



STAFF REPORT

TO: Environment and Planning Subcommittee

FROM: Mark Morris, Senior Consent Planner, Subdivision

REFERENCE: RM060808 and RM060815

SUBJECT: **G R SMITH - REPORT EP07/04/01** - Report prepared for 2 April 2007 Hearing.

1. APPLICATION BRIEF

1.1 Proposal

The application is for a subdivision and landuse consent.

The proposal is to subdivide Lot 3 DP 350421 and Lots 6-8 DP 19031 (CT 206342) of 28.8258 hectares into four allotments. Proposed Lot 1 has an area of 1.77 hectares. Proposed Lot 2 will be 3.85 hectares and Proposed Lot 4 is 20.35 hectares and contains an existing dwelling. The application also involves a boundary adjustment between the application site and CT NL 9C/253, resulting in Lot 5 of 7.8 hectares being amalgamated with the balance of CT NL 9C/253.

A landuse consent is required to undertake earthworks associated with the forming of internal access and for the building sites for the subdivision consent RM060808.

1.2 Location and Legal Description

The property is located on the Riwaka-Sandy Bay Road.

The legal description of the land is Lot 3 DP 350421 and Lots 6-8 DP 19031 Certificate of Title 206342.

1.3 Zoning and Consent Requirements

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

The subdivision is considered to be a Discretionary Activity under 16.3.9 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.

The proposed land disturbance is a controlled activity under Rule 18.6.9 (Recontouring of Land).

2. CONSULTATION

2.1 Affected Parties Consent

The following affected parties consent were provided with the application:

- Ken Newkumet
Owner of property south of the site (PT Sec 20 Sq 9 CT NL 9C/253) C. and user of the right-of-way
- Michael French
Owner of Lot 2 DP 19673 CT 13A/938 which is north of the site.
- R and R Mittmann
Owners of CT NL 16/50 Sec 35 SQ 9, which is west of the site and also share in the Right-of-Way C access.

I note that R and R Mittman have since put a submission opposing the proposal, which is set out below. This would render the Mittman's original written consent void.

3. NOTIFICATION AND SUBMISSIONS

The application was publicly notified on 23 December 2006.

Four submissions were received.

Tiakina Te Taiao

Did not oppose or support the application, but made the following points:

- Due to the location of the proposed development, Tiakina te Taiao consider it necessary that a site visit take place prior to any work commencing.
- Tangata Whenua would like to assess the impact of the development on iwi values. This would involve a site visit at the cost of the applicant.
- An iwi monitor will be required during earthworks so that taonga are identified and located appropriately should they be uncovered.

Did not indicate whether they wished to be heard or not.

R and R Mittmann

Did not oppose the subdivision created the four allotments but concerned but the effects of proposed boundary adjustment and the effects on the existing rights-of-way. Made the following points:

- The proposed by-pass around the Newkumet residence which is being done for purely speculative reasons and will result in destabilisation of the hillside.

- It would be disastrous to allow road works in the sensitive Land Disturbance Area 2, when there have been numerous slips since 1993 that have sometimes blocked the entire road.
- Wanting a written legally binding assurance that the existing right-of-way will remain on its present and surveying path and that we will be not held liable for any costs associated with the proposed earthworks.

Wished to be heard.

R E Kiddle

Opposed to the application.

- Opposed to the ongoing subdivision of rural land particularly when TDC has specifically created Rural 3 zoning to meet the need for rural lifestyle living.
- Continued subdivision of rural land has a detrimental effect on rural character which is an important regional asset.

Wished to be heard.

New Zealand Fire Commission

Submission withdrawn 21 March 2007.

The submission was withdrawn on the basis that the applicant will be able to provide access to each of the building sites that meets the width and gradient requirements of Acceptable Solution C/AS1 Part 8.1: Fire Service Vehicular Access and Part 3-3 of NZS 4404:2004.

