

MINUTES

TITLE: Environment & Planning Subcommittee
DATE: Monday, 19 January 2009
TIME: 10.30 am
VENUE: Tasman District Council Chamber, 189 Queen Street, Richmond

PRESENT: Cr N Riley (Chairman), Crs J Edgar and B Ensor

IN ATTENDANCE: Principal Consents Coordinator (J Butler), Consent Planners (L Pigott and J Harley), Administration Officer (B D Moore)

1. M AND B WRATT, 40 STEPHENS BAY ROAD, KAITERITERI - APPLICATIONS RM080482 AND RM080481

1.1 Proposal

The applicant sought to replace an existing beach cottage and shed with a new dwelling. Also consent was sought to carry out earthworks for the new dwelling in the land disturbance area. The site is in the coastal environment area with the existing beach cottage located partially on the Council's open space reserve.

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 Riley / Edgar
EP09/01/04

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

M and B Wratt

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

CARRIED

Moved Crs Edgar / Ensor
EP09/01/05

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

2. **M AND B WRATT, 40 STEPHENS BAY ROAD, KAITERITERI - APPLICATIONS RM080482 AND RM080481**

Moved Crs Riley / Ensor
EP09/01/06

THAT pursuant to Section 104B of the Resource Management Act, the Committee GRANTS consent to M and B Wratt 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, 19 January 2009, commencing at 10.30 am

A Hearings Committee ("the Committee") of the Tasman District Council ("the Council") was convened to hear the application lodged by **M and B Wratt** ("the Applicant"), to replace an existing beach cottage ("the existing bach") and accessory buildings with a new dwelling and to carry out approximately 170 cubic metres of earthworks associated with the construction of the dwelling. The application, made in accordance with the Resource Management Act 1991 ("the Act"), was lodged with the Council and referenced as RM080482 (land use – new dwelling) and RM080481 (land use – earthworks).

- PRESENT:** **Hearings Committee**
Cr N Riley, Chairperson
Cr J Edgar
Cr B Ensor
- APPLICANT:** Ms C Wratt (Planning Consultant)
Mr M Wratt (Applicant)
Mr G Goodall (Architect)
- CONSENT AUTHORITY:** **Tasman District Council**
Mrs J Harley (Consent Planner, Land Use)
Mr L Pigott (Consent Planner, Natural Resources)
- SUBMITTERS:** Mrs E Dennett
Mrs P Greaney (Greaney Family Trust)
Mr G Allan (Counsel for Greaney Family Trust)
Ms J Ryder

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 site is located at 40 Stephens Bay Road, Kaiteriteri and is 1011 square metres in area and is on the southern side of Stephens Bay Road adjoining the Open Space Zone and beach. The legal description of the land is Lot 10 DP 5620 Certificate of Title NL 3D/1116. The subject site slopes gently up from the road edge to where two of the existing dwellings are located (owned by Wratt and Dennett) and then behind these dwellings the land slopes steeply up the hillside to Anarewa Crescent where the dwelling owned by Ryder is located to the south of the Wratt cottage and the dwelling owned by Greaney is behind the Dennett house (see Appendix 1). Views to the coast are to the northeast and east.

The applicant has provided a copy of a Deed of Agreement dated 1974 identifying four areas where each party shall have “exclusive right of possession habitation and control of all that portion of the said land... including the buildings erected thereon”. The agreement also made reference to disturbance, appearance of land and buildings, vegetation, rates, selling their interest, disputes and vegetation or building improvements not obstructing the view of any other party. The copy provided is not signed by all parties and there is no reference to it on the title. The location of the proposed dwelling will be located entirely within Area 4 allocated to the Wratt family.

In summary, the applicant owns a quarter share of the title with the rest being divided as follows:

- E Dennett a quarter share;
- B Inglis and P Taylor an eighth share;
- P Greaney and Milnes Beatson Trustee Company Ltd a quarter share; and
- J Ryder an eighth share.

The proposal is to replace the existing bach and sheds with a new dwelling. The existing bach is located partially on the Council’s Open Space Reserve (“the Council Reserve”). The footprint of the new dwelling will be entirely sited within the legal boundaries of the subject property and will breach residential zone permitted activity criteria in respect of site coverage, height setback from boundaries and daylight angle. Consent for the earthworks associated with these activities has also been sought.

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

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

Zoning: Residential

Area(s): Coastal Environment Area, Land Disturbance Area 2

The proposed activity does not comply with Permitted Activity Rule 17.1.3.1 of the TRMP and is deemed to be a non-complying activity in accordance with Rule 17.1.3.5 of the TRMP in that:

- The total building coverage is increased from 34.15 per cent to 35.2 per cent;
- A small part of an eave of the roof will be higher than 6.5 metres above natural ground level;
- The dwelling and deck will breach setback requirements from the road (northern) and side (eastern) boundary adjoining the Reserve;
- The daylight angles are breached on the eastern boundary adjoining the Council Reserve;
- Part of the dwelling is within the 30 metre setback from Mean High Water Springs; and
- Associated earthworks breach the permitted standard in Land Disturbance Area 2.

Existing infringements that will be unchanged by the proposal include having more than one dwelling per site and less than 450 square metres in area for each dwelling.

3. NOTIFICATION AND SUBMISSIONS RECEIVED

The applicants began consulting with other property owners approximately two years ago and the applicants have attempted to obtain written approvals. No approvals were provided with the application and limited notification of the application first occurred on 17 July 2008.

One submission was received requesting to be heard.

1. J Ryder

Opposed the application as the increased building coverage may prejudice consent being obtained for future alterations to her dwelling. The overall site area divided by the existing number of dwellings (4) gives 253 square metres per dwelling and 33 per cent of that is 83.43 square metres building coverage as of right. The proposed cottage is 123 square metres and the submitter stated she would be happy with the proposed cottage if the floor area is 80.41 square metres. The submitter opposed the fireplace and chimney as this will affect air quality to her property at certain times and opposed the car parking proposal as well as the garage as this discriminates her lack of available parking. She sought that the Council refuse/decline the application.

