

# MINUTES

**TITLE:** Environment & Planning Subcommittee  
**DATE:** Monday, 11 August 2008  
**TIME:** 9.30 am  
**VENUE:** Council Chamber, 189 Queen Street, Richmond

**PRESENT:** Cr N Riley (Chairman), Crs J L Edgar and R G Currie

**IN ATTENDANCE:** Principal Consent Planner (J Butler), Coordinator Land Use Consents (J R Andrew), Development Officer (D Ley), Environmental Health Officer (G Caradus), Administration Officer (B D Moore)

## 1. D M HOLMES AND J N HARREY, 108 McSHANE ROAD, RICHMOND - APPLICATION RM071217

### 1.1 Proposal

The application is for land use consent to undertake the following at a 0.8044 hectare rural property in the Rural 1 zone:

- Between 9.00 am and 6.00 pm operate a cellar door providing for the tasting and sale of wine (under an off licence) made at the property's winery;
- Operate commercial offices associated with the on-site winery business and without any limitation on hours for office work;
- Construct a building of approximately 135 m<sup>2</sup> which increases the existing site building coverage from 9.3% to 10.9%.

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 Currie / Edgar  
EP08/08/01

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

D M Holmes and J N Harrey

**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
D M Holmes and J N Harrey	Consideration of a planning application	A right of appeal lies to the Environment Court against the final decision of Council.

**CARRIED**

**Moved Crs Riley / Currie  
EP08/08/02**

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

**CARRIED**

**2. D M HOLMES AND J N HARREY, 108 McSHANE ROAD, RICHMOND, APPLICATION RM071217**

**Moved Crs Riley / Edgar  
EP08/08/03**

**THAT pursuant to Section 104B of the Resource Management Act, the Committee GRANTS consent to D M HOLMES AND J N HARREY 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 11 August 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 **D M Holmes and J N Harrey** (“the applicant”), to establish and operate a commercial activity consisting of a wine tasting and selling room (cellar door) and associated administration facilities. The application, made in accordance with the Resource Management Act 1991 (“the Act”), was lodged with the Council and referenced as RM071217.

**PRESENT:**

**Hearings Committee**

Cr N Riley, Chairperson  
Cr G Currie  
Cr J Edgar

**APPLICANT:**

Mr M Lile (planning consultant)  
Mr J Harrey (applicant)  
Mr L Jensen (supporting party)  
Mr D Holmes (applicant)

- CONSENT AUTHORITY:** **Tasman District Council**  
Mr J Andrew (Co-ordinator Land Use Consents)  
Mr G Caradus (Co-ordinator Regulatory)  
Mr D Ley (Development Engineer)
- SUBMITTERS:** Mrs M Colville  
Ms N Colville and Mr M Englefield
- IN ATTENDANCE:** Mr J Butler, Principal Resource Consents Adviser – Assisting the Committee  
Mr B Moore – Committee Secretary

## 1. DESCRIPTION OF THE PROPOSED ACTIVITY

This is an application for a land use consent to undertake the following on a 0.8044 hectare rural property in the Rural 1 zone:

- Between 9.00 am and 6.00 pm, seven days per week, operate a cellar door providing for the tasting and sale of wine (under an off licence) made at the property's winery;
- Operate commercial offices associated with an on-site winery business and without any limitation on hours for office work; and
- Construct a building of approximately 135 m<sup>2</sup> which increases the existing site building coverage from 9.3% to 10.9%.

The subject site is at 108 McShane Road, Richmond (see Appendix 1 attached). The legal description of the property is Lot 1 DP 337857.

The applicant has planted several vineyards on the Waimea Plains and developed the subject property as the winery for these vineyards. The winery building is large and well setback from McShane Road. The building has been finished in recessive colours and is, to some degree, screened from neighbours by existing shelter planting to the north-east and south-west of the site. There are currently six staff based at the winery and two managers visiting it on most days.

The winery's existing cellar door operation is based at the nearby Grape Escape complex. The applicant proposes to relocate its cellar door business to the subject site.

The winery's administration and marketing work is presently done by staff and managers working from their own residences. This work is proposed to be undertaken from new offices that would be constructed on the subject site.

The proposed offices and cellar door operation are to be undertaken from a building immediately in front of the existing winery building. The proposed building will be single story, have three offices, a general office, a store room, a meeting room, a reception-tasting room with off licence sales and a toilet. See Plans A, B and C all dated 21 April 2008 (attached).

Access to the property is along an existing metalled right-of-way driveway located on the north-eastern boundary of the property. The right-of-way provides access to Lot 2 DP 337857 (which is owned by one of the winery managers, Mr Jensen) and to the winery building. There is a tall, but somewhat sparse, deciduous poplar shelterbelt on the boundary between the subject site and the Colville's (one of the submitters) property. There is a fence along the Colville's side of the shelterbelt.

Two dwellings on the adjoining Colville property are setback just over 120 metres (main dwelling) and 70 metres (front cottage) from the site of the applicant's proposed cellar door and office building.

