

STAFF REPORT

TO: Environment & Planning Subcommittee

FROM: Ross Shirley, Subdivision Officer

REFERENCE: RM090618

SUBJECT: **FAIRFIELD ORCHARDS LTD - REPORT REP10-05-07** - Report prepared for meeting of 6 May 2010

1. BACKGROUND

- 1.1 Fairfield Orchards, being a company owned by the Drummond family of Riwaka, have applied to the Council to subdivide their property located at the base of the Takaka Hill, Riwaka.
- 1.2 The property contains some 82 hectares in one title and is bisected by the State Highway and the Riwaka Valley Road.
- 1.3 The land to the south of the State Highway is zoned Rural 1 and contains a productive orchard and packing shed. The land area is 16.2 hectares and is shown on Sheet 1 of the application plan as “balance area”.
- 1.4 The land to the north of the State Highway is zoned Rural 2 and is hilly land in pasture and bush and used for grazing of sheep. The land area is 58.8 hectares and is shown as Lot 2 on Sheet 1 of the application plan.
- 1.5 In addition, the Drummonds own a small residential title on the northern side of the State Highway. This title contains the Drummond residence and is shown as CT NL1A/1360 on the application plans.
- 1.6 There is an existing subdivision consent under RM080593 to subdivide off the land contained between the State Highway and Riwaka Valley Road. This land is shown as Lot 1 on Sheet 1 of the application plan and contains 7.9 hectares.
- 1.7 The State Highway, up to the junction with Riwaka Valley Road, is designated a limited access road.
- 1.8 The land to the north of the highway has three licensed crossing places, as shown on Sheet 2 of the application plan.
 - LCP64 – authorised farm gate access, although also currently used as access to dwelling;

- LCP65 – authorised vehicle access to dwelling, not currently used for safety reasons;
- LCP66 – authorised farm gate access.

2. PROPOSAL

2.1 The proposal is to subdivide the land to create separate titles for:

- balance area of 16.2 hectares, being all the productive Rural 1 land south of the State Highway;
- Lot 2 of 58.8 hectares, being all the Rural 2 hill land north of the State Highway;
- Lot 3 of 2360 square metres, being the residential title containing the Drummond's house, with some minor boundary adjustment to recognise the existing occupation;
- the application includes a proposal to surrender LCPs 65 and 66 and to upgrade LCP64 in order to provide a mutual Right-of-way access to Lots 2 and 3.

3. STATUS OF THE APPLICATION

3.1 The subdivision creating both the balance area and Lot 2 are controlled activities for all matters in the Rural 1 and Rural 2 zones respectively except that they do not comply with the Tasman Resource Management Plan transport rules (Rule 16.3.5.1(h) Rural 1 and Rule 16.3.6.1(f) Rural 2).

3.2 The transport rule for both zones requires compliance with the transport standards and terms in Schedule 16.3B. In turn, Schedule 16.3B requires every allotment to have access to a formed legal road other than a limited access road unless written consent is given by the authority controlling the limited access road. That authority has not been given.

3.3 The subdivision creating Lot 3 is a discretionary activity as it does not meet the minimum area needed to be a controlled activity for the Rural 2 Zone. However, Lot 3 is the result of a minor boundary adjustment that has positive effects and is supported by the policies and objectives of the Tasman Resource Management Plan and warrants no further comment in this report.

3.4 There are no area overlays affecting the land.

3.5 Overall, the proposal must be considered as a discretionary activity.

4. CONSULTATION, NOTIFICATION, SUBMISSIONS AND FURTHER INFORMATION

4.1 The application included the results of consultation with the New Zealand Transport Authority (NZTA), being the authority controlling the limited access road. NZTA declined to give its written approval to the proposal.

4.2 Consequently, the application was limited notified to NZTA, which submitted in opposition on the grounds that restricted sight distances would adversely affect the safe and efficient operation of the State Highway.

