

MINUTES

TITLE: Environment & Planning Subcommittee
DATE: Monday, 28 April 2008
TIME: 9.30 am
VENUE: Council Chamber, 189 Queen Street, Richmond

PRESENT: Crs S G Bryant (Chair), S J Borlase and M J Higgins

IN ATTENDANCE: Principal Consents Planner (J Butler), Coordinator Subdivision Consents (M D Morris), Development Engineer (D Ley), Administration Officer (B D Moore)

1. ROBINSON FAMILY TRUST, BRONTE ROAD EAST, BRONTE – APPLICATION RM070256

1.1 Proposal

The applicant sought consent to subdivide a 4 hectares property at 71 Bronte Road East into two allotments being Lot 1 of 1.17 hectares and Lot 2 of 2.84 hectares containing an existing dwelling. The subject site is comprised of two titles being 4.01 hectares and 83 m². The subject land is zoned Rural 3 under the proposed Tasman Resource Management Plan and the subdivision is considered to be a restricted discretionary activity under Rule 16.3.9D.

The Chairman, Cr Bryant, instructed Mr Butler to read the matters to which Council has restricted its discretion pursuant to Section 16.3.9D of its plan.

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 Bryant / Higgins
EP08/04/30

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

Robinson Family Trust

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
Robinson Family Trust	Consideration of a planning application	A right of appeal lies to the Environment Court against the final decision of Council.

Moved Crs Higgins / Borlase
EP08/04/31

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

CARRIED

2. ROBINSON FAMILY TRUST, BRONTE ROAD EAST, BRONTE – APPLICATION RM070256

Moved Crs Bryant / Higgins
EP08/04/32

THAT pursuant to Section 104C of the Resource Management Act, the Committee GRANTS consent to Robinson Family Trust as detailed in the following report and decision.

CARRIED

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

Meeting held in the Tasman Room, Richmond

on 28 April 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 **Robinson Family Trust** (“the Applicant”), to subdivide one Rural 3 Lot into two. The application, made in accordance with the Resource Management Act 1991 (“the Act”), was lodged with the Council and referenced as RM070256.

PRESENT:

Hearings Committee

Cr S Bryant, Chairperson

Cr S Borlase

Cr M Higgins

APPLICANT:

Mr M Lile – Resource Management Consultant

Mr T Robinson – on behalf of the Applicant

Ms M Elliott – Horticultural Consultant

Mr T Carter – Landscape Architect

- CONSENT AUTHORITY:** **Tasman District Council**
Mr M Morris – Co-ordinator Subdivision Consents
Mr D Ley – Development Engineer
- SUBMITTERS:** Mr A Farndale
Mr A Cole
Mr R Williams
- IN ATTENDANCE:** Mr J Butler – Principal Resource Consents Adviser (assisting the Committee)
Mr B Moore – Committee Secretary

1. DESCRIPTION OF THE PROPOSED ACTIVITY

This application is to subdivide a 4 hectare property into two Lots; Lot 1 being 1.1723 hectares and Lot 2 being 2.8488 hectares (containing an existing dwelling).

The property is located at 71 Bronte Road East. The legal description of the land is Part Lot 2 DP 7391 and Section 17 Block II Moutere SD (CTs NL 3A/770 and NL 7A/560). As there are two existing Lots and two certificates of title, this application is technically a boundary relocation. However, as one of the Lots is very small the application has been pragmatically treated as a subdivision.

The 4 hectare property is on the northern side of Bronte Road and most of the property slopes gently to the north with a small gully and amenity pond near the centre of the property. There is small knoll towards the north western end of the site which has been landscaped for a building site. An access has been formed from the proposed building site to Bronte Road, though no formal authorisation has been obtained from the Council for the access crossing.

The Applicant has lived on the property since 1966 and lives in the existing dwelling on south eastern corner of the property. Until 1999, the property was mainly used for grazing by the Applicant. In 1999 much of the property was planted in grapes and has been leased by the adjacent landowner, Rimu Grove Winery, which has an agreement to lease the vineyard land (most of proposed Lot 2) until 2019.

The application is for subdivision only. While there has been mention of the establishment of a winery/café on proposed Lot 1, no application has made for such an activity.

