



STAFF REPORT

TO: Environment & Planning Committee

FROM: Wayne Horner, Consent Planner, Subdivision

REFERENCE: RM100507

SUBJECT: **P WARREN - REPORT REP10-11-04** - Report prepared for meeting of 29 November 2010

APPLICANT

Peter Warren.

PROPOSAL

A section 357 objection to Condition 9 (Financial Contribution for Reserves and Community Services) of RM100507 that seeks the deletion of Condition 9.

LOCATION DETAILS

Address of Property: 253 Pigeon Valley Road, Wakefield

Legal Description: Part Section 1 Block 3 District of Waimea South

Computer Freehold Register: NL82/114

Valuation Number: 1937005000

1. INTRODUCTION AND BACKGROUND

In 1990 a dwelling for tourist accommodation was constructed on the existing title as a permitted activity in conjunction with the existing dwelling. No resource consent was required for this tourist accommodation as it was a permitted activity under the Waimea Transitional Plan, Section 501.10.

The tourist accommodation is self contained with full kitchen facilities and the applicants have volunteered for this building to be the dwelling for Lot 1.

Existing use rights for the tourist dwelling will be withdrawn once Lot 1 changes ownership.

The applicants have applied for a two lot subdivision with the existing dwelling being contained within Lot 2 and the tourist accommodation contained within Lot 1. Consent was granted under RM100507.

The applicants operate a fly fishing guiding operation from this site where the tourist accommodation is offered to clients.

2. SECTION 357 OBJECTION

2.1 Condition 9 of RM100507 (Financial Contributions)

The objection is seeking relief under Section 16.5.4.4 Reductions, Waivers and Offsets of Financial Contribution on Building Development. However as this is a subdivision application Section 16.5.4.4 cannot be taken into account with the relevant section being 16.5.2.3. See below.

For clarity the advice notes attached to Condition 9 that advise the requirement for a Development Contribution cannot be objected to under s357 and are not considered as part of this report.

Consideration was given to the appropriateness of a financial contribution for reserves and community services prior to RM100507 being granted, with the following reasoning:

Reserve Fund Contribution

As the dwelling for visitor accommodation will become the dwelling for Lot 1 there will be an increase in the level of occupancy for the dwelling and also demand for recreational services in the surrounding area. Therefore, it is considered appropriate to apply the requirements of Rule 16.5.2.1 for the creation of this new title and require a reserve fund contribution.

Under Section 16.5.2 it states that a financial contribution will be taken with respect to each allotment created by subdivision, less any existing certificates of title created by a subdivision consent process as required by Section 16.5.2.1(a). In this case there would be a credit for one certificate of title. This has been applied with one reserve and community services financial contribution for the additional lot created.

Section 16.5.2.3 (c) sets out the circumstances where Council may waive or reduce the levy for reserves and community services. The levy is not charged where lots are created for a network utility. Circumstances which may warrant a reduction or waiver include:

- (i) *where work is or has been undertaken or services provided, by agreement between the Council and the subdivider, that are greater than those necessary to manage adverse effects arising from the subdivision;*

No agreement for works or services has been entered into in this case.

- (ii) *where an activity is to be established which will have no adverse impact on the environment, particularly the infrastructure, reserves or community services of the District;*

While the existing building is being operated as tourist accommodation the occupancy of the building would be variable. The building is offered for the exclusive use of clients within the trout fishing season and may be offered for short term accommodation outside the fishing season.

The applicant has not supported their objection or application with any occupancy data for the tourist accommodation building.

Under Section 17.6.2.2 Home Occupation, up to six visitors at any one time may be accommodated within this building in addition to the right for the building to become a residential dwelling. The conversion of this tourist accommodation building to a residential dwelling, with inherent visitor accommodation potential, would increase the demand for reserves and community services.