4.3 Further information was therefore sought from the applicant on sight distances and safety aspects relating to the proposed access. Refer report from Traffic Design Group included with the application.

5. STATUTORY CONSIDERATIONS

5.1 Section 104 RMA

A decision on this application must be made under Section 104 of the Act and the matters for Council to address are:

- Part II (Sections 5, 6, 7 and 8);
- effects on the environment (positive and negative);
- objectives and policies of the Tasman Resource Management Plan;
- other matters.

In the circumstances of this application, other matters include the relevant provisions of the Government Roding Powers Act 1989 (GRP Act), particularly those sections relating to subdivisions fronting limited access roads – copy attached as Appendix A.

5.2 Section 106 RMA

Section 106 provides for subdivisions to be declined if sufficient provision has not been made for legal and physical access to each allotment to be created by the subdivision.

5.3 Sections 5, 6, 7 and 8 RMA

There are no matters of national importance (Section 6) or Treaty of Waitangi issues (Section 8) relevant to this application. The efficient use and development of natural resources is a relevant matter under Section 7.

6. KEY ISSUES

6.1 This is a single issue application, that issue being traffic safety and the application of Section 106 RMA and the relevant sections of the GRP Act. Other issues normally associated with subdivisions in the rural zones such as fragmentation of productive land, rural amenity and precedent are not relevant because of the particular circumstances of this application.

6.2 Chapter 11 of the Tasman Resource Management Plan deals with land transport effects, the primary objectives being to provide a safe and efficient transport system where any adverse effects of the subdivision on the land transport system are avoided, remedied or mitigated. That objective is supported by rules in Chapter 16.2.1 that control accesses, vehicle crossings and sight distances.

- 6.3 The application includes a report from the Traffic Design Group. That report concludes that the sight distances at LCP64 exceed the requirements of the Tasman Resource Management Plan (Rule 16.2.1(u)) and that the crossing place is able to operate in a safe manner in providing access to the existing residential dwelling and the adjoining farm activity that it already services as well as providing safe access for any additional residential dwelling.
- 6.4 The Traffic Design Group report acknowledges that the sight distances at LCP64 do not meet the recommended sight distances in NZTA's Planning Policy Manual.
- 6.5 NZTA opposes the application on the grounds that LCP64 has inadequate sight distances which would adversely affect the efficient operation of the State Highway and therefore is contrary to the purpose of the Resource Management Act and to the purpose of this section of State Highway 60 being declared as a limited access road.
- 6.6 The NZTA submission is generic in that it contains no engineering or traffic detail. Rather, it relies on the general provisions of the Government Roading Powers Act 1989 and the Agency's Planning Policy Manual.
- 6.7 The Traffic Design Group report has been reviewed and accepted by Council's Transportation Manager and in the absence of meaningful evidence from NZTA I am entitled to, and will, rely on that report in my assessment of the application. As stated, that report concludes that LCP64 complies with the requirements of the Tasman Resource Management Plan and can be expected to continue to operate in a safe manner in providing access to the existing residential dwelling and adjoining farm activity that it already services, as well as providing safe access for any additional residential dwelling, notwithstanding that the sight distances do not meet the recommended sight distances in NZTA's Planning Policy Manual.
- 6.8 The NZTA's submission is that under Section 93 of the GRP Act limited access roads are in fact not roads for the purpose of subdivision unless a Section 93 Notice is issued by the Minister of Transport.
- 6.9 Prior to the RMA, when subdivisions were governed by the Local Government Act 1974 (LGA), NZTA (or Transit as it was in those days) acted as a second planning authority. This was because Section 321 of the LGA, save to some exceptions, required every allotment to have frontage to a road. This is turn meant that a plan of subdivision fronting a limited access road could not deposit and titles issue, unless a Section 93 Notice was issued by the Minister.
- 6.10 However, Section 321 of the LGA has been repealed and effectively replaced by Section 106 of the RMA. Section 106 provides for councils to refuse (or by default not to refuse) to grant a subdivision consent where sufficient provision has not been made for legal and physical access. That is to say, Council now has discretion to approve a subdivision, notwithstanding the provisions of Section 93 GRP Act.

