

MINUTES

TITLE: Environment & Planning Subcommittee
DATE: Monday, 1 December 2008
TIME: 12.30 pm
VENUE: Tasman District Council Chamber, 189 Queen Street, Richmond

PRESENT: Cr N Riley (Chairman), B W Ensor and G A Glover

IN ATTENDANCE: Principal Consents Coordinator (J Butler), Resource Scientist (A Burton), Consent Planner (J Shaw), Administration Officer (B D Moore)

1. C AND B MERCER, 1305 MOTUEKA VALLEY HIGHWAY, NGATIMOTI - APPLICATION RM080605

1.1 Proposal

The applicant sought land use consent to construct a second dwelling to replace an existing worker's accommodation and with part of the new dwelling being 8.5 metres in height.

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 Ensor / Glover
EP08/12/01

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

C and B Mercer

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
C and B Mercer	Consideration of a planning application	A right of appeal lies to the Environment Court against the final decision of Council.

CARRIED

Moved Crs Ensor / Riley
EP08/12/02

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

CARRIED

2. C AND B MERCER, 1305 MOTUEKA VALLEY HIGHWAY, NGATIMOTI – APPLICATION RM080605

Moved Crs Riley / Ensor
EP08/12/03

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

CARRIED

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

Meeting held in the Tasman Room, Richmond

on Monday, 1 December 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 **C and B Mercer** (“the Applicant”), to construct a second dwelling. The application, made in accordance with the Resource Management Act 1991 (“the Act”), was lodged with the Council and referenced as RM080605.

PRESENT:

Hearings Committee

Cr N Riley, Chairperson
Cr B Ensor
Cr G Glover

APPLICANT:

Mr C Mercer (Applicant)
Mrs B Mercer (Applicant)
Mr D McLeod (Architectural Designer)
Mr R Bennison (Valuer and Farm Management Consultant)
Mr M Lile (Consultant Planner)

CONSENT AUTHORITY:

Tasman District Council

Ms J Shaw (Consent Planner, Land)
Mr A Burton (Resource Scientist, Land)

SUBMITTERS:

Mr A Whitaker

IN ATTENDANCE:

Mr J Butler (Principal Resource Consents Adviser) –
Assisting the Committee
Mr B Moore (Committee Secretary)

1. DESCRIPTION OF THE PROPOSED ACTIVITY

The subject property is located at 1305 Motueka Valley Highway, Ngatimoti. The legal description of the land is Lot 1 DP 12982 Certificate of Title NL7C/928.

The application is for land use consent to construct a second dwelling, part of which will be 8.5 metres in height. The proposed dwelling will be located near the centre of the 25 hectare subject property. The property currently contains a dwelling (hereafter referred to as "the 2006 dwelling") and a building used for workers accommodation (hereafter referred to as "the workers' building"), both being located in the north-western part of the property close to the Motueka Valley Highway (see photos in Appendix 3). Once the proposed new dwelling has been constructed, the applicants propose to use the 2006 dwelling to accommodate a farm manager and the workers' building will be demolished.

The subject property is a mix of hill, gully and terrace scarps, flats and terraces with a stream flowing near the northern boundary of the site. Existing mature trees are on the hillside, bordering some elevated paddocks and bordering the stream. The paddocks are being used for grazing cattle and horses.

The site borders the junction of the Motueka Valley Highway and Waiwhero Road where there is a mix of lifestyle blocks, grazing land, pine plantations and small scale tourist, recreation and commercial activities.

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

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

Zoning: Rural 2

Area(s): Land Disturbance Area 2

The proposed second dwelling does not comply with Permitted Activity Rule 17.6.3.1 of the TRMP and is deemed to be a discretionary activity.

3. NOTIFICATION AND SUBMISSIONS RECEIVED

The application was notified on 6 September 2008 pursuant to Section 93 of the Act. A total of four submissions were received. The following is a summary of the written submissions received and the main issues raised:

1. Tiakina Te Taiao Ltd

The submission was neutral regarding the application but noted there are several archaeological sites on and very near the property. They advised the applicant to contact the NZ Historic Places Trust to establish if they need an archaeological authority. The submitter also requested that an iwi monitor be employed by the applicant to monitor any earthworks. The submitter did not wish to be heard in support of its submission.

