



STAFF REPORT

TO: Environment & Planning Subcommittee

FROM: Ross Shirley, Subdivision Officer

REFERENCE: RM080593

SUBJECT: **FAIRFIELD ORCHARDS LIMITED - REPORT EP08/10/04** - Report prepared for hearing of 6 October

1. INTRODUCTION

The following is a report on a subdivision application.

The site is a large block of rural land located at the base of the Takaka Hill. It is contained in a single certificate of title but is bisected by State Highway 60 and the Riwaka Valley Road.

It is owned by Christopher and Linda Drummond trading under the name of Fairfield Orchards Limited and is run as part of a much larger and long standing farming business by the Drummond family of Riwaka. The land ranges from fertile and highly productive river flats to steep hill country in pasture, scrub and bush.

The applicant, Fairfield Orchards Limited, have applied to the Council to subdivide the land to create Lot 1 of 7.9 hectares and a balance area of 75 hectares.

I have been required by Council's Resource Consent Manager to prepare a report on the information presented in the application so that it may be considered at the hearing of the application.

2. LEGAL DESCRIPTION

The legal description of the land is part Section 37, Square 9 and part Sections 76, 77 and 78 District of Motueka being the land described in Certificate of Title 1A/1361 and containing 82.8999 hectares.

The registered proprietors of the land are Christopher David Drummond and Linda Phyllis Drummond.

3. ZONING AND OVERLAYS

The land has a split Rural 1/Rural 2 zoning defined by the land quality and topography. The land on the plains is zoned Rural 1 and the hilly land is zoned Rural 2.

There are no area overlays affecting the land.

4. SITE DESCRIPTION

The site of the proposed subdivision is a large block of rural land located at the base of the Takaka Hill. It is bounded to the south by an unformed legal road that adjoins the Riwaka River and to the north by an unformed legal road that follows the top ridge. The east and west boundaries of the site are straight lined boundaries that recognise neither land use or topography. There are no dwellings located on the land.

The dominant physical feature of the site is the two roads that dissect the land, namely State Highway 60 and the Riwaka Valley Road. As would be expected, State Highway 60, being the Takaka Hill Highway, is deemed to be an arterial road and the Riwaka Valley Road, being a no exit local road, is deemed to be an access road.

The roads that bound and dissect the site divide the land into three distinct parcels.

Firstly, the land between the State Highway/Riwaka Valley Road and the unformed road adjoining the Riwaka River is the Rural 1 zone land and is the highly productive land containing some 16 hectares planted in orchard and also containing Fairfield Orchards commercial packhouse.

Secondly, the land between the State Highway and Riwaka Valley Road shown as Lot 1 on the application plan and containing some 7.9 hectares. The topography is rolling hill country and rough pasture broken by a number of bush clad gullies.

Thirdly, the land between State Highway 60 and the unformed legal road at the top of the ridge and containing some 59 hectares. The topography is hilly with rough pasture on the lower slopes and scrub and bush on very higher ground and in the gullies.

5. THE SUBDIVISION PROPOSAL

The proposal is to subdivide the land to create Lot 1 of 7.9 hectares and a balance area of 75 hectares.

Lot 1 contains an identified building site with access from the State Highway. As the land is zoned Rural 2 the construction of a dwelling on the site is a permitted activity.

The balance area of 75 hectares includes the 16 hectares of productive orchard land and the 59 hectares of hill country.

A subdivision consent only has been applied for. No other consents are necessary.

6. NOTIFICATION AND SUBMISSIONS

Following my initial assessment of the proposal, my recommendation to the Resource Consent Manager was that the application could be processed on a limited notification basis. Limited notification of the proposal was authorised by the Resource Consent Manager on 24 July 2008. Therefore in accordance with Section 94(1) of the Act, notice was served on the following persons who were considered to be persons who may be adversely affected:

- a) C D and A S Drummond being owners of Lot 1 DP 6348.
- b) Transit NZ now NZ Transport Agency being the organisation responsible for administrating the adjoining State Highway.

A submission in opposition to the subdivision was received from NZ Transport Agency and they stated they wish to be heard. The submission from NZ TA requested that the Council decline the application on the grounds that there is inadequate site visibility at the access to proposed Lot 1 that is likely to lead to potential traffic hazards.

7. STATUS OF THE APPLICATION

There are no permitted activity subdivisions provided for in the TRMP.

Controlled activity subdivisions in the Rural 1 zone are required to have a minimum allotment area of 12 hectares (Rule 16.3.7). Controlled activity subdivisions in the Rural 2 zone are required to have a minimum allotment area of 50 hectares (Rule 16.3.8).

Lot 1 is in the Rural 2 zone and has an area of 7.9 hectares and therefore does not meet the minimum area requirements to be a controlled activity for the zone. Rather, it is a discretionary activity under Rule 16.3.9.

