

MINUTES

TITLE: Environment & Planning Subcommittee
DATE: Monday, 16 April 2007
TIME: 9.30 am
VENUE: Motueka Service Centre, 7 Hickmott Place, Motueka

PRESENT: Cr T B King (Chair), Crs S J Borlase and M J Higgins

IN ATTENDANCE: Manager, Consents (J S Hodson), Senior Planner, MWH (P Doole), Administration Officer (B D Moore)

1. B D HEATH, MOTUEKA VALLEY HIGHWAY, POKORORO - APPLICATION RM060936

1.1 Proposal

The applicant sought subdivision consent for an existing title of 15.76 hectares to create Lot 1 of 8 hectares and Lot 2 of 7.8 hectares. The property is located on the south side of the Motueka Valley Highway at Pokororo on Lot 1 DP 16835 and Lot 1 DP 324986, Certificate of Title NL100672, subject to an amalgamation condition requiring the two lots to be held together in the one title.

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 11.20 am.

RESOLUTION TO EXCLUDE THE PUBLIC

Moved Crs King / Higgins
EP07/04/07

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

B D Heath

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
B D Heath	Consideration of a planning application	A right of appeal lies to the Environment Court against the final decision of Council.

Moved Crs Borlase / King
EP07/04/08

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

Moved Crs King / Borlase
EP07/04/09

THAT pursuant to Section 104D of the Resource Management Act, the Committee GRANTS consent to B D Heath 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 Committee Room, Motueka Service Centre
on Monday, 16 April 2007, commencing at 9.30 am

A Hearings Committee (“the Committee”) of the Tasman District Council was convened to hear the application lodged by **B D Heath** relating to the subdivision of land into two lots. The application, made in accordance with the Resource Management Act 1991 (“the Act”), was lodged with the Tasman District Council and referenced as RM060936.

PRESENT: **Hearings Committee**
Cr King, Chairperson
Cr Borlase
Cr Higgins

APPLICANT: Mr B Heath
Mr G Pratt- Knapps Lawyers

CONSENT AUTHORITY: **Tasman District Council**
Mr P Doole- Senior Planner, MWH

SUBMITTERS: Mr P Searancke
Mr I Davey

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

1. DESCRIPTION OF THE PROPOSED ACTIVITY

To subdivide an existing 15.7680 hectare title to create two allotments being:

- Lot 1 of 8.0 hectares; and
- Lot 2 of 7.8 hectares.

The property is located on the south side of the Motueka Valley Highway at Pokororo. It occupies the lower flank of a ridge and hillside overlooking the Motueka River.

The legal description of the land is Lot 1 DP 16835 and Lot 1 DP 324968 Certificate of Title NL 100672. This Title is subject to an amalgamation condition requiring the two lots to be held together in the one Title.

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): Land Disturbance Area 2

The proposed activity does not comply with Controlled Activity Rule 16.3.8 of the proposed Tasman Resource Management Plan and is deemed to be a restricted discretionary activity in accordance with Rule 16.3.9 of the Plan.

3. NOTIFICATION AND SUBMISSIONS RECEIVED

The application(s) was notified on 20 January 2007 pursuant to Section 93 of the Act. A total of seven submissions were received. The following is a summary of the written submissions received and the main issues raised:

P Searancke (Landsdowne Road Appleby Richmond)

Opposes the application for the following reasons:

- Fragmentation of the rural environment
- Cross-boundary related complaints
- Degradation of existing rural amenity and recreational activities

Wishes to be heard.

New Zealand Fire Service Commission (Wellington)

Seeks conditions of consent requiring that:

- Adequate access to dwellings for fire-fighting appliances be provided
- Domestic water sprinkler systems be installed, or a minimum 45,000 litres of water storage for fire-fighting supply be provided for each dwelling

Through its agent, the Commission has reserved its right to be heard.

Tiakina te Taiao (representing Nelson/Tasman iwi)

Because the proposal is in an area of known archaeological sites associated with Pokororo Pa and stoneworking, seeks conditions of consent requiring that:

- An iwi monitor be employed by the applicant to monitor initial earthworks
- Appropriate consultation and action pursuant to the Historic Places Act is undertaken if any material is found that may have archaeological significance.

