

MINUTES

TITLE: Environment & Planning Subcommittee
Commissioner Hearing

DATE: Monday, 23 - Tuesday, 24 and Wednesday, 25 November 2009

TIME: 10.00 am

VENUE: Club Waimea, 345 Queen Street, Richmond

PRESENT: Mr D W Collins (Chair), Crs S G Bryant, R G Currie

IN ATTENDANCE: Consent Planner – Natural Resources (L Pigott), Consent Planner - Land Use (J Harley), Principal Resource Consents Advisor (J Butler), Executive Assistant (V M Gribble)

1. APPLICATION NO RM090538, RM090539 – GARDENS OF THE WORLD, CLOVER ROAD EAST, HOPE, RICHMOND

The application sought to establish and operate the following activities:

Land Use Consent RM090538

- A crematorium with an average of six cremations per week (Monday - Sunday) during the daytime;
- A place of religious assembly with seating for up to 25 persons;
- A ticket kiosk at the entrance to the gardens, selling tickets to the gardens and non-alcoholic refreshments, also incorporating a small office, will operate from 10.00 am to one hour before dusk, seven days a week;
- A memorial garden with access to the public between 9.00 am and dusk seven days a week.

The application includes development of associated buildings and car parking areas on the site.

Discharge Permit: Air Discharge from Crematorium RM090539

- To discharge the combustion products from a gas-fired crematorium to air.
- Normal operation should not create any visible smoke.
- Expected to result in no offensive or objectionable odour or particulate material at or beyond the boundary.
- Fired with LPG with a maximum energy input of approximately 586 kW.
- The stack will be at least 6.5 metres above ground and 1 metre above the roof of the chapel building.

The application site is located at 95 Clover Road East, Hope being legally described as Lot 1 DP 18219.

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

THAT pursuant to Section 104B of the Resource Management Act, the Commissioners GRANTS consent to Gardens of the World Ltd as detailed in the following report and decision.

Report and Decision of the Tasman District Council through an appointed Panel of Hearing Commissioners

**Hearing held at the Waimea Club on 23, 24 and 25 November 2009
Hearing closed on 8 April 2010**

A panel of commissioners ("the Panel") for the Tasman District Council ("the Council") was convened to hear the application for resource consents lodged by **Gardens of the World Ltd** ("the Applicant"), to establish and operate a crematorium and associated place of assembly, memorial garden and ticket kiosk; and to discharge combustion products from the crematorium to air. The application, made in accordance with the Resource Management Act 1991 ("the Act"), was lodged with the Council and referenced as RM090538 (establish and operate facilities) and RM090539 (discharge to air).

PRESENT:

Hearing Panel

Commissioner David Collins, Chair
Councillor Gordon Currie
Councillor Stuart Bryant

APPLICANT:

Mr Nigel McFadden (Counsel)
Mr Francis Day (Applicant)
Mr Geoff Etherington (Creator of the Gardens of the World)
Mr Eric Appleton (Nurseryman)
Mr Rod Baxendine (Registered Valuer)
Mr Richard Bennison (Farm Management Consultant)
Mr Rory Langbridge (Landscape Architect)
Mr John Iseli (Air Quality Consultant)
Mr Ron Pilgrim (Air Quality Consultant)
Mr Geoff McGregor (Transportation Consultant)
Mr Tony Quickfall (Consultant Planner)

CONSENT AUTHORITY:

Tasman District Council

Ms Jane Harley (Consent Planner, Land Use)
Mr Leif Pigott (Coordinator Natural Resources Consents)
Mr Andrew Burton (Resource Scientist, Land)
Mr Gary Clark (Transportation Engineer)

SUBMITTERS:

Mrs Diane Strong
Mrs Sue Higgins
Ms Angela Watt
Mr David Westley
Mr Victor Ellena
Mrs Ruby Aberhart QSM
Mr Alistair Ferguson
Ms Sally Gepp (Counsel for Living in Hope group)
Mrs Audrey Little
Mr Andrew Greenhough and Ms Jenny Wheeler
Mr Mike Brown (Chair of Hope School Board of Trustees)
Mrs Susan Little
(Mrs Little also read a statement from Mr and Mrs Tony and Anna Terrell)
Mr Conly Zimmerman
Mr Gary Marshall
Mr Malcolm Irvine
Ms Trina Zimmerman
(Ms Zimmerman also read a statement from Ms Jill Barr)
Ms Karen Hills
Mr Willy Raats
Dr John Barker (Viticultural witness)
Ms Marg Hobson
Mr Russel Aubrey
Mr Allan Brodie
Mr Siemon Pascoe
Mr Steve Richards

IN ATTENDANCE:

Mr Jeremy Butler (Principal Resource Consents Adviser) -
Assisting the Panel
Ms Valerie Gribble (Minutes Secretary)

1. SUMMARY

The Panel has **GRANTED** a resource consent to establish and operate a crematorium and associated place of assembly, memorial garden and ticket kiosk, subject to conditions. The Panel has also **GRANTED** a resource consent to discharge the combustion products from a gas-fired crematorium to air, subject to conditions.

2. DESCRIPTION OF THE PROPOSED ACTIVITY

The application is for land use consent (RM090538) to build and operate immediately adjacent to the existing Gardens of the World ("the Gardens") a crematorium; a place of non-denominational religious assembly (although presumably non-religious assembly would be allowed too) with seating for up to 25 persons; a ticketing kiosk; and associated parking, servicing and signage. A discharge permit is also sought (RM090539) to discharge contaminants to air from the crematorium, a term of 35 years is sought for this consent.

The subject site (Lot 1 DP 18219, CT 12A/1049C) is 3.84 hectares in area and located at 95 Clover Road East, Hope. Most of the subject site (to the northwest) has, through the 1990s, been developed into a small-scale tourist garden and it is known as "Gardens of the World". The site is open to the general public between the hours of 9.00 am and dusk and guided tours of the gardens are offered. The site contains extensive gardens and visitor car parking to the northwest, a large tunnel house and residential dwelling in the centre of the property, and a grapefruit orchard on the smaller (approximately 0.8 of a hectare) southeast portion of the property.

