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Section 88 Resource Management Act

Application for Resource Consent to Subdivide and Land Use over Pt Lot 1 DP 1033

For: Kaikoura Trustee Company Ltd (Mark Andrews) — 1516 State Highway No 1, Mangamaunu, Kaikoura

Assessment of Environmental Effects

18th July 2022

1. Introduction

The applicant, Kaikoura Trustee Company Limited (Mark Andrews) owns a property at 1516 State Highway No 1, Mangamaunu, described as Pt Lot 1 DP 1033, being a narrow stretch of land located on the eastern side of the road, between the road and the railway line. The total area of the property is approximately 4274 m².

A residential dwelling is located at the southern end of the property.

The land in question is flat, sloping from the road towards the railway line. A small drain runs through the property at the northern end of Lot 1. To the east of the railway line is a coastal margin strip of land, which has increased in size following the recent Kaikoura earthquake.

Interests registered on the title include:-

The title has the benefit of a right to convey water (EI 7394673.4) over the land in the Mangamaunu Farm Park (DP 381400) (EI 9574535.2)

2. Proposal

Pursuant to the Resource Management Act, 1991, the Fourth Schedule of that Act, and the Kaikoura District Plan (KDP), this application is for a Subdivision Consent.

The applicant wishes to undertake a subdivision of the property, resulting in the following allotment configurations:

- Proposed Lot 1, being approximately 2440m² in area, which is a vacant allotment

- Proposed Lot 2, being approximately 1947m² in area, which the existing dwelling is located.

In conjunction with this proposal we seek consent to erect a residential dwelling on Lot 1.

Refer to Scheme Plan, Gilbert Haymes & Associates Ltd drawing Job Ref 20214391.

The geotechnical report prepared by Smart Alliances Limited is to be read as part of this application.

Approval to the subdivision will result in one additional title.

Services:

Access – Access to Lots 1 & 2 will be via a new shared entranceway to the property off State Highway No 1. A mutual right of way easement is to be created over Lot 2 appurtenant to Lot 1 and vis a versa to enable physical access to that site. The existing access entranceways to the site will be closed.

Water Supply – The existing dwelling on Lot 2 has access to water supply via the existing easement over the Mangamaunu Farm Park. The water supply for Lot 1 will be from the same existing source. A Hill laboratories water test is attached.

Sewage Disposal - The existing house is connected to a septic tank system. Lot 1 is to be serviced by a advanced secondary treatment Innoflow AdvanTex WWTP and drip dispersal.

Electricity and Telephone – The existing house is connected to these utilities. It is expected that the new allotment will connect to these services.

3. District Plan – Kaikoura District Plan

The subject land is zoned Rural on the Kaikoura District Plan planning maps (Map 35).

The subject land has a significant landscape overlay over it.

Rule 13.11.2.3.e states that any subdivision in the rural zone which is within 100 linear metres of a Coastal Marine Area is to be considered as an Unrestricted Discretionary Activity. The land in question is within 100 metres of the coastal marine area

Rule 13.12 contains the performance standards for subdivision, and in those standards matters such as access, utilities, roads and reserves, heritage items, water supply,

sanitary sewerage disposal, energy supply and telephone systems, preservation of vegetation and property access, are required to be addressed.

Rule 13.12(1)(a) of the Kaikoura District Plan states that subdivision within the Rural Zone on land within the areas of significant or outstanding landscape may have a minimum allotment area of 4 hectares as a controlled activity. This proposal does not meet this standard. Rule 13.11.2.1 requires a subdivision which does not comply with the performance standard to be considered as a restricted discretionary subdivision activity.

Rule 13.12.2 – Water supply requirements in the rural zone, where a Council or community reticulated water supply exists and has sufficient capacity, all new allotments shall be provided with a connection to the reticulated system, laid to the boundary of the allotment. Water to both allotments will be via the existing water easement over the Mangamaunu Farm Park.

Rule 13.12.6 addresses property access where every allotment shall have a frontage or access to an existing road. Vehicle crossings shall be provided in terms of the vehicle crossing provisions of the Transportation Rules.

The new vehicle entranceway will need to be constructed to the required standard.

Rule 13.12.8- Property Access refers to Table 13.12.8.a.i for standard of vehicle access to an allotment. Access to a rural allotment serving 1-5 allotments needs to have a legal width of at least 6 meters and minimum formation width of 4 metres. A passing bay is required. The proposed right of way is very short, therefore it is considered that a passing bay is not required. This aligns with the residential requirements for vehicle access.

Rule 13.12.9.a – Esplanade Provision – sets out the criteria where an esplanade reserve or esplanade strip may be required at the discretion of the Council, which includes the case where a river over 3 metres in width flows through a property. No water courses meet this requirement.

Chapter 13 'Subdivision' establishes seven issues that are associated with subdivision which need to be addressed.

Issue 1 – Natural Hazards:

The subject land is identified as having a flood/ liquefaction and debris flow hazard category identified over it. A coastal hazard is identified on land east of the railway line. A recent tsunami report has identified the Kaikoura coastal land to be potentially exposed to flooding in the event of a large earthquake. This modelling report states that an event of this nature has a low probability. The recent Kaikoura earthquake did not result in a tsunami, however there was a significant rise in the land, thus reducing the threat of inundation from the sea.

The Golder Liquefaction Study shows that liquefaction damage is unlikely over this site.

As mentioned, the property has a drain running through it, which appears to collect surface water off the adjoining state highway.

A requirement for engineered foundations and minimum building heights above ground level will limit risk to people or property from erosion, sea level rise, subsidence, slippage or inundation from any source.

The Smart Alliances report comments on the above hazards.

Issue 2 – Infrastructure and Contributions:

Apart from electricity and telephone the proposed allotments will install their own services.

Development Contributions will be payable.

Issue 3 – Site Suitability:

The proposed allotments are of a size and shape that will be suitable for the proposed development, with allotment areas of the size that has been established on adjoining properties to the north and south of this site. The liquefaction study for the Kaikoura District identifies this land as being unlikely to sustain damage from liquefaction in the event of an earthquake. The geotechnical report by Smart Alliances confirms this study result.

Issue 4 – Special Lots:

Not relevant to this application

Issue 5 – Ecological, Conservation, Heritage and Ngai Tahu Values:

The Kaikoura District Plan has not identified any ecological or conservation values to be considered on the land in question.

There are no known archaeological sites on the property with the former use of the site as a school resulting in the site being modified over time. Soil disturbance during construction of the dwelling may require monitoring given there are known archaeological sites on land to the south. The applicant is aware that Council will consult with Iwi with regard to this subdivision.

Issue 6 – Subdivision Design and Amenity:

The proposed title boundaries in part follow existing site development, and meet the requirements of the applicant.

Issue 7 – Contaminated Sites:

No sites of interest were identified.

Rule 22.8 sets out the performance standards in the Rural Zone.

Rule 22.8.4- residential unit separation, it is possible to site a dwelling on Lot 1 which will meet the minimum 25 metre separation requirement.

Rule 22.8.5 – requires each residential unit to be located on a site having a minimum area of 4 hectares within a significant landscape area. The land area being subdivide

does not meet this requirement with the non-compliance to be considered as a restricted discretionary activity.

Rule 22.8.7 – Residential Curtilage, states that residential curtilage shall not exceed 2000m² on any site. With the smaller allotment areas we volunteer a condition of consent stating that the maximum curtilage on each of the sites be restricted to 500m² to reduce development impact on each of the sites.

Rule 22.8.8- road boundary separation, no building is to be located closer than 10m to any road boundary. This rule can be met.

Rule 22.8.9- Sewage Disposal separation distance requires a 20 metre separation distance from a sewerage disposal system to any stream.

An effluent field established on Lot 1 will need to comply with this rule in relation to the nearby drain flowing through the property.

Chapter 11 addresses Landscape and Visual Amenity

Rule 11.7.2 sets out the controls Council has retained over activities within a Significant Landscape Area.

Rule 11.7.2.b relates to buildings located within 5km of a Strategic Arterial Road (State Highway No 1) exceeding 4m in height and/or 15m² in area which are visible from any part of a Strategic Arterial Road. Councils control in respect of this rule is limited to colour, scale, location, and landscaping. At time of building on Lot 1 Council will consider these controls when assessing a building application.

Chapter 15 addresses Historic Heritage

There is evidence of Maori occupation in this area with an identified Pa site (A157) and pits (A156) located to the south of this proposal. We volunteer a condition of consent or advisory note to cover the accidental discovery of artifacts or archaeological material of Maori origin uncovered while work is being undertaken on the sites.

The proposed subdivision and land use consents overall is to be considered as an Unrestricted Discretionary Activity as required by the rules in the Kaikoura District Plan, because of the property being located within 100 metres of the coastal marine area.

4. Alternative Locations or Methods

The matter of considering alternative locations to this subdivision is not relevant in this application.

The subdivision has been designed to meet the requirements of the applicant and the topography of the land.

5. Assessment Effects on the Environment

- **Assessment of actual or potential effects on the environment**

The proposed subdivision and resultant title areas although not complying with the rules of the Kaikoura District Plan, are in keeping with the development along this stretch of the coastline, therefore the environmental effects resulting from this proposal can be considered as no more than minor. This proposal is an infill of existing development which has taken place.

- **Effect on those in the neighbourhood and wider community.**

It is considered that the effects of this subdivision on the neighbourhood and wider community will be no more than minor. The land in question is in a relatively isolated environment, with little effect on adjoining landowners. We ask that Council

limited notify the neighbours to the north of the site. No other neighbours are deemed to be affected.

Physical effects on the locality, including landscape and visual effects.

Landscape and visual effects in the form of an additional dwelling will result from this proposal. Vegetative screening in place along the road frontage limits visual effects from the highway and to some extent defuses some of the traffic noise.

- **Effects on ecosystems**

It is not envisaged that this proposal will have any effects on ecosystems which may be established in this area.

- **Effects on natural and physical resources having special values.**

We do not expect any adverse effects on natural and physical resources having special values in this location.

- **Natural hazards**

As has been stated, being close to the sea means that the site is subject to natural hazards in the form of potential flooding from the sea (tsunami, sea level rise). The railway line formation provides some protection, acting like a stopbank should such events eventuate, and the recent rise in elevation of the land has lessened that threat. It is acknowledged that these events have low probability.

- **Hazardous Substances**

This subdivision approval does not involve any hazardous substances.

- **Discharge of Contaminant – Nature and Sensitivity**

Not applicable for this proposal.

We consider that the requirements of the Fourth Schedule of the Resource Management Act 1991 to have been addressed.

6. Mitigation

We volunteer, as a condition of consent, that a covenant be registered on the titles restricting vegetation growth along the road boundaries adjoining the new entranceway in order to maintain sight distances from that vehicle entranceway. This was agreed to in consultation with NZTA.

7. Consultation

Consultation with New Zealand Transport Agency has been undertaken as the property fronts State Highway No 1, with approval being obtained. It has been agreed that vegetation on the road boundary adjoining the new shared vehicle access will be trimmed and maintained to maximise sightlines for vehicles in both directions of the crossing.

We ask that Council Limited notify the neighbours to the north of the subdivision as they are the only parties deemed to be potentially affected by the proposed subdivision.

8. Planning Instruments

This proposal is to be considered pursuant to Sec's 104, 104B, 106, 108 and 220 of the Resource Management Act, 1991, together with the provisions of the KDP.

- 8.1 The Kaikoura District Plan has been prepared taking into account the requirements of the Regional Council's Regional Policy Statement. No specific assessment against this proposal has been carried out.

Environment Canterbury has released a new Regional Policy Statement since the KDC became operative. Of relevance to this proposal is Chapter 11- Natural Hazards, because of its proximity to the sea, even though the site in question is not identified as being in such an area

The relevant objectives under this chapter include:

Objective 11.2.1 – to avoid new subdivision, use and development of land that increases risks associated with natural hazards.

This objective seeks to ensure risks from natural hazards are avoided in the first instance and otherwise mitigated. Avoiding these impacts involves ensuring that development does not occur in high hazard risk areas. In low risk areas, mitigation measures may provide an alternative means of achieving the overall objective. Appropriate mitigation work in these areas should result in the avoidance of significant adverse effects of natural hazards, whilst themselves having minimal adverse effects on the surrounding environment.

The relevant policies under this objective include:

Policy 11.3.1 – avoidance of inappropriate development in high risk areas.

Policy 11.3.2 – avoid development in areas subject to inundation.

Policy 11.3.5 – general risk management approach.

Policy 11.3.6 – role of natural features.

Policy 11.3.8 – climate change.

Objective 11.2.2 - adverse effects from hazard mitigation are avoided or mitigated.

Commentary under this objective concentrates on methods used to mitigate the adverse effects on natural hazards from the developed environment, such as raised floor levels, may result in adverse effects on the environment and on other values which contribute to the wellbeing of people in the community, including cultural wellbeing.

The relevant policy for this proposal is Policy 11.3.5 – general risk management approach.

The whole of the Kaikoura Coast has been identified as having the potential to be flooded in a tsunami event. This risk is identified as being of low probability. As has been stated the railway line embankment running the length of the seaward side of the property provides some protection, while the location of a dwelling on raised building platforms will also limit potential inundation. The raising of the land following the recent Kaikoura earthquake has further reduced the risk of coastal inundation.

A mitigation measure such as raised minimum floor level for a dwelling will have a minor adverse effect on the environment, as the railway line embankment is already a dominating feature, therefore will have little effect beyond the site.

It is concluded that the proposed subdivision generally support the Objectives and Policies of the Natural Hazards section of the Canterbury Regional Policy Statement.

- 8.2** The Objectives and Policies for the Rural Zone, within Chapter 22, deals with rural environment issues. These issues include protecting the rural amenity and quality of the rural environment and treats to Kaikoura's coastal environment. The existing development fits in with more of a settlement character area than a rural area associated with larger land holdings. The coastal environment has to a large extent already been compromised by the existing development ie houses, road and railway line. Council has the ability to limit visual effects from an additional dwelling being erected on the site by having controls over colours and scale of buildings. It is considered that this proposal although not agreeing with the objectives and policies of this chapter does not frustrate them.
- 8.3** Chapter 11 addresses the landscape and visual amenity values that the District Plan seek to retain. As has been stated the land within the proposed allotments is identified within a significant landscape area. It is considered that development of this site given the existing built environment will not compromise the landscape values in this area.
- 8.4** Chapter 8 deals with natural hazards with coastal inundation from the sea and tsunamis posing a natural hazard event in the Kaikoura District. The main issue is the risk inundation poses to people and property. This has been addressed in the application where such risks have been given a low probability.
- 8.5** Chapter 12 deals with Transport issues. The New Zealand Transport Agency has consented to this proposal therefore effects of additional traffic movements on and off the property have been addressed. The formation of the new vehicle crossing will need to meet the minimum requirements of that authority.
- 8.6** Sec 95A of the Resource Management Act 1991 gives Council discretion as to the public notification of a consent application.

(1) A consent authority may, in its discretion, decide whether to publicly notify an application for a resource consent for an activity.

(2) Despite subsection (1), a consent authority must publicly notify the application if

(a) it decides (under section 95D) that the activity will have, or is likely to have, adverse effects on the environment that are more than minor; or

(b) the applicant requests public notification of the application; or

(c) a rule or national environmental standard requires public notification of the application.

(3) Despite subsections (1) and (2) (a), a consent authority must not publicly notify the application if –

(a) a rule or national environmental standard precludes public notification of the application; and

(b) subsection (2) (b) does not apply.

(4) Despite subsection (3), a consent authority may publicly notify an application if it decides that special circumstances exist in relation to the application.

As has been stated the subdivision is to be considered as a Unrestricted Discretionary Activity, however it is considered that the effects of the activity on the environment will be no more than minor given the existing development in the immediate location. We consider that public notification is not required [Section 95A(2)(a)]. We ask that Council Limited notify the owners of Mangamaunu No 2 Section 9A2A Block (RT 455825)

The applicant does not wish to publicly notify the application, and there is no rule or national environmental standard that requires public notification of the application.

8.7 Sec 104 'Consideration of application' sets out the requirements that a consent authority must have regard to when considering a Resource Consent application, subject to Part 2 of the Act.

Sec 104(1)(a) requires the actual and potential effects on the environment to be addressed which has been assessed as part of the Fourth Schedule assessment of effects under Part 5 of this application.

Sec 104(1)(b)(iv) – all matters relevant to the Kaikoura District Plan have been addressed as part of this application.

There are no other parts of Sec 104 which require comments.

8.8 104B 'Determination of applications for discretionary or non-complying activities' states that

After considering an application for a resource consent for a discretionary activity or non-complying activity, a consent authority-

(a) may grant or refuse the application; and

(b) if it grants the application, may impose conditions under section 108.

8.9 **Sec 106 requires us to consider whether the site or use of the site could be subject to significant risk from natural hazards, which includes an assessment of the likelihood of natural hazards occurring, the material damage to land or structures that would result from natural hazards and any subsequent use of the land in respect of which the consent is sought that would accelerate, worsen or result in material damage to land or structures.**

It is considered that the subdivision does not increase any significant risk from natural hazards to land or structures given the substantial infrastructure already in place on part of the property

This section of the act also requires sufficient provision to be made for legal and physical access to each allotment, which can be achieved through the proposed new entranceway off State Highway No 1.

9. Part 2 of the Resource Management Act 1991

This part of the act contains the purpose and principles of the Act.

The subdivision of the small rural property in the rural environment while not complying with the rules in the Kaikoura District Plan does not compromise those rules given the areas existing built environment, with this proposal an infill of that development, therefore in my opinion does not compromise the sustainable management of natural and physical resources. (Section 7)

The proposed subdivision provides for the applicants economic and social wellbeing, with still having regard to other matters identified in Section 5.

Section 8 requires the principles of the Treaty of Waitangi are taken into account. The proposal is not considered to impact upon any treaty principles. Based on the above, it is considered that the proposal is consistent with Part 2 of the Act.

10. Conclusion

The proposal overall is to be considered as an unrestricted discretionary activity. Mitigation measures to avoid potential effects from the subdivision and land use have been volunteered. It is considered that the proposal will not compromise the relevant objectives and policies of the Kaikoura District Plan

The subdivision has only a minor environmental impact or effects on the amenity values of the area given the existing built environment, and remains consistent with the objectives and policies of the District Plan, therefore the dispensations being applied for can be approved by Council.

The subdivision will result in one additional title and as a consequence of the new title the potential for one additional dwelling to be erected on this site.

The information provided to Council confirms the overall activity status, and therefore, approval of the subdivision can be granted under Section 104B of the Resource Management Act 1991 subject to the imposition of conditions.

P J Morton
Surveyor/ Director

18th July 2022