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Section 88 Resource Management Act

Application for Resource Consent to Subdivide Pt Section 9 SO 3911

For: Eniscote Farm Limited — 466 State Highway No 1, Kaikoura

Assessment of Environmental Effects

18th January 2021

1. Introduction

The applicant Eniscote Farm Limited owns a 71 hectare property located south of Kaikoura off State Highway No 1 (No 466), in an area known as The Elms. The land is on the northern side of State Highway No 1 and is split into two blocks by the Main North railway line (Sec 8 & Pt Sec 9, SO 3911). Two dwellings are established in the south western corner of the property with separate entranceways onto the State Highway (Nos 466 & 486). The main dwelling on the site (No 466) has the farm infrastructure established around it.

The property is being farmed and is in pasture.

Elms Creek flows through the western portion of the property.

The majority of the adjoining land surrounding the property is being farmed, however there are residential sites adjoining the south eastern corner and an accommodation lodge (Fyffe Country Lodge) bisecting the highway frontage.

The active coastline is approximately 200 metres south of the site.

Environment Canterbury records indicate that the Fernleigh water pipeline is established within the property.

There are no interests registered on the underlying title which will have a bearing on this proposal.

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 to create a small rural allotment around an existing dwelling.

The subdivision will result in the following allotment configurations:

- Lot 1, being approximately 33.7 hectares in area, is to be amalgamated with Section 8, SO 3911 (bal RT MB5B/386) resulting in a title area of approximately 69.87 hectares. This allotment has the farm homestead and associated farm sheds established on it.
- Lot 2, being approximately 1.17 hectares in area, is a small rural allotment with an existing dwelling and garage established on it. The new boundary line is generally following a fence line adjoining the true left bank of Elms Creek.

Refer to Scheme Plan, Gilbert Haymes & Associates Ltd drawing Job Ref 20204106 dated 17 June 2020.

Approval to the subdivisions will result in one additional title.

Services:

- **Access** –
 - Lot 1 will retain the main access to the property off State Highway No 1 through gateway No 466.
 - Lot 2 will retain the existing access to the house off State Highway No 1 through gateway No 486.
- **Water Supply** – to each of the proposed allotments, have access to the Fernleigh Water Scheme. This will require the splitting of some of the existing units and a meter installed to the house on Lot 2.
- **Effluent Disposal** – the existing dwellings on each allotment are connected to separate septic tank and effluent disposal fields.
- **Stormwater** –the stormwater disposal from the houses on each site is to the ground.
- **Electricity & Telephone** – the existing dwellings are connected to these services.

A service easement may be required to be created to protect the existing water connection to the house on Lot 2.

3. District Plan – Kaikoura District Plan

The subject land is contained within the Rural zone on the Kaikoura District Plan planning maps (Maps 41 and 55).

An identified archaeological area (A12, Elms Pa) extends into the south western corner of the property.

A historic building has been identified on the site (H9, The Elms Homestead) however this is in error as there is no building in the position identified and the old elms homestead (earthquake casualty) was on the adjoining property to the west.

Chapter 13 - Subdivision.

13.11 Subdivision Activities

Rule 13.11.1 Controlled Subdivision Activities - Except as provided for in 13.11.2, 13.11.3 and 13.11.4, any subdivision which complies with all performance standards shall be a Controlled subdivision activity.

Rule 13.12 contains performance standards for subdivision, and in those standards matters such as access, utilities, roads and reserves, heritage items, water supply, sanitary sewer disposal, energy supply and telephone systems, preservation of vegetation and property access, are required to be addressed.

Most of the relevant matters have been addressed in Sections 1 and 2 of this application.

Rule 13.12(1)(a) of the Kaikoura District Plan states that allotments created by subdivision in the Rural zone are to have a minimum allotment area is 2 hectares.

Lot 2 does not meet the required minimum area performance standard.

Rule 13.11.2.1 states that, “any subdivision that does not comply with any one or more performance standards and Rule 13.12.1 to 9, shall be a Restricted Discretionary Subdivision Activity”.

There are no matters contained in Rule 13.11.2.3 that are relevant to this subdivision, therefore, the application is submitted as a Restricted Discretionary Subdivision Activity as Lot 2 does not meet the required area standard.

Rule 13.12.6 – Property Access – General

- a) Every allotment shall have frontage or legal access to an existing road or to a new road. Vehicle crossings shall be provided in terms of the vehicle crossing provisions of the Transportation Rules.

Under Transportation, Rule 12.8.2 addresses vehicle crossings, where a formed and drivable surface shall be provided between the carriageway of the road and the road boundary to the site and all vehicles crossings onto sealed roads shall be sealed.

The existing vehicle crossings will be required to meet this standard if not currently complying.

Rule 13.12.8 addresses property access where 13.12.8.a.i applies with the existing formed accesses to the proposed allotments being directly off the state highway.

Rule 13.12.9 Esplanade Provision

- a. In all zones, whenever any subdivision occurs adjacent to any river or lake or the mark of Mean High Water Springs, an esplanade reserve or esplanade strip may be required at the discretion of the Council, where the following conditions are met:

- Where, in the case of a river, the bed has an average width of 3 metres or more where the river flows through or adjoins an allotment, and;
- Where the river, lake or Coastal Marine Area contains values which give rise to any one or more of the purposes in Schedule 1 of this part of the Plan.

The average width of Elms Creek flowing through the property is less than 3 metres. We are not aware of any values within Schedule 1 which would require consideration.

The ‘subdivision’ chapter also establishes seven issues associated with subdivision that need to be addressed.

Issue 1 – Natural Hazards:

The Kaikoura District Plan does not identify any natural hazards on the site in question. The Golder liquefaction assessment overlay shows this area as having both an unlikely and

possible damage due to an earthquake. As has been stated there is no additional threat of damage on either site with existing dwellings already in place.

Issue 2 – Infrastructure and Contributions:

Dwellings on the sites are connected to Fernleigh water scheme.

Issue 3 – Site Suitability:

The land in question is suitable for the proposed subdivision, with existing dwelling in place on each site..

Issue 4 – Special Lots:

Not applicable.

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.

We are not aware of any heritage and Ngai Tahu values to be considered on the land in question, as the site has been modified over the years, and the planning process in establishing the Kaikoura District Council plan involved consultation with the relevant Iwi authority. As has been noted all of the land within Lot 2 and part of Lot 1 has been identified to be within an archaeological area (A12). There is no significant land disturbance proposed (if any) as part of this proposal given the sites are fully developed.

The Kaikoura District Plan has an ‘accidental discovery’ protocol, which will be noted as part of the consent process.

Issue 6 – Subdivision Design and Amenity:

The subdivision design has been undertaken to include the aspirations of the applicant, and the topography of the site.

There are no amenity features requiring protection.

Issue 7 – Contaminated Sites:

With a dwelling and associated infrastructure established on each site the subdivision will not require any significant land disturbance. We have note been made aware of any potential contaminated sites which will be of concern to human health.

Chapter 22 – Rural Zone

The Objectives and Policies for the Rural Zone are included in this chapter, dealing with rural environment issues.

Rule 22.2.1 Objective 1 is relevant to this proposal which seeks to encourage and provide for activities that sustain the amenity and environmental values which are part of the rural environment and which maintain and enhance the quality of the rural environment, while recognising that parts of the Rural Zone are also working environment involving activities such as farming and forestry.

Supporting Policies include:

To ensure that effects from the scale and siting of development are managed so that – development will not unreasonably detract from privacy or outlook of neighbouring properties, sites remain open and with a rural character as viewed from roads, the character and scale of buildings is compatible with existing development within the surrounding rural area, the effects on one site do not have a significant adverse effect on activities on another site.

The site has the two existing dwellings sited in it therefore they are already considered part of the receiving environment. The development is compatible with the existing rural and rural residential development in this area.

We consider that the various Objectives and Policies of this section of the Plan is not being compromised given the existing development on this site and the development that has taken place on properties in this location.

Chapter 11 – Landscape and Visual Amenity

This proposal does not compromise the landscape and amenity values anticipated in the District Plan, when the existing development on this site is taken into consideration.

Chapter 12 – Transport

The objectives and policies seek to maintenance of existing access routes and the provision of new access routes at time of subdivision, to allow for ease of vehicle and pedestrian movement through the district.

Accesses to the proposed sites are off State Highway No 1, utilising existing vehicle crossing places. No increase in traffic movements on and off the sites are anticipated given each of the sites are already developed.

Chapter 15 – Historic Heritage & Archaeological Sites

The District Plan seeks to promote the conservation and protection of the District's heritage, including places and sites, waahi tapu and archaeological sites.

To assist in the protection of these areas an inventory of the Districts known historic heritage sites has been included in the District Plan.

As has been stated archaeological site A12 extends into the south western boundary of the property. This site is identified as a pa site known as Elms Pa.

Earthworks within 20 metres of an archaeological area is a permitted activity. No earthworks is required to be undertaken in the vicinity of this site as part of the subdivision process.

We believe that Historic Building Reference H9 has been wrongly identified as being on this site.

Chapter 8 – Natural Hazards

Natural hazard events take many forms which include earthquakes, along with Tsunami threat and land subsidence.

8.2 – General - The main objective is to avoid or mitigate loss of life, damage to assets or infrastructure and disruption to the community as a result of natural hazard events.

8.5 – Land Instability – New development should be avoided on land subject to subsidence, slipping, slumping of rockfalls.

As has been stated both of the sites are fully developed therefore the subdivision does not increase the risks from natural hazards.

4. Adjoining Owner Consents

We do not consider any adjoining landowners to be affected by this proposal given the existing development in place on each site.

Waka Kotahi NZ Transport Agency has provide their consent to this proposal.

5. Assessment Effects on the Environment

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

The proposed subdivision will have little effect on the environment as the current receiving environment has two houses positioned on this site.

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

Effects of this subdivision on the neighbourhood and wider community will be considered as no more than minor given the development already in place on this site. The subdivision itself is not creating any additional residential sites in the area.

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

Physical effects from the subdivision will be negligible.

- **Effects on ecosystems**

It is not envisaged that this proposal will have any effects on any 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**

No natural hazards have been identified on the site.

The liquefaction study undertaken by Golder has identified the land within the subdivision may be prone to liquefaction damage.

- **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

No mitigation measures have been proposed apart from the accidental discovery protocol for archaeological sites.

7. Planning Instruments

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

- 7.1** The Kaikoura District Plan has been prepared taking into account the requirements of the Regional Council's Regional Policy Statement. A new Canterbury Regional Policy Statement (CRPS) has been made operative since the Kaikoura District Plan was approved.

Chapter 11 of the CRPS addresses Natural Hazards, where there is one relevant objective as it relates to this proposal.

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

The relevant policies under this objective seek to avoid inappropriate development within high risk areas, avoid development in areas subject to inundation, and promote a general risk management approach.

As has been stated no significant risks from natural hazards have been identified within this site. No new development is required on either site.

- 7.2** The objectives and policies of the relevant chapters have been addressed, with this proposal meeting the desired planning outcomes.

- 7.3** 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 Restricted Discretionary Activity because of the reduced allotment size in the rural zone. We consider that public notification is not required [Section 95A(2)(a)].

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.

7.4 104 '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.

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.

7.5 104C 'Determination of applications for restricted discretionary activities'

(1) When considering an application for a resource consent for a restricted discretionary activity, a consent authority must consider only those matters over which—

(a) a discretion is restricted in national environmental standards or other regulations:

(b) it has restricted the exercise of its discretion in its plan or proposed plan.

(2) The consent authority may grant or refuse the application.

(3) However, if it grants the application, the consent authority may impose conditions under section 108 only for those matters over which--

(a) a discretion is restricted in national environmental standards or other regulations:

(b) it has restricted the exercise of its discretion in its plan or proposed plan.

7.6 **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 has been concluded that the subdivision does not significantly increase any risk from natural hazards to land or structures.

This section of the act also requires that sufficient provision be made for legal and physical access to each allotment, which has been provided by way of access off State Highway No 1

8. Part 2 of the Resource Management Act 1991

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

The subdivision consent applied for is over a site which has been fully developed, therefore does not contravene the intent of the rules and objectives and policies of the Kaikoura District Plan. The proposal promotes the sustainable management of natural and physical resources being the land, therefore, does not contravene Part 2 of the Resource Management Act.

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.

9. Conclusion

As has been stated, the proposed subdivision, does not compromised the objectives and policies of the Kaikoura District Plan when the existing receiving environment is taken into account. The proposal is to be considered as a Restricted Discretionary Activity as set out in the rules of the District Plan. No change to the current land use on the sites is envisaged.

The assessment contained in this report has concluded that the proposal will have less than minor effects on the environment.

The information provided to Council confirms the overall activity status, and therefore, approval of the subdivision can be granted under Section 104, 104C, 106 and 108 of the Resource Management Act 1991 subject to the imposition of conditions.

A J HAWKE
Registered Professional Surveyor

17 January 2021 Date