Re-notification

As a result of the comments and concerns made by Ms Ryder in her submission, the Applicant amended its application to the plan labelled "Concept 3" to reduce the footprint area of the house. The original design ("Concept 1") increased the building area from 346.3 square metres to 384.5 (38.2 square metre increase) and increased the site coverage from 34.15% to 37.9%. The Concept 3 design increases the building area from 346.3 square metres to 356.3 square metres (a 10.0 square metre increase) and will increase the site coverage from 34.15% to 35.2%.

The changes are primarily due to more bulk being added to the upper story of the building. It was considered that the Concept 3 proposal was sufficiently different from the original to warrant re-notification. Therefore, the amended application was re-notified (limited) to the same parties on 14 November 2008.

Two submissions were received, both requesting to be heard.

1. Elaine Dennett

Opposes the application due to the exceedence of allowable coverage areas, height in the coastal environment area and pollution from the proposed chimney. Ms Dennett considered that the application will impede other occupiers of the section who may wish to do any alterations in the future.

2. Pamela Greaney Family Trust

This submitter considers that the house is close to the front boundary and will affect views from the dwelling on the western boundary of the site. It seeks that the building be moved further back from the front boundary and that no chimney be authorised in the building.

4. PROCEDURAL MATTERS

Mr Allan (Counsel for the Greaney Family Trust) questioned the appropriateness of the hearing due to a possibility that the exercise of the consent may be frustrated by the likelihood that land owner approval for the proposal would not be forthcoming from all of the property owners. Mr Allan suggested that the applicants may wish to consider adjourning the hearing until the matter could be clarified and resolved.

The Chair considered that the matter of land owner approval for the building of the dwelling and the status of the Deed of Agreement in making a decision as to whether the building work could proceed is a separate matter to the requirement for a resource consent. He considered that the consent would still be needed and, therefore, it was up to the applicant to decide whether it wished to continue with the hearing.

The applicant stated that it did wish to continue with the hearing and that the legal property matters would be sorted out subsequently. The hearing, therefore, proceeded as planned.

On a separate matter, the Chair stated that this was the second hearing to be held on this case but that this hearing was to be considered a fresh hearing and no matters from the previous hearing were relevant. Although Ms Ryder did not submit on the Concept 3 plan in the second limited notification round, the Chair gave her permission to speak and be a part of the hearing.

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

Ms C Wratt (Planning Consultant)

Ms Wratt explained the extent of the proposed works. Replacement of the existing bach with a new dwelling will require: demolition and removal of the entire existing bach; demolition and removal of the existing double garage; removal of a kowhai tree located directly behind the existing bach; removal of a holly tree on the western internal boundary; removal of the outbuilding (toilet) located behind the garage; and earthworks.

In response to Ms Ryder's original submission, Ms Wratt stated that Concept 3 has significantly reduced the footprint of the dwelling and, as a result, allowed the building to be positioned further back on the site, thereby increasing the distance from the road boundary, improving the seaward views from the Dennett dwelling, while also being better separated from Ms Ryder's dwelling. Concept 3 will also not increase the maximum height beyond that proposed in Concept 1. She described the only negative aspect to Concept 3 as being an infringement of the eastern (seaward) daylight angle.

Ms Wratt agreed with the Council officer's identification of infringements of performance standards. She identified the non-compliances with the site coverage and the number of dwellings on the site as historical non-compliances. She also agreed with the determination of the status as being non-complying and noted that consideration must also be given to the New Zealand Coastal Policy Statement.

Ms Wratt considered that the proposed dwelling will maintain, if not enhance, the character of the coastal area. She stated that the proposed dwelling is not large and will be well landscaped. She also considered that the amenity values of the other three owners were considered carefully in the design. The proposed dwelling will minimise site coverage and reflect the natural contours of the site. It has been sited to retain the views from the surrounding dwellings. Overall, the three dilapidated buildings on the Wratt's part of the property will be replaced by one recessive and integrated building.

Ms Wratt amended the colours of the building to be more appropriate. The new colours are "Sorrell" for the roof and "Lemongrass G70" for the cladding.

Ms Wratt outlined the effects of the construction phase of the project and the management of stormwater and sediment.

Ms Wratt then assessed the proposal against the statutory planning framework. She considered that it does constitute efficient use of physical resources and is consistent with the relevant provisions of Part 2 of the Act. She also considered it to be consistent with Policies 1.1.1, 3.2.2 and 3.5.2 which are relevant. Finally, Ms Wratt assessed the proposal against the objectives and policies of the TRMP and found that it is consistent in all cases.

Ms Wratt addressed the matter of inclusion of a fireplace and chimney. She stated that the chimney has been located to avoid the viewshafts of the adjacent dwellings. She stated that the applicant is intending to live in the dwelling and heating is required. The applicant does not consider options such as heat pumps to be a sustainable form of heating given the reliance on and high consumption of electricity.

Smoke drift will not be a problem in the winter due to the prevalence of southerly winds at that time of year.

Overall, Ms Wratt considered the effects to be no more than minor and, on balance, will improve the amenity for the public. She considered that the amenity of the surrounding dwellings has also been carefully considered and reflected in the design.

Cr Ensor asked how high the existing house is. Mr Goodall estimated that the existing house would be up to the handrail of the deck of the proposed house.

Cr Ensor asked whether Ms Wratt considered that the proposal does block the view of Mrs Dennett to the east. Ms Wratt agreed that some of her view had been blocked.

5.2 Submitters' Evidence

Ms P Greaney

Ms Greaney stated that she is concerned about a reduction in the amount of light getting to Mrs Dennett's house. She also considered that northerly winds are experienced in the winter which will blow the smoke in her direction.

Ms Greaney stated that she will not be able to see over the house and she presented photographs to the Committee which showed the height and position of the proposed house.

Ms Greaney believed that another house in the area was made to be built to a maximum of 4.5 metres and questioned why this house was being considered under the Kaiteriteri rules which allow 6.5 metres height.

Mrs E Dennett

Mrs Dennett was concerned that while she may see a little more of the beach she would not be able to see to the east nor be able to see the morning sun. In the summer time it comes up over Nelson and in the winter it comes over the point visible from the site to the north east.

Mr G Allen (Counsel for Greaney Family Trust)

Mr Allan stated that the applicant has not adequately mitigated the effects of the new building and has not adequately considered the effects on the neighbours.

He also considered that it appeared that the applicant has designed the house to fit within the rules of the TRMP rather than to fit within the constraints of the site and the effects on the neighbours.

He asked that the consent be declined.

5.3 Council's Reporting Officers' Report and Evidence

Mrs J Harley (Consent Planner, Land Use)

Mrs Harley confirmed that all the land zoned residential in the greater Kaiteriteri area is considered as being part of Kaiteriteri and comes under the rules accordingly. She was unsure about the circumstances pertaining to the dwelling Mrs Greaney had heard of being restricted to 4.5 metres in height.

Mrs Harley stated that it is quite common, and in some cases unavoidable, that the 30 metre setback is infringed.

Mrs Harley stated that the newly proposed colours are accepted by the Council's staff.

Mrs Harley stated that the proposal will create effects but she does not consider the effects to be more than minor. She considered that Concept 3 represents efficient use of the applicant's portion of the title. The site already has buildings which put it over the required coverage. Therefore any increases in the footprints of other dwellings would have to go through the same assessment process.

The height requirements are adhered to apart from a small corner of an eave. She considered that the Concept 3 option is an improvement with regard to effects on the reserve. She also pointed out that all other residents on the lot are entitled to build up to 6.5 metres and thereby regain any lost parts of their view.

Mr L Pigott (Consent Planner, Natural Resources)

Mr Pigott stated that the Separation Point Granites are not easy to build on and are quite unique. Therefore geotechnical engineering input is essential. He said that sediment controls will be required to ensure that effects are avoided.

Mr Pigott also stated that the excavation of the soakpit would not meet the permitted activity rule in the TRMP and would need to be authorised by resource consent. However, he stated that the excavation could be included in the earthworks consent under consideration, thus avoiding the need for a separate resource consent.

Mr Pigott stated that all installations of wood burners on lots less than 2 hectares in New Zealand require that the burners be "clean air approved" meaning that they cannot be turned down to smoulder and that the emissions are significantly less. However, he did state that they can be smoky if not used correctly. Mr Pigott stated that there are rules in place that make it illegal to burn in an objectionable or offensive manner. He said that education is available to encourage good burning practices.

5.4 Applicant's Right of Reply

Ms Wratt stated that the main issue was in regard to amenity of the area and the neighbours. She stated that the rules are in place to protect amenity and, in this sense, and by designing Concept 3 largely within the rules, they have adequately protected the amenity.

Ms Wratt stated that they have attempted to keep the dwelling modest as it does not need to be huge, but it does need to meet the needs of the applicant.

Mr Goodall stated that Ms Dennett can only see to the east through the bay window at the front of her house and that it is quite obvious that the removal of both the garage and the existing bach will benefit her. There will be no loss of winter sun for Mrs Dennett, but she will lose some morning sun for three months either side of the summer equinox.

Mr Goodall also stated that the Concept 1 proposal would have had worse effects on Mrs Greaney's views than Concept 3.

Mr Goodall also stated that the applicant has confined its activities to well within its share of the property whereas others on the property have not necessarily done so.

6. PRINCIPAL ISSUES

The principal issues that were in contention were:

- a) To what extent will the proposal have adverse effects on the amenity of the three surrounding property owners?
- b) Are there positive effects that will result from the proposal? If yes, to what extent do these positive effects offset the adverse effects?
- c) Are there suitable grounds for the Committee to decline permission to include a wood burner and associated chimney?
- d) Are there any other breaches of the Council's bulk and location rules that will cause adverse effects?

7. MAIN FINDINGS OF FACT

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

- a) There will certainly be some adverse amenity effects on Mrs Dennett. Some of her view to the east will be blocked by the applicant's proposed dwelling.

However, the Committee considers it important in this case to take the permitted baseline into account. Due to historical circumstances to do with the coverage of the site and the location of the portion of the lot that the applicant has for its exclusive use it was inevitable that the applicant would have to get a resource consent for any new dwelling they put on the site. However, the TRMP sets certain building bulk and location rules. The breaches of those rules are very minor. The breach of the setback from the road boundary is only created by a part of the house's balcony, and the breach of the maximum height limit is only created by a small section of an eave. The Committee considers that those breaches do not, in themselves, create or significantly exacerbate the adverse effects on Mrs Dennett. In other words, the adverse effects on her amenity could be done as a permitted activity and the Committee must take this into account when determining the **extent** of the effect on Mrs Dennett.

The main view from Mrs Dennett's house is to the north-east. The Committee found that while there is some view to the east it is not the principal area of outlook. This is partially to do with the design of Mrs Dennett's house and the lack of windows to the east except for the bay window at the front of the property.

The Committee is also mindful of Mrs Harley's statement that Mrs Dennett would be entitled to build a house up to the same height. In essence there will, over the medium to long term, be an inevitable phase of incrementally upgrading houses to meet the new 6.5 metre maximum height standard. The applicant's proposal is one step on that path.

The Committee does not consider that there are any adverse effects on other parties that are more than minor.

- b) There are a number of positive effects that will result from this proposal. The removal of the applicant's existing bach and garage will benefit Mrs Dennett's view. It will result in the removal of an old, inefficient and reportedly dilapidated building from the beach reserve in front of the subject site. It will also improve the parking situation at Stephens Bay during the summer.

Further the Committee does accept that the applicant needs to be able to provide for its needs. Evidence was given that the garage does not fit a standard sized vehicle. This, and other limitations, would be remedied by construction of a new purpose designed dwelling. Overbearing restrictions on houses can reduce their usability, versatility and, potential, their longevity.

- c) The Committee understands the constraints on the location with the steeply rising hill behind the proposed dwelling and the possibility of smoke infiltration. However, the Committee does not consider it can reasonably restrict the applicant to electricity based heating. Essentially, installing a fire is a permitted activity. It is also the basic right of people to choose their preferred form of heating. The predominant southerlies in the winter and the requirement for a clean air burner to be installed will mean that it is very unlikely that the submitters will experience offensive or objectionable levels of smoke on their properties or in their houses.
- d) The proximity of the dwelling to the Council's beach reserve will not cause adverse effects on that reserve and will be an improvement on the current situation.

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) the New Zealand Coastal Policy Statement;
- b) Tasman Regional Policy Statement (TRPS); and
- c) 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 Committee considers that on balance, between the adverse effects on Mrs Dennett and the positive effects that arise as a result, as well as taking into account the permitted baseline considerations, the effects of the proposal are less than minor.

Mrs Dennett's primary outlook is to the north-east and the removal of the existing structures will benefit this view. The loss of her view to the east is unfortunate but unavoidable given what the applicant can do as a permitted right and the very minor ways in which these permitted rights have been exceeded.

There are no other adverse effects that affect the Council's coastal reserve, nor any other neighbours, to a degree that is more than minor.

Objectives and Policies of the TRMP

The relevant objectives and policies of the TRMP are:

Objective 5.1.2:

Avoidance, remedying or mitigation of adverse effects from the use of land on the use and enjoyment of other land and on the qualities of natural and physical resources.

Policy:

5.1.3.1 To ensure that any adverse effects of subdivision and development on site amenity, natural and built heritage and landscape values, and contamination and natural hazard risks are avoided, remedied, or mitigated.

Objective 5.2.2:

Maintenance and enhancement of amenity values on site and within communities throughout the District.

Policies:

5.2.3.1 To maintain privacy in residential properties, and for rural dwelling sites.

5.2.3.3 To promote opportunity for outdoor living on residential properties, including rural dwelling sites.

5.2.3.4 To promote amenity through vegetation, landscaping, street and park furniture, and screening.

5.2.3.6 To maintain and enhance natural and heritage features on individual sites.

5.2.3.7 To enable a variety of housing types in residential and rural areas.

Objective 5.3.2:

Maintenance and enhancement of the special visual and aesthetic character of localities.

Policies:

5.3.3.1 To maintain the low or medium density residential character within the existing urban areas, except where higher residential density is provided for in specified development areas.

5.3.3.3 To avoid, remedy or mitigate the adverse effects of the location, design and appearance of buildings, signs and incompatible land uses in areas of significant natural or scenic, cultural, historic or other special amenity value.

5.3.3.4 To avoid, remedy or mitigate the adverse effects of activities on the character and sets of amenity values in specific urban locations.

Chapter 5 requires that the character and amenity values of the site and surrounding environment are protected, and any actual or potential effects of the proposed activities are to be avoided, remedied or mitigated, including cross boundary effects. In this case the Committee considers that the existing character and amenity values are maintained and enhanced in some instances.

Objective 6.3.3:

Sustainable urban growth that is consistent with the capacity of services and has access to the necessary infrastructure such as water supply, roading, wastewater and stormwater systems.

Policies:

6.3.3.6 To allow development to occur only where adequate provision is made for:

(a) control of sediment discharges;

(b) control of stormwater discharges to avoid adverse downstream erosion or flooding effects;

(d) retention or establishment of appropriate vegetation wherever practicable adjacent to waterbodies and coastal waters;

6.3.3.7 To require developers to adopt appropriate management methods to avoid or mitigate the adverse effects of stormwater run-off.

Objective 6.4.2:

Containment of urban subdivision, use and development so that it avoids cumulative adverse effects on the natural character of the coastal environment.

Policy:

6.4.3.3 To protect the coastal environment from sprawling or sporadic subdivision, use and development.

Objective 6.7.2:

Maintenance and enhancement of the distinctive characters of urban settlements and integration between settlements and their adjoining landscapes.

Policy:

6.7.3.2 To identify land for future subdivision, and regulate the form of development, so that the particular character and appearance of each existing settlement is not compromised.

6.14 Kaiteriteri

The main issues in Kaiteriteri are:

6.14.3.3 To control land use activities and subdivision to avoid any adverse environmental effects in terms of sedimentation, erosion, instability and loss of visual amenity.

6.14.3.7 To encourage the efficient use of land and infrastructure within Kaiteriteri, including the development of a large area of residentially zoned land between Stephens Bay and Little Kaiteriteri.

The objectives and policies of Chapter 6 require that urban expansion is managed to ensure effects on the character of coastal locations are no more than minor. The TRMP encourages the efficient use of land and infrastructure, “including the development of a large area of residentially zoned land between Stephens Bay and Little Kaiteriteri”, within Kaiteriteri as long as adverse effects are mitigated. The Committee considers the proposal to be consistent with these objectives and policies, as well as with the issues raised with regard to the Kaiteriteri residential area.

Objective 8.1.2:

The maintenance and enhancement of public access to and along the margins of lakes, rivers, wetlands and the coast, which are of recreational value to the public.

Policies:

8.1.3.1 To maintain and enhance public access to and along the margins of water bodies and the coast while avoiding, remedying or mitigating adverse effects on other resources or values, including: indigenous vegetation and habitat; public health, safety, security and infrastructure; cultural values; and use of adjoining private land.

8.1.3.3 To avoid, remedy, or mitigate the adverse effects on public access caused by structures, buildings, and activities in or adjoining water bodies or the coastal marine area.

Objective 8.2.2:

Maintenance and enhancement of the natural character of the margins of lakes, rivers, wetland and the coast, and the protection of that character from adverse effects of the subdivision, use, development or maintenance of land or other resources, including effects on landform, vegetation, habitats, ecosystems and natural processes.

Policies:

8.2.3.4 To avoid, remedy or mitigate adverse effects of buildings or land disturbance on the natural character, landscape character and amenity values of the margins of lakes, rivers, wetlands or the coast.

8.2.3.7 To ensure that the subdivision, use or development of land is managed in a way that avoids where practicable, and otherwise remedies or mitigates any adverse effects, including cumulative effects, on the natural character, landscape character and amenity values of the coastal environment and the margins of lakes, rivers and wetlands.

8.2.3.12 To enable the maintenance of physical resources for the well-being of the community, where those resources are located in riparian or coastal margins, subject to the avoidance, remedying or mitigation of adverse effects on the environment.

8.2.3.16 To manage the location and design of all future buildings in the coastal environment to ensure they do not adversely affect coastal landscapes or seascapes.

8.2.3.21 To protect historic and cultural sites in riparian margins and the coastal environment.

Chapter 8 seeks to protect the coastal environment from inappropriate use and development and to promote the sustainable management of natural and physical resources. The Committee considers that the proposal will be positive in these regards.

Objective 10.2.2:

Protection and enhancement of cultural heritage items that contribute to the character, identity and visual amenity of the District.

Policy:

10.2.3.4 To protect those archaeological sites or sites of significance to Maori in coastal margins, or river or lake margins that warrant such protection because of their archaeological or cultural significance and the risk of damage or destruction, by means that include the setting aside or creation of esplanade reserves or esplanade strips.

The proposal will be consistent with the objectives and policies of Chapter 10.

Objective 12.1.2:

The avoidance, remedying, or mitigation of adverse effects of land disturbance, including:

(c) sediment contamination of water and deposition of debris into rivers, streams, lakes, wetlands, karst systems, and the coast;

Policy:

12.1.3.2 To avoid, remedy, or mitigate the actual or potential soil erosion or damage, sedimentation, and other adverse effects of land disturbance activities consistent with their risks on different terrains in the District, including consideration of:

- (a) natural erosion risk, and erosion risk upon disturbance;*
- (b) scale, type, and likelihood of land disturbance;*
- (c) sensitivity and significance of water bodies and other natural features in relation to sedimentation or movement of debris.*

Chapter 12 requires that the adverse effects of land disturbance including induced slope instability and sedimentation are to be managed through sustainable practices. The geotechnical precautions put in place mean that this will be met.

Section 104D of the Act

A resource consent with a non-complying status cannot be granted unless either the adverse effects of the activity on the environment are minor, or the activity is not contrary to the objectives and policies of the TRMP. In this case, the Committee

considers that both of these “gateways” are passed and the proposal can therefore be considered under Section 104B.

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. 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.

12. 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.

An exception is made for Land Use consent RM080481 for the earthworks to limit the duration of the earthworks to that necessary to complete the works in a timely fashion.

Consents that have a set duration have the relevant date of expiry recorded on each consent.

Issued this 29th day of January 2009



Cr Noel Riley
Chair of Hearings Committee

**APPENDIX 1
Site Plan**





RESOURCE CONSENT NUMBER: RM080482

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

M and B Wratt
(hereinafter referred to as “the Consent Holder”)

ACTIVITY AUTHORISED BY THIS CONSENT:

To replace an existing beach cottage and accessory buildings with a new dwelling

LOCATION DETAILS:

Address of property: 40 Stephens Bay Road
Legal description: Lot 10 DP 5620
Certificate of title: NL3D/1116
Valuation number: 1931053500
Easting and Northing: 2511494E 6017569N

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

CONDITIONS

1. The removal of the existing cottage and sheds and construction of the new dwelling shall be sited and carried out in accordance with the application documents and plans supplied to the Council in support of application RM080482 and as attached to this consent labelled Plans A, B and C and dated September 2008. For the avoidance of doubt, the approved plans constitute Concept 3 as received by the Council on 6 October 2008. If there is any conflict between the information supplied with the consent application and any conditions of this consent then the conditions of consent shall prevail.
2. The exterior walls of the new cottage shall be setback at least 2.0 metres from the eastern boundary adjoining Lot 44 DP5620 (the Open Space Zone) and at least 5.2 metres from the northern boundary adjoining the Stephens Bay Road reserve.
3. The exterior of the cottage shall be finished and maintained in the following colours:

Part of Building	Colour
Roof	Coloursteel Sorrell
Walls	James Hardie Linea Weatherboard Escapade Lemongrass G70
Basement and retaining walls	Concrete

The consent holder may use alternative colours provided the prior written approval of the Council has been obtained. The Council will give its approval to alternative colours provided they are recessive colours which blend in with the immediate environment. In the event that alternative colours are to be used, the consent holder shall submit to the Council for approval the following details of the colours proposed to be used on the walls and roof of the building:

- a) the material to be used (e.g. paint, colour steel);
- b) the name and manufacturer of the product or paint;
- c) the reflectance value of the colour;
- d) the proposed finish (e.g. matt, low-gloss, gloss); and
- e) Either the BS5252:1976 (British Standard Framework for Colour Co-ordination for Building Purposes) descriptor code, or if this is not available, a sample colour chip.

Advice Note:

The consent holder should engage the services of a professional to ensure the exterior cladding and colour selection are compatible with the long term durability of the building material in the subject environment and in accordance with the requirements under the Building Act 2004.

4. The Consent Holder shall construct the access to the subject property from Stephens Bay Road within three months of the proposed dwelling becoming habitable. The seal shall extend from the existing sealed road edge to the parking and turnaround area inside the subject property. The design shall be in accordance with Plans A to C dated September 2008 (attached).

Note:

All cost associated with the access upgrade is to be met by the Consent Holder and a Vehicle Access Crossing Permit is required to be obtained through Council's Engineering Department.

5. The Consent Holder shall engage the services of a representative of Tiakina te Taiao Limited to be present during all earthworks. The Consent Holder shall contact Tiakina te Taiao Limited, PO Box 1666, Nelson (ph (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.

Advice Note: The discovery of any pre-1900 archaeological site (Maori or non-Maori) which is subject to the provisions of the Historic Places Act needs an application to the Historic Places Trust for an authority to damage, destroy or modify the site.

6. Landscaping shall be in general accordance with attached Plan D and dated September 2008 and shall be implemented by 30 November 2010 and thereafter maintained. There shall be no encroachment of landscaping or structures onto the adjoining reserve land.

Advice Notes:

Plan D referred to in this condition relates to the, now superseded, Concept 1. No landscaping plan has been provided to the Council for Concept 3. Therefore it is acceptable that the site be landscaped in a similar fashion to that set out in Plan D. Hence the use of the term “general accordance” in this condition.

It is recommended that the consent holder considers and investigates the logistics and viability of transplanting the substantial kowhai tree that is to be removed as part of this development. It could be moved to a site elsewhere on the subject site, to a neighbouring site if accepted by a nearby landowner, or potentially, to the Council’s neighbouring coastal reserve if agreed to by the Council’s Parks and Reserves Department.

ADVICE NOTES

Council Regulations

1. This 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.

Proposed Tasman Resource Management Plan

2. Any activity not referred to in this resource consent must comply with either:
 1. a relevant permitted activity rule in the Tasman Resource Management Plan (TRMP);
 2. the Act; or
 3. the conditions of a separate resource consent which authorises that activity.

Consent Holder

3. 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 the Certificate of Title

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

Colour

5. As a guide, the Council will generally approve colours that meet the following criteria:

Colour Group*	Walls	Roofs
Group A	A05 to A14 and reflectance value $\leq 50\%$	A09 to A14 and reflectance value $\leq 25\%$
Group B	B19 to B29 and reflectance value $\leq 50\%$	B23 to B29 and reflectance value $\leq 25\%$
Group C	C35 to C40, reflectance value $\leq 50\%$, and hue range 06-16	C39 to C40, reflectance value $\leq 25\%$, and hue range 06-16
Group D	D43 to D45, reflectance value $\leq 50\%$, and hue range 06-12.	Excluded
Group E	Excluded	Excluded
Finish	Matt or Low-gloss	Matt or Low-gloss

* Based on BS5252:1976 (British Standard Framework for Colour Co-ordination 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.

Issued this 29th day of January 2009



Cr Noel Riley
Chair of Hearings Committee



RESOURCE CONSENT NUMBER: RM080481

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

M and B Wratt
(hereinafter referred to as “the Consent Holder”)

ACTIVITY AUTHORISED BY THIS CONSENT:

To undertake earthworks associated with the construction of a new dwelling and the formation of a stormwater soak pit in Land Disturbance Area 2.

LOCATION DETAILS:

Address of property:	40 Stephens Bay Road
Legal description:	Lot 10 DP 5620
Certificate of title:	NL3D/1116
Valuation number:	1931053500
Easting and Northing:	2511494E 6017569N

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

CONDITIONS

1. The Consent Holder shall ensure that all works are carried out in general accordance with the application received 3 June 2008, the geotechnical assessment undertaken by Terrafirma Engineering dated 27 October 2007 and further information received on the 3 October 2008, unless inconsistent with the conditions of this consent, in which case the conditions shall prevail.
2. All the proposed earthworks shall be reviewed by a Chartered Professional Engineer practising in geotechnical engineering and familiar with the behaviour and characteristics of the deeply weathered Separation Point Granite – derived soils.
3. The temporary cut slopes and retaining walls shall be designed by a Chartered Professional Engineer and reviewed by a geotechnical engineer. Appropriate allowance shall be made in the design for the proximity of the two adjacent dwellings upslope, and the requirement to temporarily remove the toe of the overall slope.
4. The earthworks shall be appropriately staged and temporary face support shall be provided to ensure that the slope above the excavation remains stable at all times. The contractor’s earthworks program shall be reviewed and approved in advance in writing by a Chartered Professional Engineer practicing in geotechnical engineering.
5. All the excavated fill shall be removed off site and disposed of legally by the end of the construction period (see Condition 7).

6. The Consent Holder shall ensure that the construction period does not last longer than four months.
7. Any material stockpiled on site shall have an appropriately sized cut-off drain or bund on the uphill side to minimise the risk of erosion of the stockpile.
8. All exposed ground, excluding the accessway and water table, shall be revegetated within six months of the excavation so that erosion/downhill movement of soil is avoided as much as is practical.
9. The Consent Holder shall contact Council's Co-ordinator Compliance Monitoring at least 24 hours prior to commencing works for monitoring purposes.
10. The Consent Holder shall take all practicable measures to limit the discharge of sediment with stormwater run-off to water or land where it may enter water during and after the earthworks. In particular, the earthworks should be carried out during fine weather periods when the likelihood of erosion and sedimentation will be least.

Advice Note:

The use of debris fences, straw bales, cut-off drains or other such methods should be used to ensure that run-off is controlled.

11. A sedimentation control and erosion minimisation plan shall be developed and implemented on site before the earthworks commence.
12. The Consent Holder shall stop construction in heavy rain when the activity shows sedimentation that is more than minor in the view of the Council Co-ordinator, Compliance Monitoring.
13. All machinery on the work site shall be refuelled, and any maintenance works undertaken, in such a manner as to prevent contamination of land and surface water. Spillage of contaminants into any watercourse or onto land shall be adequately cleaned up so that there is no residual potential for contamination of land and surface water. If a spill of more than 20 litres of fuel or other hazardous substance occurs, the Consent Holder shall immediately inform Council's Co-ordinator Compliance Monitoring.

Review of Consent Conditions

14. The Council may, during the month of April each year, review any or all of the conditions of the consent pursuant to Section 128 of the Resource Management Act 1991 for all or any of the following purposes:
 - a) to deal with any adverse effect on the environment which may arise from the exercise of the consent that was not foreseen at the time of granting of the consent, and which is therefore more appropriate to deal with at a later stage; and/or
 - b) to require the Consent Holder to adopt the best practical option to remove or reduce any adverse effects on the environment resulting from the discharge; and/or

- c) to review the contaminant limits, loading rates and/or discharge volumes and flow rates of this consent if it is appropriate to do so; and/or
- d) to require consistency with any relevant Regional Plan, District Plan, National Environmental Standard or Act of Parliament.

Expiry

15. This resource consent expires on 31 January 2014.

ADVICE NOTES

1. Officers of the Council may also carry out site visits to monitor compliance with resource consent conditions.
2. The Consent Holder should meet the requirements of the Council with regard to all Building and Health Bylaws, Regulations and Acts.
3. Access by the Council or its officers or agents to the property is reserved pursuant to Section 332 of the Resource Management Act.
4. All reporting required by this consent should be made in the first instance to the Council's Co-ordinator Compliance Monitoring.
5. Council draws your attention to the provisions of the Historic Places Act 1993 that require you in the event of discovering an archaeological find (eg, shell, midden, hangi or ovens, garden soils, pit, depressions, occupation evidence, burials, taonga) to cease works immediately, and tangata whenua, the Tasman District Council and the New Zealand Historic Places Trust should be notified within 24 hours. Works may recommence with the written approval of the Council's Environment & Planning Manager, and the New Zealand Historic Places Trust.
6. 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:
 - a) comply with all the criteria of a relevant permitted activity rule in the Proposed Tasman Resource Management Plan (PTRMP);
 - b) be allowed by the Resource Management Act; or
 - c) be authorised by a separate resource consent.
7. 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.

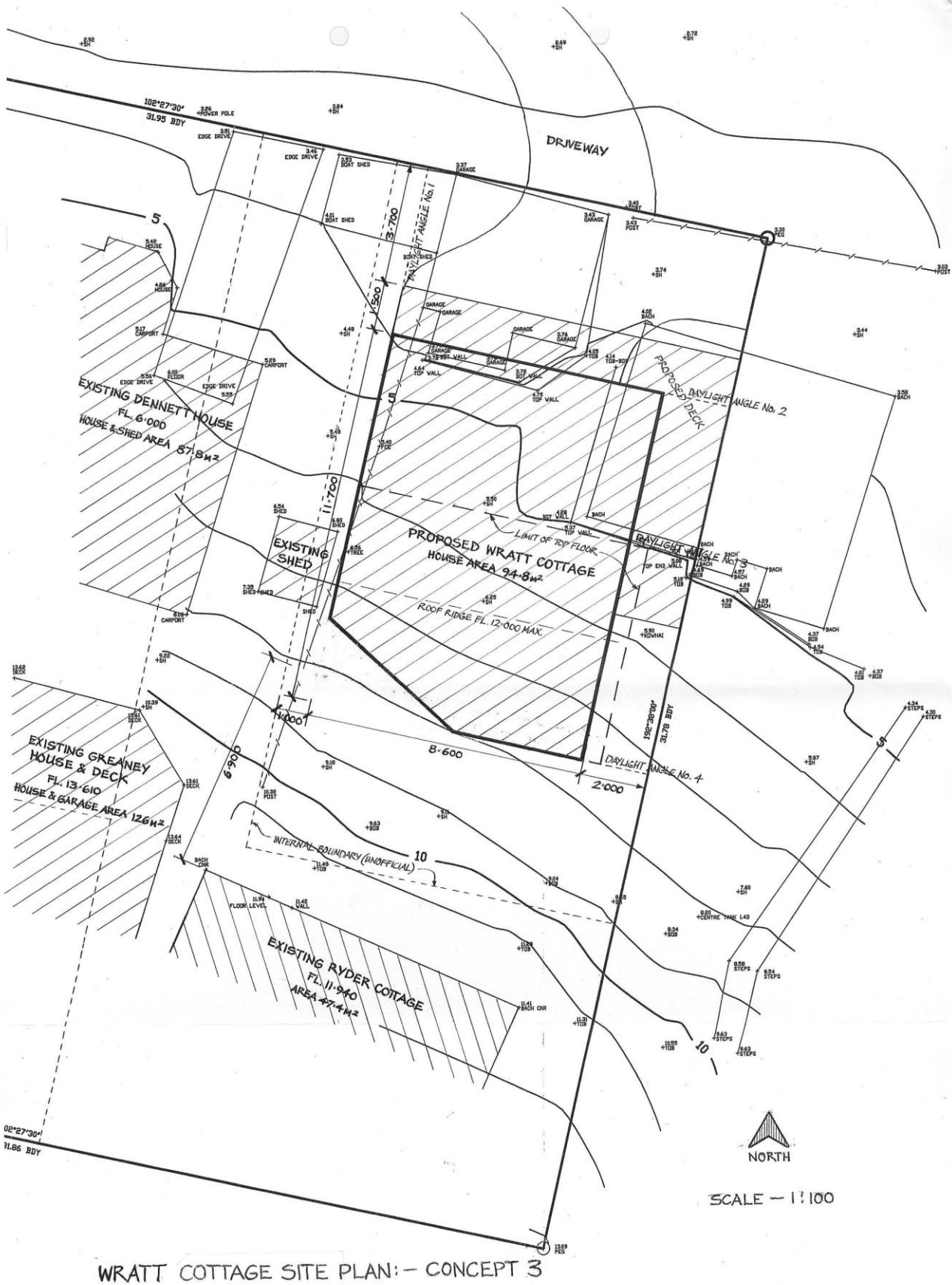
8. Plans attached to this consent are (reduced) copies and therefore will not be to scale and may be difficult to read. Originals of the plans referred to are available for viewing at the Richmond office of the Council. Copies of the Council Standards and documents referred to in this consent are available for viewing at the Richmond office of the Council.

Issued this 29th day of January 2009

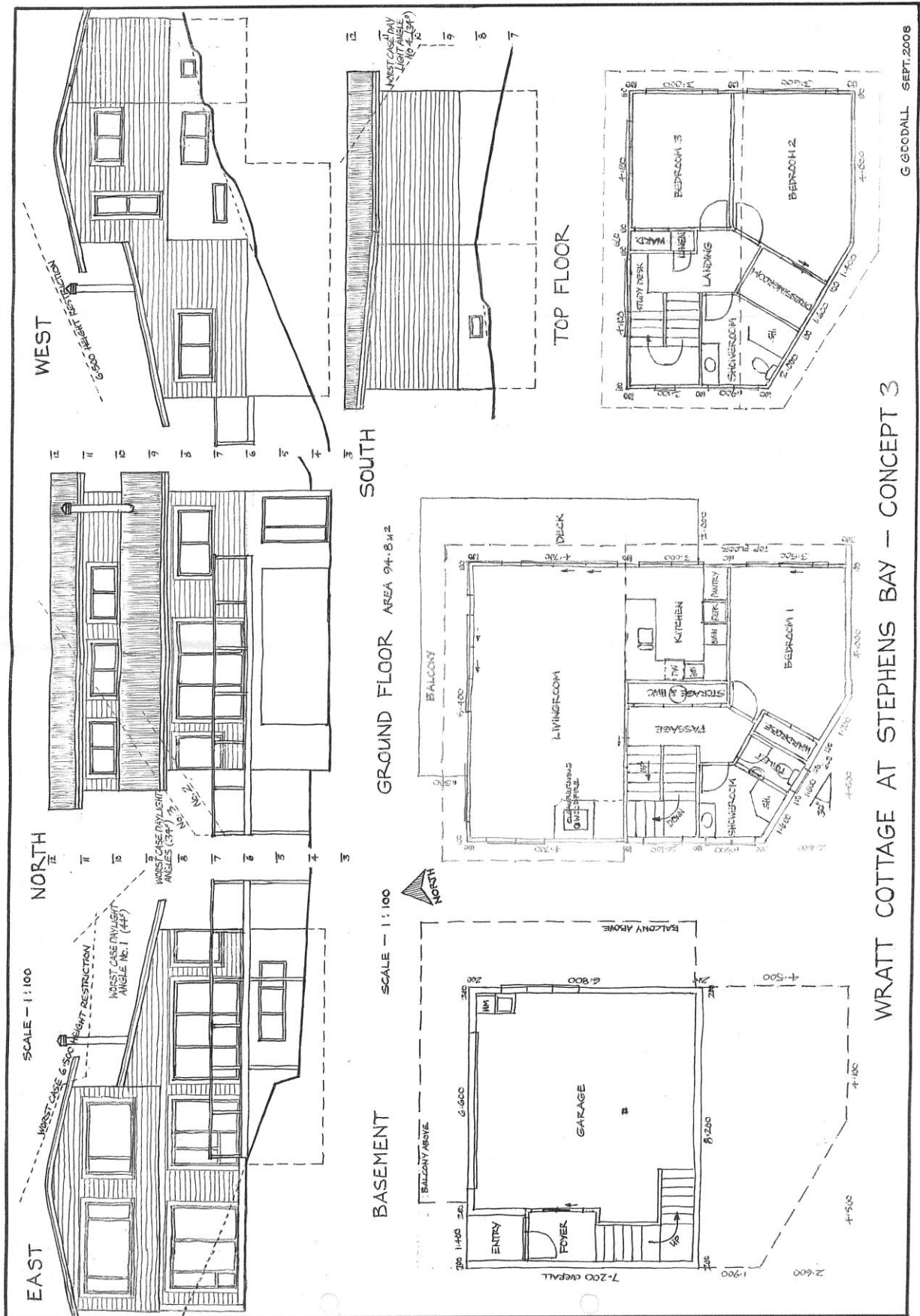
A handwritten signature in black ink, appearing to read 'Noel Riley', enclosed within a faint rectangular border.

Cr Noel Riley
Chair of Hearings Committee

Plan A – RM080482, RM080481
 September 2008

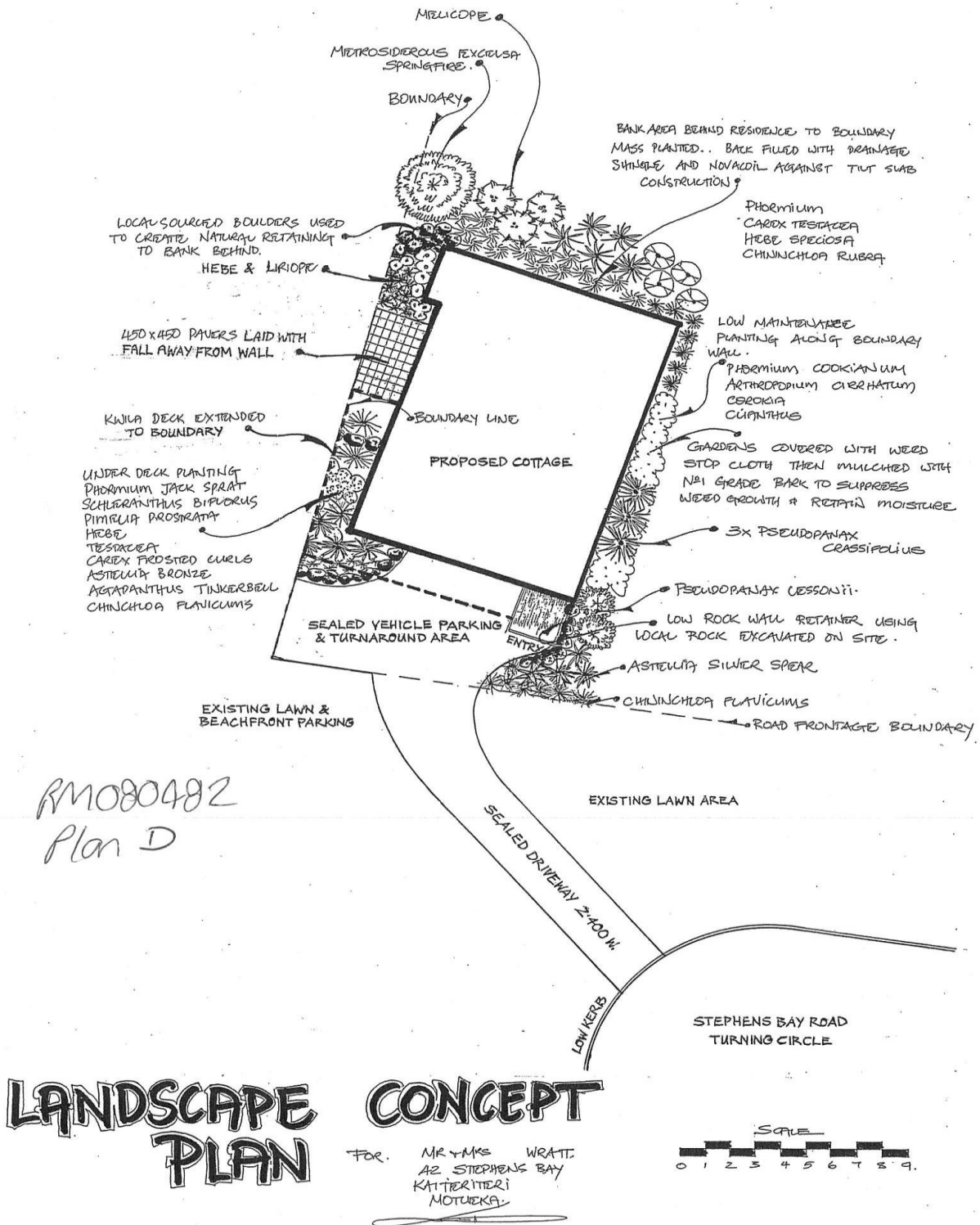


WRATT COTTAGE SITE PLAN: - CONCEPT 3





INDICATIVE CONCEPT ONLY



Date Confirmed:

Chair: