



STAFF REPORT

TO: Environment & Planning Subcommittee

FROM: Michael Durand - Co-ordinator Natural Resources Consents

REFERENCES: RM070049

SUBJECT: **SUPPLEMENTARY REPORT: B R REILLY, J M REILLY, D A EARLE and G R MILNES - REPORT EP07/11/16A - Report prepared for 26 and 27 November hearing**

1. INTRODUCTION

The applicant proposes to establish a tourist venture in the Pupu Valley, Golden Bay, which involves a visitor centre with a large freshwater aquarium, accommodation units and dining facilities. A suite of resource consent applications have been made and these have been assessed in a number of individual staff reports.

The applicant proposes to recontour part of the site to make a larger flood-free area available for buildings and other components of the development. This is a Controlled Activity and has the provision, under rule 18.6.4 and Section 94(1)(b) of the Resource Management Act 1991 to be considered without notification and without the need to provide written approvals from affected parties.

Resource consent for the activity must therefore be granted, and may be subject to conditions on matters over which the Council has reserved control.

2. PROPOSED TASMAN RESOURCE MANAGEMENT PLAN (PTRMP) ZONING, AREAS AND RULES AFFECTED

The land is zoned Land Disturbance Area 1, in which the relevant Permitted Activity rule for land recontouring is 18.6.2. The proposed activity does not meet rule 18.6.2(l) as there is more than one hectare of recontouring proposed, and to a depth of more than one metre, within a 12 month period. The activity therefore becomes Controlled. Note that the relevant Controlled rule is not 18.6.3 as the land disturbance is not primarily for the formation, construction or reconstruction or any road, track or firebreak. Moreover, rule 18.6.4 is the appropriate rule the proposed activity is correctly described as recontouring ("earthworks that result in the reshaping, raising or lowering of the surface of a more or less continuous area of ground").

3. SUBMISSIONS

None of the submitters raised specific concerns regarding land disturbance activities. NgAng's submission discussed the recontouring, but in respect to flooding hazards on the recontoured site, rather than the adverse effects of recontouring activities themselves.

4. PRINCIPAL ISSUES

One of the principal issues associated with proposed development is:

- a) Can the proposed recontouring of the site be achieved such that the effects on environment will be no more than minor?

5. STATUTORY PROVISIONS

The status of the discharge proposed in the application is controlled. The Council must grant the application pursuant to Section 104A of the Resource Management Act 1991, unless it has insufficient information to determine if the activity is controlled. The Council may impose conditions upon that consent under Section 108 of the Act for matters over which it has reserved control in the TRMP.

5.1 Tasman Regional Policy Statement

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

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

5.2 Tasman Resource Management Plan

The most relevant Objectives and Policies to this application are contained in:

- Chapter 12

This chapter articulates Council's key objectives:

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; and
- g) adverse effects on indigenous biodiversity or other intrinsic values of ecosystems.

6. ASSESSMENT

6.1 Background to the Proposed Activity

Overview

The applicant's proposals can be summarised as follows:

- Land recontouring is proposed to allow a greater part of the site to be available as a 'flood free area'.
- The area to be recontoured is proposed to be more than 1 hectare in area and to more than 1 metre depth in places.
- The volume of material proposed to be moved is approximately 1,600 m³. A detailed site investigation is proposed to be undertaken once any consent for the work is granted.
- Additional material will be obtained from local quarries.
- Topsoil will be stripped where necessary and replaced (except for on building platforms) following the earthworks, with spare soil material being used for landscaping purposes.

6.2 Consideration of Effects in the Application

The applicant has considered the following potential adverse effects in their application, and these are assessed and discussed below in section 6.3: dust generation; tracking of dirt onto the adjacent road; loss of soil productivity; and the effect of the recontoured land on river dynamics during a flood event.

The application did not discuss a number of important matters that included the following:

- Methods to be used to prevent the movement of disturbed vegetation, soil and other materials into waterbodies.
- The period for which disturbed areas will be left unvegetated and subject to erosion.
- Methods proposed for the stabilisation or removal of waste material or fill.
- Visual effects of the activity.

These issues are discussed in turn below.

6.3 Assessment: Discussion of Key Potential Environmental Effects

Potential adverse effects listed above—some of which were discussed by the applicant, and some of which were not—can be split into two categories: (i) those that are *short term* effects associated with the *activity of recontouring* the land, and (ii) those that are *long term effects* associated with *the land having been recontoured*.

Short term effects

Short term adverse effects of the proposed work are those that may occur during the recontouring work and include dust generation, the tracking of dirt off site onto the road, loss of soil and other material from the site by wind or water erosion, and the visual effects (either of the activity itself or the condition of the site prior to full rehabilitation). There are standardised and effective methods available to the applicant and their contractor to minimise these effects so that they are no more than minor. As stated above, the applicant's proposed methods were not explicit in the application. For this reason, a recommended consent condition is that a Program of Works for the recontouring activities be provided to the Council. This document should include details of how the above effects shall be managed, and these details shall be to the approval of the Council's Co-ordinator Compliance Monitoring prior to the commencement of work on the site.

Long term effects

Loss or damage to productive soil is a potential adverse effect of land recontouring. However, in the present case it is the writer's view that such effects will be attributable primarily to the change in landuse proposed to occur at the site, rather than to the recontouring per se. The land is proposed to be taken out of primary production as a result of the development itself, and this effect would be present to some degree even in the absence of any land recontouring (or as a result of recontouring within Permitted Activity criteria).

Furthermore, the applicant's agent Dick Bennison identified the soils in the area to be recontoured as being of relatively low productivity compared to other soils on the site. The area to be recontoured and developed is the least productive part of the site.

Flooding issues have been discussed in the staff report by Eric Verstappen. The applicant employed Richard Stocker, who has suggested that the volume of earth to be displaced will not significantly affect river dynamics during a flood event. In his assessment the recontoured land will not displace floodwaters to an extent that flooding hazard is significantly changed upstream or downstream.

7. SUMMARY

7.1 Principal Issues

The principal issue is whether the proposed land recontouring can be carried out so the effects on the environment will be no more than minor.

7.2 Overall Conclusion

Overall the writer's assessment is that the actual adverse effects on the environment are minor and the proposal is generally consistent with the objectives and policies, and matters of discretion in the Tasman Resource Management Plan. The activity is Controlled under the TRMP and therefore the Council must grant consent.

8. RECOMMENDATION

Having considered the application in detail, it is the writer's view that the adverse environmental effects of the proposed activity will be no more than minor, and that there is no reason why resource consent should not be granted subject to the following recommended conditions.

It should be noted that the land disturbance activity is Controlled under the TRMP. Furthermore, if the activity described in this application was not related to a notified consent application, then that proposal would be considered by the Council without notification and without the need to seek written approvals, under Section 94(1)(b) of the Act.

9. RECOMMENDED CONDITIONS

1. A Program of Works shall be submitted to the Council's Co-ordinator Compliance Monitoring for approval prior to the commencing of land disturbance on the site. This Program of WorkS shall include, but not be limited to:
 - a) Finalised plans showing of areas of fill proposed to RL 7.0, 6.5, 5.5 and 5.0, cut areas, batter areas and proposed new contours;
 - b) A timetable for the proposed work, including the period for which disturbed areas will be left unvegetated and subject to erosion;
 - c) A management plan describing methods to be implemented to: prevent the movement of disturbed soil, vegetation and other materials into waterbodies by stormwater flow and any other means; stabilise disturbed and otherwise exposed material or fill to prevent movement by wind action or under gravity; prevent the transport of material off site by vehicle tyres; and minimise adverse visual effects of the activity.
2. The Consent Holder shall contact Council's Coordinator Compliance Monitoring at least 24 hours prior to commencing any works for monitoring purposes.
3. The works should be carried out during fine weather periods as much as is practicable, and all machinery used for the works should be re-fuelled and maintained no less than 50 metres from any watercourses.
4. No spoil shall be placed in any watercourse or where it may move or wash into a watercourse or onto adjoining land.

5. Notwithstanding Condition 1, all areas subject to land disturbance work shall have adequate sedimentation mitigation or control measures. These shall ensure that no stormwater discharge has a suspended solid level exceeding 40% in any ephemeral stream as measured by black disk at the property boundary.
6. All sedimentation mitigation or control measures shall be maintained by the consent holder for as long as there is a potential for sediment movement to affect off-site areas or natural water.
7. All excavations over 1 metre depth and the construction of any stormwater detention structures shall be planned and supervised under the direction of a geotechnical engineer experienced in earthworks and soils engineering.
8. All exposed ground around the excavated area shall be re-instated with vegetation as soon as is practicable or at least within three months of the completion of the earthworks to limit erosion and reduce adverse visual effects. This condition shall be is considered achieved Council's Co-ordinator Compliance Monitoring judges that 100% vegetative cover has been established.
9. The Consent Holder shall ensure that all excess materials are removed from the site on completion of the works. No soil material or vegetation shall be left where it may enter water or result in adverse effects that are more than minor in any freshwater habitat or the coastal environment area.
10. If there is any archaeological find during the earthworks the consent holder shall ensure that all works cease immediately until, or unless authority is obtained from the New Zealand Historic Places Trust under Section 14 of the Historic Places Act 1993.
11. Council may review the conditions of consent every three months for the duration of the consent(s) pursuant to Section 128 of the Resource Management Act 1991 to:
 - a) deal with any adverse effect on the environment which may arise from the exercise of the consent and which it is appropriate to deal with at a later stage; or
 - b) 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 RMA.

Expiry

12. This resource consent has been granted for a period of two years and expires on 1 December 2009.



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