4. STATUTORY CONSIDERATIONS

4.1 Resource Management Act

Part II Matters

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

If consent is granted, the proposed subdivision must be deemed to represent the sustainable use and development of the land resource. The critical issue of this consent is the potential effect of that subdivision and development on rural land values.

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

Section 104

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

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

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

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

4.2 Tasman Regional Policy Statement

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

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

4.3 Tasman Resource Management Plan

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

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

Detail of the assessment of the proposed subdivision and landuse consents in terms of these matters is set out in the chapters following.

5. ASSESSMENT

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

5.1 Assessment of Environmental Effects

Pursuant to Section 104 (1) (a) of the Resource Management Act, the following effects assessment has been set out. For the sake of brevity, both subdivision and landuse matters will be considered within the following assessment.

Rural Land Productivity

According to the "Classification system for Productive land in the Tasman District" (1994) the soils of this site are classified as Class G and H, with Class H being the steeper gully areas near the Marahau Road and Class G over the rest of the property.

Class G and H are lowest productivity classes out of the eight Classes with A being the highest class and H being the lowest

Class H is essentially unproductive and with Class G, the potential productive use is limited to production forestry only.

This means that the overall productive potential of this site is extremely limited with the steep topography, southerly exposure and erosion prone nature of the soils and the relatively small size of the property, means that the only likely sustainable land cover will be scrub and regenerating bush. This will not be changed by the subdivision.

Overall, it considered that the effects of the subdivision on productive values and productive potential will be no more than minor.

Servicing Effects

According to the application the proposed lots will be serviced by on-site effluent disposal systems. The applicant has provided an engineering report from Andrew Palmer of Terra Firma Engineering Ltd, which included an assessment of soil conditions for on-site waste disposal. Mr Palmer has concluded that on-site waste water disposal should be able carried out on each the sites subject to secondary treatment and disposal via sub-surface dripper lines over a large area. Because of the steep nature of some of the sites, the designation of the building sites should be subject to review by a geotechnical engineer.

Due to the site's isolation from land line telecommunication lines, the applicant is proposing that each site be servicing wireless broadband internet service. The applicant has provided written confirmation from Tasman Solutions Ltd that there is sufficient signal strength at the building sites to provide wireless internet.

I note that the adjoining subdivision of Fraser (RM020461), also did not provide telephone services and instead was depending on wireless services.

The proposed building sites can be serviced for power. The applicant wishes to provide power by way of a combination overhead and underground servicing. This would be means of an overhead line from the existing overhead line to the Newkumet property across the gully below the Lot 2 building site and then under ground thereafter.

This combination of overhead and underground servicing is considered to be acceptable in terms of visual affects.

In terms of water supply the applicant intends to provide water supply from roof fed rain water supplies in accordance with the District Plan requirements. There appear to be a number of springs on the property that could be used to supplement water supplies.

Traffic Effects

The proposed application will involve the creation of three additional allotments, and the resulting traffic movements on to the Riwaka-Sandy Bay Road. There are no new access crossings proposed as the new allotments will gain access from existing rights-of-way that have been created under previous subdivisions.

Dugald Ley, Council's Development Control Engineer has provided and assessment of traffic effects and this is contained in Attachment 2

Land Disturbance Effects

These matters are covered by Donna Hill's report which is appended to this report as Attachment 1.

Archaeological sites

The property is in an area where there are known archaeological sites. Because of this a condition has been included in the earthworks condition for RM060815 requiring iwi monitoring of the earthworks.

Rural Character and Amenity Values

The rural character of the Takaka Hill and Marahau Hill area is predominantly characterised by a high level of natural amenity with an associated low density of built form and structures. However the immediate area of this subdivision has had a number of subdivisions over the last few years that has meant that it characterised by smaller rural allotments that are similar to what is proposed by this subdivision.

The applicant has proposed to covenant the regenerating bush that is growing in the gully areas, which should provide a good vegetative buffer between the building sites and the Riwaka / Sandy Bay road.