While the tourist accommodation building would meet the definition of a dwelling under the TRMP it's use is restricted to that of tourist accommodation for short term accommodation. It's occupancy and use is different to a family dwelling where there is direct or indirect year round demand and benefit from Council's community services facilities including reserves, libraries and community programmes and funding.

- (iii) *where work is or has been undertaken or land set aside that will result in substantial environmental compensation.*

There is no environmental compensation or works offered.

- (iv) *where the applicant has previously carried out work or provided services or land, with the agreement of Council, that exceeded the requirements that applied to an earlier subdivision, and the applicant has not been compensated by any other means.*

There is no previous subdivision stage, or works carried out.

Summary and Conclusions

The TRMP requires a financial contribution for reserves and community services at the time a new title is created and this has been done in this case.

The demand for reserves and community services in this area is likely to be increased as a result of this subdivision.

The reasons for granting relief as laid out in Section 16.5.2.3 (c) (i) to (iv) do not appear to be met, as discussed above.

3. RECOMMENDATION

That Condition 9 of RM100507 (Financial Contributions) remain unchanged.

Wayne Horner
Consent Planner, Subdivision



RESOURCE CONSENT DECISION

Resource Consent Number: RM100507

Pursuant to Section 104B of the Resource Management Act 1991 (“the Act”), the Tasman District Council (“the Council”) hereby grants resource consent to:

Peter Maurice Warren and Alison Margaret Warren
(hereinafter referred to as “the Consent Holder”)

Activity authorised by this consent: To subdivide the land described as Part Section 1 Block 3 District of Waimea South (NL82/114) to create Lot 1 containing an area of 1.6 hectares and Lot 2 containing an area of 8.4 hectares with a right-of-way over Lot 2 to provide access to Lot 1.

Location details:

Address of Property: 253 Pigeon Valley Road, Wakefield
Legal Description: Part Section 1 Block 3 District of Waimea South
Computer Freehold Register: NL82/114
Valuation Number: 1937005000

Pursuant to Section 108 of the Act, this consent is issued subject to the following conditions:

CONDITIONS

General

1. The subdivision shall be undertaken in accordance with the scheme plan prepared by Newton Survey, titled *Lots 1 and 2 being Proposed Subdivision of CFR NL82/114, 253 Pigeon Valley Road*, dated 30 July 2010 and attached to this consent as Plan A. If there is conflict between the information submitted with the consent application and any conditions of this consent, then the conditions of this consent shall prevail.

Easements

2. Easements are to be created over any services located outside the boundary of the allotment that they serve in relation to power and telephone services. Reference to easements is to be included in the Council resolution on the title plan and endorsed as a Memorandum of Easements.

3. Easements shall be created over any right-of-way and shall be shown in a Schedule of Easements on the survey plan submitted for the purposes of Section 223 of the Act. Easements shall be shown on the land transfer title plan and any documents shall be prepared by a solicitor at the Consent Holder's expense.
4. The survey plan that is submitted for the purposes of Section 223 of the Act shall include reference to easements and define the sight line covenant area.

Sight Lines

5. The vegetation and/or structures within the sight line visibility area required for vehicles exiting Lot 2 shall be removed, to the satisfaction of Council's Engineering Manager.

Access

6. The vehicle crossing from Pigeon Valley Road for Lot 2 shall have a minimum carriageway width of 5.0 metres and shall be designed and constructed in accordance with attached Plan B with:
 - (a) a formed and sealed surface between the edge of the seal of the carriageway of Pigeon Valley Road to at least 10.0 metres from the edge of the carriageway;
 - (b) the first 6.0 metres in from the vehicle access carriageway formation from the sealed part of Pigeon Valley Road shall have a maximum grade of not more than 1-in-9;
 - (c) a minimum 375 millimetre diameter culvert drain shall be provided where the vehicle crossing is over a roadside drain;
 - (d) vehicle crossings shall be permanently surfaced with chip seal (minimum Grade 4 chip first coat, followed by a Grade 6 void fill second coat), asphaltic concrete or concrete;
 - (e) a Vehicle Access Crossing Permit is shall be applied for from Council's Engineering Department prior to any construction works taking place on the crossing for Lot 2.

Engineering Works

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

Consent Notices

8. The following consent notices shall be registered on the certificates of title for Lots 1-2 pursuant to Section 221 of the Resource Management Act. The consent notices shall be prepared by the Consent Holder's solicitor and submitted to the Council for approval and signing. All costs associated with approval and registration of the consent notices shall be paid by the Consent Holder.

- (a) The sight line protection areas identified on the Land Transfer Plan for Lot 1 DP.....and Lot 2 DP.....shall be maintained to be clear of landscape plantings.
- (b) No new building shall be constructed on Lot 1 for use as a residential dwelling unless approved by resource consent.
- (c) The owners of Lot 1 DP.... and Lot 2 DP.....shall not call upon the Tasman District Council to carry out any works within Right-of-way A.

Financial Contributions

9. The Consent Holder shall pay a financial contribution for reserves and community services in accordance with following:
- (a) the amount of the contribution shall be 5.62 per cent of the total market value (at the time subdivision consent is granted) of a notional 2500 square metre building site within Lot 1;
 - (b) the Consent Holder shall request in writing to the Council's Consent Administration Officer (Subdivision) that the valuation be undertaken. Upon receipt of the written request the valuation shall be undertaken by the Council's valuation provider at the Council's cost;
 - (c) if payment of the financial contribution is not made within 2 years of the granting of the resource consent, a new valuation shall be obtained in accordance with (b) above, with the exception that the cost of the new valuation shall be paid by the Consent Holder, and the 5.62 per cent contribution, less the value of the public access easement, shall be recalculated on the current market valuation. Payment shall be made within two years of any new valuation.

Advice Notes:

A copy of the valuation together with an assessment of the financial contribution will be provided by the Council to the Consent Holder.

Council will not issue a completion certificate pursuant to Section 224(c) of the Act in relation to this subdivision until all development contributions have been paid in accordance with the 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 that are current at the time the relevant development contribution is paid in full. This consent will attract a development contribution on one lot in respect of roading.

ADVICE NOTES

Council Regulations

1. This resource consent is not a building consent and the Consent Holder shall meet the requirements of Council with regard to all Building and Health Bylaws, Regulations and Acts.

Other Tasman Resource Management Plan Provisions

2. Any activity not covered in this consent shall either comply with: 1) the provisions of a relevant permitted activity rule in the Tasman Resource Management Plan; or 2) the conditions of separate resource consent for such an activity.

Resource Management Act 1991

3. Access by the Council's officers or its agents to the property is reserved pursuant to Section 332 of the Resource Management Act 1991.
4. Pursuant to Section 127 of the Resource Management Act 1991, the Consent Holder may apply to the Consent Authority for the change or cancellation of any condition of this consent.

REASONS FOR THE DECISION

Background to Proposed Activities

In 1990 a dwelling for tourist accommodation was constructed as a permitted activity in conjunction with the existing dwelling on the current title. No resource consent was required for this tourist accommodation dwelling as it was a permitted activity under the Waimea Transitional Plan, Section 501.10. There is no requirement for the tourist dwelling to be on a site occupied by an existing dwelling. Existing use rights for the tourist dwelling will be withdrawn once Lot 1 changes ownership. No new building that is a dwelling will be constructed on Lot 1 without resource consent approval.

Tasman Resource Management Plan ("TRMP") Zoning, Area, and Rules Affected

According to the TRMP the following apply to the subject property:

Zoning: Rural 2 Zone
Area(s): Land Disturbance Area 1

No person may subdivide land within Tasman District as a permitted activity according to the TRMP. The subdivision authorised by this resource consent is deemed to be a discretionary activity under Rule 16.3.6.2 of the TRMP.

Principal Issues (Actual and Potential Effects on the Environment)

The principal issue(s) associated with the proposed activities involve the actual and potential effects on the environment. For this application these include:

Rural Land Fragmentation Patterns

The current title contains Class D Soils with a variable contour so the loss of productivity as a result of this proposal is not considered to be significant.

Access

The proposed right-of-way will be in the same location as the existing access. There has been some vegetation clearance to provide improved sight line visibility. Council's

Development Engineer has advised that the required sight line visibility is 115 metres along this part of Pigeon Valley Road.

The applicant has requested that the existing access formation be accepted by Council in this case. While the existing formation is narrow, it is short and straight with good visibility over its length. There will be room for vehicles to pass at the new entrance with 5.0 metres of sealed width required, and at the end of the right-of-way. With only two lots served by this right-of-way traffic conflict should not be significant.

Visual Effects

At present the majority of Lot 1 is covered in mature landscape vegetation that obscures the existing tourist accommodation building. As a permitted activity the tourist accommodation building may be altered to be up to 7.5 metres in height and the landscaping removed. This would make the existing building more visible to the surrounding neighbours. The applicant has volunteered to relinquish the existing use rights for the tourist dwelling on Lot 1 once there is a change of ownership and therefore this building will become the dwelling for Lot 1.

Reserve Fund Contribution

As the dwelling for visitor accommodation will become the dwelling for Lot 1 there will be an increase in the level of occupancy for the dwelling and also demand for recreational services in the surrounding area. Therefore, it is considered appropriate to apply the requirements of Rule 16.5.2.1 for the creation of this new title and require a reserve fund contribution.

The Council considers that the adverse effects of the activity on the environment will be no more than minor for the following reasons:

- (a) the existing use rights for the tourist accommodation dwelling have been specifically withdrawn and the tourist accommodation dwelling will become the residential dwelling for Lot 1;
- (b) no additional building development rights are being gained by this subdivision and therefore there will be no additional visual effects as a result of this subdivision;
- (c) there may be additional traffic using Pigeon Valley Road as a result of this subdivision. However, these additional traffic effects would be less than minor in this case.

Relevant Statutory Provisions

In considering this application, the Council has had regard to the matters outlined in Section 104 of the Act. In particular, the Council has had regard to the relevant provisions of the following planning documents:

- (a) the Tasman Regional Policy Statement (TRPS);
- (b) the Tasman Resource Management Plan (TRMP).

Most of the objectives and policies contained within the TRPS are mirrored in the TRMP. The activity is considered to be consistent with the relevant objectives and policies contained in Chapters 5 and 7 of the TRMP.

Part II Matters

The Council has taken into account the relevant principles outlined in Sections 6, 7 and 8 of the Act and it is considered that granting this resource consent achieves the purpose of the Act as presented in Section 5.