- 6.11 If a subdivision proposal was to be approved and the plan deposited, the parcels of land so created are entitled under Section 90 of the GRP Act to at least one crossing place at which vehicles are permitted to proceed to and from the limited access road from and to the parcel of land. The location of the crossing place is specified by NZTA by notice issued to the owner under Section 91. It is noted that it is an offence to move vehicles or animals onto or from a limited access road other than at an authorised crossing place.
- 6.12 If then, the subdivision was approved, Lots 2 and 3 being parcels of land, are entitled to at least one crossing place. The roading authority could require that the crossing places be located in the safest location, notwithstanding that the sight distances at those crossing places do not meet the standards in that authority's manual.

7. SUMMARY

- 7.1 The proposal to subdivide is a discretionary activity only insofar as the proposed access is from a limited access road. If the road was not limited access, the application is likely to have been approved under delegated authority as a controlled activity.
- 7.2 The applicants have volunteered to relinquish the two unsafe / unused crossing places and consolidate access to both Lots 2 and 3 at LCP64.
- 7.3 Crossing place 64 complies with the access rules under the Tasman Resource Management Plan and is considered by the applicant's expert traffic engineers to be safe and capable of handling the additional traffic generated by the subdivision.
- 7.4 The proposal is opposed by NZTA on generic grounds but in my assessment that agency no longer has the powers of a second planning authority as was previously the case.

8. CONCLUSION

- 8.1 The proposal is a logical and practical division of the land that recognises the different zonings, land use and topography and the two distinctive land parcels located either side of the State Highway, with access consolidated to a single, safe location. The proposal is supported by the subdivision and traffic rules in the Tasman Resource Management Plan and promotes the sustainable management of the natural and physical resources in terms of the Resource Management Act.

9. RECOMMENDATION

- 9.1 I recommend the application be granted, subject to conditions.

10. ADVICE NOTE

- 10.1 The Government Roding Powers Act 1989 is outside my specialist area. The Committee should be also be guided by submissions from the applicant's solicitor and evidence from NZTA on the interpretation, relevance and assessments of this particular legislation.

11. CONDITIONS

11.1 LCPs 65 and 66

That LCPs 65 and 66 be physically closed and cancelled.

11.2 LCP64

That LCP64 be upgraded to comply with Diagram C of Transit's Planning Policy Manual, August 2007.

11.3 Advice Note

The above conditions require an authority from NZTA to undertake works on a state highway. If that authority is arbitrary or unreasonably withheld, the two conditions are deemed to be complied with.

11.4 Right-of-way

That the proposed Right-of-way over Lot 2 for the benefit of Lot 3 be duly granted or reserved by reference in Council's Section 223 recital.

11.5 Financial Contributions

That a financial contribution be paid as provided for by Chapter 16.5.5 assessed at 5.5% of the market value at the date of this consent of a notional building site of 2500 square metres contained within Lot 2.

The Consent Holder shall request the valuation to be undertaken by Council's Administration Officer (Subdivision). The valuation shall be undertaken by Council's valuation provider at Council 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 Tasman Resource Management Plan, the cost of the revised valuation shall be paid by the Consent Holder.

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.

11.6 Advice Note – Development Contributions

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.