The three proposed building sites are all well set down from any ridge line or predominant spur, which means that the visual effects of the dwellings will be no more than minor. Special conditions can be imposed on the building sites in terms of exterior colours and landscaping to further ensure that the visual effect of the proposed dwellings are kept to a minimum.

The proposed lots will gain access through existing right-of-way, so the amount of earthworks will be kept to a minimum which should reduce visual effects that arise from construction of accessways.

Cross Boundary Effects

The only potential cross boundary effect is that with forestry operations on the Crown Forestry Manager property on the other side of the Marahau Hill Road. However because of the buffer from the Marahau Hill Road and the heavily bushed gully in between the road and the main forest block the actual cross boundary effects should be minimal.

5.2 Relevant Plans and Policy Statements

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

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

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

Objectives: 5.1, 5.2, and 5.3 As detailed in the assessment of effects (Chapter 5.1), there is potential for the activity to have an effect on rural character and amenity values. An additional three rural residential allotments would be created in a rural landscape which has the potential to affect the rural character and amenity of the area.

Policies: 5.1.1, 5.1.3A, 5.1.9, 5.2.1, 5.2.7, 5.2.8, 5.3.2, 5.3.3, 5.3.5

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

Objectives: 7.1, 7.2, 7.3 The actual adverse effects on productive values is not considered to be significant because of the very low productive values of the soils on the site.

Policies: 7.1.1,

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

Chapter 10 – Significant Natural Values and Cultural Heritage – Archaeological sites of significance must be protected, including any sites of significance to Maori.
Condition can be imposed to provide iwi monitoring of earthworks.

Objectives 10.1
Policies 10.1.3,
10.1.5.

Chapter 11 - Land Transport Effects The actual and potential effects of the proposed subdivision on traffic safety must be avoided, remedied or mitigated.

Objectives 11.1,
11.2 The proposed subdivision and additional dwellings will result in additional traffic on to Riwaka-Sandy Bay Road.
Policies 11.1.2B,
11.1.3, 11.1.4A. This matter is discussed in more detail in the assessment of effects (Chapter 5.1).

Chapter 16.2 – Transport – Permitted activity performance conditions that manage vehicle access, parking and road standards are contained in this rule.

Chapter 16.3 – Subdivision – Requires Discretionary Activity resource consent for Rural 2 Zone subdivision, namely the creation of allotments that will be less than 50 hectares.

Assessment Criteria: Rule 16.3A Assessment criteria set out in Rule 16.3A provide guidance in the assessment of the application for determining appropriate conditions. Key matters such as servicing, amenity values and the effect of the proposal on key resources must be addressed when assessing any application for subdivision consent. Matters most relevant to this application have been covered in the assessment of effects of this report (Chapter 5.1).

Chapter 17.5 – Rural 2 Zone Rules – Any activity on the proposed lots is subject to permitted activity performance standards and conditions set out in Rule 17.5, Rural 2 Zone rules.

Chapter 36.1 – Discharges to Land – The effects of discharges from on-site domestic wastewater systems installed as part of any dwelling being constructed on the proposed allotments.

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

In Objective 7.1.0 it sets out its principle objective to:

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

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

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

It is acknowledged that with the very low soil productivity values of the site, the effect on productive values will not be significant.

Objective 7.3.0 states:

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

The following policies are relevant to this application:

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

7.3.4 To exclude from rural areas, uses or activities (including rural residential) which would have adverse effects on rural activities, health or amenity values, where those effects cannot be avoided, remedies or mitigated.

7.3.9 To avoid, remedy or mitigate servicing effects of rural subdivision and development, including road access, water availability and wastewater disposal.

It is acknowledged that policies and objectives seek to retain the existing rural character and amenity of the Rural 2 and that the 50 ha minimum lot size for subdivision is the primary way that plan seek to achieve that. However it is considered that this subdivision with the recommended condition imposed will still be able to retain the existing rural character and amenity, even though the lot sizes are well below the 50 hectare level.

5.3 Part II Matters

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

Part II of the Act is concerned about "maintaining and enhancing amenity values" under Section 7 (c). It is considered that the proposed subdivision, subject to the recommended conditions, will maintain and enhance amenity values of the site.

Also the proposed covenant protection of the native bush in the gully areas will help enhance the natural ecosystems of the riparian areas of the site.

5.4 Other Matters

Precedence and Cumulative Effects

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

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

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

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

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

I acknowledge that that precedence is an issue with this application in it could lead further subdivision of the site, in particular Lot 4 which could contribute to a cumulative adverse effect which is more than minor.

The only way to deal with is for the applicant to volunteer consent notices on all four lots prohibiting any further subdivision. This would mean that the long term protection of the rural amenity of the site would be achieved.

Permitted Baseline Test

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

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

As there is no subdivision as a permitted activity under the Proposed Plan it is considered that the permitted baseline test is not relevant to the assessment of the subdivision proposal.

6. CONCLUSIONS

- 6.1 The subdivision proposal is a Discretionary Activity under the Proposed Tasman Resource Management Plan.
- 6.2 The property is zoned Rural 2 under the Proposed Tasman Resource Management Plan.
- 6.3 The Marahau –Sandy Bay Road and the surrounding hills have very high scenic and amenity values. It is considered that proposal will not adversely affect these values.
- 6.4 It is considered that the effects of the subdivision on productive values are no more than minor.
- 6.5 It is considered that the three additional allotments can be adequately serviced and the traffic effects can be mitigated.
- 6.6 It is considered that the policies and objectives of the Plan that seek to avoid the loss of productive land and retain rural character will not be compromised by this subdivision.

7. RECOMMENDATION

That pursuant to Section 104B of the Resource Management Act 1991 the Tasman District Council **APPROVES** its consent to the application by G R Smith to subdivide CT 206243 into four allotments and a boundary adjustment with CT NL 9C/253 (RM060808) and for a land use consent to carry out land disturbance construct building platforms and access

8. RECOMMENDED CONDITIONS

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

SUBDIVISION CONSENT

- 8.1 The subdivision be carried out in accordance with the Staig & Smith Plan No: 2658 dated 9/08/2006.
- 8.2 Financial contributions are required on three allotments (Lots 1, 2 & 3).

The following will apply:

Reserves and Community Services

Payment of a reserves and community services levy assessed at 5.5% of the total market value of a 2,500 square metre notional building site contained within each of Lots 1, 2 and 3

The valuation will be undertaken by Council's valuation provider within one calendar month of Council receiving a request for valuation from the Consent Holder. The request for valuation should be directed to the Consents Administration Officer at Council's Richmond office. The cost of the valuation will be paid by Council.

If payment of the financial contribution is not made within two years of the date of this consent and a revised valuation is requested as provided by Rule 16.5.5(d) of the Proposed Tasman Resource Management Plan, the cost of the revised valuation shall be paid by the Consent Holder.

Advice Note:

Council will not issue the Section 224(c) certificate in relation to this subdivision until all development contributions have been paid in accordance with Council's Development Contributions Policy under the Local Government Act 2002.

The Development Contributions Policy is found in the Long Term Council Community Plan (LTCCP) and the amount to be paid will be in accordance with the requirements which are the amount to be paid and will be in accordance with the requirements that are current at the time the relevant development contribution is paid in full.

This consent will attract a development contribution on three allotments in respect roading.

8.3 Lots 6, 7 & 8 DP 19031 shall vest as road reserve, without compensation.

8.4 Right-of-Way

The rights-of-way B and C shall be constructed to the following standard:

- Minimum traffic lane width of 4.5m width with all-weather metalled surface, plus 500mm metalled shoulders on either side.
- Adequate side drains to drain off stormwater
- Minimum legal width of 6.5m
- Maximum gradient of 1 in 6.
- A passing bay of 0.5 x 9m shall be placed on Right-Of-Way B at the hairpin bend approximately 90m from the start of the right-ofway.

8.5 Each of the building sites shall be provided with 3.5m wide metalled access, with maximum gradient of 1 in 6 plus water tables and culverts where necessary.

