

STAFF REPORT

TO: Environment & Planning Subcommittee

FROM: Mark Morris (Co-ordinator – Subdivision Consents)

REFERENCE: RM100199

SUBJECT: **N AND S GUTHRIE - REPORT REP10-08-02** - Report prepared for meeting of 9 August 2010

1. DESCRIPTION OF THE PROPOSED ACTIVITY

N and S Guthrie have applied for subdivision consent to subdivide an existing title of 21.76 hectares to create the following:

- Proposed Lot 1 comprising approximately 16 hectares, including Right-of-Way A, which provides access to Lot 1 DP 20519 and the proposed Lot 2;
- Proposed Lot 2 comprising 4.6 hectares with access being provided over Right-of-Way A.

1.2 Site Location and Background

This site is located at the head of Garden Valley. The 21 hectare property is mainly covered in regenerating native bush with small area of rough pasture along the eastern boundary of the property. The property has an existing dwelling which is close to the eastern boundary of property and is on the dominant ridge line that runs through the property.

Refer to **Appendix 1** for a Site Location Map.

The dwelling is accessed via a right-of-way from Garden Valley Road that also provides access to Lot 1 DP 20519 (D and T Greer).

In 2009 the applicant relocated a “cottage” to the property, which is located in the north eastern corner of the proposed Lot 2. The building does not have resource consent either for the relocation or for the erection of a second dwelling and does not have building consent. Council has issued an abatement notice prohibiting any residential use of the building until the relevant consents have been obtained.

In 1994 the Guthries applied for consent (RM940475) to subdivide their property (which at that time was 30 hectares) into four allotments. This was publicly notified on 22 October 1994 and seven submissions were received. However, the application never got to a hearing as the hearing was initially adjourned and then on 8 September 1995 the application was formally withdrawn.

At the time the application would have been non-complying under the Transitional District Plan (Waimea Section) which made any subdivision into allotments of less than 20 hectares, a non-complying activity.

In 1997 a two lot subdivision was applied for (RM970502) which was approved on 4/12/97 and resulted in the creation of Lot 1 DP 20519 (Greer). The subdivision (RM970502) created the existing right-of-way, which is being used to provide access to the proposed Lot 2.

In 2001, it became apparent that the right-of-way for the two lot subdivision would not be able to comply with the 1996 Engineering Standards which required a 1 in 6 gradient. The applicant was advised by letter that in the light of the fact of there being only two users on the right-of-way, Council was prepared to accept the current state of the access, but if there was any additional subdivision of the property, the applicant would have to upgrade the right-of-way access to the required standard. A copy of this letter has been included with the Greer submission.

In June 2010, Council requested further information on the proposed application, in relation to the gradient of the right-of-way access and the "cottage" on the proposed Lot 2. This information was provided on 7 July 2010. This included a long section of the right-of-way access, which does show that a significant part of the Right-of-Way A does not comply with the 1 in 6 gradient (ie 16.6%). The applicant has also advised that cottage has been "decommissioned" in terms of sanitary drainage and is not being used for residential purposes until consents have been obtained.

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

The subject land is zoned Rural 2. It also contains a Protected Ridgeline as defined by the Tasman Resource Management Plan (TRMP) which makes constructing a building higher than the ridge line a restricted discretionary activity under rule 17.6.3.4. Garden Valley Road is classified as a Rural Access Place under Section 18.8 (Road Area) of the TRMP.

Please note that the present dwelling on the Guthrie property (on far western boundary) was approved and constructed in 1994 before the ridgeline control rules were notified in May 1996.

The application is considered to be a Discretionary Activity under subdivision rule 16.3.6.2 in that the proposal has allotment areas less than the Controlled Activity standard of 50 hectares. The application is fully discretionary but Council may have regard to the Assessment criteria in Schedule 16.3A which sets out 53 separate matters that can be used in assessing the subdivision.

3. SUBMISSIONS

The application was notified under the limited notification provisions of Section 95B of the Resource Management Act 1991 on 23 April 2010 to five parties and five submissions were received. All the submissions oppose the application and wish to be heard, except one of the submitters (Van Oeveren) has stated that they would be neutral on the proposal if specific conditions are imposed on the consent.

3.1 Summary of Submissions

Submitter	Reasons	Decision
1.T Sowman	<ul style="list-style-type: none"> • The Guthries have progressively subdivided their land, thereby reducing the usability of their land and then using this to justify further subdivision. • QE2 protection of the bush can be done without the need for a subdivision. • The subdivision and QE2 covenant will not solve the weed management problem (eg Old mans Beard) on the property. • At the top of the valley noise is amplified so even normal conversation can be heard across the valley. • Because of the steep topography and the formation of the right-of-way there are problems with debris runoff into my property. • The construction of the right-of-way is such that, it would be difficult to maintain a reasonable surface and vehicles regularly skid as they travel up the right-of-way. An additional user will only exacerbate the existing problem. • My property and an another neighbour have the right to draw water from spring on the Guthrie property pursuant to a registered easement. Concerned that further development will affect this right and that water supply could be affected by septic tank systems for another dwelling. • Further urbanisation will have an effect on the number of native birds in the area. • The building described as a “cottage” has been erected without Council consent. This illegal structure is now been used as reason to justify the further subdivision of the property. • The application plan states in 2.5 there are two potential building sites on Lot 2, and then 3.6 notes that there is no nominated building site for Lot 2. There appears to be conflict between these two statements. • The application states that a future dwelling will not be the neighbours view. I find it difficult to accept that any dwelling would not be a visual intrusion in the area. • The status of the “relocated building” should be clarified. • I reserve the right to expand on any matters raised above at 	<p>Oppose</p> <p>Wishes to be heard</p>

Submitter	Reasons	Decision
	<p>the hearing or on any matter raised by the applicant in the presentation of their application at the hearing.</p>	
<p>2. Nelson Forests Limited (NFL)</p>	<ul style="list-style-type: none"> • NFL has 163 hectares of forest adjacent to the applicant's property. It is anticipated that 115,000 tonnes of wood will be harvested from the adjoining block in the period 2016-2018. • NFL has concerns over the reaction of any subsequent purchasers when harvesting begins as there will be a short term increase in rural noise levels during road construction and harvesting operations. • The application is contrary to the policies and objectives of the Proposed Tasman Resource Management Plan, in particular Chapter 7 (Rural Environment Effects). • Approval of rural residential subdivisions of this type will put pressure to curtail existing permitted rural activities such as forestry, which is reverse sensitivity. • The application is contrary to sections 7(b), (c) and (g) of the Resource Management Act. • NFL wishes the application to be declined: however if it is approved, it requests that "rural activities" easement be imposed on both titles of the subdivision. 	<p>Opposes Wishes to be heard</p>
<p>3. D and T Greer</p>	<ul style="list-style-type: none"> • Inadequate right-of-way. The existing right-of-way does not comply with the Council's Engineering standards, with most of the right-of-way not complying with the minimum gradient of 1 in 6 for an unsealed formation. This makes it very difficult for two wheel drive vehicles to access the site. It is extremely difficult to turn right from the right-of-way entrance on to Garden Valley Road. • Request that if the subdivision is approved, that the right-of-way be upgraded to comply with the Council's Engineering standards. • The "cottage" described in the application is an unauthorised structure with no building consent or resource consent. Request that prior to the approval of any subdivision consent, that the cottage be brought up to the required standard to comply with the current Building Act. • If the cottage is retained as the dwelling for Lot 2, it is requested that the cottage be screened from the right-of-way and that if another building site is chosen that the building style blends in with natural environment and that it not be visible from neighbouring land. • Request that if any water is taken from the spring fed stream, that the easement only allow water to be taken, down stream from the existing water takes. Also request that a condition be imposed on the subdivision consent protecting the spring water from contamination from septic tanks and stormwater runoff. • Request that no new overhead power lines be used to supply the subdivision. 	<p>Opposes Wishes to be heard.</p>

Submitter	Reasons	Decision
	<ul style="list-style-type: none"> • The application plan implies that all the remaining remnant podocarp forest will be protected by QE2 covenant. Request that all the forest areas be protected by QE2 covenant and that a condition of consent be imposed that the all covenant areas be fenced with a sheep proof fence. • The road access on Garden Valley Road is an unsealed rural access road with a 5.4 metre wide carriageway width. If the proposed subdivision was approved, then road should be sealed at the applicant's and the Council's cost. • Garden Valley is characterised by farm allotments of varying sizes, with a low density of built form and structures. The overall character is of productive farming an forestry. We disagree with the statement that the subdivision will not contribute to a cumulative adverse effect on the rural landscape of the area. • In October 2004, The Nurse subdivision application In Garden valley was declined for several reasons including: 1) loss of rural character; 2) the cross-boundary effects and 3) effects on the rural infrastructure including the roading network. 	
4. H and M Van Oeveren	<ul style="list-style-type: none"> • Want to see a condition imposed, that water is only taken from the point below the existing designated water takes. • Want a condition imposed that any septic tank system is only installed unless a suitably qualified consultant can confirm that there is no risk of contamination of the spring water. • Want a condition imposed that no new overhead lines be installed to service the new title. • Support the QE2 covenant to protect the bush, but there also needs to be effective weed control as part of the QE2 covenant. • Want a condition imposed that the site of the current sleep out on Lot 2 be the only designated building site for Lot 2. • If the above conditions are imposed on the consent, we would be neutral to the granting of consent. 	<p>Opposes or neutral (subject to conditions) Wishes to be heard</p>
5. A N and K H Grant	<ul style="list-style-type: none"> • Concerned about the close proximity of the proposed subdivision to existing faming activities and future logging activities which are permitted under the district plan. • Also concerned that as population increases in the area will lead to increased opposition to permitted farming and logging activities. • Concerned about the statement that one additional allotment under a discretionary activity subdivision does not justify the upgrading of the Garden Valley Road, when already our property could be subdivided into two titles as a controlled activity and the NFL block could be subdivided into three lots. • We would question the statement that the new allotment will be rural rather than residential in character. 	<p>Opposes Wishes to be heard</p>

Submitter	Reasons	Decision
	<ul style="list-style-type: none"> • As part of the previous subdivision in 1997, the affected parties were advised that QE2 covenant was going to protect the bush on the entire property. In the end a much smaller area of bush was protected. • Recent real estate advertising has advised that the property has potential to be subdivided into 4 lots. • The proposed subdivision is contrary to the policies and objectives of the Proposed Tasman Resource Management Plan in particular objective 7.3.0 and policies 7.3.2 and 7.3.4. 	

4. PRINCIPAL ISSUES

The principal issues associated with the applications are:

- a) Will the subdivision adversely affect the productive potential of the property?
- b) Has the natural and rural character of the site been retained or enhanced?
- c) Is the proposed development consistent with the policies and objectives of the Proposed Tasman Resource Management Plan?
- d) Will the development of a small rural residential allotment cause conflicts with existing permitted farming and forestry activities?
- e) Can the new allotment be provided with adequate access?
- f) Will the new residential development adversely affect an existing water supply for a number of adjoining properties?

5. STATUTORY PROVISIONS

The application is a Discretionary activity within the Rural 2 Zone and therefore the Council must consider the application pursuant to Section 104 of the Resource Management Act 1991.

The matters for the Council to address in Section 104 are:

- Part II matters;
- the actual and potential effects on the environment of allowing the activity (Section 104 (1)(a));
- relevant objectives and policies in the Tasman Regional Policy Statement, and the Tasman Resource Management Plan (Section 104 (1) (b));
- any other matter the Council considers relevant and reasonably necessary to determine the application (Section 104 (1)(c)).

5.1 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.

Section 5 sets out the **purpose** of the Act which is to promote the sustainable management of natural and physical resources. "Sustainable management" means:

"Managing the use, development and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while -

- *sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- *safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
- *avoiding, remedying, or mitigating any adverse effects of activities on the environment*

Sections 6, 7 and 8 set out the **principles** of the Act:

Section 6 of the Act refers to matters of national importance that the Council shall recognise and provide for in achieving the purpose of the Act. Relevant matters to this application are:

- 6(b) the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development;
- 6(c) the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna;

Section 7 of the Act identifies other matters that the Council shall have particular regard to in achieving the purpose of the Act. Relevant matters to this application are:

- 7(b) the efficient use and development of natural and physical resources
- 7(c) the maintenance and enhancement of amenity values
- 7(d) intrinsic values of ecosystems
- 7(f) maintenance and enhancement of the quality of the environment, and
- 7(g) any finite characteristics of natural and physical resources

Section 8 of the Act shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).

If consent is granted, the proposed activity must be deemed to represent the sustainable use and development of a physical resource and any adverse effects of the activity on the environment are avoided, remedied or mitigated.

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

It is considered that the proposal is in accordance with Part II of the Act with a significant area of indigenous bush going to be protected in perpetuity under a QE2 covenant which should help enhance the quality of the natural environment and protect the intrinsic values of the forest ecosystem that makes up the bush on the site

5.2 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 land use and development.

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

5.3 Tasman Resource Management Plan

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

- Chapter 7 “Rural Environment Effects”;
- Chapter 9 “Landscape”

These chapters articulate Council’s key objectives: To ensure land uses do not significantly adversely affect the natural and rural character, affect the safety and efficiency of the transport system.

The most relevant Rules which follow from these imperatives are contained in:

- Chapter 16.3.6 Subdivision; Rural 2 Zone,
- Chapter 17.7.3 ‘Rural 2 Zone’,

Details of the assessment of the proposed activity in terms of these matters are addressed through the assessment of actual and potential effects in paragraph 6.1 below and analysis and discussion on the relevant policies and objectives in paragraph 6.2 of this report.

6. ASSESSMENT

Pursuant to Section 104(1)(a) of the Resource Management Act, the following effects assessment has been set out:

6.1 Actual and Potential Environmental Effects

6.1.1 Permitted Baseline

Under Section 104 (2) of the Resource Management Act the Council may use the “permitted baseline” test to assess the proposal. Under this principle the proposal is compared with what could be done as permitted activities under the relevant Plan.

Subdivision

In terms of the subdivision there is no permitted activity rule in the Rural 2 Zone so the permitted baseline test is not considered relevant for subdivision.

Building Construction

In the Rural 2 Zone up to 2,000 square metres of non residential buildings could potentially be constructed as permitted activities provided they meet the permitted activity criteria including being a maximum height of 7.5 metres, setbacks of 10 metres from roads, 5.0 metres from internal boundaries, 30 metres from plantation forestry and are no higher than the ridgeline running the property.

6.1.2 Effects on Productive Values.

Council’s Resource Scientist (Land), Andrew Burton has provided a report (see Appendix 4) on the productive potential of the property and has concluded that while the soils of the property are suitable for pastoral and forestry, the extensive areas of native bush and steep topography make it highly unlikely that it would ever be used as a farming unit.

In conclusion, it considers that adverse effects of the proposed subdivision on productive values is no more than minor.

6.1.3 Effects on Rural and Natural Amenity.

The creation of rural residential allotment in an existing rural area has the potential to adversely affect the existing rural amenity, which in Garden Valley is characterised by a relatively low level of building development and a high level of natural amenity provided by the scattered native bush particularly in the upper part of the valley.

Rural residential subdivision (and its associated building development) can bring a more urban style of development that is out of context with the small scale building development in the valley at present.

In this particular case, if all building development was confined to the existing building site on Lot 2, where the cottage on Lot 2 is located and if the cottage was the only residential building on Lot 2, then it is likely that the effect of the subdivision on the existing rural amenity will be no more than minor. To achieve this, special consent notice conditions would have to be imposed on Lot 2 to all buildings being restricted to the “triangle” of land where the present “cottage” is located and that only one residential building was to be located in this building area.

I believe it is vitally important that a single defined building site area is provided for Lot 2, in order to give certainty in terms of environmental outcomes.

The protection of the existing native bush by way of the proposed QE2 covenants will ensure that the existing natural amenity of the site is retained.

6.1.4 Transport Effects

The proposal does not meet the right-of-way formation standards as laid out in Figure 16.2A as much of the right-of-way (chainage 100 to 800) does not comply with the maximum gradient of 1in 6 for an unsealed rural right-of-way

Council's Development Engineer, Mr Dugald Ley has reviewed this application and provided a report on the transport effects which is attached in full as Appendix 3. Following are extracts from his report that highlight the main areas of concern.

Right-of-Way A

Approximately 1020 metres in length, parts of the right-of-way have been surveyed by the applicant as well as part of a submission and both reveal that it is steeper than the Tasman District Council standard of 1-in-6 for an unsealed right-of-way viz Fig 16.2A TRMP. Results show that in parts it is down to 1-in-4.6. Grades of this nature become unstable (corrugations and basecourse unravelling) due to front-wheel drive vehicles losing traction. Once this occurs pavements deteriorate rapidly and erosion of the wheel tracks occurs in storm events. In addition maintenance of side drains seems to be lacking and again stormwater is allowed to easily erode pavement layers. The present right-of-way alignment would be difficult to regrade without major cuts and soil disturbance and it is my view that for the additional user the right-of-way will need to be reshaped (cross-fall), side drains formed, and the road sealed with a 2-coat chip seal (minimum 3.5 metre width) from chainage 100 to chainage 800 (Planscapes plan job 0241, sheet 1). Seal widening will be required on corners and at appropriate passing bays (these to be dictated at engineering plan stage submission).

Clearly the main issue is the formation of the right-of-way which under Council's Engineering Standards needs to be at least 1 in 6 if unsealed, or 1 in 5 if sealed. It appears that it would very difficult to realign the right-of-way to achieve the 1in 6, so the only alternative is to require the sealing of those sections of the right-of-way which are steeper than 1 in 6.

6.1.5 Servicing Effects

6.1.5.1 Provision for Fire Fighting

A 23,000 litre minimum capacity storage tank is to be provided to any future dwelling, with a connection suitable for fire fighting purposes which will satisfy the TRMP permitted activity criteria for the volume of water stored on the site. However, the NZ Fire Service Code of Practice NZS 4509:2008 requires at least 45,000 litres of fire fighting water storage. If the Committee decides to approve the applications consideration should be given to an increased volume of fire fighting water storage as required by the NZS 4509:2008

6.1.5.2 Effects on the Existing Spring Water Supply.

At the south eastern corner of Lot 2, a small spring fed stream provides a water supply to a number of nearby properties. Submitters are concerned that further development on the site could adversely affect this important water supply.

The additional QE2 covenant area on Lot 2, if fenced off from stock, should ensure that the risk of any contamination of the water supply is less than what it is at present, without protection.

A consent notice will need to be imposed where any water take for the benefit of Lot 2 shall be downstream from the existing water take site.

In addition any septic tank system on Lot 2 will need to be checked to ensure that no down stream contamination occurs.

6.1.6 Cross Boundary Effects

Some of the submitters, Nelson Forest Limited (NFL) in particular, are concerned about the possible cross boundary effects, or reverse sensitivity effects of have new residents' coming into the area, seeking the "quiet country life" and seeking to a control legitimate farming and forestry activities that are permitted under the District Plan.

If the building site is restricted to present site of the "cottage" on Lot 2, then any dwelling will at least 450m from any adjoining commercial forest and the QE2 bush covenant areas provide good buffers between the building site and the adjoining farm blocks.

If the building site area on Lot 2 is restricted as per my recommended conditions below, then I do not foresee that the proposed subdivision would adversely affect existing legitimate rural activities.

6.1.7 Effects on Natural Ecosystems and Bio-Diversity

Rural residential subdivision has the potential to cause adverse effects on the natural ecosystems because of bush clearance for house sites and access works. Fortunately with this site, with the right-of-way running through the middle of the property, there will be minimal earthworks required, particularly if the area around the "cottage" is used as the sole building site area.

Special conditions can be imposed to ensure that any waste water system discharge does not contaminate water courses and the associated riparian areas.

Phillip Lissaman from the QEII National trust has assessed the bush as having "Tall mature totara and podocarp forest" and the rare threatened *Teucrium parvifolium* that make up a "rare vegetation type".

In this case natural ecosystem will be enhanced by way of the QE2 covenant areas. Also the increased area of protected bush should help enhance the bio-diversity of the area.

6.1.8 Cumulative Adverse Effects

One of the potential effects of approving small rural residential allotments in a Rural 2 zone is that it will lead other similar applications, which each may not have a significant effect by themselves, but cumulatively can lead to an overall change in the rural character of the area.

With this subdivision there is also the potential that if the applicant gets one additional allotment, that they will simply come back for more allotments later, leading to a cumulative adverse effect that is much greater than what was originally applied for. Consent notices can be imposed on the new allotments prohibiting any further subdivision to prevent the progressive fragmentation, through subsequent subdivisions, into smaller and smaller allotments.

6.1.9 Summary of Assessment of Effects

The effects of the subdivision on productive values of the site should be no more than minor in that virtually all of Lot 2 is in bush and all the productive land on the site is retained within Lot 1.

Providing the building area of Lot 2 can be strictly controlled by way of a defined building area, the existing rural natural amenity should be able to be maintained.

While the area of 4.6 hectares for Lot 2, is generally considered to be a rural residential allotment, the heavily bushed nature of the block, enables a dwelling site to be developed without adversely affecting the existing rural character of the area.

The protection in perpetuity of the bush areas by way of a QE2 covenant is seen to be a positive effect of the subdivision.

I would strongly recommend that in order to accurately assess the environmental outcomes of the proposal, that the applicant volunteers at the hearing, a specified building location area for Lot 2.

Overall my assessment is that, providing the building location area on Lot 2 can be limited to a small defined area and the QE2 covenant areas registered and fenced off and the right-of-way access upgraded to the required standard, the adverse effects on the environment from this proposal should be no more than minor.

6.2 Relevant Objectives and Policies of the TRMP

The following Policies and Objectives have been considered relevant for this proposal:

- Chapter 7 "Rural Environment Effects"
- Chapter 9 "Landscape"

6.2.1 CHAPTER 7: RURAL ENVIRONMENT EFFECTS

7.1.2 Objective

Avoid the loss of potential for all land of existing and potential productive value to meet the needs of future generations, particularly land of high productive value.

Policies

- 7.1.3.1** *To avoid, remedy or mitigate the adverse effects of subdivision of rural land, particularly land of high productive value.*
- 7.1.3.2** *To avoid, remedy or mitigate the effects of activities which reduce the area of land available for soil-based production purposes in rural areas.*
- 7.1.3.3** *To avoid, remedy or mitigate adverse actual, potential, and cumulative effects on the rural land resource.*
- 7.1.3.4** *To require land parcels upon subdivision to be of a size and shape that retains the land's productive potential, having regard to the actual and potential productive values, the versatility of the land, ecosystem values, the management of cross-boundary effects, access, and the availability of servicing.*

The property in question has very low productive values and the creation of the proposed Lot 2 will not result in any loss of productive land. This proposal is considered that be in accordance with the above objective and policies.

7.2.2 Objective

Provision of opportunities to use rural land for activities other than soil-based production, including papakainga, tourist services, rural residential and rural industrial activities in restricted locations, while avoiding the loss of land of high productive value.

7.2.3 Policies

- 7.2.3.1** *To enable activities which are not dependent on soil productivity to be located on land which is not of high productive value.*
- 7.2.3.2** *To enable sites in specific locations to be used primarily for rural industrial, tourist services or rural residential purposes (including communal living and papakainga) with any farming or other rural activity being ancillary, having regard to:*
- (a) the productive and versatile values of the land;*
 - (b) natural hazards;*
 - (c) outstanding natural features and landscapes, and the coastal environment;*
 - (d) cross-boundary effects, including any actual and potential adverse effects of existing activities on such future activities;*

- (e) *servicing availability;*
- (f) *the availability of specific productive natural resources, such as aggregates or other mineral sources;*
- (g) *transport access and effects;*
- (h) *potential for cumulative adverse effects from further land fragmentation;*
- (i) *maintaining variety of lot size;*
- (j) *efficient use of the rural land resource;*
- (k) *cultural relationship of Māori to their land.*

Not yet operative as at 1 November 2008

7.2.3.3 *To use a whole-catchment approach to the management of stormwater, and to apply low impact design to address the stormwater effects and changes in drainage patterns arising from rural land development.*

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7.2.3.4 *To enable the subdivision of land or amalgamation of land parcels for the preservation of:*

- (a) *significant natural values, including natural character, features, landscape, habitats and ecosystems;*
- (b) *heritage and cultural values;*
where preservation is assured through some statutory instrument and statutory manager.

7.2.3.5 *To ensure that activities which are not involved or associated with soil-based production do not locate where they may adversely affect or be adversely affected by such*

While the objective and policies of 7.2 seek to provide rural residential development in rural areas, which is primarily achieved by the provision of specific rural residential zones, it does provide the opportunity for rural residential subdivision if it can be shown to be accordance with the above policies.

Policy 7.2.3.4 seeks to “*allow subdivision*” for the preservation of significant natural values and ecosystems where that preservation is “*assured through some statutory instrument and statutory manager*”. In this case the subdivision is enabling the protection of native bush through a statutory agency.

7.4.2 Objective

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

7.4.3 Policies

- 7.4.3.1** *To ensure that there is sufficient flexibility for a wide range of productive rural activities to take place, while avoiding, remedying or mitigating adverse effects.*
- 7.4.3.2** *To provide for rural activities which may involve levels and types of effects, including noise, dust, smoke and odour, that may be permanent, temporary or seasonal, and that may not meet standards typically expected in urban areas.*
- 7.4.3.3** *To provide for the maintenance and enhancement of local rural character, including such attributes as openness, greenness, productive activity, absence of signs, and separation, style and scale of structures.*
- 7.4.3.4** *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, remedied or mitigated.*
- 7.4.3.5** *To exclude from rural-residential areas, uses or activities which would have adverse effects on rural-residential activities, health or amenity values, where those effects cannot be avoided, remedied or mitigated.*
- 7.4.3.6** *To ensure that adequate physical or spatial buffers or other techniques are applied when allowing new allotments or buildings primarily or exclusively for residential purposes in rural areas, so that productive land use opportunities are not compromised.*
- 7.4.3.7** *To facilitate the amalgamation of land parcels as a means of avoiding, remedying or mitigating adverse effects of use or development on rural character or amenity values.*
- 7.4.3.8** *To enable the subdivision of land for conservation or protection of features or resources that particularly contribute to the rural character of the area.*
- 7.4.3.9** *To avoid, remedy or mitigate servicing effects of rural subdivision and development, including road access, water availability and wastewater disposal.*

The objective and policies in Section 7.4 seek to reduce the conflicts between rural residential development and existing rural activities and to ensure that the existing rural character and amenity can be maintained or enhanced. It is considered that the proposed subdivision is in accordance with these policies and objectives.

6.2.2 Chapter 9: Landscape

Objectives

9.1.2 Protection of the District's outstanding landscapes and features from the adverse effects of subdivision, use or development of land and management of other land, especially in the rural area and along the coast to mitigate adverse visual effects.

Policies

9.1.3.3 *To ensure that structures do not adversely affect:*

- (a) visual interfaces such as skylines, ridgelines and the shorelines of lakes, rivers and the sea;*
- (b) unity of landform, vegetation cover and views.*

This rural landscape in this area has not been formally recognised as an outstanding natural landscape within the TRMP. However the ridgeline that runs along the western boundary of the sites is one that has been identified in the District Plan to be protected from effects of buildings on the skyline. It is unlikely that the proposed subdivision will lead to any additional buildings along this skyline as the new allotment is situated well away from the ridgeline.

9.1.3.7 *To ensure that land disturbance including vegetation removal and earthworks does not adversely affect landscape character and rural amenity value in the Coastal Environment Area in locations of public visibility, particularly where there are distinctive natural landforms.*

The proposed earthworks will be limited to existing tracks and the visual effects of any earthworks for the Building Sites should be relatively minor and well screened by the bush covenant areas.

9.2.3.4 *To encourage landscape enhancement and mitigation of changes through landscape analysis, subdivision design, planting proposals, careful siting of structures and other methods, throughout rural areas.*

If conditions can be imposed to limit buildings on the new allotment to discrete areas, then together with the protection of the bush areas, these controls should mitigate the landscape changes that could result from an additional dwelling site.

6.2.4 Summary of Assessment of Policies and Objectives of the TRMP.

Overall I consider that this application is not contrary to the relevant Objectives and Policies of Chapters 7 and 9 of the TRMP.

7. SUMMARY AND CONCLUSIONS

- 7.1 It is proposed to create one new title resulting from the subdivision of an existing title of 21.76 hectares. The additional title (Lot 2) is 4.6 hectares with a balance area (Lot 1) of 16 hectares in area. The underlying zone is Rural 2.
- 7.2 If conditions recommended below, can be imposed on the subdivision consent, then the overall adverse effects are considered to be no more than minor and this application is considered to be in accordance with the Objectives and Policies of the TRMP for the Rural 2 Zone.

8. RECOMMENDATION

- 8.1 That Subdivision Consent (RM100199) be **GRANTED** subject to the following conditions:

9. CONDITIONS (RM100199)

9.1 Subdivision Consent RM100199

Subdivision Plan

1. The subdivision and development shall be carried out generally in accordance with the application plan prepared by Planscapes New Zealand Limited, titled "Proposed Subdivision of Lot 1 DP 20561 and Sec 1 SO 15517", and attached to this consent as **Plan A – RM100199**

Easements

2. Easements are to be created over any services located outside the boundaries of the lots that they serve as easements-in-gross to the Tasman District Council for Council reticulated services or appurtenant to the appropriate allotment.
3. Reference to easements is to be included in the Council resolution on the title plan at the section 223 stage.

Access Formation, Right-of-Way A

4. The access shown as Right-of-Way A shown on **Plan A – RM100199** shall be formed as follows:
 - i) A minimum lane width of 5.0m;
 - ii) A maximum gradient of 1:5;
 - iii) A two coat chip sealed surface if the gradient is greater than 1:6;
 - iv) One metre wide side drains with approved culverts;
 - v) Two 500mm wide metal shoulders;
 - vii) Compacted basecourse if gradient is less than 1:6.

Engineering Plans

5. Engineering plans detailing the right-of-way formation are required to be submitted to the Tasman District Council Engineering Manager for approval prior to the commencement of any works. All engineering details are to be in accordance with the Tasman District Council Engineering Standards and Policies 2008.

Commencement of Works and Inspection

6. The Tasman District Council Engineering Department shall be contacted five working days prior to the commencement of any engineering works.
7. No works shall commence on-site until the engineering plans have been approved by the Tasman District Council Engineering Manager.

Engineering Works

- All works shall be constructed in strict accordance with the Tasman District Council Engineering Standards and Policies 2008, or to the Tasman District Council Engineering Manager's satisfaction.

Engineering Certification

- At the completion of works a suitably experienced chartered professional engineer or registered professional surveyor shall provide the Tasman District Council Engineering Manager with written certification that the works have been constructed in accordance with the approved engineering plans, drawings and specifications and any Council approved amendments.

Consent Notices

- The following consent notices shall be registered on the certificate of title for the relevant allotments pursuant to Section 221 of the Resource Management Act.

The consent notices shall be prepared by the applicant's solicitor and submitted to Council for approval and signing. All costs associated with approval and registration of the consent notices shall be paid by the consent holder.

Consent notices in accordance with conditions of this consent shall be placed on the allotments as they are created:

A. Building Location Restrictions

For Lot 2 all buildings shall be located within the Building site area XYZ.
(Building site area to be confirmed at the hearing)

B. Spring Water supply

No water supply shall be taken from the spring that feeds into the water easement D, E and F, created by transfer 5053722.2 on the CT 100963, except where it is taken downstream from the existing water take.

C. Building Colour

The exterior of all new buildings (including water tanks) on Lots 1 and 2 shall be finished in colours that are recessive and which blend in with the immediate environment.

Buildings shall be finished in colours that meet the following standards:

Colour Group	Walls	Roofs
Group A	A05 to A14 and reflectance value < 50%	A09 to A14 and reflectance value < 25%
Group B	B19 to B29 and reflectance value < 50%	B23 to B29 and reflectance value < 25%

Colour Group	Walls	Roofs
Group C	C35 to C40 and reflectance value < 50%, and hue range 06-16	C39 to C40 and reflectance value < 25%, and hue range 06-16
Group D	D43 to D45 and reflectance value < 50%, and hue range 06-12	Excluded
Group E	Excluded	Excluded
Finish	Matt or Low-Gloss	Matt or Low-Gloss

* Based on BS5252:1976 (British Standard Framework for Colour Co-ordination for Building Purposes). Where a BS5252 descriptor code is not available, a sample colour chip equivalent to acceptable BS5252 colours is satisfactory.

The exterior surfaces of all buildings shall be non-reflective.

D. No further subdivision of Lots 1 and 2

There shall be no further subdivision of Lot 1 or 2, except for minor boundary adjustments that do not result in any additional titles.

E. Residential Building on Lot 2

Lot 2 shall contain no more than one residential building.

F. Water Storage for Fire fighting

Any residential building on Lot 2 shall be provided with a fire fighting water supply system that complies with SNZ PAS 4509:2008 - The NZFS Fire Fighting Water Supplies Code of Practice.” This system shall be maintained.

G. Services

Power and telephone cables within Lot 2 shall be laid under ground to the dwelling site.

QE2 Trust Covenants

11. The covenant areas of native bush shown on Plan A, as agreed to by the Queen Elizabeth II Trust, shall be protected by way of an Open Space covenant administered by the Queen Elizabeth II National Trust.

The covenant documentation shall be completed prior to the issue of the Section 224 (c) certificate.

All costs shall be met by the applicant.

Cottage on Lot 2

12. All relevant building consents and resource consents (where required) shall be obtained for the cottage on Lot 2 prior to the issuing of the Section 224 (c) certificate, or alternatively; the building removed from the site. A report shall be provided to the satisfaction of the Council's Environment & Planning Manager confirming that the effluent disposal system can function without adversely affecting the receiving environment.

Financial Contributions

13. Payment of financial contributions assessed as follows:

Reserves and Community Services

5.5% of the assessed market value of the area of one notional 2,500 square metre area within a notional building Site on Lot 2 as identified on **Plan A RM100199**.

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, a revised valuation will be required and the cost of the revised valuation shall be paid by the Consent Holder.

Advice Note – Development Contributions

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.

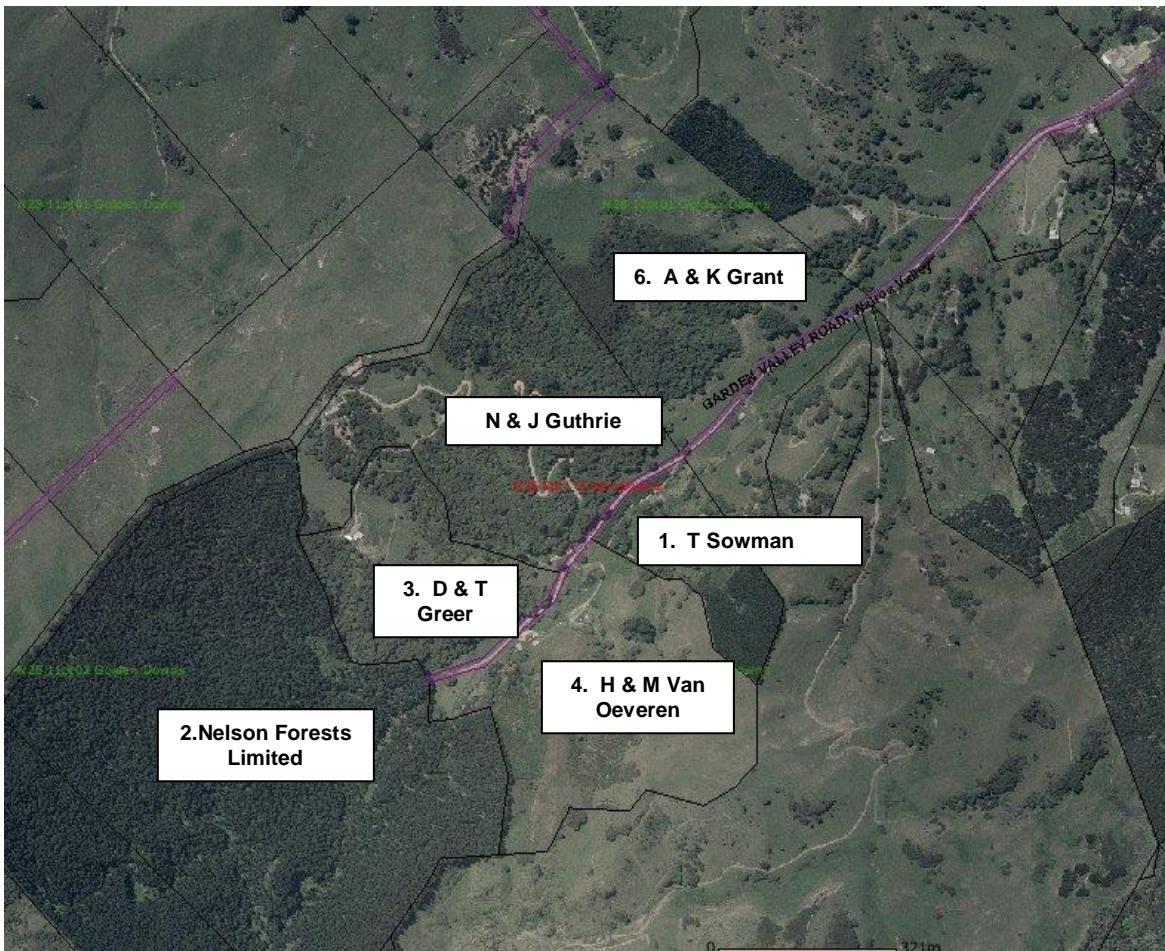
This consent will attract a development contribution for one new lot in respect of **roading**.

Mark Morris
Co-ordinator - Subdivision Consents

**APPENDIX 1:
Location of Proposed Subdivision Site.**



**APPENDIX 2:
Location of Submitters:**



MEMORANDUM

TO: Mark Morris, Coordinator Subdivision Consents

FROM: Dugald Ley, Development Engineer

DATE: 19 July 2010

FILE NO: RM100199

SUBJECT: N AND S GUTHRIE, 250 GARDEN VALLEY ROAD, BRIGHTWATER – TWO-LOT SUBDIVISION AND RIGHT-OF-WAY

PURPOSE

This report outlines issues relating the creation of one additional (4.6 hectare) allotment at the end of Garden Valley Road with access being achieved via an existing right-of-way some 1000 metres long.

BACKGROUND

Garden Valley Road off Wairoa Gorge Road is an unsealed access place of approximately 5.4 metre carriageway which carries approximately 120 vehicles per day (approximately 16 lots). The applicant and Council staff have had a number of discussions in regard to the Garden Valley Road upgrade should further subdivision of land in the valley occur. The present road has some corners where sight visibility could be improved by the trimming of vegetation in some places. In places the road is not located on legal road reserve.

In 2008 the applicant was proposing an additional three lots and he then employed a traffic consultant to gauge what upgrading works were required on Garden Valley Road. That resulted in a letter (12 March 2009) from the traffic engineer specifying six areas where Garden Valley Road could be improved. However, some of the improvements were on private property and could not be made conditions of consent, ie third party. We are not aware that these improvements have been carried out however the applicant via their advisers are submitting that they consider now with only one extra user (one lot) that no improvements are required on Garden Valley Road. I concur to some degree that with the additional one lot being created and this potential of approximately 6-7 vehicles on the Garden Valley Road, then the effects would be less than minor and the imposition of road upgrades if requested would be unreasonable.

Right-of-Way A

Approximately 1020 metres in length, parts of the right-of-way have been surveyed by the applicant as well as part of a submission and both reveal that it is steeper than the Tasman District Council standard of 1-in-6 for an unsealed right-of-way viz Fig 16.2A TRMP. Results show that in parts it is down to 1-in-4.6. Grades of this nature become unstable (corrugations and basecourse unravelling) due to front-wheel drive vehicles losing traction. Once this occurs pavements deteriorate rapidly and erosion of the wheel tracks occurs in storm events. In addition maintenance of side drains seems to be lacking and again stormwater is allowed to easily erode pavement layers. The present right-of-

way alignment would be difficult to regrade without major cuts and soil disturbance and it is my view that for the additional user the right-of-way will need to be reshaped (cross-fall), side drains formed, and the road sealed with a 2-coat chip seal (minimum 3.5 metre width) from chainage 100 to chainage 800 (Planscapes plan job 0241, sheet 1). Seal widening will be required on corners and at appropriate passing bays (these to be dictated at engineering plan stage submission).

OTHER ISSUES

The new lot shall be self-sufficient in regard to water supply and wastewater/stormwater disposal. However power and telephone shall be laid underground to the utility operator's requirements.

Development contributions in respect of roading will be required for the new lot 2.

Engineering plans will be required for the right-of-way upgrading requirements as set out above together with certification of the works on completion. All work shall comply with the current Tasman District Council Engineering Standards.

Dugald Ley
Development Engineer

MEMORANDUM

TO: Mark Morris
FROM: Andrew Burton, Resource Scientist (Land)
DATE: 21 July 2010
FILE NO: RM100199
SUBJECT: SOIL PRODUCTIVITY REPORT - GUTHRIE SUBDIVISION

The application area, consists of 21.7 hectares of hill country situated in Garden Valley, Wairoa Gorge.

Soils: Mapped as Heslington Steepland + Wantwood hill soil complex. They are moderately fertile, well structured soils suitable for pastoral and forestry use.

Slope: predominant slope is 24°. Suitable for pastoral and forestry use.

Climate: Suitable for pastoral and forestry use. Rainfall is 1150mm p.a. but subject to droughts in summer.

Vegetation cover: Intact predominantly native forest and scrub cover – 15.6 hectares
Scattered native trees (some exotic) – 3.6hectares
Pasture – 2.5 hectares

(The native forest areas have been surveyed for QE2 covenant purposes.)

With regard to soils, slope and climate influences, the application area is suitable for pastoral and production forestry activities.

The existence of a significant cover of native forest and scrub vegetation has a strong influence on the present and probable future use of the land. The intrinsic value of some of this vegetation, approximately 7.9 hectares, is high and has been assessed as suitable for a QE2 covenant application. The remaining native vegetation, being predominantly regenerating manuka, also has some aesthetic and biodiversity value which could strongly influence land use options in the future.

The area of land potentially available for productive purposes is small and could be classed as “lifestyle block” in size. Consequently the likelihood of this block being used for serious productive use is negligible.

The overall effect of the proposed subdivision is insignificant with regard to the productive potential of the land.

Andrew Burton
Resource Scientist (land)