances.

(2) The width of esplanade reserve needed to meet the purpose(s) for which the reserve is required.

(3) N/A

(4) Where the subdivision creates an allotment or allotments (including a balance allotment) of 4 hectares or more in area, the amount of compensation payable to the landowner for any esplanade reserve that is sought.

(5) N/A

(6) Where any part of the allotment being subdivided is foreshore or seabed or the bed of a river or lake, whether that land should be vested in the Crown (for land in the coastal marine area) or in the Council (for land that is river or lake bed); and, where that land adjoins an allotment of 4 hectares or more (or adjoins an esplanade reserve or esplanade strip adjoining any such allotment), the amount of any compensation payable to the landowner.

(7) N/A

(8) Whether an esplanade strip should be created instead of an esplanade reserve. Circumstances where this may be an appropriate option include (but are not limited to):

locations where the line of mean high water springs, or of a river bank or lake margin, is likely to change position due to erosion, accretion, or a change in water level;

situations where riparian land use and land management are able to meet esplanade purposes without full surrender by the landowner and acquisition by Council.

(9) N/A

Submissions

There were nine submissions to the application. The following is a summary of the submissions which refer to the reserves/walkway issues.

Department of Conservation

The Department's submission states that the application should be declined unless an esplanade strip is created, the purpose of the strip being to provide protection for whitebait spawning habitat and to avoid, remedy or mitigate potential adverse effects on the life-supporting capacity of the tidal creek.

L and J Bone

This submission suggests that the application may provide Council with an opportunity to review the layout of proposed walkways.

H and A Bone

This submission notes that this application provides excellent timing to revise the current layout of the walkways in the immediate area they suggest that the present proposed walkway layout is rather odd and unsafe and will result in the public walking over private land as well as the shared private right of way.

Mapua, Ruby Bay and Districts Walkways Group

The Walkway Group submission submits that the Clinton Bakers have (in addition to the Bone family) granted walkway access across the right of way used by the Clinton-Bakers and others. They also submit in support of the proposal to volunteer a portion of the land for a proposed reserve.

J and J Tidswell

This submission raises the question of the actual location of the walkway in this area which they feel needs to be revisited in the light of the application and the likely future subdivision of the Sutherland to the east. They submit that an overall practical walkway can be created rather than the present bit by bit acquisition as areas become available.

RECOMMENDATIONS AND REASONS

Esplanade Reserve

Within the medium to long term planning horizon it is Community Services aim to provide a landscaped walkway and cycleway along the entire length of the creek with high amenity value for future generations in an area which will become increasingly urbanised. It is anticipated that this will be achieved through the vesting of land on subdivision and or by negotiation between landowners and Council.

Proposed lot 1

As already outline, unless a resource consent waives the requirement, section 230 (3) of the Act states that where any allotment of less than 4 hectares is created when land is subdivided an esplanade reserve 20 metres in width **shall be set aside** from that allotment along the bank of any river.

In accordance with section 230 of the Act (and subject to approval from the Minister of Conservation for a reduced width) it is recommended that an esplanade reserve 15 metres from the top of the bank be vested in Council along the creek within proposed lot 1. The reason for recommending a reduction in the width of the reserve from 20 to 15 metres is the proximity of the dwelling within proposed lot 1.

No compensation is payable for the vesting of this reserve.

Proposed lot 2

In accordance with section 230 of the Resource Management Act 1991 it is recommended that an esplanade reserve 10 metres from the top of the eastern bank of the creek be vested in Council and a 5 metre wide esplanade strip be vested along the western side of the tidal creek within proposed lot 2. In accordance with section 237F and 237G compensation is payable for the vesting of the reserve, the strip and the bed of the river. A valuation is being prepared at the time of writing and will be available at the hearing.

In accordance with section 232 it is recommended that the purpose of the esplanade strip along the western bank of the creek within proposed Lot 2 is to provide for public access along the creek and to contribute to the protection of conservation values.

The 10 metre width of esplanade reserve from the top of the bank of the creek is recommended in order to meet the purposes for which it required (to enable public access along the creek and for the protection of conservation values). This width is considered to be sufficient to provide for amenity plantings and for the formation of a walk/cycle way.

It is not considered appropriate to waive vesting reserves for reasons of public health and safety, or to ensure a level of security consistent with the purpose of a resource consent, or for any other exceptional circumstance. It is considered appropriate in this instance to vest an esplanade reserve as opposed to a strip as the creek is already channelised and is unlikely to revert to a naturally meandering creek (where it would be more appropriate to take a strip in order to ensure continued public access).

The vesting of the proposed esplanade reserve is consistent with Part II of the Resource Management Act 1991, which states that in achieving the purpose of the Act, all persons exercising functions and powers under it shall recognise and provide for the maintenance of public access to and along the coastal marine area, lakes and rivers as a matter of national importance.

The vesting of an esplanade reserve is considered to be consistent with the objectives and policies in the Tasman Resource Management Plan. The reserve will enhance access to and along the margin of the tidal creek and will facilitate access to the coastal marine area via walkways the existing network of walkways in the vicinity.

Reserve Volunteered by Applicant

The applicant has volunteered a small area of land to be vested as reserve in the north western corner of proposed Lot 2 in lieu of paying the reserve fund contribution for that allotment. The Community Services Department does not support this.

- It is considered that the proposal would have very limited benefits for the residents of the Tasman District. The Council receives reserve fund contributions to provide for the purchase and development of reserves throughout the District. Council considers that there are other areas which are of a higher priority for purchase and development for reserves which would provide greater benefits to a larger number of residents.
- There are already two comparatively large reserves in a relatively short distance from the proposed site including the playing fields available for local children at the school, Aranui Park and Mapua Recreation Reserve. All these areas provide for formal and informal recreation opportunities and open space areas within and surrounding the village. The vesting of the proposed reserve and its development would duplicate facilities and utilise resources which could be used to develop reserves in other areas within the village.

Rosalind Squire
Consent Planner, Community Services