2. New Zealand Fire Service Commission

The submitter requested that, should consent be granted, a condition in respect of the NZ Fire Service Code of Practice be imposed. This submitter reserved its right to be heard in support of its submission.

3. Anthony Hume Whitaker

The submitter opposed the application on the grounds that only one dwelling should be permitted on a property of this size. Mr Whitaker stated that the TRMP has rightly limited 'creeping urbanisation' of the rural environment and that this stance should be defended by declining this application.

If consent is granted, the submitter sought that subdivision should be prohibited and that the use of the original dwelling should be monitored to prevent other uses occurring without resource consent being obtained. The submitter wished to be heard in support of his submission.

4. New Zealand Historic Places Trust

The submitter opposed the application on the grounds that an archaeological site NZAA27/19 is recorded on the property (See Appendix 1). The submitter asked that the Council request the applicant to commission a professional archaeological assessment of the site and that this report be submitted as part of a revised assessment of environmental effects. The report should identify archaeological sites in the area affected by the proposal and advise appropriate mitigation measures on known or unknown archaeological sites. The assessment will provide an indication as to whether or not an archaeological authority from the NZHPT would be required to undertake the proposed activity on the site. NZHPT would then review its position with regard to the application.

This submitter indicated that it may wish to be heard in support of its submission.

4. PROCEDURAL MATTERS

There were no procedural matters that required a ruling by the Chair or Committee.

5. EVIDENCE HEARD

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

5.1 Applicant's Evidence

Mr C Mercer (Applicant)

Mr Mercer stated his and his wife's experience with farming sheep, beef and thoroughbred mares. He stated that, since purchasing the subject property, they have, in 2006, replaced one of the two dwellings that existed onsite. He also described several other improvements that have been made to the property including

fencing, weed clearing and fertilization. They currently run a small breeding herd of Red Devon cattle and several horses for breeding purposes.

Mr Mercer stated that they chose the proposed building site for the new dwelling for its position and privacy from other properties and from the road, the avoidance of difficult terrain and the desire to avoid the loss of native bush on the property.

Mr Mercer also stated that they are considering buying 50 acres of land from the adjoining landowner for incorporation into the farm.

Mr Mercer stated that they have obtained a report from archaeologist Amanda Young and they have wholly adopted Ms Young's recommendations.

Mr Mercer pointed out that no immediate neighbours or landowners submitted in opposition to the application.

Mr D McLeod (Architectural Designer)

Mr McLeod stated that he and the applicant decided to site the proposed house to the rear of the paddock so as to maximise the grazing area. He reported that the Mercers have never intended to have extensive landscaping design or plantings around the house and that the house will affect a 1,200 square metre area.

Mr McLeod stated that the colour scheme of the propose dwelling will be recessive.

Mr McLeod also considered the applicant to be genuine in their need to provide housing for a farm manager in the house that they have recently built on the property close to the Motueka Valley Highway.

Mr R Bennison (Land Valuer and Farm Management Consultant)

Mr Bennison stated that he concurs with the report of Mr Burton (the Council's Resource Scientist, Land), particularly in relation to the soil and the identification of the land classifications. Mr Bennison did not consider that the river flats (Class B) would ever be used for any productive purpose except grazing due to their fragmentation by terraces and streams. Also, as there is no irrigation source, more intensive production is unlikely.

Mr Bennison stated that the 1,200 square metres affected by the house is only 1.3% of the Class B soils of the property. No further land will be lost by tracking etc. He also stated that the demolition of the existing second dwelling will free up approximately 1,000 square metres of land.

Mr Bennison did not consider that the existing building used to house workers (known as the workers' building) met the TRMP definition of workers accommodation and that it is legally a second dwelling.

Overall, it was Mr Bennison's view that the proposed dwelling will have a minimal impact on the property's productive capacity or versatility.

Mr M Lile (Consultant Planner)

Mr Lile confirmed that the application breaches three permitted activity rules in the TRMP and that the status of the resource consent application is discretionary.

Mr Lile stated that there are currently two dwellings on the site and that the application is therefore not a case of replacing workers accommodation with a residential dwelling, but of replacing one residential dwelling with another. He considered that existing use rights did not apply in this instance as the application varies in scale and location.

Mr Lile considered there to be a rural residential element to the Ngatimoti area and he believed this to be a relevant consideration. He also stated that the TRMP has no restriction on the building coverage for residential dwellings. He considered the location of the building site to be generally not visible from the road and adjacent properties given the existing plantings. He also considered the new dwelling to be far less visible than the house to be removed. Mr Lile also pointed out that no submissions had been received from neighbours.

Mr Lile made it clear that the proposal will not result in the loss of 8,500 square metres of Class B land as was claimed in the staff report.

In terms of future effects, Mr Lile did not see how the granting of this application would open up the whole Rural 2 zone to development and land fragmentation effects. He considered that all other applications would need to be considered on their merits and that a precedent would not be set. Given that this site contains two residential dwellings, Mr Lile believed that the case is distinguishable from other applications that might be made.

Mr Lile acknowledged the archaeological values and fire safety issues raised by submitters and considered that these issues had been largely satisfied.

Mr Lile considered that the removal of the second dwelling and attached sheds will be a positive effect which will improve the property and aesthetics of the area.

Mr Lile disagreed with the Council's planning officer's report that the proposal is inconsistent with the policies and objectives of the TRMP as he considered that the application does not increase the residential activity on the property and with the very minor effects of the dwelling on the environment he does not see how the proposal can be considered contrary to the objectives and policies.

With regard to land fragmentation Mr Lile stated that this effect can be removed through imposing a "no subdivision" covenant and that this has been volunteered. However, Mr Lile stated that he did not want such a covenant to limit boundary adjustments which would not create any additional lots.

Mr Lile then addressed Mr Whitaker's submission. He stated that Mr Whitaker lives quite distant from the subject site and that he did not consider Mr Whitaker to actually be affected.

Cr Glover asked what the land and buildings had been used for historically. Mr Bennison explained that the land had been used for hops and tobacco and that the granite-based light friable soils suit tobacco growing well.

Cr Glover asked whether this proposal will increase the value of the surrounding land. Mr Bennison stated that it is unlikely to increase values. As an example, he stated that the nearby Paratiho Lodge has not increased land values.

Cr Ensor asked Mr Lile to comment further on land fragmentation effects. Mr Lile stated that this is an application to replace one dwelling with another and that no subdivision will result and that there will, therefore, be no fragmentation of the land.

Cr Riley asked Mr Mercer if he and Mrs Mercer intend to employ a land manager whether or not they might acquire land from the neighbour. Mr Mercer responded that they would employ a property manager regardless.

Mr and Mrs Mercer were also asked whether they themselves are intending to live in the new dwelling. They confirmed that they are.

5.2 Submitter's Evidence

Mr A Whitaker

Mr Whitaker introduced himself as a pastoral farmer who has lived in the Orinoco Valley for 31 years and lives 2 to 3 kilometres from the subject site.

Mr Whitaker endorsed the Council's limitation of 'creeping urbanisation' as it has adverse effects on land values, a reduction in farm service industries and suppliers, and an irrevocable loss of productive land, all of which has been witnessed in the Orinoco and Ngatimoti areas.

Mr Whitaker reaffirmed that the property is 25 hectares in size and that the applicant exercised their right to replace the farm house with a new building in 2006.

Mr Whitaker highlighted the disparity in the scale of the activities. He said that the workers' building is just a walled-in shed and that the applicants are seeking to replace it in a different location with an large, over-height house. He considered the change in scale and use to be massive.

Mr Whitaker was dubious about the status of the 2006 dwelling. He did not consider that a farm manager was required and that such a manager would be housed in the existing house free of charge to avoid the house being a purpose-built rental property. Further, he stated that there is no surety that the house will be used solely as a farm manager's house in perpetuity.

Mr Whitaker considered that if the proposal is granted it will significantly increase the risk of subdivision by the present or future owners. He believed that allowing this application will set a serious precedent for the urbanisation of the rural environment.

He summarised by saying that the application plays up both the quality of the present workers' building and the need for a farm manager's residence. He said the proposal violates the spirit and intent of the Act and the TRMP with respect to the sustainable use of a scarce resource. He considered that building the proposed dwelling would necessitate the removal of the 2006 dwelling.

If the application is granted he requested that any future subdivision be prohibited and that the use of the 2006 dwelling be strictly monitored.

He also cautioned the Committee that they cannot rely on the possibility of some amalgamation with a neighbouring property as this may or may not occur.

