



STAFF REPORT

TO: Environment & Planning Subcommittee

FROM: Deborah Hewett, Consent Planner, Subdivision

REFERENCE: RM060504

SUBJECT: **TAZ-MAN PROPERTIES LIMITED and D BAULD - REPORT EP07/03/02 - Report prepared for 19 March 2007 hearing**

1. PROPERTY LOCATION, ZONING AND PROPOSAL

The properties are located on 21 and 23 Main Road Hope and are zoned Richmond South Development Area in the Proposed Tasman Resource Management Plan.

The properties lie within a flood hazard area

The proposal is for the subdivision of 21 Main Road Hope into two allotments and the subdivision of 23 Main Road Hope into three allotments and the creation of rights-of-ways to service the allotments.

Table 1: Existing Titles and Proposed Allotments

	Area (m ²)	Site Status
Lots 37 and Part Lot 35-36 DP 4046 (CT NL1A/804) 23 Main Road Hope		
Lot 1	950	Existing workshop and farm shed
Lot 2	920	Vacant
Lot 3	1080	Vacant
Part Lot 38 DP 4046 (CT NL3A/140) 21 Main Rd Hope		
Lot 4	1660	Existing dwelling and accessory building
Lot 5	650	Existing second dwelling and accessory building

The subdivision plan shows the location of the property, the subdivision and the rights-of-ways.

2. OBJECTION

On 29 January 2006 the Council received an objection under Section 357 of the Resource Management Act 1991 to conditions of Resource Consent RM060504 from Bacon Planning Group, agent for the applicants Taz-Man Properties Limited and D Bauld.

The agent / applicant objects to the following Conditions:

- **Condition 5(d) 'Right-of-Way' – Right-of-Way D only.** The condition requires kerb and channel on one side and adequate provision for drainage, including sumps on Right-of-Way D.

- **Condition 9(b) 'Sewer'** – The condition requires the upgrade of the of the sewer line serving Lots 1-3 from a 100 millimetres pipe to a 150 millimetres pipe.
- **Condition 10(a), (c) and (d) 'Stormwater' – Lots 4 and 5 only.** The condition requires the installation and connection of the existing dwellings and associated accessory buildings to the Council approved stormwater system.
- **Condition 18(a)(i) and (b) 'Financial Contribution' – Reserves -** The condition requires reserves and community services contribution on Lots 1-3. **Access -** The condition requires the contribution of a proportion of the costs for the formation of a footpath along Main Road Hope to Bateup Road.

The full wording of the conditions above are set out in full in the decision which is attached as part of the documents distributed for the Hearing.

2. REASONS FOR THE OBJECTION (Refer letter dated 26 January 2006 for full text

- **Condition 5(d) 'Right-of-Way' – Right-of-Way D only.**
Right-of-Way D is already formed and sealed. There is no need for the condition.
- **Condition 9(b) 'Sewer' –**
A 100 millimetres diameter pipe is adequate to serve three lots; further subdivision is unlikely. 100 millimetres diameter pipes serve greater numbers in urban areas. The requirement is inconsistent with the advisory note
- **Condition 10(a), (c) and (d) 'Stormwater' – Lots 4 and 5 only.**
Lots 4 and 5 contain existing buildings and hard stand areas and no further development is anticipated thus no increase in coverage. These lots are already provided with stormwater disposal via soak pits which are fully functional, so there is no need for the condition. As there is no new adverse effect related to stormwater disposal being created by Lots 4 and 5 there are no grounds for setting the conditions.

It is doubtful that the piped stormwater disposal will result in any improvement to the existing situation as the fall to the road is minimal.

- **Condition 18(a)(i) and (b) 'Financial Contribution' – Reserves and Access-**
The condition is unreasonable in that subdividers are required to make a contribution to an asset that serves other properties which may not be required to make a contribution. There is already an existing need for a footpath. This should be financed from general rates or the roading development impact levy.

If a contribution is to be paid it should only be based on two lots.

3. RELEVANT PROVISIONS

Section 357 RMA 1991

Sections 357 to 357D of the Resource Management Act 1991 provide for the rights, procedures and decisions on objections. In summary, Section 357A provides for the rights of an applicant to lodge an objection to any delegated authority decision on a resource consent. Section 357C sets out the procedures for lodging objections. Section 357D provides for decisions on objections. The options available to the Committee are to dismiss the objection or uphold the objection in whole or in part. Section 358 provides for decisions made on objections to be appealed to the Environment Court.

Proposed Tasman Resource Management Plan

The subdivision is a controlled activity under 16.3.3(m). The Council has reserved control over seven matters. The relevant matters to the 357 objection are:

- (1) Access
- (1B) The provision, design and routes of cycleways, walkways and bridle-paths, including linkages between any site and local retail areas, schools, reserves, bus routes and arterial roads.
- (1D) Richmond South Development Area, the following applies:
 - (a) Consistency with the Richmond South Development Area Subdivision and Development Design Guide on a number of matters.
 - (b) stormwater management
 - (f) natural hazards.

4. RESPONSE TO OBJECTION POINTS

The following provides a brief response to the matters identified in the S357 objection lodged with the Council. These matters are also addressed in detail in Mr Ley's staff report.

- **Condition 5(d) 'Right-of-Way' – Right-of-Way D only.**

Mr Ley has advised that Right-of-Way D is presently sealed to a good condition and no additional work is required. However, no stormwater control is provided for Right-of-Way D and given the present formation the most appropriate solution identified by Mr Ley is to provide a "yard sump: rather than kerb and channel to manage stormwater runoff. The management of stormwater from rights-of-way to avoid issues for neighbouring properties resulting from overland water from legally shared accesses is a normal requirement of the formation of a right-of-way. The subdivision of 21 Main Road Hope into Lot 4 and 5 has changed the existing situation from that of an access to the allotment to an access legally shared by different owners to two separate titles. The effects of stormwater runoff from the right-of-way need to be managed in a way that does not adversely affect present and future landowners.

- Condition 9(b) 'Sewer' – Condition 9(b) 'Sewer'**
 There is an error in the condition which should read “The existing sewer line to serve Lots 1-3 shall be upgraded to a 150 millimetres pipe from the existing 100 millimetre line within the reserve.” The intent of the condition is set out in the advice note correctly. The line would be serving six users once Lots 1-3 were connected; one more user than the Council Engineering standards permit. The upgrade sought is over a 10 metre portion of the sewer line. This will enable the engineering standard relating to capacity to be maintained.
- Condition 10(a), (c) and (d) 'Stormwater' – Lots 4 and 5 only.**
 The existing buildings on proposed Lot 5 are not permanent having been granted as a temporary activity for a period of ten years (2007) or the date that Mrs Bauld no longer resided there, whichever was the lesser, under RM970047. The effects from this activity were temporary.

The effect of the subdivision is to create a smaller residential allotment of 650 square metres within a residential zone. The adverse effects associated with the disposal of stormwater on a small allotment in a residential zone and an area potentially subject to risk from overland flows was considered by staff to be of consequence. It was a matter that could be mitigated by the requirement to connect to the stormwater reticulation that would be provided along Right-of-Way B and C immediately opposite the dwelling as part of the wider subdivision, approximately 17.5 metres away from the existing dwelling. Mr Ley has identified it as impractical to provide long term on-site stormwater disposal on a site of this size.

Within the Richmond South Area stormwater management has been identified as an important matter for consideration and forms part of the rule framework for subdivision. This is in recognition of the proposed infill subdivision that is possible within the precinct within which this subdivision is sited, the more intensive development possible within the greenfield areas of the zone, and the significant stormwater management issues from the inadequate drainage network within the broader area contributing to associated flooding of the locality by overland flows.

It should be noted that there are no existing use rights for discharges under the Resource Management Act 1991. The fact the buildings exist does not exempt consideration of the effects of stormwater disposal and the imposition of appropriate conditions on a subdivision consent to mitigate those actual and potential effects.

In terms of the potential for flooding of the properties Mr Stevens, the Council Resource Scientist (Land and Water) has commented (e-mail 26 September 2006) that the flood records for the property are limited to the January 1986 and the July 2003 events. These records show that existing Lot 37 DP 4046 (21 Main Road Hope – vacant allotment) along with the adjacent Council reserve were flooded (from overland flow). A letter dated 1995 on the property file for 23 Main Road Hope has identified that flooding has also historically occurred on this property from overland flows from 45 Main Road Hope (the adjacent property to the west). It specifically refers to the reason as “*excessive rainfall in the foothills and the stormwater drains being unable to handle this rainfall.*” This is confirmed by Council staff. There remains a risk of flooding on these properties.

In respect of Lot 4 the comments above also apply. The subdivision in the context of the residential zone within which it now sits is changing the basis for its consideration. The difference between Lots 4 and 5 in this case is the larger sized allotment for Lot 4. This matter along with the possibility of requiring a lateral to be put in place to serve Lot 5 from the new stormwater pipe within Right-of-Way C, which could be connected at a later date; was considered by staff in formulating the conditions of consent. However, due to the potential for overland floods and on-site stormwater disposal to exacerbate those flood effects and the rezone to a residential zone with potential for intensive development (subject to suitable access) it was deemed more appropriate by staff to require a connection to the stormwater network at this time.

Stormwater reticulation will be provided along Right-of-Way C in any event to serve Lots 1-3 and the distance required to convey pipes from the existing dwellings on Lots 4 and 5 to laterals provided at appropriate locations for Lots 4 and 5 is not considered to be unreasonable.

- **Condition 18(a)(i) and (b) 'Financial Contribution' – Reserves and Access-**

Reserves

The subdivision is creating three additional allotments to those that exist for which reserves and community services contributions are required to be paid. The condition has identified three allotments as Lots 1-3 on the basis that these were the bare allotments. No distinction was made between the two titles for the purposes of identifying the allotments. However, to be accurate the contribution of one allotment should have been associated with the title for Part Lot 38 DP4046 rather than all three allotments associated with the title for Lot 37 and Part Lot 35-36 DP 4046.

Access

The financial contribution imposed is a share of the costs of forming a path along the residential zone within which the subdivision is located to the intersection of Bateup Road to provide pedestrian access along this side of Main Road Hope to link with existing footpaths. The share is based on a proportion of the costs of the potential subdivision of allotments fronting Main Road Hope which is set out in Mr Ley's report. Presently there is no pedestrian access along this side of the road. The condition is not unreasonable in that provision is made in the TRMP to seek financial contributions to mitigate effects of subdivision. In this case the intensification of development will contribute to the need for a footpath. The subdivision is creating three additional allotments. The proportioning of the costs means that the subdivision is only paying its fair and reasonable contribution to the provision of a footpath.

5. RECOMMENDATION

THAT the Committee:

- i) **Uphold the objection in part for Condition 5(d) – Right-of-Way D - and exclude Right-of-Way D from works associated with formation, sealing, kerb and channel and a concrete edge restraint.**

- ii) **Dismiss the objection in part for Condition 5(d) – Right-of-Way D - and uphold that part of the condition that relates to the adequate provision for drainage, including sumps.**
- iii) **Dismiss the objection and uphold Condition 9(b)**
- iv) **Dismiss the objection and uphold Condition 10(a), (c) and (d)**
- v) **Uphold the objection in part for Condition 18(a)(i) and amend the condition to reflect two allotments for title Lot 37 and Part Lot 35-36 DP 4046 (21 Main Road Hope) and one allotment for title Part Lot 38 DP4046 (23 Main Road Hope).**
- vi) **Dismiss the objection and uphold Condition 18(b)**



Deborah Hewett
Consent Planner, Subdivision



STAFF REPORT

TO: Environment & Planning Subcommittee
FROM: Development Engineer, Dugald Ley
REFERENCE: RM060503
SUBJECT: **357 OBJECTION – TAZ-MAN PROPERTIES – 21/23 MAIN ROAD HOPE**

1. INTRODUCTION

The above two properties are being subdivided to create five residential properties, ie three new titles. Number 21 is presently undeveloped and number 23 has two existing dwellings located on it. The sites will be served by a right-of-ways. The applicant has objected to various conditions of consent regarding:

- i) wastewater servicing
- ii) right-of-way drainage
- iii) stormwater disposal from lots
- iv) footpath contribution

2. BACKGROUND

I understand the land has a zoning of Rural 1, however variations 49 and 50 advertised in March 2006 have notified the land as "Residential".

Of the two parcels of land in the application number 21 or Lot 37 DP4046 is vacant apart from some storage buildings at the north-western end of the site. Number 23, or Pt Lot 38 DP4046 has one dwelling placed on it plus a relocatable dwelling for the sole use of Doreen Bauld. This relocatable dwelling on Rural 1 land was granted consent (970047) in February 1997 and had to be removed "when no longer required by Doreen Bauld or ten years from the date of consent, whichever is sooner". Therefore the dwelling is non-complying from February 2007.

The act of this subdivision will allow the dwelling and use to continue and the consent 970047 will become null and void.

3. SERVICING

3.1 Wastewater

Council records show that number 23 with the two dwellings is connected to Council's reticulation system as is accepted with no upgrades required. However, easements will be needed to protect access for maintenance. Number 21 has a 100 millimetre diameter pipe serving it to the north-west. Council's Engineering Standards allow a max of five users on a 100 millimetre diameter main and this application will make a sixth user.

The applicant will need to upgrade the sewer line such that they maintain five dwellings on the 100 millimetre diameter line. This work would entail relaying approximately 10 metres of 100 millimetre diameter pipe to 150 millimetre diameter through the reserve and the installation of a (lamphole cleaning eye) inspection manhole. The condition 9(b) could be amended to reflect this, i.e., the existing

sewer to serve Lots 1, 2 and 3 shall be upgraded to 150 millimetre diameter pipe such that a maximum of five dwellings remain on the 100 millimetre diameter line. (see attached aerial photo)

3.2 Stormwater

The stormwater conditions were imposed to mitigate adverse effects of housing intensification in this area.

Firstly the relocatable dwelling at 23 Main Road Hope was to be removed this year and was therefore of a temporary nature as to stormwater effects. With this application a more “robust” system is required in keeping with the zoning proposal to be changed from Rural 1 land to Residential.

Council has on file (attached) a letter from the then owners in 1995 outlining problems with flooding of their property. Of particular note is their comment that “the stormwater drains being unable to handle this rainfall”. It is also the view of Engineering that the sites have been reduced from the 2310 m² to the 650 m² site for Lot 5 and 1660 m² for Lot 4 and therefore it is impractical to provide long-term on-site stormwater disposal.

For number 21 this site is presently vacant apart from a shed as advised above. The ability for the new lots on this site to connect to a Storm water system is practical and is not objected to.

As there will be a stormwater piped system brought up the right-of-way to serve Lots 1 to 3 it is practical that lateral extensions be laid through to the two existing dwellings i.e. lot 4 and 5 and their down pipe systems connected to that reticulated supply system.

3.3 Right-of-way

The two sites will be served by an extended and upgraded right-of-way. I concur that the right-of-way shown D is existing sealed and looks in good condition. However, there is no control of stormwater off the right-of-way as it discharges to adjoining garden areas. This confirms a need to require a piped system into the area as this right-of-way will likely overload existing soakage systems when they start to clog up with fines over time.

The condition 5(d) can therefore be amended to reflect that the area D does not need any pavement work but it will be subject to a “yard sump” being placed in a position to receive the run-off which is directed to it from the right-of-way.

3.4 Footpath formation along Main Road Hope (SH6)

This application fronts State Highway 6 (Main Road Hope) which carries approximately 13,500 vehicles per day.

It is deemed unsafe that pedestrians (children) are expected to traverse the main highway on a regular basis at peak times to give access to the existing footpath on the western side of the road.

With the two lots being subdivided into five lots, i.e. three new lots created remembering that number 23 would eventually have the temporary relocatable dwelling removed), there will be an additional 30 (10 x 3) vehicle movements (entries/exits) on these sites.

There will also be additional pedestrian traffic generated as many of the new residents will choose to walk to shops, work and schools.

As this area reverts from Rural to Residential and also infill developments, there is a need to provide a safe walking environment along the road (participation in walking is one of the highest recreation activities undertaken).

On reviewing the LTCCP there is no item denoted for any works for footpaths in this area for the next ten years as advised by the Transportation Manager.

Council's TRMP also dictates via Figure 18.10A that any new road above an access road hierarchy standard requires two footpaths on each side of the road.

There is an effect therefore from this subdivision of increased pedestrian use and their safety that needs to be addressed/mitigated.

To this end it is appropriate that a footpath be formed along the frontage of the adjoining properties of Main Road Hope to Bateup Road to link with existing footpaths. I consider it unreasonable that the applicant fund the entire works estimated at \$24,940 plus GST.

On viewing aerial photos of the area it is evident that there is potential for further infill development to the north of the applicant's property where the footpath is to be located. It is only fair that when these properties are developed, the developer also pay their share of the footpath construction.

I have assessed that the footpath should be shared over the potential/approx 12 new dwellings that could be built on the properties as of right.

With the applicants creating three extra lots the result is $3/12 = 25\%$ of \$24,940 plus GST, i.e. \$6,235 plus GST.

4. RECOMMENDATION

THAT:

- i) Condition 5(d) is amended to exclude Right-of-Way D as to sealing and note that it is presently in an adequate sealed condition however a "yard sump" shall be constructed in a location that stormwater from the right-of-way can be directed and drain to it.**
- ii) Amend condition 9(b) in that "The existing sewer to serve Lots 1-3 shall be upgraded to a 150 millimetre diameter pipe such that a maximum of five dwellings remain on the 100 millimetre diameter line".**
- iii) Reconfirm conditions 10(a), (c) and (d) which require a stormwater connection to all lots including Lots 4 and 5.**

iv) Reconfirm condition 18(a) as set out in the consent.

Dugald Ley
Development Engineer