Ross Shirley
Subdivision Officer

Appendix 'A'

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THOMSON REUTERS

Government Roothing Powers Act 1989

Limited access roads

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Government Roading Powers Act 1989

88 Creation and revocation of limited access roads

- (1) The [Agency] may from time to time, by notice in the *Gazette* and publicly notified, declare any State highway or part of a State highway to be a limited access road.
- (2) At the request of the [Agency], any land contiguous with a State highway which is a limited access road may be purchased, set apart, or otherwise acquired for limited access road or may be declared limited access road, in the same manner as land may be purchased, set apart, or otherwise acquired for road or declared road; and such land shall thereupon become road, limited access road, and State highway. The document by which such land is so acquired or declared shall state that the land has become road, limited access road, and State highway.
- (3) Every limited access road in existence under section 4(4) of the Public Works Amendment Act 1963 immediately before the commencement of the Public Works Act 1981 shall be deemed to be a road and State highway in addition, and shall be deemed to have been declared a limited access road under this Act.
- (4) Every limited access road declared as such by the National Roads Board under section 153 of the Public Works Act 1981 and having that status immediately before the commencement of this Act shall be deemed to have been declared to be a limited access road under this Act.
- (5) The [Agency] may from time to time, by notice in the *Gazette* and publicly notified, revoke the status of limited access road from any State highway or part of it—
 - (a) Which has been created a limited access road under either subsection (1) or subsection (2) of this section, but subject to section 96(1) of this Act; or
 - (b) Which has been created a limited access road under section 4 of the Public Works Act Amendment Act 1963, but subject to section 96(1) of this Act; or
 - (c) Whose administration has passed to the [Agency] under section 96(2) of this Act.
- (6) Where any land becomes State highway by virtue of [section 238(1)(c) of the Resource Management Act 1991] and section 60 of this Act, and such State highway is a limited access road, such land shall thereupon become part of the limited access road.

Compare: 1981 No 35 s 153

History Note - Statutes of New Zealand

Subsection (1) was amended, as from 1 August 2008, by s 50(1) Land Transport Management Amendment Act 2008 (2008 No 47) by substituting "Agency" for "Authority". See ss 47 and 48 of that Act

for the savings and transitional provisions.

Subsection (2) was amended, as from 1 August 2008, by s 50(1) Land Transport Management Amendment Act 2008 (2008 No 47) by substituting "Agency" for "Authority". See ss 47 and 48 of that Act for the savings and transitional provisions.

Subsection (5) was amended, as from 1 August 2008, by s 50(1) Land Transport Management Amendment Act 2008 (2008 No 47) by substituting "Agency" for "Authority" wherever it appears. See ss 47 and 48 of that Act for the savings and transitional provisions.

Show the historical text (1 July 2003 to 31 July 2008)

Subsection (6) was amended, as from 1 July 2003, by s 262 Local Government Act 2002 (2002 No 84) by substituting "section 238(1)(c) of the Resource Management Act 1991" for "section 306(3)(c) of the Local Government Act 1974". See ss 273 to 314 of that Act as to the savings and transitional provisions.

Show the historical text (1 October 1989 to 30 June 2003)



Government Roothing Powers Act 1989

89 Provisions of Acts relating to roads to apply to limited access roads

Subject to the provisions of this Part of this Act, the provisions of this Act and of every other enactment relating to roads shall, so far as they are applicable and with the necessary modifications, apply to—

- (a) All limited access roads, whether declared under section 88(1) of this Act, or purchased, set apart, acquired, or declared pursuant to section 88(2) of this Act, or created as such under section 4 of the Public Works Amendment Act 1963 or section 153 of the Public Works Act 1981, or whose administration has passed to the [Agency] under section 96(2) of this Act; and
- (b) The purchase and acquisition of land for limited access road, and the setting apart or declaring of land as limited access road.

Compare: 1981 No 35 s 154

History Note - Statutes of New Zealand

Section 89 was amended, as from 1 August 2008, by s 50(1) Land Transport Management Amendment Act 2008 (2008 No 47) by substituting "Agency" for "Authority". See ss 47 and 48 of that Act for the savings and transitional provisions.

[Show the historical text \(28 September 1989 to 31 July 2008\)](#)



Government Roothing Powers Act 1989

90 Access to and from land

(1)

Each parcel of land that adjoins or has legal access to a State highway or part of a State highway which is a limited access road and that does not have reasonably practicable alternative legal access to some other road, shall be entitled to at least 1 crossing place at which vehicles are permitted to proceed to and from the limited access road from and to the parcel of land. The location of each crossing place shall be specified by the [Agency] from time to time by notice issued to the owner under section 91 of this Act.