Does not wish to be heard.

I and N Davey (Motueka Valley Highway, Pokororo)

Support the application subject to conditions regarding the following matters of concern to them as neighbours:

- Potential effects of extending the electric power supply
- Potential effects of the house site on proposed Lot 2, tree planting and reverse sensitivity issues
- Continued vehicle access across the southeast corner of proposed Lot 2.

Wish to be heard.

A N Bensemam (Ngatimoti RD 1 Motueka)

Supports the application because it is better to use unproductive hill country for lifestyle blocks, than to subdivide good productive country.

Does not wish to be heard.

Hancock Forest Management (NZ) Ltd / Tasman Bay Forests Ltd

Opposes the application, unless concerns relating to “reverse sensitivity” towards forestry activity can be addressed by way of requiring a rural emanations easement to be placed on the new titles.

Wishes to be heard.

R E Kiddle (Stoke, Nelson)

Opposes the application for the following reasons:

- The proposal is contrary to the TRMP
- Creating smaller lots of Rural 2 land diminishes the rural character of the region and has negative effects
- There is a risk of precedent setting and encouraging further applications

Wishes to be heard.

4. PROCEDURAL MATTERS

No procedural matters were raised.

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

Solicitor, Mr G J Praat, tabled and read a submission on behalf of the applicant, B D Heath. The submission described actual and potential effects of the proposed subdivision. In summary, Mr Praat said that because of the particular characteristics of the site, rural character and amenity will not be affected in a way inconsistent with existing development. The land, which already has low productive value, will not have those values further reduced. The relative isolation and lack of visible intrusion will result in a very low level of impact on the existing rural landscape. He said that the proposed activity is consistent with the relevant policies and objectives of the Tasman Resource Management Plan. Mr Praat said that the subject site has features that are helpful in differentiating it from others, if necessary. He said the pattern of development in the local area of Pokororo is such that the particular proposed activity, giving rise to the creation of one extra lot, will not cause any adverse cumulative effect. The written submission addressed the concerns of submitters to the application and the extent to which the applicant was in agreement with the proposed conditions of consent in order to address the submitters' concerns. The submission said that any visual or amenity effects are largely offset by the high degree of isolation of the building sites, which cannot be seen from the Motueka Valley Highway.

The applicant, Mr Heath, provided a verbal history of prior subdivision and usage of the subject site and described how income from this land is minimal and that the total site is too big to maintain and keep clean of gorse and regrowth. He described the proposed house sites and that little additional work is required to prepare these for building. He said mature existing trees will screen the house site from the Davey property. He said that any condition of consent requiring water storage for firefighting purposes should be no more than that required by the Tasman Resource Management Plan. Mr Heath indicated he was in agreement with the imposition of a rural emanations easement.

5.2 Submitters' Evidence

Cr King directed that additional letters from submitters, being New Zealand Fire Service and E Kiddle, be tabled and accepted. Cr King advised that no one would attend to address the submission from Hancock Forest Management.

Mr P Searancke said his main area of concern was the reverse sensitivity issues. He said a rural emanations easement should be a requirement by way of a condition to protect existing uses. He said that this was particularly an issue in relation to forestry harvesting.

Mr I Davey made a verbal submission on behalf of I W and N E Davey and said that he was not opposed to the subdivision but sought protection for power and telephone lines so that these should be placed underground. He said that the present 15kva system needs upgrading. He also addressed the proposed house site on Lot 2, saying that this should be located to block both visual and noise effects. He spoke about his concerns with an existing access problem to his garage and parking area and sought that the applicant consider the provision of legal access for the Davey property as part of finalising the subdivision process.