The balance area satisfies both the minimum area requirement for the Rural 1 and the Rural 2 zones. However, overall the subdivision is deemed to be a discretionary activity.

Consent to discretionary activity may be refused or conditions imposed. In considering applications and determining conditions the Council will have regard to the criteria set out in Schedule 16.3A as well as other provisions of the plan and the Act.

8. PART II RESOURCE MANAGEMENT ACT 1991

Under Part II of the Act, decision makers must give priority to promoting a sustainable management of natural and physical resources (Section 5), recognise and provide for certain matters of national importance (Section 6) and have particular regard to certain other matters (Section 7).

Overall I consider that there is nothing in the proposal that offends Part II of the Act.

9. ACTUAL AND POTENTIAL EFFECTS ON THE ENVIRONMENT

As previously stated, the application was processed on a limited notified basis rather than a full notification. However, before doing so Council had to determine that the adverse effects on the environment were no more than minor. In doing so, I had regard to the following matters:

- a) The land is already fragmented by the existence of the State Highway and the Riwaka Valley Road.

- b) The proposed subdivision has no effect at all on the highly productive orchard land.
- c) There are no dwellings on the parent title and therefore a dwelling could be constructed as a permitted activity on the identified building site within Lot 1.

The determination that the adverse effects on the environment are no more than minor has been authorised under delegated authority by the Resource Consent Manager.

10. TASMAN RESOURCE MANAGEMENT PLAN

The relevant provisions of the TRMP are contained in Chapter 5 (Site Amenity Effects), Chapter 7 (Rural Environmental Effects), Chapter 11 (Land Transport Effects), Chapter 16.2 (Transport) and Chapter 16.3 (Subdivision). Leaving aside for the moment the matter of access, I consider the proposal to be a logical and practical division of the land that is not contrary to the policies and objectives of the TRMP.

11. ISSUES

The main issue to be considered by the Committee is the adequacy of the access to Lot 1.

11A. Traffic Design Group

The application included a detailed traffic assessment report prepared by Traffic Design Group. That report can be summarised as follows with my comments in italics.

- a) The adjoining State Highway is an arterial road that carries around 1,250 vehicles per day.

Comment:

Schedule 16.2D TRMP defines an arterial road as “primarily roads which form the main traffic routes through and between the urban areas of the district and provide connections to adjacent districts. Arterial roads include State Highways.”

- b) State Highway 60 is classified as a limited access road.

Comment:

Further information provided by the applicant confirms that the State Highway adjoining Lot 1 is not a limited access road. The limited access road in fact finishes at the Riwaka Valley turnoff.

- c) Current access to and from the site is via a farm gate.
- d) Sight distances were measured in accordance with Schedule 16.2E TRMP.

Comment:

Schedule 16.2E specifies the way in which sight distances are to be measured.

- e) Sight distances to the north (uphill) is approximately 100 metres and is limited by the horizontal geometry of the road.
- f) Sight distance to the south (downhill) is approximately 55 metres and is limited by the existing vegetation.

Comment:

Removal of the vegetation would increase the sight distance to the south to approximately 125 metres.

- g) It is proposed the vehicle crossing be constructed in accordance with Schedule 16.2C Diagram 1 and to NZTA Diagram C requirements.

Comment:

Any condition requiring construction works to be undertaken on the State Highway without NZTA consent would be an unenforceable condition and therefore would be ultra vires the Council.

- h) The creation of Lot 1 will result in a very low traffic generation, typically seven to eight vehicles per day which are insignificant in relation to the through traffic volumes and capacity of State Highway 60.
- i) A speed survey using a radar gun recorded the following 85th percentile operating speeds:

Direction	85 th percentile speed
Northbound (uphill)	43 km/hr
Southbound (downhill)	59 km/hr

- j) The minimum sight distances for permitted activity vehicle crossings are specified in Schedule 16.2C TRMP. Those sight distances adjusted for grade and at the local operating speed are:

Direction	Site distance (metres)	
	Schedule 16.2C	Actual
South (downhill)	44	55
North (uphill)	68	100

Comment:

The south (downhill) sight distance could be increased to 125 metres with vegetation clearance.

- k) The proposed access will have more than sufficient sight distances available to satisfy the requirements of the TRMP.
- l) The sight distances do not comply with the higher standards required by NZTA.
- m) Alternative access locations from the State Highway are not able to meet the minimum sight distances of the TRMP.

Comment:

Although not assessed by Traffic Design Group any access to Lot 1 from the Riwaka Valley Road would be difficult due to the steep banks uphill of the valley road and would increase the traffic at the dangerous Riwaka Valley Road/State Highway intersection.

- n) The report concludes that the traffic and transport related effects of the proposal are no more than minor and that the proposal is readily able to be accommodated without compromising the safety and efficiency of the adjacent highway.

11B. NZTA

The submission from the NZTA opposes the application in its entirety. The reasons for the submission can be summarised as follows:

- a) The objective of the NZTA is to undertake its functions in a way that contributes to an affordable, integrated, safe, responsive and sustainable land transport system.
- b) The minimum sight distance requirements for safe visibility along the highway as set out in NZTA's Planning Policy Manual are not met by this proposed subdivision.
- c) NZTA accepts that the minimum sight distances in Figure 16.2C TRMP are met.
- d) NZTA is of the view that approval of the subdivision is likely to lead to potential traffic hazards of high potential impact albeit of low probability at the access point to proposed Lot 1.

12. SUMMARY

12.1 The application is for a subdivision of a single certificate of title to create Lot 1 of 7.9 hectares and a balance area of 75 hectares. The creation of Lot 1 is a discretionary activity, the balance area is a controlled activity.

12.2 A dwelling could be constructed on the identified building site within Lot 1 as a permitted activity, with or without the subdivision.

12.3 Council is satisfied that the adverse effects on the environment of the subdivision are no more than minor.

12.4 In the opinion of Council, two persons may be adversely affected by the proposed subdivision and therefore were served notice.

12.5 A submission in opposition was lodged by NZTA on the grounds of inadequate sight distances at the access to proposed Lot 1.

12.6 The application included a detailed traffic assessment report confirming that the sight distances at the access to proposed Lot 1 complied with the rules for minimum sight distances in the TRMP.

12.7 NZTA acknowledge that the sight distances comply with the TRMP rules but do not comply with the higher standards of NZTA's Planning Policy Manual.

12.8 The Council's decision to approve or decline the application should be based solely on the traffic evidence contained in the application and presented at the hearing.

13. CONCLUSION

My conclusion is that greater weight should be given to the report by the Traffic Design Group rather than the submission by NZTA. This is because the Traffic Design Group report is in more detail and is based on relevant surveys and studies, whereas the submission by NZTA seems to be a desk top exercise only.

13.1 However evidence presented at the hearing may change the weighting accorded to the application and the submission to the extent that a different conclusion is reached.

14. RECOMMENDATION

That the Tasman District Council grants a consent to the proposal pursuant to Section 104B Resource Management Act 1991 subject to the following conditions:

15. CONDITIONS

i) Vehicle Crossing – Lot 1

That the vehicle crossing to Lot 1 be designed and constructed to comply with NZTA's Planning Policy Manual Diagram C plus the following amendments:

- a) the area of seal is to extend 10 metres from the edge of the State Highway carriageway seal.
- b) the gate is to be set back 10 metres from the edge of the State Highway carriageway seal and be inward swinging.

Advice Note:

The above condition requires works to be undertaken on a State Highway road reserve and therefore requires an approval from NZTA. Without that approval the condition is ultra vires the Council.

ii) Vegetation Clearance

That the vegetation within Lot 1 along the boundary with the State Highway for a distance of 125 metres south of the vehicle crossing, be cleared.

Advice Note:

The purpose of the vegetation clearance is to maximise the sight distances at the vehicle crossing.

iii) **Consent Notice – Lot 1**

- a) That any dwelling constructed within Lot 1 to be located generally within the identified building site shown on the resource consent application plan.
- b) That the Lot 1 boundary with the State Highway for a distance of 125 metres south of the vehicle crossing, be kept permanently clear of vegetation for the purpose of maximising the sight distances at the vehicle crossing.
- c) That the owner of Lot 1 shall not call upon the Tasman District Council to provide electricity or telephone connections to the land, such connections at the date hereof have not been provided.

Advice Note:

The above condition is to be complied with on a continuing basis and is therefore to be subject of a consent notice issued under Section 221 Resource Management Act, such notice to be prepared by the Resource Consent Holder and forwarded to Council for signing.

iv) **Financial and Development Contributions**

That a financial contribution be paid as provided by Chapter 16.5.5 assessed as follows:

5.5% of the total market value (at the date of this consent) of a notional building site of 2,500 square metres contained within Lot 1.

The Consent Holder shall request the valuation to be undertaken by contacting Council's Administration Officer (Subdivision). The valuation will be undertaken by Council's valuation provider at Council's cost.

If payment of the financial contribution is not made within two years of the date of this consent and a revised valuation is required 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:

A copy of the valuation together with an assessment of the financial contribution to be paid will be provided to the Consent Holder within one calendar month of Council receiving the request to undertake the valuation.

Advice Note:

Council will not issue the Section 224(c) certificate in relation to this subdivision until all relevant development contributions have been paid in accordance with the Council's Development Contributions Policy under the Local Government Act 2002. The power to withhold a Section 224(c) certificate is provided under Section 208 of the Local Government Act 2002.

The Development Contributions Policy is found in the Long Term Council Community Plan and 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.

R D Shirley
Subdivision Officer