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 3

Area(s): Wastewater Management Area

The subdivision is considered to be a Restricted Discretionary Activity under Rule 16.3.9D of the Proposed Tasman Resource Management Plan in that the minimum lot size is less than the 50 hectares required under the controlled activity Rule 16.3.9C for the Rural 3 zone (“Rural 3”).

3. NOTIFICATION AND SUBMISSIONS RECEIVED

The application was “limited notified” on 23 January 2008 pursuant to Section 94(1) of the Act. A total of 4 submissions were received. The following is a summary of the written submissions received and the main issues raised:

1. Robert Williams

Opposed to the application, making the following the following points:

- The proposed building site is on a knoll that is extremely prominent when viewed from his property.
- There are inconsistencies in the application such as stating that any future development will require “its own water supply”, but then later on page 24 it states that underground water has been installed to the building site.
- The application states that negotiations over setting up a restaurant/café on the site have failed because of the Rimu Grove lease. However the lease does not affect proposed Lot 1.
- Any application to build a restaurant should be carried out with sensitivity to the landscape and the environment.
- The proposal is contrary to the landscape policies 9.2.3 and 9.2.5 in the TRMP.
- While the landscape report suggests that planting may mitigate the visual effects of the development, it is unlikely that anyone building for views and the sun, would want trees cutting out their views.
- If Lot 1 is unfit for any horticultural use, why should it be put on its own title?
- The other blocks in Bronte Road can be used for horticultural purposes. One of the standards for Rural Subdivision must include the economic viability of a potential subdivision.
- If Council allows this subdivision to go ahead, it will set a precedent for other small holders to do the same.
- To allow a subdivision on a knob that the vendors created of their own free will and then claim they can't do anything with it, is misleading.

2. Cole Boyd Family Trust

Opposed to the application, making the following points:

- Until June 2008 it owned the block of land that looks directly over the proposed Lot 1 building platform.

- The end use of proposed Lot 1 is not clear from the application. The application alludes to establishing a commercial café/restaurant and to residential use, but little information is given on the proposed commercial use.
- If the application involves use as commercial site, then more information needs to be provided on the proposed use.
- More information needs to be provided of the building footprint for the proposed residential dwelling on Lot 1, including elevations and landscape plantings around the building envelope.
- The proposed subdivision is not a boundary adjustment and that the rules relating to subdivisions should apply.
- The landscape report is retrospective, in that the building platform has already been created.
- Our understanding is that dwellings on the highest part of the property do not meet the Council's design guidelines. The suggested plantings to mitigate the effect of the dwelling would have to be 7 metres high to obscure a 5 metre high dwelling and would take 20 years to reach maturity.
- More details should be provided of any proposed cut and fill associated with any residential or commercial development on the site. We would support the recessing of any proposed buildings into the natural landform, to make it less visible.
- The application lacks any adequate analysis of wastewater treatment by a wastewater engineer.
- There is no soil testing report on chemical residues in the soil.
- There is no traffic assessment report. The Bronte Road turnoff from the Coastal Highway is already dangerous and Bronte Road is narrow and has little in the way of a shoulder, leaving little room for two way traffic.
- The blocks on the northern side of Bronte road are quite different from the southern side, which is zoned rural residential. To approve this subdivision would set a dangerous precedent, which would lead to the erosion of what is left of the rural character that the Rural 3 Zone is seeking to preserve.

3. John Richards

Opposed to the application for the following reasons:

- The proposal is contrary to the policies and objectives for Rural land as set out in the TRMP and will result in unacceptable land fragmentation and loss for future rural production purposes.

- The proposed is not a “minor boundary adjustment”, but is a subdivision.
- The property already contains a residential building and should not be further fragmented for commercial or residential development.
- Lot 1 should not be built on merely because it is unsuitable for viticulture.
- Bronte Road East is narrow and winding and not suitable for increased traffic.
- The intersection of Bronte Road and the Coastal Highway is a potential blackspot and it would be hazardous to inflate the volume of traffic using this intersection.
- The subdivision will create noise pollution from traffic and social events.
- Light pollution will be created from cars, windows and driveway lighting.
- Visual pollution from buildings that should not be placed on a hill top in the rural landscape.
- The Applicant’s landscape report (Carter (2008)) does not take into account the visual effects on the Richards Family property (Audience Area D) which are in line-of-sight of the Lot 1 building site.
- The proposed mitigation measures do not mitigate the visual effects if a dwelling on Audience Area D.

4. Alan Farndale

Opposed to the application for the following reasons:

- The proposed Lot 1 building site is in a visually prominent location.
- There is a lack of information on the intended development on Lot 1.
- The device of using a very small and more or less useless title is not consistent with Council’s purpose in providing for boundary relocation subdivisions.
- The proposal is contrary to various objectives and policies in Chapter 7 of the PTRMP, which are concerned with amenity matters and protection of rural character, particularly in the Coastal Tasman Area.
- The proposal will lead to fragmentation of rural land.
- The construction of dwelling on Lot 1 will have an adverse effect on the rural character of the locality and the visual amenity that he currently enjoys.

- The proposal is not consistent with the Guidelines for Subdivision in the Coastal Tasman Area and is also contrary to the location specific guidelines (a), (d) and (e) for the Waimea Inlet- Bronte sub unit (9B) in Chapter 4 of Plan Variation 55.
- The proposal is contrary to the Principles and Purposes of the Resource Management Act as set out in Part II of the Act.

4. PROCEDURAL MATTERS

There were no procedural matters requiring a decision by the Committee.

5. EVIDENCE HEARD

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

5.1 Applicant's Evidence

Mr Robinson

Mr Robinson introduced himself, his Trust and the application.

Mr Robinson reaffirmed the nature of the application in that it is solely for subdivision purposes and there is no application for any kind of commercial activity. He also stated his awareness that other consents for stormwater and wastewater discharge and for residential dwelling construction will be required should this consent be granted.

Ms Elliott

Ms Elliott introduced herself as a director of the company Water and Atmosphere Information Limited.

Ms Elliott outlined the productivities and versatilities of proposed Lots 1 and 2 and concluded that the latter is ideal for growing high quality viticulture grapes. She concluded that while the former has similar soil, the slope and aspect of much of the area makes it unsuitable for viticulture or other productive uses. In this respect it is of low productivity and low versatility.

Mr Carter

Mr Carter presented photos and an indicative development plan for the site. He also stated his opinion that the potential adverse effects resulting from granting the consent can be effectively mitigated. He drew attention to the fact that the development of any residence or other facility will require an additional resource consent and that more specific mitigation measures can be looked at that time.

Mr Carter reviewed submissions that consider that views from their properties will be affected by the proposed development. He confirmed his view that the proposed development, with recommended mitigation, will not be highly visible from the submitters' properties. Further, he stated that the rural character will not be diminished by the proposal.

Mr Carter then reviewed the proposal against the Rural 3 design guide contained within Appendix 3 of the PTRMP. He stated that the development is consistent with the design guide in general, and specifically with the Landscape Sub-unit 9B. However, he stressed that this consistency is conditional on implementation of his recommended landscape mitigation measures.

Mr Carter then described the potential adverse landscape effects and proposed mitigation. He suggested that a sit-on-top appearance should be avoided and that landscape mitigation measures (such as recessing the dwelling, limiting its height and carefully mounding and planting to the south) are the best way to avoid this.

Mr Carter concluded by stating that "provided the recommended landscape controls are implemented fully and maintained, the effects will be minor and over time no loss of rural character will arise from a granting of consent".

Mr Lile

Mr Lile stated that he had been engaged by the Applicant after notification and after submissions had closed. Nevertheless he stated that he was satisfied that the subdivision had been carefully designed and would certainly achieve the purpose of the Act.

He outlined the three issues as he saw them:

1. Is the proposed development consistent with the Rural 3 zone Design Guide and is the scale of the development appropriate?
2. Will the development be able to achieve and maintain an acceptable level of rural character and amenity that is in keeping with the surrounding area? and
3. Will the development have an adverse effect on the productive values or potential productivity of the site?

He reinforced the findings of Mr Carter and stated that this kind of development is exactly what was anticipated by the Rural 3 zone, that rural character and amenity will be maintained, and that evidence showed that productive values will not be adversely affected.

5.2 Submitters Evidence

Mr Farndale

Mr Farndale expressed his strong opposition to the development. He stated his reasons as being because the land in question is not residential, views of the estuary will be interrupted, his objection against further commercialisation of Bronte Road East, loss of productive land, and construction and planting on the ridge.

Mr Farndale also referred to Rule 16.3.9E of the PTRMP which makes boundary adjustments, where a new house site will be created, a non-complying activity. He contested that the application is being incorrectly assessed. This matter is further considered below.

Mr Farndale stated that his house, as well as that of the Kittos will be the worst affected as they are closest. He stated that the loss of his view of the estuary will affect him in a more than minor way. He referred to the application which stated that a development configuration where a future dwelling is allowed to “sit on top” of the levelled landform should be avoided. As a result he stated that rural character will be lost and his, and others’, views will be obstructed.

With regard to further commercialisation of the Bronte Peninsula, Mr Farndale stated that he does not want more café/wineries in the area as was suggested in the original application. However, it was made clear by Mr Lile on behalf of the Applicant, and by the Chair that any such application for a commercial premises was not part of this application and a further resource consent would certainly be required.

Mr Farndale then went on to express his dislike of planting large trees on ridges or prominent views on the Bronte Peninsula, and stated that he has lost many of his views due to such planting.

Finally, Mr Farndale requested that, as the development does not comply with the requirements of the PTRMP subdivision consent should be declined.

Mr Cole

Mr Cole stated that he owns a block overlooking the proposed subdivision. He stated that he is not opposed to the application on the basis of traffic or as a Rural 3 development.

However, he wanted to point out to the Committee that the original application does refer to a commercial development. He also wanted the Committee to be clear that it should not approve the subdivision just because works have been done, particularly when the Council’s Mr Ley has stated that aspects such as the driveway are not up to the normal standard required. He urged the Committee to consider whether it would grant the consent if the site was not partially developed.

Mr Williams

Mr Williams stated that he is not against development in the area or in the Rural 3 zone. He agreed with Mr Cole that it would be concerning if a commercial venture could go ahead, and called for a “caveat or covenant” against any such development.

He also stated that he feels that the work done before application for subdivision consent means that the Council will be approving a substandard development. He too urged the Committee to consider its decision as if the land had not already been largely developed.

5.3 Council's Reporting Officer's Report and Evidence

Mr Morris

Mr Morris addressed the boundary adjustment rule issue raised by Mr Farndale. He stated that that rule was applied to minor boundary adjustments and that this development is not, as has been sometimes claimed, a boundary adjustment but is a fully blown subdivision application and that the rule referred to by Mr Farndale does not apply.

Mr Morris stated that he does not believe the works done to date affect staff recommendation for approval, and that other subdivision applications have also had significant amounts of work done at the developer's risk.

Mr Morris then addressed the Rural 3 zoning and compared the Rural 3 provisions with those of Rural Residential zoning which would allow 1 hectare lots as a controlled activity. He stated that the change from Rural 1 to Rural 3 anticipates some rural residential development but in a way which maintains the productive areas. Rural 3 provisions anticipate increases in development and effects are to be minimised primarily through mitigation.

He continued to say that there are few controls in law over view lines over another person's land. There are plenty of developments that can be done as permitted activities that would block views such as that of Mr Farndale.

When asked how much lower the house will be from the top of the hillock Mr Morris replied that the house had been moved as far to the north as possible and had been dropped about 1 metre (excluding the 500mm digging in).

Mr Morris then explained the notification procedure under the Act as this had been queried by submitters during their presentations with regard to some developments being publicly notified and others where the limited notification provisions had been used.

Dugald Ley

Mr Ley stated that Bronte Road is substandard but other applicants have not been required to upgrade it and he didn't see any necessity for this Applicant to do so either.

5.4 Applicant's Right of Reply

Mr Lile began by agreeing with Mr Morris that this is a subdivision and the boundary adjustment provision does not apply.

He requested that the Committee look from Mr Farndale's property. He also explained that the rimu trees that were referred to are extremely slow growing and will not interrupt any views for many decades. He also stated that the landowner is entitled to plant what he likes and that large pines were removed from the site. Further he states that developments such as barns are permitted.

He also responded to submitters by stating that there is nothing retrospective about the application and that concerns about commercial activities are not relevant here as such a development has not been formally proposed.

Finally, he stated that under the Rural 3 process there is more control on developments as there are two opportunities for Council to impose landscape mitigation standards. Namely, at the subdivision application stage and when a land use consent is applied for.

6. PRINCIPAL ISSUES

The principal issues that were in contention were:

- a) Will the subdivision of the land and the construction of a residential dwelling have a more than minor adverse visual effect on nearby landowners?
- b) Would the granting of this consent constitute retrospective resource consent given that the driveway and building site have already been constructed?
- c) Should the site be considered to be productive rural land, and to what extent is the proposed usage appropriate for this land?
- d) Is the proposed subdivision consistent with the objectives and policies of the Rural 3 zoning, and is the proposed design and mitigation consistent with the Rural 3 design guide?

7. MAIN FINDINGS OF FACT

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

- a) The inevitable residential dwelling that would result from the granting of this consent will not cause a more than minor loss of rural amenity or interruption of views. This finding is based on the landscape mitigation requirements and evidence presented, and upon the Committee visiting the site.

In particular, the Committee considers that evidence presented that claimed the development was positioned on a “prominent ridge” was misleading. The Committee is also aware of the permitted baseline rights that the Applicant has open to it, such as the planting of trees, and finds that there is no requirement on any landowner to maintain another’s views over their own property.

However, while the Committee does consider that a portion of Mr Farndale’s view of the estuary will be blocked by the development, the Committee is satisfied that the portion is very small and is comprised principally of pine trees on the far headland. The loss of view is therefore considered insignificant when compared to the views of the estuary that are still enjoyed.

- b) The Committee is satisfied that no parties, nor the Committee itself, were unduly influenced by the work that has been done on the site in preparation for the application for subdivision consent. As such, any decision on subdivision cannot be considered to be retrospective in nature.

- c) The Committee considers that the subdivision of the present Lot will have a positive effect in terms of allowing the vineyard area (proposed Lot 2) to be managed separately and in a more productive fashion. Residential development of the class E soils on the steeply sloping part of proposed Lot 1 and the small portion of class B soils on the same is considered to be an appropriate use given the objectives and policies of the Rural 3 zoning.
- d) The Committee considers that the proposed development is consistent with the type of development that was being sought by the implementation of the Rural 3 objectives and policies.

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

10. REASONS FOR THE DECISION

The Committee is satisfied that the visual effects of the development from the point of view of all audiences and nearby landowners will be no more than minor once the mitigation measures described by Mr Carter have been fully implemented.

The Committee is also satisfied that the adverse site amenity effects and landscape effects will be no more than minor and that the activity will be consistent with relevant objectives and policies in the PTRMP (Objectives 5.1.0, 5.2.0, 5.3.0, 9.1.0 and 9.2.0 and Policies 5.1.1, 5.1.3, 5.1.4, 5.1.9, 5.1.9A, 5.2.4, 5.2.7, 5.2.8, 5.2.13, 5.3.2, 5.3.5, 9.1.5 to 9.1.7A and 9.2.1 to 9.2.5).

The Committee considers that the proposed development is consistent with the Rural 3 Design Guide contained in Appendix 3 of the PTRMP. The Committee notes that it was always anticipated that the Rural 3 zoning would result in the creation of rural residential Lots in appropriate locations, and it is considered that this is an appropriate location given the protection of most of the productive land, the non-skyline location of the dwelling and the volunteered mitigation measures which will see the development integrate into the surrounding rural landscape.

As stated above, the Committee considers the subdivision will have a positive effect on the retaining of productive soils in proposed Lot 2 in viticultural production. Also, the Committee considers the adverse rural environment effects to be minor. Positive rural environment effects are also anticipated. As such, the Committee considers the development to be consistent with Objectives 7.1.0 and 7.2.0; and with Policies 7.1.1, 7.1.2, 7.1.2A, 7.1.3, 7.2.1 and 7.2.1A of the PTRMP.

The Committee is reassured by the additional regulatory requirements that must be met before any residential or commercial development can proceed. The resource consent requirement will mean that there will be an opportunity for the specifics of any further development to be scrutinised in detail.

Overall, it is considered that the proposed subdivision is consistent with the relevant objectives and policies of the PTRMP, that the adverse effects are minor, and that the proposal is consistent with the purpose and principles of the Act.

11. COMMENTARY ON CONDITIONS OF CONSENT

Conditions pertaining to the landscaping of Lot 1 (Conditions 6 and 7) are significant in that the evidence presented stressed the importance of the landscape mitigation measures to minimise adverse effects.

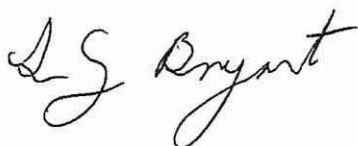
Furthermore, the consent notices that have been volunteered by the Applicant in Condition 11 were also an important consideration in the evidence heard. The volunteered consent notices are, therefore, similarly important factors in avoiding and mitigating more than minor adverse effects on the environment.

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.

Section 125(2) of the Act makes particular provision for the lapsing of subdivision consents. 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.

Issued this 23rd day of May 2008



Councillor Stuart Bryant
Chair of Hearings Committee

RESOURCE CONSENT NUMBER: RM070256

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

ROBINSON FAMILY TRUST
(hereinafter referred to as “the Consent Holder”)

ACTIVITY AUTHORISED BY THIS CONSENT: to subdivide a 4 hectare property into two Lots; Lot 1 being 1.1723 hectares and Lot 2 being 2.8488 hectares (containing an existing dwelling).

LOCATION DETAILS:

Address of property: 71 Bronte Road East
Legal descriptions: Pt Lot 2 DP 7391; Sec 17 Blk II Moutere SD
Certificates of title: CT NL7A/560; NL 7A/560
Valuation number: 1938070200

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

CONDITIONS

General

1. The subdivision shall be undertaken in general accordance with the information submitted with the application for consent and in particular with the plan John West Surveys Plan No: JWS723 dated May 2004 and attached to this consent as Plan A. 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.

Building Location Area – Lot 1

2. The location of any new dwelling on Lot 1 shall be contained entirely within the Proposed Building Site (hereafter referred to as the “Building Location Area”) shown on Plan B dated May 2004 attached to this consent. The Building Location Area shall be shown on the survey plan which is submitted for the purposes of Section 223 of the Act.

Easements

3. Easements shall be created over any services located outside the boundaries of the lots that they serve as easements-in-gross to the Tasman District Council for Council reticulated services or appurtenant to the appropriate Lot.
4. The survey plan which is submitted for the purposes of Section 223 of the Act shall include reference to easements.

Landscaping Plan

5. The Consent Holder shall submit for approval by Council's Coordinator Compliance Monitoring, a comprehensive landscape plan prepared by an appropriately qualified landscaping professional detailing excavation, mounding, plantings and maintenance of the landscape plantings, in order to screen the visual effects of buildings on Lot 1. The landscaping plan shall be fully implemented prior to the issuing of a completion certificate pursuant to Section 224(c) for this subdivision.
6. The landscaping plan required to be submitted in accordance with Condition 6 shall be in general accordance with the Tasman Carter Landscape Report dated 24 November 2006 and submitted with the application and with the Tasman Carter evidence presented to the Hearing Committee on 28 April 2008 except where inconsistent with the conditions of this consent, in which case the conditions shall prevail.

Site Certification

7. Certification that the Building Location Area on Lot 1 is 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 land slope and foundation stability). The certificate shall define on Lot 1 within the building location area, the area suitable for the erection of a residential building and shall be in accordance with Appendix B Section 11 of the Tasman District Engineering Standards and Policies 2004.

Financial Contributions

8. The Consent Holder shall pay a financial contribution for reserves and community services in accordance with 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 a notional 2,500 square metre building site within Lot 1.
 - b) The Consent Holder shall request in writing to the Council's Consent Administration Officer (Subdivision) 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 Note:

A copy of the valuation together with an assessment of the financial contribution will be provided by the Council to the Consent Holder.

Advice Note:

Council will not issue a completion certificate pursuant to Section 224(c) of the Act in relation to this subdivision until all development contributions have been paid in accordance with Council's Development Contributions Policy under the Local Government Act 2002.

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

This consent will attract a development contribution on one Lot in respect of roading and water supply.

Consent Notices

9. The following consent notice shall be registered on the certificate of title of Lot 2 pursuant to Section 221 of the Resource Management Act. The consent notice 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.
 - i) There shall be no further subdivision unless:
 - (i) the subdivision is a boundary adjustment where no additional titles are created;
 - (ii) the Tasman Resource Management Plan (or subsequent relevant planning document) changes such that the proposed subdivision is either a permitted or controlled activity; or
 - (iii) the subdivision is for the sole purpose of creating a separate title for a network utility to be used by a network utility operator (as defined in Section 166 of the Resource Management Act 1991).

For the purposes of this consent notice "subdivision" has the same meaning as that set out in Section 218 of the Resource Management Act 1991.

Advice Note

This consent notice was volunteered by the Applicant.

10. The following consent notices shall be registered on the certificate of title for Lot 1 pursuant to Section 221 of the Resource Management 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.
 - i) That the construction of any residential buildings shall be restricted to the Building Location Area shown on Title Plan DPand buildings shall be fully contained within the area identified.

A land use consent is required for any dwelling to be built, a discharge permit is required for any on-site wastewater discharge associated with the dwelling, and a storm water discharge permit is required for stormwater runoff from the dwelling and building site.

The land use consent application for the dwelling will require a full assessment, by a suitably qualified landscape design professional, of the proposed dwelling and associated landscaping against the *Design Guide for Subdivision and Development in the Coastal Tasman Area, Tasman District* set out in Part II – Appendix 3 of the Proposed Tasman Resource Management Plan.

- ii) That the maximum height of any building on Lot 1 shall be 30.91 metres above mean sea level.

For avoidance of doubt this is 4.5 metres above the existing Building Location Area of 26.41 metres above sea level and would allow for 5 metre high dwelling providing that it is recessed into the building site by average vertical cut of 500 millimetres.

- iii) All buildings on Lot 1 shall be finished and maintained in recessive colours with exterior cladding/paint of low reflectivity (no more than 50%).
- iv) The roof of any dwelling on the proposed Lot 1 shall be a curved roof.
- v) All water tanks and structures associated with the wastewater treatment and disposal system shall be screened with plantings so that within five years they are not visible from adjoining properties.
- vi) There shall be no further subdivision unless:
 - (i) the subdivision is a boundary adjustment where no additional titles are created;
 - (ii) the Tasman Resource Management Plan (or subsequent relevant planning document) changes such that the proposed subdivision is either a permitted or controlled activity; or
 - (iii) the subdivision is for the sole purpose of creating a separate title for a network utility to be used by a network utility operator (as defined in Section 166 of the Resource Management Act 1991).

For the purposes of this consent notice "subdivision" has the same meaning as that set out in Section 218 of the Resource Management Act 1991.

- vii) There shall be no urban style fences erected on the site. For the avoidance of doubt, urban style fences are generally 1.8 metres high, extensive (i.e. surrounding the building or property) and constructed with solid or partially solid construction materials such as concrete block walls, or tall pickets. This consent notice is not intended to disallow the construction of low fences (one metre or less in height) that are used in a localised fashion to, for example, contain small children or animals in an area, or fence off swimming pools.

- viii) The landscaping plantings and earth mounds constructed as part of subdivision consent RM070256 shall be retained maintained by the landowner in perpetuity.

Advice Note

Consent notices ii) to viii) were volunteered by the Applicant.

ADVICE NOTES

1. This resource consent is not a building consent and the Consent Holder shall meet the requirements of Council with regard to all Building and Health Bylaws, Regulations and Acts.
2. Any activity not covered in this consent shall either comply with:
 1. the provisions of a relevant permitted activity rule in the Proposed Tasman Resource Management Plan; or
 2. the conditions of separate resource consent for such an activity.
3. 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.

Section 125(2) of the Act makes particular provision for the lapsing of subdivision consents. 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.

4. The existing access crossing to each of the Lots is accepted.
5. Access by the Council's Officers or its Agents to the property is reserved pursuant to Section 332 of the Resource Management Act 1991.
6. 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 are able to be minimised by consistently complying with the resource consent conditions.
7. Pursuant to Section 127 of the Resource Management Act 1991, the Consent Holder may apply to the Consent Authority for the change or cancellation of any condition of this consent.

8. 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 23rd day of May 2008

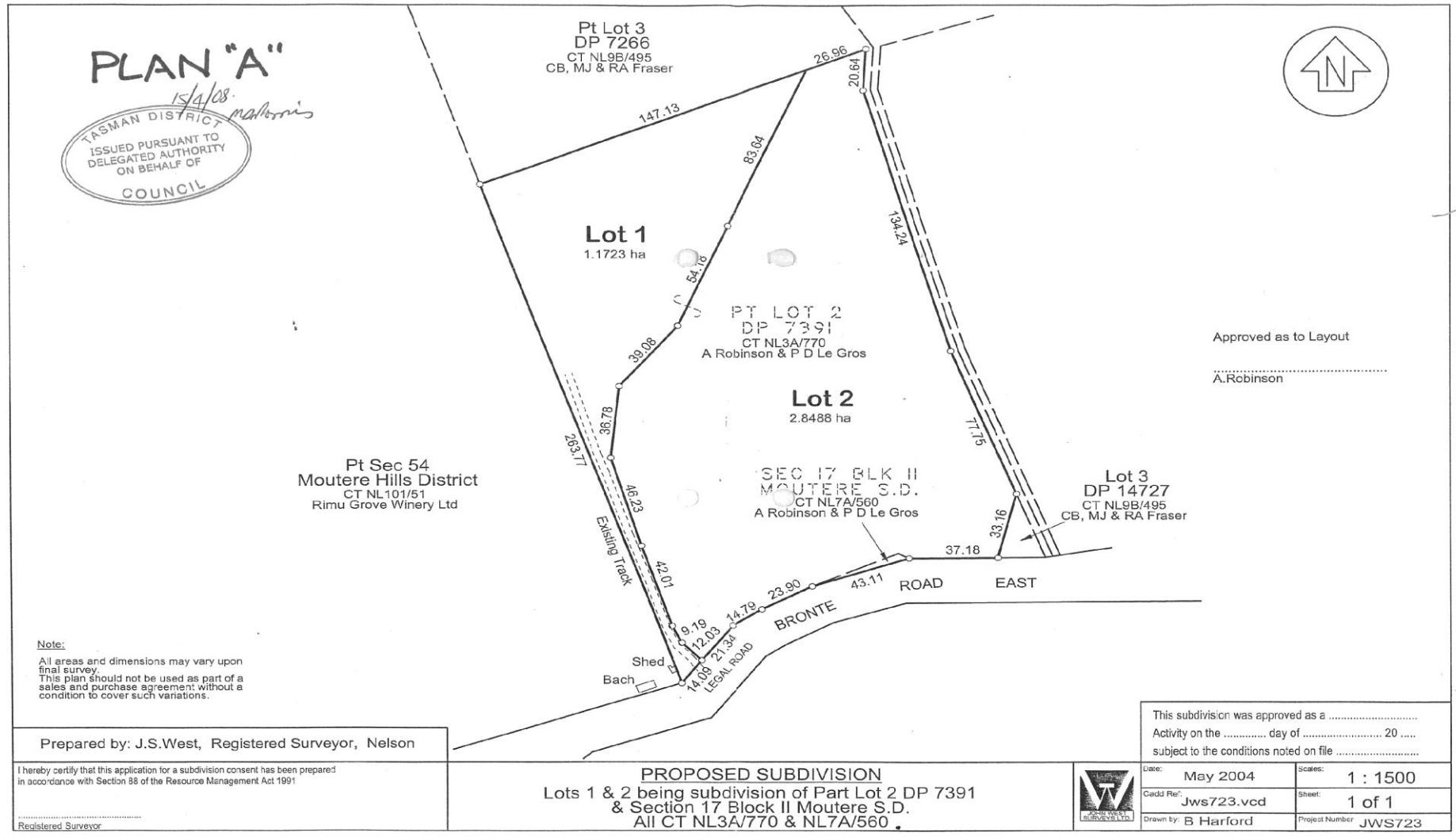


Councillor Stuart Bryant
Chair of Hearings Committee

Date Confirmed:

Chair:

Plan A – May 2004
 RM070256 – Robinson Family Trust



Plan B – May 2004
 RM070256 – Robinson Family Trust

