

MINUTES

TITLE: Environment & Planning Committee
DATE: Monday, 31 March 2008
TIME: 9.00 am
VENUE: Motueka Service Centre, 7 Hickmott Place, Motueka

PRESENT: Cr N Riley (Chair), Crs M Higgins and E Wilkins

IN ATTENDANCE: Senior Planning Consultant (P Doole), Principal Consents Planner (R Askew), Development Engineer (D Ley), Rivers and Coastal Engineer (E Verstappen), Administration Officer (B D Moore)

1. R AND N BENSEMANN, 78 OLD WHARF ROAD, MOTUEKA – APPLICATIONS RM070807, RM070808, RM070809 and RM070810

1.1 Proposal

The application is for the following consents:

RM070807 Subdivision

To subdivide in three stages, two existing titles comprising 7.4 hectares to create:

- Proposed Lots 1-16 being 16 rural residential allotments ranging between 1690 square metres and 1.25 hectares in size;
- Proposed Lot 17, being an allotment of 7390 square metres to vest in Council as road;
- Proposed Lot 18, being an allotment of 1050 square metres to vest in Council as Local Purpose Reserve;
- Proposed Lot 19, being an allotment of 145 square metres to vest in Council as Local Purpose Reserve (Walkway); and
- Associated easements.

A seven year lapsing period is being sought for the subdivision consent.

RM070808 Land Use Consent

To undertake the following land use activities associated with the subdivision described above (Application RM070807):

- Construct a dwelling on each of proposed Lots 1-12 and Lots 14-16 (Lot 13 contains an existing dwelling), with a minimum setback of 5 metres from any boundary, and no minimum setback from water bodies on site.
- Construct dwellings on those allotments located within the Coastal Environment Area, all meeting the controlled activity criteria as set out in Rule 18.14.3 of the Proposed Tasman Resource Management Plan.

- Land disturbance to:
 1. fill the areas of the proposed building sites of approximately 600 square metres each on Lots 1-12 and Lots 14-16 to a minimum level of RL 3.4m;
 2. fill and realign an unnamed tributary of the Moutere Inlet (locally known as Thorp Drain); and
 3. create roading on the subject site.

Some of these works will occur within 200 metres of the Coastal Marine Area.

The application seeks, for the land use consent to construct dwellings, a lapsing period of five years from the date of the Section 223 survey plan approval being granted for the relevant stage of the subdivision. A 10 year lapsing period is being sought for the land disturbance component.

RM070809 Discharge Permit

To discharge stormwater from the subdivision described above (Application RM070807) to an unnamed tributary of the Moutere Inlet (locally known as Thorp Drain).

A 10 year lapsing period is being sought for the discharge permit.

RM070810 Permit to Divert Water

To divert water by way of re-alignment of an unnamed tributary of the Moutere Inlet (locally known as Thorp Drain).

A 10 year lapsing period is being sought for the water permit.

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.

RESOLUTION TO EXCLUDE THE PUBLIC

**Moved Crs Wilkins / Riley
EP08/03/32**

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

R and N Bensemman

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
R and N Bensemann	Consideration of a planning application	A right of appeal lies to the Environment Court against the final decision of Council.

Moved Crs Higgins / Wilkins
EP08/03/33

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

CARRIED

- 2. R AND N BENSEMANN, 78 OLD WHARF ROAD, MOTUEKA – APPLICATIONS RM070807, RM070808, RM070809 and RM070810**

Moved Crs Wilkins / Riley
EP08/08/34

THAT pursuant to Section 104B of the Resource Management Act, the Committee GRANTS consent to R and N Bensemann 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 Council Chambers, Motueka

on 31 March 2008, commencing at 9.30 am

A Hearings Committee (“the Committee”) of the Tasman District Council (“the Council”) was convened to hear the application lodged by **Rick Edwin Bensemann and Nicola Bensemann** (“the Applicants”), to subdivide a 7.4 hectare property zoned Rural 1 at Old Wharf Road, Motueka and for associated land use development (dwellings) and earthworks, discharge of stormwater and water permit to realign and divert an unnamed tributary to the Moutere Inlet (known locally as Thorp Drain). The application, made in accordance with the Resource Management Act 1991 (“the Act”), was lodged with the Council and referenced as RM070807, RM070808, RM070809 and RM070810.

PRESENT:

Hearings Committee
Cr N Riley, Chairperson
Cr M Higgins
Cr E Wilkins

APPLICANTS: Mr N McFadden, Legal Counsel
Mr R Bensemam, Representing the Applicants
Mr D Canton, Services Design Engineer Consultant
Mr J McCartin, Engineering Consultant
Ms J McNae, Planning Consultant

CONSENT AUTHORITY: **Tasman District Council**
Mr P Doole, Planning Consultant
Mr D Ley, Development Engineer
Mr E Verstappen, Resource Scientist, Rivers and Coast

SUBMITTERS: Mr C Budgen
Mr P Bourke, Representing P and S Bourke
Mr T Bryant, Representing Royal Forest and Bird Protection Society, Nelson/Tasman Branch
Mr G Thomas, Planning Consultant for J and C Gatenby
Mr J Gatenby, Representing J & C Gatenby
Ms A Webber

A written submission was tabled from C Cantwell and B O'Reilly

IN ATTENDANCE: Mr R Askew, Principal Resource Consents Adviser –
Assisting the Committee
Mr B Moore – Committee Secretary

1. DESCRIPTION OF THE PROPOSED ACTIVITY

RM070807 Subdivision Consent

To subdivide in three stages, two existing titles comprising 7.4 hectares to create:

- Proposed Lots 1-16 being 16 rural residential allotments ranging between 1690 square metres and 1.25 hectares in size;
- Proposed Lot 17, being an allotment of 7390 square metres to vest in the Council as road;
- Proposed Lot 18, being an allotment of 1050 square metres to vest in the Council as Local Purpose Reserve;
- Proposed Lot 19, being an allotment of 145 square metres to vest in the Council as Local Purpose Reserve (Walkway); and
- Associated easements.

A seven year lapsing period is being sought for the subdivision consent.

RM070808 Land Use Consent

To undertake the following land use activities associated with the subdivision described above:

- Construct a dwelling on each of proposed Lots 1-12 and Lots 14-16 (Lot 13 contains an existing dwelling), with a minimum setback of 5 metres from any boundary, and no minimum setback from water bodies on site.
- Construct dwellings on those allotments located within the Coastal Environment Area, all meeting the controlled activity criteria as set out in Rule 18.14.3 of the Proposed Tasman Resource Management Plan.
- Land disturbance to:
 1. fill the areas of the proposed building sites of approximately 600 square metres each on Lots 1-12 and Lots 14-16 to a minimum level of RL 3.4m;
 2. fill and realign an unnamed tributary of the Moutere Inlet (known locally as Thorp Drain); and
 3. create roading on the subject site.

Some of these works will occur within 200 metres of the Coastal Marine Area.

The application seeks, for the land use consent to construct dwellings, a lapsing period of five years from the date of the Section 223 survey plan approval being granted for the relevant stage of the subdivision. A 10 year expiry term is being sought for the land disturbance component.

RM070809 Discharge Permit

To discharge stormwater from the subdivision described above (Application RM070807) to an unnamed tributary of the Moutere Inlet (locally known as Thorp Drain).

A 10 year expiry term is being sought for the discharge permit.

RM070810 Permit to Divert Water

To divert water by way of re-alignment of an unnamed tributary of the Moutere Inlet (known locally as Thorp Drain).

A 10 year expiry term is being sought for the water permit.

Amendments to the Notified Application Presented at the Hearing

- Changing the re-alignment of Thorp Drain at the north end of the property (proposed Lot 10);
- Changing the re-alignment of Thorp Drain at the south end of the property to avoid Sanctuary Pond;
- Amending the layout of proposed Lots 6-9 and 11 so that the re-aligned Thorp Drain will flow through Lots 10 and 13 only, and cancelling the Council's existing drainage easement and providing a new Easement in Gross in favour of the Council to match up with the new alignment of Thorp Drain;

- Amending the proposed minimum building platform level from 3.3 metres, to 3.4 metres;
- Amending the minimum level for both the proposed road and the right-of-way from 2.5 metres and 2.0 metres respectively, to 2.6 metres;
- Shifting the proposed sewer pumping station further north to within the proposed right-of-way area; and
- Providing an ecological assessment of the proposed changes to Thorp Drain and the ponds on the property.

The Applicants sought leave for the above amendments to be accepted by the Committee on the basis that there was no prejudice to any party to the application.

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 1

Area(s): Part Coastal Environment Area, Land Disturbance Area 1

The proposed subdivision does not comply with Controlled Activity Rule 16.3.7 of the Proposed Tasman Resource Management Plan and is deemed to be a discretionary activity in accordance with Rule 16.3.7A of the Plan.

The proposed construction of residential dwellings does not comply with Permitted Activity Rule 17.4.4 of the Proposed Tasman Resource Management Plan and is deemed to be a discretionary activity in accordance with Rule 17.4.6 of the Plan.

The proposed earthworks do not comply with Permitted Activity Rule 18.6.1 of the Proposed Tasman Resource Management Plan and are deemed to be a restricted discretionary activity in accordance with Rule 18.6.6 of the Plan.

The proposed diversion of water does not comply with Permitted Activity Rule 31.1.2 of the Proposed Tasman Resource Management Plan and is deemed to be a discretionary activity in accordance with Rule 31.1.6 of the Plan.

In addition, Section 13 of the Act requires that consent be obtained for works in a watercourse unless expressly allowed by a rule in a regional plan and in any relevant proposed regional plan or resource consent. Presently, the only proposed or operative regional plan pertaining to the use of river and lakebeds is the Transitional Regional Plan (TRP). Under the provisions of the TRP, resource consent is required for the discretionary activities of filling and modifying the existing alignment of Thorp Drain.

Overall the proposal is a **discretionary** activity.

3. NOTIFICATION AND SUBMISSIONS RECEIVED

The application was notified on 13 October 2007 pursuant to Section 93 of the Act. A total of 17 submissions were received. The following is a summary of the written submissions received and the main issues raised:

No.	Submitter	Support or Oppose	Key Submission Points
1	S Budgen 95 Motueka Quay	Support	<ul style="list-style-type: none"> • The area is surrounded by houses and is no longer suitable for rural use • Pleased to see low density housing / larger sections proposed • Wetlands will continue to provide wildlife habitat
2	W and V Ross 200 Thorp St	Neutral (with conditions)	<ul style="list-style-type: none"> • That the existing ROW (off Thorp St) be sealed to reduce vehicle noise • That this ROW service only the existing house (Lot 1 Dp17194) and Lot 16 of the proposed subdivision
3	G Trainor 136 Thorp Street Wished to be heard	Neutral (with conditions)	<ul style="list-style-type: none"> • Property bisected by northern part of Thorp Drain, low-lying land frequently floods during periods of high rainfall • Re-alignment of the drain must not hinder or slow the flow of water • Increased stormwater discharge must not interfere with drainage of our property especially during periods of high tide
4.	C J Budgon 95 Motueka Quay Wished to be heard	Support	<ul style="list-style-type: none"> • Bensemman family offered land for playing fields, also Sanctuary Pond area • Untenable to farm pip fruit on the remaining property; unreasonable for spray and other horticultural activities next to sports fields and houses • Conversion of the area to houses is logical and reasonable solution
5.	Tiakina te Taiao	Oppose	<ul style="list-style-type: none"> • Loss of open space for people and wildlife habitat in Motueka - overall cumulative effects have not been taken into consideration • 16 new properties will bring loss of habitat as well as domestic animals, further threatening native birds • Impacts of Thorp Drain re-alignment on native fish including whitebait and eels are not covered adequately • The fish will need to be salvaged • Sediment from all works needs to be properly managed • Fish passage needs to be maintained • Avoid whitebait and spawning seasons • The area is on or adjacent to Maori made soils. Impose standard archaeological condition
6.	Public Health Services Nelson	Support (with conditions)	<ul style="list-style-type: none"> • Supports reticulation of potable water • Supports connection to the waste water reticulation and treatment system • Swales for stormwater management in close proximity to dwellings have the potential to create nuisance conditions with breeding of mosquitoes, midges • Thoughtful design and on-going maintenance of swales is required to mitigate the effects of nuisance insects
7.	J and C Gatenby 240 Thorp Street Wished to be heard	Oppose	<ul style="list-style-type: none"> • The most positive result for all would be for TDC to purchase all of that area of the property in the coastal zone and enlarging and enhancing sanctuary ponds, resulting in

