

**IN THE MATTER OF THE RESOURCE
MANAGEMENT ACT 1991 AND THE
RESOURCE MANAGEMENT REGULATIONS
1991**

AND

**IN THE MATTER OF AN APPLICATION FOR A
SUBDIVISION CONSENT BY TARARUA
VISTA PARTNERSHIP, HIGH STREET,
MASTERTON.**

NOTICE OF DECISION

1.0 Proposal

A. Subdivision

- 1.1 To subdivide the subject land contained in three titles, into 40 new building sites, four reserves, one road, three utility sites and the Masterton Motor Lodge, the balance, being Lot 41 together with associated rights of way.
- 1.2 The lots range in size from 1850m² to 2.20ha.
- 1.3 Reserves will be established to protect an area of bush, provide access to a large cut off drain traversing the site and to ensure that development is kept clear of the fault line.
- 1.4 Access will be by way of a new road off State Highway 2.

B. Land Use Consent to Erect Dwellinghouses on Lots 12 to 25.

- 1.1 To erect dwellinghouses on all of the lots located in the Industrial Management Area within the proposed development.

2.0 The Site

- 2.1 The proposed subdivision is located on the northern side of High Street at the southern end of Masterton, located on NZMS 260, Sheet T26 coordinates 305240.
- 2.2 The legal description of the site is Lots 1 and 2 DP 70155 and Lot 1 DP 36961. They are contained in Certificates of Title 39A/156, 3A/157 and D4/668.
- 2.3 The site is flat land currently in pasture. Other vegetation on the property includes a number of well established indigenous trees such as totara, titoki and kahikatea.
- 2.4 There is a concentrated area of indigenous bush approximately 500m from High Street on the western boundary. This area also contains springs and a waterway which provide a habitat for native brown mud fish.
- 2.5 The site is traversed by a number of open and tiled drains and streams. There are also significant springs.

- 2.6 A deep storm water cut-off drain traverses the property, this drain is maintained by the Masterton District Council.
- 2.7 The Masterton Fault Line traverses the property approximately halfway between SH 2 and Tranz Rail. Investigations by the Institute of Geological and Nuclear Sciences have located the fault
- 2.8 The road frontage to the east of the property contains an existing motel, known as the Masterton Motor Lodge, it covers approximately 2.2ha of the total property.
- 2.9 There is an existing house at the western end of the road frontage. This dwelling is surrounded by a number of well established ornamental trees. This site is 4180m² and will form Lot 1.
- 2.10 The site encompasses two different management areas, the two thirds fronting High Street are in the General Business Management Area and the third adjoining Tranz Rail is in the Industrial Management Area.
- 2.11 The site is bounded to the west by bare industrial land, to the north by Tranz Rail and the rural land, to the northeast by industrial land owned by ENZA and the Solway Reserve; to the southeast by Copthorne Resort Hotel, and to the south by State Highway 2 and residential land.
- 2.12 There is a strip of land bisecting the front two thirds which belongs to an other landowner.

3.0 Notification

- 3.1 The proposal was publicly notified and ten submissions were received.

4.0 Submissions

- 4.1 A summary of the submissions received is listed below

Wellington Regional Council

Ecological features – consider that the whole area of remnant forest be protected as a reserve.

Other significant trees outside of the reserves should be protected by covenant.

The stream running through Lots 16,24 and the reserve be retained as surface flow rather than piped.

Reverse Sensitivity - Imposition of a right to carry out industry covenant on titles in the Industrial area with the addition of odour to unavoidable effects.

Question the responsibility for the storage of hazardous substances in close proximity to a residential area.

Department of Conservation

Bush remnant requires further protection. Fresh water springs contain brown mudfish.

ENZA Ltd Pragnall Street

Assessment of environmental effects.

Proposal inconsistent with the relevant provisions of the District Plan.

Contrary to Part 11 of the Act.

Conditions inadequate.

Incompatible with ENZA's operations.

Masterton Motor Lodge(Fergus Brown)

Supports.

Development adds financial and visual value to area for entrance to town.

Reserve will enhance recreational facilities.

Alan Pauling 281 High Street

Use of land for industry.

View of Tararuas.

Pamela and Davis Balmer 283 High Street

Section sizes, minimum 1ha, no further subdivision.

Access from Pragnall Street not SH 2.

Increased vehicle noise and lights will affect those people opposite the entranceway.

View of Tararua ranges preserved, building height restrictions.

Scenic reserve created along SH frontage extending back 80m.

No industry or commercial land use except bounding railway.

Wairarapa SPCA

Make applicants aware of the Animal Welfare Centre being built on their land and there will be noise from barking dogs from time to time.

Chris Peterson Mt Holdsworth RD 1, Carterton

Reserve area should be a larger rectangular area and include the bush remnant.

Mudfish habitat.

Robin Mackenzie & Susan Bailey 275 High Street.

Road safety when using their driveway, increased traffic movements.

Visibility due to parked traffic, visitors to adjacent residential properties, show home and Lamberts Nursery.

Traffic speed.

Type of vehicles using new road.

Position of flag light

Position of new road entrance is not acceptable.

Transit New Zealand

General effects of large scale residential developments on SH 2, and in particular

The location of new side road access relative to SH and local road access.

Lack of engineering assessment to justify a new side road intersection in the proximity of Solway Crescent.

Alternative access from Pragnall Street.

5.0 Pre-hearing Meetings

- 5.1 A pre-hearing meeting was held on 17 August 2000.
(Notes attached)
- 5.2 At this meeting all of the issues except for covenants for reverse sensitivity, access onto State Highway 2 and the protection of the remnant bush were resolved.
- 5.3 A second pre-hearing meeting was held on 7 September 2000 (Notes attached) where all of the issues regarding the remnant bush, other reserves and trees and their management were resolved.
- 5.4 During the pre-hearing meetings and at the various site meetings with all parties it became apparent that there was a presumption by the developer that there would be

residential houses permitted on the allotments in the industrial management area as of right.

- 5.5 ENZA, the Wellington Regional Council and the SPCA all had concerns with the reverse sensitivity issue that could arise from the residential use and industrial area interface.
- 5.6 So as to allow all parties to fully consider the residential use, building sites, set backs, landscaping etc further information was sought from the applicants and a further pre-hearing meeting scheduled for 9 October 2000 (Notes of this meeting are attached).
- 5.7 It was agreed at this meeting that covenants would be imposed on all of the lots except for Stage 111, with the wording of the covenant to be drawn up in consultation with ENZA and the final wording provided to the consent authority.

6.0 Statutory Requirements

- 6.1 Subdivision within the Masterton District is currently managed under the provisions of the District Plan.
- 6.2 The site is located partly in the General Business Management Area and partly in the Industrial Management Area.
- 6.3 In the District Plan all subdivision, except for special lots and developed lots is a discretionary activity.
- 6.4 Section 104 of the Resource Management Act 1991 sets out the matters to be considered in regard to an application for a resource consent. Section 104 is subject to Part II of the Act.

Subdivision is also subject to Part X of the Act.

7.0 District Plan Rules

7.1 Subdivision.

- 7.1.1 Part B.4 (subdivision) of the Management Code contains the explanation and rules that govern subdivision.
- 7.1.2 In the Urban Serviced Area of the district the minimum lot size is 300m² with an average of 350m² for 3 or more lots (Rule 4.2.4)
- 7.1.3 Minimum frontage requirements (Rule 4.2.5) are that all lots must comply with Section 321 of the Local Government Act 1974 and the access requirements of this code contained in Rule B.2.4.

7.2 Permitted Activities

- 7.2.1 Whilst this application is primarily for the subdivision of land there is also the issue of the erection of dwellinghouses on the resultant lots.
- 7.2.2 In the General Business Management Area dwellinghouses are permitted activities.
- 7.2.3 In the Industrial Management Area dwellinghouses are not permitted and must therefore be considered as a discretionary activity.

- 7.2.4 All dwellinghouses if permitted will have to comply with the requirements of Part B 7 of the district plan which contains the yard requirements, height to boundary and noise.
- 7.2.5 Other permitted activities in the General Business area are *inter alia* General Business, Secondary Industry, Visitor Accommodation, Marae, Warehouse Trading and Entertainment Activities.
- 7.2.6 In the Industrial Management Area permitted activities are Primary Industry.

8.0 Management Strategy - Significant Resource Management Issues in the District Plan are detailed below:

8.1 *Objective 7 – Efficient Development*

Policy 7.1

To promote an efficient pattern of subdivision that protects environmental values and systems, and the potential of resources.

Policy 7.2

To promote the efficient development of resources by requiring an assessment of alternative methods and sites for the proposed developments with significant implications for resource use or adverse environmental effects.

Policy 7.3

To minimise the use of undeveloped natural and physical resources by promoting the efficient use of existing resources.

Discussion

In this instance the land is within the urban serviced area of the district where services are available within the existing infrastructure. The development of this land has always been contemplated.

8.2 *Objective 13 Significant Natural Resources*

Policy 13.1

To identify and protect important natural resources within the district, and their associated values.

8.3 *Objective 17 – Amenity Values*

Policy 17.1

To establish environmental standards for activities to avoid, remedy or mitigate potential effects on amenity values.

Discussion

Amenities are those natural features or aspects about an area which enhance it or make it more pleasant to be in. These can include sunlight and landscaping, but they can also include public features such as parks and reserves. Activities that adversely affect the areas amenities must be controlled, while not unduly constraining the rights of individuals to use their own properties.

The district plan contains rules that provide for the protection of these amenities. Any adverse effects identified in the Assessment of Effects can be mitigated by conditions placed on the Resource Consent.

9.0 Assessment of Actual and Potential Effects

9.1 Visual Impact

The visual effects associated with the proposed subdivision essentially relate to the future development of the subdivided lots. Such visual effects will be both permanent and temporary in nature. Permanent effects will be largely associated with the construction of roads, rights of way, houses, sheds, fences, driveways, gardens, and planted trees. It is likely that these permanent effects will become lessened in time as each site becomes more established i.e. trees growing. Temporary visual effects relate mainly to earthworks associated with constructing the roads, rights of way, driveways and dwellings.

The overall visual effects will depend a great deal on the way in which the existing environment is able to “absorb” change. This is helped by –

- the size and shape of the proposed lots
- the positioning of structures in relation to the existing established trees.
- landscaping

Whilst dwellings are mentioned as effects above, they are not effects caused by the subdivision, nor are they necessarily adverse effects.

Power and telecommunications services will be underground so as to avoid adverse visual effects.

In summary it is considered that the overall visual effects of the subdivision will be minor.

9.2 Infrastructure

9.2.1 Roading

High Street is a legal road and a State Highway with a limited access status.

It is proposed that vehicular access from SH2 be via a new 660metre long road ending in a cul-de-sac.

The proposed carriageway is to be 8.5 metres wide to cater for two lane traffic, the width of the entranceway has been agreed with Transit.

Footpaths will be provided on both sides of the road, but these may vary in width to accommodate trees.

The developer has agreed to the taking of land along the frontage of the subdivision to allow for the provision of a footpath to the south of the town.

All road and right of way construction will be carried out in accordance with the requirements of the Council's district plan and NZS:4404.

9.2.2 Water Supply and Sewage Disposal

Reticulated water supply and sewage disposal is available for the development.

9.2.3 Storm water

There are series of water courses and depressions on the property and some of these have been modified to carry storm water from other areas.

There is also a large storm water cut off drain traversing the property, this will remain open to accommodate excessive overland storm water flows. As many of the water courses as possible should remain open as opposed to

being piped. Consent will be required from the Wellington Regional Council for any alterations to or crossings over these water courses.

Notwithstanding all of this each dwellinghouse will have to have soak pits to dispose of their individual storm water.

9.2.4 Street Lighting, Power and Telephone

All power and telephone lines will be underground and street lighting will have to comply with the new lighting standards if they are to be part of the Masterton network. The Council will have to be consulted on the type of lighting.

9.3 Transit NZ Issues

9.3.1 Transit have satisfied themselves that the new road junction is to be sited at the safest location i.e. as far from the existing Solway Crescent junction as possible and practicable.

The extra land being given by the developer along the road frontage will allow a footpath to be constructed without compromising the provision of flush medians, turning bays etc all of which gave a greater degree of safety to turning traffic.

Further monitoring would be carried out in the future to ascertain whether the additional traffic generated in the area warranted a reduction in the speed limit from 70kph to 50kph.

9.4 Ecology

9.4.1 The site contains a substantial number of mature indigenous trees such as totara, titoki and kahikatea. There is also a forest remnant known as Solway Forest Remnant C listed as an example of a lowland forest remnant with a moderate priority for protection.

The bush remnant has a fresh water springs containing native brown mud fish that are of vulnerable status and are a high priority species in the Wellington Conservation Management Strategy.

The scattered mature indigenous trees are to be protected by covenant.

The bush remnant is to be acquired as a reserve by the Masterton District Council along with the reserves along the fault line and the storm water cut off drain. It was agreed that the planting would be carried out with the help of the Department of Conservation, Wellington Regional Council and the Forest and Bird Society. A plan for the planting and management of the reserves to be drawn by the MDC in conjunction with DOC.

The Wellington Regional Council has been allocated extra funding by the Government for biodiversity, including wetland areas and this may be a source of funds for the remnant bush reserve.

9.5 Natural Hazards

9.5.1 Earthquake Faultline

The Masterton faultline runs through the site, it is listed as an active fault in the Masterton District Plan.

The District Plan provides for a set back of 20m either side of the indicated faultline and the following activities are excluded in this area:

- The erection of or extension to any building or structure.
- The subdivision of land subject to the provisions in Part B4.
- The clearing of existing bush or vegetation.
- The excavation, removal, shifting or depositing of more than 20 metres of topsoil, fill or other material.
- The use storage or production of hazardous materials.

The Lots incorporating the faultline are large enough for house sites to be 20m clear of the line.

9.6 Alternative Sites

9.6.1 The Fourth Schedule of the Resource Management Act 1991 states *inter alia* that the following matters be included in an assessment of effects on the environment:

“(b) where it is likely that an activity will result in any significant adverse effect on the environment, a description of any possible alternative locations or methods for undertaking that activity.”

Due to the site specific nature of the proposed activity, it is not appropriate to provide a description of alternative sites.

9.6.2 The proposed subdivision provided that it complies with the requirements of the Council’s District Plan and any likely adverse effects can be avoided, remedied or mitigated will not be a significant contributor to any adverse effects on the environment.

9.7 Reverse Sensitivity

9.7.1 One of the most difficult issues to resolve is that of “reverse sensitivity”. This is where existing permitted activities are entitled to carry out their activities without fear of complaint from other activities in the area that are not permitted as of right.

In this instance the land in the northern part of the subdivision is in the Industrial Management Area where residential dwellings are not a permitted activity. The industrial activities that lie to the west and the east of the proposed subdivision, need to be assured that they can carry out their day to day activities, provided that they comply with the requirements of the various legal documents in existence, without complaints from the residential dwellers who are established out of zone.

A covenant that allows the legitimate users of industrial land to carry out their activities in accordance with the rules for the district and which restricts the ability of adjacent land owners to complain, object, or bring proceedings, will be placed on all of the land in the industrial Management Area and all of the lots on the west side of the proposed new road.

The covenant is to be prepared by Counsel for the applicant.

10.00 A Decision

10A.1 The Masterton District Council grants consent pursuant to Section 105 of the Resource Management Act 1991 for the subdivision of Lots 1-50 being a subdivision of Lots 1 and 2 DP 70155 and Lot 1 DP 36961 contained in Certificates of Title 39A/156, 3A/157 and D4/668.

It is considered that the conditions imposed below will mitigate any adverse effects generated by this proposal.

- 10A.1.1 All the necessary easements for Rights of Way, sewer water, power, telephone and storm water, to be obtained and registered.
- 10A.1.2 Power and telephone services to be underground.
- 10A.1.3 A suitably qualified engineer shall be engaged to undertake the design and supervision of all of the works associated with this subdivision and shall certify the work on completion.
- 10A.1.4 All Rights of Way to be formed and sealed in accordance with the requirements of NZS: 4404.
- 10A.1.5 Consents are to be obtained from the Wellington Regional Council, where required, for the alteration or crossing of any stream within the proposed subdivision.
- 10A.1.6 Plans for all construction works to be submitted to the Council for approval prior to any earthworks or construction commencing.
- 10A.1.7 Asbuilt plans of all services to be lodged with the Council on completion of the construction works.
- 10A.1.8 The remnant bush reserve to be vested in the Masterton District Council with the responsibility for the management of it to lie with the Department of Conservation.
- 10A.1.9 A Planting and Management Plan for the remaining reserves to be drawn up by the Masterton District Council in consultation with the Department of Conservation and the applicant. The cost of the plants and the planting to be that of the applicant. (This is separate from the reserves contribution)
- 10A.1.10 A condition, the wording of ^{by Council} which is contained in the attached document is to be registered against the titles of Lots 1 - 25 to allow the adjacent industrial activities to carry out their legitimate business without undue interference.
- 10A.1.11 Mature indigenous trees on the site are not to be cut, altered, pruned or removed unless approved by the Council's Parks Asset Manager. This is to be registered against the titles of Lots 12-25 pursuant to Section 221 of the Resource Management Act 1991.
- 10A.1.12 If any archaeological site deposits are identified during any development of the land, the owner/contractor should act in good faith and avoid effect to the deposits and contact the Historic Places Trust and Iwi immediately. Under Section 99 of the Historic Places Act 1993, it is an offence to destroy, damage or modify an archaeological site (recorded or unrecorded) without an authority from the Trust, and a fine of up to \$100,000 may be imposed on an offender.
- 10A.1.13 A fencing covenant stating - "The developer shall be bound by a fencing covenant as defined in Section 2 of the Fencing Act 1978 in favour of the Council" shall be included in the memorandum of transfer or by some other means acceptable to both parties, for Lots 11, 12, 25, 34 and 50.
- 10A.1.14 A certificate pursuant to s221 of the Resource Management Act 1991 to be registered against the title of Lot 49 stating that it is not to be

used as a site for a dwellinghouse. This site is for future road access to Lot 3 B 170

- 10A.1.15 The alders planted along the western boundary are to be interplanted with natives (approximately 223 plants) from the list attached to this decision, and the north eastern boundary to be planted with natives at 1.5m centres (approximately 120 plants) from the list attached to this decision.
- 10A.1.16 Any trees that form part of the screen planting on the northeastern and western boundaries that die or are destroyed are to be replaced as soon as practicable and a consent notice is to be issued in this respect.
- 10A.1.17 A certificate pursuant to s221 of the Resource Management Act 1991 to be registered against the titles of lots 9,10,34,and 50 stating that no buildings are to be erected in the areas shown as Q, R, S, T and U on the said plan.
- 10A.1.18 Ten working days notice to be given to The Department of Conservation (Wairarapa Division) of the intention to begin construction to allow for the collection of the mud fish.
- 10A.1.19 A reserves contribution levied at 5% of the assessed land value plus GST shall be paid in as follows:

Stage 1

Lots 2 – 11 and 34 – 40 which have been valued at \$644,000.00, therefore the reserves contribution payable is \$36,225.00.

Stage 11

Lots 12 – 25, 41 and 50. Lots 12 to 25 have been valued at \$630,500.00 therefore the reserves contribution payable is \$35,465.63.

Lots 1, 17 and 41 have been exempted.

Lots 46 is Road to Vest, Lots 47 and 48 are road widening and Lot 49 is for future road access.

The reserves contribution payable for Stages 1 and 11 is –

Stage 1	\$36,225.00
Stage 11	<u>\$35,465.63</u>
	\$71,690.63

Less the total value of the reserves \$41,000.00

Total **\$30,690.63**

- Note:** Lot 50 has been valued at \$50,000 but when Stage 111 goes ahead the resultant lots will attract reserves contribution less the \$50,000 land value.

- 10A.1.20 The intersection of the new road with State Highway 2 shall be sited, designed and constructed in accordance with the requirements of Transit New Zealand and a Certificate pursuant to Section 93 of the Transit New Zealand Act 1989 be obtained on completion.

10.00.B Decision

10B.1 The Masterton District Council grants consent pursuant to Section 105 of the Resource Management Act 1991 for erection of residential houses on Lots 12-25.

It is considered that the conditions imposed in Part A will mitigate any adverse effects generated by this proposal.

10B.1.1 The following yard requirements shall apply:

Lots 12 and 17 to 25, 3m from all boundaries

Lots 13 to 16 a front yard of 4.5m, rear yard 3m, one side yard of 3m and one of 1.5m

Susan Southey
DISTRICT PLANNER

1 March 2001