(2)

In this section and in section 91 of this Act, the expression **parcel of land** means a parcel of land that can legally be transferred to a person other than an owner of adjoining land without the dedication of any further land as public road and without the deposit of any further plan, but the [Agency] may deem 2 or more adjoining parcels of land in the same certificate of title to be a parcel of land for the purposes of this section and of section 91 of this Act.

Compare: 1981 No 35 s 155

History Note - Statutes of New Zealand

Subsection (1) was amended, as from 1 August 2008, by s 50(1) Land Transport Management Amendment Act 2008 (2008 No 47) by substituting "Agency" for "Authority". See ss 47 and 48 of that Act for the savings and transitional provisions.

Subsection (2) was amended, as from 1 August 2008, by s 50(1) Land Transport Management Amendment Act 2008 (2008 No 47) by substituting "Agency" for "Authority". See ss 47 and 48 of that Act for the savings and transitional provisions.

[Show the historical text \(28 September 1989 to 31 July 2008\)](#)



Government Roothing Powers Act 1989

91 Authorisation of crossing places

- (1) The [Agency], in the case of any limited access road under its control, may from time to time—
- (a) By notice to the owner of the parcel of land affected—
 - (i) Authorise, subject to such conditions (if any) as it may impose, any crossing place, whether formed or not, at which vehicles may proceed to and from the limited access road from and to any specified parcel of land:
 - (ii) Specify the location of any crossing place, whether authorised under section 90 of this Act or under this section:
 - (iii) Cancel the right to use any crossing place, whether authorised under section 90 of this Act or under this section or located by a specification under subparagraph (ii) of this paragraph, if the parcel of land has reasonably practicable legal access to some other road or has another authorised crossing place:
 - (iv) Cancel or vary all or any of the conditions imposed under this section, or impose further conditions, or vary the location of any authorised crossing place:
 - (b) Construct any road or service lane that it may be expedient to construct to give access, whether additional or not, to any land adjoining or near the limited access road.
- [(2) Any notice given by the [[Agency]] under this section may be registered by the [[Agency]] under the Land Transfer Act 1952 against every certificate of title, provisional register, or other instrument of title registered or lodged in the District Land Registrar's office that is affected by the notice by lodging with the District Land Registrar two copies of the notice.]
- [(3) Each copy of any notice given under this section shall identify the land to which it relates, including the certificate of title reference for the land affected by the notice.]
- [(4) On receipt of 2 copies of any notice issued under this section and the prescribed fee (if any), the District Land Registrar shall, if everything is in order,—
- (a) Sign and seal on both copies a statement of the time and date of receipt; and
 - (b) Record and file one of the copies in his or her office, and endorse on both copies the record reference; and
 - (c) Enter on every certificate of title, provisional register, or other instrument of title registered or lodged in his or her office that is affected by the notice, the fact of the notice; and
 - (d) Return the remaining copy to the [[Agency]].]

[(5)

The entry by the District Land Registrar on a certificate of title, provisional register, or other instrument of title registered or lodged in his or her office of the particulars of a notice is evidence of the existence of the notice but does not create any estate or interest under the Land Transfer Act 1952.]

[(6)

Any notice entered by the District Land Registrar under subsection (4)(c) of this section may be cancelled or varied upon production by the **[[Agency]]** of a notice of cancellation or notice of variation.]

Compare: 1981 No 35 s 156

History Note - Statutes of New Zealand

Subsection (1) was amended, as from 1 August 2008, by s 50(1) Land Transport Management Amendment Act 2008 (2008 No 47) by substituting "Agency" for "Authority". See ss 47 and 48 of that Act for the savings and transitional provisions.

Subsection (2) was inserted, as from 29 July 1995, by s 11 Transit New Zealand Amendment Act 1995 (1995 No 42).

Subsection (2) was amended, as from 1 August 2008, by s 50(1) Land Transport Management Amendment Act 2008 (2008 No 47) by substituting "Agency" for "Authority" wherever it appears. See ss 47 and 48 of that Act for the savings and transitional provisions.

Subsections (3) and (4) were inserted, as from 29 July 1995, by s 11 Transit New Zealand Amendment Act 1995 (1995 No 42).

Subsection (4) was amended, as from 1 August 2008, by s 50(1) Land Transport Management Amendment Act 2008 (2008 No 47) by substituting "Agency" for "Authority". See ss 47 and 48 of that Act for the savings and transitional provisions.

Subsections (5) and (6) were inserted, as from 29 July 1995, by s 11 Transit New Zealand Amendment Act 1995 (1995 No 42).

Subsection (6) was amended, as from 1 August 2008, by s 50(1) Land Transport Management Amendment Act 2008 (2008 No 47) by substituting "Agency" for "Authority". See ss 47 and 48 of that Act for the savings and transitional provisions.

Show the historical text (29 July 1995 to 31 July 2008)



Government Roothing Powers Act 1989

92 Restricting movement to or from limited access road

Without restricting any provision of any other Act, it is hereby declared that a person shall not drive or move any vehicle or animal, or permit any vehicle or animal to be driven or moved, on to or from any limited access road, except—

- (a) At a motorway, road, or service lane from which vehicles might lawfully be driven or moved on to the State highway or part thereof immediately before its creation as a limited access road:
- (b) At a motorway, road, or service lane from which vehicular access to the limited access road has been authorised by the [Agency] and subject to such conditions as it may approve:
- (c) At a crossing place authorised and specified by the [Agency] and subject to such conditions as are for the time being imposed by the [Agency] in accordance with section 91 of this Act.

Compare: 1981 No 35 s 157

History Note - Statutes of New Zealand

Section 92 was amended, as from 1 August 2008, by s 50(1) Land Transport Management Amendment Act 2008 (2008 No 47) by substituting "Agency" for "Authority" wherever it appears. See ss 47 and 48 of that Act for the savings and transitional provisions.

Show the historical text (28 September 1989 to 31 July 2008)



Government Roothing Powers Act 1989

93 Limited access road not a road for certain purposes

(1)

Where any person wishes to exercise any right involving the subdivision or use of land, and that right is conditional upon the land having a frontage or access to a road, or is in any other way conditional upon the existence of a road, for those purposes a limited access road which is a State highway shall be deemed not to be a road, except for such purpose, to such extent, and on such conditions, as may be notified from time to time to the territorial authority or, as the case may require, to the District Land Registrar by the Minister at the request of the [Agency].

(2) Any person aggrieved at—

(a)

The refusal of the [Agency] to request the Minister to issue a notice under subsection (1) of this section or at the refusal of the Minister to issue such a notice; or

(b) Any condition subject to which any such notice is issued—

may object in writing to the [Environment Court] within 30 days after being notified of such refusal or conditions.

(3)

The provisions of section 24 of the Public Works Act 1981 shall, so far as they are applicable and with the necessary modifications, apply to the hearing of any objection under this section.

Compare: 1981 No 35 s 158

History Note - Statutes of New Zealand

Subsection (1) was amended, as from 1 August 2008, by s 50(1) Land Transport Management Amendment Act 2008 (2008 No 47) by substituting "Agency" for "Authority". See ss 47 and 48 of that Act for the savings and transitional provisions.

The words "Environment Court" in subs (2) were substituted, as from 2 September 1996, for the words "Planning Tribunal" pursuant to s 6(2)(a) Resource Management Amendment Act 1996 (1996 No 160).

Subsection (2)(a) was amended, as from 1 August 2008, by s 50(1) Land Transport Management Amendment Act 2008 (2008 No 47) by substituting "Agency" for "Authority". See ss 47 and 48 of that Act for the savings and transitional provisions.

[Show the historical text \(2 September 1996 to 31 July 2008\)](#)



Government Roothing Powers Act 1989

94 Requirements relating to declaration of limited access road

The following provisions shall apply in respect of the declaration under section 88(1) of this Act of a limited access road:

- (a) Every such declaration shall refer to a plan showing—
 - (i) The road or part of a road to which the declaration relates:
 - (ii) Any crossing places to be authorised:
 - (iii) The boundaries of all road frontages of each parcel of land adjoining the road or part to which the declaration relates:
 - (iv) The boundaries of all other types (if any) of legal access (whether rights of way, roadlines, private roads, or any other types whatever) connecting the road or part to any other parcel of land:
 - (v) The title references of every parcel of land to which subparagraph (iii) or subparagraph (iv) of this paragraph applies:
- (b) Every such declaration shall indicate where the plan is held and may be inspected:
- (c) The [Agency] shall cause to be forwarded to the District Land Registrar a copy of the declaration as gazetted, together with a certificate signed by a duly authorised officer of the [Agency], setting out by sufficient descriptions and title references every parcel of land that is affected by that limited access road, either by reason of the parcel of land adjoining the limited access road or by reason of the legal access of the parcel of land to any other road being lost or adversely affected as a result of the creation of the limited access road; and the District Land Registrar shall record it against the titles to all the parcels of land described in it:
- (d) Where any land affected by the declaration is Maori land the authority shall cause to be deposited in the office of the Registrar of the Maori Land Court a copy of the declaration as gazetted, together with a certificate in the form and containing the details specified in paragraph (c) of this section, and the Registrar shall record the declaration and the certificate in the records of the Court:
- (e) The [Agency] shall cause a copy of the declaration and plan to be sent to every territorial [Agency] in whose district the limited access road or part is situated:
- (f) The [Agency] shall cause a copy of the declaration as published in the *Gazette* to be served on the owners and occupiers of all land which is affected by the declaration, so far as they can be ascertained.

Compare: 1981 No 35 s 159

History Note - Statutes of New Zealand

Section 94 was amended, as from 1 August 2008, by s 50(1) Land Transport Management Amendment Act 2008 (2008 No 47) by substituting "Agency" for "Authority" wherever it appears. See ss 47 and 48 of that Act for the savings and transitional provisions.

Show the historical text (28 September 1989 to 31 July 2008)



Government Roding Powers Act 1989

95 Certificate of land affected to be forwarded to District Land Registrar

- (1) Where any land is purchased, set apart, or otherwise acquired for, or declared to be, a limited access road under section 88(2) of this Act, there shall be forwarded to the District Land Registrar a certificate by a duly authorised officer of the [Agency] that the land referred to in it by sufficient descriptions and title references comprises every parcel of land that is affected by that limited access road, either by reason of—
- (a) The parcel of land adjoining the limited access road; or
 - (b) The legal access of the parcel of land to any other road being lost or adversely affected as a result of the creation of the limited access road—
- and the District Land Registrar shall record the certificate against the titles so specified.
- (2) Where any land to which subsection (1) of this section applies is Maori land then the provisions of that subsection shall apply, in addition, as if the District Land Registrar were the Registrar of the Maori Land Court, who shall record the certificate in the records of that Court.
- (3) Where the [Agency] revokes the status of limited access road from any State highway or part, it shall cause a copy of the *Gazette* notice, together with a certificate signed by a duly authorised officer of the [Agency] setting out by sufficient descriptions and title references all parcels of land affected by the revocation, to be forwarded to—
- (a) The District Land Registrar, who shall record the certificate against the titles to all the parcels of land so described; and
 - (b) The Registrar of the Maori Land Court, if any of the land affected is Maori land, who shall record the certificate in the records of the Court; and
 - (c) Every territorial authority in whose district the State highway or part is situated; and
 - (d) The owner and occupier of each parcel of land so described.

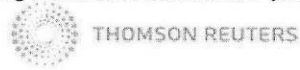
Compare: 1981 No 35 s 160

History Note - Statutes of New Zealand

Subsection (1) was amended, as from 1 August 2008, by s 50(1) Land Transport Management Amendment Act 2008 (2008 No 47) by substituting "Agency" for "Authority". See ss 47 and 48 of that Act for the savings and transitional provisions.

Subsection (3) was amended, as from 1 August 2008, by s 50(1) Land Transport Management Amendment Act 2008 (2008 No 47) by substituting "Agency" for "Authority" wherever it appears. See ss 47 and 48 of that Act for the savings and transitional provisions.

[Show the historical text \(28 September 1989 to 31 July 2008\)](#)



Government Roading Powers Act 1989

96 Administration of limited access roads

(1)

If any limited access road which is a State highway ceases to be a State highway, it shall thereupon be deemed to be a limited access road created under the Local Government Act 1974; and the administration of that road shall pass to the territorial authority responsible for the control of roads in the district.

(2)

If any limited access road which is not a State highway becomes a State highway, it shall thereupon be deemed to be a limited access road created under this Part of this Act and the administration of that road shall pass to the [Agency].

Compare: 1981 No 35 s 161

History Note - Statutes of New Zealand

Subsection (2) was amended, as from 1 August 2008, by s 50(1) Land Transport Management Amendment Act 2008 (2008 No 47) by substituting "Agency" for "Authority". See ss 47 and 48 of that Act for the savings and transitional provisions.

Show the historical text (28 September 1989 to 31 July 2008)



Government Roading Powers Act 1989

97 Offences

Every person commits an offence who—

- (a) Acts in contravention of or fails to comply in any respect with any provision of section 92 of this Act; or
- (b) Fails to comply with any condition specified in any authorisation granted under section 91 or section 92 of this Act; or
- (c) Uses or makes any unauthorised crossing place on to a limited access road,—

and is liable on summary conviction to a fine not exceeding \$500.

Compare: 1981 No 35 s 162



Government Roothing Powers Act 1989

98 Compensation

Every person having an estate or interest in land which is injuriously affected by the creation of a limited access road under section 88 of this Act shall, notwithstanding section 60 of the Public Works Act 1981, be entitled to full compensation from the Crown under Part 5 of that Act.

Compare: 1981 No 35 s 163



Resource Management Act 1991

[106] Consent authority may refuse subdivision consent in certain circumstances

(1)

[[A]] consent authority may refuse to grant a subdivision consent, or may grant a subdivision consent subject to conditions, if it considers that—

(a)

the land in respect of which a consent is sought, or any structure on the land, is or is likely to be subject to material damage by erosion, falling debris, subsidence, slippage, or inundation from any source; or

(b)

any subsequent use that is likely to be made of the land is likely to accelerate, worsen, or result in material damage to the land, other land, or structure by erosion, falling debris, subsidence, slippage, or inundation from any source; or

(c)

sufficient provision has not been made for legal and physical access to each allotment to be created by the subdivision.

(2) Conditions under subsection (1) must be—

(a)

for the purposes of avoiding, remedying, or mitigating the effects referred to in subsection (1); and

(b)

of a type that could be imposed under section 108.]

History Note - Statutes of New Zealand

Subsection (1) was amended, as from 7 July 1993, by s 56 Resource Management Amendment Act 1993 (1993 No 65) by inserting in paras (a) and (b) the words "falling debris,".

Sections 105 and 106 were substituted, as from 1 August 2003, by s 44 Resource Management Amendment Act 2003 (2003 No 23). See ss 109 to 113 of that Act as to the transitional and savings provisions.

[Show the historical text \(7 July 1993 to 31 July 2003\)](#)

Subsection (1) was amended, as from 1 October 2009, by s 150 Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31) by substituting "A" for "Despite section 77B, a". See ss 151 to 161 of that Act for the transitional provisions.

[Show the historical text \(1 August 2003 to 30 September 2009\)](#)