The proposal is to be largely located on the undeveloped south-eastern portion of the subject property and involves the building of a crematorium and chapel on this land as well as the development of a memorial garden. A separate driveway and parking for the chapel and crematorium would also be established independent of that for the Gardens. The only part of the development that is proposed on the existing Gardens is a 40 square metre ticket kiosk, although there may be changes to how the Gardens are used that are consequential upon the establishment of the crematorium and chapel.

In 2009 the Council heard an application for a proposal which was largely similar to this application. The most significant difference was that a reception centre and café was also proposed for the Gardens as part of the development. That application was declined by a previous Committee.

The site is screened from Paton Road and partially screened from Clover Road by mature planting, fencing and developed gardens. The property sits amidst a range of horticultural blocks, lifestyle blocks and smaller rural residential holdings.

A previous resource consent, P910069 ("the existing 1991 consent") exists for the site. The existing 1991 consent allows the tourist garden to be used for "weddings and other functions". The construction of a reception centre was part of the consent but was not given effect to within the necessary time frame. A copy of the existing consent is attached as Appendix 1 and the status of the existing consent is further discussed in this decision.

With regard to the proposed discharge to air, the application is as follows:

- The applicant has applied to run a crematorium, and expects to carry out approximately six cremations per week.
- The crematorium will be fuelled by LPG with a maximum fuel usage of 80 litres per hour. The rate of fuel consumption will result in an energy release not exceeding 586 kW.
- The discharge will occur via a stack that is at least 6.5 metres in height and it will be at least 1 metre above the roof. The discharge will be directly ventilated to air without any obstructions that may reduce the efflux velocity.
- The stack will be monitored to keep its opacity less than 15% to ensure that normal operation does not cause any visible emission of smoke.
- The applicant will minimise the solid metal and chlorinated plastics that are cremated.

The discharge will contain combustion products from LPG (most importantly PM₁₀ and NO₂) and the products of cremation (SO₂, HCl, dioxins, furans, and metals). The critical contaminants in terms of potential to cause adverse effects are SO₂, NO₂, PM₁₀, HCl, dioxins and furans and metals. Mercury is notable due to the volatilisation of the amalgam used for filling teeth.

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): Special Domestic Wastewater Disposal Area; Aquifer Protection Area

The application is considered to be a Discretionary Activity under the relevant rules of the Tasman Resource Management Plan as set out in the table below:

Activity	Relevant rules	Proposal	Status
Ticket kiosk, crematorium, chapel and onsite functions	17.5.2.1 (b) (vi), 17.5.2.2 - commercial activities are not permitted ;	Not permitted	Discretionary Activities Pursuant to 17.5.2.3
Discharge from Crematorium	36.3.10)(b)(x) - discharges from crematoria are listed as discretionary	Not permitted	Discretionary pursuant to 36.3.10
Building bulk and location	17.5.3.1 <ul style="list-style-type: none"> • 7.5m max height • 5 m boundary setback • Site coverage 5% or 2000m² max 	All buildings have been designed to comply	Permitted
Memorial gardens	17.5.2.1 - the activity of visiting the memorial gardens is not necessarily a commercial or community activity however the sale of a memorial plot and the memorial gardens function within the overall Gardens of the World Limited business is a commercial activity.	Not permitted	Discretionary Pursuant to 17.5.2.3
Wastewater discharge	36.1.5 (SDWDA) permitted if: <ul style="list-style-type: none"> • Max average weekly flow does not exceed 2000l/day • Not located within wastewater management Area • No effluent run-off to surface water 	Designed to comply	Permitted

Activity	Relevant rules	Proposal	Status
	<ul style="list-style-type: none"> • Minimum 1.5m from adjoining property and 20m from any domestic bore • Various other controls 		
Signs	16.1.5.1, 16.1.5.2 - One free standing sign per site, max 1m ² and no higher than 3m.	Second sign on one site that complies with height and size.	Restricted Discretionary Pursuant to 17.1.5.4
Access / Vehicle crossings	16.2..2.1 (q) - more than one crossing and; Figure 16.2A - Access standards (10m sealing required).	Two existing access ways; Sealing is proposed for the required 10 metres.	Permitted
Parking and loading	<p>Figure 16.2C onsite Parking spaces required:</p> <p>“Place of assembly” requires 1 park per four persons’ design capacity, the existing car park has capacity for 60 cars and 4 bus parks, which based on the calculation above could indicate a capacity for 240 persons by car (4 per car) and 160 persons by bus (approx 40 per bus). No maximum numbers re proposed for events within the application, to meet permitted activity parking requirements they would need to be less than or equal to the figures above.</p> <p><i>Place of religious assembly/ crematorium also uses the place of assembly calculation - proposed capacity of 25 people in the building therefore six spaces are required</i></p>	<p>Gardens of the world, and associated Kiosk:</p> <p>Car parking proposed at 60 spaces plus four bus or when bus bays aren’t used a total of 84 car parks are available.</p> <p>Place of religious assembly and memorial gardens - site plan shows 13 proposed parking spaces.</p>	<p>Permitted (if maximum onsite numbers meet the requirements of 16.2C)</p> <p>Permitted</p>

4. NOTIFICATION AND SUBMISSIONS RECEIVED

The application was notified on 12 September 2009, pursuant to Section 93 of the Act. A total of 220 submissions were received. There were 166 submissions that supported the application and 54 submissions that opposed the application. The following is a summary of the written submissions received and the main issues raised:

Submissions in Support (166)

The submissions in support have been received from a wide range of Nelson and Tasman residents and have a common theme of supporting such a facility within an established garden setting. These submissions have identified the proposed activities as:

- complimentary to and compatible with the existing environment;
- a logical extension of the existing Gardens of the World experience, providing peaceful and tranquil surroundings for grieving families;
- an opportunity to have the gardens retained and maintained for public enjoyment in conjunction with the memorial garden and crematorium facility;
- an asset to the overall community of Nelson and Tasman;
- an excellent utilisation of the fabulous park grounds for rural land that has been out of horticultural production for so long;
- a needed facility for an aging population by a reputable family; and
- an important opportunity for the gardens to be retained, providing a more aesthetically pleasing landscape than bare paddocks.

Submissions in Opposition (54)

The submissions in opposition are predominantly nearby residents who oppose on the basis of the potential adverse effects in relation to their properties, safety and overall amenity in this location. Of these effects the dominant and reoccurring issues can be summarised as follows:

- Traffic safety in relation to the surrounding road network and exacerbation of existing traffic issues;
- Parking demand not adequately catered for on site;
- Under-estimated traffic predictions presented by the application;
- Emissions from crematorium, and its effects on horticulture and health;
- Activity not compatible with the Rural 1 Zone environment;
- Loss of the site's productive potential and value;

- Activity incompatible with existing activities (both rural and rural residential);
- Stigma associated with a crematorium and its potential impact on property values and lifestyle;
- Precedent setting for further fragmentation and non rural land use;
- Opening the gates for larger commercial activity to follow.

5. EVIDENCE HEARD

We heard evidence from the applicant, expert witnesses, submitters, and the Council's reporting officers. The following is a summary of the evidence heard at the hearing. This summary focuses on the matters that we consider most in contention and pertinent to our task of making a decision.

5.1 Applicant's Evidence

Mr Nigel McFadden (Counsel)

Mr McFadden outlined the site and the components of the application. He made it clear that a café and reception/function centre is now not proposed. Sale of liquor is also not proposed.

Mr McFadden also said that there can be no challenge to the existing consent granted in 1991 for functions in the Gardens. He considered there to be no doubt that the existing consent had been given effect to and that it cannot be re-litigated.

Mr McFadden said that the existing consent is remarkably condition free. He said that there is no limit on the types of events and, arguably, more could happen under the existing consent in terms of effects than could occur in the event of a grant of the current applications.

Mr McFadden addressed the issue of land productivity and concluded that the TRMP allows other uses on Rural 1 land and that the site will remain productive.

Addressing the permitted baseline he said that the Rural 1 zone allows large buildings to be constructed as of right. He also said that the Court of Appeal has said that the environment includes the environment as it is or might be, as modified by the implementation of resource consents which have been granted. Existing resource consents must be considered within the permitted baseline.

Mr McFadden summarised the effects raised by submitters. He said that noise will be low as the 25 seated people will be quiet by the nature of the activity. There is no reason why any of the activities should lead to odour. There are likely to be no traffic effects as the only generation of traffic would be to the memorial garden and/or the chapel and the number of people who attend cremations are minimal. He considered there to be no jurisdiction or justification for imposing traffic management conditions on large events.

Mr McFadden considered there to be no relevant matters of national importance (Section 6 of the Act). He submitted that Section 7(b), (c), and (aa) are relevant.

Mr Francis Day (Applicant)

Mr Day stated that it was, and is, his family's intention to establish a crematorium in the Richmond area. Mr Day stated that he had considered the Residential Zone but as sections have got smaller it has become very difficult, although he did state that there are crematoriums in residential areas on Willis Street and in Kilbirnie in Wellington and in Blenheim.

He also considered the commercial areas of Richmond but considered them too busy and unsuitable. Therefore he commenced looking at the surrounding rural zones. Mr Day considered that the Gardens site "ticked all the boxes" in terms of desirability for the intended purpose.

Mr Day said the ticket kiosk will sell tickets and control the entrance. It will sell non-alcoholic drinks and cups of tea.

Mr Day explained that the site will become two parts. The front part (the existing gardens) will be largely unchanged albeit with the addition of the kiosk. The back area, with a separate entrance, will contain the chapel, crematorium, memorial gardens and associated car parking. The memorial gardens will be in a similar style to the existing gardens with a place where ashes can be buried (in containers) with memorial plaques.

Mr Day confirmed that no liquor licence is proposed for the site. He stated that weddings will cater for themselves in terms of alcohol.

Mr Day confirmed the hours of operation of the Gardens of the World and Memorial Gardens as being 9.00 am to dusk seven days per week. Cremations will be between 9.00 am and 6.00 pm with around six per week.

Mr Day expected the amount of traffic generated by the crematorium to be very low, and considered all other effects to be minor.

Cr Bryant asked about reverse sensitivity matters between the facility and the rural area. Mr Day did not consider there would be a problem. He did not think people would be worried by some rural noise and the gardens would be protected by dense planting around the boundaries.

Cr Bryant asked how the chapel will be limited to 25 people. Mr Day said it has been statistically shown that the number of people at a committal is down to a maximum of 25. He said that this does not apply to funerals. Funerals take place all over the district and that won't change. He said that if 30 people attend, then five would stand. He said there will be funerals at the gardens and then sometimes a few people will go to the crematorium.

Commissioner Collins asked if the crematorium would lead to more funerals in the gardens. Mr Day did not think so. He said they have funerals in Washbourn Gardens now and some people might choose Gardens of World over that.

Cr Bryant asked where the plaques and markings will be in the memorial gardens. Mr Day said there will be a variety of memorials with plantings. The whole area will be marked out to a plan and people will buy from a site plan and identify where sites are.

Mr Geoff Etherington (Creator of the Gardens of the World)

Mr Etherington outlined the development of the Gardens and the need for a resource consent for a café and to have functions.

Mr Etherington stated that he does not have the capacity to complete his dream of gardens with an associated café and hopes that it will be fulfilled by another owner. He considered that a crematorium and associated facilities is consistent with his dream and that he wholeheartedly supported the application.

Mr Etherington said that it is untrue that the site is frost free (as was suggested in the previous hearing). He said that the pond freezes over regularly in the winter.

Cr Bryant asked about the propagation of rare trees. Has that been done for a number of years and is it financially viable? Mr Etherington said that grapefruit were successful for a long time until American grapefruit came in.

Commissioner Collins asked about larger functions on the Gardens site. Mr Etherington said there were up to 25 weddings per year, and they also had a few farewell functions. He said there were a lot of bus tours, sometimes organised by the local A&P show. Mr Etherington said weddings were mainly in summer with up to three per day. Overall, Mr Etherington said that they usually have about 75 booked events per year.

Commissioner Collins asked how often did they have big functions with more than say 200 people. Mr Etherington said not often, but the recent farewell to the Bishop was a big one.

Commissioner Collins said he saw photos of cars outside. Why would they park outside? Mr Etherington said it is legal to park on the roadside and if people thought the carpark was full they parked on the roadside. He said that there would often still be plenty of room inside.

Mr Eric Appleton (Nurseryman)

Mr Appleton outlined the values of trees and said that we must be vigilant not to lose our tree species as has happened in other countries.

Mr Appleton said that his nursery collects seeds of all sorts of species throughout New Zealand and the Gardens is an important source as it has trees from practically every continent and many are rare in international terms. He said the retention of the arboretum at the Gardens is extremely important.

Cr Bryant asked the number of rare trees Mr Appleton collects seeds from at Gardens of the World. Mr Appleton collected 13 rare species and could have collected more, but the trees are still quite young. He could easily have collected from 50 species if he didn't have a source elsewhere.

Mr Rod Baxendine (Registered Valuer)

Mr Baxendine concluded from analysis of sale and resale data that houses near to the Wakapuaka crematorium and cemetery are not sold and resold more often than a sample of houses further away. He also said that there was no discernable lesser value in the houses close to the Wakapuaka crematorium.

In the case of the Motueka crematorium he similarly found no evidence of more resales of properties in close proximity. Similarly, he found no discernable impact on the value of the properties from the presence of the crematorium.

Mr Baxendine stated that the proposed cremator is well separated from other dwellings and he did not expect that there would be any adverse effect on property values.

Mr Baxendine reported on conversations with other Telfer Young valuation offices around the country, none of whom reported any effects on property values.

Cr Bryant asked if Mr Baxendine had looked at any crematoriums in rural zones. Mr Baxendine said that all analysis was done on crematoria in residential zones.

Mr Richard Bennison (Farm Management Consultant)

Mr Bennison described the soils as the most productive and versatile in the district, although they require applications of lime and fertiliser. He said that the site has enough water to irrigate 2.3 hectares and there will be no more water available.

Mr Bennison said that the site has been highly modified and re-contoured, including ponds that have been dug, pathways and raised gardens. Soils have been mixed and they are not in their natural state. This has limited the future productive potential of the land.

He said that it is productive in that trees do well and their seeds are sourced for nurseries.

Mr Bennison agreed with Mr Burton that it is unlikely that the land will be returned to an intensive productive use because of its value as a seed source and its developed value.

Mr Bennison disagreed that the land is protected from frosts. The Etheringtons have stated that the pond froze over regularly.

In summary, Mr Bennison considered that the addition of a small kiosk will not reduce the productivity of the existing gardens site. He also said that the development of the memorial gardens with seed source trees will increase that block's productivity. The construction of the cremator and chapel will reduce the productivity of the soils on the site but that much of this could be done as a permitted activity anyway.

Cr Bryant asked if more water was to become available would Mr Bennison's view change. Mr Bennison said that water is only one factor and it is a small property which is difficult to sustainably develop. If more water became available you could extend its use but it would not materially change the nature of the property.

Cr Bryant asked if Mr Bennison sees any opportunities to amalgamate the grapefruit area (where memorial garden is intended to go) with another productive title. Mr Bennison replied that the option is always available but it would require a neighbour who would want to buy and the owner who would want to sell. Transfer of land by boundary adjustment happens sporadically.

Mr Rory Langbridge (Landscape Architect)

Mr Langbridge discussed the concept plan for the site. He said that the principles that have been applied to the design are to carry through the tranquil nature of the gardens, to use water within the extended landscape, to extend the theme of the Gardens of the World to the memorial gardens, and to continue to inwardly focus the design.

Mr Langbridge considered the site to be visually isolated from its surroundings through the use of shelterbelts and plantings. He said that the view from the south east is very treed. As a result the site has a high absorption capacity; it can absorb development with little impact. He said that the proposed crematorium will be well back from the road and there will only be limited visibility of the structure from elevated houses nearby. This visibility will reduce over time.

Mr Langbridge discussed the hedge on the northern boundary of the site which has been removed. A new hedge has been planted along this boundary.

Overall, Mr Langbridge considered that the proposed development will complement the existing environment and any impact on the amenity of the area will be less than minor. With regard to rural character he considered that the Gardens already contribute to the character of the area and the proposal will not change that to any more than a minor degree.

Cr Bryant asked about the makeup of the memorial gardens. Mr Langbridge said the intention is for new gardens to appear as an extension to the existing gardens with larger, intermediate and smaller trees. He said that Mr Etherington will be retained as a consultant and the extension will include nut trees, seed sources, regional, climate-based groupings, walnuts, chestnuts, almonds etc with focus on providing variety and productivity.

Cr Bryant asked if he saw it as being screening for the crematorium. Mr Langbridge said that the trees will not be particularly effective at screening but the hedging will be there for that purpose.

Cr Currie asked if the colours of buildings will blend into the background. Mr Langbridge considered that they would be compatible.

Commissioner Collins noted that even a glimpse of the crematorium would be a constant reminder for people not wanting it there, and that although it would not be seen from houses on the same level as the terrace, elevated properties would see it but from a greater distance (300 to 400 metres), and asked for comment. Mr Langbridge agreed it could be an irritation factor. He considered that trees will provide some screening, but that views from elevated positions will occur. He said that they can use strategically placed large trees where needed. Mr Langbridge said that within five years the building would be reasonably well screened. Mr Etherington

said that the cyprus hedge would take three to five years to provide effective screening and will be trimmed at 6 metres high.

Mr John Iseli (Air Quality Consultant)

Mr Iseli described the proposed cremation unit (a Power-Pak II or PPII) as a modern advanced unit designed for use in sensitive areas.

Mr Iseli described the contaminants discharged as being similar to those discharged from typical fuels in domestic, commercial and industrial combustion. He considered that discharges from the stack of carbon monoxide and particulates (smoke) are significantly less than from burning commonly used solid fuels in conventional boilers or furnaces.

With regard to potential adverse effects he stated that the relevant contaminants are PM₁₀, dioxins (including furans), metals (primarily mercury), SO₂, NO₂ and HCl.

Mr Iseli discussed the amount of mercury discharged. He settled on a conservative (i.e. maximum) figure of 2.1 grams per cremation.

Mr Iseli described the results of contaminant dispersion modelling undertaken. He stated that maximum concentrations of contaminants will occur within 30 metres of the chapel (i.e. mainly within the subject site but a small way into Mr Greenhough's property to the north) and decline rapidly with distance. He presented the maximum predicted ground level concentrations (GLCs) for each contaminant at the boundary.

With regard to PM₁₀ emissions, he stated that levels will be very low and will be less than from a single open fire or an old-style woodburner.

With regard to mercury emissions, Mr Iseli stated that maximum predicted GLCs at the property boundary are less than 0.5% of the NZ Ambient Air Quality Guideline for inorganic mercury, and at the nearest dwellings the concentrations are predicted to be less than 0.25% of the guideline. The background concentrations are small.

As elemental mercury is insoluble raindrops are not good sinks and dry deposition is the most significant deposition mechanism. He stated that research has found that soils retain only 0.05% of the likely total mercury emission. He stated that tests have shown that there are only small concentrations of mercury in soils around the Motueka crematorium.

Mr Iseli stated that a conservative guideline level of 1.0 mg/kg has been applied to some residential areas in New Zealand. He stated that the background concentration at the Gardens site is 0.06 mg/kg and that any increase beyond the property boundary will be very small over the next 35 years.

Mr Iseli reported research on the effects of mercury discharges on concentrations in vegetation. The reported changes showed a negligible impact on vegetation concentrations. Specifically on berries, five out of six samples showed concentrations below the limit of detection (0.005 mg/kg) and the sixth returned a concentration of 0.006 mg/kg. He said that the stringent BioGro Organic standard is 0.01 mg/kg which is a default value as no limit has been specified. He considered that the BioGro status of Mr Greenhough's property would not be affected.

Mr Iseli quoted research which concluded that the potential public exposure to mercury through foodstuffs is almost certainly indistinguishable from the existing background concentrations in the diet.

He considered there would be no detectable mercury contamination effect on water supplies.

Mr Iseli stated that measures to control mercury emissions from cremators have not been required in New Zealand as mercury is not considered of concern and the cremators are small by international standards. Immobilisation of mercury by the addition of selenium under reducing conditions is not appropriate as mercuric selenide is highly toxic and under oxidising conditions the contaminants would be mainly vapourised and emitted. Therefore, he considered that selenium filters and capsules would not be feasible or necessary for the proposed cremator.

Mr Iseli also stated that the discharge from the Fonterra plant caused by the consented burning of coal would equate, in mercury discharge terms, to about a cremation every two to three days.

With regard to SO₂ and NO₂ the concentrations are predicted to be within 5% of the respective National Environmental Standard values, with background values small. Therefore no adverse effects are expected.

Mr Iseli stated that brief smoke discharges can occur as a result of mechanical or electronic systems, or during the cremation of "obese cases". Special procedures are required for the latter.

Mr Iseli concluded that mercury concentrations in soil at the property boundary will be very small and within the range of background concentrations measured in New Zealand. He stated that bio-accumulation in the food chain, in waterways and water supplies will be negligible.

Mr Iseli considered that the recommended soil monitoring is not necessary, but is accepted and volunteered by the applicant should the consent be granted.

Mr Iseli did not consider it necessary to limit the number of cremations. He said the modelling assumed 365 cremations per year and concentrations of all contaminants are much less than the guidelines. He said at 300 cremations per year it would take about 470 years to get to a soil concentration of 1mg/kg which is the trigger level for investigation. The evidence is clear that for discharge of this scale mercury is not an issue for adverse effects during the term of consent (35 years).

Mr Iseli said that because the stacks are low compared with the building dispersion of discharge is brought down to ground level. Highest concentrations occurred within the property.

Cr Currie asked if there would be a printout facility for number of cremations, and whether the relevant details would be available. Mr Day said they are stored on disc and can be audited by the Ministry of Health and they can audit the crematorium at any time.

Mr Ron Pilgrim (Air Quality Consultant)

Mr Pilgrim stated that he agreed with Mr Iseli's assessment of the effects of the discharge. He stated that there is no doubt in his mind that the effects of the mercury emissions on the soil will be negligible.

With respect to the effects on horticultural produce he considered the research done by Wood (referenced in Mr Iseli's evidence) is very comprehensive. However he did acknowledge that the research did not include grapes. Mr Pilgrim expressed reservations about the very conservative BioGro standard. He stated that he has found very little information about mercury levels in wine and none about grapes. He is not aware of any region of the world where mercury is a significant contaminant in respect to viticulture.

In conclusion, he stated that 15 Matthews cremators, including five of the proposed models, are operating in New Zealand without nuisance or complaint.

He agreed with Mr Iseli that while monitoring is not necessary, the soil monitoring proposal set out in paragraph 11.4 of Mr Iseli's evidence would be suitable.

Cr Bryant asked if it is more likely that mercury would be taken up by leaves or roots. Mr Pilgrim said it depends on climatic factors and the type of soil. He said mercury will absorb into leafy parts of vegetation but the research by Wood found there would be uptake by all plant parts.

Commissioner Collins asked if monitoring the soil within site would be appropriate. Mr Pilgrim agreed that monitoring the soil is a good indicator.

Mr Geoff McGregor (Transportation Consultant)

Mr McGregor stated that he had been advised that the existing Gardens operation is legally authorised and, therefore, he limited his evidence to the effects of the new facilities (kiosk, crematorium and memorial gardens).