## **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): nil

The proposed activity does not comply with Permitted Activity Rule 17.4.2 of the PTRMP and is deemed to be a discretionary activity in accordance with Rules 17.4.3 and 17.4.6 of the Plan.

## **3. NOTIFICATION AND SUBMISSIONS RECEIVED**

The application(s) was a limited notification on 3 June 2008 pursuant to Section 94(1) of the Act. A total of two submissions were received. The following is a summary of the written submissions received and the main issues raised:

### **Mrs M Colville**

Opposes the application and in seeking it be declined and raises the following concerns:

- Addition of another building;
- Effects on privacy and effects of noise, traffic, dust, and glare;
- Lack of car parking assessment;
- Adverse effects on lifestyle.

In the event of the Council granting consent, Mrs Colville requested that the following conditions be placed on the consent: That the hours be limited to office hours only (9.00 am to 5.00 pm Monday to Friday); that the hours of operation for administrative duties be limited; and that a wall or earth bund be created between her property and the subject property.

### **Ms N Colville and Mr M Englefield**

Oppose the application on similar grounds to Mrs Marion Colville but also raise rural view impacts and in the event of consent being granted request that the office hours be limited from 9.00 am to 5.00 pm Monday to Friday to protect current rural lifestyle.

Where possible, the concerns raised have been addressed in the assessment of effects section of this report with assistance from the Council's engineering and noise staff.

#### **4. PROCEDURAL MATTERS**

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

#### **5. EVIDENCE HEARD**

The Committee heard evidence from the applicant, 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 J Harrey**

Mr Harrey introduced himself as part of the management team of Appleby Vintners Winery at 108 McShane Road.

Mr Harrey described the history of the winery and the constantly changing nature of the business. As a result of costs he described how they have developed a strategic plan to carry them forward over the next few years. Central to this plan is a production lift by approximately 100 percent to an optimum of 400 tonnes per year. The original winery was designed and consented to accommodate that production level.

Strategic planning also identified significant administrative inefficiencies in the business with management spread across 3 separate locations and with the cellar door domiciled at The Grape Escape a few hundred metres along the road.

Mr Harrey said that the cellar door operation at The Grape Escape did not operate at a profit.

Overall, Mr Harrey sees many benefits in building a combined cellar door operation for wine enthusiasts and combining this with administrative functions for the winery.

###### **Mr M Lile**

Mr Lile introduced himself and outlined his expertise. He stated that he originally obtained resource consent to establish the winery on the site in June 2003.

Mr Lile summarised the application as it stood. He stated that it was to be a purpose built single storied facility with a gross floor area of 135 square metres. Off licence sales were proposed. The cellar door is proposed to open between 9.00 am and 6.00 pm seven days per week, although hours may be reduced during the off-season. However, Mr Lile sought that these hours not constrain the administrative functions of the facility as early starts or late finishes may be needed.

Mr Lile described the proposed building as being modest in scale, shape and colour.

Mr Lile agreed that the status of the activity is fully discretionary.

With regard to traffic and vehicle movements, Mr Lile considered that the centralisation of the administrative functions means that there will be a reduction in the number of vehicle movements made by management staff, who currently visit the site at least once a day each. Based on recorded traffic movements at The Grape Escape he considers that there will be approximately 14 to 16 vehicle movements per day.

Mr Lile considered that when vehicle movements are adjusted to take into account the reduction in traffic due to fewer management visits the increase in traffic will be very minor.

Mr Lile accepted the traffic related recommendations of Mr Ley.

Mr Lile considered that the effects on land productivity is a relevant consideration but that the size and shape of the lot means that it is unlikely the balance area could be developed as a productive activity. He suggested that the applicant would plant grapes in the area in front of the proposed facility to add attractiveness to the site and cellar door.

Mr Lile stated that the administration and cellar door activities would comply with the permitted activity noise standards for the Rural 1 zone. He considered the primary source of noise to be vehicle movements and that, as already described, the increase will be minor. Mr Lile considered that proposed level of noise is entirely reasonable in the rural environment. He stated that this proposal will not generate any significant noise and that there is no need to seal the driveway and parking area.

With regard to dust, Mr Lile stated that during the drier summer period the predominant wind is a sea breeze from the north and northwest. He considered that dust generated by horticultural activities would far exceed anything generated by the right-of-way. Further, Mr Lile expects the in-leaf shelter belt to add protection from wind and dust in the summer months.

Mr Lile explained that the applicant will comply with the permitted activity standard for signage or else a separate resource consent would be sought.

Mr Lile stated that the single storied recessive nature of the building will be well setback from McShane Road. He stated that the applicant would like to replace the existing shelter belt shared with the Colvilles with native evergreen plantings.

Mr Lile then turned to the planning framework for this activity. He considered Chapter 7 of the PTRMP and, in particular, Objectives 7.1.0 and 7.2.0 to be relevant. He also agreed with the objectives and policies identified by Mr Andrew in his staff report.

Mr Lile then addressed the submitters' concerns. He considered that the proposal will have only minor adverse effects on privacy, noise and dust. He reaffirmed that the applicant is prepared to establish a hedge along the common boundary which will provide better visual screening, noise minimisation and dust protection. He also stated that the applicant accepts conditions being imposed on the consent which limit the size and activities to those as applied for.

Mr Lile considered that this proposal is logical and sustainable and that it achieves the objectives of the PTRMP. He considered that the amenity and quality of the rural environment will be enhanced by this proposal.

Cr Edgar asked when peak season for wine tasting would be. Mr Harrey said that January to March is peak season with a gradual increase over September to December.

Cr Currie asked about the existing shed on the site and whether it is part of the current operation. Mr Harrey stated that it is used as a storage shed and for the pumping equipment for the bore.

With regard to lighting, Mr Lile also commented that there would certainly be security lighting but that it would be sensor activated and not on during all the hours of darkness.

When Cr Riley asked about the doubling of production and the resultant traffic movements Mr Lile stated that traffic would increase as a result but that the winery was separately consented for that activity (RM030471).

Cr Riley also asked about the hours of operation of the winery. Mr Harrey stated that the winery generally only works a single shift, unlike other wineries, and that therefore the hours are generally limited to 7.30 am to 10 or 11 pm. Mr Harrey also added that the grapes that will be planted between McShane Road and the proposed building will be used for production and won't just be for amenity value.

## **5.2 Submitters Evidence**

### **Mrs M Colville**

Mrs Colville stated her position that she seeks consent for the proposal to be refused. She considered the most major effects that she is concerned about are loss of privacy, loss of rural amenity and noise.

She commented on the reporting officer's report. She stated that if the consent is to be granted there are a number of conditions that she wishes imposed. In particular, she sought conditions which mitigate cross boundary effects, particularly with regard to loss of rural amenity, noise and loss of privacy.

She considered that the proposal will have a profound effect on their (herself, Ms N Colville and Mr Englefield) rural privacy. She also considered that their view will become a "wall of buildings on [their] southern boundary which is unacceptable for a rural area." She stated that the main house is more protected but that a lot of time is spent outside and the lack of privacy will be a major issue. On a scale of 1 to 10 she considered her loss of privacy to be a 10.

While Mrs Colville did not object to an increase in planting on the common boundary, she believed that any planting will not give privacy for three to five years. Instead, she requested that a wooden fence or an earth bund be built to provide immediate noise protection and screening.

Mrs Colville then raised concerns over the size of the operation. She said that there is little to stop the activity growing beyond what has been stated by the applicant.

She stated that while the applicant has expressed a “desire [for] the operation to remain a relatively small one” no guarantee was given and that this may change either through change of mind or change of circumstances.

She considered that there will be unreasonable noise beyond that caused by vehicle movements. She stated that she has been adversely affected by noise from the winery in the past.

With regard to traffic, Mrs Colville said that the figures that were presented by the applicant were unreliable as they had not been collected by a traffic engineer. She described the figures as anecdotal statements and opinions.

Mrs Colville then discussed the Richmond West rezoning and development that is currently in a draft form. She stated that McShane Road may be widened as part of that development and that this may require the workers cottage close to McShane Road (in which Ms N Colville and Mr Englefield currently live) to be moved.

Mrs Colville summarised the matters that she considers needed to be addressed by conditions: controls on the size of operation and on vehicle numbers; permanent screening for privacy and mitigation of noise; planting of large evergreen trees for screening; and hush asphalt on the drive and car park area.

Overall, she considered that she and the other submitters will be experiencing the effects for seven days a week and 365 days a year and will get no break from public scrutiny and noise.

Cr Currie asked where the shelter belt stands in relation to the boundary. Mrs Colville stated that they are right over the boundary.

### **Ms N Colville and Mr M Englefield**

Ms Colville stated that even with a sealed driveway and parking area there will still be significant noise generated by commercial vehicles such as trucks and forklifts. She asked how they can know that the applicants have no intention of large development.

Ms Colville restated Mrs Colville’s concerns about the loss of privacy. She considered that planting will not provide immediate privacy and that trees at root trainer age will not be sufficient. She considered that immediate privacy would require a fence or an earth bund.

Ms Colville tabled photographs of the site taken from their side of the boundary. She described the poplar shelter belt as being exceptionally visually penetrable.

Cr Edgar sought clarification on the positioning of the earth bund sought. Ms Colville said that it should be where the shelterbelt is currently and up to the fence that is on their property.

Cr Riley asked what their view was of planting more mature shrubs. Ms Colville said that they would have to be quite large to provide immediate screening, otherwise it would take up to five years for screening to occur.

Mr Englefield said that he fully supports the development of the business but wants the applicant to take full responsibility for the effects.



### **5.3 The Council's Reporting Officers' Report and Evidence**

#### **Mr G Caradus**

Mr Caradus explained the noise rules for the Rural 1 zone. He explained that it is appropriate that any noise limit be lowered by around 5 dBA if it is a noise that causes a "grabbing of attention" such as the beeping of a reversing vehicle.

Cr Riley asked about wind directions at this location. Mr Caradus stated that he used Nelson airport data and that the sea breeze is very common in summer.

#### **Mr J Andrew**

Mr Andrew stated that the Rural 1 zone is primarily a working rural zone rather than a rural residential zone. He considered that in such a working rural zone there has to be give and take. In this case, difficulties arise with regard to the planting along the boundary with the Colvilles as it requires agreement from the Colvilles for planting to occur. Therefore, Mr Andrew stated that he could not legally require this. He said that in his opinion the shelter belt is suitable screening as it currently stands.

Due to the presence of the existing winery and the effects of this proposal he considered that it is appropriate that the driveway and parking area be sealed.

Mr Andrew also stated that he recommended a limit on the area that is to be used for tasting so that the operation cannot grow beyond that proposed in the application.

Mr Andrew considered that the applicant is doing nothing unusual. He stated that the PTRMP allows the selling of produce in rural zones up to a certain building size. In this case he sees no problem with allowing the applicants to use a larger area to do this.

Mr Andrew then restated the common conflict between people undertaking productive working activities and those who bought in the zone for the rural lifestyle.

#### **Mr D Ley**

Cr Edgar asked Mr Ley about the net effect on vehicle numbers and why it appeared that Mr Ley had not taken into account the reduced vehicle numbers by management that would result from the development. Mr Ley stated that his recommended condition requiring the sealing of 10 metres at the entrance of the right-of-way and a dust-free aggregate surface will cater for vehicle movements up to a large number and therefore the net change in vehicle numbers does not affect his recommendation.

Cr Currie asked whether a line, mark or sign could be placed at the point where the right-of-way reaches McShane Road for safety purposes. Mr Ley stated that the applicant could volunteer a limit line or sign but that it would not be required by Council staff.

Mr Ley stated that while sealing has been recommended by Messrs Andrew and Caradus, it is not required solely from a roading point of view.

## 5.4 Applicant's Right of Reply

Mr Lile considered that the issues of the signage, the scale and the mitigation of the proposal can be adequately addressed with conditions.

Mr Lile commented on the state of the shelter belt and considered it unfortunate that no agreement had been reached on the replacement, or otherwise, of the hedge. He said that the applicant is happy to progressively replace the shelterbelt with an appropriate species along the boundary 1.5 metres on the applicant's side. He was also happy for a limit of 6 metres to be placed on the height of this planting. He considered a medium size of planting to be appropriate.

Mr Lile considered that the applicant certainly has taken the submitters concerns into account.

With regard to the Richmond West development, Mr Lile supported Mr Andrew's recommendation not to put a great deal of weight on that proposal as it has a long process yet to go through and the outcomes are by no means certain.

Mr Lile considered this application to be a very appropriate activity for this zone as, while it is commercial, it is strongly linked to the productive activities that underpin the wine industry.

Mr Lile stated that the applicant still objects to sealing the driveway on the basis of dust as the sea breeze is the predominant wind during the summer when the activities of the proposal are at their peak. The applicant did, however, volunteer a limit on the maximum speed of the right-of-way.

In response to an earlier question from the Chair, Mr Lile stated that it is very unlikely that any industrial traffic will be generated by this proposal. Obviously, wine will need to be transferred from the winery to the storage of the proposed building. However, Mr Lile does not state exactly how this transfer would be carried out.

Mr Lile defended the traffic figures provided. He described them as very conservative and representative of peak numbers based on movements to and from The Grape Escape. He stated that the applicant certainly stands by the figures.

## 6. PRINCIPAL ISSUES

The principal issues that were in contention were:

- a) Will the proposal have a more than minor adverse effect on the submitters' privacy and rural amenity?
- b) Will the proposal generate noise that will have a more than minor adverse effect on the submitters?
- c) Will the proposal generate dust to a level that will have a more than minor adverse effect on the submitters?
- d) Will road safety on McShane Road be reduced and/or a road safety hazard be created by this proposal?

- e) Is it likely that the activity may be up-scaled such that more significant adverse effects on the submitters will eventuate?
- f) The winery is currently only running at 50% of its consented production capacity. With the planned increase in production up to full capacity, will the cumulative impact of the proposed development cause more than minor adverse effects on rural amenity?
- g) To what degree is the proposed Richmond West development a relevant consideration in determining the effects of the proposal?

## 7. MAIN FINDINGS OF FACT

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

- a) The shelter belt, as it was observed by the Committee, is quite visually penetrable. However, the poplars will be in full leaf at the time of year when the bulk of activity will be occurring on the subject site. The Committee, therefore, agrees that there may be some minor loss of privacy by the submitters, particularly Ms N Colville and Mr M Englefield. It is considered appropriate that some mitigation of this adverse effect be undertaken by the applicant. With regard to rural amenity, this proposal is appropriate and well suited for the Rural 1 zone. It will be in a location that is of only limited usefulness otherwise and the utilisation of the land between the proposed building and McShane Road will be of value for both increasing rural amenity and enabling greater productivity of the land.
- b) Noise is not considered to be a significant adverse effect on the submitters. The Committee is mindful of the level of noise that can be produced in the Rural 1 zone as a permitted activity may well exceed that which is likely to be produced as a result of the activities associated with this application.
- c) Dust is not expected to be a significant problem. The predominance of sea breezes in the summer when dust may occur will blow dust away from the submitters. The Committee considers that this is a working rural environment and dust may be produced from a wide range of sources. Having said that, the Committee does not consider it acceptable for dust to be discharged beyond property boundaries to the extent that it becomes objectionable or offensive.
- d) With the implementation of the intersection upgrade recommended in the reporting officer's report the Committee is satisfied that no road safety hazard will result from this proposal. The Committee also notes that the same upgrade was required to be completed as a condition of consent for the installation and operation of the winery (RM030471). The Consent Holder is currently likely to be in breach of that consent and, as such, the roading upgrade requirements should be pursued with all practicable haste.
- e) The Committee is satisfied that the intention of the applicant is to maintain a small scale but high-quality activity on this site. The Committee is mindful that a resource consent will be triggered if the applicant seeks to expand the scale of the activity.

- f) The proposed development will cause only a minor adverse cumulative effect. The nature of the effects of the proposal, as outlined above, mean that the Committee does not consider that the effects, in addition to those of the already operating winery will cause unreasonable adverse effects on rural amenity.
- g) The uncertainties surrounding the proposed Richmond West development are such that the Committee can afford it very little weight. A decision must be made on the basis of the facts that are in front of the Committee and it is not appropriate for a decision to be made on possible future outcomes.

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

## **10. REASONS FOR THE DECISION**

The Committee is satisfied that, with appropriate mitigation measures, the adverse effects on the submitters will be minor. The most important mitigation measure will be the implementation of vegetative screening between the subject property and that of the submitters. While the adverse effects are considered minor, this measure will further reduce the proposal's adverse effects on rural character and privacy, and will reduce the impact of noise and dust created by the proposal.

The Committee considers that this type of commercial activity, where the produce of the land is being marketed and sold in close connection to the place of growth and manufacture, is appropriate in highly productive areas of the district.

Sealing the driveway and parking area was recommended by Council staff. However, the Committee does not consider that such a requirement is warranted given the minor effects of the proposal. It is considered that the screening described above and required as a condition of consent will be a more effective mitigation measure as it will not only reduce the adverse effects of dust and noise on the submitters (as road sealing would), but will also mitigate loss of privacy and rural amenity affects.

The Committee is satisfied that this proposal is not inconsistent with Objectives 5.1.0, 7.1.0, 7.3.0 and 11.1.0; Policies 5.1.1 to 5.1.4 and 5.1.7; Policies 7.1.2, 7.1.2A and 7.3.1; and Policies 11.1.2B, 11.1.4 and 11.1.7. The proposal is also consistent with the purpose and principles contained within Part 2 of the Act.

## **11. COMMENTARY ON CONDITIONS OF CONSENT**

The screening of the boundary along the boundary between the subject property and that of the submitters is important to mitigate effects on privacy and rural amenity as its principal role, but also to reduce the effect of any minor dust and noise produced by the right-of-way on the submitters. The Committee has imposed a short time-frame for this planting to make use of the upcoming spring planting season and high current soil moisture levels. This will see the screening plants reach an effective screening height as soon as possible. However, the Committee is aware that if there is a significant delay in the implementation of the building and activities authorised by this consent (say more than three years) then there may be grounds to amend the date by which the planting must be completed.

The upgrade of the right-of-way entrance should be undertaken as a matter of priority as the Committee notes that an upgrade was required as a condition of the resource consent granted for the operation of the winery (RM030471). This has not been done and therefore the Consent Holder is currently in breach of the conditions of its consent.

A review condition pursuant to Section 128 of the Act has been imposed which directly refers to noise and dust which the Committee is satisfied will not become objectionable problems. However, should they become so, Section 128 of the Act provides a mechanism whereby they may be reviewed. These matters also relate to the possibility of cumulative effects occurring when the winery reaches full production. Again, the Committee is satisfied that the cumulative effects will remain minor; however the review condition allows the effects to be addressed at a later date.

## **12. LAPSING OF CONSENT(S)**

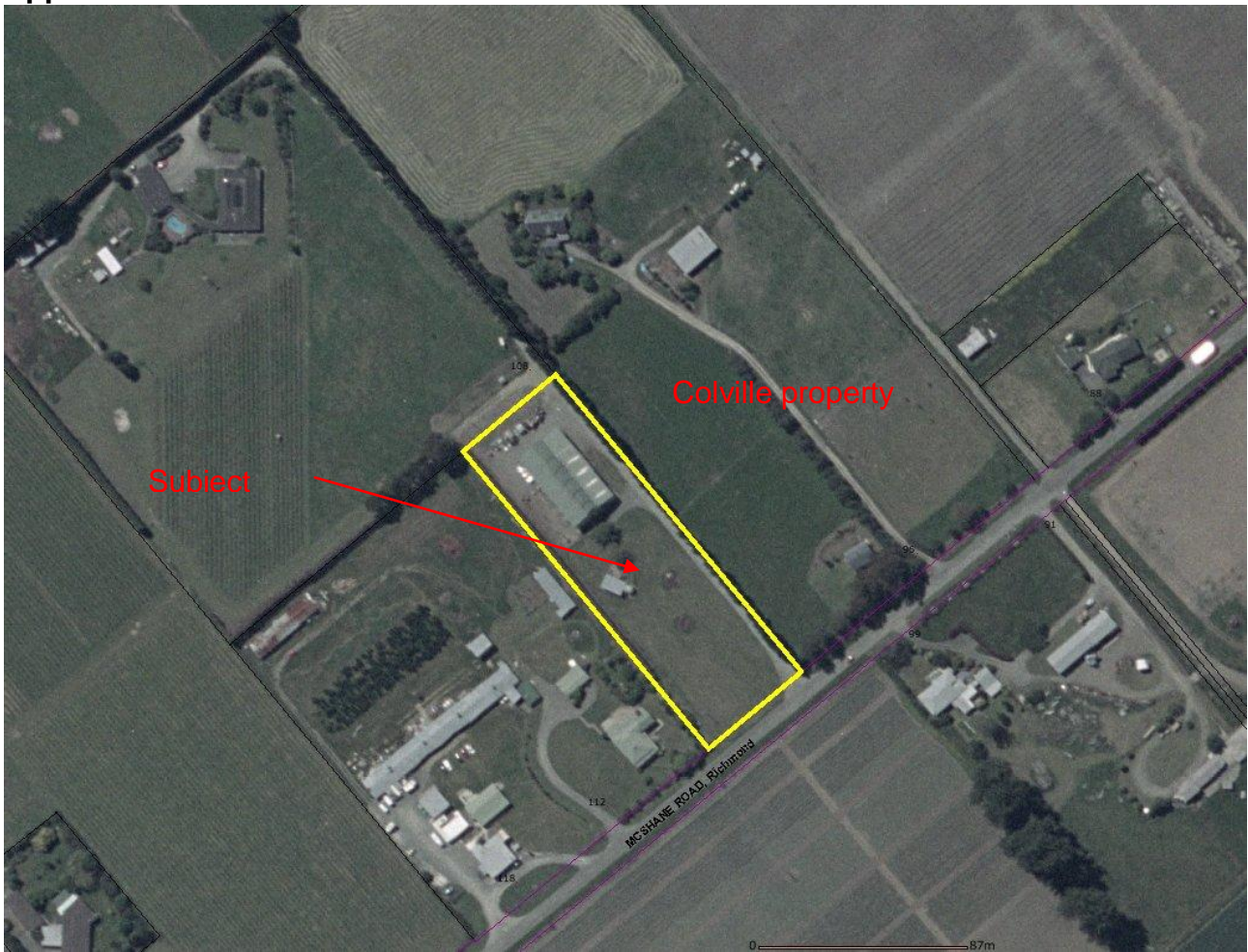
Pursuant to Section 125(1) of the Act, resource consents, by default, lapse in five years unless they are given effect to it before then.

Issued this 1<sup>st</sup> day of September 2008



Noel Riley  
**Chair of Hearings Committee**

## Appendix 1 – Site Location



**RESOURCE CONSENT NUMBER:** RM071217

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

**David M Holmes and John N Harrey**  
(hereinafter referred to as “the Consent Holder”)

### ACTIVITY AUTHORISED BY THIS CONSENT:

To construct a building and undertake a commercial activity, namely winery administration and cellar door wine tasting and off-licence sales.

### LOCATION DETAILS:

Address of property: 108 McShane Road, Richmond  
Legal description: Lot 1 DP 337857  
Certificate of title: 155396  
Valuation number: 1938099202  
Easting and Northing: 2523433E 5986030N

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

### CONDITIONS

#### General

1. The development shall be in accordance with the documentation submitted with the application and with Plans A, B and C dated 21 April 2008 and attached to this consent unless inconsistent with the conditions of this consent, in which case the conditions shall prevail.

#### Parking and Access

2. The access and driveway to the site shall remain in the existing location with the access being upgraded and widened to the design as set out in Figure 1 (below). Upgrade plans and specifications shall be provided to the Council’s Engineering Manager for approval prior to any works occurring on-site. These works shall be completed not later than 1 May 2009.

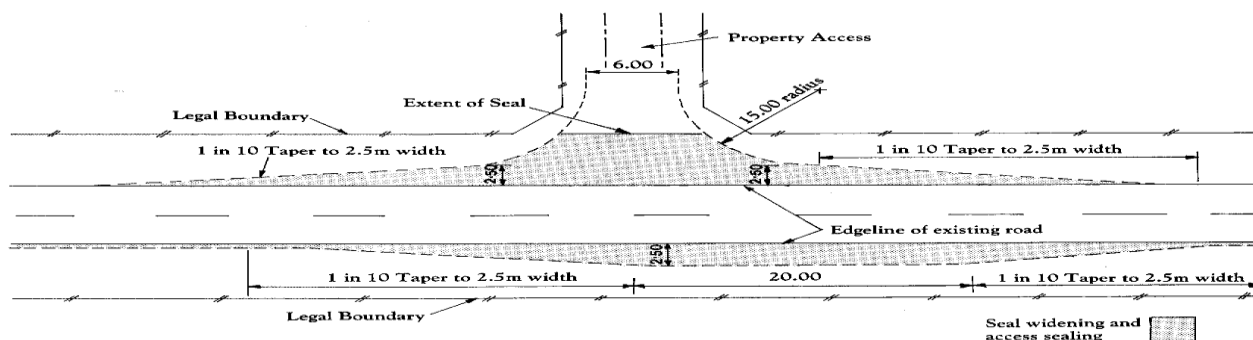


Figure 1: Upgrade to accessway entrance (Diagram not to scale. All dimensions are in metres.)

3. Ten car parks shall be provided for the building prior to the Cellar Door and office activities commencing on-site in the location shown on Plan A attached to this decision.
4. The accessway and the car parks shall be formed and surfaced in a dust-free compacted AP-20 basecourse or better.
5. A white line shall be painted across the accessway to show a stopping point when approaching McShane Road. The location of this line shall be as directed by an appropriately qualified and experienced roading professional.
6. Two appropriate signs shall be installed on the accessway indicating a maximum speed of 10 kilometres per hour. The signs shall be placed so that anyone entering the site from McShane Road and anyone leaving the carparks and driving towards McShane Road are informed of the speed limit.

### **Noise**

7. Noise levels created by activities on the site shall not exceed the following levels as measured at the boundary or notional boundary used for residential purposes.
  - a) 0730-1800 Monday to Saturday (but excluding public holidays) 55 dBA ( $L_{10}$ );  
and
  - b) 0730-1800 on Sundays, plus public holidays and all other times 40 dBA ( $L_{10}$ )  
and 70 dBA ( $L_{max}$ )

### **Hours of Operation**

8. The Cellar Door shall only be for the sale of wine and tasting of wine produced by the on-site winery and only shall be open between the hours of 9.00 am and 6.00 pm seven days a week.

The sale and tasting of wine shall be confined to the area of the building shown as "Reception Tasting" on Plan A dated 21 April 2008 (attached).

### **Boundary Screening**

9. The Consent Holder shall, no later than 1 November 2008, plant a hedge of fast-growing native screening plants in front of the existing poplar shelterbelt. The plants shall be a minimum of 1.5 metres in height and shall be spaced no greater than one metre apart. The hedge shall start immediately inside the property boundary on the McShane Road frontage and shall extend for a distance of at least 95 metres along the existing shelterbelt and shall be spaced approximately 1 metre from the shelterbelt.

The hedge shall have a mulch at its base and, if conditions are dry or forecast to be dry, a drip irrigation line shall be installed along the hedge and water applied regularly to ensure that the plants do not suffer from water stress.

The Consent Holder shall maintain the hedge in a good state of health and shall immediately replace any individual plants which die. The hedge shall be maintained at a maximum height of six metres.



### **Advice Notes**

1. Appropriate *Pittosporum* or *Olearia* species are recommended for the hedge.
2. Spring is an appropriate time to implement these plantings, particularly as, at the time this consent is granted, soil moisture levels are high.
3. It is recommended that once the majority of plants in the hedge reach a height of two metres the Consent Holder should remove the poplar shelter belt on the boundary between the subject property and the neighbouring property. However, as the shelterbelt is on the boundary, the removal of these poplars will require the approval of the owner(s) of 96 McShane Road and, therefore, this cannot be required as a condition of consent.

### **Monitoring and Review**

10. The Consent Holder shall advise the Council's Coordinator Compliance Monitoring when the activity authorised by this consent commences so monitoring of conditions can be programmed.
11. Pursuant to Section 128 of the Resource Management Act 1991, the conditions of this consent may be reviewed during the months of February and August each year for any of the following purposes:
  - 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;
  - c) when relevant national environmental standards have been made under Section 43 of the RMA;
  - d) deal with any other matters relevant to the authorised activity that may be raised through the review; and/or
  - e) to deal with issues of dust and noise from the accessway should one or both become, in the opinion of the Council's Co-ordinator Compliance Monitoring, a significant problem for the owners of 96 McShane Road.
  - f) to deal with any adverse cumulative effects that may result from the exercise of this consent along with the exercise of consent RM030471.

### **Advice Note:**

It is envisaged that such a review to deal with the issues specified in (e) above may result in conditions being imposed that require the sealing of the relevant section of the right-of-way and/or the parking area as was recommended in the reporting officer's agenda report.

## ADVICE NOTES

1. This is not a building consent and the Consent Holder shall meet the requirements of the Council with regard to all Building and Health Bylaws, Regulations and Acts.
2. The applicant should obtain and at all times hold the necessary premises registration and licences required under all and any legislation relating to the sale of liquor.
3. This consent only authorises the activity described above. Any matters or activities not referred to in this consent or covered by the conditions must either:
  1. comply with all the criteria of a relevant permitted activity rule in the Proposed Tasman Resource Management Plan (PTRMP);
  2. be allowed by the Resource Management Act; or
  3. be authorised by a separate consent.
4. 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.
5. The Consent Holder should note that this resource consent does not override any registered interest on the property title.
6. Monitoring of the consent is required under Section 35 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 this additional amount from the resource consent holder. Costs are able to be minimised by consistently complying with conditions and thereby reducing the frequency of Council visits.
7. Any discharge of wastewater must comply with the requirements of permitted activity Rule 36.1.5 of the proposed Tasman Resource Management Plan unless otherwise authorised by way of resource consent for the discharge.
8. Stormwater disposal for buildings, parking and manoeuvring areas shall meet the permitted activity standards of Rule 36.4.2 of the Tasman Resource Management Plan unless otherwise authorised by way of resource consent for the discharge.
9. The Consent Holder is liable to pay a development contribution in accordance with the Development Contributions Policy found in the Long Term Council Community Plan (LTCCP). The amount to be paid will be in accordance with the requirements that are current at the time the relevant development contribution is paid.

The Council will not issue a Code Compliance Certificate until all development contributions have been paid in accordance with the Council’s Development Contributions Policy under the Local Government Act 2002.

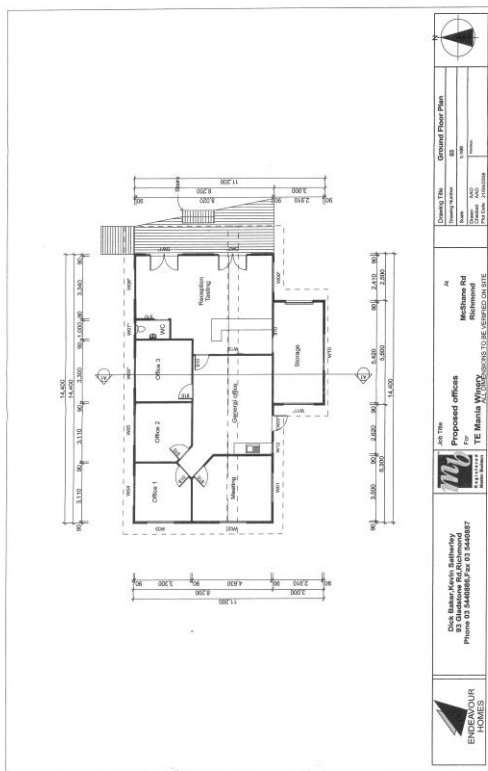
10. The Council draws your attention to the provisions of the Historic Places Act 1993. In the event of discovering an archaeological find during the earthworks (e.g., shell, midden, hangi or ovens, garden soils, pit depressions, occupation evidence, burials, taonga, etc) you are required under the Historic 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 1<sup>st</sup> day of September 2008

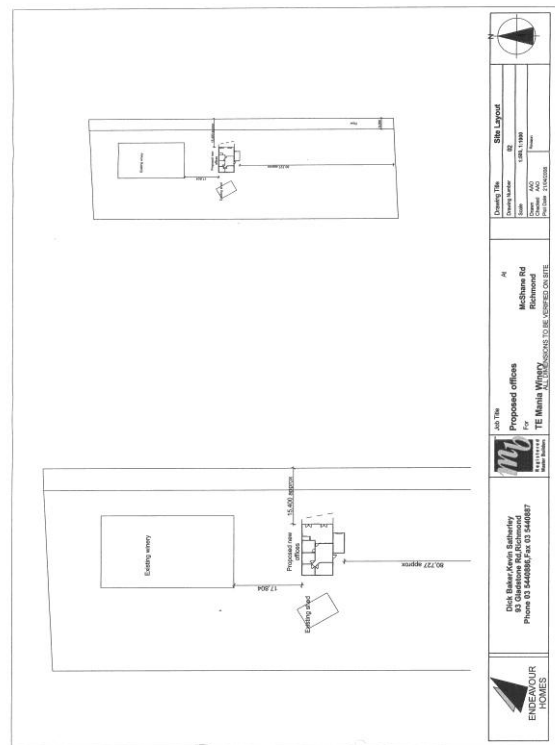


Noel Riley  
Chair of Hearings Committee

**Plan A – Building Plan**



**Plan A – Development Plan**



**Date Confirmed:**

**Chair:**