



STAFF REPORT

TO: Environment and Planning Committee

FROM: Gary Rae, Consultant Planner

REFERENCE: RM050134

SUBJECT: **J BEATSON – REPORT EP05/11/09** – Report prepared for 21 November hearing.

1. APPLICATION BRIEF

1.1 Proposal

The application is for subdivision consent. It is to undertake a subdivision of land having an area of 33.7423 hectares to create two allotments of 30.7 hectares (Lot 1) and 4 hectares (Lot 2).

1.2 Location and Legal Description

The property is located at 394 Thorpe-Orinoco Road, Ngatimoti.

The legal description of the land is Section 33 Square 7 Block XIV Motueka SD, being land comprised in Certificate of Title CT NL 11/274.

1.3 Zoning and Consent Requirements

The land is zoned Rural 2 under the proposed Tasman Resource Management Plan. Under the operative Transitional Plan (Waimea Section) the land is zoned Rural B.

Under the Transitional Plan the application would be considered to be a Non-complying activity in that the minimum lot size is less than 15 hectares (Rule 406.1). The rules of that plan are no longer relevant however (see paragraph 4.1 of my report).

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 Reporting Officer

My name is Gary Rae. I am a Director of Incite (Nelson) Limited, an environmental and resource management consulting firm, based in Nelson. I have a Bachelor of Science Degree (Geography) and a Diploma in Town Planning, and I am a Member of the New Zealand Planning Institute. I have 22 years experience in resource management, including the assessment of applications for subdivision and land use particularly in rural areas of Tasman, Canterbury and Marlborough.

I have been engaged by Tasman District Council to prepare the Council's Officer Report, pursuant to Section 42A of the Resource Management Act 1991, on the subdivision and land use consent application made by P J Beatson.

Council's subdivision officer, Mark Morris, has assisted me in the preparation of conditions for the subdivision consent should it be granted. I have also taken account of comments by Andrew Burton (with respect to soil productivity) and Glenn Stevens (with respect to flooding matters).

2.2 Proposal and Site Description

The applicant wishes to subdivide his existing title into two allotments Lot 1 being 30.7 hectares, and Lot 2 being 4 hectares.

There are two existing dwellings on the property. The main dwelling (see **photograph 1** in **Attachment 1**) has been on the property for approximately 100 years. It was the original Beatson family dwelling but is now rented to tenants who run horses as part of caring for disabled people. They wish to purchase this dwelling and keep the horses on this proposed 4 hectares allotment (Lot 1). Much of this area is low-lying and prone to flooding, however the dwelling is located on higher ground and has apparently not been subject to flooding. This site will continue to be accessed via an existing driveway from Thorpe Orinoco Road.

Proposed Lot 2, at 30 hectares includes a flat area of land near the Thorpe-Orinoco Road frontage. This contains a cluster of old kilns, sheds and a tunnel house. Mr Beatson uses these buildings for packing flowers grown on the site, which I observed in operation when I visited the site. In amongst the cluster of buildings is a small modest dwelling, which Mr Beatson has been occupying for the past 25 years (**photograph 2** in **Attachment 1**). This will be retained in the area of Lot 2. The house is not easily seen from the road. There is an existing driveway to this part of the site (i.e. proposed Lot 2), which is separate from the driveway to the house on Lot 1.

The land on Lot 2 is also used for grazing beef cattle and growing fodder. The land at the western side is steeper land used for forestry and for grazing cattle. Land further to the west, near Lloyd Valley Road, is of a gentler contour, and is separated from this steeper land by a stream. This stream is used for obtaining water to irrigate the flower crops.

The application also seeks a waiver of the development impact levies for roading and water supply. However, in subsequent discussion with the applicant's agent (Mr Bacon), the applicant accepts that these matters have been deleted from the TRMP and will be determined at the development stage, under the Local Government Act provisions.

The owner has a water right to irrigate 4 hectares of the existing site granted under RM040579. This is for irrigation for flower growing and pasture. This was issued by in 2004, and was a replacement for a previous consent NN925311(water for tobacco). It is not clear as to precisely which part of the site this relates, and whether it will be split between Lots 1 and 2. The Agfirst report by Mr Bealing implies that this water right will be able to be used for the production of flowers. Clarification is sought from the applicant on this point.

2.3 Further Information

On 10 March 2005, a further information request was sent to the applicant. This was to obtain an independent assessment of the land's productive value, and to confirm the location of the water take, and the location of the land irrigated by the water take in relation to the proposed lot boundaries.