5.3 Council's Reporting Officer's Report and Evidence

Ms Shaw (Consent Planner, Land Use)

Ms Shaw considered the site to be good in terms of outlook and amenity for the dwelling. However she considered there to be adverse effects resulting from the distance between the dwellings. She considered that this could have adverse effects on rural amenity and character.

Ms Shaw stated that Mr Lile and Mr Bennison are correct that there are two existing dwellings. She believed that if a new dwelling had been proposed on or near the site of the existing houses then the application may well have been granted without notification. It is the distance between that creates the adverse effects.

Ms Shaw believed that the proposal will reduce the availability of productive land on the site. Land fragmentation may occur as a result of increases in the value of the land. She considered it essential that the no-subdivision covenant be imposed.

Ms Shaw stated that there are no unique circumstances that will allow the Committee to grant the application without undermining the integrity of the TRMP. Therefore she recommended that the application be declined.

Ms Shaw commented on the legal status and definition of the workers' building that currently exists. It has been referred to as workers accommodation but it does not meet the definition of workers accommodation in the TRMP. Ms Shaw stated that in 2004 the Environment Court altered the definition of workers accommodation in the TRMP. The change was from any old building in which workers lived to a specific requirement for two separate buildings; one for sleeping and one for eating and ablution facilities. She said that, as a result, a number of dwellings which were previously classed as workers accommodation, now have the statuses of dwellings under the TRMP.

5.4 Applicant's Right of Reply

Mr Lile stated that the proposal does not increase the residential activities on the property. There are currently two residential dwellings and this will not change as a result of this proposal.

Mr Lile confirmed that the 2006 dwelling will continue to house a farm manager or worker and that the applicant has accepted a condition that this be enforced. He also confirmed that there will not be a land fragmentation effect as a no-subdivision condition has been volunteered.

Mr Lile interpreted Mr Whitaker's submission as being principally concerned with land values.

In summary, Mr Lile considered that the issues boil down to the location and the effects of a building on this location. He considered that the effects on the productive potential of the land and on the rural character and amenity are minor.

6. PRINCIPAL ISSUES

The principal issues that were in contention were:

- a) What is the status of the workers' building? Are there already two dwellings on the site? If the workers' building is considered an existing second dwelling, what rights does this give the applicant to replace this second dwelling with that specified in this proposal?
- b) To what extent will the proposal adversely affect the rural amenity and character of the area?
- c) To what extent will the proposal adversely affect the productive values of the site?
- d) To what extent will the proposal cause fragmentation of rural land?
- e) Would the granting of this consent set a precedent for other second dwellings in the Rural 2 zone?

7. MAIN FINDINGS OF FACT

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

- a) The workers' building does not fall within the definition of workers accommodation in the TRMP. Therefore, as it certainly is a building with cooking and ablution facilities, it must be considered to be a dwelling and the subject property must, therefore, be considered to have two existing dwellings.

The Committee is satisfied that the removal of the worker's dwelling and the construction of the proposed dwelling does not qualify for existing use rights under Section 10 of the Act as the scale and location of the proposed dwelling are substantially different. Therefore, authorisation of the construction of the proposed dwelling purely on the basis that a second dwelling already exists and will be removed is not an inherent right, but the second dwelling is a relevant consideration when assessing the proposal against the requirements of Section 104 of the Act.

The Committee is wary of the temptation to consider that, as the applicant has two dwellings currently, natural justice should allow the applicant to demolish one and build another. The Committee considers the buildings to be so different in terms of size, location, character and appearance that only limited weight can be given to the current existence of the two dwellings.

- b) The proposal will not adversely affect the amenity or rural character of the area. In terms of visibility from Waiwhero Road and surrounding properties, the location of the proposed dwelling is appropriate.

The proposal will also result in the removal of the workers' building which is a relatively poor building in terms of appearance and, no doubt, function and energy efficiency. The Committee considers the proposed removal of this building to be a notable positive effect.

- c) The proposal will have a minor adverse effect on the productivity of the subject site. The proposed dwelling will certainly make some in-roads into the large existing paddock. While the applicant states that it will not establish a large curtilage around the building (in the form of gardens or landscaping) it is possible that a future owner will, and that this will further reduce the area of Class B soils available on the site for productive purposes. However, the demarcation of the curtilage with fencing will help secure these boundaries.

The Committee does not consider that there will be any practical recovery of productive values on the site of the existing workers dwelling which is to be removed. All topsoil in the footprint of the house will have been removed and it will be difficult to re-establish productive potential.

- d) While normally associated with subdivision, land fragmentation can also occur when residential development, and the associated curtilage that is maintained around dwellings, fragments a property. The Committee does not consider that land fragmentation is a significant adverse effect in this case. The subject site is naturally fragmented by topography and the proposed location of the dwelling will not cause further fragmentation.

There is also the issue of whether the proposal will make it more likely that the land will be fragmented by subdivision in the future when there are two modern dwellings 450 metres apart. In this regard, the Committee also considers the permitted baseline test to be relevant. As of right the applicant could replace the existing workers' building with a house of similar size and in the same or similar location. This would be permitted under existing use rights (Section 10 of the Act). In this event, or even if no developments are pursued and nothing changes on-site from what currently exists, there may be some attraction towards subdividing the 2006 dwelling off as a residential unit on a small lot. The Committee does not consider that the proposed development will make subdivision particularly more attractive.

- e) While precedent is not, in itself, an adverse effect on the environment, it can give rise to cumulative adverse effects and is certainly a consideration as another matter under Section 104(1)(c) of the Act. Applicants have a legitimate expectation to receive consistent decision making from the Council. For a precedent not to be set by a decision there must be sufficiently unique circumstances surrounding an application.

The Committee has concerns about large numbers of existing second dwellings (previously considered to be workers accommodation under the TRMP) in existence in the Rural zones. Where they were legally established, Section 10 of the Act provides a right to landowners to demolish and rebuild these as second dwellings under existing use rights, so long as the effects are the same or similar in character, intensity, and scale to those which existed before the proposed TRMP was notified. However, where landowners want to replace these existing second dwellings in a way that does not comply with Section 10, the Committee considers that these should be considered on a case by case

basis without any undue gravity being given to the fact that the second dwelling exists. This consideration results from fact that the second dwellings have not gained any specific planning permission, but have been awarded their status as a second dwelling through a change in definition in the TRMP.

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);
- b) the Tasman Resource Management Plan (TRMP).

8.2 Part II Matters

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

Effects on the Environment

The direct adverse effects of this proposal are minor. The visibility of the proposed house site is low and will not cause any cross-boundary effects or reverse-sensitivities. Further the site will not have an adverse effect on the rural character of the area due to its discrete location. The proposal will also result in the removal of a low quality building. While some older buildings contribute to rural amenity and character, the Committee does not consider this to be the case with this application.

The proposal will not cause fragmentation of the land that is more than minor. The 2006 dwelling is in an unproductive corner of the property and the relative positioning of the final two dwellings on the site will not cause land to become unusable through fragmentation effects. Also, the Committee is confident (and expects) that the covenant put on the title (see conditions) will prevent future subdivision of the land.

The proposal will only result in a minor loss of land productivity. While the soils are valuable, the Committee considers that the improvements to the land that have been demonstrated and the nature of the land uses on the site will result in an overall adverse effect that is minor.

Objectives and Policies of the TRMP

The Committee agrees with Ms Shaw's assessment of the relevant objectives and policies in the TRMP.

Ms Shaw considers that adverse effects will result from the proposal which will be contrary to the objectives and policies of Chapter 5 of the TRMP. The Committee does not agree with this assessment and considers that the effects will be minor such that the requirements of Chapter 5 will be upheld.

The Committee agrees that the proposal is generally contrary to the objectives and policies of Chapter 7. However, the Committee does not consider the concerns about land fragmentation to have as much gravity as Ms Shaw has found.

Overall, the proposal is in some ways consistent with the TRMP and in other ways contrary. The amenity of the area most visible to the public will be improved by the removal of the existing workers house. However, there will be a small reduction in the area of valuable productive land.

Other Matters

The above are the principal reasons for the decision. A more minor, but certainly contributing reason is the current existence of two dwellings on the site. The Committee is clear that no right or leverage to replace a second dwelling is held by the applicant, or any other land owner, who may, through whatever historical mechanism, have two legal dwellings on their land; unless, of course, they meet the requirements of Section 10 of the Act (existing use rights). However, the Committee certainly considers that it is a matter which can be taken into account on decisions on a case-by-case basis. In this case, it was considered that in addition to the presence of the second dwelling, there were sufficient other more eminent reasons to enable the consent to be granted.