5.3 Council's Reporting Officer's Report and Evidence

Senior Planner, Mr P Doole of MWH New Zealand Ltd, spoke to the staff report of 2 April 2007 contained within the agenda. He addressed the potential effects of the proposed subdivision and noted that there had been no great opposition received from local people and reminded the Committee that this subdivision is a discretionary activity. He said that one extra block in this locality will not be significant. In regard to cross-boundary effects, Mr Doole said that proposed Lot 1 is around the other side of a minor ridge from the Davey property and should not be an issue. He noted that the building site on proposed Lot 2 can be adequately screened. Mr Doole said that compliance with the vehicle access standards at the time of residential development, should be considered by way of a consent notice for both the proposed allotments. He said they should be formed to the required standard over their full length. He agreed that power and telephone services should be underground. Mr Doole said that access to the Davey garage across the Heath land could be by a right of way created at the time of the subdivision process or arrangements could be made at any time between the parties.

6. PRINCIPAL ISSUES

The principal issues that were in contention were:

- a) Will the proposed subdivision cause a significant adverse effect in terms of rural character and amenity, fragmentation of land or loss of land of productive value?
- b) Will the proposed subdivision have any significant effects in terms of cross-boundary or reverse sensitivity issues?
- c) Will the siting of the dwellings have any adverse effects on the amenity of adjoining properties?

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 proposed subdivision, creating one additional house site, would not have a significant adverse effect on any planning related issues including rural character and amenity, fragmentation of land or loss of land of productive value.

- b) The Committee considered there was a potential effect in terms of future reverse sensitivity in relation to productive rural activities including forestry, which could be adequately addressed by a volunteered easement to appear on the title of the new lots which would alert future owners to the effects of the forestry operation. The Committee suggests that the applicant may wish to create protective easements over the productive lot in his ownership.
- c) The Committee considered that the restrictions of design and siting offered by the applicant would adequately address any potential loss of privacy of adjoining land owners.

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) Tasman Regional Policy Statement (TRPS);
- (ii) the proposed Tasman Resource Management Plan (TRMP);

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 the purpose of the Act as presented in Section 5.

9. DECISION

Pursuant to Section 104C of the Act, the Committee **GRANTS** consent subject to conditions.

10. REASONS FOR THE DECISION

The land is zoned Rural 2 in the proposed Tasman Resource Management Plan. The subdivision proposed is for one additional lot able to be built on.

The soil on the land is classified as "E" and is of limited productive value, but would be suitable for forestry and pastoral farming. However, as the existing block is relatively small in size (15 hectares), it is basically a lifestyle block already, and therefore the loss of land of productive value would be minimal.

The Committee considered that the location of the building sites will not have an adverse impact on the rural character and amenity of the area. The Committee noted the concerns held by the adjoining land owner regarding potential loss of privacy and considered that it was appropriate to impose a condition regarding the location of the living area of the future dwelling on Lot 2.

The Committee noted the concerns of two of the submitters in relation to the subdivision of Rural 2 land. However, the Committee was clear that the proposal was a discretionary activity within the zone. The Committee is satisfied that the creation of one additional building site on this land will not be contrary to the relevant policies and objectives for the Rural 2 zone.

The Committee agreed with imposing the volunteered condition relating to “rural emanations” which is a way of flagging to prospective owners of the lots, that there are legitimate rural activities in the area which have effects from time to time.

The Committee noted the concerns of Mr Davey in relation to the area of land used to access his garage. The Committee noted the commitment of the applicant to resolve this matter privately between the parties.

The Committee was satisfied that the two lots could be adequately serviced for power without any adverse effects on the environment.

The Committee was satisfied that with the required upgrading of the vehicle accesses to the two lots, the traffic effects linked to the proposal would be no more than minor. It was also considered that the accesses should be formed up to the building sites and that the building sites themselves should be constructed prior to the completion of the subdivision. The details of the excavation will reveal whether or not a further resource consent is required for earthworks in the Land Disturbance 2 Area. This will also ensure that adequate access is provided for emergency vehicles which is a concern of the Fire Service Commission.

The Committee was in agreement with the submission from the Fire Service Commission regarding the advantages of either domestic sprinklers or additional water storage on site in the case of fire. The Committee considers that it is appropriate to impose a condition to this extent and considers that the Council should deal with this as a policy matter in the near future.

Issued this 3rd day of May 2007

Councillor T King
Chair of Hearings Committee

RESOURCE CONSENT NUMBER: RM060936

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

B D HEATH

(hereinafter referred to as “the Consent Holder”)

ACTIVITY AUTHORISED BY THIS CONSENT: Subdivision of land

LOCATION DETAILS:

Address of property:	Motueka Valley Road, Pokororo
Legal description:	Lot 1 DP 16835 and Lot 1 DP 324968
Certificate of title :	NL 100672.
Valuation number :	1928054101

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

CONDITIONS

General Accordance

1. That the proposal shall be implemented in general accordance with the Plan of Subdivision prepared by Selwyn Light Surveyors Ltd dated October 2006 submitted to Council as part of the application and attached to this consent.

Easements

2. Easements are to be created for any services located outside the boundaries of the allotments that they serve.

A “forest friendly” easement in the attached form shall be created over Lot 1 and Lot 2 in favour of Tasman Bay Forests Ltd land.

Reference to easements is to be included in the Council’s Section 223 recital on the survey plan.

Note: The “forest friendly” easement is a volunteered condition and the purpose is to ensure the adverse effects of reverse sensitivity are mitigated in relation to the nearby forestry activity.

Financial Contributions

3. Financial contributions are required for one allotment. The following shall apply:

Reserves and Community Services

Payment of a reserves and community services levy assessed at 5.5% of 2,500 square metre notional building site within the allotment.

The valuation will be undertaken by Council's valuation provider within one calendar month of Council receiving a request for valuation from the Consent Holder. The request for valuation should be directed to the Consents Administration Officer at Council's Richmond office. The cost of the valuation will be paid by Council.

If payment of the financial contribution is not made within two years of the date of this consent and a revised valuation is requested as provided by Rule 16.5.5(d) of the Proposed Tasman Resource Management Plan, the cost of the revised valuation shall be paid by the Consent Holder.

(refer Advice Notes for Development Contribution requirement)

Power and Telephone

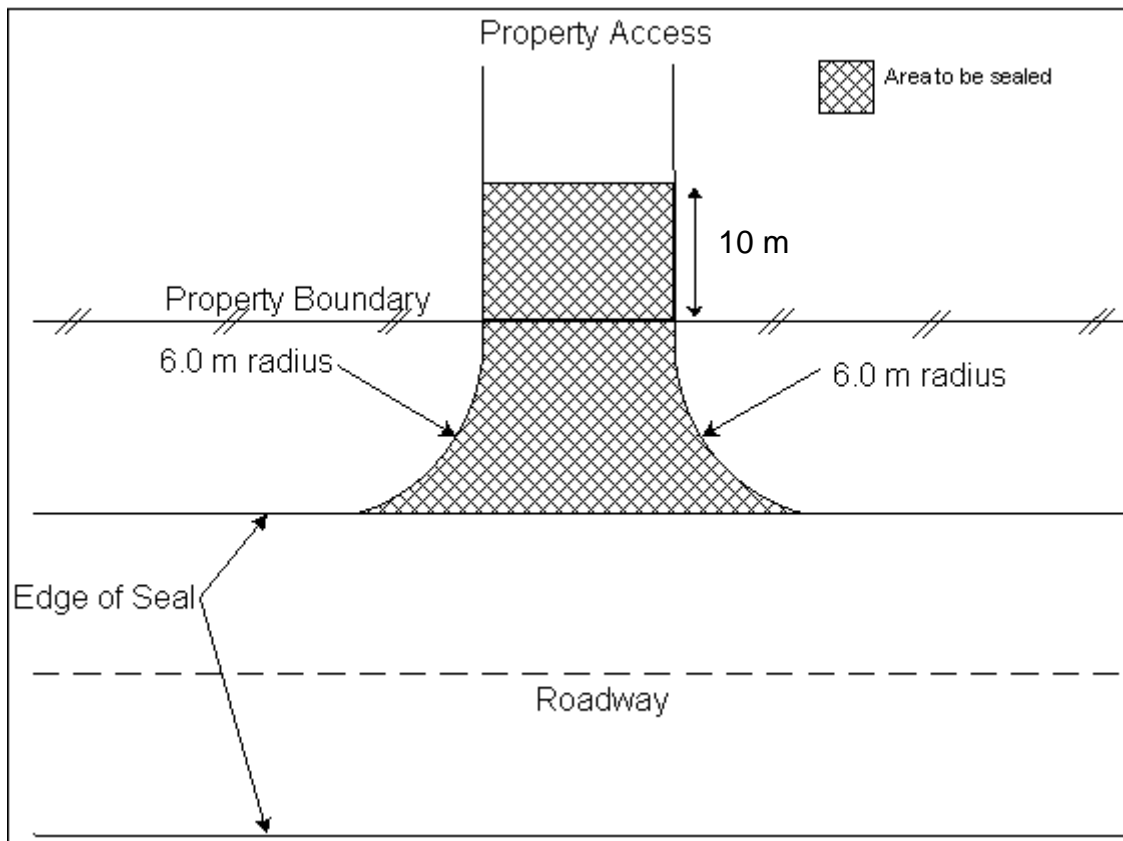
4. Live telephone and electric power connections shall be provided to Lot 1 and Lot 2 in accordance with Tasman District Engineering Standards & Policies.
5. Confirmation of the above from the supply authority and a copy of the supplier's Certificate of Compliance shall be provided to the Council.
6. The proposed electric power connection from the existing terminus on the Davey property (being Lot 5 DP 353151 and Lot 1 DP 312979) shall be laid underground across Lot 2 to the boundary between proposed Lots 1 and 2.