A report from John Bealing of Agfirst Consultants was subsequently submitted in support of the application, and its addresses the above matters.

2.4 Written Approvals

The application was accompanied by written approvals from the following people:

- Cabinets & Refinements Ltd, Lloyd Valley Road
- Elgert Mariu, Thorpe-Orinoco Road
- Derek Dobell, Thorpe-Orinoco Road
- B Wraight and P Davey, 478 Thorpe-Orinoco Road
- Denis Dalton, Lloyd Valley Road
- K Saunders and G Rzesniowiecki, Lloyd Valley Road
- S and K Upstill, owners of Lot 1 DP 3611 in Lloyd Valley Road.

3. NOTIFICATION AND SUBMISSIONS

The application was publicly notified on 30 July 2005.

Four submissions were received as follows:

Andrew J Guy (does not wish to be heard)

Supports the application, stating that the subdivision would be in keeping with the lifestyle blocks and smallholdings in the area.

Derek Dobell (does not wish to be heard)

Supports the application, stating that the 1.2 hectares area was very suitable for the purpose of the site and would not interfere with the privacy of any neighbouring properties.

C H MacMurray (wishes to be heard)

Opposes to the application for the following reasons:

- affects the rural amenity and open space character of the locality
- diminishes the productivity and viability of the land
- has a cumulative effect and precedent, would lead to effectively a Rural 3 zoning in the valley
- causes irreversible fragmentation of the rural land resource.

E D Kiddle (wishes to be heard)

Neither supports nor opposes, for the following reasons:

The subdivision represents only minimal change to the existing situation, however it will:

- decreases the economic viability of the current unit
- is fragmentation of rural land
- sets a precedent for further subdivision.

Mr Kiddle makes the point that if there was a previous expectation that the older house should be removed as part of the consent for the newer house then this subdivision should not be granted.

If consent is granted, he wishes the Council to confirm that this will not set a precedent for subdividing other properties, and to acknowledge that this proposal represent fragmentation and decreased productivity of the existing block.

4. STATUTORY PROVISIONS

4.1 Status of Resource Management Plans

The two relevant plans are the Transitional District Plan (Waimea County Section) and the Proposed Tasman Resource Management Plan (TRMP).

However, the TRMP has reached the stage where most of the references to the Environment Court about its contents have been decided. Council's Consents Manager, Jean Hodson, has advised me that there are no outstanding references on the Rural 2 Zone rules. Therefore, in terms of Section 19 of the RMA, the relevant rules can, I believe, be treated as operative, and any relevant rules in the Transitional Plan should be treated as inoperative.

The policies and objectives of the Transitional Plan are still relevant, however little weight can be assigned to them.

4.2 Relevant Rules

The application for subdivision is a Discretionary Activity in terms of the TRMP.

Rule 16.3.8 (a) requires that the minimum lot size for consideration as a Controlled Activity subdivision in the Rural 2 Zone is 50 hectares, and this proposal is for a subdivision to create allotments of 4 and 30.7 hectares.

Rule 16.3.9 requires that subdivision in the Rural 2 Zone that does not comply with the standards and terms for a Controlled Activity is a Discretionary Activity.

The relevant assessment criteria are set out in Schedule 16.3A (I have assessed these later in this Staff Report).

4.3 Section 104 of the RMA

Section 104 of the Resource Management Act 1991 (RMA) provides that when considering an application for resource consent and any submissions received, the Council is required, subject to Part II, to have regard to:

- any actual and potential effects on the environment of allowing the activity, and
- any relevant provisions of a regional policy statement, a plan or proposed plan, and any other matter that is relevant.

The Council may disregard an adverse effect if the plan permits an activity with that effect (i.e. the 'permitted baseline').

The Council must not have regard to any effect on a person who has given their written approval to the application (these persons are listed in paragraph 2.4 above).

Section 104B provides that the Council may grant or refuse an application for a Discretionary Activity, and if it grants the application it may impose conditions under section 108.

4.4 Part II RMA

Part II contains the purposes and principles of the RMA.

Section 5 describes the purpose of the RMA as being to promote the sustainable management of natural and physical resources. 'Sustainable management' is defined, and the Panel will be familiar with that.

My assessment of the proposed activity is that it has elements of 'sustainable management of resources', as follows:

- The proposal will provide for the economic well being of the applicant, as it allows for income from the proceeds of selling part of a small rural block that has reduced productive capability due to flooding.
- There will be no loss of the life-supporting capacity of air, water, soil and ecosystems from this activity, and
- There will be no more than minor actual physical effects on the environment, and such effects can generally be mitigated.

However the fragmentation of the land resource needs to be balanced against this, as well as any potential adverse cumulative effects. These matters are discussed further below.

Section 6 contains matters of national importance. In my assessment none of these matters are relevant to this application or to this site. It has no coastal margins, wetlands or lakes. Orinoco Creek flows through the property, however, this watercourse is not listed as significant in the TRMP. There are no outstanding natural features, areas of significant indigenous vegetation or significant habitats of indigenous fauna. The site is highly modified from its natural state, as is the land around it, which is used for farming and indigenous forestry.

Section 7 contains 'Other Matters' for the Council to have particular regard to. The matters of most relevance to this application are as follows:

(b) The efficient use and development of resources

The further fragmentation of this 34.7 hectare site is not expected to change the way the property is being used. The existing land use of this property will remain largely as it is now, that is for a flower growing and packing business, cattle grazing and feed growing, small pine plantation, grazing and keeping of horses, and rural-residential.

The proposed subdivision will essentially separate the area of proposed Lot 2, which is low lying and prone to inundation from the stream, from the more productive part of the farm (Lot 1).

(c) The maintenance and enhancement of amenity values,

(f) Maintenance and enhancement of the quality of the environment

This part of Thorpe - Orinoco Road is a mixed farming area, with a wide range of allotment sizes and land use. The landform is of a valley with generally smaller farm and rural-residential properties near the road and larger farm blocks and pine plantations to the rear against the hill slopes. The attached aerial photograph illustrates this (see **Attachment 2**).

This application states that there will be no additional residential activity arising as a consequence of the subdivision.

However the subdivision, if granted will enable either of the dwellings to be altered, re-built or completely replaced with new dwellings in different locations, should the owners so desire.

The rules for dwellings in Section 17.5 (Rural 2 zone) of the TRMP are relevant. The rules for permitted activity building construction or alteration only allow for one dwelling per site. This site already has two dwellings on it, and so as things stand, the owner must apply for resource consent in order to alter, reconstruct, or replace either of these dwellings with new dwellings.

The subdivision would create two new titles, each with one dwelling. Rule 17.5.4 will then enable the replacement of these dwellings.

The dwelling on Lot 1, in particular, is very difficult to discern from the road as it is very small, resembles a shed, and is partly obscured behind the cluster of farm buildings. However, should the current landowner or future landowner, wish at a later date to remove and replace it, a new dwelling on Lot 1 would in all likelihood be located away from the large farm buildings, and possibly in an elevated position. This would add a new built element to the rural landscape, and depending upon the location of the building site, it may have a significant visual effect in this locality.

As there is no stated intention to build a new dwelling on the site, there has been no building site nominated as part of this application. In discussions with Mr Bacon, I understand that a building location will be nominated for any subsequent replacement of the dwelling on Lot 1, and this will be the site of the original homestead on the property. A plan is being prepared to show this, however I have not seen the plan at the time of writing this report. I would recommend that a condition is imposed to restrict the location and/or height of a future dwelling on the site to a location that will reduce any visual effects, and this would need to be imposed as a consent notice on the new title to issue.

Section 8 relates to principles of the Treaty of Waitangi. There are no known Treaty issues affecting the site, and none have arisen from the public notification and submission process.

4.5 Tasman Regional Policy Statement (TRPS)

The objectives of the TRPS considered relevant to this application are:

General Objectives

- Objective 3.1 Maintenance and enhancement of the quality of the Tasman District Environment.*
- Objective 3.3 Avoidance, remedying or mitigation of the adverse effects on the environment and the community from the use, development or protection of resources.*
- Objective 3.4 Efficient use and development of resources.*
- Objective 3.5 Maintenance of economic and social opportunities to use, and develop resources in a sustainable manner.*

Comment:

The issues raised in these General Objectives have largely been addressed in my discussion on Part II above.

Land Resources

- Objective 6.1 Avoidance of the loss of the potential for land of productive value to meet 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;*
- (ii) the protection of land with high inherent productive values;*
- (iii) the protection of significant natural or heritage values;*
- (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) productivity and versatility of land, particularly in areas of high productive value; and*
- (ii) provision of services including roading, access, water availability, wastewater treatment or disposal; and*
- (iii) amenity, natural and heritage values of sites, places or areas including landscape features such as karst terrain;...*

Comment:

The matters in Policy 6.1 have been addressed previously in this report.

In relation to Policy 6.2, it is noted that the subdivision will utilise existing reticulated electricity and telephone services. Water supply and effluent disposal will via the existing onsite systems.

Development Contributions

The TRMP provides the Council the power to impose a condition requiring the payment of a financial contribution for reserves and community services and I have recommended such a condition.

However, a recent decision made by the Council on a Section 357 objection relating to the imposition of such a condition for SLM Hockaday (RM050314) puts into question whether such a condition should be imposed in this case. The Hockaday application was similar to this application in that two dwellings existed and formed the basis for subdivision. The delegated authority decision made in that case included a condition whereby a financial contribution was required to be paid, however the applicant objected to this and a Hearings Committee upheld the objection on the basis that the subdivision will have little adverse effect on the environment because no new dwelling would be build as a result of the subdivision.

Further, the Committee noted that because no new dwellings would result from the subdivision that the imposition of a financial contribution (referred to as "development impact levies" in the S357 decision) was inappropriate. The Hearings Committee should perhaps consider whether a condition requiring the payment of a financial contribution is therefore warranted in the case of the current application it is considering given the similarity between it and the Hockaday application. It is important that the Council is seen to be consistent in the way it applies the provisions of the TRMP in terms of financial contributions.

Environmental Hazards

Objective 11.1 Reduced risks arising from flooding, erosion, inundation and instability and earthquake hazards.

Policy 11.1 The Council will seek to reduce risks to communities in relation to land use and development on floodplains that are also subject to flooding.

Comment:

Glenn Stevens, Council's ... has commented as follows:

"Council flood pattern records show that parts of the property near the eastern boundary adjacent to the Thorpe-Orinoco Road were inundated during the March 1986 flood event. This event was the result of a severe but localised thunder storm (the Motueka River did not flood during this event) and the expected return period is unknown, however, such a rain storm event is expected to be relatively infrequent".

The notes on the flood pattern map state that flood bigger than 1976. Presumably the property was affected by flooding in 1976 too, but to a lesser extent".

A copy of the Council's flood pattern map was forwarded to confirm these comments, and I will have this available at the hearing for inspection.

The application states that:

"Inundation of part of proposed Lot 2 affects only an area of pasture and has not ever affected any of the buildings on either proposed lot, according to the applicant who has lived on the land for 60 years, and through family connections with the land for about 100 years knows of no earlier flood events affecting buildings thereon".

My own inspection of the property tends to confirm that the lower lying pasture area of (mainly) proposed Lot 2 may be affected by inundation (see **Photograph 3** in **Attachment 1**), however the existing buildings are situated above those flats, and are long-established.

The proposed subdivision in itself will not change the risk of flooding to these existing buildings. The grant of subdivision consent, however, would enable the construction of a replacement dwelling on either of the allotments to be permitted as of right as explained above, and therefore the siting of any new dwellings would need to take account of potential flooding levels. However I am satisfied from my site inspection that there are sufficient raised areas suitable for new buildings without the need for any special floor level restrictions to be specified.

In relation to land instability and erosion, there is visual evidence of slipping on the steep central ridge, as noted in the application. However this is distant from any buildings and cannot be regarded as a hazard to them.

4.6 Proposed Tasman Resource Management Plan

The following are, I believe, the most relevant objectives and policies with respect to this application:

Chapter 5, Site Amenity Effects

“5.1.0 Objective

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 any adverse effects of... development on site amenity, natural and built heritage and landscape values, and... natural hazard risks are avoided, remedied, or mitigated.

5.1.4 To avoid, remedy, or mitigate effects of:

(a) Noise and vibration

(g) Vehicles

(h) Buildings and structures;

beyond the boundaries of the site generating the effect.

Comment:

The proposed subdivision in itself will not give rise to any site amenity effects of significance. I note also that the adjoining neighbours have signed written approvals for the application, and so no account may be had of any effects on those properties.

However, the Committee is able to consider the effects from any subsequent development of the lots, the most obvious are the effects arising from any replacement dwelling, particularly on Lot 1, as discussed above.

Given that the neighbouring landowners have signed no concerns, the potential effects that may be considered are limited to wider effects on visual amenity and rural character. This concern has been raised in several of the submissions.

The setting aside of an appropriate building site for any future replacement dwelling on Lot 1 would remedy any potential adverse effects in this regard. The precise site to be set aside can be determined at the hearing when a plan is made available.

In terms of traffic effects, the main considerations are that:

- there will be a process to obtain roading contributions (as part of the section 224 stage), and
- the proposal is to utilise the existing vehicle crossings for both Lots 1 and 2, and these crossings are of an acceptable standard given that the road is not sealed.

Chapter 7, Rural Environmental Effects

“7.0 Introduction

This chapter deals with the fragmentation of rural land, the availability of rural land for non-rural purposes, and the protection of the rural character and amenity.

The principal effect of land fragmentation is the cumulative reduction in opportunities for the productive potential of land to be taken account up, either within sites or over larger areas. As subdivision lots become smaller, and as new structures or services are established, the range of soil-based production activities that can be physically or economically undertaken, progressively reduces in scope. The reduction in productive potential of any land, together with the physical coverage of productive land, may reinforce the demand for further fragmentation...

The establishment of dwellings on rural land, without any productive use of the land, has been a significant cause of land fragmentation in the district. ...The prospect of residential development may increase the value of other rural land in the vicinity to the extent that soil-based productive activities are progressively rendered uneconomic... It is occurring predominantly near the larger settlements, where the demand for rural residential living is greatest...

Comment:

The Thorpe/Orinoco area, and many parts of the Rural 2 Zone in Tasman District, appear to be coming under some pressure for small lot subdivision and rural-residential living. There have been several applications for subdivision in recent years, including in this area.

I have analysed two recent decisions of the Council for subdivision that are relevant to this issue of rural fragmentation:

- **Appleton Family Trust** – a subdivision of a 68 hectare property on Thorpe-Orinoco Rd into two allotments, of 67 hectares (with an existing dwelling), and 1.2 hectares (a new building site). This application was essentially an application to allow for further rural-residential development on the 1.2 lot.

- **SM Toepfer** - a subdivision of a 12 hectare property at Blackbird Valley in Upper Moutere into two new allotments of 11.8 hectares (containing a dwelling currently under construction), and 0.15 hectares (containing the original dwelling required to be decommissioned). The previous consent for the new dwelling was conditional upon the original dwelling no longer being used as a dwelling once the new dwelling is habitable. This application was to allow the original dwelling to remain on Lot 2 and be used as a dwelling.

The Council declined both of these applications. A principal reason was the fragmentation of rural land for rural residential purposes (with consequent changes to the rural character).

There are however important distinctions to be made between those applications and the Beatson application.

Firstly, in the case of Appleton Family Trust, a new 1.2 hectare allotment was sought for straight rural residential development. In the Beatson application, the smaller of the allotments would be 4 hectare, and it is already occupied by a dwelling. The Beatson subdivision does not therefore result in an additional dwelling and does not change the rural character of the area (subject to siting controls for any replacement dwelling on Lot 1 as discussed earlier).

Secondly, the Toepfer application sought consent for a very small residential allotment of 0.15 hectare to essentially separate an existing house from the balance farm allotment. Whilst that has similarities to the Beatson application, the distinction is that a previous consent allowing a new house to be built on the Toepfer site required that the old house be decommissioned. Were consent to have been granted, the net result would therefore have been one additional dwelling on the 12 hectare site, and an additional rural-residential allotment.

The Beatson proposal is essentially a subdivision to recognise current built development on the land, it does not result in any entitlement to additional dwellings, and the potential effects on amenities and rural character are limited to any future replacement dwellings.

In these circumstances, I am satisfied that the proposed subdivision does not represent fragmentation of the land resource, as defined in the Introduction section quoted above.

“7.1.0 Objective

Avoid the loss of potential for all land of existing and potential productive value to meet the needs of future generations, particularly land of high productive value.

Policies

7.1.2 To avoid, remedy, or mitigate the effects of activities which reduce the area of land available for soil-based production purposes in rural areas.

7.1.2A To avoid, remedy, or mitigate adverse actual, potential, and cumulative effects on the soil resource and the productive value of the land.

7.1.3 To require land parcels upon subdivision to be of a size and shape that retains the land's productive potential, having regard to the actual and potential productive values, the versatility of the land, ecosystem values, access, and the availability of servicing.

The Explanation for these policies includes: "*Subdivision below the threshold will be limited to that which supports the objective. The Rural 2 Zone comprises land of more limited inherent productive and versatile values [than the Rural 1 Zone], and the subdivision size threshold is thus larger*".

The 50 hectare lot size threshold has been set as a 'trigger' to enable an assessment to be carried out, to determine whether any particular subdivision can meet the relevant policies and objectives in the plan. Subdivisions less than 50 hectares in area are classed as discretionary activities in the TRMP, and they are to be assessed against the criteria in Schedule 16.3A.

Andrew Burton, the Council's Resource Scientist (Land) has reported as follows:

"The Agfirst consultant's report uses the "Classification for Productive Land in the Tasman District" by Agriculture NZ in 1994 to describe the potential of the application area. It states that the application area is all rated E in this classification.

Maps associated with this classification that are available on the TDC database indicate that the alluvial flats on the application area are class B and the adjoining hills are Class E.

Class E land is described as not suitable for horticultural or cropping activities. The crop range includes intensive and extensive pastoral and production forestry. Clearly from the application details the alluvial flats in the application area has a horticultural history: sandersonias, callas and tobacco are mentioned. There are limitations to the range of horticultural crops that can be grow due to the climate and soils but not to the extent that the land could be classified as not suitable for horticulture or cropping activities.

The hill country is appropriately classed as E. Its potential is typically displayed by its current land use: plantation forestry and grazing. It is not comparable with the potential productivity of the adjacent alluvial flats".

Andrew Burton, has in subsequent communications with me, indicated that the risk of flooding can be controlled by building of stop banks.

However from my discussions with Glenn Stevens, it is pertinent to note that, any stop banks are likely to require a resource consent, and the confining of floodwaters within stop banks on the Beatson property may then affect other properties, particularly the upstream neighbouring property. Stop banks may also need to extend onto neighbouring properties if they are to be effective. If the flat land is to be continued to be used for pasture or cropping it is likely that given the flooding is likely to be relatively infrequent, stop banks may not be cost effective (i.e. the occasional loss of production and repair of culverts and fences may be cheaper than the construction and ongoing maintenance of stop banks). For more intensive land use with greater capital investment (such as glass houses) stop banks may be more cost effective.

Taking account of the Agfirst report, and the comments from Council staff, my conclusion on the issue of productivity is that this subdivision will have no significant effect on the potential productivity of the land concerned.

I consider that, in general terms, the best way to retain the versatility of rural land is to retain the present lot size. However, this site is already used fairly intensively for cropping, pasture and forestry, and the setting aside of the low-lying and periodically flood prone 4 hectare allotment for horse grazing as at present will not compromise the relevant objectives and policies in the TRMP. I am also conscious that the subdivision would not create any potential for additional dwellings, areas of curtelage and new driveways, which would in other circumstances remove land from potential production.

7.2.0 Objective

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.

Comment:

These provisions are given effect to through provision of specific rural-residential zones throughout the District, and by granting discretionary activity subdivision consents.

It is important to note the decision in the Jennings Environment Court case for a three lot rural-residential subdivision at Teapot Valley. That decision removes the notion that non-productive rural land can simply be subdivided for rural-residential use. The determination was that that particular proposal would have an adverse fragmentation effect, adverse effect on rural character and amenity values, and an adverse cumulative effect from further land fragmentation.

I do not believe these to be relevant factors for the Beatson proposal. In this case, what is proposed is a subdivision to recognise the current development on the land. It does not lead to additional rural-residential development, effects on rural character, or cumulative effects. Therefore I believe that objectives 7.1.0 and 7.2.0, and associated policies, in the TRMP are not compromised by the Beatson application.

“7.3.0 Objective

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

Policies

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, 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, remedied 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.

As discussed above, the effects on rural character and amenity values in this environment from this development, with appropriate mitigation (particularly regarding any replacement dwelling on Lot 1) will be essentially the same as they are at present. This is because no additional development arises as a result of this subdivision.

Road access has also been discussed. As the land is already developed, the necessary services are in place, and the subdivision does not create the demand for additional services.

As an aside, the application does not state whether the services are shared in any way between the two dwellings and farm buildings. If so, it may be necessary to create easements to protect the services to each of the proposed allotments as part of this subdivision. A condition has been included to address this.

7.7 Schedule 16.3A – Assessment Criteria for Subdivision

Schedule 16.3.A of the TRMP sets out the assessment criteria to be used when considering discretionary activity applications for subdivision.

The matters that are considered relevant to this application are as follows:

- The potential effects of the subdivision on the amenity values and natural and physical character of the area.

- The extent to which the effects of natural hazards will be avoided or mitigated.
- The cumulative effects of the subdivision on the District's infrastructure and its efficient use and development, including the capacity and capabilities of the road network and utility services to meet the demands arising from the subdivision.
- The relationship of the proposed allotments and their compatibility with the pattern of adjoining subdivision and land use activities and access arrangements, in terms of future potential cross boundary effects.
- Taking into account local land form, whether allotments are of a regular shape that will maximise the range and efficiency of potential activities that may take place on the land in the future.
- The effects of existing or future buildings on an allotment in relation to natural hazards and effects on adjoining sites and whether future building or development should be limited to particular parts of the allotment, or minimum floor levels set.

These matters have been discussed in the preceding assessment, and some further discussion is provided below in the assessment of actual and potential effects.

5. ACTUAL AND POTENTIAL EFFECTS

Ecosystems

The site does not contain any areas of significant indigenous vegetation, or significant habitats of indigenous fauna, identified in the proposed plan. Therefore the adverse effects of the subdivision on native flora and fauna would not be more than minor.

Effluent Disposal and Water Supply

The existing dwellings are long established and no new effluent disposal or water supply systems are necessary. Therefore there will be no impacts in terms of servicing this subdivision.

I would comment that the standard of the effluent disposal systems for these older dwellings is not known. Should any significant extensions or replacement dwellings be proposed at a later date it would be appropriate to install new systems for environmental reasons.

Servicing Effects

The existing dwellings are long established and have all necessary services, including telephone and power, on-site effluent disposal, and water.

Archaeological Sites

The subject site is not identified as being an area of archaeological significance. The proposed plan does not identify any archaeological features or sites of significance to iwi within the subject site, and no submission was received from iwi in this respect.

Natural Hazards, Land Stability and Disturbance

These matters have been addressed in the preceding assessment. In particular, the property lies adjacent to the Orinoco Creek and low lying land on the property may be subject to flooding from time to time, but is not considered an impediment to subdivision, provided that an adequate flood free building site (in terms of the Building Act 1991) is available for any replacement dwellings that may be erected in the future.

Soils/Productive Land Values

The potential effects on productivity have been discussed in the policy assessment sections above.

Air Resources

The subdivision itself will not lead to any increase in airborne contaminants, as there is not expected to be any new roads or other significant earthworks.

Rural Character and Amenity Values

The character of the site is one of horticultural activity, with several farm buildings and kilns on the site and two existing dwellings. The balance of the site is one of grassed and cropped flats, with hilly sections forested and in pasture. This is typical of the area; with perhaps a higher level of built development on this particular site than for some of the neighbouring properties.

As previously discussed the subdivision does not involve additional development or new buildings, and so there will be no change to the character or amenity values of the area.

Traffic and Access Effects

According to Council's Development Engineer, the Thorpe-Orinoco Road, is an unsealed rural access road with a 4.5 metre carriageway width and the average daily traffic count (ADT) of 50.

Further subdivision may ultimately require Council to seal this rural road. As noted earlier, the collection of roading development impact levies for this and any further subdivisions, as part of the LTCCP process will eventually result in sealing of the road.

There are two existing accesses to the property and these will be utilised to serve proposed Lot 1 and Lot 2 respectively. Given the nature of the frontage road, and given that the use of the property will not intensify or change in any way as a result of this subdivision, there is no particular need to upgrade the formation of those existing accesses. However, the sight distance from the accesses is obscured by trees in the area between the two accesses (see **Photograph 4** in **Attachment 1**). I would recommend that the trees are trimmed or removed to provide for safe sight distances in accordance with TRMP requirements.

Effects on adjacent properties

The owners of all adjoining properties, and other in the general area have signed their written consent to the proposal. Given that no additional building development will arise as a direct result of this subdivision, I do not anticipate any effects on other properties in the wider area.

6. OTHER RELEVANT MATTERS

Precedent

Given the particular circumstances of this application, I do not anticipate a precedent being set by the grant of consent.

I have earlier discussed the key differences between this application and that of two other applications for which Council refused consent.

Nevertheless the grant of consent for a subdivision of Rural 2 land into 30 hectare and 4 hectares allotments may still be taken by other landowners as encouragement to subdivide, and a relaxation on the part of Council from its minimum lot size thresholds in the area. For that reason, if Council grants this consent, I would encourage it to go to some lengths to itemise the special circumstances that lead to its decision. These include:

- The land is already used for a horticultural enterprise, and the subdivision will not affect the viability of that business.
- The land to be separated from the main farming activity (i.e. Lot 2) is low-lying and prone to flooding, and for that reason it has historically not been used for productive farming.
- The property contains two existing dwellings, and the subdivision into two allotments will not by itself enable additional development or further dwellings to be erected on the land, and

In my view these are particular distinguishing characteristics, which would set this site apart from most other properties in the Thorpe-Orinoco area, as well as in other parts of the wider Rural 2 Zone.

7. CONCLUSION

The application has been assessed against the requirements of the RMA for a discretionary activity subdivision.

The subject site is small in terms of the Rural 2 Zone, but it has been used for rural productive purposes historically. The proposed subdivision will not affect the ability of the existing flower cropping, packing and crop production activities to be continued. No new dwellings are proposed, and the grant of subdivision would not enable additional dwellings to be built without resource consent.

My assessment is that there will be no effects on rural character from this proposal, as no new development is enabled by the subdivision.

I have identified special characteristics of the site that set it apart from the majority of sites in the Rural 2 Zone, and therefore I do not expect that a precedent would be set for further rural subdivision in the zone.

My only concern is that the grant of subdivision consent would enable a replacement dwelling to be erected on Lot 1 in particular, and this would in all likelihood be sited in a more prominent position than where the existing dwelling is located (amongst sheds and farm buildings). This would have the effect of adding a new built element to the landscape.

I have discussed this with Mr Bacon, and I would anticipate that this might be able to be addressed by way of a plan showing a suitable new building site on Lot 1, in the event that the existing dwelling is removed or decommissioned. I expect that a plan may be produced at the hearing showing the nominated building site as the site of the original homestead, provided that the site is not subject to potential flooding risk.

8. RECOMMENDATION

That pursuant to Section 104(B) of the Resource Management Act 1991, the Tasman District Council grants consent to the application by J Beatson (RM050134) to subdivide Section 33 Square 7 Block XIV Motueka SD to create two allotments (Lot 1 of 30.7 hectares and Lot 2 of 4 hectares), as shown on the Subdivision Plan of Cotton and Light Surveyors dated December 2004.

If the Panel accepts my recommendation and GRANTS consent, I consider the conditions contained in **Attachment 3** should be attached to the consent.

Gary Rae
Consultant Planner
Incite Consultants



Photograph 1: dwelling on proposed Lot 2



Photograph 2: farm buildings and old dwelling on Lot 1 in centre



Photograph 3: Low lying land on the flats



Photograph 4: Trees obscuring visibility of the two accesses



CONDITIONS

If the Committee decides to grant consent, I recommend that the following conditions be imposed:

1. Consent Notice

A consent notice shall be registered, pursuant to Section 221 of the Resource Management Act 1991, to require that there shall be only one dwelling on each allotment, and any future replacement dwelling on Lot 1 (i.e. in the event that the existing old dwelling is removed or decommissioned) shall be located in accordance with the nominated building site shown on the attached plan [insert plan reference]. The nominated building site is generally the site of the original homestead on the property.

The consent notice shall be prepared by the applicant's solicitor and sent to Council for approval.

Advice Note:

The applicant has volunteered this condition.

2. Easements

Easements are to be created over any services located outside the boundaries of the lots that they serve. Reference to easements is to be included in the Council resolution on the title plan.

3. Financial Contributions

The consent holder shall pay a financial contribution (for reserves and community services) to the Council. The amount of the financial contribution payable shall be 5.5% of the total market value of a notional 2,500 m² building site within one of the allotments for rural subdivision. The consent holder shall engage the services of a

registered valuer to undertake this assessment and a copy of the valuation shall be forwarded to the Council for calculation of the financial contribution. If the financial contribution payment is not made within two years of the date of granting of this consent, the consent holder shall prepare a revised valuation and the financial contribution shall be recalculated.

Advice Note:

The consent holder is advised that the Council will require the payment of a development contribution prior to the issue of a completion certificate, issued pursuant to Section 224(c) of the Resource Management Act 1991. The development contribution that is payable is as set out in the Development Contributions Policy, prepared pursuant to the Local Government Act 2002. The Development Contributions Policy is found in the Long Term Council Community Plan (LTCCP). The consent holder is advised that the amount to be paid will be in accordance with the requirements which are current at the time the relevant development contribution is paid in full. This consent will attract a development contribution in respect of roading, wastewater, and water and will be based on the creation of 1 additional allotment.

4. Accesses

The accesses on to Thorpe Orinoco Road shall comply with the sight distance requirements of Section 16.2.2 (v).

Advice Note:

This may require the removal or trimming of vegetation in the vicinity of the accesses.