

MINUTES of the HEARINGS COMMITTEE held in the Committee Room, Administrative Centre, 15 Fitzherbert Street, Gisborne on Wednesday 28 July 2010 at 10am

PRESENT:

Councillors Alan Davidson (Chair), Craig Bauld, Hemi Hikawai, Atareta Poananga, Pat Seymour and Kathy Sheldrake

IN ATTENDANCE:

Planner Development Control Esther Allen, Team Leader Development Control Daniel Kingsford and Committee Secretary Lesley Hillan

APPLICATION

For decision

Proposed Subdivision 617 Nelson Road – Report No. 10/482

The meeting commenced at 10am and adjourned for a site visit.

The meeting reconvened at 10.30am.

APPLICANT: W and M Zwart

This application was heard and determined by the Hearings Committee on 28 July 2010.

1.0 INTRODUCTION

- 1.1 The subject site is located at 617 Nelson Road, Gisborne, opposite the Taruheru Cemetery. The property is legally described as Lot 1 DP 6121 and comprises an area of 2.5925 hectares. The site lies on the outer fringe of the Rural Residential zone approximately 900 metres west of the City Boundary and 100-120 metres east of the Rural Production zone.
- 1.2 The site includes a dwelling unit, commercial glasshouses and ancillary buildings associated with the commercial glasshouses.
- 1.3 The applicant applied for consent to subdivide the site into three allotments. Lot 1 is proposed to be 1.529 hectares in area and will include the existing dwelling, residential accessory buildings, the remaining glasshouse and accessory buildings relating to the glasshouses. Lot 2 is proposed to be 5404m² in area and will be a vacant lot, as the applicant proposes to remove the glasshouse shown to be encroaching into this allotment. Lot 3 is proposed to be 5253m² and will also be a vacant lot. Lot 1 has existing access onto Nelson Road and both Lots 2 and 3 would have direct access to Nelson Road.

2.0 REASONS FOR REQUIRING A RESOURCE CONSENT

Part Operative Combined Regional Land and District Plan (the District Plan).

- 2.1 The site is zoned Rural Residential. Rule 12.6.2 requires a 1 hectare minimum allotment size for subdivision in the Rural Residential zone. The existing allotment is 2.5925 hectares. Proposed Lots 2 and 3 are below the minimum one hectare area.

Therefore, the proposed activity is deemed a Discretionary Activity in accordance with Rule 12.9.1 - activities which do not comply with the General Rules and are not listed as Controlled or Restricted Discretionary Activities.

- 2.2 The Rural Residential zone is generally located on the fringe of the Gisborne Urban area and fringes of the rural townships. This zone generally acts as a buffer between the more intensive residential activity and the effects associated with the Rural Productive zone. The subdivision rules set down a minimum site area for this zone which is designed to retain larger land parcels at this rural / urban interface.

3.0 CONSULTATION

- 3.1 The usual agencies and departments were advised of the application and comments regarding the following issues have been considered.

Environmental Health Section

- 3.2 The Environmental Health Section has advised that any future dwellings on the proposed lots will be required to accommodate appropriate on-site wastewater systems. The contaminated land investigation report as well as effects such noise, glare and reverse sensitivity have been assessed and are discussed further below in the assessment.

Rivers and Land Drainage Section

- 3.3 The proposed subdivision site is not in a known flood hazard area, however the land may be prone to surface ponding. There are no Council maintained drains within this property. A Council Rivers and Land Drainage Engineer inspected the site and has identified that the roadside drain will be required to be upgraded to manage stormwater discharges from the site.

Soil Conservation Section

- 3.4 The Soil Conservation Section has indicated that any future building consent would need to include a land stability report to address foundation design.

Utilities

- 3.5 The application was circulated to Council's water supply engineer, as the applicant proposes that Lots 2 and 3 will connect to the water line servicing the existing dwelling within Lot 1.

Administration Engineer

- 3.6 The Administrator Engineer has reviewed the proposal and has advised that a development contribution will be required for the creation of two additional allotments. The officer holds no other concerns about the proposal.

Roading

- 3.7 Comments received back from the Roothing Section have indicated that they have no concerns with the proposed subdivision raising any traffic issues.

Affected parties

- 3.8 The application included affected parties written approval from Kay Taylor of 633 Nelson Road.
- 3.9 The application was subject to full notification in accordance with Section 95(A) of the Resource Management Act 1991 on 8 May, 2010.
- 3.10 In response to the notification, the following parties made a submission on the application:
- M G McPhail owner of 640 Nelson Road opposes the proposal;
 - K P Seymour owner of 620 Nelson Road supports the proposal.
- 3.11 Mr McPhail states in his submission that he believes the allocation of Rural Lifestyle land already provided for through the District Plan is more than adequate to support the projected demand for this type of property. Mr McPhail believes that decisions made by the Gisborne District Council to allow proposals such as this will result in increased density of settlement in a close proximity to the Rural Productive zone. Mr McPhail maintains that this will, in turn, increase the likelihood of increasing complaints regarding dust, noise and odour from Rural Productive activities, which will eventually lead to the restriction of legitimate farming activities on nearby Rural Productive land. Mr McPhail states in his submission that he believes that the Gisborne District Council must consider the effects of allowing increased subdivision on the ability for the remaining Rural Productive land to continue to contribute to the regional economy and community.
- 3.12 Mr Seymour states in his submission that the area is a preferred area to live in and that creating quality residential lifestyle blocks is clearly the preferred use of this land. Mr Seymour discusses that, in his opinion, the effect to existing Rural Productive activities will be minimal as it will essentially decrease the pressure in the Rural Residential land from being subdivided into even smaller allotments. Mr Seymour further reiterates that he considers that the proposal is a valid use of the land.

4.0 EVIDENCE HEARD

- 4.1 The Committee heard evidence from the following people:
- Mr Zwart – applicant
 - Mr Stuart Davis on behalf of M McPhail- opposing submitter;
 - Esther Allen, reporting officer.
- 4.2 Mr Zwart agrees that any effects from the subdivision need to be controlled. He stated that his property was far enough away from the rural productive zone to not be subject to effects from the activities in that zone, although bird scarers could be heard. In this regard Mr Zwart supported the imposition of a no complaints covenant. Mr Zwart was aware of concerns about poor draining soils and a high water table but believed his land was different than most in the area. It was close to the river with natural drainage has sandy soils and he believed that the work that had been done to the land had improved drainage. This work included breaking up a hard soil layer lower down and use of tile drains
- 4.3 Mr Zwart did not consider that having two additional houses instead of one more would detract from amenity values and thought that this would be an improvement. Mr Zwart said it made sense to use the land for rural lifestyle development and that most people just wanted some extra space but not necessarily 1.0 hectare. Mr Zwart did not think that this would be a waste of land.
- 4.4 Mr Davis stated that the submission from Leaderbrand was an objection in principle and

they did not want a Claytons Plan. He pointed out that there is a significant amount of revenue generated from intensively farmed land and that it is of high importance to protect productive land.

- 4.5 Mr Davis stated that Leaderbrand was concerned that repeated piecemeal decisions to allow further fragmentation of land within the rural residential zone will result in increased urban sprawl. Mr Davis believed that this would lead to increased pressure to restrict farming activities due to concerns of residents about matters such as noise, dust spraying and odours.
- 4.6 Ms Allen the reporting officer reiterated the main points of her report, recommending that the Committee should not grant the application.

5.0 PRINCIPAL ISSUES and COMMITTEE'S FINDINGS

Amenity Values

- 5.1 The site is located on the outer fringe of the rural residential zone in close proximity to the Rural Production Zone. The rural residential zone has a distinctive semi rural character comprising mainly of rural type activities such as small-scale farming, plant related nurseries and low density residential development. This description generally reflects the activities in the local area surrounding the site.
- 5.2 The rural residential outlook on the southern side of Nelson Road may change as a result of Private Plan Change 3. Nevertheless the reporting officer still held concerns that a higher density would have an adverse impact on the rural amenity values of the CHN area. The Committee however are satisfied that the one additional allotment with associated buildings and activity will not adversely detract from existing rural amenity values.

Glare

- 5.3 The Committee were advised that glare from the remaining glasshouse may be a problem for new owners of Lots 2 and 3. On this matter the applicant offered to plant vegetation along the boundary between Lots 1 and 2 to mitigate glare and use green shade cloth until the trees have grown sufficiently. The Committee were satisfied that glare would not be a problem and that any new owners of Lots 2 and 3 should be aware of the glasshouse on Lot 1 when they purchase their properties.

Noise

- 5.4 The reporting officer raised some concern that any new dwellings located within proposed Lots 2 and 3 may be adversely affected by the noise from the boiler used for heating the remaining glasshouse. The applicant however, did provide further information that included noise monitoring showing that the current noise from the boiler, when measured on the proposed boundary between proposed Lot 1 and Lot 2, complies with the relevant District Plan standards. The applicant also highlighted that once the subdivision is completed, half of the existing glasshouses will have been removed reducing the operational time of the boiler. Consequently, the Committee were satisfied that noise generated from the boiler would not have an adverse effect on the future dwellings located within proposed Lots 2 and 3.

Contaminated land investigation

- 5.5 Given the historical uses of the land (used for pastoral farmland and a small dairy farm) and its current use as a commercial garden with glasshouses, the Committee were advised that there is potential for cumulative contamination of the soils from chemicals

used from these activities. The applicant was required to provide a site assessment report identifying the extent of any chemical contamination of the soil.

- 5.6 The applicant commissioned Contaminated Site Investigation (CSI) to complete a preliminary site investigation in accordance with MfE *Contaminated Land Management Guidelines No 1 – Reporting on Contaminated Land*. Soil tests both from inside the glasshouses and on the land on proposed Lots 2 and 3 were tested for selected metals, pesticide residuals (iprodione and DDT) and hydrocarbons from boiler fuels. The CSI report included a comparison of the tested concentrations of metals, pesticides and hydrocarbons against four New Zealand Guidelines and two international guidelines. In all cases the tested soils from land within the proposed subdivision had contaminant concentrations below recommended guideline values. On this basis the Committee is satisfied that any risk associated with soil contamination is low.

Reverse Sensitivity

- 5.7 The reporting officer advised the Committee that rural lifestyle development has the potential to place constraints on the operation of growers because of concerns of residents about matters such as noise, dust and spraying. The method of controlling residential density, works to avoid such effects. The proposed development with additional housing may present a situation where new residents may complain about the nearby farming activities. On principle such concerns were expressed by Mr Davis on behalf of Leaderbrand.
- 5.8 The Committee heard from Mr Zwart that mostly he believed that his property was far enough away from the rural productive zone and that they have not experienced adverse effects in respect of spray drift, dust or noise. Mr Zwart also advised the Committee that he was prepared to accept a no complaints covenant.
- 5.9 The Committee were satisfied on this occasion with the evidence presented by Mr Zwart and therefore do not expect that the proposed lots will be subject to adverse effects generated from the rural productive zone. Whilst, there was some discussion on the imposition of a no complaints covenant, the Committee did not think that this would be necessary for this development.

Land Fragmentation

- 5.10 The proposed subdivision would result in the creation of three allotments, two of which at just over 5000m² would be significantly below the 1.0 hectare minimum allotment size for the rural residential zone. The plan policies acknowledge the appropriateness of allowing for rural residential subdivision on the fringes of the Gisborne Urban Area where land fragmentation has already occurred. However, the District Plan rules also provide specific guidance about the density of development within this area, specifically one dwelling per hectare site.
- 5.11 Council initiated a review of the Rural Residential zone (2007) culminating in Proposed Plan Change 28. The review was to provide some guidance on the direction Council wished to take in terms of future growth areas. Council carried out a comprehensive investigation on the potential issues that may arise from an increase in density across the entire Rural Residential zone. Due to servicing issues and the complexity of the project, Council rejected a wholesale rezoning of all the Rural Residential zoned land, in favour of a staged review of zoning. The Cameron, Hansen, Nelson Road area (CHN area) which includes the subject site, 617 Nelson Road, was investigated due to development pressures and existing stormwater problems. It was identified that more intense

development would require wastewater reticulation, due to poor quality soils and drainage.

- 5.12 The reporting officer stated that the consequences of further land fragmentation in a piecemeal fashion is that it will contribute to the increased density of residential development resulting in urban sprawl, within an area which has not been identified as appropriate for denser residential development. In this regard it was considered that half hectare allotments could result in cross boundary issues in respect of stormwater and wastewater disposal and that existing problems could be compounded.
- 5.13 In response to such issues the Committee heard from Mr Zwart that the subject property did not have poor drainage or poor quality soils that would contribute to the problems with stormwater and wastewater disposal. In this regard the Committee does recognise that there are individual properties that are not subject to the wider stormwater problems experienced in the CHN area. The Committee are also of the view that through the zone review that there was some intention to provide for half hectare sites where it could be shown that this was appropriate. Ultimately on a wider scale the CHN area was not appropriate but this did not necessarily mean that individual properties would not be suitable. In this regard given that the subject property is mostly free of the constraints that affect the CHN area the Committee considers that it is not inappropriate to allow two half hectare lots.
- 5.14 The reporting officer did raise the issue of cumulative effects but the Committee is satisfied that the one additional dwelling that will be permitted from this subdivision in this part of the CHN area would not on this occasion result in an adverse cumulative effect.

The Precedent Effect

- 5.15 The reporting officer advised that regard should be given to the precedent that is likely to be set if this application is approved. The Rural Residential zone includes a large area of land between the Gisborne urban area and the Rural Productive zone with many of the properties 1.0 hectare in size or larger. However, in terms of any precedent the Committee consider that they have adequately considered the matters that relate to the subject site and on this occasion found that the specific features of this property which will not necessarily apply to other properties in the CHN area, contribute to favourable consideration of the proposed subdivision. Consequently, the Committee do not believe that this decision will set any precedent effect.

6.0 DECISION

THAT Pursuant to Sections 104(1) and 104B of the Resource Management Act 1991, the application by W and M Zwart to subdivide 617 Nelson Road, legally described as Lot 1 DP 6121 creating three lots be **granted**, subject to the following conditions:

1. The subdivision shall be carried out in general accordance with the details submitted with the application (Reference: SG-2008-103563-00, SG208130).
2. Easements as necessary shall be created and endorsed as a memorandum of easements on the face of the Survey Plan.
3. The existing glasshouse located over the boundary between Lot 1 and Lot 2 shall be removed.

4. The existing vehicle crossing serving Lot 1 shall be upgraded, formed and sealed in accordance with Chapter 15 of the District Plan and GDC Engineering Code of Practise 2000. The vehicle crossing shall also be upgraded with a suitably sized culvert to convey stormwater from a 1 in 10 year storm event without overtopping as determined by a suitably qualified engineer.
5. The vehicle crossing to serve Lot 2 shall be formed and sealed in accordance with Chapter 15 of the District Plan and GDC Engineering Code of Practise 2000. The vehicle crossing shall also be constructed with a suitably sized culvert to convey stormwater from a 1 in 10 year storm event without overtopping as determined by a suitably qualified engineer.
6. The vehicle crossing to serve Lot 3 shall be formed and sealed in accordance with Chapter 15 of the District Plan and GDC Engineering Code of Practise 2000. The vehicle crossing shall also be constructed with a suitably sized culvert to convey stormwater from a 1 in 10 year storm event without overtopping as determined by a suitably qualified engineer.
7. The Nelson Road drain at the front of the property shall be upgraded over the length of the property. It shall be constructed to convey stormwater from a 1 in 10 year storm event without overtopping as determined by a suitably qualified engineer.
8. Prior to the construction of any dwelling there shall be sufficient water volume (storage) available for each lot for fire fighting purposes in accordance with the New Zealand Fire Fighting Water Supplies Code of Practice SNZ 4509:2003.
9. Prior to building consent being issued for any future dwelling on Lots 2 and 3, detailed engineering calculations and drawings are to be submitted to Council to show how stormwater from the site will be managed. The requirement is for stormwater runoff from all buildings and impervious areas to not exceed the peak runoff as calculated for conditions prior to development occurring.
10. Prior to Code of Compliance being issued the stormwater management system outlined above shall be installed as per the specifications and drawings.
11. The stormwater management system outlined above shall be maintained in such a condition to ensure the effective functioning of the said system on a continuing basis.

Advice Note

For stormwater management options the Auckland Regional Council Technical Publication: ARC TP92 "Large Lot Stormwater Management Design Approach 1998" outlines various methods to collect and dispose of stormwater.

12. Any application(s) for building consent to erect any new building(s) and/or structure(s) on the proposed Lots 1, 2 and 3 shall include a 'Site Specific Geotechnical Report' specific to the foot print of the structure, prepared by a suitably qualified professional which:

- i Certifies to the satisfaction of the Consent Authority that the design of the foundations of the proposed building are suitable with respect to the bearing strength of the supporting ground (In accordance with New Zealand Standard), and the design has allowed for potential for liquefaction and differential settlement;
- ii Site specific geological, geomorphological and stability analysis that confirms that the proposed development will not be subject to natural hazards; and
- iii Specifies as appropriate, any remedial works to be undertaken to protect the development from natural hazards, such as amplification.

Advice Notes

- a) Water tables and soil records are available from Council bores in the area. The bore close to the south east boundary of the cemetery indicates 3 aquifer layers which sometime artesian, capped by silts and clays (probably estuary material), overlain by sand dunes and silts (probably tephra loess material). The records and discussions with the sextant at the cemetery indicate that water tables rising which become a problem (ie high than 1400mm below ground) only happens very occasionally. Information passed down from sextant to sextant indicates that this has occurred about once in 20 years. 1977 was a bad year for high water table at the cemetery as was 2006. Strengthened foundations and specific floor strengthening eg ribs or floor beams is expected to address both weak bearing strength issues and potential occasional liquefaction hazards. A conservative design approach will result in an engineering solution for these potential hazards.
 - b) Council has specific testing and reporting requirements associated with bearing strength and geotechnical investigations. These requirements are available at the Customer Reception of Council.
 - c) In the event that a satisfactory site specific geotechnical report is not provided, Council may decline applications for building consents pursuant to section S 71 of the Building Act 2004 on the subject site or issue any building consent subject to section 72 to 74 of the Building Act.
 - d) The site specific geotechnical report may be subject to independent peer review at the applicants cost.
13. A consent notice drawing attention to conditions 6, 8, 9, 10 11 and 12 shall be issued on the Title of Lot 2 pursuant to Section 221 of the Resource Management Act 1991. The consent notice shall be lodged for registration under the Land Transfer Act 1952.

Advice notes:

- a) A contaminated land investigation for Lots 2 and 3 was undertaken in December 2009 by a suitably qualified consultancy. The investigation report reference PSI 617 Nelson Road completed by Contaminated Site Investigation (CSI) contained the following conclusions from its investigation:
 - The overall risk to human health is low

- The overall risk to the environment is considered low;
- No further contaminated land investigation is necessary.

The report may be obtained from the Gisborne District Council.

- b) Any new sewage treatment and disposal system must comply with the Building Act 1991, the Resource Management Act 1991 and the Gisborne District Council's "Guidelines for the On Site Wastewater Treatment and Disposal in the Gisborne District", or an alternative system approved by Council.
- c) Any proposed wastewater treatment and disposal system that does not meet requirements of the Regional Plan for Discharges to Land Water, Waste Management and Hazardous Substances, Rule 6.4.1 will be required to gain approval for the design by way of application for Resource Consent – Discharge to Land.
- d) Any work within the road reserve must have the written approval of the Engineering and Works Division of the Gisborne District Council.

7.0 REASONS FOR THE DECISION

- 7.1 The Committee are satisfied that any effects on existing rural amenity values will be no more than minor.
- 7.2 The Committee considers that the particular soil type and drainage works on the site will mitigate any adverse effects in respect of stormwater and wastewater disposal.
- 7.3 The Committee did not consider that this development was at a scale that would compromise the zone from providing a buffer between the urban environment and the rural productive zone.
- 7.4 The Committee did not consider that the creation of one additional lot on the subject property would result in any adverse cumulative effect.
- 7.5 The Committee were satisfied that it had been shown that the site was suitable on a small scale for development of a higher density than the minimum 1.0 hectare site area for the rural residential zone. On this basis the development was considered by the Committee to be consistent with the purpose of the Rural Residential zone review.
- 7.6 The proposed subdivision is considered to be an efficient use of land that is consistent with Part II of the Resource Management Act 1991.

Councillor Poananga requested that her vote against the decision be recorded.

There being no further business the meeting concluded at 12 midday.

Alan Davidson
Chairperson