Vehicle Accessways

7. Prior to the approval of the Section 224 certificate, the vehicle access track to the proposed building sites on Lot 1 and Lot 2, shall be upgraded or constructed with a minimum carriageway width of 3.5 metres and maximum gradient of 1:5 over the full length, and shall otherwise comply with the standards for on-site access set out in Figure 16.2A of the Tasman Resource Management Plan. At the completion of works, a suitably experienced chartered professional engineer or surveyor shall provide Council with written certification that the works have been constructed to the standards required.

Vehicle Crossings

8. Sealed vehicle crossings shall be formed to service Lots 1 and 2 in the positions shown on the Plan of Subdivision. For the purposes of this condition "sealed" shall mean a surface that has, as a minimum, a Grade 4 chip first coat, overlain by a Grade 6 void fill second coat.
9. The vehicle crossings for each allotment shall be constructed in accordance with the design shown below:



and shall provide the following:

- (a) the access sealing shall extend 10 metres inside the property;
- (b) provision of culvert crossings and water tables where required. The road culvert shall be to the approval of the Tasman District Council Engineering Manager;
- (c) provision of an inward-swinging gate set back sufficiently to ensure that the largest class of vehicle likely to need access to the site on a regular, frequent or predictable basis can be stopped off the road carriageway while the gate is being opened or shut (per TRMP Rule 16.2.2(z));
- (d) the first six metres of the access between the road carriageway and the gate shall be more or less level.

Building Location Plan

10. A building location plan for Lots 1 and 2 showing building sites of a maximum of 30 m diameter circle shall be prepared by a registered professional surveyor and shall be submitted to the Environment and Planning Manager for approval as part of the section 223 title plan.

The building locations shall be in accordance with the application plan attached to this consent.

Consent Notices

11. Pursuant to Section 221 of the Resource Management Act 1991, consent notices shall be registered on the titles of proposed Lot 1 and 2 including the following:
 - A. Buildings on Lot 1 and 2 shall be within the area bounded by the 30 metre diameter circle shown on the title plan.
 - B. Foundation design and building site excavation for any dwelling to be erected on Lot 1 and 2 shall be subject to specific investigation and certification in accordance with TDC Engineering Standards Section 11 Appendix B by a chartered professional engineer experienced in slope stability and geotechnical engineering.
 - C. Any dwelling on Lot 1 and 2 shall be provided with a domestic water sprinkler system which complies with Fire Systems for Houses NZS 4517:2002 or shall comply with New Zealand Fire Service Code of Practice for fire fighting water supply SNZ PAS 4509:2003.
 - D. Consent Notice for Lot 1 only:

The dwelling on Lot 1 shall be designed and constructed so that no parts of the living areas are visible from within the dwelling on Lot 1 DP 312979.

Engineering Certification- General

12. At the completion of works, a suitably experienced chartered professional engineer or registered surveyor shall provide Council with written certification that the works have been constructed to the standards required.

ADVICE NOTES

1. This resource consent only authorises the activity described above. Any matters or activities not referred to in this consent or covered by the conditions must either: 1) comply with all the criteria of a relevant permitted activity rule in the Tasman Resource Management Plan (TRMP); 2) be allowed by the Resource Management Act; or 3) be authorised by a separate resource consent.
2. The consent holder shall meet the requirements of Council with regard to all Building and Health Bylaws, Regulations and Acts.
3. Council will not issue the Section 224(c) certificate in relation to this subdivision until all development contributions have been paid in accordance with Council's Development Contributions Policy under the Local Government Act 2002.

The Development Contributions Policy is found in the Long Term Council Community Plan (LTCCP) and the amount to be paid will be in accordance with the requirements with the requirements that are current at the time the relevant development contribution is paid in full.

Currently this consent will attract a development contribution for one allotment in respect of roading in the District outside of the Coastal Tasman Area.

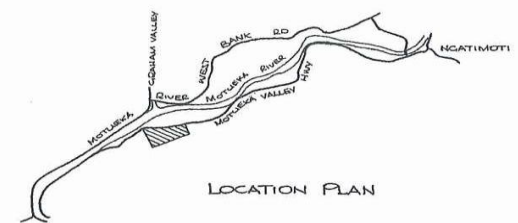
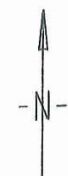
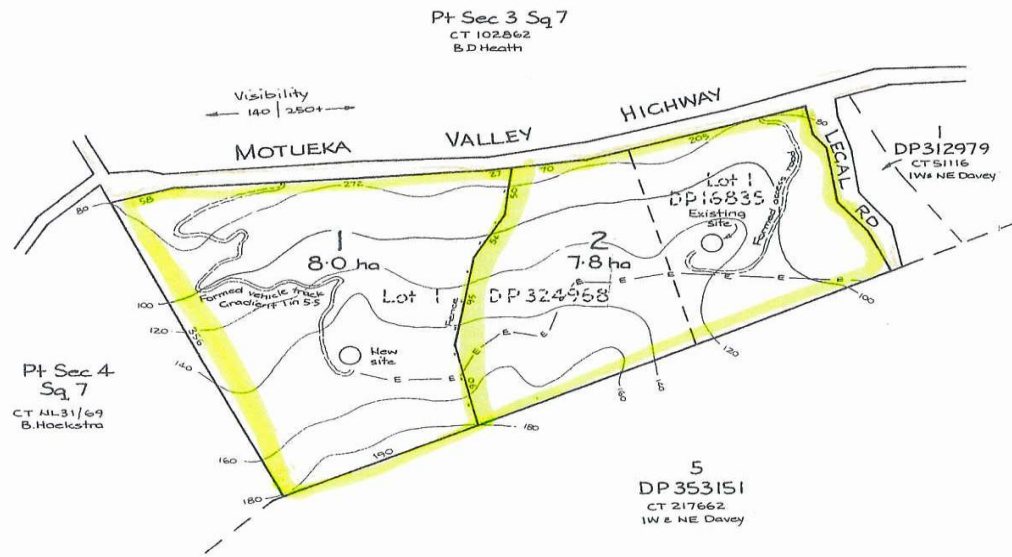
4. Whilst there are no known archaeological sites on the site, the subject property is near an archaeological site. If during any site disturbance works, any material is found that may have any archaeological significance, all works should stop immediately and the consent holder should contact Tiakina te Taiao, the Tasman District Council and the Historic Places Trust, who should be consulted so that the appropriate action pursuant to the Historic Places Act is undertaken.

Issued this 3rd day of May 2007

Councillor T King
Chair of Hearings Committee

Date Confirmed:

Chair:



○ Denotes building site
—E— Power supply route

PROPOSED SUBDN OF LOT 1 DP16835 & LOT 1 DP324958

CT 100672 B.D Heath

Scale: 1:3000

Prepared by Selwyn Light Surveyors Ltd - October 2006

This subdivision was approved as a _____ activity on the _____ day of _____ 2006 subject to the conditions noted in file _____

RM 060936

Consents Officer