

# MINUTES

**TITLE:** Environment & Planning Subcommittee  
**DATE:** Monday, 13 November 2006  
**TIME:** 1.30 pm  
**VENUE:** Council Chamber, 189 Queen Street, Richmond

**PRESENT:** Crs E M O'Regan (Chair), S J Borlase and N Riley

**IN ATTENDANCE:** Manager Consents (J Hodson), Consent Planner (L Davidson),  
Administration Officer (B D Moore).

## **1. I SHUTTLEWORTH, 50 TOTARA AVENUE, PAKAWAU, GOLDEN BAY – APPLICATION RM060465 AND RM060962**

### **1.1 Site Location**

The subject site is at 50 Totara Avenue, Pakawau adjoining the Waikato Inlet. It is Lot 6 DP 8182 in CT NL3D/426 being 827 m<sup>2</sup>.

### **1.2 Proposal**

The applicant sought consent to erect a dwelling on the application site at 50 Totara Avenue, Pakawau with the dwelling located 2 metres instead of 10 metres from the road boundary. In addition the dwelling would be closer than 5 metres to one internal (side) boundary and closer than 100 metres to the coast. The proposal also involves the discharge of greywater.

The Committee proceeded to hear the application, presentation of submissions and staff reports as detailed in the following report and decision.

The Committee reserved its decision at 4.40 pm.

## **RESOLUTION TO EXCLUDE THE PUBLIC**

**Moved Crs Borlase / Riley**  
**EP06/11/14**

**THAT the public be excluded from the following parts of the proceedings of this meeting, namely:**

I Shuttleworth

**The general subject of the matter to be considered while the public is excluded, the reason for passing this resolution in relation to the matter, and the specific grounds under Section 48(1) of the Local Government Official Information and Meetings Act 1987 for passing this resolution are as follows:**

General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Ground(s) under Section 48(1) for the passing of this resolution
I Shuttleworth	Consideration of a planning application	A right of appeal lies to the Environment Court against the final decision of Council.

**Moved Crs O'Regan / Borlase  
EP06/11/15**

**THAT the open meeting be resumed and the business transacted during the time the public was excluded be adopted.  
CARRIED**

**Moved Crs O'Regan / Riley  
EP06/11/16**

**THAT pursuant to Section 104D of the Resource Management Act, the Committee Grants consent to I Shuttleworth as detailed in the following report and decision.  
CARRIED**

**Report and Decision of the Tasman District Council through its Hearings Committee**

**Meeting held in the Tasman Room, Richmond**

**on Monday, 13 November 2006, commencing at 1.30 pm**

A Hearings Committee ("the Committee") of the Tasman District Council was convened to hear the application lodged by I Shuttleworth relating to construction of a dwelling at 50 Totara Avenue, Pakawau. The application, made in accordance with the Resource Management Act 1991 ("the Act"), was lodged with the Tasman District Council and referenced as RM060465 and RM060962.

**PRESENT:** **Hearings Committee**  
Cr O'Regan, Chairperson  
Cr Borlase  
Cr Riley

**APPLICANT:** Mr I Shuttleworth  
Mrs J Hilson- Planning Consultant- Staig and Smith  
Mr P Born- Wastewater Engineer- Cameron Gibson Wells Ltd

**CONSENT AUTHORITY:** **Tasman District Council**  
Mr L Davidson- Consent Planner- Land Use

**SUBMITTERS:** Mr P Lavery  
Mrs C Foster- Planning Consultant

**IN ATTENDANCE:**

Ms J Hodson , Manager Consents- Assisting the Committee  
Mr B Moore- Committee Secretary

**1. DESCRIPTION OF THE PROPOSED ACTIVITY**

RM060465- To erect a dwelling at 50 Totara Avenue, Pakawau, on land described as Lot 6 Deposited Plan 8182, being land comprised in Certificate of Title NL Volume 3D Folio 426, zoned Rural 2 and located within the Coastal Environment Area. The proposed building does not meet the Proposed Tasman Resource Management Plan rules in relation to bulk and location as the dwelling is sited closer than 10 metres to the road boundary, closer than 5 metres to one internal boundary and closer than 100 metres to the coast.

RM060962 - To discharge greywater produced on site closer than 20 metres to the coast and closer than 1.5 metres to the property boundary.

**2. PROPOSED TASMAN RESOURCE MANAGEMENT PLAN ("PTRMP") ZONING, AREAS AND RULE(S) AFFECTED**

According to the PTRMP the following apply to the subject property:

Zoning: Rural 2

Area(s): Coastal Environment Area

The proposed dwelling does not comply with Permitted Activity Rule 17.5.4 (f) "Setbacks" for the Rural 2 zone of the proposed Tasman Resource Management Plan and is deemed to be a restricted discretionary activity in accordance with Rule 17.5.6 of the Plan.

The proposed dwelling does not comply with the Controlled Activity Rule 18.14.3 (b) "Setbacks" for the Coastal Environment Area of the proposed Tasman Resource Management Plan and is deemed to be a restricted discretionary activity in accordance with Rule 18.14.4 of the Plan.

The proposed discharge does not comply with Permitted Activity Rule 36.1.6 "Discharge of Greywater" and is deemed to be a discretionary activity in accordance with Rule 36.1.16 of the Plan.

**3. NOTIFICATION AND SUBMISSIONS RECEIVED**

The application(s) was dealt with by way of limited notification on 22 August 2006 pursuant to Section 93 of the Act. A total of two submissions were received. The following is a summary of the written submissions received and the main issues raised:

## **MP and HC Salmond**

The Salmonds own the property to the north of the subject site where they have a holiday home. They had previously provided written approval to the applicant and have also lodged a submission conditionally supporting the application. They support the application on the basis that the dwelling is built in accordance with the plans submitted and that measures are adopted to mitigate any landscape or visual effects of the building.

## **P and C Lavery**

The Laverys own a holiday home on the southern side of the subject site and have lodged a submission in opposition to the proposal. They consider the proposed dwelling will cause adverse effects on their property and the coastal environment at Totara Avenue.

They are concerned about:

- i) the height and location of the dwelling and deck in relation to their property, the amenity values they enjoy and the natural environment;
- ii) the effect of the development on the existing totara trees on the property;
- iii) encroachment of the 5 metre setback required in a Rural 2 Zone;
- iv) the lack of integration of the development into the site and the visual impact when viewed from the Collingwood Puponga Road;
- v) the location of the greywater disposal areas and the effect on their property and the natural environment
- vi) the disposal of waste from the composting toilet.

## **4. PROCEDURAL MATTERS**

No procedural matters were raised as part of the hearing.

## **5. EVIDENCE HEARD**

The Committee heard evidence from the applicant, expert witnesses, submitters, and the Council's reporting officer. The following is a summary of the evidence heard at the hearing.

### **5.1 Applicant's Evidence**

Mr Ian Shuttleworth attended the hearing together with Planning Consultant, Mrs J Hilson. Mrs Hilson tabled and read a statement of evidence. She referred to Mr P Born of Cameron Gibson Wells Limited who was also at the meeting to respond to any questions regarding the effluent disposal design. Mrs Hilson said that the application is to enable Mr Shuttleworth to build a modest two bedroom holiday home on the site, with associated grey water disposal.

About half the site is estuarine and the portion beyond the estuary, capable of being developed is generally about 2.4 to 2.6 metres above mean sea level. The site is part of an existing coastal settlement and Totara Avenue comprises about 45 residential sections. The application site is one of few undeveloped sites and the sections either side of it contain existing houses.

The applicant proposed to integrate two large Totara trees on the site, within the deck design as shown on the site plans provided with the application. The proposed house design would have a floor level of 3.34 metres above mean sea level and with a maximum roof height of 4.044 metres above natural ground level. The house will have an internal floor area of 88 m<sup>2</sup>, opening out onto a deck. Servicing of the house will include connection to the community water supply, stormwater disposal by soakage to ground and any overflow to the estuary. There would be onsite wastewater management. The house would be supplied with a composting toilet and there would be full water reduction features to limit wastewater treatment and discharge to grey water. The system was described in the Engineer's report which accompanied the application.

The area is zoned Rural 2 which imposes more restrictive set back requirements being 5 metres from internal and 10 metres from road boundaries, and these do not take into account, the residential size of the existing property. The controls of the coastal environment area require specific analysis of the environmental setting and existing character of development, in proximity to any individual proposal. The applicant had consulted with adjoining property owners at 48 and 52 Totara Avenue and redesigned the house to be smaller and lower in response to the issues raised by the neighbour.

Mrs Hilson explained that the proposal is not excessive and that it is nearly impossible to build a complying dwelling on the site. Mrs Hilson explained that this is an appropriate coastal location for the proposed house, avoiding sprawling or sporadic development in the coastal environment. She explained that the application is for infill development, and any cumulative or precedent effects will be avoided due to the unique circumstances of the proposal and its context. Any adverse effects on the environment as a result of the development can be adequately controlled by conditions of consent.

## **5.2 Submitters Evidence**

### **P and C Lavery**

Mr Paul Lavery read a submission in opposition to the proposal and acknowledged that the applicant had modified the proposal from the original overall height of 5 metres but because of the continued position and elevation of the deck, it continues to threaten the survival of the existing Totara trees on site and severely compromise the privacy and amenity for the submitters property at 52 Totara Avenue.

During this presentation, the submitters' nephew, Mr Steven Lavery, read the evidence of Dr Philip Simpson, Botanist, including the comments on the potential impacts on the Totara trees which would grow through the proposed deck at the rear of the house. The evidence claimed that there is potential for extensive damage or death of those trees from the proposed building work and construction of the deck. This evidence said that every effort should be made to maintain and enhance the existing health and character of the Totara trees in this location.

Mr Paul Lavery continued with the remainder of the presentation of his submission saying that the proposed deck will intrude severely into the privacy and pleasantness of the outdoor living at 52 Totara Avenue. He sought that some adjustments be made to the building, its deck, its height above the ground and the buildings placed on the site that avoids the effects on the neighbouring amenity values.

Planning Consultant, Christine Foster, tabled and read a statement of planning evidence on behalf of the submitters' P and C Lavery saying that the design and location of the dwelling and deck is capable of amendment, to achieve the habitable floor area the applicant seeks, while avoiding damage to the Totara trees. She recommended that the building design and location be amended to avoid the damage to the trees and the intrusive effects on the privacy and amenity of the neighbouring property at 52 Totara Avenue.

### **5.3 Council's Reporting Officer's Report and Evidence**

Consent Planner, Mr L Davidson, said that a separate discharge consent should be provided to the applicant and tabled copies of a draft resource consent decision for the subject site for the discharge of domestic grey water to land in the coastal environment area. He referred to the significant erosion which had occurred in recent years on both sides of this peninsula since titles were issued for the land and an esplanade reserve generated in 1972. Mr Davidson said that any consent granted should be accompanied by plans to detail site levels and building heights and an adequately endorsed plan be provided with the resource consent condition.

Mr Davidson said that the proposed deck needs a 1.2 metre high balustrade for protection but that the deck could incorporate the existing Totara tree protruding through the deck. He said that he believed that minimal pruning was required for these trees as the limbs are mostly vertical and lean away from the area proposed for the house and deck. He said that nothing exists in the District Plan to force the retention of these trees. He suggested that the whole house could be located 1 metre closer to the road to assist this situation.

### **5.4 Right of Reply**

Mrs Hilson responded for the applicant and acknowledged that a grease trap is necessary and a separate consent is required for the discharge of domestic grey water to land. Mrs Hilson acknowledged that Mr Lavery had defined the scope of the matters under consideration being the position and elevation of the deck and potential effect on the Totara trees and neighbouring property privacy and amenity value.

Mrs Hilson said that the applicant has shown good faith in trying to retain the two Totara trees which are within the confines of the deck. Mrs Hilson said that the applicant volunteered to reduce the size of the deck and move it further from the boundary of the Lavery property at 52 Totara Avenue. She said that the deck would then cease on the south side, to the south edge of the bi-fold doors as shown on the floor plan accompanying the application. She said that on that basis proposed condition 4 of the Council Consent Planner's recommended conditions of consent would be obsolete.

## **6. PRINCIPAL ISSUES**

The principal issues that were in contention were:

- a) Would the construction of the dwelling and in particular the deck as proposed, result in unacceptable adverse effects on the privacy and amenity values of the adjoining property?
- b) Would the construction of the deck create an unacceptable adverse effect on the existing totara trees which in turn may have an adverse effect on the natural character values of the site?
- c) Would the proposed method of disposal of greywater on site adequately mitigate potential adverse effects?

## **7. MAIN FINDINGS OF FACT**

The Committee considers that the following are the main facts relating to this application:

- a) The Committee considered that the zoning of the land as Rural 2 was something of an anomaly and that the site sizes would indicate that a residential zoning would have been more appropriate and that therefore the setback requirements for the residential zone would protect amenity values. It was difficult to envisage that a house of any practical proportion could be constructed on the site that would comply with the Rural 2 setbacks. At the completion of the hearing the applicant volunteered to increase the setback of the deck from the side boundary and thus the deck would not "surround" the totara trees. This modification to the proposal satisfied the Committee that the effects of the deck and the dwelling in terms of both the trees and the privacy and amenity of the adjoining property would be no more than minor.
- b) The Committee was satisfied that the disposal of grey water on the site could be adequately managed and the effects would be no more than minor. In this regard the Committee was mindful of the engineer designed disposal system and professional advice that was presented.

## **8. RELEVANT STATUTORY PROVISIONS**

### **8.1 Policy Statements and Plan Provisions**

In considering this application, the Committee has had regard to the matters outlined in Section 104 of the Act. In particular, the Committee has had regard to the relevant provisions of the following planning documents:

- i) the New Zealand Coastal Policy Statement
- ii) the Tasman Regional Policy Statement (TRPS);
- iii) the proposed Tasman Resource Management Plan (TRMP);

The proposed discharge activity contravenes Section 15 of the Act, and therefore the Council has also had regard to the matters outlined in Sections 105 and 107 of the Act.

## 8.2 Part II Matters

In considering this application, the Committee has taken into account the relevant principles outlined in Sections 6, 7 and 8 of the Act as well as the overall purpose of the Act as presented in Section 5.

## 9. DECISION

Pursuant to Section 104 B and C of the Act, the Committee **GRANTS** consent subject to conditions. The activity approved and the conditions of consent are presented following the reasons for the decision.

## 10. REASONS FOR THE DECISION (Land use and Discharge)

Pursuant to Section 113 of the Resource Management Act 1991, the reasons for the decision are as follows:

1. The proposal was voluntarily modified by the applicant by reducing the size of the deck which would minimise the need for trimming of the existing totara trees. This was considered to be a sensitive and reasoned response to the concerns regarding the concern for the health and maintenance of the trees. The Committee did not consider that it was necessary to require the deck to be lowered or screened to further mitigate effects on the privacy of the adjoining property. The trees will provide a reasonable level of screening and privacy.
2. The Committee considered that it was unreasonable to require strict adherence with the Rural 2 zone and Coastal Environment setback standards, and that the dwelling as proposed would not have an adverse effect on the amenities of the surrounding area. The dwelling had been modified to reduce the impact on the adjoining neighbours and the Committee considered this was also a sensitive and reasonable response to concerns.
3. The Committee was satisfied that the disposal of grey water on the site could be managed adequately and that the inclusion of a composting toilet within the house design would serve to reduce the risk of groundwater contamination or other adverse effects associated with on-site wastewater disposal.

## 11. COMMENTARY ON CONDITIONS OF CONSENT

The Committee considered that the trees did have significant amenity value and were part of the special character of the area and therefore the deck should be modified to ensure their on-going protection. Also it was considered that the trees should be trimmed by a qualified arborist and the deck foundations should be designed in consultation with such a specialist to ensure the tree roots were not damaged at the time of construction.

The Committee considered that the normal requirement for two carparks should be provided and in this case, they should be finished to an all weather dust free standard and located on the northern side of the dwelling so that only one vehicle crossing needed to be formed. The Committee agreed that therefore the wastewater disposal area on the northern side would have to be adjusted to accommodate the second carpark and the disposal area to the south of the dwelling would be larger by the same area.



**RESOURCE CONSENT NUMBER: RM060465**

Pursuant to Section 104C of the Resource Management Act 1991 (“the Act”), the Tasman District Council (“the Council”) hereby grants resource consent to:

## **I SHUTTLEWORTH**

(hereinafter referred to as “the Consent Holder”)

**ACTIVITY AUTHORISED BY THIS CONSENT:** Construction of a dwelling

### **LOCATION DETAILS:**

Address of property:	50 Totara Avenue, Pakawa, Golden Bay
Legal description:	Lot 6 DP 8182
Certificate of title:	NL 3D/426
Valuation number:	1860013222

Pursuant to Section 108 of the Act, this consent is issued subject to the following conditions:

## **CONDITIONS**

### **General**

1. The proposed development shall be generally in accordance with the plans submitted with the application, and modified to conform with any additional conditions imposed. Where there is any conflict between the plans and the conditions imposed, the conditions shall prevail.

### **Height**

2. The dwelling shall have an overall height of not more than 4.1 metres with a finished floor level of not less than 3.34 metres above Mean Sea Level and shall be constructed in accordance with the attached Plan A (dated August 2005 Sheet 3 Job 05320) except for the deck which is to be reduced in accordance with Condition 3.

### **Deck**

3. The deck shall be reduced in size so that it does not extend further to the south than the southern extent of the bi-fold doors in the western elevation as per the attached Plan B.

### **Exterior Finishes**

4. Prior to the issuing of the building consent for the dwelling, the consent holder shall submit a schedule of exterior materials and colours to demonstrate the building will be finished in non reflective recessive colours that blend with the natural environment at Totara Avenue.

### **Parking**

5. The development shall incorporate two carparks on the north eastern corner of the property, formed to an all-weather metallised surface. The proposed greywater treatment system shall be moved to accommodate these parks.

**Access**

6. Access to the property shall be formed to an all-weather surface from the carriageway in Totara Avenue to the property boundary, with the first 5 metres from the carriageway sealed with a two coat chip seal.

**Landscaping Plan**

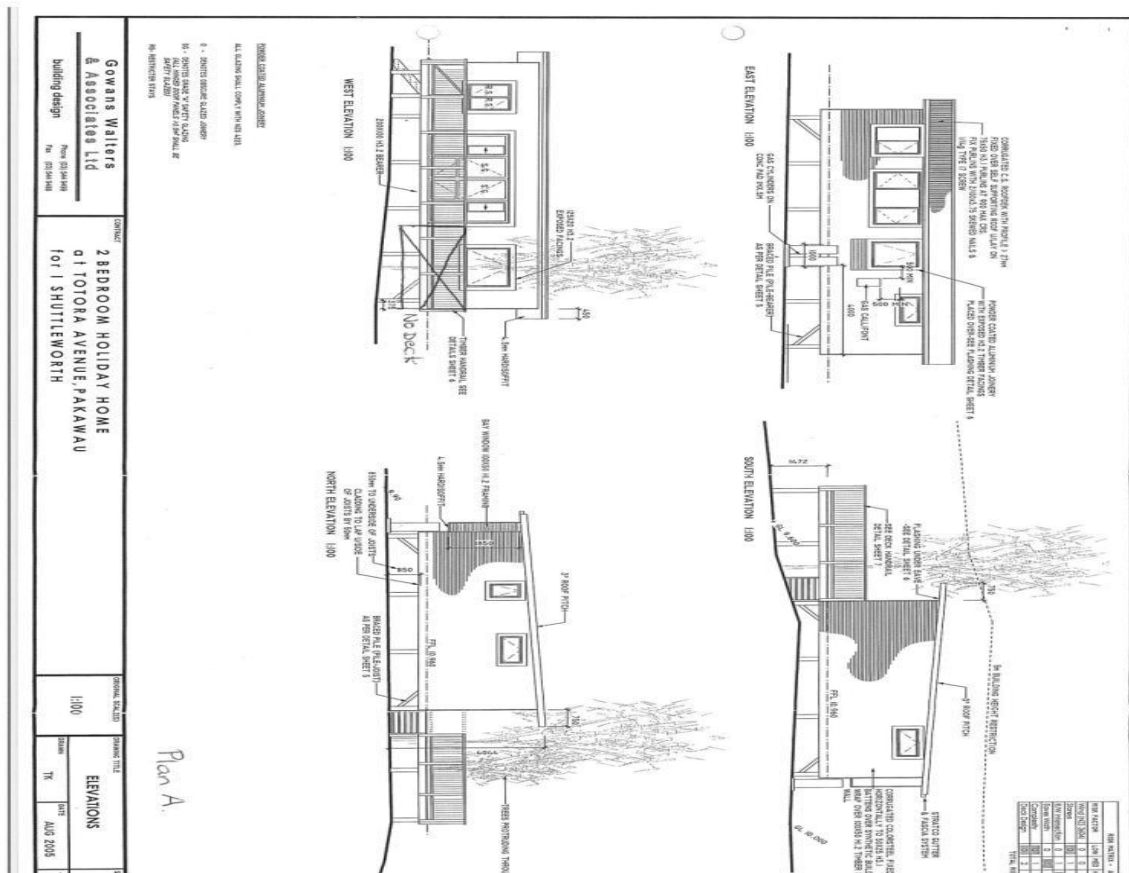
7. Prior to the issuing of the Building Consent, the consent holder shall submit a landscaping plan for the development for approval by Council. The plan shall particularly address the area between the dwelling and the front boundary and the area between the deck and the estuary edge, with a view to mitigating the encroachment into the normal setbacks.

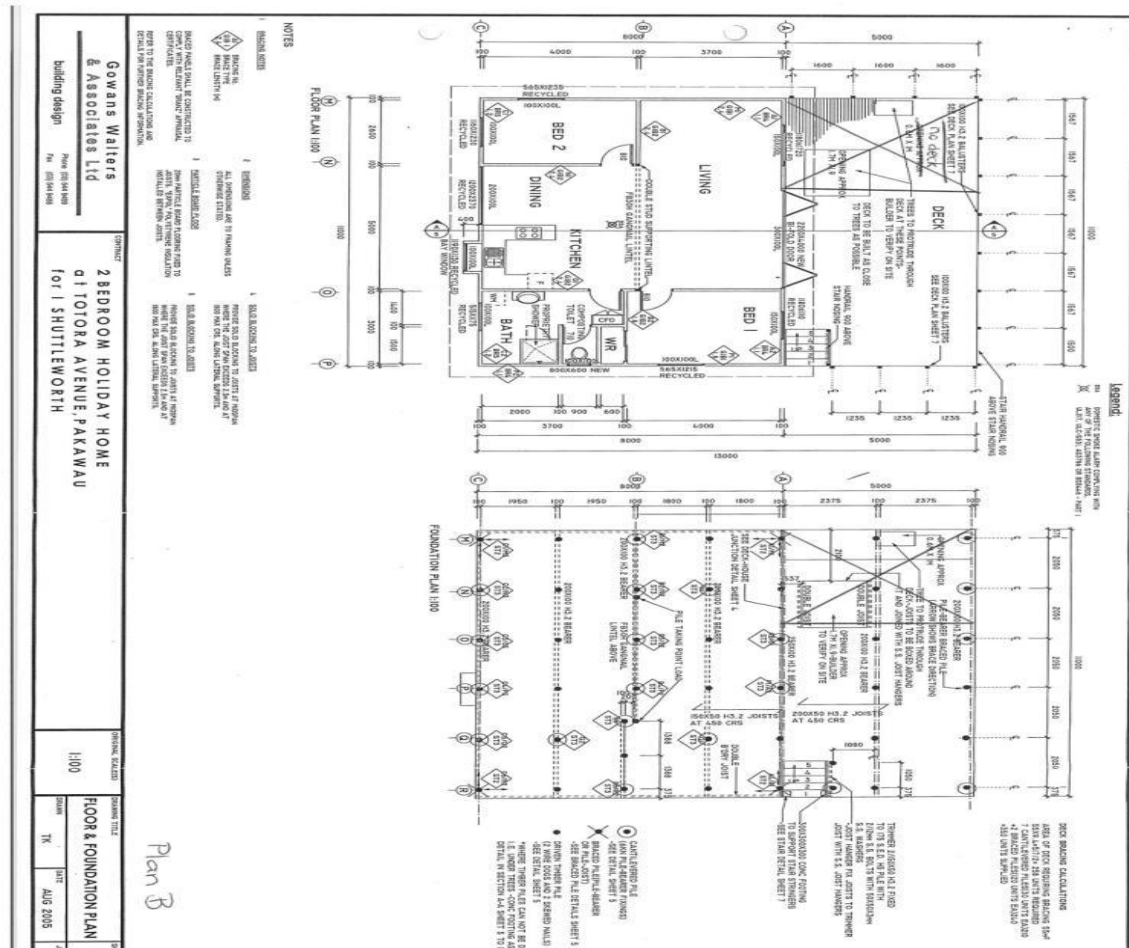
**Tree Protection and Trimming**

8. The mature totara trees on the site shall be maintained and protected and may only be trimmed or removed by a qualified arborist. Any trimming shall only be done when required to enhance the health of the tree or the safety of people or to allow the deck to be constructed as permitted by this consent. The trees shall not removed unless a qualified arborist certifies that the removal is necessary to protect the safety of people.

**Stormwater**

9. Stormwater from the proposed dwelling shall be disposed of to a purpose designed soakpit, located in a position where it will be well clear of any greywater disposal area.





**RESOURCE CONSENT NUMBER: RM060962**

Pursuant to Section 104B of the Resource Management Act 1991 (“the Act”), the Tasman District Council (“the Council”) hereby grants resource consent to:

**IAN SHUTTLEWORTH**

(hereinafter referred to as “the Consent Holder”)

**ACTIVITY AUTHORISED BY THIS CONSENT:**

Discharge of domestic greywater to land in the Coastal Environment Area., where the discharge occurs closer than 20 metres to the coast and 1.5 metres to the side boundaries of the site.

**LOCATION DETAILS:**

Address of property: 50 Totara Avenue, Pakawau, Golden Bay  
 Legal description: Lot 6 DP 8182  
 Certificate of title: NL 3D/426  
 Valuation number: 1860013222  
 Location of discharge: 2482898 6064662

Pursuant to Section 108 of the Act, this consent is issued subject to the following conditions:

## CONDITIONS

1. The activity shall be carried out as described in the documents provided by Cameron Gibson & Wells Ltd (dated: 7 February 2006, author: Peter Born) that were supplied in support of land use consent application RM060465 (except where it is required to be amended in association with any of the following conditions).
2. The maximum weekly discharge volume shall not exceed 2520 litres.
3. There shall be no ponding of greywater on the ground surface, or any direct discharge or run-off of greywater to surface water.
4. The treated greywater entering the disposal field, as measured at the sampling point required to be installed in accordance with Condition 6, shall comply at all times with the following limits:
  - a) the five day biochemical oxygen demand (BOD<sub>5</sub>) in any single sample shall not exceed 20 grams per cubic metre; and
  - b) the concentration of total suspended solids (TSS) in any single sample shall not exceed 30 grams per cubic metre.
5. The construction and installation of the greywater treatment plant and disposal system shall be carried out under the supervision of a person who is suitably qualified and experienced in wastewater treatment and disposal systems.

The person supervising the construction and installation of the system shall provide a written certificate or producer statement to the Council's Co-ordinator Compliance Monitoring prior to the exercise of this resource consent. This certificate or statement shall confirm the following:

- a) that all components of the greywater system (including the treatment plant and the disposal area) have been inspected and installed in accordance with standard engineering practice and the manufacturer's specifications;
  - b) that the components used in the facility are in sound condition for continued use for the term of this resource consent.
6. A sampling point to allow collection of a sample of the treated greywater shall be provided at a point located after the final pump-out chamber and before the point where the greywater discharges to the disposal area.
  7. The Consent Holder shall submit a set of final "as-built" plans to the Council's Co-ordinator Compliance Monitoring that shows the location of all components of the greywater treatment and disposal system and the reserve area. For the purpose of this condition, the Consent Holder shall ensure that the "as-built" plans are drawn to scale and provide sufficient detail for a Council monitoring officer to locate all structures identified on the plans, with particular regard to the sampling point.
  8. The proposed dwelling shall incorporate and maintain water minimisation fittings as outlined in the Cameron Gibson Wells report (referred to in Condition 1).

9. The area shown as carparking on the south eastern corner of the allotment shall be incorporated into the greywater disposal area. The northern disposal area may be reduced by the same area (refer to condition 5 of RM060465).
10. The drainage from the dwelling shall incorporate a grease trap to serve the waste water from the kitchen sink.

### **General Conditions**

11. The Council may, during the month of August 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 adverse effect on the environment which may arise from the exercise of the consent that was not foreseen at the time of granting of the consent, and which is therefore more appropriate to deal with at a later stage; and/or
  - b) to require the Consent Holder to adopt the best practical option to remove or reduce any adverse effects on the environment resulting from the discharge; and/or
  - c) to review the contaminant limits, loading rates and/or discharge volumes and flow rates of this consent if it is appropriate to do so; and/or
  - d) to impose and/or review a sampling programme and/or number of determinands analysed if the results indicate that this is required and/or appropriate.

### **Expiry**

12. This resource consent expires on 13 November 2021.

### **ADVICE NOTES**

1. Any matters not referred to in this application for resource consent or otherwise covered in the consent conditions must comply with the proposed Tasman Resource Management Plan and/or the Resource Management Act 1991.
2. All associated excavation work must comply with the permitted activity requirements of the Tasman Resource Management Plan unless otherwise authorised by a resource consent.
3. The Consent Holder shall meet the requirements of Council with regard to all Building and Health Bylaws, Regulations and Acts. Building consent will be required for these works.
4. Access by the Council or its officers or agents to the property is reserved pursuant to Section 332 of the Resource Management Act to monitor compliance with resource consent conditions
5. All reporting required by this consent shall be made in the first instance to the Tasman District Council's Co-ordinator Compliance Monitoring.

6. Council draws your attention to the provisions of the Historic Places Act 1993 that require you in the event of discovering an archaeological find (eg, shell, midden, hangi or ovens, garden soils, pit, depressions, occupation evidence, burials, taonga) to cease works immediately, and tangata whenua, the Tasman District Council and the New Zealand Historic Places Trust shall be notified within 24 hours. Works may recommence with the written approval of the Council's Environment & Planning Manager, and the New Zealand Historic Places Trust.

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**Date Confirmed:**

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**Chair:**