Therefore, the Committee does not consider that any precedent for second dwellings in the Rural 2 zone is set by this decision. An existing second dwelling on a site is not considered to be sufficient grounds to expect approval to be given for the replacement of that dwelling with another in a different location and with different effects.

Purpose and Principles of the Act

Overall, the Committee is satisfied that the proposal is consistent with Part 2 of the Act and achieves sustainable management of natural and physical resources as set out in Section 5 of the Act.

11. COMMENTARY ON CONDITIONS OF CONSENT

Two covenants, to be registered on the title of the subject property, seek to avoid adverse effects that may arise in the future as a result of the granting of this consent.

Condition 6 seeks to maximise the area of available productive land by requiring some improvement of the site of the existing workers' building with topsoil excavated from the site of the second dwelling authorised by this consent.

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.

13. EXPIRY OF CONSENT(S)

Pursuant to Section 123 of the Act, land use consents have no expiry provided they are given effect to within the lapse period provided and also provided that the use is not discontinued for a continuous period of more than 12 months.

Issued this 19th day of December 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: RM080605

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

Clive and Barbara Mercer
(hereinafter referred to as “the Consent Holder”)

ACTIVITY AUTHORISED BY THIS CONSENT: To construct a second dwelling

LOCATION DETAILS:

Address of property:	1305 Motueka Valley Highway
Legal description:	Lot 1 DP 12982
Certificate of title:	NL7C/982
Valuation number:	1928057001
Easting and Northing:	2500885 6000248

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

CONDITIONS

General

1. The second dwelling and associated water storage tanks shall be sited and undertaken in accordance with application RM080605 lodged with the Council and with Plan A dated 20 May 2008 (attached). Where there is any apparent conflict between the information provided with the application and any condition of consent, the conditions shall apply.

Covenants

2. Prior to any building consent being issued for the second dwelling, a covenant under Section 108 of the Resource Management Act 1991 shall be entered into and registered against the certificate of title for the land on which the second dwelling is to be located. The covenant shall state that:
 - a) The dwelling that is not the main dwelling on the property is for the use of workers accommodation and shall be demolished or relocated off the property when no longer used for that stated purpose. Specifically, the dwelling shall not:
 - (i) be rented as permanent or transient accommodation;
 - (ii) be used for any type of accommodation for profit; or
 - (iii) be extended or added to at any time.
 - b) The two-dwelling status shall not provide a basis for future subdivision of the title unless the Tasman Resource Management Plan provisions are changed such that subdivision becomes a controlled activity. However, this limitation on subdivision does not extend to boundary adjustments which may be necessary from time to time so long as the boundary adjustments do not result in additional titles being created.

The covenant shall be entered into pursuant to Section 108(2)(d) of the Act and shall be registered against the title pursuant to Section 109 of the Act. All costs incurred in preparing and registering the covenant shall be paid for by the consent holder.

Height of Dwelling

3. No part of the new dwelling shall exceed 8.5 metres in height when measured from the natural existing ground level.

Area of Dwelling

4. The second dwelling authorised by this consent and its curtilage (including all turning areas, gardens and landscaping) shall cover a land area of no more than 1,200 square metres.

Amenity

5. The exterior of the dwelling shall be finished in colours that are recessive and which blend in with the immediate environment. The Consent Holder shall submit to the Council for approval prior to the issue of the building consent for each dwelling the following details of the colours proposed to be used on the walls and roof of the dwelling:
 - i) The material to be used (e.g. paint, colour steel);
 - ii) The name and manufacturer of the product or paint;
 - iii) The reflectance value of the colour;
 - iv) The proposed finish (e.g. matt, low-gloss, gloss); and
 - v) Either the BS5252:1976 (British Standard Framework for Colour Coordination for Building Purposes) descriptor code, or if this is not available, a sample colour chip.

The dwellings shall be finished in colours that have been approved by the Council (see notation 5 below).

Removal of Workers' Building

6. The existing workers' building shall be removed within three months of the occupation of the new dwelling.
7. Sufficient topsoil, excavated from the site of the second dwelling authorised by this consent, shall be relocated to the site previously occupied by the existing worker's building. The topsoil shall be used to, as far as is practicable, restore the area vacated by the existing workers' building to productive use.

This condition shall only apply to areas where no sheds or other accessory buildings (to be erected in accordance with the permitted activity rules of the TRMP or for which a resource consent is obtained) are to be constructed.

Advice Note:

This condition essentially requires that any areas in the curtilage of the existing workers' building which aren't to be subsequently legally built upon must be restored to productive capacity using topsoil from the new house site.

Access

8. The applicants shall seal the access from the existing road edge to a minimum of 10 metres on-site prior to the Code Compliance Certificate being issued for the dwelling.
9. The on-site access to the dwelling that is not sealed shall be maintained to an all weather standard and watered down if necessary to ensure nearby properties do not experience any resulting dust problems.

Iwi Monitor

10. The Consent Holder shall engage the services of a representative of Tiakina te Taiao Limited to be present during any earthworks. The Consent Holder shall contact Tiakina te Taiao Limited, PO Box 1666, Nelson (phone (03) 546 7842) at least five working days prior to commencing any earthworks and advise it of the commencement date of the earthworks. In the event of Maori archaeological sites (eg shell midden, hangi or ovens, garden soils, pit depressions, occupation evidence, burials, taonga) or koiwi (human remains) being uncovered, activities in the vicinity of the discovery shall cease.

The Consent Holder shall then consult with the New Zealand Historic Places Trust's Central Regional Office (PO Box 19173 Wellington, phone (04) 801 5088, fax (04) 802 5180), and shall not recommence works in the area of the discovery until the relevant Historic Places Trust approvals to damage, destroy or modify such sites have been obtained.

New Zealand Historic Places Trust Assessment

11. The Consent Holder shall commission a professional archaeological assessment of the site and this report shall be submitted for approval by NZHPT prior to building consent for the dwelling being issued. This assessment is required to identify any archaeological sites in the area affected by the proposal and ways that the effects of the proposal can avoid, remedy or mitigate any adverse effects on known or unknown archaeological sites. The results of the consultation with NZHPT shall also be submitted to the Council's Manager Resource Consents prior to any building consent being issued.

Advice Note:

The archaeological assessment will provide an indication as to whether or not an archaeological authority from the NZHPT would be required to undertake the proposed activity on the site

Financial Contribution

12. The Consent Holder shall, no later than the time of uplifting the building consent for the second dwelling, pay a financial contribution to the Council. The amount of the financial contribution shall be assessed as a percentage of the value of the building consent component in accordance with the following:

Financial Contribution – Building	
Component	Contribution
Building Consent (\$0 to \$50,000 value)	0%
Building Consent (\$50,001 to \$200,000 value)	0.5%
Building Consent (above \$200,001 value)	0.25%
Notes:	
1. The financial contribution is GST inclusive.	
2. The building consent value is GST exclusive.	
3. The financial contribution is for reserves and community services where a development contribution has been required for infrastructure services under the Council's Development Contributions Policy in its Long Term Council Community Plan prepared under the Local Government Act. Where this has not been required, the financial contribution is double the percentage contribution shown in the figure and is divided evenly between infrastructure services and reserves and community services.	
4. The contribution due on a building should be identified separately from other contributions set for any resource consent for an activity that includes buildings.	

ADVICE NOTES:

Council Regulations

1. The Consent Holder shall meet the requirements of the Council with regard to all Building and Health Bylaws, Regulations and Acts.

Tasman Resource Management Plan

2. This resource consent only authorises the activity described above. Any matters or activities not referred to in this consent or covered by the conditions must either:
 1. comply with all the criteria of a relevant permitted activity rule in the Tasman Resource Management Plan (TRMP);
 2. be allowed by the Resource Management Act; or
 3. be authorised by separate resource consent.

Consent Holder

- 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.

Interests Registered on Property Title

- The Consent Holder should note that this resource consent does not override any registered interest on the property title.

Colours

- As a guide, the Council will generally approve colours meet the following criteria:

Colour Group*	Walls	Roofs
Group A	A05 to A14	A09 to A14
Group B	B19 to B29	B23 to B29
Group C	C35 to C40	C37 to C40
Group D	D43 to D45	Generally excluded
Group E	Generally excluded	Generally excluded
Reflectance Value	≤50%	≤25%
Finish	Matt or Low-gloss	Matt or Low-gloss

Based on BS5252:1976 (British Standard Framework for Colour Coordination for Building Purposes). Where a BS5252 descriptor code is not available, the Council will compare the sample colour chip provided with known BS5252 colours to assess appropriateness.

Development Contributions

- 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.

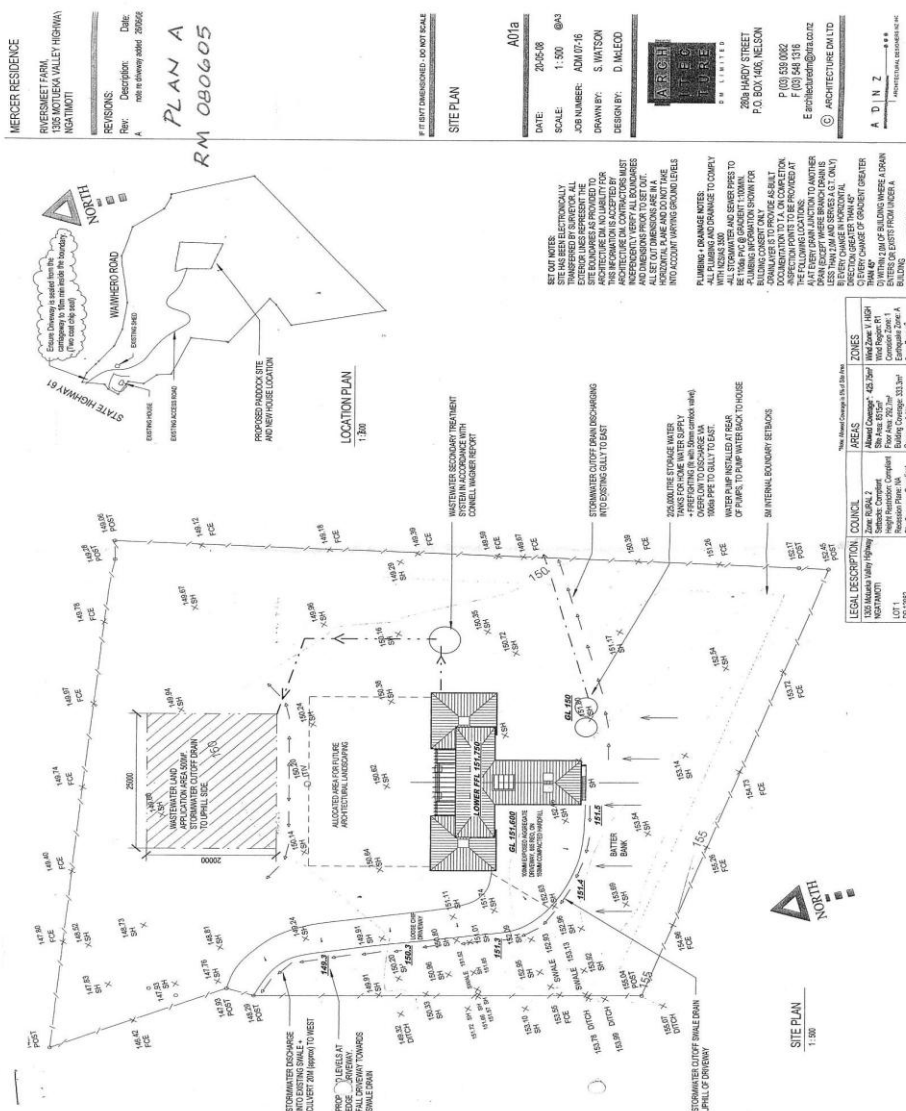
Monitoring

- Monitoring of this resource consent will be undertaken by the Council as provided for by section 35 of the Act and a one-off fee has already been charged for this monitoring. Should the monitoring costs exceed this fee, the Council reserves the right to recover these additional costs from the Consent Holder. Costs can be minimised by consistently complying with conditions, thereby reducing the necessity and/or frequency of Council staff visits.

Issued this 19th day of December 2008

Cr N Riley
Chair of Hearings Committee

Plan A – RM080605
20 May 2008



Date Confirmed:

Chair: