

# MINUTES

**TITLE:** Environment & Planning Subcommittee  
**DATE:** Monday, 20 April 2009  
**TIME:** 1.30 pm  
**VENUE:** Tasman District Council Chamber, 189 Queen Street, Richmond

**PRESENT:** Crs N Riley (Chair), B F Dowler, J L Edgar

**IN ATTENDANCE:** Principal Resource Consents Advisor (J Butler), Consent Planner, Subdivision (W Horner), Resource Scientist – Land (A Burton), Executive Assistant (V M Gribble)

## 1. LITTLE SYDNEY MINING COMPANY LIMITED

The Little Sydney Mining Company Limited has lodged an application to subdivide (by way of a boundary relocation) a 20.89 hectare title (CT NL5A/368) and a 28.43 hectare title (CT NL2A/911) to create proposed Lot 1 which would have an area of 1.30 hectares (containing an existing dwelling, Little Sydney Stream and banks and sheds) and proposed Lot 2 which would have an area of 48.02 hectares.

Proposed Lot 1 is within the Rural 1 Zone with Lot 2 having a mix of Rural 1 and Rural 2 zoned land and is partly within the Land Disturbance Area 12 according to the Tasman Resource Management Plan.

The Committee proceeded to hear the application, presentation of submissions and staff reports as detailed in the following report and decision.

The Committee reserved its decision.

### RESOLUTION TO EXCLUDE THE PUBLIC

**Moved Crs Dowler / Edgar**  
**EP09/04/01**

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

Little Sydney Mining Company Ltd

**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
Little Sydney Mining Company Ltd	Consideration of a planning application	A right of appeal lies to the Environment Court against the final decision of Council.

**CARRIED**

**Moved Crs Riley / Dowler  
EP09/04/02**

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

**CARRIED**

## **2. LITTLE SYDNEY MINING COMPANY LIMITED**

**Moved Crs Riley / Dowler  
EP09/04/03**

**THAT pursuant to Section 104B of the Resource Management Act, the Committee GRANTS consent to Little Sydney Mining Company Ltd as detailed in the following report and decision.**

**CARRIED**

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

**Hearing held in the Tasman Room, Richmond on Monday, 20 April 2009**

A Hearings Committee (“the Committee”) of the Tasman District Council (“the Council”) was convened to hear the application lodged by **Little Sydney Mining Company Limited** (“the Applicant”), to undertake a boundary adjustment. The application, made in accordance with the Resource Management Act 1991 (“the Act”), was lodged with the Council and referenced as RM071215.

**PRESENT:**

**Hearings Committee**  
Cr N Riley, Chairperson  
Cr J Edgar  
Cr B Dowler

**APPLICANT:**

Ms S Bradley (Applicant)  
Mr G Wilkinson (Applicant)  
Mr D Bennison (Agricultural Consultant)  
Mr G Rae (Consultant Planner)

**CONSENT AUTHORITY:** **Tasman District Council**  
Mr W Horner (Consent Planner, Subdivisions)  
Mr A Burton (Resource Scientist, Land)  
Ms R Squire (Reserves Planner)

**IN ATTENDANCE:** Mr J Butler (Principal Resource Consents Adviser) –  
Assisting the Committee  
Ms V Gribble (Committee Secretary)

## 1. SUMMARY

The Committee has **Granted** a resource consent subject to conditions for a boundary relocation to maintain the existing two titles in an amended configuration.

## 2. DESCRIPTION OF THE PROPOSED ACTIVITY

The Little Sydney Mining Company Limited has lodged an application to subdivide (by way of a boundary relocation) a 20.89 hectare title (CT NL5A/368) and a 28.43 hectare title (CT NL2A/911) to create proposed Lot 1 which would have an area of 1.30 hectares and would contain an existing dwelling, Little Sydney Stream (“the stream”), the banks of the stream and sheds, and proposed Lot 2 which would have an area of 48.02 hectares (See Plan A dated June 2006 attached).

The subject site is located at 92 Little Sydney Road, Brooklyn, Motueka approximately 900 metres from the Umukuri Road/Little Sydney Road intersection and is legally defined as Section 47 Maori Reserve Motueka Original District and Part Defined on Deposited Plan 1550 (CT NL5A/368) and Part Section 43-44 District of Motueka (CT NL2A/911). Both titles are owned by the applicant.

The legal access to the rear title is currently via an unformed (and probably unformable) legal road along the southern boundary of the title.

The existing sheds and dwelling on proposed Lot 1 have direct access onto Little Sydney Valley Road with access to proposed Lot 2 being formed along the eastern boundary. There is an existing splash crossing from the area of the sheds on proposed Lot 1 across the stream that has been used in the past by farm vehicles.

The applicant has planted an area of approximately 3,300 square metres between the sheds and the existing dwelling on proposed Lot 1 in oaks and hazels to propagate black truffles. These are expected to be in production in approximately five years time.

A Soils and Land Productivity Report has been prepared by Mr Andrew Burton (the Council’s Resource Scientist, Land). The report identifies the land classes within the two existing titles and identifies the soil class in proposed Lot 1 as being Class A. The rear title, CT NL5A/368, that is proposed to be amalgamated with CT NL 2A/911, contains Classes A, B, E and G (See Plan B attached).

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

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

Zoning: Rural 1 and Rural 2  
Area(s): Land Disturbance Area 2

There are no permitted subdivision rules in the TRMP. The proposed activity does not comply with Controlled Activity Rules 16.3.5.1 or 16.3.6.1 (which relate to Rural 1 and Rural 2 zones respectively) of the TRMP as the minimum lot size requirements are not met. It is deemed to be a discretionary activity in accordance with Rules 16.3.5.2 and 16.3.6.2 of the TRMP.

### **4. NOTIFICATION AND SUBMISSIONS RECEIVED**

The application was notified on 7 June 2008 pursuant to Section 93 of the Act. A total of three submissions were received. The following is a summary of the written submissions received and the main issues raised:

#### **Transpower New Zealand Limited.**

Initially Transpower opposed this application and advised they wished to be heard. However a letter dated 6 October 2008 from Transpower advised that its submission should be treated as neutral rather than in opposition as stated in the original submission and that Transpower no longer wished to be heard following agreement with the applicant on volunteered conditions and advice notes.

#### **Jane Wickham and Graeme Muir**

Advised their support for the application as the amalgamation will improve the ability of the land to be managed, in particular the native bush areas to the rear. They did not wish to be heard.

#### **New Zealand Historic Places Trust:**

Initially the New Zealand Historic Places Trust (NZHPT) opposed this application and advised that they may wish to be heard. However a letter dated 19 September 2008 from NZHPT stated that they withdraw their opposition to the application as a specific archaeological assessment has now been carried out by the applicant. The NZHPT have recommended the wording for an advice note to be attached to any conditions of consent.

### **5. PROCEDURAL MATTERS**

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

### **6. 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.

## **6.1 Applicant's Evidence**

### **Ms S Bradley (Applicant)**

Ms Bradley stated that there are benefits in this proposal relating to the amalgamation of the two rear lots. She considered that the Council officers had not given these positive benefits enough weight.

Ms Bradley then referred to Mr Burton's reference to proposed Lot 1 as being a lifestyle block and that it will have to be managed in isolation from the rest of the block if the subdivision goes ahead. She considered that this is already the case due to the separation caused by the stream. As a result, economies of scale for the small piece of land already exist.

Ms Bradley stated that removing 0.58 hectares from the larger block will not affect the economies of scale of the larger block which will be left with 11.9 hectares of productive land.

Ms Bradley stated that Council officers were stating that the proposal will cause land fragmentation. She stated that this is not at all what is occurring because the same number of lots will result. She stated that all the productive values of the land will remain.

She then addressed the concept of fragmentation of high quality soils. She stated that the soils are already fragmented by the presence of Little Sydney Stream.

With regard to vehicle crossings, Ms Bradley stated that there is no real change in traffic and therefore no justification for crossing upgrades.

Ms Bradley stated that a 5 metre esplanade reserve is not warranted. She stated that there is no evidence that the stream qualifies by having a bed of more than 3 metres in width. She also stated that it would be a pointless exercise as it would not provide any real benefit and could cause security risks.

Overall, with regard to effects, she stated that there will be benefits for the proposed Lot 2 and there will be no adverse effects on productive potential of proposed Lot 2 and no change in the productive uses of proposed Lot 1. She considered that Mr Horner's (the Council's Consent Planner, Subdivisions) approach is inappropriately narrow.

Ms Bradley considered that the proposal is consistent with Policy 7.1.3.5 of the TRMP, and Policy 7.1.3.6 does not apply.

Ms Bradley considered that precedent effects are relevant here, and considered that this application is indistinguishable from the nearby Inglis subdivision. She also considered that this proposal will not set a precedent for other applications because of its circumstances.

### **Mr G Wilkinson (Applicant)**

Mr Wilkinson stated that they intend to grow perigord black truffles. He stated that the location of the house and sheds is impractical for the use of the rest of the land. He also considered that separating off the small section isolated by the stream would

be the most logical configuration, and one that would reflect the actual management of the property.

He also considered that good surveillance is important when growing truffles.

Mr Wilkinson showed a plan which showed the actual area of productive land that would be effectively subdivided when the existing house and sheds had been identified.

He stated that the truffle crop will be very lucrative in several years time.

Mr Wilkinson also objected to the Council officer's recommendations regarding the esplanade reserve, the limitations on the colour of the house to be built on proposed Lot 2, and the upgrades required to the vehicle crossings from Little Sydney Road.

### **Mr D Bennison (Agricultural Consultant)**

Mr Bennison stated that he concurs with Mr Burton's assessment of the soils.

Mr Bennison considered that the availability of productive land on the proposed Lot 1 to be limited. He stated that the proposal in itself will have no impact whatsoever on the inherent or existing ability of the land to produce plant or animal biomass. The productivity will remain unchanged.

He said the boundary is natural and the land is alienated from the remainder of the block. Land use patterns will not change at all as a result of the boundary relocation.

Mr Bennison considered that the only effect on productive land would be the taking of an additional 1,500 square metres for new farm buildings and associated yard area. He considered this to be a tiny percentage of the total productive land area of the district. He also calculated that the area potentially lost from production in proposed Lot 1 to be 5.2% of the total Class A and B land on the property and 0.01% of the total horticultural land in the district.

To balance such effects, Mr Bennison considered that the benefit of amalgamating the titles of the remaining land would be a significant benefit.

Mr Bennison stated that he agreed with Mr Burton that the stream crossing is not a major barrier to managing the land together but access would likely be via the existing road bridge.

### **Mr G Rae (Consultant Planner)**

Mr Rae confirmed that he considered the proposal to be a discretionary activity.

Mr Rae identified the relevant objectives of the Tasman Regional Policy Statement that he considered to be relevant. He considered that the proposal was not inconsistent with those objectives. He stated that he does not consider that the proposal will fragment land as no new titles are to be created. He considered the difference between land fragmentation, as the TRMP defines it, and soil fragmentation to be fundamental in this case. He considered the soil to be already fragmented by the presence of the stream.

Mr Rae considered the possibility that a future owner may remove the valuable trees that have been planted and replace with an unproductive use to be highly speculative and unlikely as a significant amount of investment has taken place and the trees are capable of producing an excellent return.

Mr Rae agreed with Ms Bradley that the proposal is consistent with Policy 7.1.3.5 of the TRMP, and that Policy 7.1.3.6 is not relevant.

Mr Rae considered that there would be little or no adverse effects on the environment resulting from the proposal.

Mr Rae generally reinforced the principles of precedent. However, he stated that the nearby Inglis subdivision was one where an expectation was created that this subdivision would be treated similarly. Indeed, he considered that the case in this application is more compelling than the Inglis case.

Overall, Mr Rae considered it to be consistent with Part 2 of the Act.

## **6.2 Council's Reporting Officer's Report and Evidence**

### **Mr A Burton (Resource Scientist, Land)**

Mr Burton stated that he considers that the proposal will be detrimental to the productive potential of some of the horticultural land. He believed the protection of the class A land should take priority. He considered that the detrimental effects outweigh the positive effects of land amalgamation.

Mr Burton considered that a lifestyle block will be created, and because of its size it has only limited productive potential. People live on lifestyle blocks primarily for the lifestyle and secondly for the production.

Mr Burton considered that the buildings on proposed Lot 1 are useful and will have to be duplicated on proposed Lot 2 should consent be granted. This will take up further land.

He considered that the viability of the crop that has been established is compromised by separating it from the larger area of the same soils. He stated that no-one can guarantee the crop's success or maintenance.

While it is currently physically isolated, this does not mean that fertilising, mowing, spraying and irrigation cannot be integrated with the larger block. Other horticultural enterprises face similar physical barriers.

### **Ms R Squire (Reserves Planner)**

Ms Squire stated that she consulted with the Council's hydrologist and he was of the opinion that the bed of the stream at annual fullest flow is greater than three metres in width and therefore the esplanade provisions of the Act and the TRMP apply.

Ms Squire stated that the default position for the Council in both the Act and the TRMP (Rule 16.4.2.1) is that where allotments created as part of a subdivision are less than 4 hectares, the Council will take an esplanade reserve.

At the time when the TRMP was notified it gave the Council more discretion to waive the requirement. The adjacent Moss subdivision was granted under that regime and the allotments in that case were greater than 4 hectares. Now, the circumstances under which the esplanade reserve requirement can be waived are more restricted.

She stated that there would need to be very good reason not to take the reserve in this case. The purpose of taking the reserve is to provide for the purposes set out, and is for the future. While it may not appear to be much use now it is a long term instrument to achieve long term goals.

Ms Squire recommended that an esplanade reserve from the proposed boundary between proposed Lots 1 and 2 to 5 metres on the south side of the stream be created.

### **Mr W Horner (Consent Planner, Subdivisions)**

Mr Horner agreed that Chapter 7 is the most important consideration in this matter. He referred specifically to the Introduction of that Chapter and Policies 7.1.3.5 and 7.1.3.6. He stated that Mr Burton's report clearly shows there are areas of high value and on balance there are effects on the Class A soil. Mr Horner considered that these Policies are not met in this case.

As lots get smaller, the range of activities that can take place on a site decreases and there is a cut-off point where the range of activities is detrimentally affected.

Mr Horner pointed out that he clearly did take the benefits into account but that the adverse effects of the fragmentation of the Class A soil outweighed the benefits.

When considering the entire stock of productive land, of course a small subdivision will appear minor. Taking such a narrow approach would mean that all subdivisions would be granted. This would cause adverse cumulative effects. The proposal must be considered at a micro-scale compared to the macro-scale discussed by Mr Bennison.

With regard to the accesses to the proposed lots, they do not meet the current plan standards and they should be upgraded to meet that standard.

With regard to the condition requiring recessive colours for the new dwelling on proposed Lot 2, Mr Horner considered this was appropriate to mitigate the effects of the amalgamation which will allow the construction of the house in a more prominent location on the front ridge that is closer to Little Sydney Road. He stated that it is to avoid the bright zinc-alum type roof and cladding.

## **6.3 Applicant's Right of Reply**

Ms Bradley considered that the Council's staff have not sufficiently taken the positive effects into account.

Ms Bradley stated that the construction of service buildings is a permitted activity and anticipated by the plan. She stated that the implement shed would be on the hill and not on the productive soils. She also stated that construction of an additional dwelling, which is not part of this resource consent application, is also a permitted activity under the TRMP.



She stated that the small area of productive soil on proposed Lot 1 has been planted in a highly productive crop.

Ms Bradley did not consider that there were sufficient grounds to take the esplanade reserve as identified by Ms Squire. She considered that the criteria for not taking a reserve are quite broad and include lack of value and security.

With regard to the colour of the dwelling on proposed Lot 2 she noted the amount of red netting and considered it unreasonable that the house be limited.

With regard to the access, she stated that the applicant agrees to upgrade the access to proposed Lot 2 in accordance with the Council's standards.

## **7. PRINCIPAL ISSUES**

The principal issues that were in contention were:

- a) To what extent does the presence of the stream limit the combined productivity and management of the Class A soils adjacent to Little Sydney Road? And to what extent would the proposed subdivision of proposed Lot 1 from the existing title compromise the productive potential of the Class A soils immediately adjacent to Little Sydney Road?
- b) To what extent does the amalgamation of the lots into proposed Lot 2 increase the productive potential of proposed Lot 2?
- c) To what extent does the proposal cause land fragmentation as it is defined under the TRMP and to what extent does it fragment the soil resource?
- d) To what extent is the proposal inconsistent with the policies and objectives of the TRMP?
- e) To what extent has a precedent for this development been set by other decisions?
- f) To what extent will this decision set a precedent for other similar decisions?
- g) If granted, are there sufficient circumstances to warrant the waiving of the requirement (under the TRMP) to take an esplanade reserve?

## **8. MAIN FINDINGS OF FACT**

The Committee considers that the following are the main facts relating to this application. The points below are discussed with reference to points a) to g) in the section above and should be read in conjunction.

- a) The question posed in a) in the section above is critical in assessing and making a decision on this application. If the stream for all intents and purposes segregates the Class A land adjacent on the southern side of the property such that proposed Lot 1 is not easily usable in conjunction with the Class A soils on proposed Lot 2 then there is little value in having them together and the benefits of the amalgamation of titles into proposed Lot 2 may prevail.

Evidence presented to the Committee from both Mr Burton and Mr Bennison stated that the presence of the stream is not of overwhelming importance in terms of a separation. However, the blocks are generally managed separately and often for different purposes.

The formal subdivision off of proposed Lot 1 will mean that it will not be used in conjunction with proposed Lot 2 in the future. However, the Committee considers that proposed Lot 1 does have some productive potential as proposed and the economies of scale will not be as detrimentally affected as Mr Burton stated, especially considering that only 2,400 square metres of the 1.3 hectares of proposed Lot 1 is currently available for productive use.

- b) The amalgamation of lots into proposed Lot 2 will provide some moderate benefits. It will allow the overall block to be managed as a large block but will not cause the amalgamation of high class soils which can be used for intensive production.
- c) As it is defined in the TRMP, this proposal does not cause land fragmentation. In fact, on balance it probably reduces fragmentation by combining two large lots. However, it does cause some minor fragmentation of the most valuable soils. This fragmentation of soils is considered minor as they are, to some extent, already fragmented by the presence of the stream. However, it does not cause such fragmentation as to make proposed Lot 1 unusable.
- d) The objectives and policies of the TRMP do not give a definitive direction on the matter raised in d) above. There is debate over how the two most relevant policies (7.1.3.5 and 7.1.3.6) are to be interpreted in this case. Overall, the Committee considers that the proposal is not inconsistent with the TRMP.
- e) The Committee does not consider that there is any precedent set by a previous decision that is semi-binding in the eyes of natural justice. The Inglis subdivision was done under different circumstances and while there appear to be similarities there were important differences. For example, a large block of highly valuable class A soils was amalgamated. Overall, the benefits of that case far outweighed the negatives of authorising allotments of existing dwellings.
- f) This proposal has the potential to set a precedent for other decisions. The applicant stated that the circumstances of this case set it apart from any other subdivision that is likely to come before the Council. However, the Committee considers that it is very likely that there will be further instances where multiple titles are held by a landowner and that part of the land is physically separated by a stream, terrace, bluff or similar. This decision will clearly create some precedent in such situations using the criteria established by the various authorities quoted by Ms Bradley during the hearing.

The Committee considers it somewhat mischievous for the applicant to put some considerable weight on the importance of consistency with decisions that have gone before, but then to state that no precedent will be created by this decision and that the “flood-gates” won’t open. The fact remains that if the applicant is perceived to have successfully used a past decision then, in all likelihood, someone else will attempt to use this decision in the future.

The Committee reinforces its stance that the circumstances of each case must be taken into account and while natural justice suggests that alike applications should be treated alike, every application will be different and must be treated on its merits.

- g) Rule 16.4.2.1 is quite clear. Esplanade reserves are taken to provide for future access and stream enhancement needs. There is not sufficient cause to waive the esplanade reserve requirement in this case.

## **9. RELEVANT STATUTORY PROVISIONS**

### **9.1 Policy Statements and Plan Provisions**

In considering this application, the Committee has had regard to the matters outlined in Section 104 of the Act. In particular, the Committee has had regard to the relevant provisions of the following planning documents:

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

### **9.2 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.

## **10. DECISION**

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

## **11. REASONS FOR THE DECISION**

### **Effects on the Environment**

The proposal will cause only a very small loss of Class A soils from the parent block. The subdivision is not likely to cause the smaller Lot 1 block to be used for unproductive purposes. While there may be a small reduction in the versatility of the block the benefits of amalgamating the rear blocks are evident. The subdivision will not affect the economies of scale of the larger block to a more than negligible level due to the small area of productive land on Lot 1 as a significant portion is already covered by the dwelling and sheds, and the inherent (although not insurmountable) difficulties caused by the position of the stream. The economies of scale of Lot 1 will be affected but this effect is considered acceptable.

The proposal will not cause the fragmentation of land as it is defined and set out in the TRMP as two titles will result. The proposal will cause some fragmentation of the valuable soil resource but the effects are considered minor as discussed above. A high value crop has been planted on Lot 1 and this should last for many years into the future.

## **Objectives and Policies of the TRMP**

The following are relevant:

**Objective 7.1.2** is to *“Avoid the loss of potential for all land of existing and potential productive value to meet the needs of future generations, particularly land of high productive value”*.

**Policy 7.1.3.1** is to *“avoid, remedy or mitigate the adverse effects of subdivision of rural land, particularly land of high productive value.”*

**Policy 7.1.3.4** is to *“require land parcels upon subdivision to be of a size and shape that retains the land’s productive potential, having regard to the actual and potential productive values, the versatility of the land...”*

The subdivision has virtually no effect on the life supporting capacity of the highly productive soils. The only real effect on the actual productivity of the soil will result from the construction of farm accessory buildings which are a permitted activity. The realised productivity, however, may be reduced in a minor way, particularly on Lot 1 due to a smaller block having less economies of scale. However, the benefits of the subdivision offset these adverse effects.

**Policy 7.1.3.5** is to *“facilitate the amalgamation of land parcels and relocations of the boundaries of land parcels in rural areas where this would enable a greater range of soil-based production activities.”*

The Committee considers that the subdivision is neutral with regard to Policy 7.1.3.5. In some ways the proposal allows a greater range of soil based production activities (Lot 2) and in other ways they are more limited (Lot 1).

Overall, the Committee considers that the subdivision is not inconsistent with the objectives and policies of the TRMP.

## **Purpose and Principles of the Act**

Overall, this decision has been a complex and difficult one. The pros and cons were finely balanced and could have gone either way. But taking into account the relevant considerations in Sections 6 and 7 of the Act, the Committee considers that the proposal does not compromise the sustainable management of natural and physical resources and is therefore consistent with Section 5 of the Act.

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

There were no matters or reasons raised that were of such gravity as to necessitate the waiving of the Council’s right to take an esplanade reserve under Section 16.4.2.1. Esplanade reserves are encouraged at time of subdivision by both the TRMP and the Act. They provide a long-term mechanism whereby public access and stream bank and water quality restoration can be pursued. While in this case the reserve may appear to be in isolation, this is clearly a case of “having to start somewhere”.

The limitation on the colours of the dwelling that may be constructed on Lot 1 has not been included in the consent document. While the Committee understands Mr Horner's point with regard to mitigating the effect of bringing the house further to the fore in the landscape, it is not considered reasonable to impose the condition in this instance.

In all other regards, the conditions have been adopted from the Mr Horner's recommendations.

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

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

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

Issued this 5<sup>th</sup> day of May 2009



Cr Noel Riley  
**Chair of Hearings Committee**



## RESOURCE CONSENT

**RESOURCE CONSENT NUMBER:** RM071215

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

**Little Sydney Mining Company**  
(hereinafter referred to as “the Consent Holder”)

### ACTIVITY AUTHORISED BY THIS CONSENT:

To subdivide a 20.89 hectare title and a 28.43 hectare title to create two titles of 1.30 hectares and 48.02 hectares.

### LOCATION DETAILS:

Address of property:	92 Little Sydney Road
Legal description:	Section 47 Maori Reserve Motueka Original District and Part Defined on DP 1550, and Pt Sec 43-44.
Certificate of title:	NL5A/368, NL2A/911
Valuation number:	1933053800
Easting and Northing:	2507387E 6013642N

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

## CONDITIONS

### Subdivision Plan

1. The subdivision shall conform with the scheme plan prepared by Verrall and Partners Ltd, titled Proposed Boundary Adjustment Little Sydney Valley, Riwaka, Job No 6021, dated June 2006 and attached to this consent as Plan A.

### Consent Notice

- 2 Pursuant to Section 221 of the Resource Management Act 1991, the following consent notices shall be attached to the titles for Lot 1 and Lot 2 DP... prior to the issue of the Section 224(c) certificate:
  - a) Prior to an application for a building consent for a dwelling on Lot 2 DP..... certification that the site is suitable for the construction of a residential building shall be submitted from a chartered professional engineer practicing in geotechnical engineering. This certificate shall define on Lot 2 DP ... the area

suitable for the construction of residential buildings and shall be in accordance with NZS 4404:2004 Schedule 2A.

- b) No dwellings shall be constructed on soils identified as Class A or Class B shown on Map 1 of the Soil and Land Productivity Report attached as Plan B of RM071215.
- c) (Transpower's Corridor Management Policy – Red Zone) All newly planted trees/vegetation on Lot 1 within a 12 meter horizontal distance from the centre line of the Stoke – Upper Takaka B transmission line (total of 24 metres) shall not exceed a maximum height of 4.0 metres, AND when fully grown trees and vegetation must not fall within 5.0 metres of any part of the Stoke – Upper Takaka B transmission line. All newly planted trees/vegetation on Lot 2 shall comply with the Electricity (Hazards from Trees) Regulations 2003 AND when fully grown trees and vegetation must not fall within 5.0 metres of any part of the Stoke – Upper Takaka B transmission line. For further advice please contact Transpower.
- d) (Transpower's Corridor Management Policy – Red Zone) All new buildings/structures on Lot 1 DP..... and Lot 2 DP.....shall be setback by a horizontal distance of at least 12.0 metres either side (total of 24 metres) from the centreline of the Stoke – Upper Takaka B transmission line. For further advice please contact Transpower.
- e) (Transpower's Corridor Management Policy – Orange Zone) Prior consultation must be undertaken with Transpower before the construction of any new buildings/structures on Lot 1 DP..... or Lot 2 DP.....within a horizontal distance of between 12 – 32 metres from the centreline of the Stoke – Upper Takaka B transmission line. Contact must be made with Transpower for the provision of appropriate setback distances in accordance with its Corridor Management Policy.
- f) (NZECP 34:2001 Land use activity safe distances) All land use activities, including earthworks, erection of fences, operation of mobile plant, and/or construction of any new buildings or structures on Lot 1 DP..... and Lot 2 DP.....must comply with the New Zealand Electrical Code of Practice (NZECP 34:2001).

These consent notices shall be prepared by the Consent Holder's solicitor at the Consent Holder's expense and shall be complied with by the Consent Holder and subsequent owners on an ongoing basis. All costs associated with approval and registration of the consent notices shall be paid by the Consent Holder.

#### **Advice Notes:**

All trees and vegetation planted on Lots 1 and 2 must comply with the Electricity (Hazards from Trees) Regulations 2003.

Transpower NZ has the right of access to its existing works situated on Lots 1 and 2 under s23 Electricity Act 1992. Any development on Lots 1 and 2 preclude or obstruct this right of access. It is an offense under s163 (1) (f) Electricity Act to intentionally obstruct any person in the performance of any duty or in doing any work that the person has the lawful authority to do under s23 of the Electricity Act.

Contact must be made with Transpower prior to the construction of any future buildings / structures on Lots 1 and 2 and for the provision of appropriate setback distances from the existing transmission line.

### **Easements**

3. Easements are to be created over any services located outside the boundaries of the lots that they serve as easements-in-gross to the Council for Council reticulated services or appurtenant to the appropriate allotment.

A rural emanations easement shall be created over Lots 1 and 2 DP ... for the benefit of the property at 104 Little Sydney Road (Part Section 44 Motueka District (SO1045), CT NL65/210). The memorandum granting the easement is to be generally in the form attached as Appendix A.

Reference to easements is to be included in the Council resolution on the title plan.

### **Esplanade Reserve**

4. An esplanade reserve along the Little Sydney Stream shall be shown on the survey plan submitted under Section 223. The esplanade reserve shall extend from the Lot 1 boundary on the northern side of Little Sydney Stream to the top of the prominent physical bank on the southern side of the Little Sydney Stream (approximately 5 metres from the low flow channel of the stream).

### **Water Supply for Firefighting**

5. The water supply for the dwelling on Lot 1 shall be provided with a water storage tank of not less than 23,000 litres that is fitted with a 50mm Camlock coupling to enable connection with fire fighting equipment.

### **Vehicle Crossings and On- Site Access**

6. The vehicle access crossing onto Lot 2 shall be a minimum carriageway width of 3.5 metres and shall be designed and constructed in accordance with Figure 1 with:
  - a) a formed and sealed surface between the edge of the seal of the carriageway of the road to the property boundary;
  - b) the first 6 metres in from the road carriageway formation shall be level with the road carriageway formation;
  - c) an extension of the road surface standard of seal into Lot 1 and Lot 2 for a distance of 10 metres.



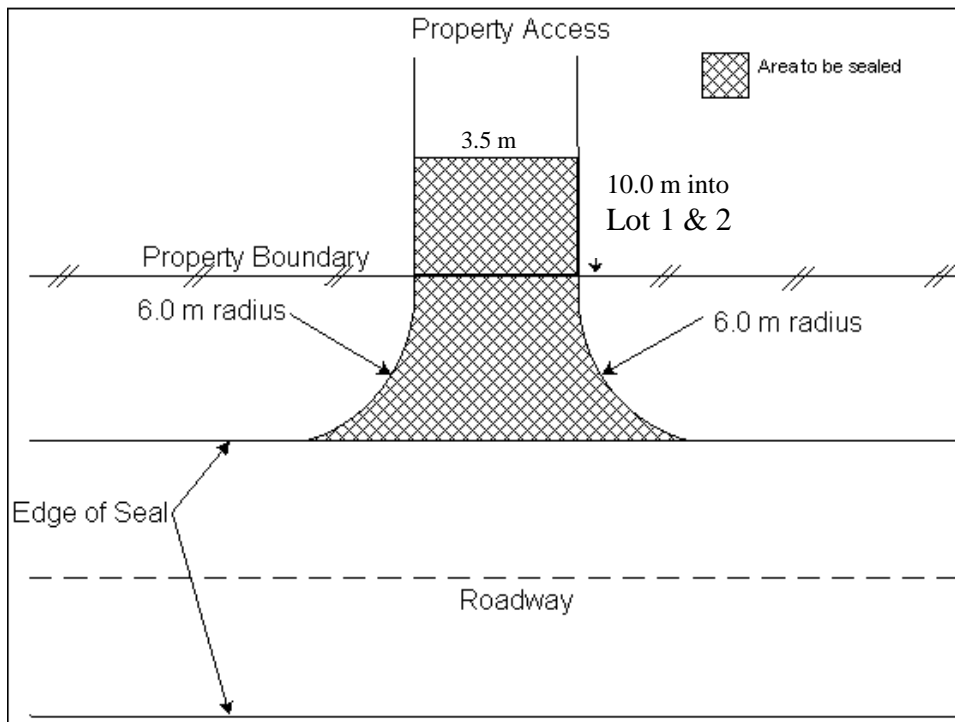


Figure 1 – Vehicle Crossings Design for Lot 1 and Lot 2

For the purposes of this condition “sealed” shall mean a surface that has, as a minimum, a Grade 4 chip first coat, overlain by a Grade 6 void fill second coat.

### Engineering Works

- All works shall be constructed in strict accordance with the Council’s Engineering Standards and Policies 2008.

#### Advice Note:

If in undertaking any activity on the property, the owner has reasonable cause to believe that the activity will damage or destroy any archaeological site on either of Lot 1 or Lot 2 then the activity shall immediately cease, and contact shall be made with the Historic Places Trust for advice on how to proceed.

### ADVICE NOTE(S)

#### Council Regulations

- 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.

#### Other Proposed Tasman Resource Management Plan Provisions

- 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:
  - comply with all the criteria of a relevant permitted activity rule in the Proposed Tasman Resource Management Plan (PTRMP);
  - be allowed by the Resource Management Act; or
  - be authorised by a separate resource consent.

### **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.

### **Street Numbering**

4. Please contact Lindsay Skinner on (03) 543 8548 for the street addresses for Lots 1 and 2.

### **Firefighting Water Storage**

5. Any dwelling on Lot 1 is required to be provided with on-site water storage of not less than 23,000 litres for firefighting. The tank is to be fitted with an accessible 50 millimetre camlock coupling to enable connection with firefighting equipment.

### **Historic Places Act 1993**

6. The Council draws your attention to the provisions of the Historic Places Act 1993. In the event of discovering an archaeological find during the earthworks (e.g. shell, midden, hangi or ovens, garden soils, pit depressions, occupation evidence, burials, taonga, etc) you are required under the Historic Places Act, 1993 to cease the works immediately until, or unless, authority is obtained from the New Zealand Historic Places Trust under Section 14 of the Historic Places Act 1993.

Issued this 5<sup>th</sup> day of May 2009



Cr Noel Riley  
**Chair of Hearings Committee**

## **APPENDIX A**

### **Right to Emit Noise from Hail Cannons and Other Farming Activities/Equipment, Odour from Farming Activities, and Drift from Agricultural and Horticultural Sprays**

#### **1. Definition**

In this easement the term “authorised farming activities” means all rural activities, including farming and horticultural crop production (and in particular, odour and noise from farming activities, the spraying for weeds and horticultural pests and diseases and the use of hail cannons to protect against hail damage to fruit crops) together with any other activity permitted under the relevant District Resource Management Plan for the time being in force and any existing uses and any activity permitted by any resource consent(s). The term “authorised farming activities” shall also include any other activity ancillary to the activities already defined or necessary therefore.

#### **2. Rights and Powers**

The owners or occupiers from time to time of the Dominant Tenement shall have the full, free, uninterrupted and unrestricted right, liberty and privilege for themselves and their respective servants, tenants, agents, licensees and grantees from time to time to emit noise from hail cannons and other farming practices and equipment, odour from farming activities, and drift from agricultural and horticultural sprays and to allow such emanations to escape, pass over or settle on the Servient Tenement in the course of the use of the Dominant Tenement for rural purposes with the intent that such aforementioned rights shall run with the Servient Tenement and be forever appurtenant to the Dominant Tenement.

#### **3. Terms, Conditions, Covenants, or Restrictions in Respect of the Above Easement**

- a) The owners or occupiers from time to time of the Servient Tenement shall allow authorised farming activities to be carried out on the Dominant Tenement without interference or restraint.
- b) All noise emitted from hail cannons, and farming practices and equipment shall not exceed the maximum level permitted in any relevant District Resource Management Planning document.

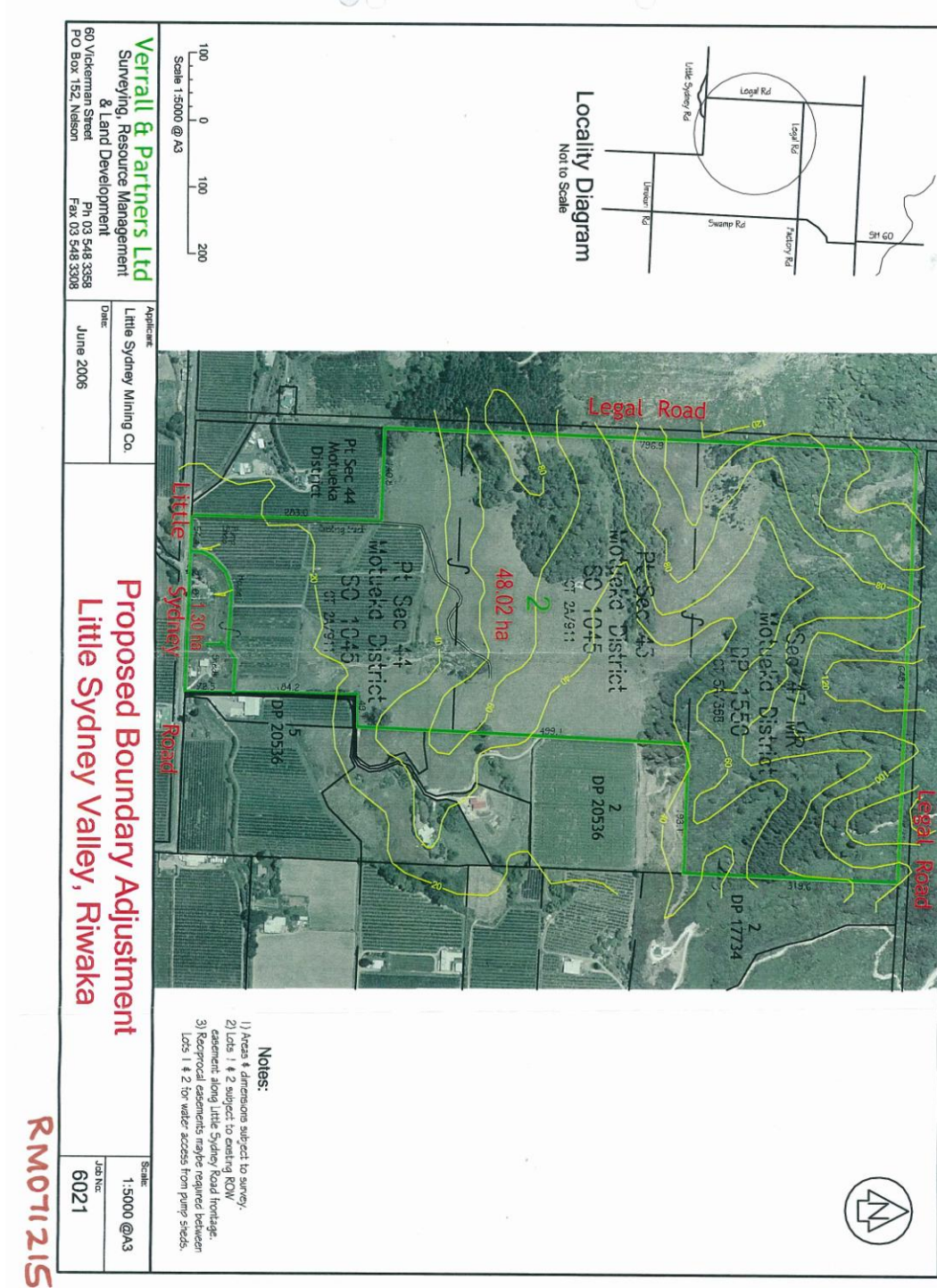
The owners or occupiers from time to time of the Servient Tenement shall not:

- i) make or lodge; nor
- ii) be party to; nor
- iii) finance nor contribute to the cost of;

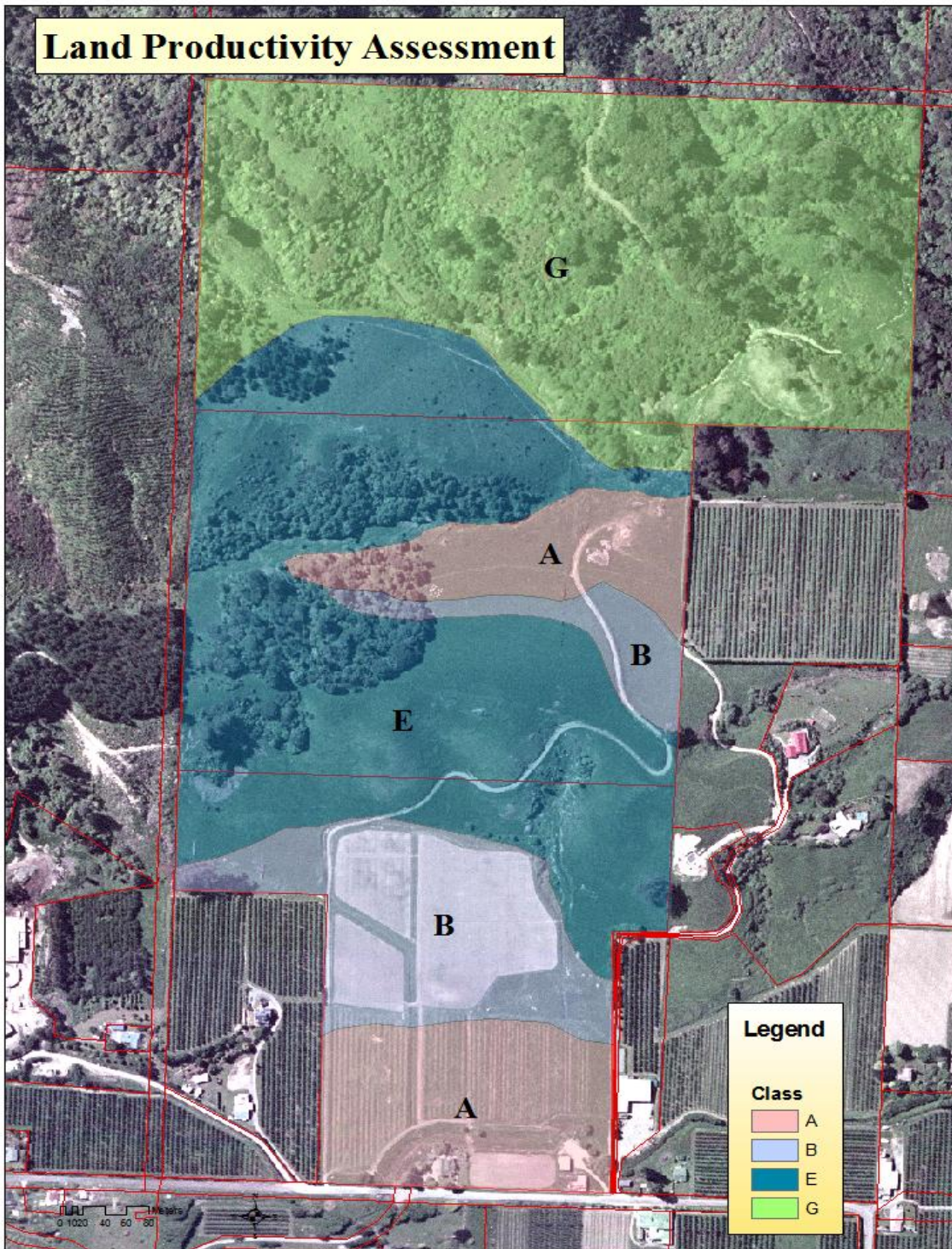
any submission, application, proceeding or appeal (either pursuant to the Resource Management Act 1991 or otherwise) designed or intended to limit, prohibit or restrict the continuation or recommencement of the authorised farming activities by the owners or occupiers from time to time of the Dominant Tenement.

- c) The owners or occupiers from time to time of the Dominant Tenement shall at all times use sprays in accordance with usual agricultural and horticultural practices in the District.

**PLAN A  
Subdivision Plan**



**PLAN B**  
**Soil Classifications**



**Date Confirmed:** \_\_\_\_\_

**Chair:** \_\_\_\_\_