8.6 The right-of-way entrances shall be constructed in accordance with the recommended conditions in Dugald Ley's report (Attachment 2)

8.7 A single excavated building platform of approximately 1000 square metres each shall provided for each of Lots 1, 2 and 3 in the locations shown on the Terra Firma engineering report dated 10 July 2006 submitted with the application.

8.8 At the completion of works, a suitably experienced chartered professional engineer or registered surveyor shall provide Council with written certification that the works have been constructed to the standards required.

8.9 A combination of overground and underground power servicing are to be provided to each of the building sites on Lots 1, 2 and 3 in accordance with TDC Engineering Standards. The overhead portion shall be the section form the existing the existing line to the Newkumet dwelling, crossing to the area just below the Lot 2 building site.

The remaining portion of the reticulation shall be underground to each of the proposed building sites and the existing dwelling on Lot 4.

- 8.10 Certification of the building sites for residential development on Lots 1, 2 and 3 shall be provided by a Chartered Professional Engineer in accordance with TDC Engineering standards Section 11 Appendix B and certification that all engineering works have been completed in accordance with TDC Engineering Standards or to the satisfaction of the Council's Engineering Manager.
- 8.11 Prior to the submission of a section 223 plan, the applicant provide a provide a scaled plan from register surveyor showing all the regenerating bush areas on Lot 1-4. These shall be set out as covenant area on the Section 223 title with the covenants protecting the native vegetation within these areas.
- 8.12 Consent notices shall be registered on the proposed Lot 1-3 including the following:
- a) The recommended building development conditions (1-9) as set out in the Terra Firma Engineering report by Andrew Palmer dated 10 July 2006.
 - b) A landscape plan shall be provided from a suitably qualified landscape professional, acceptable to Council, for by Council's Consents Manager with the building consent for any dwelling on Lot 1 -3. The plan shall show how proposed landscaping will mitigate the visual effects of the dwelling. The landscaping shall be fully completed, prior to the occupation of the dwelling.
 - c) The waste water treatment for any dwelling shall be subject to a specific investigation and design by a chartered professional engineer, experienced in the design of onsite waste water systems, with particular attention being taken of the geotechnical conditions of the disposal area.
 - d) The exterior colours of the dwelling and any accessory building shall be finished in recessive colours, approved by Council's Consents Manager which blend in with the immediate environment. The landowner shall submit for approval the following details of the colours proposed to be used on the walls and roof of the building:
 1. The material to be used (e.g. paint, colour steel);
 2. The name and manufacturer of the product or paint;
 3. The reflectance value of the colour;
 4. The proposed finish (e.g. matt, low-gloss, gloss); and
 5. 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.

Advice Note:

As a guide, the Council will generally approve alternative 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 BS 5252:1976 (British Standard Framework for Colour Co-ordination for Building Purposes).

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

8.14 All engineering works are to be in accordance with Tasman District Engineering Standards or to the satisfaction of the Tasman District Engineering Manager.

8.15 Amalgamation.

“ That Lot 5 hereon be held together with Pt Sec 20 Sq 9 (CT NL 9C/253) and one certificate of title be issued.”

DLR reference to be advised.

LAND DISTURBANCE CONSENT RM060815

8.16 The conditions recommended in Donna Hills report (Attachment 1).

Mark Morris

Senior Consent Planner (Subdivisions)

TO: Mark Morris
FROM: Donna Hills
REFERENCE: RM060815
SUBJECT: Grant Smith – Consent to carry out Land Disturbance

THE PROPOSAL

The applicant has applied for land use consent to undertake earthworks to construct internal site access and building sites in association with the rural-residential development of the property.

Submissions

A submission from Tiakina Te Taiao requests that an Iwi Monitor be present on site during the earthworks due to the coastal location of the property. A condition of consent has been appended accordingly.

A submission from Reinhard and Renate Mittmann has expressed concerns regarding the proposed new road resulting in the de-stabilisation of the particular hillside.

Statutory Considerations

Section 9 of the Resource Management Act 1991 (RMA) requires that no person may use any land in a manner that contravenes a rule in a district plan, regional plan, proposed district plan or proposed regional plan unless expressly allowed by a resource consent.

The proposed Tasman Regional Management Plan (TRMP) was first notified on 25 May 1996. There are no outstanding references relevant to this application and the TRMP is now the dominant planning document with respect to this application.

Rules

The property is split between Land Disturbance Area 1 (LD1) and 2 (LD2) Areas, although only a small part of the land on the eastern boundary is in LD2. Under the LD2 rules the activity is unable to comply with Rule 18.6.7 as a permitted activity due to the depth and area of earthworks. The proposal is therefore a controlled activity under Rule 18.6.9 (Recontouring of Land).

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

Matters (1) to (12) in Rule 18.6.3.

- (1) The location, timing of construction, design, and density of earthworks including roads, tracks, or landings.
- (2) The disposal and stabilisation of waste material or fill.

- (3) Loss of or damage to soil.
- (4) Damage to riparian vegetation or soil.
- (5) Damage to animal or plant communities or habitats in water bodies or coastal water.
- (6) Effects of the activity on river or stream flows.
- (6A) Sedimentation effects on subsurface streams or caves in karst.
- (7) Damage to any structures.
- (8) The visual effects of the activity.
- (9) Potential damage to any cultural heritage site or area, including any archaeological site or site of significance to Maori.
- (10) Damage to any natural habitat or feature.
- (11) The duration of the consent (Section 123 of the Act) and the timing of reviews of conditions and purpose of reviews (Section 128).
- (12) Financial contributions, bonds and covenants in respect of the performance of conditions, and administrative charges (Section 108).

Objectives and Policies

The following objectives and policies from the TRMP are considered to be generally relevant to this application for land disturbance:

Objective

12.1.0

The avoidance, remedying, or mitigation of adverse effects of land disturbance, including:

- a) damage to soil;
- b) acceleration of the loss of soil;
- c) sediment contamination of water and deposition of debris into rivers, streams, lakes, wetlands, karst systems, and the coast;
- d) damage to river beds, karst features, land, fisheries or wildlife habitats, or structures through deposition, erosion or inundation;
- e) adverse visual effects;
- f) damage or destruction of indigenous animal, plant, and trout and salmon habitats, including cave habitats, or of sites or areas of cultural heritage significance;
- g) adverse effects on indigenous biodiversity or other intrinsic values of ecosystems.

Assessment of the Application and Environmental effects

In accordance with Section 104 of the Resource Management Act 1991 Council must consider the actual and potential effects on the environment of allowing the activity to

occur, having regard to any relevant objectives, policies and rules, and consider any other matters relevant and reasonably necessary to determine the application.

Internal Access

A new road will be formed which comes off the existing road which will provide access to the existing house. No exact details of cuts have been provided with the application.

Reinhard and Renate Mittman have expressed concerns in their submission regarding the land disturbance for the road resulting in de-stabilisation of the hillside. It is the writer's opinion that any potential de-stabilisation of land can be mitigated by an engineered design and supervision, which provides adequate controls to limit erosion on cut/fill batter slopes. This is outlined in the geotechnical report provided with the application by Terra Firma Engineering Limited, which also states that any cuts over 1 metre in height will be retained, unless deemed unnecessary by a Chartered Professional Engineer.

Building Sites

A building platform will be formed on each new allotment, but no details of the exact earthworks have been provided with the application, except that there will be no fill used.

It is understood that specific details of the earthworks will be provided when engineering plans are prepared and submitted to Council should the subdivision be granted.

Suggested Conditions:

Should the committee decide to grant consent to the proposed subdivision and associated land disturbance, then the following conditions are recommended for the land disturbance consent:

1. The earthworks shall be completed in accordance with the application submitted by Staig & Smith dated 19 September 2006, and the accompanying geotechnical report regarding land disturbance by Terra Firma Engineering Ltd dated 15 December 2006. In particular this includes:
 - a) land disturbance for a new internal road; and
 - b) land disturbance for three new building platforms.
2. The recommendations and conditions 1 to 9 in the report by Terra Firma Engineering Ltd dated 15/12/06 shall be strictly adhered to when the earthworks are carried out, unless otherwise instructed by a Chartered Professional Engineer due to unforeseen site conditions, circumstances or constraints.
3. Prior to proceeding with this project and before any earthworks taking place on the site, the Consent Holder shall contact Tiakina te Taioao Limited and advise them of the commencement date of the proposed project. In the event any archaeological site is discovered during the excavations associated with any form of land disturbance, all works shall cease and the applicant shall contact the New Zealand Historic Places Trust.

Advice Note:

Due to the coastal location of the site there is a possibility of archaeological sites existing. It is appropriate that an assessment of the site takes place before any site

works commence. The discovery of an archaeological site is subject to the provisions of the Historic Places Act and an application must be made to the Historic Places Trust for an authority to modify or destroy the site.

4. The Consent Holder shall take all practicable measures to limit the discharge of sediment with stormwater run-off to water or land where it may enter fresh or coastal waters during and after the construction period. In particular, the earthworks should be carried out during fine weather periods when the likelihood of erosion and sedimentation will be least. All sedimentation mitigation or control measures shall be maintained by the Consent Holder for as long as there is a potential for sediment movement (resulting from earthworks) to occur and until the site is adequately reinstated.

Advice Note:

The use of debris fences, straw bales, cut-off drains, ponds or other such methods should be used to ensure that any run-off is limited.

5. All bare areas shall be re-vegetated as soon as is practicable and no later than three months after the completion of the works to limit erosion and downhill movement of exposed material, and to provide any necessary further screening of the toilet from the beach.
6. The Consent Holder shall ensure that the site is left in a neat and tidy condition following the completion of the works.
7. Council may, for the duration of this consent, review the conditions of the consent pursuant to Section 128 of the Resource Management Act 1991 to:
 - (a) deal with any adverse effect on the environment that may arise from the exercise of the consent and which it is appropriate to deal with at a later stage; or
 - (b) to require compliance with operative rules in the Tasman Resource Management Plan or its successor; or
 - (c) when relevant national environmental standards have been made under Section 43 of the Resource Management Act 1991.
8. Pursuant to Section 125 of the Act this consent shall lapse five years after the date of this consent unless either the consent is given effect to, or the Council has granted an extension pursuant to Section 125(1)(b) of the Act. In addition, once the consent has been given effect to, all earthworks shall be completed within 2 years.

Advice Note:

The consent is given effect to once the earthworks have commenced.

ADVICE NOTES

1. The applicant shall meet the requirements of Council with respect to all Building Bylaws, Regulations and Acts.

2. This resource consent only authorises the activity described above. Any matters or activities not referred to in this consent or covered by the conditions must either: 1) comply with all the criteria of a relevant permitted activity rule in the Tasman Resource Management Plan (TRMP); 2) be allowed by the Resource Management Act; or 3) be authorised by a separate resource consent.
3. Access by the Council's Officers or its Agents to the property is reserved pursuant to Section 332 of the Resource Management Act 1991.
4. Monitoring of this resource consent is required under Section 35 and 36 of the Resource Management Act 1991, and a deposit fee is payable at this time. Should monitoring costs exceed this initial fee, the Council will recover the additional amount from the resource consent holder. Monitoring costs are able to be minimised by consistently complying with the resource consent conditions.
5. Pursuant to Section 127 of the Resource Management Act 1991, the Consent Holder may apply to the Consent Authority for the change or cancellation of any condition of this consent.

STAFF REPORT

TO: Environment & Planning Subcommittee
FROM: Dugald Ley, Development Engineer
REFERENCE: RM060808
SUBJECT: **G and R SMITH RIWAKA-SANDY BAY ROAD**

1. INTRODUCTION

This application site is near the summit of the Riwaka- Sandy Bay Road and will create an additional three allotments for residential purposes. Two allotments will exit via an existing drive/ access near the summit and a third will exit via an existing drive to an existing house some 500m to the south of the summit.

2. BACKGROUND

Access on to the Highway

The Riwaka-Sandy Bay Road is a sealed lane collector road with approximately 1000 vehicles per day and has a seal width of approximately 6.0m. The speed of the road is distorted by the vertical and horizontal alignment of the road and be approximately between 50-70 kph.

With a 70kph speed the required safe sight distance as per table 16.2C of the TRMP is 85m.

The two entrances meet this requirement in the “uphill” direction but not in the “downhill” direction, from a driver in vehicle which is sitting approximately 2.0m back from the edge of the traffic lane and at 1.0m eye height. The attached colour photo (Fig 1 below)gives an indication of the view lines which exist.

It is the opinion of this officer that improvements can be made to both areas to mitigate adverse effects of potential accidents where vehicles exit the proposed rights-of-way into the path of on-coming vehicles and these are set out in the recommendations below.

Right-of-Way

Two rights-of-way are proposed with the application as mentioned before and are some 500m apart. The existing tracks have a slight grade leading away from the Riwaka-Sandy Bay road and can be made to fully comply with the Council’s minimum right-of-way requirements.

These standards require a 4.5m traffic lane width with 500mm shoulders on each side plus side drains. The TRMP also requires passing bays at 50m locations and this is feasible also.

Excised Land Beside Legal Road. Lots 6, 7 and 8 DP 19031

The title shows land on the east side of the Riwaka-Sandy Bay Road which would seem to have use to the applicant as it physically slopes away from the road edge down into the gully/stream area.

It is the opinion of this officer that no land owner could practically use this land and therefore it is suggested that the three parcels of land vest as road reserve (without compensation) as the roading authority would be in a better position to maintain the road batter slopes, noxious plants and waterways. There is also the long term potential for Council to realign parts of the road to improve sight distances.

3. RECOMMENDATION

It is the opinion of the Engineering Department that there are minor effects associated with increased traffic. However these can be mitigated by works to be carried out by the developer

Should the Committee, after hearing all evidence, decide to approve the subdivision then it would be appropriate to impose engineering conditions as set out below:

1. Access on to Riwaka-Sandy Bay Road Right-of-Way B

Sight distances shall be achieved in a southerly direction by trimming back the batter slope and regressing on completion.

A clear straight line shall be taken from a point 2.0m back from the steel plate crossing and at an eye height of 1.0m.

At this point the entire sealed carriageway shall be visible for a distance of 85m. Stopping limit lines shall be painted on the entrance to Right-of-Way B and a stop sign placed beside entrance facing traffic exiting the right-of-way.

2. Access on to Riwaka –Sandy Bay Road. Right-of-Way C

The access shall be in accordance with the previously approved intersection plan (RM040696) with the following additional amendments:

- Sealing shall be provided for at least 10m in from the existing edge of the seal.
- The existing drainage channels shall not be compromised and shall extended through to the stream
- Road side plants and shrubs on the eastern side of the Riwaka-Sandy Bay Road looking south from the access shall be trimmed back to gain maximum sight distance.

3. Road to vest

The three areas of Lot 6, 7 & 8 DP 19031 shall vest as road reserve without compensation.

4. Rights -of-Way

The Rights-of-Way B and C shall be formed as per the Table 16.2A of the Proposed Tasman Resource Management Plan and more specifically to 4.5m traffic lane width with 500m shoulders on each side and maximum grade of 1 in 6, unsealed.

A widened passing area shall be placed on Right-of-Way B at the hairpin bend some 90m from the start of the right-of-way.

Dugald Ley
Development Engineer

Figure 1: Right-of-Way B Entrance



2.0 m back from edge of lane



FIG. 1. RIGHT OF WAY B ENTRANCE



2.0 m back from edge lane



ROW B Entrance.