

# MINUTES

**TITLE:** Environment & Planning Subcommittee

**DATE:** Tuesday , 13 October 2009

**TIME:** 10.00 am

**VENUE:** Motueka Service Centre, 7 Hickmott Place, Motueka

**PRESENT:** Crs S G Bryant (Chair), B F Dowler, R G Currie

**IN ATTENDANCE:** Principal Resource Consents Advisor (J Butler), Co-ordinator Land Use Consents (J Andrew), Executive Assistant (V M Gribble)

## **1. APPLICATION NO RM090063 - NGATAHI HORTICULTURE, WHAKAREWA STREET, MOTUEKA**

### **1.1 Proposal**

The application sought retrospective land use consent for buildings and cool stores that have been constructed on the property but which are beyond the scope of the Planning Tribunal's decisions W8/85 and W87/85. It is proposed to utilise the existing access from Whakarewa Street.

**RM090063** Land use consent for existing cool stores, canopies and buildings and for a building coverage of 3023 square metres.

The application site is located at 278 Whakarewa Street, Motueka, being legally described as Lot 1 DP 11124 and Lot 1 DP 11632, CT NL 7A/241, 6.9305 hectares

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

The Committee reserved its decision.

### **RESOLUTION TO EXCLUDE THE PUBLIC**

**Moved Crs Bryant / Currie**  
**EP09/10/13**

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

Ngatahi Horticulture

**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
Ngatahi Horticulture	Consideration of a planning application	A right of appeal lies to the Environment Court against the final decision of Council.

**CARRIED**

**Moved Crs Dowler / Bryant  
EP09/10/14**

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

**CARRIED**

**2. APPLICATION NO RM090063 - NGATAHI HORTICULTURE, WHAKAREWA STREET, MOTUEKA**

**Moved Crs Bryant / Dowler  
EP09/10/15**

**THAT pursuant to Section 104B of the Resource Management Act, the Committee GRANTS consent to Ngatahi Horticulture 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 Meeting Room of the Motueka Service Centre  
on Tuesday, 13 October**

A Hearings Committee (“the Committee”) of the Tasman District Council (“the Council”) was convened to hear the application lodged by Ngātahi Horticulture Partnership (“the applicant”), to extend a coolstore complex at Whakarewa Street, Motueka. The application, made in accordance with the Resource Management Act 1991 (“the Act”), was lodged with the Council and referenced as RM090063.

**HEARINGS COMMITTEE:** Cr Stuart Bryant, Chairperson  
Cr Gordon Currie  
Cr Barry Dowler

**APPLICANT:** Ms Camilla Owen (Counsel for Applicant)  
Mr Martyn King (General Manager)  
Mr John Kerse (Coolstore Operations Manager)  
Mr Graham Thomas (Planning Consultant)

- SUBMITTERS:** Mr Mike Ingram (Wakatu Incorporation)  
Mr Martin Whittaker (276 Whakarewa Street)
- CONSENT AUTHORITY:** **Tasman District Council**  
Mr Jack Andrew (Coordinator Land Use Consents)  
Mr Dugald Ley (Development Engineer)
- IN ATTENDANCE:** Mr J Butler (Principal Resource Consents Adviser) - Assisting the Committee  
Ms V Gribble (Committee Secretary)

## 1. SUMMARY

The Committee has **GRANTED** a retrospective resource consent, subject to conditions, to extend a coolstore facility.

## 2. DESCRIPTION OF THE PROPOSED ACTIVITY

The applicant is seeking retrospective land use consent for existing coolstores, canopies and buildings that have been constructed on the property but which were beyond the scope of the Planning Tribunal's decisions W8/85 and W87/85 ("the original decision"). Consent is also sought for building coverage of 3,023 square metres which exceeds the zone permitted standard of 2,000 square metres. It is proposed to continue utilising the existing access from Whakarewa Street.

The packhouse coolstore complex was initially granted consent by the Planning Tribunal to be used for fruit produce only. However, the exact extent to which the Tribunal authorised the complex was questioned in the hearing and is further addressed in the body of this decision. The applicant has advised that the packhouse and tray making operations no longer occur at the property and that the complex is now only used for cool storage of fruit.

The complex employs two full-time staff at present (increasing to three full time staff in 2010). In addition to these full time staff 20 part time staff are employed when kiwifruit are repacked (in the coolstore buildings) in June and July each year. There are also some visitors to the site although they are almost exclusively fruit inspectors and auditors.

Most of the traffic generated by the coolstore's operation is staff vehicles and fruit trucks. The busiest truck traffic days are in March for pip fruit and May for kiwifruit.

In the application the coolstore complex's development over time is broken down and described as components. The various components are shown in Plan A attached. The present consent application covers the following:

Component C - Number 2 Coolstore BC: FO18963(1987);  
Component D - Canopy extension BC:980087 (1998); and  
Component E - New Coolstore and Canopy BC:071627 (3 March 2008).

### 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

Area(s): Nil

Because the coolstore operates as a facility for fruit produced off the subject site it is classified as a Rural Industrial activity which breaches permitted activity Rule 17.5.2.1(b)(i) and is therefore a discretionary activity pursuant to Rule 17.5.2.3.

In addition, the building coverage exceeds the Rural 1 zone’s permitted building coverage rule (Rule 17.5.3.1(l)) which permits 2,000 square metres of building coverage and is therefore a restricted discretionary activity pursuant to Rule 17.5.3.3.

Overall the retrospective consent application is for a Discretionary Activity.

### 4. NOTIFICATION AND SUBMISSIONS RECEIVED

The application was limited notified on 17 July 2009 pursuant to Section 94(1) of the Act. A total of four submissions were received. The following is a summary of the written submissions received and the main issues raised:

Submission in opposition:

Submitter	Reasons	Decision / Wish to be heard
Martin Joseph Whittaker	Effect on a historic property’s amenity and fire risk.	Decline

Submissions in support:

Submitter	Reasons	Decision / Wish to be heard
Ian Malcolm Wilde and Andrew Roy Fraser	Coolstore is long established and a valuable service to horticulture and regional economic improvement.  Effects no more than minor.	To grant consent
Gary John Jamieson	Supports the application no reasons given	To grant consent
Wakatu Incorporation	Supports building extension and increased site coverage	To grant consent

### 5. PROCEDURAL MATTERS

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

## **6. EVIDENCE HEARD**

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

### **6.1 Applicant's Evidence**

#### **Ms Camilla Owen (Counsel for Applicant)**

Ms Owen stated her opinion that Planning Tribunal decision W8/85 authorised components A1, A2 and B of the coolstore complex. She confirmed that this left Components C, D and E to be considered by the Committee.

Ms Owen stated that there is no change in use and that the consent applied for is entirely retrospective. However, she did request that the wording of a condition be changed to allow vegetables to be stored as well as fruit.

Ms Owen agreed that the TRMP does not allow for Rural Industrial activities that are greater than home occupations as permitted activities. However, the TRMP does allow for buildings to cover 2,000 square metres as permitted.

With regard to 276 Whakarewa Street (Mr Whittaker's house) Ms Owen agreed that it is significant and that Section 6(f) does apply but does not mean that consent should be declined. She said that Section 6 is still subservient to Section 5; it is not a veto.

Ms Owen considered that sufficient information and investigations had taken place to provide confidence that fire is not a risk to Mr Whittaker's property.

Ms Owen stated that the applicant does not exceed the noise standards that apply to permitted activities in the zone. She volunteered that a acoustic professional may be engaged to investigate noise matters and recommend improvements.

Addressing Mr Andrew's recommended conditions she sought that the noise limits be deleted. She also sought that the side drains (sought by Mr Ley) be deleted and the requirement to seal a gravel area (sought by Mr Andrew) also be deleted.

Overall, she reminded the Committee that the Act is not a "no risk" statute and that effects may occur but should be dealt with.

#### **Mr Martyn King (General Manager)**

Mr King said that the applicant controls 201 hectares of prime irrigated land on the Motueka Plains, currently producing apples, pears, hops and kiwifruit for export.

He described the coolstore as one of the best performing operations in the district.

Mr King said that he has had several conversations with Mr Whittaker and understands his concerns. He understands that Mr Whittaker does not want the complex there at all.

### **Mr John Kerse (Coolstore Operations Manager)**

Mr Kerse described the coolstore operations. He described the product submission and dispatch processes and timeframes. He showed that operations are generally between 7.00 am and 4.30 pm on weekdays and 7.00 am to Midday on Saturdays.

Mr Kerse said that the horticulture industry is evolving and that movement into vegetables cannot be discounted. He said that vegetables would fit into the coolstore operation well and should be allowed.

The old packhouse has been decommissioned (2001/2002).

Mr Kerse said that canopies are important as they allow all weather operation and protect the product from the elements. He said that the new coolstore on the western side of the complex has allowed much of the traffic to move away from the common boundary with Mr Whittaker.

There was some discussion about forklift reversing beepers. Mr Kerse and Mr King said that they had looked at minimising the sound of the beepers but still maintaining safety. They said that they would adapt to any new technology that came along but that nothing suitable was currently available.

Cr Currie said he had made enquiries from OSH, who said that forklifts had to have an audible device when reversing, but that there was no minimum volume; the decibel rating was not a requirement. He suggested that the reversing alarms could be turned right down or muffled. Mr Kerse said there are several different options. He understands there are reversing beepers that are activated by a bracelet that workers must wear and are activated by distance. He did not agree with turning down the volume as there is a safety issue that is paramount. Mr King said that they are continuing to investigate ways to reduce noise, and although you can reduce the noise of the beeper, it has to be louder than a truck.

Mr Kerse described the contents of the coolstores as a very low fire risk compared to meat and butter products. The high fat content of the latter ignites and burns much more readily. Smoke alarms and fire extinguishers are in place but there is no sprinkler system.

Mr Kerse said that he does not know of any accidents at the entrance onto Whakarewa Street. He said that there is good visibility.

Finally, Mr Kerse said that they intend to implement a noise management plan in the 2010 season. This plan will involve further research on reversing alarms, a noise barrier on the north boundary, closing in part of the east canopy and removing any unnecessary external lighting.

Cr Currie asked if there is light spill over to the neighbour's property. Mr Whittaker said the lights are not a problem.

### **Mr Graham Thomas (Planning Consultant)**

Mr Thomas agreed with the statutory considerations set out in Mr Andrew's staff report. Mr Thomas also considered that Chapter 10 of the TRMP was relevant and not considered in the application. However, he considered Chapter 5 to be more

important as this was not a historic site but was adjacent to one. He considered that the heritage status of Mr Whittaker's house and property is a consideration but not a veto.

Mr Thomas did not accept the consideration of Chapter 6 as being relevant.

Mr Thomas supported the inclusion of a condition requiring a thorough investigation of noise. However, he did not consider that noise is a significant adverse effect. He reminded the Committee that the rural environment is not quiet and noise is to be expected.

Mr Thomas also did not consider that the proposal will adversely affect rural and residential amenity as it is not closer to Mr Whittaker's property and will take activity away from the site's eastern boundary.

With regard to fire he said that the involvement of the relevant fire authorities and experts shows that the risks are very low.

## **6.2 Submitters Evidence**

### **Mr Mike Ingram (Wakatu Incorporation)**

Mr Ingram expressed his support for the application.

### **Mr Martin Whittaker (276 Whakarewa Street)**

Mr Whittaker emphasised that his house is a Category 2 historic listed property. He said that Section 6(f) makes its protection a matter of national importance. He considered that the evidence from the applicant and also the reporting officer did not sufficiently address the heritage value of the property.

Mr Whittaker considered it likely that the land would be subdivided and used as a coldstore in the future by other owners.

Mr Whittaker then went on to discuss the previous authorisation for the coolstore complex made by the Planning Tribunal. He considered that the coolstore extension (Component B on the attached plan) was not authorised by that decision and therefore remains illegal. He also said that because a change of use of the packhouse has occurred, the original decision is obsolete.

Mr Whittaker considered there to be a significant risk to the house on his property and that the risk had been deliberately played down by fire experts. He stated that fire is an ever present danger and that there have been some high profile coolstore fires. He said that LPG powered forklifts provide a risk. Mr Whittaker considered that the building of a coolstore within close proximity of the residential building that is on the property has significantly increased the fire risk. He also referred to a 50 metre setback requirement that applies to forestry locations. He considered that the same should apply for buildings.

Mr Whittaker considered that the applicant should relocate its coolstore complex to another location.

Mr Whittaker then presented a statement on behalf of his daughter, Ms Heather Whittaker. The statement said that the effects of the activity related to noise resulting from the loading and unloading of trucks, and dust. After reading the statement Mr Whittaker agreed that the dust was mainly derived from the agricultural and horticultural land rather than the applicant's site.

Mr Whittaker stated that he had no problem with the drainage situation at the entrance of the accessways onto Whakarewa Street.

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

#### **Mr Jack Andrew (Coordinator Land Use Consents)**

Mr Andrew said there are affidavits and a declaration before the Environment Court. These documents had been presented with Mr Whittaker's evidence. The declaration addressed the legal status of each of the buildings and the need for the consent process to authorise the unconsented buildings. Following that declaration, the current application was lodged for the buildings that the Council believed were established without resource consent. It was his opinion that building B shown on the attached plan was consented by the original decision. He did not see it is inevitable that Mr Whittaker's house and the coolstore complex can't live together.

Mr Andrew did not consider that vegetables should be allowed through this consent application. The Court was quite explicit about specifying "fruit" and that this allowed Ngātahi to change fruit varieties. He considered that resource consent "creep" needs to be watched and avoided. Vegetables will have different seasons and will lengthen the time over which the complex is intensively used. This application is for additional unconsented buildings and not to change the use of the complex.

Cr Bryant asked Mr Andrew if he had changed his view on fire risk. Mr Andrew said he had not changed his mind as the fire service have looked at it and said they can live with it.

#### **Mr Dugald Ley (Development Engineer)**

Mr Ley tabled some photographs of the entrance way and Whakarewa Street. In particular, he sought the widening of the opposite side of the road to prevent edge break from trucks entering the site.

Cr Dowler questioned Mr Ley's concern about water retention on the road and the need for drainage. Mr Ley said it was a minor issue.

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

Ms Owen said that retrospective resource consent applications are not illegal and that the applicant is following the course set out in the Act, except it might have been desirable to get a resource consent first.

Ms Owen agreed with Mr Andrew that the Town and Country Planning Act conditional use permit becomes a deemed resource consent under transitional provisions of the Act (RMA). Her view was that A1, A2 and B are consented. She advised the Committee to read the original decision and decide for itself. In particular she referred to page 6, second paragraph of the original decision which refers to the



“extended cool store” and the third paragraph which talks about the present cool store and proposed extension. She did not consider that Mr Whittaker’s interpretation that only A1 and A2 are consented made sense.

Ms Owen also addressed the effect of the discontinuation of use of the packing shed. She said that it is still utilised in addition to packhouse/cool store consent, the consent doesn’t fall away as it has not turned into something else that has greater or different effects.

With regard to the inclusion of the storage of vegetables Ms Owen stated that she can see where Mr Andrew is coming from and that he is being conservative. However, she did not see any resource management reason why vegetables could not be included.

Ms Owen said that the 50 metre setback between plantation forests and residential areas was not relevant. She considered that the Committee does have enough information. She emphasised the Fire Service’s letter dated 11 September 2009. Mr Whittaker had read that to be “access of vehicles” but she read it to mean that effective operations in a fire fighting situation include control of the spread of fire. Therefore, they think there is sufficient distance between Mr Whittaker’s dwelling and the complex. In terms of the risk from the dwelling immediate adjacent to Component E of the complex, there is polystyrene in the cool store, but it is designed to be in close proximity and, if there is a fire it is designed not to spread or collapse.

With regard to recommended Condition 4, Ms Owen sought that the following be appended: “the applicant shall either comply with the mitigation recommendations within six months of the date of the report, or advise the manager – compliance (Council), in writing, of the reason/s for not adopting the recommendation/s.” By agreeing to the condition without this she is committing her client to an unknown level of expenditure. The Council may consider rejection of any mitigation measures to be unreasonable and may require a review of the application. She also said that the applicant is happy to get the independent acoustic expert to liaise with Mr Whittaker to identify what the problems are from his perspective.

Ms Owen said that historic heritage, as a matter of national importance, is subservient to sustainable management. She said that relocation is not going to happen. She said that the adverse effects are known and the question is can they be mitigated, bearing in mind you have a consent granted and buildings legally established which act as a buffer.

## **7. PRINCIPAL ISSUES AND MAIN FINDINGS OF FACT**

The principal issues that were in contention and the Committee’s findings of fact are:

### **a) What components of the coolstore complex does the original Planning Tribunal decision authorise?**

Upon a thorough reading of the Planning Tribunal’s decision on the original packhouse and coolstore complex the Committee is satisfied that that decision authorises the installation of the coolstore buildings labelled A1, A2 and B on the attached plan, and therefore those specific buildings have been appropriately authorised. The current application is applying to cover all remaining aspects of the complex.

The Committee does not consider that the recent lack of use of the packhouse compromises the legality of the operation as suggested by Mr Whittaker. Once a consent has been given effect to it can be used as much (within the bounds of the conditions and the Act) or as little as the consent holder wishes. The use of the coolstores is within the bounds set by the original decision and the redundancy of the packhouse does not compromise this. The scale of the activities have been reduced from what was consented and this is allowed.

**b) To what extent will the extensions to the coolstore complex increase the risk of fire on Mr Whittaker's property?**

The Committee does not consider that the coolstore extensions will significantly increase the risk of fire on the applicant's property or the direct fire risk to Mr Whittaker's property.

Mr Whittaker's point about the proximity of the new coolstore to the house is understood. However, the Committee is satisfied that the flammability of the new parts of the complex are not such that an increased fire risk is created. The coolstore is cooled by an inert gas (in contrast to the high profile coolstore fire near Hamilton recently) and usually contains high moisture content fruit. It is not the kind of environment that will erupt in flames and give the fire fighters no time to get to the site and contain a fire.

**c) To what extent will the extensions to the coolstore complex increase the effects of noise on Mr Whittaker's property?**

The noise of the coolstore operations, particularly the loading and unloading of the trucks and the reversing alarms on the forklifts are likely to be a nuisance to Mr Whittaker. The Committee is satisfied that some mitigation of the noise effect is warranted and that this has been volunteered by the applicant.

**d) What is the Committee's duty under Section 6(f) of the Act with regard to protection of historic heritage?**

Mr Whittaker is right that the protection of historic heritage from inappropriate subdivision, use and development is a matter of national importance under Section 6. Mr Whittaker informed the Committee of its duty under the Act and the value of the property. It is certainly agreed that the property is worthy of protection under this provision.

However, Mr Whittaker was wrong when he said that the matters of national importance are the ultimate consideration and that all other matters must be considered in the light of these matters. Section 6 is subservient to Section 5 which states the overall purpose of the application which is sustainable management. This is an important distinction in this case as Section 5 requires the Committee to not only take into account Sections 6, 7 and 8 but also to manage resources in a way which enables people and communities to provide for their social, economic, and cultural wellbeing. Yes, historic heritage is a part of this, but so too are the needs of economic activity in of the area. The Committee must make a decision based on the effects and one which will ultimately provide the best balance under Section 5.

The Act is an effects-based statute and a proposal cannot be rejected simply because the house is there and it is significant, it must be done on the basis of effects. In this regard, Mr Whittaker failed to show that the additional structures would materially adversely affect his property.

**e) Should the storage of vegetables as well of fruit be authorised by this consent?**

The Committee agrees with Mr Andrew that it is not appropriate that the conditions be loosened to allow vegetables to be stored. The original decision limited the scope of the activity to the storage of fruit and it is appropriate that this decision preserve that position. There was little or no evidence put in front of the Committee demonstrating the effects or otherwise of the movement and storage of vegetables. It is likely that broadening the use of the complex to vegetables would extend the busy period into other parts of the year. While it is understandable that the applicant may want to make the best and most efficient use of its complex, such an application should, in its own right, be brought to the Council with the appropriate supporting information and evidence.

**f) To what extent can the Committee take into account other possible coolstore locations or the possibility of future subdivision of the property?**

It is entirely beyond the power of the Committee to require, urge or suggest that the applicant move the complex to a different location as was suggested by Mr Whittaker. The Committee can only consider the application in front of it and grant it or decline it as appropriate within the process set out in the Act.

Mr Whittaker's concern about future subdivision is also beyond the scope of the hearing and this decision. The Committee does not see that possible subdivision has any significant bearing on the current proposal.

## **8. RELEVANT STATUTORY PROVISIONS**

### **8.1 Policy Statements and Plan Provisions**

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

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

### **8.2 Part 2 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 additional coolstores and canopies will not increase the risk of fire on Mr Whittaker's residence (276 Whakarewa Street) either as a result of the structures themselves or through the reduced proximity of the complex to the dwelling on the site. The Committee is reassured by assessments that have been done by the relevant fire authorities.

With regard to noise, there was little reliable evidence on the noise levels and operational characteristics of the site. However, this is more a product of the uncertainties and changeability of the industry. The Committee is generally satisfied that the noise environment is acceptable but, based on the evidence of Mr Whittaker, sees the need to improve some aspects of the noise environment. In particular the reversing alarms and occasional loud noises associated with trucks being loaded. Improvement of the amenity of Mr Whittaker's property by implementing good noise management practices and, possibly, by erecting a more effective acoustic fence along the boundary of the complex is reasonable. Conditions to this effect were volunteered by the applicant, which gives the Committee greater confidence.

There are no other adverse effects arising from the additional buildings which, over and above that exist as a result of the original decision, are more than very minor.

The positive effects arising from the provision of more coolstore space are principally economic as it will allow greater development of the horticultural industry in the area.

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

The Committee generally agrees with Mr Andrew's assessment of the relevant provisions of the TRMP with the exception of the assessment of Chapter 6. In this regard the Committee agrees with Mr Thomas in considering the provisions to be only barely applicable. This is a rural environment and it is considered that the provisions of Chapter 7 are more relevant.

The Committee agrees with Mr Andrew's comments with regard to the importance of Chapter 5 and the special amenity values that the site has due to the existence of Mr Whittaker's property.

The assessment of the activity in terms of the provisions of Chapter 7 is also relevant. Particularly in the sense that coolstores are an important part of the crucial horticulture industry in the Tasman District.

Finally, with the conditions imposed, the Committee has no concerns with the provisions of Chapter 11 relating to land transport.

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

Section 6(f) which relates to the protection of historic heritage is relevant but the Committee is satisfied that this will be achieved through the lack of effect on Mr Whittaker's property. This has been reinforced by the conditions imposed.

In the terms of Section 7, the following is considered relevant:

*(b) The efficient use and development of natural and physical resources:*

The soil resource of the Motueka Plains is an important physical resource that needs to be managed sustainably to provide for the needs of future generations. The development is has occurred entirely within the curtilage of the originally consented development and therefore a negligible amount of land will be taken up.

The proposed building expansion is closely associated with storing fruit produced in the district in a coolstorage facility that helps provide for the economic well being of its workers, owners and suppliers.

*(c) the maintenance and enhancement of amenity values:*

It is clear that because of the siting of the building expansion on the existing complex and generally away from two adjoining residences and well back from Whakarewa Street it will have only a very minor effect on the existing rural amenity of the site.

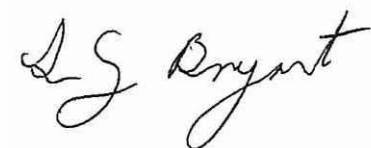
The Committee agrees with Mr Andrew's assessment that in relation to Section 5 it is considered that a new rural industrial coolstore on the property that bore no relationship to the productive use of the property would be quite contrary to the principles of sustainable rural development. However, in this case there is an unusual historical situation created prior to the Act that legally established a large coolstore /packhouse development. That development is now a resource in its own right that can benefit fruit growers. In this regard allowing expansion of that existing complex is not contrary to sustainable management.

Adopting a broad overall judgement approach to the purpose of the Act, the Committee is satisfied that the proposal is consistent with Part 2 and achieves sustainable management of natural and physical resources as set out in Section 5 of the Act.

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

The conditions of consent incorporate a number of conditions that were imposed by the Planning Tribunal in its original decision. Where necessary these have been updated and added to, particularly in relation to noise mitigation and improvements to the access way.

Issued this 2nd day of November 2009



Stuart Bryant  
**Chair of Hearings Committee**



## RESOURCE CONSENT

**RESOURCE CONSENT NUMBER:** RM090063

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

**Ngātahi Horticulture Partnership**  
(hereinafter referred to as “the Consent Holder”)

### ACTIVITY AUTHORISED BY THIS CONSENT:

To extend a coolstore complex at Whakarewa Street, Motueka

### LOCATION DETAILS:

Address of property:	278 Whakarewa Street, Motueka
Legal description:	Lot 1 DP11632 and Lot 1 DP 11124
Certificate of title:	NL7A/241
Valuation number:	1933061500
Easting and Northing:	2508506E 6019301N

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

## CONDITIONS

### General

1. That approval be limited to the cool storage of fruit produce only and that no meat or fish produce is stored on site.

#### **Advice Note**

For the avoidance of doubt, this condition does not allow vegetables to be kept in the coolstores.

2. The consent is granted to building Components C, D and E on Plan A attached dated 23 October 2009 and is to be undertaken in accordance with the documentation submitted with the application. The consent only applies to the portion of Lot 1 DP11124 and Lot 1 DP 11632 in certificate of title NL7A/241 that is outlined on Plan A attached dated 13 October 2009.

## Noise

3. Noise generated by the activity authorised by this consent, as measured at or within the notional boundary of any dwelling in the Rural 1 Zone, shall not exceed:

	<b>Day</b>	<b>Night</b>
L <sub>10</sub>	55 dBA	40 dBA
L <sub>max</sub>		70 dBA

**Note:**

Day = 7.00 am to 9.00 pm, Monday to Friday, inclusive of 7.00 am to 6.00 pm Saturday (but excluding public holidays).

Night = all other times, including public holidays.

Where compliance monitoring is undertaken in respect of this condition, noise shall be measured and assessed in accordance with the provisions of NZS 6801: 1991, Measurement of Sound and NZS 6802:1991, Assessment of Environmental Sound.

For the avoidance of doubt the notional boundary is defined as:

- a) a line 20 metres from the facade of any rural dwelling that is most exposed to the noise source; or
  - b) the legal boundary of the site of the dwelling, where this is closer to the dwelling than 20 metres.
4. The consent holder shall commission an appropriately qualified and experienced acoustic engineer to undertake and produce a Noise Investigation Report for the coolstore's peak operating period in March, April, May and June 2010. This investigation shall cover the noise impact on the amenity of Whittaker's property (276 Whakarewa Street) and address noise sources including, but not necessarily limited to, forklifts, coolstore and vehicle management protocols and recommend mitigation measures which may include acoustic fencing. In undertaking the investigation work the engineer shall consult with:
- (a) Council's Regulatory Services Coordinator, and
  - (b) The legal owner of 276 Whakarewa Street (Mr Whittaker at the time of granting).

The purpose of this consultation shall be to determine the particular types and sources of nuisance noise.

A copy of the report shall be provided to the Council's Coordinator Compliance Monitoring by 1 September 2010. The consent holder shall keep a copy of the Noise Investigation Report on site at all times and shall make staff aware of the protocols that apply to their role. The consent holder shall comply with the recommendations in the Noise Investigation Report on an ongoing basis.

Within six months of the report being produced, the consent holder shall implement all recommendations of the investigation report unless:

- a) The legal owner of 276 Whakarewa Street refuses to provide consent for a structure or fence on the common boundary with the applicant;

- b) Another legal authorisation (e.g. a resource consent or building consent) cannot be obtained; or
- c) A recommendation is considered unreasonable or unnecessary by the Council's Regulatory Services Coordinator.

## **Vehicles**

5. Conditions (b) and (c)(iii) of the Planning Tribunal decision W87/85 shall apply as modified and as expanded by conditions i) to v) as follows:

*“(b) That an accessway to be used by all vehicles using the facility be formed across the applicants own property adjacent to and to the west of the existing right of way shown on D.P. 9672 (being the access as proposed by the applicant and shown on the plan submitted with the application).”*

*(c)(iii) the access is to be redesigned to accommodate the longest legal vehicle length. The design shall be to the satisfaction of the Council's Engineering Manager. The right of way is not to be used by commercial vehicles associated with the packhouse and a physical obstacle to such as a post must be placed and maintained at all times to prevent vehicles using any part of the right of way to facilitate entry to or exit from the separate access.”*

*“i) The seal shall be widened on the south side of Whakarewa Street from the centreline of the entrance to the applicant's site for a distance of 50 metres to the east. The seal widening shall be to a width of 1.0 metres wide from the existing sealed carriageway. Plan B dated 23 October 2009 (attached) shows these works.*

*ii) The plants/shrubs on road reserve to the east of the Whittaker entrance shall be removed.*

*iii) “Stop” limit lines shall be painted on the sealed pavement on the site access just inside the boundary line and a stop sign shall be erected.*

*iv) That the works outlined in conditions 4i) to 4iv) be undertaken to the satisfaction of Council's Engineering Manager who is to be given two weeks prior written advice of such works being undertaken. All works are to be completed within six months of the date of this consent becoming effective except for the works specified in points i) and ii) which shall be completed before 1 March 2010.*

## **Planning Tribunal conditions (d) and (e)**

6. Planning Tribunal decision W87/85 condition (d) is retained but to the satisfaction of the Council's Regulatory Services Coordinator as follows:

*“That a two metre high wooden fence be constructed in the north-eastern corner of the property (i.e. on the boundary between the facility and the residence of M J Whittaker) to act as a visual and noise buffer. Such a fence to be of such a length so as to be to the satisfaction of the Council's Regulatory Services Coordinator and to not exceed 10 metres either side of that corner.” The fence shall remain at all times.*



However, this condition shall not apply in the event that the noise investigation report required by Condition 4 requires measures or structures that are inconsistent with this condition. In this event, Condition 4 and the recommendations of the report shall prevail.

7. There shall be no making of trays that requires the use staple or nail guns which are audible on 276 Whakarewa Street.

**Advice Note:**

No trays are now made at the site and Planning Tribunal decision W87/85 condition (e) allowing the making of trays by use of staple guns is unnecessary and is deleted. However, this condition allows some flexibility for making fold-up trays or utilising new and quieter technology.

**Parking**

8. The site access and manoeuvring areas shall be sealed.
9. A minimum of one car park shall be provided on site for each permanent employee and two visitor car parks shall be provided on site at the south end of the coolstore developed by Building consent BC071627 shown as Component E on Plan B attached dated 13 October 2009.
10. On site car parking shall be provided for all part time workers who drive to work.

**Waste**

11. All solid waste material shall be contained initially internally on site and then transferred to a facility approved by Council's Coordinator Compliance for recycling and/or disposal.

**Amenity**

12. There shall be no outdoor storage of fruit or waste.

**Signage**

13. The sign erected for identification of the business adjacent to the property access shall be erected and maintained in accordance with the TRMP rural zone signage rules. Onsite signs necessary for traffic direction and personnel safety shall be permitted but shall be upgraded and updated to reflect the up-to-date layout and operation of the site before 1 March 2010.

**Review**

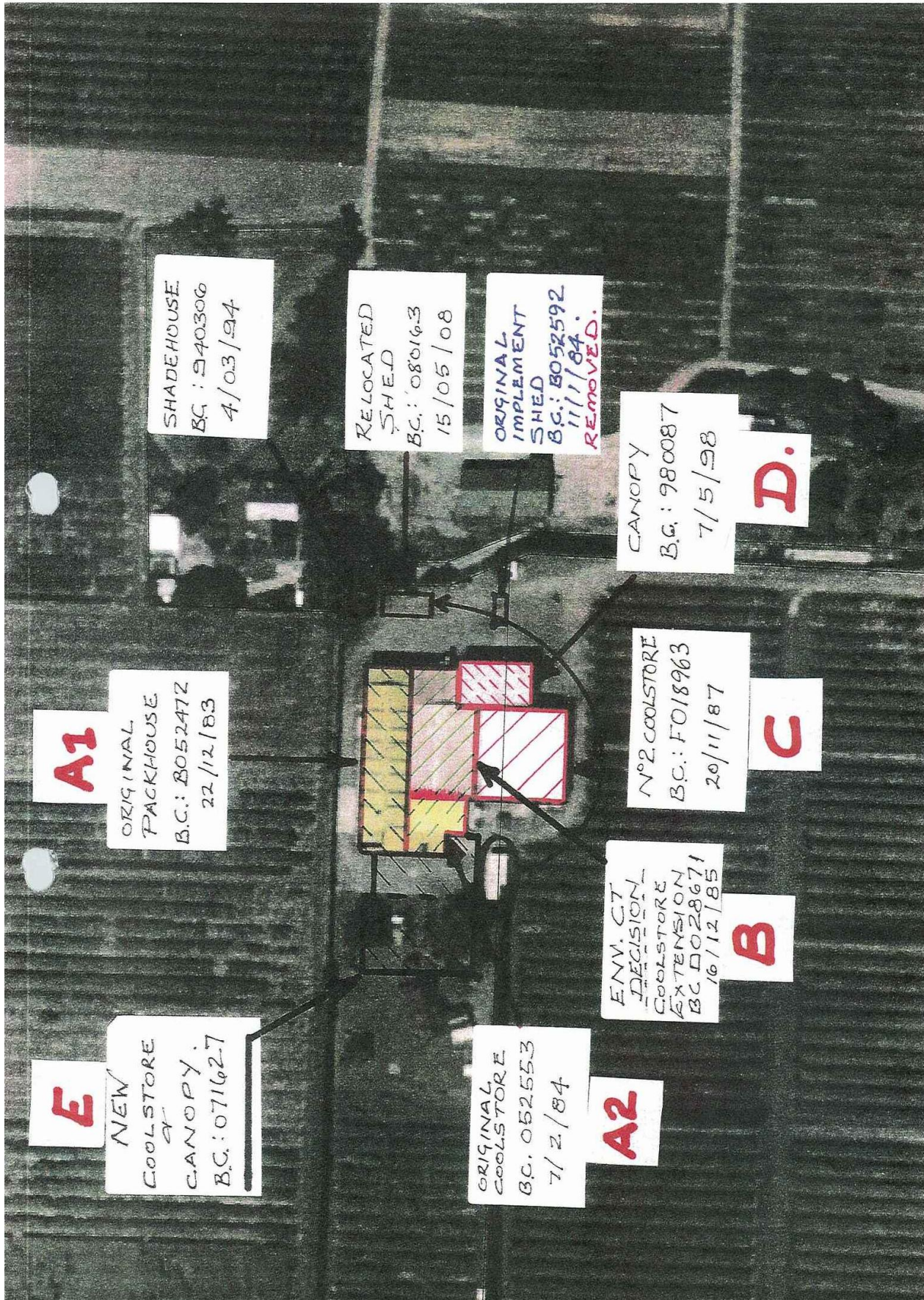
14. That pursuant to Section 128 of the Act, the Council may review any conditions of the consent for a period of twelve months from the date of issue and annually thereafter during the month of October each year for any of the following purposes:
  - a) to deal with any adverse effect on the environment which may arise from the exercise of the consent and which it is appropriate to deal with at a later stage;
  - or

- b) to deal with inaccuracies contained in the consent application that materially influenced the decision made on the application and are such that it is necessary to apply more appropriate conditions; or
- c) to assess the appropriateness of imposed compliance standards, monitoring regimes and monitoring frequencies and to alter these accordingly;
- d) to review the access conditions in the event of the permitted truck lengths on New Zealand roads being increased.

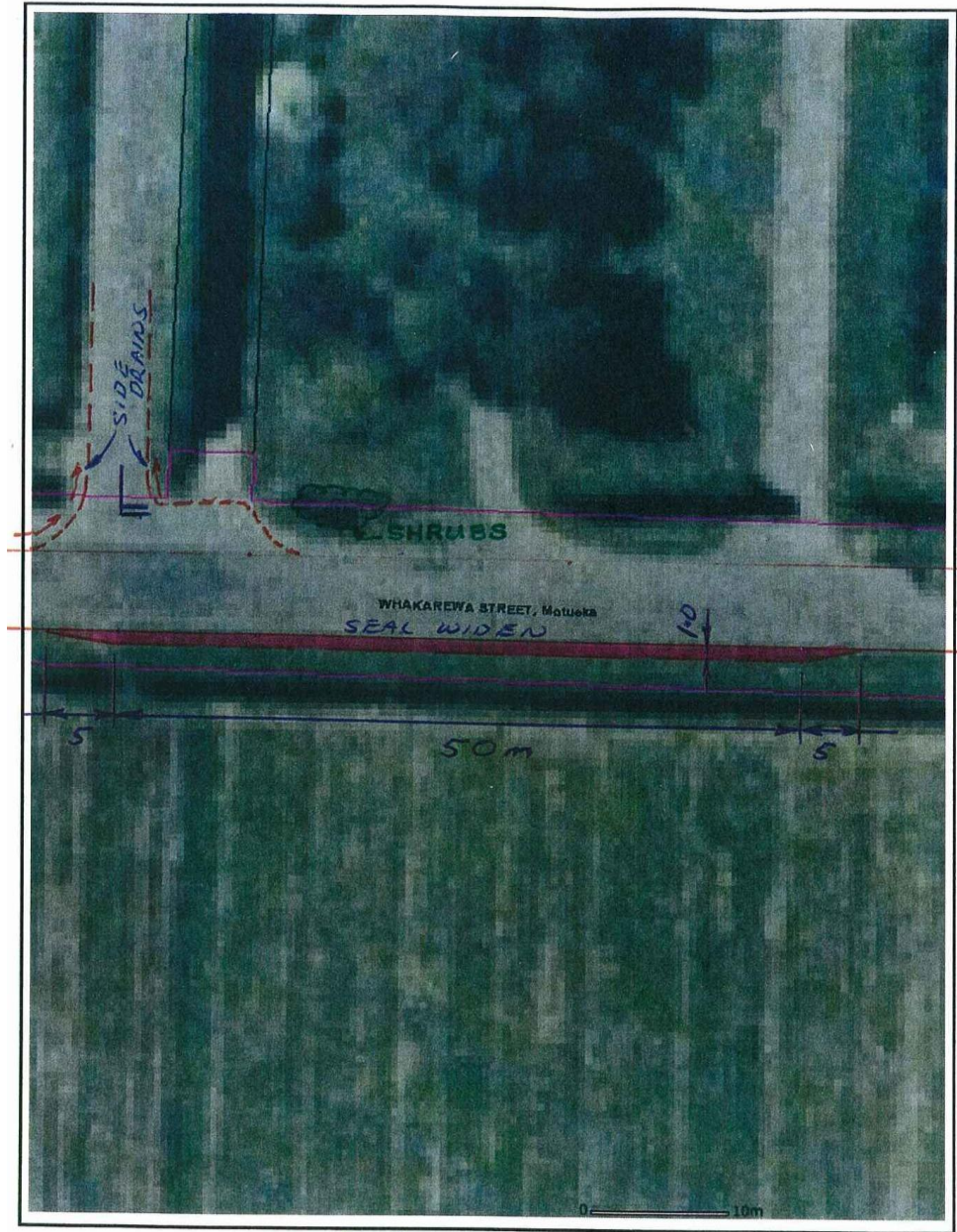
## **ADVICE NOTES**

1. The Consent Holder shall meet the requirements of Council with regard to all Building and Health Bylaws, Regulations and Acts.
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 Resource Management Act 1991; or
  3. the conditions of a separate resource consent which authorises that activity.
3. Monitoring of the consent is required under Section 35 of the Resource Management Act 1991 and a deposit fee is payable at this time. Should monitoring costs exceed this initial fee, Council will recover this additional amount from the resource consent holder. Costs are able to be minimised by consistently complying with conditions and thereby reducing the frequency of Council visits.
4. A number of the conditions of consent have been transferred from the original Planning Tribunal decision for this complex and some have been complied with already. Their inclusion is for completeness and to ensure ongoing compliance.

RM090063 – Ngātahi Horticulture Partnership  
 Plan "A" 23 October 2009



**RM090063 – Ngātahi Horticulture Partnership  
Plan “B” 23 October 2009**



**ExploreTasmanMap**

**16/9/2009 DISCLAIMER:**

This map is derived from ExploreTasman and has generally been compiled from data generated by and supplied to the TDC. It has no legal status and is known to be incomplete. To ascertain the exact location of any item, TDC advises that the customer arrange onsite verification. TDC will not be liable for any damages or loss whatsoever suffered from the use of this information. Cadastre sourced from Land Information New Zealand data. Crown Copyright reserved.

- side Drains to soak pit.
- - - Existing edge of seal.

**Date Confirmed:**

**Chair:**