

# MINUTES

**TITLE:** Environment & Planning Subcommittee  
Commissioner Hearing

**DATE:** Friday, 5 May 2006

**TIME:** 9.30 am

**VENUE:** Motueka Service Centre, 7 Hickmott Place, Motueka

**PRESENT:** Commissioner H Briggs

**IN ATTENDANCE:** Manager, Consents (J S Hodson), Consent Planner (M Bishop),  
Administration Officer (B D Moore).

**1. T and J INGLIS, 88 ROWLING ROAD, LITTLE KAITERITERI – APPLICATION RM051023**

**1.1 Proposal**

The applicant sought consent to erect an orchid house and carport in this Residential Zone located in the Coastal Environment Area, with a building coverage of 48% instead of 33%.

**1.2 Presentation of Application**

Mr and Mrs Inglis attended the hearing and Mr Inglis tabled and read a statement of evidence. Mr Inglis explained that through past experience the applicants are very sensitive to the protection of views. Mr Inglis stressed that the proposal to build a carport was not important to him and if the coverage is of primary concern, he offered to withdraw that application forthwith.

Mr Inglis said the proposed orchid house would have an aluminium and non-reflective Twinplex roof and he showed an example of that product and said he would be happy to paint the aluminium rafters to a colour acceptable to the neighbours. Mr Inglis said in his report that the proposed orchid house would be located on a very extensively excavated site. He said he had been into the lounge of the neighbouring Johnstone property and that a profile with string-lines had been erected where the orchid house would be and that this was seen to not even obscure the roofline of the existing Inglis house, let alone the beach and sea. Mr Inglis disagreed with the Council staff report and said the proposed orchid house with its flat roof is far less intrusive than the existing Inglis house.

Mr Inglis said that the photographs displayed at the hearing show that the proposed orchid house has a roofline below the height of the existing hedge on the lower side of the White-Johnson property. Mr Inglis said that he would accept a request to plant vegetation such as Virginia creeper over the roof of the orchid house. Mr Inglis said he proposed to use a heat pump in the orchid house and that the proposal is merely for a hobby. The applicant stated that a pond and an established garden take up 3 metres from the southern boundary of the property and it was not intended that these be removed. Therefore, the location of the orchid house is restricted by this existing work.

### **1.3 Presentation of Submissions**

Mr and Mrs A Hamilton attended the hearing and Mr Hamilton said he did not think it was necessary to add to their existing written submission. He said that they would not see the orchid house and carport from their property.

The second submitter, Mr C White-Johnson, made a verbal statement. He said he did not consider the carport as an issue as he would not see it from his property because of the existing trees. He said that the proposed building has become larger and the activities changed since he was first approached by Mr Inglis. He said the proposed roof of the orchid house can be viewed from three places within the White-Johnson property and acknowledged that Mr Inglis said the roof could not be lowered in height. He was concerned if a heat pump was located in the orchid house and said that the use of the orchid house should be restricted to orchids only. He said the proposed orchid house was too long and too high.

In response to questions from Commissioner Briggs, Mr White-Johnson repeated that his major concerns were the height as well as the area of the orchid house and that it will affect the value of his property. He said that he had built his house after the Inglis house was completed. He said that a vegetation coverage over the orchid house of fine-leaved creepers would be acceptable but not a blanket coverage of flowers. He still had a problem with the height of the proposed building.

Mr and Mrs Hamilton left the hearing at this time.

Mr White-Johnson acknowledged that the buildings sketched onto the photographs as supplied by Commissioner Briggs were a fair representation and noted that these did not obscure the view to the sea from the White-Johnson property. He said his acceptability of the building length would depend on where the orchid house was positioned, such as closest to the eastern end of the site.

### **1.4 Staff Report**

Consent Planner, Ms M Bishop, spoke to her planning report of 29 March 2006 contained within the agenda. She said in her report that the existing building coverage is 41% and the proposal is to increase this to a coverage of 48%, where the permitted standard is only 33%. She said that only the submitter, Mr C White-Johnson could see the proposed orchid house. The plans showed this as having a covered area of 14 metres by 2.8 metres, being about 39 square metres in roof area. She said that there would be a large expanse roof that may be seen from the second floor of the White-Johnson property and that this a hobby proposal without a strong need from the Plan point of view.

Ms Bishop tabled and discussed a series of photographs showing the subject property and views from the White-Johnson first floor balcony. Ms Bishop said that the visual amenity is quite a strong point in Kaiteriteri and that the building needs to be limited in length and located to the east and vegetation used for screening. In response to questions from Commissioner Briggs, Ms Bishop said that the proposed expanse of roof is more than minor but the softening by vegetation would assist. She said that the potential effect on obstructing views is not more than minor. She acknowledged that the applicants did not wish to leave an area of land uncovered that would require further maintenance.

She said the proposed carport is on a much lower elevation than the orchid house.

## **1.5 Right of Reply**

Mr Inglis said that he originally proposed a building located on the boundary and since then it has been moved 1.2 metres from the boundary. He said that the site for the proposed orchid house has been excavated by 1 metre and the building height is 2.4 metres at its lowest point, which he believed to be the minimum useful height necessary.

Mr Inglis said that a heat pump could be installed on the north-eastern side of the orchid house furthest from the boundary of the White-Johnson property. He said the building would be used just for orchids and planted material and that birds would not be kept. He said he would be happy to install a planted spouting for plants to grow down over the building and that the building would be professionally built. He said that there is a pond at the eastern end of the proposed building site and there are professionally built curved stairs installed near the eastern end of the site, which he would not wish to have removed. Mr Inglis volunteered that he would erect string-lines and profiles to show the height and location of the proposed orchid house and Commissioner Briggs responded that he would appreciate that work.

## **2. T and J INGLIS, 88 ROWLING ROAD, LITTLE KAITERITERI – APPLICATION RM051023**

### **Tasman District Council – Hearing before a Hearings Commissioner on an application by T. and J. Inglis for resource consent to construct a carport and an orchid house (Consent No. RM051023)**

#### **1. Preliminary**

- 1.1 This is an application by T. and J. Inglis for resource consent under the Resource Management Act 1991 to construct a carport and an orchid house on their land at 88 Rowling Road, Little Kaiteriteri.
- 1.2 This proposal is to enable the covering of an extra vehicle in a carport off the drive adjacent to a high retaining wall at the rear of the site, and to erect an orchid house on the upper level terrace at the very rear of the property.
- 1.3 The proposal was advertised, and two submissions were received: one in opposition (from C. White-Johnson) and one in support (A. & A. Hamilton).

#### **2. Proposal**

- 2.1 It is proposed to erect a carport at the rear of the drive adjacent to a high retaining wall. It will have a copper domed roof over a frame structure attached to the high retaining wall. This will provide cover for the applicant's 4x4 vehicle and other vehicles. It will be 5m deep and 9.3m wide, to fit in with the existing retaining wall structure.

- 2.2 It is also proposed to erect an orchid house along the upper level terrace immediately below the rear garden of the neighbouring property belonging to the White-Johnson's. In the application, it was proposed to be around 14m in length, set in from the southern boundary by about 3-4m to avoid the existing "pond" (created out of an old spa pool) in that south eastern corner. The plan does not show clearly how close it will be to the retaining wall, but it will be set back at a sufficient distance to be separate from that wall (as is shown more clearly on the photographs submitted with the officer's report).
- 2.3 The orchid house is to be constructed of an aluminium and timber frame, with coloursteel side panels, windows and a clear corrugated roof material. It was intended to be a maximum height of 2.75m at the front and 2.4m at the rear to enable the roof to be pitched to the rear for ease of rainwater collection.
- 2.4 Following some consultation with the White-Johnson's, the applicant offered subsequently to lower the proposed height to 2.1m at the front and 2.4m at the rear to reduce its impact on the view from the White-Johnson property, and demonstrated this by way the erection of a profile section. The proposed location of the house remained the same, with its length being 14m. This did not satisfy the White-Johnson's. This matter was discussed at a "formal" pre-hearing meeting facilitated by Ms. Bishop.

### 3. The Hearing

- 3.1 **Mr. Tom Inglis** presented the case on behalf of himself and his wife. He went through some history of the site development and his consultation with his neighbour, Mr. Chris White-Johnson. He indicated that the carport was to provide cover for his 4x4 vehicle, and the structure would fit in well below the level of the retaining wall. It had been indicated in the planner's report that the carport was not considered to be an issue with either the submitter or the planner.
- 3.2 The orchid house was to be for a hobby of growing orchids, which needed warmth and shelter. He merely wanted it to be a simple "glasshouse" with flat roof, "designed not to impede views of any neighbours". It was located on the unused terrace part of the site adjacent to a pond (ex-spa pool) and rockery and between that and some planting at the northern end of this terrace. He did not specify a particular length at the hearing, but the application showed a 14m long shed on the plans.
- 3.3 **Mr. Inglis** then went on to answer the comments in the planner's report, in which he refuted the criticism that it would have adverse effects more than minor on the views from the White-Johnson's property, particularly from a standing view from the balcony outside their living room. It would not impinge on any view that anyone sitting in the sitting room would have of the sea. He stated that the profile clearly indicated that the view beyond his house in front would not be obscured, since it would appear well below the varied rooflines of his house.
- 3.4 He also refuted that the view of the structure would lower the value of the White-Johnson property, with it being an "unattractive structure". He clearly indicated that he would be prepared to plant creepers (such as virginia creeper) over the roof to "soften" its visual impact. This could be done without detriment to the orchids, as they require warmth rather than light as such.

- 3.5 He then addressed issues raised in the submissions regarding birds and fish, primarily with respect to noise. He indicated that this shouldn't be an issue, and he was prepared not to have any in the orchid house.
- 3.6 **Mr. Inglis** wanted to maintain the location of the orchid house away from the southern (or southeastern) corner of his property on that terrace, to enable him to retain the pond and steps up to the terrace, which were both attractive and would be very difficult to remove. He felt that the limitation proposed by the planner in her report (to be entirely within 8m from that corner) would be very restrictive and require him to remove those two features. He did not indicate the minimum length of building that would be appropriate, but clearly indicated that an orchid house within that 8m limit would be too small if he was to retain those features (ie therefore being only about 4m long).
- 3.7 He concluded by reiterating that the orchid house as proposed, and especially with some additional planting over and around it, would not create an adverse visual impact on the White-Johnson's view more than minor.
- 3.8 The submitters then presented their evidence. Firstly, **Mr. Andrew Hamilton** spoke briefly on behalf of himself and his wife Audrey, as to why they supported the application. He indicated that it did not affect them and would not intrude into their views.
- 3.9 **Mr. Chris White-Johnson**, who was submitting in opposition, went through the reasons why he objected to the proposed shed being as big as it was, and where it was to be located. He responded to the comments made in the applicant's written evidence about the impact the structure would have on his view from the deck outside the living room. He still considered that it would impinge on that view of the beach from certain angles, when standing on the deck.
- 3.10 His other main concern was its unattractive appearance, being a structure with no architectural merit such as the applicant's house, and being bulky. It would dominate that view as a bulky feature, and needed to be reduced in size and height still (by at least 1m), and even softened by some planting. As an unattractive feature (as an "eyesore"), he considered it would have an adverse effect on his property value.
- 3.11 **Mr. White-Johnson** did indicate upon examination that some planting over the structure would lessen its impact, making it more acceptable to him. However, he indicated that he still wanted it to be reduced (significantly) in size. He also indicated it did not impinge on the "main" view of the beach but would impinge on a minor part of the beach (being was the steps down to the beach from the reserve) when viewed from a particular part of the deck,
- 3.12 The Council planner, **Ms. Mandy Bishop**, spoke to her report, outlining the essential aspects of the application and why it required this consent. She conceded initially that the carport was not an issue in this case, but she wanted to focus on the impacts of the orchid house. She outlined the "pros" and "cons" of the total proposal.

- 3.13 The “pros” she identified included: (a) it was not visible from the coast; (b) a permitted pergola could be built higher (a potential permitted baseline comparison); (c) the carport would improve the appearance of the retaining wall; (d) it (the upper level terrace) was a difficult area to maintain; and (e) there were no controls over the height and density of plantings along boundaries.
- 3.14 In contrast, the “cons” were: (a) there was a large roof expanse visible from a standing position on the deck; (b) the necessity for the size of this building (as per criteria in PTRMP p17/11); (c) there was a partial obstruction of the beach view; (d) the design created an impact on visual amenity; (e) the cumulative effect of dominance of buildings; and (f) it should be limited in length.
- 3.15 **Ms. Bishop** then went on to cover a number of concerns she had had. She considered that the loss of the view to the beach was not more than minor; the extent of the roof was more than minor in that view; and, it was possible to mitigate the effect of the roof, but it still needed to be shorter. She did also indicate that some vegetation on the roof would have a positive effect that would enable her to change her recommendation. She concluded that the carport design could only have a positive effect in limiting the harshness of the high retaining wall.
- 3.16 In his Right of Reply, **Mr. Inglis** indicated that the original height at the rear (by the wall) was reduced from 8’ 6” (2.59m) to 8’ 0” (2.43m). (This height obviously relates to the lowest height at the rear of the orchid house, as shown on the plans). He indicated that he could not reduce the height any further for any working area. He stated very clearly that a reduction in overall height by excavation would be impractical because of costs.
- 3.17 He also indicated that it was not necessary to have a heat pump to create the warmth, but other forms of heating could be used, even though he did not think the pump would create a noise nuisance. He did not want to make the birds an issue as there would be very few, if any, now. He intended the pond and steps to stay and would use planting to soften the visual impact.
- 3.18 **Mr. Inglis** offered to put up strings along from the profile to show the actual extent of the building. I indicated that I would take him up on that offer to finalise my opinion on the likely visual impact on the view.

#### **4. Statutory Framework and Relevant Planning Documents**

- 4.1 The application has to be considered as a Discretionary Activity and thus considered in accordance with Sections 104, 104B, 108 and Part II of the Act.
- 4.2 Following an assessment of Section 104, consideration then has to be taken of the matters contained in Part II of the Act, being Section 5 (sustainable management of the environment of natural and physical resources); Section 6 (matters of national importance); Section 7 (matters such as amenity values and quality of the environment); and Section 8 (Treaty of Waitangi issues).
- 4.3 The relevant documents that the land use activity has to be measured against are the New Zealand Coastal Policy Statement (NZCPS), the Regional Policy Statement 2001 (TRPS), and the Proposed Tasman Resource Management Plan (PTRMP).

- 4.4 The NZCPS has one or two objectives and policies that have some relevance to this case, in giving general guidance to how the effects of development on the coastal character should be minimised. Policy 1.1.1 (dealing with matters of national importance with respect to protection of natural character) states *priority to preserve natural character by – (c) avoiding cumulative adverse effects of subdivision, use and development in the coastal environment.*
- 4.5 Policies 3.2.1, 3.2.2 and 3.2.4 (dealing with appropriate subdivision and development in the coastal environment) state *plans should define what form of....development would be appropriate in the coastal environment (2.1); adverse effects of ... development should as afar as practicable be avoided. Where possible adverse effects should be mitigated, to the extent practicable (2.2); and provision should be made to ensure that cumulative effects of activities are not adverse to a significant degree (2.4).* I have made a brief assessment of this case in light of those statements.
- 4.6 It is generally recognised that the Regional Policy Statement matters have been incorporated into the PTRMP objectives and policies sections. I have though reviewed the RPS objectives and policies relevant to coastal development.
- 4.7 I have focussed my assessment thus on the relevant matters in the PTRMP, as did the reporting planner in her report in section 5.2. She correctly identified those as being the site amenity effects in Chapter 5 Site Amenity Effects - Objectives 5.1, 5.2 and 5.3 dealing with the protection of character and amenity values, with several relevant policies; Chapter 6 Urban Environment Effects – Objectives 6.3, 6.6 and 6.13, dealing with effects of urban expansion on the coastal environment, again with several relevant policies; Chapter 8 Margins of Coastlines – Objectives 8.2, with several relevant policies.
- 4.8 These objectives and policies describe the relevant general aspects of character and the methods of achieving the desired outcomes, such as controls in the Resource Management Plans and definitions of character. The more detailed methods of control are contained in the Rules section of the PTRMP. I have highlighted below the relevant ones, which I have used in my assessment.
- 4.9 The application also has to be assessed against the rules in the PTRMP. The erection of the structures (buildings) is a discretionary activity, and there are a number of assessment criteria contained in the sections on the Residential Zone and the Coastal Environment Area. These criteria were partially evaluated in the reporting officer's report. I shall address these later on in this decision.
- 4.10 Following this assessment in terms of Section 104, I shall then address the application in light of the principles of Part II of the Act, dealing with Section 5 Sustainable Management of Resources; Section 6 Matters of National Significance; Section 7 Other Matters; and Section 8 Treaty of Waitangi Issues.

## **5. Evaluation of the Issues**

### **5.1 Issues Raised by the Application**

5.1.1 The key issues raised by this application are:

- compatibility with the objectives and policies of the Regional Policy Statement (RPS), New Zealand Coastal Policy Statement (NZCPS) and Proposed Tasman Resource Management Plan (PTRMP)
- compatibility with the discretionary activity criteria in the PTRMP rules in the Residential and Coastal Environment Area Chapters
- possible adverse effects on the amenity values and coastal landscape character
- possible adverse effects on the views from the immediate neighbour's property
- potential for creating adverse cumulative effects

5.1.2 These are addressed below.

### **5.2 Compatibility with Objectives and Policies**

5.2.1 As indicated above, the New Zealand Coastal Policy Statement (NZCPS)'s concern is about the general protection of the natural character in the coastal environment, to ensure that urban development and any expansion of it does not detract from that natural character. It seeks that RM Plans have adequate controls in their zoning pattern and the rules in those zones to achieve this outcome.

5.2.2 The NZCPS is more concerned about the extent of development on the coastline rather than the detailed design of development and internal effects within such established development areas. In this case, the possible adverse effects are only "internalised" between two sites. The proposal does not therefore "offend" the objectives and policies of the NZCPS.

5.2.3 The Regional Policy Statement (RPS)'s main thrust is to maintain the amenity and visual character of the coastal area. This locality has been zoned for residential development and thus many aspects of the natural coastal character have been compromised by such development, generally in accordance with the zoning development controls. This proposal in itself, with it not being readily visible from the street or beach, would thus not have any detrimental effect on the coastal environment. It would appear to be in accordance with that RPS objective and policy.

5.2.4 The built character in the Little Kaiteriteri coastal settlement is created by the diversity of built forms and is generally a high intensity of development. This could though be adversely changed with inappropriate development. This proposal is not inappropriate in this context in essence. It is small in scale in comparison to new housing being built around the hill slopes at present, and is not readily visible within the settlement or from public view from roads or reserves.

5.2.5 In the Tasman Plan (PTRMP), the objectives and policies in the Environment sections are designed to ensure the retention of the amenity values and landscape character of the residential part of this high quality coastline at Little Kaiteriteri. In the Site Amenity section (Chapter 5), they refer not only in the general sense to the coastal environment but also more specifically to the individual site amenity (Objectives 5.1.0, 5.2.0 and 5.3.0 and related policies).



- 5.2.6 These objectives and policies are thus concerned at one level about an overall protection of coastal character from over-intensive or inappropriate forms of development within a coastal settlement such as Kaiteriteri, and at another with on-site effects on adjacent properties from inappropriate development.
- 5.2.7 I would consider that there is no adverse effect on the overall quality and character of the Little Kaiteriteri from this proposal, being the addition of two more “ancillary” structures on this site. They are not visible from public view or from most other neighbouring properties. It does not therefore offend that thrust of those objectives and policies.
- 5.2.8 The issue is whether it has any significant adverse effect on the “on-site amenity” aspects of other properties (ie an adverse effect being more than minor that would warrant it being declined). In her assessment, Ms. Bishop considered that the orchid house did in fact have adverse effects on an adjoining property owner as being more than minor (with views and amenity adversely affected), and thus the proposal would be contrary to those objectives and policies.
- 5.2.9 It is the significance of the impact on the view that has to be assessed. From visual evidence presented at the hearings (photographs), it was apparent that the orchid house could only readily be seen from the White-Johnson house when standing on the living room deck. It would occupy a portion of the immediate foreground view, well below the deck. It would only partially obscure a small portion of the beach area when viewed from a particular part of that deck. The roofline would be well below the level of the upper parts of the Inglis’ house, which itself obscured parts of the beach, but not much of the overall water view. I also noted this when on the White-Johnson deck, at my site visit prior to the hearing and at the one subsequent to the hearing, where I inspected the string lines run from the end profile.
- 5.2.10 I have thus concluded that the visual impact of the orchid house structure in itself, to the extent as proposed, is only minor in the overall picture, and not of the significance that either Mr. White-Johnson and Ms. Bishop considered. I would accept that it is not as an attractive structure as the Inglis’ house is (not being architecturally designed with varied roof forms), but I would consider that that aspect of its impact can be mitigated, with planting as had been offered by the applicant.
- 5.2.11 I therefore consider that the proposal as submitted is not contrary to that aspect of the objectives and policies referred to above, and, overall, is in accordance with the Environmental Sections (Site Amenity (Ch.5), Urban (Ch.6), and Margins of Coast (Ch.8)) and Residential Zone objectives and policies in the PTRMP.

### **5.3 Rules: Compatibility with Residential Discretionary Activity Criteria**

- 5.3.1 As this is a discretionary activity, I would consider it appropriate to assess it against all specified matters that are relevant to this case, and not just restrict it to the aspects of site coverage. I have therefore evaluated the proposal against the following relevant restricted discretionary activity criteria in the Residential zone, as contained in 17.1.5, dealing with both Site Coverage (items (1)-(7)) and Building Design and Appearance (items (26)-(31)). No other matters are considered relevant to the issues in this case.

5.3.2 I then assess it against the Coastal Environment criteria in section 5.4 below.

### **Site Coverage**

5.3.3 (1) *Extent to which character of site will remain dominated by open space and vegetation, rather than buildings:*

The carport will fit well within the hard landscaped area of the drive and turnaround area in front of the garage. It will be well hidden below the existing high retaining wall and not visible from the other sites, road or even the White-Johnson deck when standing. It will make no difference to the overall openness in the area immediately around the house.

The orchid house will take up some of the open area along that upper level terrace, which is currently underplanted and in an unattractive state. To make it an easier area to maintain, it could be more densely planted with vegetation, which would be more attractive overall, but the only real impact of that would be on the view from the White-Johnson deck. Its location behind the large house on the site restricts most views of this part of the site from the surrounding sites or public domain. The erection of the orchid house would thus not have any major overall impact on the built character of the neighbourhood.

There will still be a reasonable amount of vegetation around the site, and the recommended planting of the orchid house with climbers will maintain a green element in this location.

5.3.4 (2) *Extent to which there is a need for ..increased size building coverage to undertake the proposed activities on site:*

Any new building on this site will be over the site coverage maximum. The carport is considered by all parties to be an acceptable solution to cover the applicant's vehicles on site. There is no issue over the erection of this building.

There is no specific size requirement for the orchid house, other than one that will be large enough to house a reasonably large number of plants for the applicant to work with. The applicant did not indicate at the hearing what the most efficient size would be. The size included in the application was for one 14m long which would "fill" in the gap between the pond area at the southern end and the existing planting at the northern end. He also indicated he would like a small open area at the southern end as an outdoor "patio" in front of the orchid house.

Any new building in this location will thus be over the maximum building coverage limit (especially with the carport in as well). There are no practical guidelines as to what is an appropriate or reasonable size for an orchid house on this site, other than a consideration of its visual impact on the adjacent property. I discuss this further below.

5.3.5 *(3) Extent to which scale, design and appearance of the proposed buildings will be compatible with the locality:*

There are no design guidelines or detailed assessment criteria in the Residential zone, which give any real guidance or direction in such cases. The Little Kaiteriteri neighbourhood has a variety of architectural styles and built forms, and it is this variety of style, materials and on-site location that creates the development character. It would be impossible to dictate that any new building should somehow “fit” in with those adjacent. As stated before, these structures are not readily visible from many locations, and the orchid house only from the White-Johnson’s decks.

The use of a flat roof for a garden structure would not be out of keeping with some of the buildings in the neighbourhood, which have flat roofs. A flat roof would appear to be the most appropriate form on this part of the site whereby it runs parallel to the high retaining wall, but below it.

The proposed orchid house roof, being “flat”, is very different to that of the main house on the Inglis’ site. Thus, it might appear to be more noticeable as a result. The roof area of the Inglis’ house visible from the deck is mainly flat, though with a scalloped edge to it, which is the part of the roof view that will be replaced by the orchid house roof.

However, the use of vegetation over and around the structure as a means of mitigating this apparently, unattractive aspect of this structure was explored at the hearing. All parties agreed that it would be a means of reducing the impact of the structure on that view from the deck. It would seem therefore that this, in itself, would be an appropriate mechanism to minimise the perceived adverse visual impact. Another method would be to reduce the overall length of that structure within that foreground view of the White-Johnson’s.

I would consider that the vegetation of the roof would be an appropriate solution to this issue of design and appearance, and thus need only to consider whether the orchid house should be reduced in length to make any significant difference to that view overall.

5.3.6 *(5) any adverse effects on adjoining properties:*

The only impact of any significance on any adjoining property would be on the near view from the White-Johnson deck, as has been discussed in depth above. I do not consider that this could be classified as being more than minor, when the entire view is taken into account. The structure and its “flat” roof may appear to the White-Johnson’s as being an “eyesore” as it was proposed, right across view along the low part of their fence. However, I consider that with appropriate planting of climbers and other trees around the structure, this aspect would be greatly reduced.

5.3.7 *(6) provision of adequate outdoor living and servicing space on site for all outdoor activities associated with residential and other activities permitted on site*

The erection of the carport will make for more efficient and effective use of the drive and manoeuvring area with covered storage for vehicles. It will not minimise the area required or used for “outdoor living”. The erection of the orchid shed will cover a garden area which is currently “open” outdoor living, but is not well used or likely to be well used for anything other than planting or small scale outdoor activities. The orchid house will thus provide cover for an outdoor living activity, which is an entirely appropriate on a residential property.

5.3.8 *(7) ability to mitigate any adverse effects of increased coverage*

The structure, however extensive it is, can have its visual impact in the view from the White-Johnson's reduced by some appropriate planting and by being painted in an appropriate "recessive" colour. Whilst I consider that this in itself would reduce the impact to one that could be considered to be no more than minor in the overall view, a reduction in its overall bulk could also limit that impact.

I do not consider that the orchid shed could be reasonably limited to an 8m length from the southern boundary, as it would only enable a very small shed to be erected, given that the pond and steps are to be retained.

### **Building Design and Appearance**

5.3.9 *(26) degree to which development will impact on amenity and character (having regard to bulk, scale, style, materials, etc) and in particular the extent to which the building can be viewed from adjoining sites and public places*

I have already indicated that the effects of these two buildings will be minimal on the overall development character and amenity, and will only have an effect on the adjacent property to the rear, the White-Johnson's. The full extent of the orchid house (as proposed) will only be visible when viewed from a standing position on their two living room balconies/decks. It will be prominent in their foreground view, but will not impinge on their view of the beach or radically alter the overall view. With the proposed enhancements required with recessive colours and climber planting, I do not consider that it will have an adverse effect on their view in a manner that could be described as more than minor.

5.3.10 *(27) extent to which adverse visual effect can be mitigated by altering layout of buildings, landscaping etc on site*

The visual impact (limited as it is overall) on that view can be mitigated by both planting of climbers and some other trees adjacent to it, and by painting it in recessive colours. Whilst I consider that this would be enough in itself, such impact as it is perceived to have by the White-Johnson's could be further reduced by reducing its length further, without detriment to its efficient use. I would only consider a limited reduction in length reasonable.

5.3.11 *(28) extent to which building design will affect natural character of coast*

The buildings will have no impact on the natural character of the coast, being within the existing pattern of intensive residential development.

5.3.12 *(29) extent to which continuous building length detracts from the pleasantness and openness of site as viewed from the street and adjoining sites*

Again, the only site affected by the length of this orchid house (being proposed to be 14m) is that of the White-Johnson's. As it is proposed, it does occupy a reasonably long part of the immediate foreground view from their decks. However, it is nevertheless well below the main view shaft to the beach and is below the Inglis' house which intrudes into that view also. Being flat roofed, it would not add anything to the architectural character of the locality, but this could be softened with the proposed planting of climbers and some other trees/shrubs around it. This will therefore break up that length. A small reduction of that length would also mitigate the "bulk" impact.

5.3.13 (30) *ability to mitigate adverse effects of continuous building length through increased separation distances, screening or use of other materials*

As indicated above, the proposed planting of climbers over the building, and some planting of some trees or shrubs at the northern end of the building will reduce its “harshness” in that foreground view. A reduction in length would also reduce that impact, albeit in a less significant way.

### **Summary**

5.3.14 I have therefore come to the conclusion that the visual impact of the increased coverage of the two structures (buildings) is not more than minor in this case. I have considered this in terms of the overall impact on the built character of the locality, and also on the views from the adjacent property above and at the rear – the White-Johnson’s property.

5.3.15 There is clearly not an issue overall with their effects on the coastal environment (given the extent of development and the nature of that development), with both structures not readily visible from any public viewpoint, and not from any other adjoining property above, other than the White-Johnson property.

5.3.16 I also consider that the orchid house does not impinge on the overall view from the White-Johnson house in a manner that is significant, or that could be described as being more than minor. It will be visible from the deck when standing or even sitting close to the balcony fence. The structure will be noticeable as being of a different character to the Inglis’ house, but there are no real design guidelines that require ancillary buildings to be of the same or similar styles or materials.

5.3.17 The perceived adverse impact can also be reduced to some extent by a change to its size, location and colour, and by some vegetation cover. I will discuss this more below.

## **5.4 Rules: Compatibility with Coastal Environment Discretionary Activity Criteria**

5.4.1 The relevant criteria (for both controlled and discretionary activities) in the Coastal Environment Area in 18.14.3 are as follows.

*(1) The effects of the location, design and appearance of the building including its scale, materials, landscaping and colour, on the amenity and natural character of the locality having regards to effects on: (underlining my emphasis)*

*(a) natural features*

*(b) landscape and seascape values*

*(c) significant natural values*

*(d) the nature of any existing development*

(With respect to any controlled activity, it limits any discretion to materials, landscaping and colour of buildings only)

5.4.2 I have already indicated that neither of the two buildings would have any adverse visual impact on the natural features, landscape or seascape values or on any significant natural values. The area is zoned and being developed intensively with large dwellings on the hill slopes above the beach. The natural character has been compromised by such development already.

5.4.3 The only real view of the orchid house is from the deck of the White-Johnson property. It thus has marginal impacts on the state of the existing development in the locality, apart from that one close-up view.

## **5.5 Assessment of Environmental Effects: Amenity Values, Views and Coastal Residential Character**

5.5.1 As has been indicated above, the overall character of the Little Kaiteriteri is that of a densely developed settlement, with a variety of architectural styles and expansive housing over the hillsides above the Bay.

5.5.2 Even with this intensive development on the hillsides, there is still a reasonable amount of vegetation and some “open” space around some of the houses. Some are however built very close to each other and there is a strong degree of overlooking. The amenity is determined by the quality of the housing and their landscaped sites, and it is a high quality area.

5.5.3 The character is created by a number of elements in the landscape, being the activities, the structures associated with them and the vegetation and landscape features. As described above, this immediate locality is intensively developed with large architecturally designed houses scattered around the slopes.

5.5.4 There will be very minimal adverse impacts of the proposed structures on the overall neighbourhood character and visual amenity.

5.5.5 With respect to views, I have reviewed the comments of Ms. Bishop in her analysis of the impact this structure would have on the view, and have concluded that it would not have such an impact as she and Mr. White-Johnson feel is so. She used the term more than minor in several instances, as did Mr. White-Johnson in his statements.

5.5.6 There is not a feeling of significant openness around and between the houses, given their locations on the slopes and their close proximity to each other. There is a great deal of overlooking of properties below as would be expected in such situations and it is a matter of what detailed privacy provisions each property has taken to protect their amenity and privacy.

5.5.7 There is an issue of what constitutes a view that “should” be protected. Each property has a wonderful broad view over the Little Kaiteriteri beach and bay, with various built elements in the foreground that form part of that view.

5.5.8 In this case, the White-Johnson’s view from their upper level deck, outside their living room, has that grand broad view, as was clearly shown on the photographs presented at then hearing and in the planning officer’s report. In the middle ground is the Inglis’ house and rear yard area, with some plantings “intruding” into that view. This provides some interest, as the house has some unusual architectural features. It is thus an attractive feature in that view. It does however block some of the beach when viewed from certain parts of their deck when standing out there. The house is not so readily visible when sitting down inside the living room.

5.5.9 The creation of two more structures on this site will not detrimentally affect that character. The visual impact that the orchid house could have on the view from the White-Johnson property would be minimised by some planting over and around the orchid house. Landscape conditions to this effect are to be included in this consent.

## **5.6 Assessment of Possible Cumulative Effect**

5.6.1 I am mindful of the concerns expressed by Ms. Bishop in her report about the potential for this development to set both a “precedent” and an adverse cumulative effect on the character of the immediate locality. In dealing with this issue, I have given consideration to what that character is and what actual adverse visual effects this proposal could have.

5.6.2 Cumulative effects are one of those effects that have to be given consideration to. Case law over recent times has given consent authorities directions as to how to approach the issue of precedent and cumulative effect. Such direction has changed course during recent times, but the Courts have indicated that precedent is not an effect that can be considered. Any such application should be assessed against the general intentions of the Plan’s objectives and policies, and how the rules have been designed to implement them.

5.6.3 In essence, each case has to be taken on its merits, and assessed in its environmental context. Any potential or actual adverse effects have to be identified, and an assessment made as to whether any appropriate, practical and realistic measures can be taken to avoid or mitigate them.

5.6.4 It has generally been agreed that this proposal will not adversely effect the overall coastal environment and coastal character as espoused in the PTRMP. The immediate locality is heavily and intensively developed with large, architecturally designed houses and ancillary buildings which create a highly built up character. The majority of the houses overlook each other to a varying extent, and thus do not have a great deal of privacy. Nor is there a substantial amount of open space around each building. The amenity is created more by the built forms and their style than by areas of greenery and vegetation.

5.6.5 The main concern comes from what cumulative effect could occur with the granting of this proposal, as to whether it is at a higher intensity than the remaining part of the zoned area around this site.

5.6.6 I have come to the conclusion that, with the proposed conditions to be imposed, which are both practical and reasonable, the development as proposed can be accommodated in this urban landscape without detriment to the overall coastal character that the Proposed Plan (PTRMP) is trying to maintain. Furthermore, I conclude that the impacts of the orchid house structure (with mitigation measures as are to be proposed) on the view from the White-Johnson’s deck are no more than minor.

## 6. Part II Considerations

6.1 With respect to Section 5 (*matters of sustainable management of the natural and physical resources*), the use of the site for buildings associated with residential activities is a sound use of the physical resource of the land. The erection of these two buildings will have no adverse effects on the existing natural environment, which has been highly modified.

6.2 There are no matters of national significance in Section 6 (eg *preservation of natural character of the coastal environment or outstanding natural features*) that would be adversely affected by the erection of two ancillary residential buildings within an intensively developed residential area, within a designated Coastal Environment Area.

6.3 The only “other matters” referred to in Section 7 that are of any relevance to this case are:

*(b) efficient use of natural and physical resources*

Again, the use of two additional buildings within the residential curtilage for residential activities is an efficient use of the physical resources without any impact on the natural resources.

*(c) maintenance and enhancement of amenity values*

The effect on the “amenity values” (described in the Act as *natural and physical qualities and characteristics of an area that contribute to people’s appreciation of its pleasantness, aesthetic coherence.....*) will overall be no more than minor. The “intrusion” of the new orchid house into the overall view from the White-Johnson’s deck will be minimal, but would be more noticeable in the immediate foreground view. The intention to have it planted with climbers and painted in recessive colours will mitigate those minor adverse effects.

*(f) maintenance and enhancement of the quality of the environment*

Similarly, the quality of the overall environment will not be detrimentally affected by the erection of the orchid house. The quality of the White-Johnson’s amenity and environment will only be marginally affected by the new building with its plantings.

6.4 With respect to Section 8 (*Treaty of Waitangi*) there are no matters of significance to Maori in this case, and the usual notification process was adhered to. No issues were raised through that process.

6.5 I can thus conclude that there are no matters in Part II that would be adversely affected by the granting of this application.

## 7. Recommended Conditions and Mechanisms for Mitigation

7.1 The reporting officer Ms. Bishop incorporated a set of conditions that she recommended should be imposed, should the application be granted. These included: an approval to the carport as designed; a limitation on the length of the orchid house to a position 8m from the southwestern boundary, and with a 2.5m height limit; and both the orchid house and car port being painted in recessive colours with a low reflectivity, to ensure that they will “blend in” with the existing buildings in the coastal environment.



- 7.2 The applicant had not formally questioned those conditions, apart from indicating at the hearing that the proposed 8m length limitation would be totally unreasonable, as he wanted to maintain the “pond” and steps. He also indicated at the hearing that he would accept a condition relating to landscaping the orchid house to minimise the visual impact of the whole structure and its visible roof. He also indicated that he would be happy to paint the house in whatever colour suited the White-Johnsons (whether that be white to match the main house, blue to match the sea and sky or green/brown to match the vegetation).
- 7.3 I indicated that, if consent were to be granted, I would be considering an additional condition relating to landscaping and planting. This would be a practical means of mitigating the potential or actual visual impacts of the orchid house on the view from the White-Johnson’s deck, albeit I considered it to have a limited impact overall. I have taken some advice from a qualified landscape architect as to appropriate species that could be planted to achieve the desired effect.
- 7.4 I thus consider that those conditions recommended by Ms. Bishop would be appropriate in general to impose on this development, to deal with the issue of visual impact from the White-Johnson property. However, an additional condition on landscaping and planting, and another amended one for determining the appropriate size and bulk, would also be appropriate to include, to ensure any visual impact on the adjoining property of the White-Johnson’s is minimised.

## **8. Conclusions**

- 8.1 This development proposal will not be contrary to the overall objectives and policies of the New Zealand Coastal Policy Statement (NZCPS), the Tasman Regional Policy Statement (TRPS), or the Proposed Tasman Resource Management Plan (PTRMP) and is consistent with the purpose and principles of the Resource Management Act 1991. The proposed buildings will have minimal impact on the natural coastal character and the level of amenity in the residentially developed neighbourhood.
- 8.2 The proposed carport will have no impact on the built environment around it nor have any adverse visual impact on any adjacent properties.
- 8.3 The orchid house will only have any visual impact on one property – the White-Johnson’s house. It will only impact on a portion of the view of the beach and the rear of the properties below from certain views from the deck. It will not impinge on the overall view from these decks, but will be a reasonably prominent part of the immediate foreground view. Nevertheless, any adverse effect on that view is considered to be only minor.
- 8.4 This impact can be appropriately mitigated by the planting of climbers around and over the building, and some more trees and shrubs at the northern end of the building.
- 8.5 The applicant indicated that he could not accept all the recommended conditions, as some were considered to be too onerous. Some new conditions have been imposed to ensure that the new orchid house will blend in appropriately within this coastal residential development, and in particular with the adjacent house at the rear.

## 9. Decision, Reasons and Proposed Conditions

### 9.1 Decision

That, pursuant to Section 104B of the Resource Management Act 1991, consent is hereby **granted** to T and K Inglis to erect a carport and orchid shed on the property at 88 Rowling Road, Little Kaiteriteri, known as Lot 7 DP 16426, subject to the following conditions.

### 9.2 Conditions

#### Buildings

1. The carport shall be constructed and sited in accordance with the application documents and Plan A (entitled "Site Plan" and dated 15 May 2006 as amended to accommodate the new location of the orchid shed) and Plan B (entitled "Proposed Car Port & Copper Dome Support" and dated 7 April 2006), both attached to this consent.
2. The orchid shed shall be constructed with the materials specified in the notes shown on Plan C (entitled "Proposed Orchid House" and dated 22 November 2005) and it shall be sited in accordance with amended Plan A dated 15 May 2006, both attached to this consent. The orchid shed shall not exceed 10 metres in length and its height shall not exceed 2.4 metres at its rear elevation as measured above the existing ground level of the upper level terrace as existed at the date of the application (28 November 2005).

**Advice Note:** Plan C attached to this consent has not been amended to reflect the new requirements of Condition 2. The length of the orchid shed shown on Plan C is 14 metres but Condition 2 restricts the length of the shed to 10 metres.

3. Both the carport and orchid shed shall be finished in recessive colours. The roof material for the orchid shed shall have a reflectance value of less than 25%. Following construction of both buildings, the Consent Holder shall submit to the Council's Coordinator Compliance Monitoring, a statement from a suitably qualified and experienced person confirming that both buildings are finished in accordance with the requirements of this condition.

#### Landscaping and Maintenance Schedule

4. A Planting Plan and Maintenance Schedule for the area around the orchid shed shall be prepared by a suitably qualified and experienced person and submitted to the Council's Manager Environment and Planning for approval. This Plan shall show the type of plants to be used, their spacing and intended heights. The Plan shall include planting of climbers and it shall also include some additional trees or shrubs at the northern end of the orchid shed and the trees shall be of a height that will assist in enhancing the building but not as to impinge significantly on the views from the proprietors of Lot 17 DP18773 (currently owned by C.H. White-Johnson).

5. The Consent Holder shall implement the Planting Plan referred to in Condition 4 once it has been approved by the Council's Manager Environment and Planning. In addition, once established, all the plants shall be maintained in accordance with the approved Maintenance Schedule referred to in Condition 4.
6. The climbers required to be planted in accordance with Condition 4 shall be carefully selected according to specific site conditions.

**Advice Note:** The species selected may include *hardenbergia violacea* (purple coral pea (purple)), *tecomaria capensis* (cape honeysuckle (orange-red)), *actinidia chinensis* (kiwi fruit), *passiflora caerulea* (passionfruit (blue)), *clematis Montana* (clematis (white)), or similar. These species are indicative only and should be selected according to specific site conditions. Climbers will need regular maintenance, therefore ensuring ongoing access to rooftop. The plants listed in this advice note are either clump forming or branching. The roof structure will need to be strong enough to support the additional plant weight. Poisonous plant species should be avoided.

7. A report by the person who prepared the Planting Plan and Maintenance Schedule referred to in Condition 4 shall be submitted annually from the date that this consent is granted to the Council's Coordinator Compliance Monitoring to confirm that the plantings have been established and are being maintained.

### **Review and Monitoring Conditions**

8. The Council may within 3 months following the anniversary of the granting each year review any or all of the conditions of the consent pursuant to Section 128 of the Resource Management Act 1991 for all or any of the following purposes:
  - (a) to deal with any unexpected adverse effect on the environment which may arise from the exercise of the consent; and/or
  - (b) to require the adoption of the best practical option to remedy or reduce any adverse effects on the environment.Matters to be addressed in the review may include, but are not limited to the colours and materials of the buildings; and landscaping and plantings.

### **Advice Notes**

1. The applicant is advised that this consent is issued pursuant to the Resource Management Act 1991 (RMA). It does not constitute building consent and the proposed construction shall obtain the necessary approvals pursuant to the Building Act 2004.
2. Any matters not referred to in this application for resource consent or are otherwise covered in consent conditions must comply with the Proposed Tasman Resource Management Plan (PTRMP) or the Resource Management Act 1991 (RMA), or a further resource consent is required to be obtained.

## **9.3 Reasons**

1. The proposal is seen as being an appropriate form of development on this site, which will not have any adverse effects on the natural coastal environment, being as it is within the intensively developed area of Little Kaiteriteri.

2. It will thus not be contrary to those objectives and policies of the New Zealand Coastal Policy Statement (NZCPS), the Tasman Regional Policy Statement (TRPS) or the Proposed Tasman Resource Management Plan (PTRMP) dealing with the coastal environment, and the amenity and character of residential development on the coast. The development of the structures will not create adverse visual impacts on the coastal landscape.
3. Given that the proposal will not be contrary to the purposes and principles of sustainable management of both the physical and natural resources, and that there will be no adverse effects on the environment more than minor, it will therefore meet the provisions of Part II of the Act.
4. The impact of the carport will be minimal and will not have any visual impact on any adjacent property. It will be an enhancement of the hard landscaped rear yard area.
5. The only property which is directly affected by the orchid house building is that of the White-Johnson's. It will be a reasonably significant part of the foreground view but will not impinge on the main view of the beach and bay beyond. It is therefore considered not to have an adverse effect on the amenity of this property more than minor.
6. The conditions imposed will ensure that the impacts on the wider and immediate neighbourhood will be minimised and mitigated. The additional landscaping and planting condition will ensure that the orchid house building will be accommodated within this landscape, and will not have an adverse visual effect on views from the neighbouring property (the White-Johnson house).
7. Whilst the overall impact on the view from the neighbouring property (the White-Johnson house) is not considered to be significant (thus being no more than minor), a condition requiring a further small reduction in the length of the orchid house is proposed, with some additional planting of trees and shrubs at the northern end of the building to further enhance it
8. Whilst the granting of this consent may open opportunities for further applications, any such application will have to meet with the same assessment criteria, so that it will be in keeping with the character of the locality. It is thus considered that the granting of this consent will not create an adverse cumulative effect.

Dated 24 May 2006

Hugh Briggs  
MNZPI MRTPI MRMLA  
Hearings Commissioner

Commissioner Briggs concluded the hearing at 10.50 am.

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**Date Confirmed:**

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**Chair:**