			<p>the deletion of Lots 1 and 2, and possibly Lot 3.</p> <ul style="list-style-type: none"> If consent is granted, the following issues need to be addressed: <ul style="list-style-type: none"> impose a significant monitoring bond to ensure compliance with conditions delete the car parks at the rear of Lot 2 DP 13222, and replace with vegetation relocate the access road to the sports field boundary and enlarge Sanctuary Pond why the need for the long leg-in access for Lot 13? impose height and single story restriction on the proposed dwellings, taking account of the raised building sites; proposed level of 3.3m is too low, should be 4.6m impose 10m building set backs from the new road on proposed Lots 1 and 2 to retain openness no extension to the consent period impose controls on adverse effects during construction impose long-term restrictions on the number of users of the ROW and prevent future upgrade impose controls on the intensity of street lighting impose restrictions on use of the land for commercial or industrial activities upgrade Old Wharf Road to Council standards require noise control to be a feature of the proposed new road (eg, hush asphalt, 30 kph speed limit) concerned re effects of proposed alterations on operation of Thorp Drain retain right to discharge stormwater from submitters property to Thorp Drain upgrading of water reticulation and sewage disposal systems should be at cost of the Applicant restrict to one residential dwelling unit per new title concerned re water safety aspects of new ponds proposal is contrary to the Rural 1 zoning and loss of the Rural aspect could have a serious detrimental effect on the submitters Bed and breakfast operation
8.	G A Tonkin 230 Thorp Street	Support (with conditions)	<ul style="list-style-type: none"> No walkway to soccer fields (Lot 19) to lessen traffic using road No "spite strip" for Lot 13 Thorp Drain left in current location
9.	P D and S Bourke 160 Thorp Street Wished to be heard	Support (with condition)	<ul style="list-style-type: none"> Realigning Thorp Drain with a right angle bend may cause water backing up onto Bourke property during flood times Confirmation from engineers that property will not be effected by flooding
10.	Department of Conservation	Support (conditions)	<ul style="list-style-type: none"> Supports enhancement of the waterway The proposed works should <ul style="list-style-type: none"> not adversely on eels and other native fish, both during construction and as a result of the proposed re-alignment

			<ul style="list-style-type: none"> - result in a net benefit to freshwater fish values - not occur during whitebait spawning and catching seasons • Salvage eels and other fish • Engage a consultant with ecological expertise to undertake fish salvage, and to advise on restoration and to supervise the works • The new drain should have gently sloping sides to enhance whitebait spawning opportunities • Restoration to include riparian planting to enhance in-stream values
11.	R and L Brereton 126 Thorp St	Support	<ul style="list-style-type: none"> • It will be a good use of otherwise unused land
12.	D Jackson Motueka	Oppose	<ul style="list-style-type: none"> • Cumulative effect of the proposed subdivision will ruin the semi-rural feel of the area and the environment enjoyed by existing nearby landowners and the town as a whole
13.	L C and D M Keith 156 Thorp Street	Support	<ul style="list-style-type: none"> • Realigning Thorp Drain with a right angle bend may cause water backing up onto Bourke property during flood times • Confirmation from engineers that properties above will not be effected by the realignment of Thorp Drain
14.	Nelson/Tasman Branch Royal Forest and Bird Society Wished to be heard	Neutral Conditions required)	<ul style="list-style-type: none"> • Acknowledge that subdivision may be an appropriate use of this land, but cannot see why the rural-residential and other rules should not apply • The usual rural-residential set backs from margins of lakes and rivers, and from open space zones should apply • Thorp Drain should be regarded as being a river, it has significant conservation values, and the presumption that esplanade reserves should be taken should be upheld • The restoration of improved and significant wetland values will be possible provided conditions are imposed for plantings and building set backs • Increased likelihood of detergents and other pollutants to get into the water bodies, hence all stormwater should be appropriately treated • Consider covenants to prohibit domestic animals such as cats to protect birdlife that frequents the water margins • The locations of the proposed building platforms should be indicated, flooding of this land has occurred and sea level rise will make the situation worse
15.	R H Sandford 148 Thorp Street	Support (with condition)	<ul style="list-style-type: none"> • That no water backs up on neighbouring property – make sure that drainage is adequate
16.	V Cantwell and B O'Reilly 190 Thorp Street Wished to be heard	Oppose	<ul style="list-style-type: none"> • Currently Thorp Drain forms a natural boundary to the west of our property and a nesting area for birds – the impact of realigning the drain is unclear • The effect on an existing drainage easement through our property from Thorp Road to the

			<p>drain is unclear</p> <ul style="list-style-type: none"> • The minimum set back should be 10m from the edge of the filled-in drain and not obstruct our view of Mt Arthur • There will be significant loss of privacy unless significant planting and other controls • The subject area could be a building site for many years • No contact and no input to application
17.	<p>A Webber Upper Moutere</p> <p>Wished to be heard</p>	Oppose	<ul style="list-style-type: none"> • The area is low lying and incorporates Thorp Drain, one of the major flood drains of Motueka • It is proposed to fill several of the existing ponds - typical of a greenfield urban development • Refers to Water and Sanitary Services Assessments (2005) regarding stormwater capacity issues in Motueka • No provision made for legal access to clear drain if required • Drainage functionality should be primary consideration • Use of sports fields and associated noise in evenings should be considered for house sites • Proposed reserve area (Lot 18) should not be used for car parking • Sharp angle proposed where the drain enters the subdivision, for the maximisation of building sites • Building set back from the drain should be required to allow flood protection work • Refers to RMA provisions to have regard to climate change, and Section 106 RMA • The 10 year lapsing period sought is too long, with a review of minimum ground levels due in 2010 • Given a 50 year life span for the proposed houses, the expected increase in flood events and the low-lying nature of this area, is the development of sections responsible? • Decline consent for building within 200m of the coastal marine area • Decline consent for the infilling of coastal inlet, tributary or wetland area • Require a water take permit for the construction of new ponds as these are spring fed • Impose a set back from Thorp Drain to ensure access for machinery

4. PROCEDURAL MATTERS

The Applicant presented a list of seven proposed amendments to the application as notified and as described at the start of this report and decision. The Committee considered that the amendments, which were made in response to a request for further information from the Council's staff would not create any additional adverse effects and would mitigate some potential adverse effects associated with the notified application. The Committee resolved to accept the amendments.

Following adjournment of the hearing on 31 March 2008 the Committee carried out a site visit on 1 April 2008 and reconvened to deliberate on the application.

The Committee resolved "That pursuant to Section 41C(3) of the Resource Management Act 1991 that the Committee requests that the Applicants provide further information regarding a) the proposed rising main sewer and b) the proposed infilling of that length of Thorp Drain that is located within Lot 1 DP 17194".

The information requested was as follows:

1. The Committee requests that, unless an arrangement can be agreed in writing with the Council's Community Services Department to run a mains sewer line through the adjoining Council Reserve (Lot 1 DP 16330), you provide information to show, on an amended version of the plan prepared by Staig and Smith Limited entitled Job No 8743, DWG8743D, an acceptable alternative proposed sewerage reticulation for the proposed subdivision that connects to the Council's sewer main.

Note that the term 'acceptable' in this case means the written approvals (including binding agreement to any easements required) of any affected land owners are provided to the Committee and that you confirm that the proposed sewerage reticulation would be to the satisfaction of the Council's Engineering Services Manager and in the case of the sewer running through the Council Reserve, would be to the satisfaction of the Council's Community Services Manager.

2. That you confirm that you would be able obtain the written agreement of the owner(s) of Lot 1 DP 17194, Certificate of Title NL11B/323 to undertake works associated with the infilling of that length of Thorp Drain that is located within Lot 1 DP 17194, Certificate of Title NL11B/323, and that such written agreement be in an enduring form that would transfer to any successor in title of Lot 1 DP 17194, Certificate of Title NL11B/323, for the period that the works may be liable to be carried out and in any event shall not lapse until a certificate pursuant to Section 224(c) of the Act would be issued for Lots 13 and Lots 16 of the proposed subdivision.

Both of these matters were subsequently satisfactorily confirmed by way of an agreement to create an easement in gross across Mr Bourke's land and by way of an access agreement to the land identified in 2 above.

5. EVIDENCE HEARD

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

5.1 Applicants' Evidence

Mr N A McFadden, solicitor, introduced the application and listed the amendments made to the application which had occurred during the notification process and resulted partly out of the Council's request for further information and also to address matters raised in submissions. He provided a copy of the amended plan of the proposed subdivision. Mr McFadden said that the overall suite of applications will be considered as a discretionary activity.

Mr McFadden submitted why the Thorp Drain is not a river and explained how it is wholly artificial as it was dug for the purpose of providing drainage for the Tudor Street end of Motueka so the channel is not a natural system. Mr McFadden said that there was no evidence to show that the Thorp Drain had ever been a natural watercourse so Resource Management Act purposes such as esplanade reserves cannot apply to the Thorp Drain. He addressed the matters contained within the Council Officer's report especially in relation to building heights, set backs and whether Thorp Drain is a river or not.

Mr McFadden referred to the issues raised by submitters. In particular, he discounted many of the matters raised by the Gatenbys as they do not have a basis in resource management.

Mr R E Bensemman, who together with Mrs N Bensemman are the Applicants, read a statement of evidence with a history of the development of the Thorp Drain and the Woodlands canal. Mr Bensemman commented on the concerns raised by submitters and described the extent to which the Applicants intended to address the matter. He explained how Thorp Drain would be widened to create an additional pond which will increase the area available for fish life.

Mr D G Canton read evidence regarding the services design for this subdivision. He explained how the proposed wastewater would be handled through a reticulated sewerage system with a pump station designed to cater for flows for this subdivision only. He explained that the pump capacity can be increased in the future when required, to accept flows from the land to the north of the subdivision currently zoned rural. He said that the sewer line goes to the Courtney Street rising main to the west side of the site. Mr Canton said there is no reason why it could not run along the edge of the Council reserve, off Old Wharf Road, in the position showing on the amended Engineering Services plan. He said that this will give the Council full access to the main without potentially affecting third party rights. The services design had been prepared in accordance with Tasman District Engineering Standards and Policies 2008 and in liaison with Council officers.

Mr Canton said that Mr Ley has accepted that the road level be at RL 2.6. However Mr Ley seeks a minimum surface opening level of RL 3.4. The proposed pump station would be located on a utility allotment.

Mr J P McCartin spoke to evidence regarding stormwater provisions and a flooding risk assessment. He explained how the existing drain would be realigned to form a series of natural interlinked ponds and will be easily capable of carrying all flood flows. Mr McCartin's evidence discussed the potential for flooding events and inundation of the subject land. He provided and explained calculations to verify that adequate building platform levels and floor levels and the minimum sewer levels proposed would not lead to any risk from flooding to the occupants of the proposed development.

Planning and resource management evidence was read by Mrs J M McNae. She explained how Thorp Drain is a man made drainage channel in the same way as Woodlands drain and is not a river. She explained that the application requests 5 metre setbacks on all boundaries and agreed that an 8 metre setback from the realigned drain would be appropriate. She said that a 5 metre setback is all that is required from a recreation or conservation zone. She said that ground level for the

calculation of building heights should be the level of land at the completion of the subdivision. Mrs McNae said that buildings should not be restricted to single storey dwellings as suggested by some submitters. She agreed with the Council's officers that proposed Lot 18 should vest in the Council as a drainage reserve rather than a recreation reserve as originally proposed. The submission suggested that Lot 19 (walkway) should be restricted to 3 metres wide. She said that the lapsed period for the extended term on the subdivision should apply to Stage 3 only.

Mrs McNae said that subject to the imposition of the conditions proposed by the Applicants, she was satisfied that the effects on the environment of the proposal are no more than minor. She said that the vision and commitment of the Applicants has created a park like environment and the proposed subdivision will largely preserve the natural and amenity values created on the site.

5.2 Submitters' Evidence

Mr C J Budgen described how the Bensemman family had provided some land for the recreation centre, the sanctuary pond and associated reserves. He said the waterways have been developed with better wildlife and water quality. Mr Budgen said that the Forest & Bird Society sees the proposal as a good opportunity and that this is a tasteful and low density development. He said that the proposed standards of development are in excess of engineering requirements. He described the proposal as a logical evolution for the subject land and that it is not rapacious development.

Mr P D Bourke sought assurance that his property would not flood as a result of water backing up following the realignment of the Thorp Drain with a right angle bordering his property. He said that in the early 1980s, two thirds of his property used to flood but that the Woodlands drain has made a big difference. He said that the Woodlands drain has not been cleared or maintained in the last 20 years.

A submission from Royal Forest & Bird Protection Society was addressed by Mr T Bryant who said that the Thorp Drain should be considered to be a river as it was and still is continuously or intermittently, a flowing body of fresh water and not a farmed drainage canal. Mr Bryant said this was a natural marine estuary and waterway and is close to the coastal marine environment which is important birdlife. The submitter sought the improvement of natural habitat associated with this land by restoration of the wetland.

The submission from Cantwell and Reilly, now being in support was acknowledged.

The submitter, G Trainor, had advised of his inability to attend the hearing.

A submission from J and C Gatenby was firstly addressed by Mr G Thomas, resource management consultant. The Applicants sought that proposed Lots 1 and 2 should be incorporated in the adjoining Sanctuary Ponds. The submitter sought a bond to be applied to ensure satisfactory completion of the overall development. The submission sought the deletion of the car parks adjoining the rear boundary of the submitter's property. In addition the deletion was sought of the leg-in strip to Lot 13 and for it to be incorporated as road reserve. The avoidance of two storied dwellings directly adjacent to the submitter's property was sought with a 10 metre setback for dwellings on Lots 1, 2 and 15. Additional controls were sought in relation to a restriction on the lapse date, controls on hours of operation and management for

development work. The submitter was concerned that there would be no adverse effects on neighbouring properties including flooding.

Mr J Gatenby added additional comments and sought assurance that his existing stormwater discharge to Thorp Drain would not be required to cease. He sought restrictions on the development work so that this would not interfere with the commercial operations carried out on the Gatenby property.

Ms A Webber was concerned about the potential for flooding in this location. She was concerned about the proposed realignment of the drain where it enters the subdivision which may increase the flood risk and that there should be sufficient access for heavy machinery capable of unblocking or maintaining this public drainage system. She suggested the use of 20 metre setbacks from the recreation zone boundary should also apply.

Ms Webber questioned if it was responsible to allow a subdivision in an area that may be subject to flooding.

5.3 Council's Reporting Officer's Report and Evidence

Senior Planning Consultant P Doole referred to his report contained within the agenda and commented on the key issues and proposed conditions of consent. Mr Doole confirmed his opinion that Thorp Drain should be considered as a river rather than a drainage channel, in terms of the definition in Section 2 of the Resource Management Act.

Mr Doole acknowledged that the Applicants requested setbacks of 5 metres on all boundaries and no minimum setback from the water bodies on the site. In his report he suggested a setback of 8 metres be imposed along the margins of the new main waterway. In addition he sought the retention of the 20 metre setback on the boundaries of proposed allotments adjoining the sports fields. He suggested that a restriction on further subdivision would be a reasonable condition of consent.

Mr Doole noted that the Applicants proposed that the lapsed date for consent be extended to seven years for proposed stage 3 only. Mr Doole spoke to the proposed conditions of consent. He suggested that the minimum floor levels for dwellings be required to be no lower than the minimum ground level. Proposed conditions of consent regarding the realignment of Thorp Drain, included the requirement for a design and maintenance plan to be approved by the Council prior to work commencing. At the completion of the drain realignment works, the drainage easement is to be transferred to the new alignment. Mr Doole said that all earthworks should be completed first and some time restriction should be applied to that.

Mr D Ley, Development Engineer, said that this rural land is flood prone and the Council has no infrastructure in the area. He said that sewerage disposal is a problem and that he would like to see a sewer system serving all the rural land in this location. He said five pump stations presently exist in this vicinity and the subdivision will require a further pump station to be installed. Mr Ley said that the greatest risk is for stormwater inflow or infiltration into the sewer system. A condition of consent will require that 10 hours storage of wastewater be specified. The Applicants' proposed amendments to (what are now) Conditions 17.3 and 17.6 of subdivision consent RM070807 were acknowledged to include the upstream catchment.

Mr Ley said that the rising main and wastewater pump station were proposed to be located on a utility lot within a Council reserve adjacent to the application site.

Rivers and Coastal Engineer, Mr E Verstappen, said that there is no flood hazard designation on the subject site. He said that with the extreme combination of high tide, storm surge and flood in the catchment, the risk to inundation of building sites has been reduced as the design has allowed for this unlikely combination of events with the addition of 0.5 metres of freeboard. He suggested that a condition of consent could include a minimum habitable floor level of 3.65 or that this level be required for all buildings.

Mr Verstappen said there will still be surface flooding on the Bensemenn property in the situation when the tide gate fails. He said there was potential for building platforms to be specified by area.

5.4 Applicants' Right of Reply

Mr McFadden responded for the Applicants and said that no evidence had been produced to identify that a watercourse existed through the subject site. He said that although the Applicants are trying to create something that looks natural, it is still artificial. He said the drainage channel is not a river and there is no need to create esplanade reserves. He said it was pointless to impose a condition to ban cats and dogs from the subdivision. He said the land remains zoned rural 1 and there is no opportunity for a plan change. He said that the Council cannot require proposed Lots 1 and 2 to be included in the sanctuary pond area and there is no requirement for a bond. The proposed car parks are provided on public road reserve and the proposed car parks are appropriate.

The leg-in strip for Lot 13 provides a buffer for the Gatenby site. There is no need for single storey houses to be provided and sustainable management on the subject development takes priority. The avoidance of inundation of building sites had been confirmed in the evidence of Mr McCartin and Mr Verstappen.

No evidence had been given on the effects on financial viability of the home occupations conducted by the Gatenbys. The proposed controls proposed by Gatenby on construction hours or use of the right-of-way are both impossible. The Gatenbys only want onsite work for June and July and part of August and part of January. Mr McFadden said it was no good to work on the development in winter or January. The Gatenbys also wanted restrictions on commercial usage and the Council is unable to restrict Rural 1 land usage. Hush asphalt is the same as used on motorways and not appropriate here. It is not satisfactory to require a \$100,000 bond on construction work. The Gatenby discharge of stormwater can remain the same. The Applicants will pay a development contribution for the sewer and there is no evidence to say that the sewerage treatment ponds are overloaded. Fencing of the ponds is not required under the Fencing of Swimming Pools Act. He said that submitters stated the proposal as contrary to the Rural 1 zone but there are no objectives or policies in the Rural 1 zone. The Applicants are not required by the Resource Management Act to demonstrate that a demand for the subject sections exists. No evidence had been provided by Mr G Thomas that it is too risky to proceed with this application.

Mr Gatenby referred to his existing use rights and so do the Applicants. Mr McFadden said that the subject area is not a designated flood zone and Section

106 of the Act allows consent to be granted with conditions to avoid, mitigate and remedy adverse effects. In the proposed residential environment there is no environmental reason for setbacks to be more than on similar subdivisions such as the Sanderland subdivision. The proposed conditions of consent were addressed and the hearing panel was reminded that the Applicants had volunteered RL 3.5 as a finished section land level. Credit should be given for the walkway and Lot 18 and Lot 20. Riparian plantings are to be undertaken by the Applicants. Existing use rights applied for the building setback on Lot 13. Sedimentation control would be part of the management conditions for general earthworks. Work on the utility lot is to be done by the Applicants and Lot 20 will cater for upstream input. Manhole levels of 2.6 were considered satisfactory but not in a berm at higher levels. Mr McFadden suggested that some logic be imposed regarding the route of the sewer main and that it should go through the adjacent reserve.

6. PRINCIPAL ISSUES

The principal issues that were in contention were:

- a) Is the unnamed tributary into the Moutere Inlet locally known as Thorp Drain a River pursuant to the interpretation provisions of the Act? If the determination is in the affirmative, does it require that the Council takes an esplanade reserve/strip pursuant to Section 229 of the Act?
- b) As the subject land may currently be liable to inundation, can conditions be imposed with any consent to adequately avoid, remedy or mitigate the effects of potential inundation?
- c) Will the development result in loss of productive capabilities of the land and/or adversely affect rural character and amenity?
- d) Will the development have an adverse effect on the natural values associated with the existing and proposed waterways?
- e) Is residential development appropriate in this location and will the bulk, location and heights of buildings erected on the subdivided land have any adverse environmental effects?
- f) Will the proposed subdivision be able to be adequately serviced? In particular will diversions to stormwater have any adverse effects and is it possible to connect to the Council's sewerage system?
- g) Can the adverse effects associated with the earthworks and development of the subdivision be adequately mitigated?

7. MAIN FINDINGS OF FACT

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

- a) Although there was some divergence of opinion on the matter the Committee after hearing all the evidence have concluded that Thorp Drain is a farm drainage canal and is therefore specifically excluded from the definition of 'River' under the Act. The Committee does acknowledge however that the amenity

works undertaken along the banks of the drain and elsewhere on the property may make the drain to have a more natural appearance despite the fact it is an artificial watercourse.

- b) The Committee has been provided with evidence that indicates that provided the minimum finished ground level for residential building platforms are RL 3.4 metres (TDC Datum) and that road surfaces and manhole lids have a minimum level of RL 2.6 metres, that the development will be protected adequately protected against inundation. The levels are derived from accumulating factors of RL 1.65 metres for Mean High Water Springs (MHWS) plus 0.75 metres for a combined Astronomical Tide and storm surge, plus an allowance plus of 0.50 metres for a 100 year potential rise in sea level which results in an overall RL of 2.90 metres which means that the building platforms have a conservative safety margin of a 0.5 metre freeboard. The Committee were advised that recently approved subdivisions have only provided a comparative smaller freeboard of 0.1 metres.
- c) The productive capacity of the land has been limited due to the low lying nature and high water table. The watercourses and ponds within the property whilst providing a 'park-like' appearance are unusual in terms of what is usually expected as a 'rural character'. The park-like amenity and character could be changed through a change to farming whilst the option to develop rural residential use is more likely to secure retention of those current features that provide this property with its high level of amenity.
- d) The Applicants have agreed to volunteer the imposition of consent notices to maintain and protect riparian plantings and in-stream habitat values as part of the proposed development.
- e) The Committee at the site visit noted the relative locations of potential development and had particular regard to views from the Gatenby property. The Committee noted the existing height of trees and considered that these would buffer the impact of residential development. The Committee noted that those properties that are located within the Coastal Environment Area will be subject to a lower height and exterior colour controls to further reduce the impact of residential building on the environment.
- f) The Committee noted that the proposed rising main sewer to connect to the Woodland main sewer would be through the Council's reserve. The Applicants had not provided any agreement from the Council's Community Services Department to lay the proposed sewer and the indications from the Council's Reserves staff was that any such sewer line would be opposed. The Committee therefore requested further information from the Applicants to determine where the proposed sewer line could be established. On 27 May 2008 confirmation was received that the neighbour, Mr Bourke will enter into an easement in gross that allows the sewer pipe to be installed under his land to the Woodland main sewer.
- g) The Committee noted that the earthworks associated with the proposed development are significant. The fact that the development is close to watercourses and the coastal marine area would necessitate appropriate controls to ensure that any adverse effects of the earthworks are appropriately mitigated.

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:

- a) Tasman Regional Policy Statement (TRPS); and
- b) Proposed Tasman Resource Management Plan (PTRMP).

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 104B of the Act, the Committee **GRANTS** consent subject to conditions.

10. REASONS FOR THE DECISION

The proposal is to subdivide and develop an area of land that is zoned Rural 1 for residential purposes. The Committee noted that the subject property has some unique characteristics including ponds, watercourses and mature amenity trees that give the property a park-like character and appearance rather than a typical productive farm unit.

The property lies close to the urban centre of Motueka and can be fully serviced for residential development. The Committee considers that the position of the site within the confines of Motueka's urban envelope make it a suitable and, in some ways, a logical development of the land. The Committee is satisfied that the reason for the land's Rural 1 zoning was not so much to protect outstanding productive values, but to protect against inappropriate development in flood prone area (which is further discussed below).

The Committee is satisfied that the productive values of the land are relatively low and that rural-residential development is an appropriate and sustainable use of land.

The Committee is satisfied that the low-lying nature of the property has been adequately addressed by both the Applicants' and the Council's engineers so that, with the proposed earthworks, the development will have future-proofed protection against flooding including the effects of climate change. The proposed levels for residential development provide an even greater safety margin than recent subdivisions approved in the vicinity of this property. In this regard the Committee is also satisfied that the obligations of Subsection 106(1) of the Act are also satisfied in this regard.

The proposed realignment and improvement of the Thorp Drain will significantly improve aquatic and riparian habitats and benefit the ecological values of the area.

In this regard, the Committee accepts the evidence of the Applicants and is also reassured by the submission of the Department of Conservation.

The Committee agrees with Mr Doole's assessment of the relevant PTRMP objectives and policies in his report, and it therefore considers that the proposed development is, overall, not contrary to them and is considered to be consistent with the purpose and principles of the Act as set out in Part II.

11. COMMENTARY ON CONDITIONS OF CONSENT

Condition 5.1 of subdivision consent RM070807 require that low impact design solutions for stormwater be sought in preference to a fully reticulated stormwater system which delivers stormwater to Thorp Drain. Given the relatively large size of the lots, the Committee believes that the drawbacks of a reticulated system can be avoided through the use of low impact stormwater designs. It is acknowledged that a fully reticulated stormwater network may be required, however, Condition 5.2 seeks that measures to treat and/or to dispose of first flushes and small volumes of stormwater on land be considered.

Condition 14.8 of the subdivision consent (RM070807) removes the isolation strip from Lot 13 of the subdivision plan. The strip is considered inappropriate in this location.

It is expected that development will occur to the north of this current subdivision. Therefore the Committee is mindful that sewer conditions (Conditions 17.X of RM070807) should be future-proofed by being sized to accommodate their flows.

Condition 24.4 which requires that a consent notice be placed on various titles for maintenance of riparian plantings includes lots 14 to 16 even though the realigned Thorp Drain is not on their property. Under the approved plans, the drain runs immediately beyond their boundaries and therefore there will be riparian plantings on these lots that will be in need of protection and maintenance.

12. LAPSING OF CONSENT(S)

Pursuant to Section 125(1) of the Act, resource consents, by default, lapse in five years unless they are given effect to it before then. In this case a lapsing period of seven years was requested and the Committee considers this to be acceptable.

Section 125(2) of the Act makes particular provision for the lapsing of subdivision consents. In the case of the subdivision consent (RM070807), this consent is given effect to when a survey plan is submitted to the Council for the subdivision under Section 223 of the Act. Once the survey plan has been approved by the Council under Section 223 of the Act, the consent lapses three years thereafter unless it has been deposited with the District Land Registrar as outlined in Section 224 of the Act.

The component of the land use consent (RM070808) that authorises the construction of dwellings will lapse five years after the issue of each of the certificates of title for the respective allotments. This is a pragmatic approach to ensure that delays with the subdivision do not compromise the effective 'life' of the land use consent for the dwellings to be erected on the titles created by the subdivision.

13. EXPIRY OF CONSENT(S)

The component of the land use consent (RM070808) that authorises the earthworks, disturbance and rerouting of the bed of Thorp Drain and construction of building platforms will expire in 10 years from the date this decision is issued.

The discharge permit to discharge stormwater to Thorp Drain (RM070809) and the water permit (RM070810) to divert Thorp Drain will both also expire in 10 years from the date this decision is issued.

These durations are specified as conditions in the relevant consents.

Issued this day of 4th July 2008

A handwritten signature in black ink, appearing to read 'N Riley', is written over a rectangular stamp area.

Cr N Riley
Chair of Hearings Committee

RESOURCE CONSENT NUMBER: RM070807

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

Rick Edwin Bensemam and Nicola Bensemam
(hereinafter referred to as "the Consent Holder")

ACTIVITY AUTHORISED BY THIS CONSENT: To subdivide in three stages, two existing titles comprising 7.4 hectares to create 16 allotments to be used for residential purposes.

LOCATION DETAILS:

Address of property: Old Wharf Road, Motueka
Legal description: Lot 2 and Pt Lot 3 DP 16330
Certificate of title: NL 10C/812 and 11B/324
Valuation number: 1955031809 and 1955031811

CONDITIONS

General

- 1.1 The subdivision shall be undertaken in general accordance with the information submitted with the application for consent and in particular with the plans entitled "Lots 1-19 being Proposed Subdivision of Lot 2 and Pt Lot 3 DP 16330" Job No. 8743, Draft 6 dated 03/03/2008, and "Plan of Proposed Engineering Services" DWG8743D Amended 3 March 2008, prepared by Staig & Smith Ltd, and attached to this consent, subject to any changes required by the conditions of consent. If there is any conflict between the information submitted with the consent application and any conditions of this consent, then the conditions of this consent shall prevail.
- 1.2 This resource consent shall lapse on 1 July 2015 unless already given effect to, or extended pursuant to Section 125 of the Act.
- 1.3 Once the survey plan has been submitted to the Council pursuant to Section 223 of the Act this consent shall lapse three years thereafter unless Section 224 of the Act has been satisfied.

Plan Amendments

- 2.1 The Subdivision Plan identified in Condition 1.1 above shall be amended as follows:
 - (a) Addition of an allotment described as Lot 20 that is generally in the north western end of the application site in the vicinity of the right of way as a utility allotment. The lot shall be 10 x 15 metres in size, or a lesser area to the Council's Engineering Services Manager's satisfaction. The lot shall be the site for the proposed sewer pumping station and shall have adequate legal and physical access provided from the proposed road for heavy vehicles. Lot 20 shall be shown as "utility lot to vest (wastewater disposal)". Lot 20 shall also be sized so as to allow upsizing of the sewer pumping facilities to accommodate reasonably foreseeable flow increases from land to the north of the subject site.

- (b) Lot 19 being reserve to vest (walkway) shall be 6 metres wide;
- (c) Lot 18 shall be shown as "reserve to vest (drainage purposes)"; and
- (d) The isolation strip out to Old Wharf Road, currently part of Lot 13, shall be vested as road.

2.2 The Engineering Services Plan identified in Condition 1.1 above shall be amended as follows:

- (a) The route of the gravity sewer from Lot 3 DP 19863 to the north (see Condition 17.6) and the rising main through Lot 3 DP 19863 to the existing Courtney Street East rising main (see Condition 6.1 and the attached Plan entitled "Plan of Proposed Sewer Rising Main route over Lot 3 DP 19863" dated 11 April 2008) shall be added.

Vesting of Ownership

3.1 The survey plan which is submitted for the purposes of Section 223 of the Act shall show Lots 18, 19 and 20 as vesting in the Council as Local Purpose Reserves for the purposes shown on the Subdivision Plan.

Lot 17 shall vest in the Council as road.

Building Location and Building Platform

- 4.1 The Consent Holder shall fill the building platform areas on Lots 1-12 and 14-16 so as to form a building platform on each of those allotments which has a finished ground level of at least 3.4 metres above mean sea level.
- 4.2 The building platforms referred to in Condition 4.1 shall be constructed prior to a completion certificate being issued pursuant to Section 224(c) of the Act.
- 4.3 The location of any new buildings (constructed after 31 March 2008) on Lot 13 shall be contained entirely within a building platform that shall be formed to a finished ground level of at least 3.4 metres above mean sea level.

Stormwater and On-site Stormwater Treatment

5.1 Low impact designs for stormwater treatment and disposal shall be considered by an appropriately qualified and experienced chartered professional engineer to service the dwellings on each of Lots 1-16 as well as the road on Lot 17 and the right of way. Low impact designs shall be implemented if considered appropriate and practicable by that engineer.

Advice Note

Low impact stormwater designs are described in the Tasman District Engineering Standards and Policies 2008. The term generally refers to systems which rely on natural filtration of stormwater and disposal by soakage to ground.

5.2 If, in the opinion of an appropriately qualified and experienced chartered professional engineer, low impact stormwater designs will not be sufficient to dispose of stormwater then a full stormwater reticulation system discharge to the Thorp drain

shall be installed complete with all necessary manholes, sumps, inlets and a connection to each lot. An emphasis shall still be placed on ground treatment and soakage of first flushes.

- 5.3 Prior to installing the stormwater treatment and disposal systems required by Conditions 5.1 and 5.2, plans of the preferred system or systems detailing the treatment and discharge methods shall be submitted for approval by the Council's Engineering Services Manager.
- 5.4 The relocated Thorp Drain shall be designed to accommodate a 50 year return period storm using the Tasman District Engineering Standards and Policies 2008 design rainfall charts.
- 5.5 Access along the banks for maintenance shall be provided at all times and protected by an easement-in-gross in favour of the Council.
- 5.6 The existing easement on Thorp Drain shall not be revoked until the Council's Engineering Services Manager is satisfied with the replacement drain.
- 5.7 Secondary flow paths shall be incorporated into the realigned Thorp Drain, the low impact drainage systems and/or the subdivision reticulation design. In particular, the 90° bend in the realigned portion of the open drain in Lot 10 shall be designed and constructed to prevent full secondary flows from entering the low flow channel draining to the south. Written confirmation shall be provided from an appropriately qualified and experienced hydraulic engineer that these matters have been completed to an appropriate standard.
- 5.8 If filling obstructs the natural runoff from an adjoining property then provision shall be made for the drainage of that property.

Easements

- 6.1 Easements shall be created over any services located outside the boundaries of the lots that they serve as easements-in gross to the Council for the Council's reticulated services or appurtenant to the appropriate allotment.
- 6.2 Notwithstanding Condition 6.1 above, an easement in gross to the Council shall be created over Lot 3 DP 19863 as shown on the Plan entitled "Plan of Proposed Sewer Rising Main route over Lot 3 DP 19863" dated 11 April 2008 (attached).
- 6.2 Easements shall be created over any right-of-way and shall be shown in a Schedule of Easements on the survey plan submitted for the purposes of Section 223 of the Act. Easements shall be shown on the Land Transfer title plan and any documents shall be prepared by a Solicitor at the Consent Holder's expense.
- 6.3 The survey plan which shall be submitted pursuant to Section 223 of the Act shall include reference to easements.
- 6.4 An easement in gross in favour of the Council shall be created over the new alignment of Thorp Drain.

Advice Note:

Any services located within the Council's road reserve will require the obtainment of a License to Occupy prior to the lodgement of the survey plan pursuant to Section 223 of the Act.

Power and Telephone

- 7.1 Full servicing for underground power and telephone cables shall be provided to the boundaries of Lots 1-16. The Consent Holder shall provide written confirmation to the Council's Engineering Services Manager from the relevant utility provider that live power and telephone connections have been made to the boundary of each allotment. The written confirmation shall be provided prior to a completion certificate being issued pursuant to Section 224(c) of the Act.

Commencement of Works and Inspection

- 8.1 The Consent Holder shall inform the Council's Engineering Services Manager at least five working days prior to the commencement of any engineering works. In addition, five working days' notice shall be given to the Manager when soil density testing, pressure testing, beam testing or any other major testing is undertaken.

Engineering Works

- 9.1 All engineering works, including construction of the road, the private right-of-way ("ROW"), culverts and other services shall be constructed in accordance with the Tasman District Engineering Standards and Policies 2008, or to the Council's Engineering Services Manager's satisfaction.

Prior to the commencement of works, engineering plans shall be submitted for approval by the Council's Engineering Services Manager, detailing the filling for building platforms, road and ROW, and construction details for the road and ROW, culverts and other services. All plan details shall be in accordance with the Tasman District Engineering Standards and Policies 2008.

Engineering Certification

- 10.1 At the completion of works, a suitably experienced chartered professional engineer or registered surveyor shall provide the Council's Engineering Services Manager written certification that the road, ROW, culverts and other services have been constructed in accordance with the consent conditions and the Tasman District Engineering Standards and Policies 2008.
- 10.2 Certification that the building platforms on Lots 1-12 and Lots 14-16 are suitable for the erection of a residential building shall be submitted from a chartered professional engineer or geotechnical engineer experienced in the field of soils engineering and more particularly, foundation stability. The certificate shall define within the building location areas, the area suitable for the erection of residential buildings and shall be in accordance with Appendix B Section 11 of the Tasman District Engineering Standards and Policies 2008, and shall be provided to the Council's Engineering Services Manager. Any limitations noted in the certification shall be the subject of a consent notice on the relevant titles. In the event that at a later point in time a future section owner wishes to alter or reconfigure the position of the building platform, then such altered or reconfigured building platform shall be re-certified. This condition shall be

the subject of a Consent Notice.

10.3 Where fill material has been placed on any part of the site, a certificate shall be provided by a suitably experienced chartered professional Engineer, certifying that the filling has been placed and compacted in accordance with NZS 4431:1989.

Staging of Subdivision

11.1 The subdivision shall be staged in three stages as follows:

Stage 1: comprising Lots 1-6, Lots 13-15 and Lots 17-20, and requiring completion of the realignment of Thorp Drain (per Consent RM070808), completion of the road, completion of the sewer pumping station and rising main connection to the Council's sewerage network, and completion of the building platforms and other service connections for Lots 1-6 and Lots 13-15.

Stage 2: comprising Lot 16, and requiring completion of the building platform and service connections for Lots 16.

Stage 3: comprising Lots 7-12, and requiring completion of the building platforms and service connections for Lots 7-12.

Street Names and Numbers

12.1 Street names should be shown on the 223 survey plan and approved by the Council's Manager Environment and Planning following submission of at least three names with reasons for the name.

12.2 The street numbers allocated are:

Lot 1: 11 [New road to vest]	Lot 5: 33 [New road to vest]	Lot 9: 52 [New road to vest]	Lot 13: 18 [New road to vest]
Lot 2: 15 [New road to vest]	Lot 6: 36 [New road to vest]	Lot 10: 54 [New road to vest]	Lot 14: 26 [New road to vest]
Lot 3: 27 [New road to vest]	Lot 7: 44 [New road to vest]	Lot 11: 56 [New road to vest]	Lot 15: 20 [New road to vest]
Lot 4: 29 [New road to vest]	Lot 8: 48 [New road to vest]	Lot 12: 58 [New road to vest]	Lot 16: 208 Thorp Street

12.3 The street numbers shall be shown on the engineering plans.

12.4 The street number for the existing house shall be changed and correctly displayed before the final title plan is approved.

12.5 The cost of a name plate for any new street or ROW sign shall be met by the Consent Holder on application to the Council.

Right-of-Way

13.1 The ROW shall be formed, and permanently surfaced to a minimum 5-metre width with kerb, channel and sumps and a maximum gradient of 1-in-6. The legal width shall be 6.0 metres.

Advice Note:

The minimum requirement for a permanent surface is a Grade 4 chip first coat, followed by a Grade 6 void fill second coat.

13.2 The seal formation shall extend to the back of the footpath/edge of road seal/kerb crossing.

Roading

14.1 The road to vest and out to the existing sealed formation, shall have a minimum legal width of 11.4 metres, with a sealed carriageway of 5.5 metres.

14.2 Footpaths of a minimum width of 1.4 metres shall be constructed along the north-east side of the new access road and along the northern side of Old Wharf Road between Thorp Street and the new access road to be vested.

14.3 Kerb, channels and sumps shall be installed in accordance with Tasman District Engineering Standards and Policies 2008.

14.4 The surface level of the new road and ROW shall have a minimum level of 2.6 metres above mean sea level. The road shall be appropriately designed and constructed to take into account the high groundwater level in the area.

14.5 The road shall incorporate paint marking and signage as appropriate.

14.6 The centre island in the road to vest shall be suitably planted with low-growing ground cover plants. The two traffic lanes either side shall be a minimum 3.0 metres wide.

14.7 Lot 13 isolation strip out to Old Wharf Road shall be vested as road.

Access

15.1 Practical access shall be constructed to each lot at a maximum grade of 1-in-6 and complying with the Proposed Tasman Resource Management Plan ("PTRMP").

15.2 A kerb crossing shall be formed for each lot in the subdivision (and pram crossings at the street intersections where required).

Water Supply

16.1 Full water reticulation, complete with all mains, valves, fire hydrants and other necessary fittings shall be installed and a water meter and approved housing box shall be provided for each lot.

Sewer

- 17.1 Full sewer reticulation discharging to the Courtney Street rising main shall be installed complete with any necessary manholes and a connection to each lot. Lot laterals shall terminate at the building site and be capped off to prevent infiltration.
- 17.2 Any wastewater opening, i.e. manholes, lids etc. shall have a minimum level of RL 3.4 above mean sea level.
- 17.3 Condition 17.1 necessitates the installation of a wastewater pump station and rising main complying with the Tasman District Engineering Standards and Policies 2008. The pump station shall be located on a Utility Allotment (Lot 20) and sized and constructed to cater for the 16 lots proposed by this application plus reasonably estimated future flows from Lot 3 DP 19863 to the north once it is developed. Ten hours storage shall be provided at the pump station site together with odour control telemetry and vehicle access to the pump station.
- 17.4 The finished ground level of the lot that the sewerage pump station is to be located on shall not be less than RL 3.4 above mean sea level.
- 17.5 The design and location of the sewer pumping station shall be designed to allow future modification of the site to provide capacity for potential future flows from the rural zoned land to the north of the subdivision.
- 17.6 An appropriately designed gravity sewer (minimum diameter 150 millimetres) shall be laid to Lot 3 DP 19863 to service the land to the north of the subdivision to the satisfaction of the Council's Engineering Services Manager.
- 17.7 The Consent Holder shall size the new rising main from the proposed pump station to the existing Courtney Street East rising main to pass the full flows from this subdivision and estimated future flows from Lot 3 DP 19863 to the north. The line of the main shall be entirely contained within Lot 3 DP 19863 as shown in the attached plan entitled "Plan of Proposed Sewer Rising Main route over Lot 3 DP 19863" (dated 11 April 2008).

Electricity

- 18.1 Electricity substation sites shall be provided as required by the supply authority. Substations shall be shown as "Road to Vest" on the survey plan if adjacent to a road or road to vest.

Street Lighting

- 19.1 The Consent Holder shall provide street lighting in accordance with the Tasman District Engineering Standards and Policies 2008. This work shall include installation of cabling, poles, outreach arms and lanterns.

Maintenance Performance Bond

- 20.1 The Consent Holder shall provide the Council with a bond to cover maintenance of any roads or services that will vest in the Council. The amount of the bond shall be \$1,000 per lot to a maximum of \$20,000 or a figure agreed by the Engineering Services Manager and shall run for a period of five years from the date of issue of

224C certification for the subdivision. The bond shall provide for fair wear and tear and damage.

Advice Note

The term for the bond has been extended due to the low impact designs being used and the susceptibility to failure at the early stages of building development.

Engineering Plans

21.1 All engineering works as outlined above shall be shown on engineering plans and to the requirements as set out in the Tasman District Engineering Standards and Policies 2008. Section 223 approval cannot be provided until the engineering plans have been received and approved by the Council.

21.2 "As built" plans of services shall be provided to and approved by the Council's Engineering Services Manager prior to the lodgement of a Section 223 survey plan so that easement areas can be accurately determined.

Financial Contributions

22.1 The Consent Holder shall pay a financial contribution for reserves and community services in respect of 14 allotments in accordance with the following:

- a) The amount of the contribution shall be 5.5 per cent of the total market value (at the time subdivision consent is granted) of the area of the allotment or a notional building site on each allotment of 2,500 square metres for each of 14 lots.
- b) The Consent Holder shall request in writing to the Council's Consent Administration Officer that the valuation be undertaken. Upon receipt of the written request the valuation shall be undertaken by the Council's valuation provider at the Council's cost.
- c) If payment of the financial contribution is not made within two years of the granting of the resource consent, a new valuation shall be obtained in accordance with (b) above, with the exception that the cost of the new valuation shall be paid by the Consent Holder, and the 5.5 per cent contribution shall be recalculated on the current market valuation. Payment shall be made within two years of any new valuation.

Advice Notes:

1. The Council will not issue the Section 224(c) certificate in relation to this subdivision until all development contributions have been paid in accordance with the 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 that are current at the time the relevant development contribution is paid in full.
2. This consent will attract a development contribution on 14 allotments in respect of water, wastewater, roading and stormwater.

3. A credit will be given against reserve fund contribution for the utility lot (Lot 19).

Consent Notices

23.1 The following consent notices shall be registered on the certificates of title for the lots indicated pursuant to Section 221 of the Act. The consent notices shall be prepared by the Consent Holder's solicitor and submitted to the Council for approval and signing. All costs associated with approval and registration of the consent notices shall be paid by the Consent Holder.

Lots 1-16:

Any low impact stormwater treatment system (per Condition 5.1 of consent RM070807) shall be installed at building consent stage and thereafter maintained.

Lots 1-12 and Lots 14-16:

New residential buildings shall only be erected on a certified building platform as per Condition 10.2, and with a height no less than RL3.4.

Lot 13:

The location of any new buildings (constructed after 31 March 2008) on Lot 13 shall be contained entirely within a building platform that shall be formed to a finished level of at least 3.4 metres above mean sea level.

Lots 1 and 3 and 10, 13 and 14 and Lots 6-11:

Riparian planting and the in-stream habitat values and drainage capacity of Thorp Drain shall be maintained and protected.

Advice Note:

The Applicants have also volunteered that protective covenants will be placed on the new titles of the relevant proposed allotments to ensure that riparian plantings and habitat along the new Alignment of Thorp Drain is maintained into the future.

Review


24.1 The Council may, during the month of July each year, review the conditions of this consent pursuant to Section 128 of the Resource Management Act 1991, to:

- (a) deal with any unexpected adverse effect on the environment which may arise from the exercise of the consent;
- (b) to require compliance with operative rules in the Tasman Resource Management Plan or its successor plan; or
- (c) when relevant national environmental standards have been made under Section 43 of the RMA.

ADVICE NOTE(S)

1. The Consent Holder should meet the requirements of the Council with respect to all Building Bylaws, Regulations and Acts.
2. This consent is granted to the abovementioned Consent Holder but Section 134 of the Act states that such consents “attach to the land” and accordingly may be enjoyed by any subsequent owners and occupiers of the land. Therefore, any reference to “Consent Holder” in the conditions shall mean the current owners and occupiers of the subject land. Any new owners or occupiers should therefore familiarise themselves with the conditions of this consent, as there may be conditions that are required to be complied with on an ongoing basis.
3. This resource consent only authorises the activities described above. Any matters or activities not referred to in this consent or covered by the conditions must either:
 - a) comply with all the criteria of a relevant permitted activity rule in the Proposed Tasman Resource Management Plan (PTRMP);
 - b) be allowed by the Act; or
 - c) be authorised by a separate consent.
4. Access by the Council officers or agents to the property is reserved pursuant to Section 332 of the Resource Management Act 1991.
5. Monitoring of this resource consent is required under Section 35 and 36 of the Resource Management Act 1991, and a deposit fee is payable at this time. Should monitoring costs exceed this initial fee, the Council will recover the additional amount from the resource Consent Holder. Monitoring costs can be minimised by consistently complying with the resource consent conditions.
6. The Council draws your attention to the provisions of the Historic Places Act 1993. In the event of discovering an archaeological find during the earthworks (e.g., shell, midden, hangi or ovens, garden soils, pit depressions, occupation evidence, burials, taonga, etc) you are required under the Historic Places Act 1993 to cease the works immediately until, or unless, authority is obtained from the New Zealand Historic Places Trust under Section 14 of the Historic Places Act 1993.
7. Plans attached to this consent are reduced copies and therefore will not be to scale and may be difficult to read. Originals of the plans referred to are available for viewing from the Council on request.
8. Copies of the Council’s Standards and Documents referred to in this consent are available for viewing from the Council on request.

Issued this day of 4th July 2008



Cr N Riley
Chair of Hearings Committee

RESOURCE CONSENT NUMBER: RM070808

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

Rick Edwin Bensemam and Nicola Bensemam
(hereinafter referred to as “the Consent Holder”)

ACTIVITY AUTHORISED BY THIS CONSENT:

To erect a dwelling on each of proposed Lots 1- 12 and 14 - 16 of subdivision resource consent RM070807, and

To undertake land and waterbody disturbance to fill the areas of the proposed building sites of approximately 600 square metres each on Lots 1-12 and Lots 14-16 and to modify and divert Thorp Drain.

LOCATION DETAILS:

Address of property:	Old Wharf Road, Motueka
Legal description:	Lot 2 and Pt Lot 3 DP 16330
Certificate of title:	NL 10C/812 and 11B/324
Valuation number:	1955031809 and 1955031811

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

CONDITIONS

General

- 1.1 The land use activities authorised by this consent shall be undertaken in general accordance with the information submitted with the application for consent, subject to any changes required by the conditions of consent. If there is any conflict between the information submitted with the consent application and any conditions of this consent, then the conditions of this consent shall prevail.
- 1.2 The date of commencement of the component of this consent that authorises the construction of dwellings shall be the date of issuing of the titles for the allotments identified in subdivision consent RM070807.
- 1.3 The date of commencement of the component of this consent that authorises earthworks and disturbance of the bed of Thorp Drain shall be the date of issuing of this decision (subject to the appeal period and any appeal proceedings).

Dwellings

- 2.1 The location of any new residential or accessory buildings on Lots 1-16 shall be contained entirely within a building platform at an RL of 3.4 (as required by Conditions 4.1 and 10.2 of consent RM070807).

- 2.2 The maximum height of dwellings shall be 7.5m above the actual finished ground level when all works associated with the subdivision and the conditions of the subdivision consent have been completed, except that the maximum height of dwellings on Lots 1, 2 and 15 where the building platform is within the Coastal Environment Area shall be 6.5m above the actual finished ground level as set out above.
- 2.3 The minimum set backs from all boundaries for all buildings on proposed Lots 1 to 16 shall be 5 metres.
- 2.4 The minimum set back from the top of the bank of the proposed Thorp Drain re-alignment for all buildings on Lots 1-16, shall be 8 metres.
- 2.5 The minimum set back for all buildings from the top of bank of other water bodies on Lots 1-16, shall be 3 metres.

Realignment of Thorp Drain

- 3.1 Prior to any works in Thorp Drain, a Thorp Drain Restoration and Management Plan (TDRMP) shall be prepared by a suitably qualified and experienced ecologist or person experienced in stream design and management. The TDRMP shall be to the satisfaction of the Council's Environment & Planning Manager. The TDRMP shall be based on the considerations and recommendations in the report 'Assessment of Native Fish Values' prepared by Tom Kroos & Associates Limited (January 2008) submitted with the application for resource consent, and shall also be prepared in consultation with the Council's Resource Scientist, Environmental and in accordance with the conditions of this resource consent. The TDRMP shall also be consistent with the conditions of water permit RM070810. The TDRMP shall contain, but not be limited to, the following:
 - (a) A design of the diverted Thorp Drain including:
 - (i) specifications of the proposed new bed;
 - (ii) transverse cross-sections of the stream and banks; and
 - (iii) a stylized longitudinal cross section showing the variety of depth zones in the creek.
 - (b) Details of the work and staging of the excavation and water diversion required in diverting the stream;
 - (c) A methodology, consistent with the Conditions of RM070810, for diverting the Thorp Drain water.
 - (d) A programme of review and assessment of the new Thorp Drain to check that stream flows are behaving as predicted and to recommend any adjustments to the Thorp Drain design;
 - (e) A planting plan and timeframes for the planting of the stream banks;
 - (f) Design details providing for fish passage throughout the site;
 - (g) Details of weed monitoring and management;

- (h) A schedule of maintenance of the bank plantings to ensure that they are adequately established; and
- (i) Details of the proposed extent of the new drainage easement.

3.2 The works to realign Thorp Drain shall be carried out in accordance with the approved TDRMP.

3.3 Prior to commencement of the works, the Consent Holder shall confirm to the Councils engineering Manager an easement in gross will be created in favour of the Council over the new drain alignment. The Council will surrender the existing easement for registration at the same time as the registration of the easement in gross over the new alignment.

Earthworks

4.1 A Program of Works shall be submitted to the Council's Co-ordinator Compliance Monitoring and which shall be to that officer's satisfaction prior to the commencing of land disturbance on the site. The Program of Works shall include, but not be limited to:

- a) Finalised plans showing the areas of proposed fill, cut, batters and proposed new contours;
- b) A timetable for the proposed work, including the period for which disturbed areas will be left unvegetated and subject to erosion which shall ensure that all exposed ground shall be reinstated with a suitable vegetation cover as soon as practicable at completion of the works.
- c) Sediment management methods that will be implemented to
 - (i) minimise the movement of disturbed soil, vegetation and other materials into waterbodies by stormwater flow and any other means;
 - (ii) stabilise disturbed and otherwise exposed material or fill to minimise movement by wind action or under gravity; and
 - (iii) minimise the transport of material off site by vehicle tyres; and minimise adverse visual effects of the activity.
- d) a spill management plan that addresses responses to incidences of spills or discharges of substances within 20 metres of any waterbody, that may be hazardous to aquatic ecosystems;

4.2 Earthworks relating to the diversion or realignment of Thorp Drain shall not be carried out during the whitebait spawning season (15 February to 31 May) and catching season (15 August to 30 November) in any year.

4.3 All practicable measures shall be taken to limit the discharge of sediment with stormwater run-off to water or land where it may enter water during and after the construction period. Earthworks should be carried out during fine weather periods when the likelihood of erosion and sedimentation will be least.

- 4.4 The Consent Holder shall contact the Council's Coordinator Compliance Monitoring at least 24 hours prior to commencing any works for monitoring purposes.
- 4.5 The Consent Holder shall arrange with Tiakina te Taiao, if they so wish, to engage an Iwi monitor to be present on site for the periods that excavations are being carried out, including for the realignment of Thorp Drain.
- 4.6 All machinery used for the works should be re-fuelled and maintained no less than 20 metres from any waterbody. If any spill in excess of 20 litres occurs the Council's Co-ordinator Compliance Monitoring shall be immediately informed.
- 4.7 Notwithstanding any other condition of this consent, all areas subject to land disturbance work shall have adequate sedimentation mitigation or control measures. There shall be no greater than 40% reduction in the visual clarity of the receiving water as measured by the horizontal sighting of a black disk at the property boundary.

Advice Note:

For a description of the "black disk" method of checking visual clarity refer to the Ministry for the Environment Water Quality Guidelines No. 2, Guidelines for the Management of Water Colour and Clarity, June 1994.

- 4.8 All sedimentation mitigation or control measures shall be maintained by the Consent Holder for as long as there is a potential for sediment movement to adversely affect off-site areas or natural water.
- 4.9 All excavations over 1 metre depth and the construction of any stormwater detention structures shall be planned and supervised under the direction of a geotechnical engineer experienced in earthworks and soils engineering.
- 4.10 All exposed ground around the excavated area shall be re-instated with vegetation as soon as is practicable and at least within three months of the completion of the earthworks to limit erosion and reduce adverse visual effects. This condition shall be considered to be complied with when 100% vegetative cover has been established.
- 4.11 If there is any archaeological find during the earthworks the Consent Holder shall ensure that all works cease immediately until authority is obtained from the New Zealand Historic Places Trust under the Historic Places Act 1993.

Review and Expiry

- 5.1 The Council may review the conditions of this consent during the month of June each year pursuant to Section 128 the Act to:
 - a) deal with any adverse effect on the environment which may arise from the exercise of the consent and which it is appropriate to deal with at a later stage;
 - b) require compliance with operative rules in the Tasman Resource Management Plan or its successor; and/or
 - c) when any relevant national environmental standards have been made under Section 43 of the Act.

5.2 The component of this consent that authorises the earthworks, disturbance and rerouting of the bed of Thorp Drain and construction of building platforms shall expire on 1 July 2018.

ADVICE NOTE(S)

1. The Consent Holder should meet the requirements of the Council with respect to all Building Bylaws, Regulations and Acts.
2. This consent is granted to the abovementioned Consent Holder but Section 134 of the Act states that such land use consents “attach to the land” and accordingly may be enjoyed by any subsequent owners and occupiers of the land. Therefore, any reference to “Consent Holder” in the conditions shall mean the current owners and occupiers of the subject land. Any new owners or occupiers should therefore familiarise themselves with the conditions of this consent, as there may be conditions that are required to be complied with on an ongoing basis.
3. This resource consent only authorises the activities described above. Any matters or activities not referred to in this consent or covered by the conditions must either:
 - a) comply with all the criteria of a relevant permitted activity rule in the Proposed Tasman Resource Management Plan (PTRMP);
 - b) be allowed by the Act; or
 - c) be authorised by a separate consent.
4. Access by the Council officers or agents to the property is reserved pursuant to Section 332 of the Resource Management Act 1991.
5. Monitoring of this resource consent is required under Section 35 and 36 of the Resource Management Act 1991, and a deposit fee is payable at this time. Should monitoring costs exceed this initial fee, the Council will recover the additional amount from the resource Consent Holder. Monitoring costs can be minimised by consistently complying with the resource consent conditions.
6. The Council draws your attention to the provisions of the Historic Places Act 1993. In the event of discovering an archaeological find during the earthworks (e.g., shell, midden, hangi or ovens, garden soils, pit depressions, occupation evidence, burials, taonga, etc) you are required under the Historic Places Act 1993 to cease the works immediately until, or unless, authority is obtained from the New Zealand Historic Places Trust under Section 14 of the Historic Places Act 1993.

Issued this day of 4th July 2008



Cr N Riley
Chair of Hearings Committee

RESOURCE CONSENT NUMBER: RM070809

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

Rick Edwin Bensemenn and Nicola Bensemenn
(hereinafter referred to as “the Consent Holder”)

ACTIVITY AUTHORISED BY THIS CONSENT:

Discharge stormwater to Thorp Drain from roadside drains and proposed lots 1 to 16.

LOCATION DETAILS:

Address of property: Old Wharf Road, Motueka
Legal description: Lot 2 and Pt Lot 3 DP 16330
Certificate of title: NL 10C/812 and 11B/324
Valuation number: 1955031809 and 1955031811

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

CONDITIONS

General

- 1.1 The discharge of stormwater shall be undertaken in general accordance with the information supplied with the application. Where there is any conflict between the plans and the conditions imposed in this resource consent and the information supplied with the application, the conditions shall prevail and if necessary, the plans shall be modified to conform with these conditions.
- 1.2 The discharge of stormwater shall not, after allowing for reasonable mixing of the discharge within the receiving water, cause in the receiving water any of the following:
 - (a) the production of any visible oil or grease films, scums or foams, or conspicuous floatable or suspended material;
 - (b) any emission of objectionable odour;
 - (c) the rendering of freshwater unsuitable for bathing;
 - (d) the rendering of freshwater unsuitable for consumption by farm animals; and
 - (e) any adverse effect on aquatic life.
- 1.3 The discharge of stormwater shall not result in adverse scouring or sedimentation of any watercourse, or of the two irrigation dams located on the property. Detention structures or similar shall be constructed to remedy any scouring or erosion that is occurring.

- 1.4 Any discharge of stormwater shall not aggravate flooding on adjoining properties not owned by the Consent Holder.
- 1.5 The exercise of this consent during the earthworks and construction phase of the subdivision shall be in accordance with Conditions 3.1 to 3.3 and Conditions 4.1 to 4.11 of land use consent RM070808.

Review and Expiry

- 2.1 The Council may review the conditions of this consent during the month of June each year pursuant to Section 128 the Act to:
 - a) deal with any adverse effect on the environment which may arise from the exercise of the consent and which it is appropriate to deal with at a later stage;
 - b) require compliance with operative rules in the Tasman Resource Management Plan or its successor; and/or
 - c) when any relevant national environmental standards have been made under Section 43 of the Act.
- 2.2 This consent shall expire on 1 July 2018.

ADVICE NOTES

1. The Consent Holder should meet the requirements of the Council with respect to all Building Bylaws, Regulations and Acts.
2. This resource consent only authorises the activities described above. Any matters or activities not referred to in this consent or covered by the conditions must either:
 - a) comply with all the criteria of a relevant permitted activity rule in the Proposed Tasman Resource Management Plan (PTRMP);
 - b) be allowed by the Act; or
 - c) be authorised by a separate consent.
3. Access by the Council officers or agents to the property is reserved pursuant to Section 332 of the Resource Management Act 1991.
4. Monitoring of this resource consent is required under Section 35 and 36 of the Resource Management Act 1991, and a deposit fee is payable at this time. Should monitoring costs exceed this initial fee, the Council will recover the additional amount from the resource Consent Holder. Monitoring costs can be minimised by consistently complying with the resource consent conditions.

Issued this day of 4th July 2008



Cr N Riley
Chair of Hearings Committee

RESOURCE CONSENT NUMBER: RM070810

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

Rick Edwin Bensemam and Nicola Bensemam
(hereinafter referred to as “the Consent Holder”)

ACTIVITY AUTHORISED BY THIS CONSENT: Permanently divert stream water as part of the realignment of Thorp Drain.

LOCATION DETAILS:

Address of property: Old Wharf Road, Motueka
Legal description: Lot 2 and Pt Lot 3 DP 16330
Certificate of title: NL 10C/812 and 11B/324
Valuation number: 1955031809 and 1955031811

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

CONDITIONS

General

- 1.1 The diversion of the water flow of Thorp Drain authorised by this consent shall be undertaken in general accordance with the information submitted with the application for consent, subject to any changes required by the conditions of consent. If there is any conflict between the information submitted with the consent application and any conditions of this consent, then the conditions of this consent shall prevail.
- 1.2 The diversion shall be carried out in one action for the total realignment of Thorp Drain (i.e. not in stages).
- 1.3 Prior to the water diversion being carried out, a plan setting out the methodology for the diversion to the satisfaction of the Councils Resource Consent Manager shall be submitted, detailing how the water flow will be diverted and how impacts on fish and other aquatic life avoided or mitigated. This plan shall be based on the considerations and recommendations in the report ‘Assessment of Native Fish Values’ prepared by Tom Kroos & Associates Limited (January 2008) submitted with the application for resource consent.
- 1.4 The Consent Holder shall arrange with Tiakina te Taiao, if they so wish, to engage an Iwi monitor to be present on site for the period when the diversion of Thorp Drain is put into effect.
- 1.5 The diversion shall be supervised by a suitable expert in freshwater ecology.

Review and Expiry

- 2.1 The Council may review the conditions of this consent during the month of June each year pursuant to Section 128 the Act to:

- a) deal with any adverse effect on the environment which may arise from the exercise of the consent and which it is appropriate to deal with at a later stage;
- b) require compliance with operative rules in the Tasman Resource Management Plan or its successor; and/or
- c) when any relevant national environmental standards have been made under Section 43 of the Act.

2.2 This consent expires on 1 July 2018.

ADVICE NOTE(S)

1. This resource consent only authorises the activities described above. Any matters or activities not referred to in this consent or covered by the conditions must either:
 - a) comply with all the criteria of a relevant permitted activity rule in the Proposed Tasman Resource Management Plan (PTRMP);
 - b) be allowed by the Act; or
 - c) be authorised by a separate consent.
2. Access by the Council's officers or agents to the property is reserved pursuant to Section 332 of the Resource Management Act 1991.
3. Monitoring of this resource consent is required under Section 35 and 36 of the Resource Management Act 1991, and a deposit fee is payable at this time. Should monitoring costs exceed this initial fee, the Council will recover the additional amount from the resource Consent Holder. Monitoring costs can be minimised by consistently complying with the resource consent conditions.

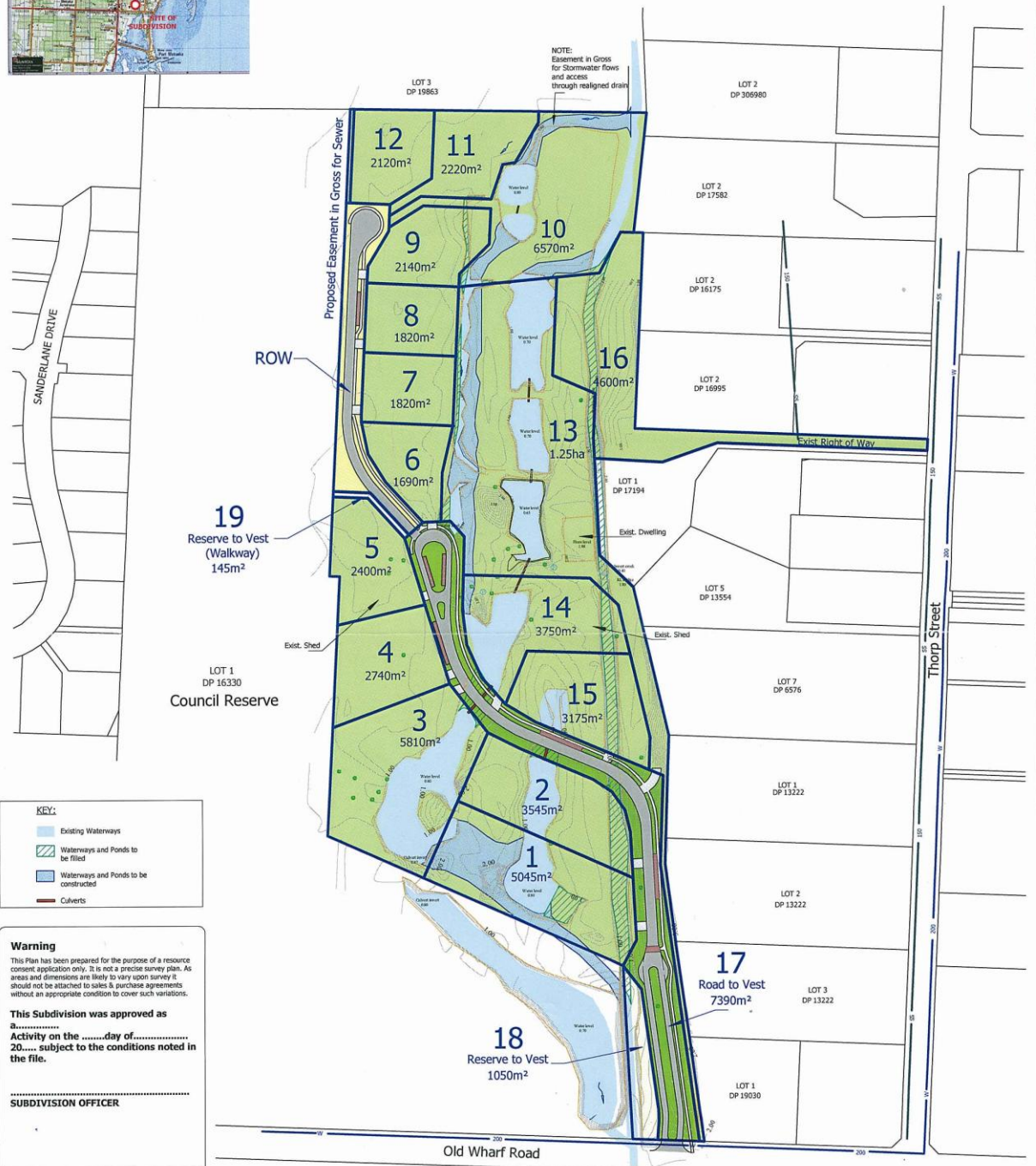
Issued this day of 4th July 2008



Cr N Riley
Chair of Hearings Committee

2

Locality Diagram



KEY:

- Existing Waterways
- Waterways and Ponds to be filled
- Waterways and Ponds to be constructed
- Culverts

Warning
 This Plan has been prepared for the purpose of a resource consent application only. It is not a precise survey plan. As areas and dimensions are likely to vary upon survey it should not be attached to sales & purchase agreements without an appropriate condition to cover such variations.

This Subdivision was approved as
 Activity on theday of.....
 20..... subject to the conditions noted in the file.

.....
SUBDIVISION OFFICER

Comprised in : CT NL 10C/812 & 11B/324
 Applicants:
 R& N Bensemann

Concept Developed by:

STAIG & SMITH
 ENHANCING THE LAND

81 Selwyn Place
 PO Box 913 Nelson
 Ph: 03 548 4422
 Fax: 03 548 4423
 e-mail: enquiries@staigsmith.co.nz

SURVEYING-PLANNING-ENGINEERING-RESOURCE MANAGEMENT

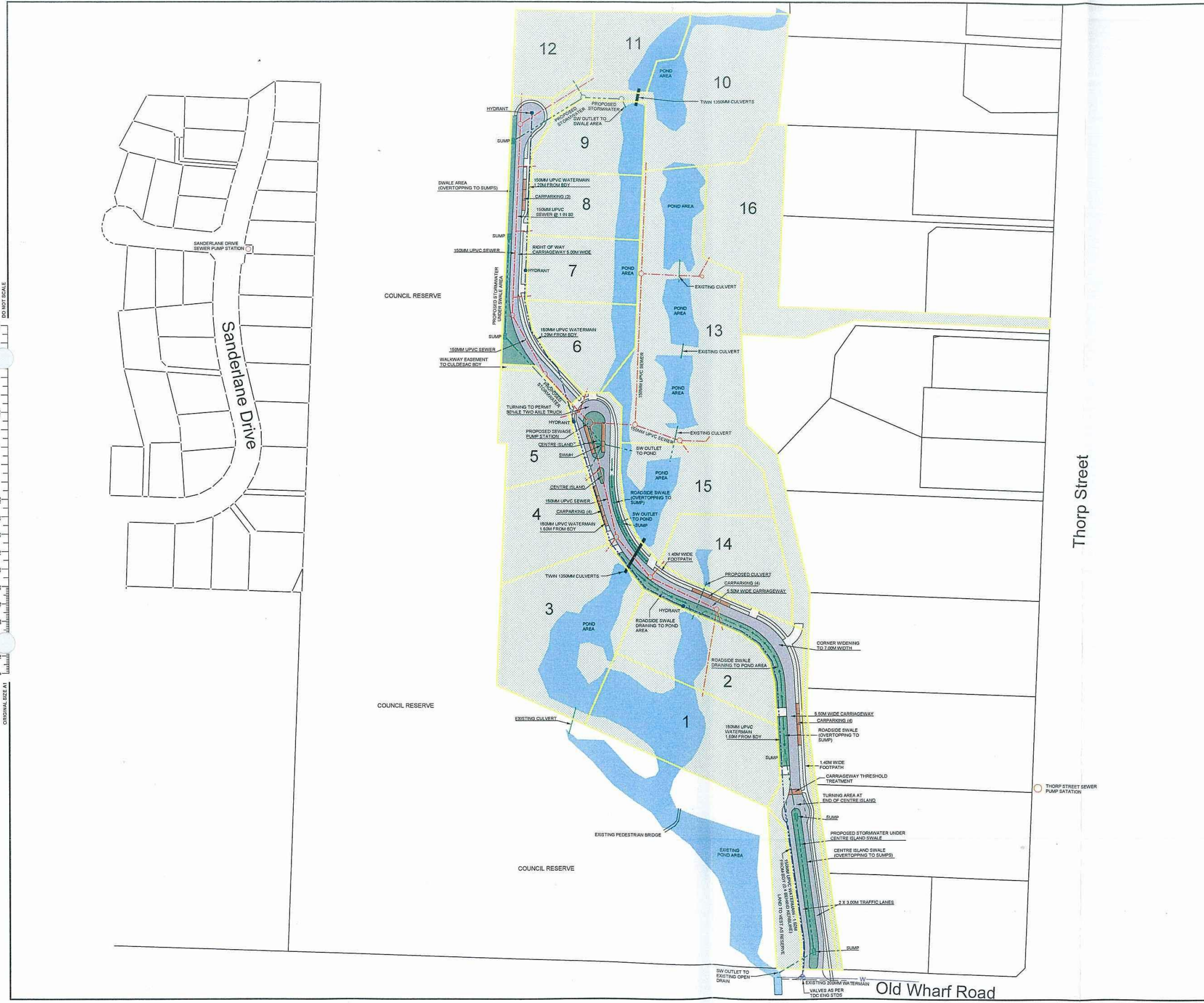
**Lots 1 - 19 being Proposed Subdivision of
 Lot 2 & Pt Lot 3 DP 16330**

Job Title:
**Rick & Nicola Bensemann
 Old Wharf Road
 Motueka**

Drawing Title:
**Resource Consent
 Application Plan**

Plan information:

Scale	0m	20m	40m	60m	80m	100m
	@ A3 = 1: 2000					
Job No.	8743	CAD File No.	8743-02	Sheet	1 of 1	
Issue No.	Draft 6	Drawn	M.Graf	Date	03/03/2008	
Amendments						



Notes
 (1) VERIFY ALL DIMENSIONS ON SITE.
 (2) DO NOT SCALE FROM DRAWING

Key

- MANHOLE
- MANHOLE
- SEWER PIPELINE
- STORMWATER PIPELINE
- ROADSIDE SWALE (DIRECTION OF FLOW)
- WATER PIPELINE
- HYDRANT
- AREA OF ALTERNATIVE SURFACE TREATMENT

No	Amendment	Date
<p>81 Selwyn Place PO Box 913 Nelson Ph: 03 548 4422 Fax: 03 548 4427 e-mail: enquiries@staigsmith.co.nz</p>		
DESIGN: D. CANTON. DRAWN: D. CANTON. CHECKED: APPROVED: DATE: 17/07/2007		
JOB TITLE Rick and Nicola Bensemann Old Wharf Road Motueka		
DRAWING TITLE Plan of Proposed Engineering Services		
Scale: 1:1000	at A1	DWG8743D
Job No: 8743	Sheet 1 of 2	

NOTES

- (1) VERIFY ALL DIMENSIONS ON SITE.
- (2) DO NOT SCALE FROM DRAWING.

No Amendment Date



STAIG & SMITHTM
 81 Selwyn Place
 PO Box 913 Nelson
 Ph: 03 548 4422
 Fax: 03 548 4427
 e-mail: enquiries@staigsmith.co.nz
 SURVEYING-PLANNING-ENGINEERING-RESOURCE MANAGEMENT

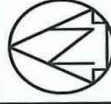
DESIGN:

DRAWN: D. CANTON.

CHECKED:

APPROVED:

DATE: 1/04/2008



JOB TITLE:

Rick and Nicola Bensemann
 Old Wharf Road
 Motueka

DRAWING TITLE:

Plan of Proposed Sewer Rising
 Main route over Lot 3 DP 19863.

Scale: 1:1000 at A3 DWG8743E

Job No: 8743

Sheet 1 of 1

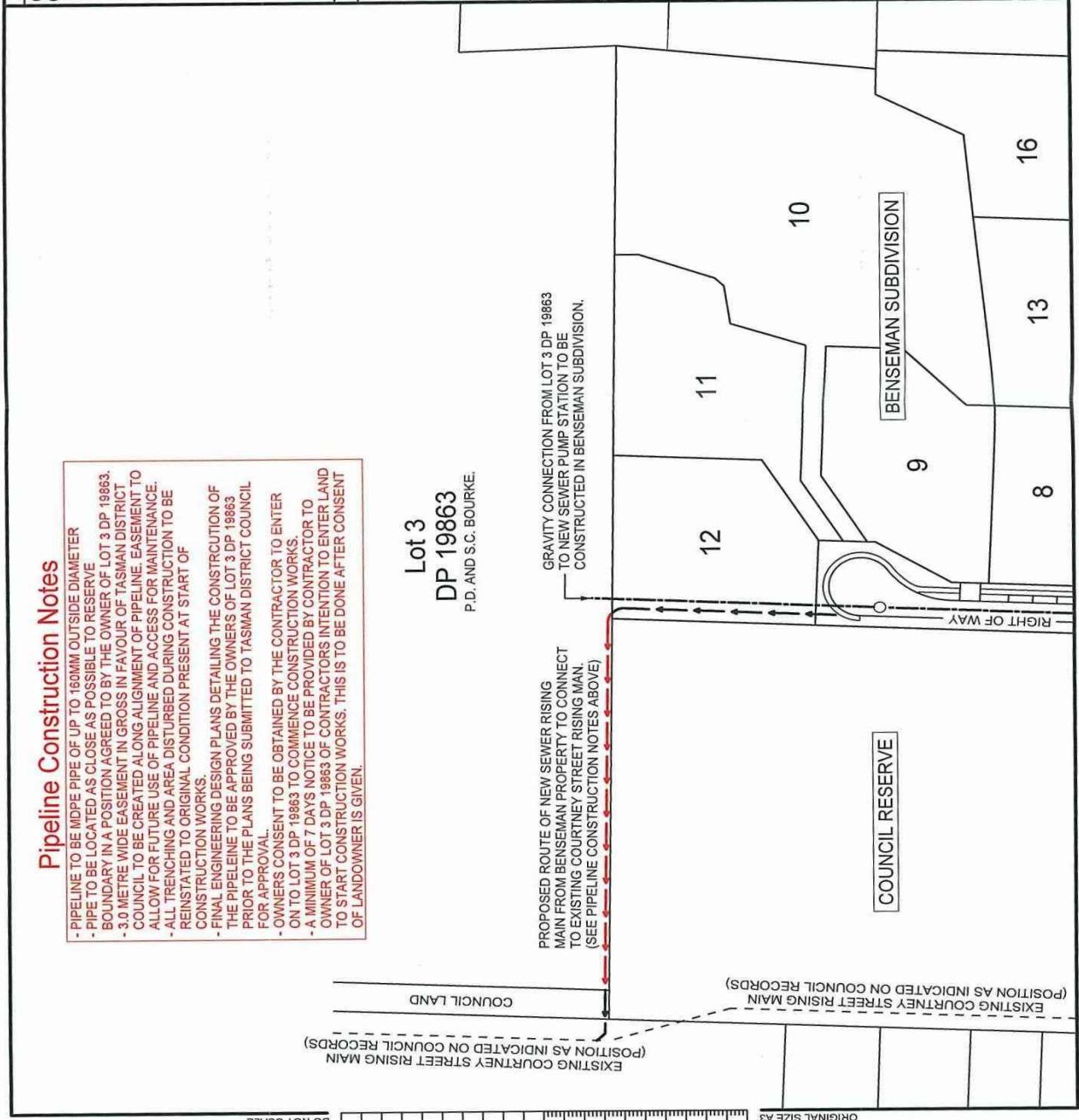
Pipeline Construction Notes

- PIPELINE TO BE MDPE PIPE OF UP TO 160MM OUTSIDE DIAMETER
- PIPE TO BE LOCATED AS CLOSE AS POSSIBLE TO RESERVE BOUNDARY IN A POSITION AGREED TO BY THE OWNER OF LOT 3 DP 19863.
- 3.0 METRE WIDE EASEMENT IN GROSS IN FAVOUR OF TASMAN DISTRICT COUNCIL TO BE CREATED ALONG ALIGNMENT OF PIPELINE. EASEMENT TO ALLOW FOR FUTURE USE OF PIPELINE AND ACCESS FOR MAINTENANCE.
- ALL TRENCHING AND AREA DISTURBED DURING CONSTRUCTION TO BE REINSTATED TO ORIGINAL CONDITION PRESENT AT START OF CONSTRUCTION WORKS.
- FINAL ENGINEERING DESIGN PLANS DETAILING THE CONSTRUCTION OF THE PIPELINE TO BE APPROVED BY THE OWNERS OF LOT 3 DP 19863 PRIOR TO THE PLANS BEING SUBMITTED TO TASMAN DISTRICT COUNCIL FOR APPROVAL.
- OWNERS CONSENT TO BE OBTAINED BY THE CONTRACTOR TO ENTER ON TO LOT 3 DP 19863 TO COMMENCE CONSTRUCTION WORKS.
- A MINIMUM OF 7 DAYS NOTICE TO BE PROVIDED BY CONTRACTOR TO OWNER OF LOT 3 DP 19863 OF CONTRACTORS INTENTION TO ENTER LAND TO START CONSTRUCTION WORKS. THIS IS TO BE DONE AFTER CONSENT OF LANDOWNER IS GIVEN.

**Lot 3
 DP 19863**
 P.D. AND S.C. BOURKE.

PROPOSED ROUTE OF NEW SEWER RISING MAIN FROM BENSEMAN PROPERTY TO CONNECT TO EXISTING COURTNEY STREET RISING MAIN. (SEE PIPELINE CONSTRUCTION NOTES ABOVE)

GRAVITY CONNECTION FROM LOT 3 DP 19863 TO NEW SEWER PUMP STATION TO BE CONSTRUCTED IN BENSEMAN SUBDIVISION.



Date Confirmed:

Chair: