

**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 adjust the boundaries of 10 lots, approved March 2001, and to create a new lot. These adjustments have become possible due to the more accurate identification of the Masterton Fault. The lot numbers remain the same as shown on DP 302512.

The land is more specifically described as Lots 9-11, 20, 21, 34, 43-45, and 49 DP 302512 contained in Certificates of Title 9780-82, 9791-92, 9797, 9806-08 and 9810.

- 1.2 The following is a schedule of the lots and proposed changes.

<u>Lot No.</u>	<u>Lot size</u>	<u>Details</u>
9	2621m ²	Adjustment
10	2620m ²	Adjustment
11	2648m ²	Adjustment
20	4563m ²	Adjustment
21	4573m ²	Adjustment
34	2855m ²	Adjustment
43	3345m ²	Reserve
44	1201m ²	Reserve
45	1024m ²	Reserve
46	2915m ²	New Lot
49	2.1ha	Balance Lot

- 1.3 The reserve area containing the bush area will remain the same and Lots 43, 44 and 45 will be vested in the Masterton District Council as Local Purpose Reserves
- 1.4 Lot 46 is a new Lot made possible by the re-definition of the Masterton Fault.

- 1.4 Access to all Lots will be off William Donald Drive.
- 1.5 The following amendments will be made to covenants and easements –
- An adjustment of the building covenant areas will be required to take into account the new position of the Masterton Fault.
 - Existing covenants Q-U will be extinguished and new covenants A1-I1 will be created.
 - New drainage easements that affect seven lots shown as B, C, G, H, J, M and N in favour of the Masterton District Council over Lots 19,20,15,16, 46, 24 and 25.
 - The easement shown as N on DP 302512 will require an additional right to convey water for Lot 1 over Lot 2 as the existing easement is currently only to drain sewage.

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 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.
- 2.3 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.
- 2.4 The site is traversed by a number of open and tiled drains and streams. There are also significant springs.
- 2.5 A deep storm water cut-off drain traverses the property, this drain is maintained by the Masterton District Council.
- 2.6 The Masterton Fault traverses the property and the re-defined position of the fault zone is shown as Appendix A to this decision. The original investigations by the Institute of Geological and Nuclear Sciences located the fault closer to State Highway 2 the geological study to re-define the fault has been carried out by Ian Brown and Associates for the Masterton District Council and the Wellington Regional Council.
- 2.7 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.
- 2.8 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.

- 2.9 There is a strip of land bisecting the front two thirds of the property which belongs to an other landowner.

3.0 Notification

- 3.1 The initial proposal was publicly notified, submissions were received and submitters satisfied. This proposal is a reconfiguration of the lots affected by the original fault line and the re-defined fault line and the conditions of consent will be rolled over into this decision.

4.0 Statutory Requirements

- 4.1 Subdivision within the Masterton District is currently managed under the provisions of the District Plan.
- 4.2 The site is located partly in the General Business Management Area and partly in the Industrial Management Area.
- 4.3 In the District Plan all subdivision, except for special lots and developed lots is a discretionary activity.
- 4.4 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.

5.0 District Plan Rules

5.1 Subdivision.

- 5.1.1 Part B.4 (subdivision) of the Management Code contains the explanation and rules that govern subdivision.
- 5.1.2 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)
- 5.1.3 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.

5.2 Permitted Activities

- 5.2.1 Whilst this application is primarily for the subdivision of land there is also the issue of the erection of dwellinghouses on the resultant lots.
- 5.2.2 In the General Business Management Area dwellinghouses are permitted activities.

- 5.2.3 In the Industrial Management Area dwellinghouses are not permitted and must therefore be considered as a discretionary activity.
- 5.2.4 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.
- 5.2.5 Other permitted activities in the General Business area are *inter alia* General Business, Secondary Industry, Visitor Accommodation, Marae, Warehouse Trading and Entertainment Activities.
- 5.2.6 In the Industrial Management Area permitted activities are Primary Industry.

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

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.

Objective 13 Significant Natural Resources

Policy 13.1

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

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.

7.0 Assessment of Actual and Potential Effects

7.1 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 have been undergrounded so as to avoid adverse visual effects.

William Donald Drive has been constructed together with the associated rights of way.

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

7.2 Earthquake Fault

7.2.1 The Masterton fault 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 any of the following activities in this area will require resource consent.

- 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.

8.0 Decision

- 8.1 The Masterton District Council grants consent pursuant to Section 105 of the Resource Management Act 1991 for the subdivision of Lots 9-11, 20-21, 34, 43-46 and 49 being a subdivision of Lots 9-11, 20-21, 34, 43-46 and 49 and easements over lots 1 and 2, 16-19, 22-25 and 41 DP 302512 and Lot 3 B 170 and covenants over Lots 11-16 and 25 DP 302512 contained in Certificates of Title 9780-9782, 9791, 9792, 9797, 9806-9808, 9810. Certificates of Title Easements only 9772, 9773, 9786, 9787, 9790, 9795, 9796 9804 and 123/456. Certificates of Title Covenant only 9782 to 9787 and 9796.

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

- 8.1.1 All the necessary easements for Rights of Way, sewer water, power, telephone and storm water, to be obtained and registered.
- 8.1.2 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.
- 8.1.3 All Rights of Way to be formed and sealed in accordance with the requirements of NZS: 4404.
- 8.1.4 Consents are to be obtained from the Wellington Regional Council, where required, for the alteration or crossing of any stream within the proposed subdivision.
- 8.1.5 Asbuilt plans of all services to be lodged with the Council on completion of the construction works.
- 8.1.6 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.
- 9.1.7 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)

- 8.1.8 A condition, the wording of 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.
- 8.1.9 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.
- 8.1.10 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.
- 8.1.11 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, **46** and 49.
- 8.1.12 A certificate pursuant to s221 of the Resource Management Act 1991 to be registered against the title of Lot 48 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
- 8.1.13 The alders planted along the western boundary are to be inter-planted 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.
- 8.1.14 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.
- 8.1.15 A certificate pursuant to s221 of the Resource Management Act 1991 to be registered against the titles of lots 11, 12, 13, 14, 15, 16, and 25 stating that no buildings are to be erected in the areas shown as A1, B1, C1, D1, E1, F1, G1, H1, and I1 (earthquake fault zone), and Q, R, S, T, and V on Lots 15, 16, 19, 20, 24 and 25 (drainage) on the said plan.

- 8.1.16 The following yard requirements shall apply to sites in the industrial management area:
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
- 8.1.17 A reserves contribution levied at 5% of the assessed land value plus GST shall be paid on Lot 46:

The value of Lot 46 has been assessed at \$60,000 therefore the reserves contribution payable is \$3,375.00
- 8.1.18 Titles for Lots 42, 43, 44, and 45 and a copy of the Titles for Lot 25 and Lot 10 to be provided to the Council as soon as they are available.

Susan Southey
DISTRICT PLANNER

24 September 2002.