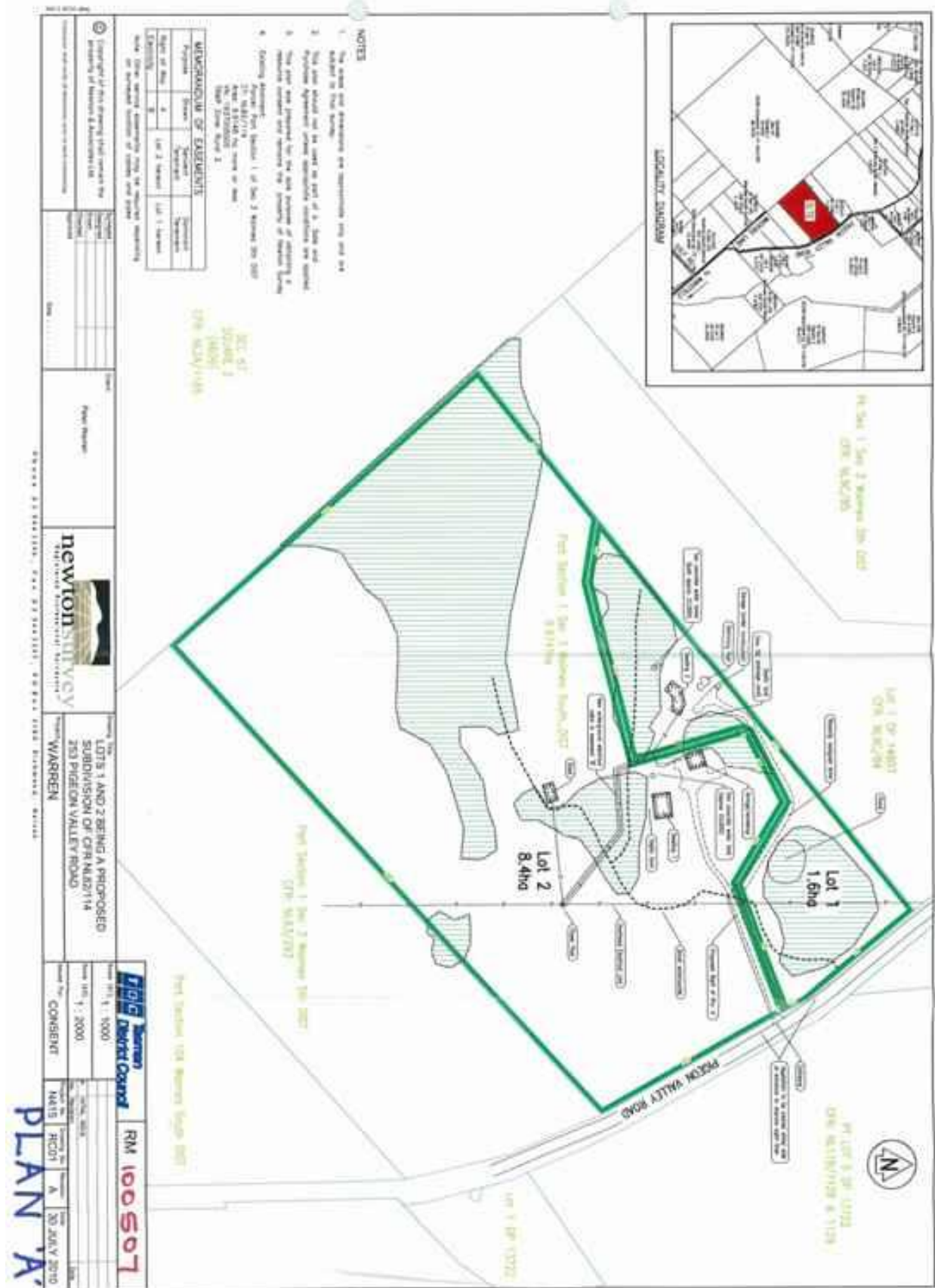
Notification and Affected Parties

The adverse environmental effects of the activity are considered to be no more than minor. The Council's Resource Consents Manager has, under the authority delegated to him, decided that the provisions of Section 95 of the Act have been met and therefore the application has been processed without notification.

This consent is granted on 7 October 2010 under delegated authority from the Tasman District Council by:

Wayne Horner
Consent Planner, Subdivision

Plan A
RM100507



NOTES

1. The above plan and drawings are prepared in accordance with the rules and regulations of the Survey Act.
2. This plan should not be used as part of a title deed and any reference to this plan should be made in accordance with the provisions of the Survey Act.
3. The plan is prepared for the sole purpose of showing the boundaries and areas of the lots and should not be used for any other purpose.
4. General Remarks:
 - a. Refer to the Survey Act for details of the provisions of the Survey Act.
 - b. Refer to the Survey Act for details of the provisions of the Survey Act.
 - c. Refer to the Survey Act for details of the provisions of the Survey Act.

MEMORANDUM OF EXEMPTIONS			
Exemption No.	Section	Particulars	Remarks
1	Section 4	Lot 1 & 2	Lot 1 & 2

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Plan B
RM100507