Mr McGregor stated that the TRMP requires that seven spaces are required and 13 will be provided, plus some additional open space areas, to serve the crematorium. He considered that this number of parks would be suitable based on an assumed 2.5 people per car.

With regard to the kiosk in the Gardens themselves he considered that it would be unlikely to create any noticeable parking demand in and of itself. It will require at least an additional staff member but this will be accommodated in the existing Gardens carpark.

In terms of traffic generation he anticipated that a maximum of 32 trips per day would be generated, as often there are few or no people attending a cremation. He considered that both Paton and Clover Road East have sufficient geometric capacity to cater for higher flows. Overall he considered the traffic related effects to be "insignificant".

Cr Bryant asked about the safety of the entrance from the crematorium, especially looking to the east along Clover Road. Mr McGregor said it conforms to minimum sight distance standards and given the low volumes and no reported accidents he did not consider the entrance to be unsafe.

Cr Currie asked if the applicant had considered amalgamating the two accesses. Mr McGregor said that the accesses conform to the appropriate standards and he has not looked at amalgamating the accesses.

Commissioner Collins asked about having parking marshals for big events. Mr McGregor said that it would be desirable to encourage use of the carpark and discourage on-street parking.

Mr Tony Quickfall (Consultant Planner)

Mr Quickfall confirmed his opinion that the existing 1991 resource consent has been given effect to pursuant to Section 125 of the Act. He considered that all events such as weddings and funerals are consented and controlled by the existing consent. No restriction of that consent can occur as a result of this application. Further, he did not consider that the conditions recommended by Ms Harley that pertained to events were within vires.

Mr Quickfall considered that the area already has a building density which is more representative of a Rural Residential Zone.

Mr Quickfall stated that many submissions in opposition appear to be based on an emotional response rather than a rational effects-based response. He attached a copy of a flyer that was circulated in the public which, he stated, misrepresents the proposal and contained inaccurate information.

With regard to the matters raised in submissions which can legitimately be considered under Section 104, Mr Quickfall stated that many of the effects are within the permitted baseline. Buildings can be constructed as a permitted activity and noises can be emitted. He stated that there is no requirement for planting or screening. Buildings like the crematorium, chapel and kiosk buildings could be constructed as permitted buildings if they were for other uses. The discharge will be no greater than domestic woodburners which are permitted under the relevant National Environment Standard and the TRMP.

Mr Quickfall then identified the core effects as being noise, visual amenity, traffic, land productivity and fragmentation and the discharge to air. He did not consider any of these effects to be more than minor.

Mr Quickfall also outlined the positive effects that will result from the proposal, principally for the community.

Overall, Mr Quickfall considered the proposal to be consistent with the relevant Objectives and Policies in the Regional Policy Statement and he agreed with Ms Harley that it is consistent with Chapters 5, 7, 11, and 33 of the Tasman Resource Management Plan.

Mr Quickfall agreed with Ms Harley that the site, whilst not natural, is an outstanding local landscape and some weight should be given to this under Section 6(b). He also considered Sections 6(g) and 7(a) to be relevant.

Commissioner Collins asked if he would expect there to be more gatherings of people in the Gardens because of this new facility. He noted that it would seem convenient to have a funeral closer to the crematorium. Mr Quickfall agreed and said it could be expected that families at committal would also enjoy the gardens.

Commissioner Collins said that an issue is that there will possibly be more big events with significant traffic effects as a result of this proposal, but the Commissioners cannot impose conditions on the existing consent. He said that the parking layout is an exception because a revised parking layout had been presented as part of this application.

Cr Currie noted that it will be difficult to separate the cars parking under the original consent and those parking as a result of the new consent.

5.2 Submitters Evidence

Mrs Diane Strong

Ms Strong said that she is a celebrant and supports this proposal. She said that the gardens are in a beautiful rural setting and are a natural place to be used to farewell loved ones. She considered that it would be a travesty to undermine the potential of having these gardens extended.

Mrs Sue Higgins

Mrs Higgins spoke in support of the application. She said that the gardens are enjoyed by many people and she hopes that this will continue. She considered the crematorium to be well placed and of low visibility.

Overall, she considered that the applicant has a proven track record and the development is a well planned investment in the region's future.

Ms Angela Watt

Mrs Watt spoke in support of the application.

Mr David Westley

Mr Westley said that the proposal is a good use of the asset that is the Gardens. He did not consider that the crematorium would take away the pleasures of the Gardens.

Mr Westley said that he has been to the Gardens many times and wondered why he cannot buy a cup of tea or an ice cream.

He confirmed that he supports the application.

Mr Victor Ellena

Mr Ellena said that death and dying seem to be the final taboo in our society and in the west we have an unhealthy tendency to euphemise it or sweep it out of sight in case we are reminded of our own mortality. He considered that here the applicant is attempting to develop a gift to the community that should be embraced and celebrated.

He referred to other crematoria with attractive grounds and recounted how the locals accepted them. He said that there was never obvious smoke and no inconvenience to society carrying on around. He considered that a suggestion of a detrimental impact to the surrounding area to be a fairytale.

Mrs Ruby Aberhart QSM

Ms Aberhart said that it is a privilege to have the Day family offer the Gardens as a venue. She considered it to be a very fitting location and she expressed her support for the application.

Mr Alistair Ferguson

Mr Ferguson spoke in support of the application. He is a qualified undertaker with 30 years experience and is an employee of the Days. He noted that there have been "*huge changes*" in the types of and venues for funerals.

Cr Bryant asked whether cremations from Richmond are currently carried out in Nelson or Motueka. Mr Ferguson said families have the option of either. The majority of them undertaken by the company take place in Motueka.

Cr Currie asked how often would there be in excess of 25 people at a cremation. Mr Ferguson said there were generally fewer than 25 and it is rare these days for people to hold the committal at the crematorium. He said 80% of funeral goers would stay for refreshments after the service and that becomes an integral part of the funeral celebration.

Ms Sally Gepp (Counsel for Living in Hope group)

Ms Gepp submitted that an additional consent is needed to hold events on the site, that the applicant requires an additional consent to take water, and that the adverse effects are more than minor and the proposal is contrary to the objectives and policies of the TRMP.

Ms Gepp stated that giving effect to the previous consent required the construction of the function centre. This was not done and therefore the consent lapsed. She stated that the consent cannot be split up into pieces with one part (events) being given effect to and the other part (the function centre) not. Further, she said that the wording of the consent means that functions could not be held without the function centre. She said that if we (the Commissioners) grant this consent then the applicant will need to apply for another to continue with functions.

Ms Gepp considered that the applicant needs to apply for a water permit to use water for commercial purposes.

Ms Gepp did not accept that the effects would be as suggested by Ms Harley and Mr Quickfall. She considered that commercial funeral services and burial of ashes are not permitted, as opposed to these activities occurring in a non-commercial fashion. She also stated that noise may be greater than what the TRMP permits.

With regard to land productivity she stated that other more productive uses are available for the land. She also submitted that reverse-sensitivity is an issue - the proposed activities may restrict the farming activities of neighbours.

With regard to noise, Ms Gepp stated that Ms Zimmerman, who lives across the road, is affected by noise from events already. The proposal will increase the regularity of this noise.

She considered it unlikely that the applicant will be able to restrict vehicles to the parking areas and this will cause adverse effects on the road side. She said that there are many other problems with the parking and traffic.

Ms Gepp addressed Part 2 of the Act matters. She said that Section 6(b) is not relevant as outstanding natural landscapes must be more than beautiful or picturesque as demonstrated by case law. With regard to Section 7(b) the land is productive rural land and the proposal would discharge emissions over it and take water from it. She said that this is not efficient. This argument is also relevant to Section 7(g) in relation to finite resources. The proposal will seriously compromise the amenity values which are a matter under Section 7(c).

Ms Gepp then turned to Objective 7.2.2 of the TRMP. She considered that this objective does not apply in this case as commercial activities are not anticipated and such activities are further not supported on Rural 1 land.

Mrs Audrey Little

Mrs Little stated that she is concerned about toxic emissions from the proposal and how they may affect health and organic food production.

She said that the roads are used by many people for various types of recreation and that traffic will be dangerous. She considered that there are other more suitable places for such a facility.

Mr Andrew Greenhough and Ms Jenny Wheeler

Mr Greenhough owns a vineyard next to the proposal and they are in the three year process of gaining organic certification. To maintain this licence he is audited each year. His vineyard is on some of the best viticultural land in the region.

Mr Greenhough supported the retention of productive Rural 1 zoned land for productive purposes. He was concerned at Mr Burton's assessment that the productive section of the property (currently in grapefruit) could be permanently made unproductive by the crematorium and memorial garden. He considered that the proposal would fragment the land.

Mr Greenhough stated that he saw potential value to his business in the purchase of the Gardens site; however the timing was not right. He has expanded from four to 11 hectares and has considered expanding further. Therefore the land could be used productively, but if the consent is granted this opportunity would be lost.

Mr Greenhough considered reverse sensitivity effects to be a considerable risk. He said that the applicant seeks to offer a peaceful, tranquil setting for their clients, and that this is inconsistent with the working rural environment that will include spraying, vine trimming, mowing, mulching, bird scaring and mechanical harvesting. These activities will conflict with the applicant's activities.

His livelihood is threatened by this proposal due to the cross-boundary effects. He stated that outside perception in the wine industry is extremely important. Widespread knowledge of the existence of the crematorium would occur and would detrimentally affect that perception.

Mr Greenhough stated that cross-boundary contamination is always a problem. BioGro (his organic certifier) maintains very high standards. Contaminant testing of the fruit may become necessary should the proposal go ahead.

Mr Greenhough was also concerned about noise and rural character. The noise will not be rural but will be human. People congregate in car parks and they speak and laugh loudly.

Mr Greenhough considered the estimation of a 20% increase in traffic from current levels to be farcical given the scope of the proposal. Any number of events could occur overlapping with funerals and cremations.

Mr Greenhough quoted the BioGro organic standards which stated that the maximum permissible level of pesticide residues in food products is 10% of the concentration permitted in the relevant regulations. For mercury this would be 0.01 mg/kg. In soils the limit is 1 mg/kg. The potential effects of chemicals come from air, water and soil contamination, but also from residue settling directly onto the crop.

Dr John Barker (Viticultural witness)

Dr Barker introduced himself as the Manager Policy and Membership at New Zealand Winegrowers which is the national body representing New Zealand growers and winemakers.

Dr Barker outlined how important the wine industry is in New Zealand and said that New Zealand positions itself as a premium producer of high quality. He said that the industry and government has implemented a world-leading regulatory system for wine.

Dr Barker described serious concerns about mercury making its way into wine. He said that in the absence of specific limits we should look at limits in drinking water which are much lower than the BioGro standard specified.

Dr Barker said that in the event of contamination of wine there are significant regulatory consequences which would reduce the value of winegrowing and potentially the industry in New Zealand.

Over and above the regulatory consequences he said that there would be implications for the image of winegrowing as there is growing concern over food purity and health. He said that premium wine is associated with where it is made. Juxtapositioning wine with images of sadness and grief and also perceived contamination is not desirable as premium wine is a luxury and consumers could easily go elsewhere.

Cr Bryant asked how people internationally will know there is a crematorium nearby the Greenhough vineyard. Dr Barker said there is a huge media interest around the world about wine. People are looking for stories and they come to wine regions. He said that a crematorium next to a vineyard is a story.

Cr Bryant suggested that may be so initially, but after a settling in period it would not be reported. Cr Barker said that people look for a new angle from the norm.

Cr Currie asked if any New Zealand wine has been rejected on the international market because of any specific reason. Dr Barker said that there was a shipment that went to Germany last year that had a level of copper that was legal in New Zealand but not legal in the European Union.

Commissioner Collins noted that there are nuclear power stations are all down the River Rhone in France and asked if that had any effect of public perception of the Cote de Rhone wine region. Dr Barker responded that it may have an effect; it's about the amenity value of the landscape.

Cr Bryant asked if Dr Barker was aware of anywhere in the world where they test for mercury. Dr Barker said he had looked but had not found anything.

Mr Mike Brown (Chair of Hope School Board of Trustees)

Mr Brown stated that the Board of Trustees' chief objection to the proposal is the traffic implications for the school. He said that Paton Road has a "tragic history". The school is a busy place in the mornings and afternoons and these times will likely coincide with busy times for the funerals and events at the Gardens.

Mr Brown sought electronic signage for the school to reduce traffic speed at times.

Mr Brown also stated that the Board is concerned about the issue of mercury discharge.

Mr Brown recommended a range of conditions on the road and road users that should be imposed in the event that the application is granted.

Mr and Mrs A and T Terrell

The Terrell's described the road as dangerous and recounted an occasion where a large number of vehicles were parked outside the subject site.

They said that the intersection beside the site is dangerous and also consider that it is dangerous down at the school.

Mrs Susan Little

Ms Little said that the roads around the site are well used for cycling and other activities.

She also said that the site has high productive values with little or no frosts and fertile soils. She said it will be forever lost from production if the proposed development proceeds.

She was concerned about the discharge of toxins. She considered that the amount of mercury discharge has been underestimated.

Mrs Little also said that the reverse effects on farmers using machinery would be a factor.

Overall, she opposed the granting of consents.

Mr Conly Zimmerman

Mr Zimmerman identified the site as highly valuable for horticulture due to low frost levels. The Council has guarded Rural 1 land jealously and does not allow fragmentation of the resource. Most applications which may result in fragmentation are declined. Mr Zimmerman considered activities other than subdivisions as potentially fragmenting land. He believed it could be easily achieved and a real possibility.

Mr Zimmerman considered the proposal to be inconsistent with the area and with unknown effects. He considered the effects on the exports from the area could be adversely affected.

Mr Gary Marshall

Mr Marshall stated that he is concerned about his children using the road due to the traffic and considers that there will be more caused by the proposal. He also thought that the parking situation would not be manageable.

Mr Marshall considered that the effects on the amenity through noise would be significant.

He said that as the land is zoned Rural 1 it should not be used for the proposed purpose. He disagreed with Mr Burton that the potential of the land had been reduced by the earthworks that had been undertaken.

Mr Marshall considered it unacceptable that there should be trespass of chemical residues onto Mr Greenhough's land. He pointed to the lack of evidence and certainty about the effects of mercury discharge on grapes. He also pointed out that best practice in the UK is to fit abatement technology to minimise discharges.

Mr Malcolm Irvine

Mr Irvine said that the burying of ashes, the asphalt and contamination by mercury will preclude the land from ever being used productively again.

He also believed that there will be a significant increase in traffic from the new facilities.

Ms Jill Barr (statement read by Ms Zimmerman)

Ms Barr considered the roading environment to be very dangerous. She said that substantial crowds will use the facilities, creating more traffic.

She considered that human health, agriculture, viticulture, horticulture and aquaculture will be affected by mercury discharges, particularly through settling directly on leaves and crops.

Ms Trina Zimmerman

Ms Zimmerman lives directly over the road from the existing Gardens. She explained how the activities there are incompatible with her rural lifestyle. She considered it to be a classic case of reverse sensitivity.

She said that the visibility of the stack and discharge from her house and particularly her childrens' bedrooms would be distressing.

She said that the noise created by night time events would keep her children awake, particularly late at night when vehicles leave.

Ms Zimmerman expressed concern about what may happen in the future.

She expressed concern that the applicant has not addressed the water situation and this may compromise her access to water as they use the same bore.

With regard to events she was concerned about a recommendation from Ms Harley for 10 events per week and said that this could mean a large number of late concerts.

She sought that the application be declined.

Commissioner Collins noted there is a legal issue about whether there is a consent in place for functions and the Panel will need to come to a view on that. He said that the applicant has not asked for consent for functions because the applicant considers they are already permitted. If functions are not already permitted the Panel cannot grant consent for them because they are not part of the present application. He asked if there would be a problem from the level of traffic the applicant says will arise from use of the chapel. Ms Zimmerman said it is a problem because any more traffic will add to the intensity of traffic around the site.

Cr Bryant asked about traffic exiting the carpark. Do car lights shine into your residence? Ms Zimmerman said the lights do shine into her home when cars turn to go west along Clover Road East.

Cr Bryant questioned the water take arrangement from the bore. Mr McFadden said there are two permits, one held by Ms Zimmerman and one by Gardens of the World. There is an easement which permits only the conveyancing of water.

Ms Karen Hills

Ms Hills stated that they have only recently bought their property and they are concerned about this application.

Ms Hills stated that she is worried about health problems arising from the discharge from the crematorium.

She was also concerned about the increase in vehicles at the site.

Mr Willy Raats

Mr Raats stated that he was concerned about the change in character to a commercial environment as well as the noise resulting from the proposal. He is also concerned about the discharge of contaminants to air.

Finally, he believed that the increase in traffic has been "seriously downplayed". He considered the risk to cyclists in particular to be very high.

Ms Marg Hobson

Ms Hobson considered that the proposal will cause significant intrusion through night time events. She did not consider that there are currently 25 events per year. She said that during events there are many cars on the road side and produced photographs of such events.

She also expressed concern about the effects on productivity of the land and the effects of mercury emissions.

Mr Russel Aubrey

Mr Aubrey considered that the proposal is inconsistent with the objectives and policies of the TRMP, particularly Objective 7.1.2.

Mr Aubrey considered that the proposal will permanently remove potentially productive land. The subdivisions that Mr Etherington has already undertaken have already done damage to the productivity of the land. He stated that there are many instances where less than 3.8 hectares is used productively. The proposed buildings will fragment the land. He considered that the productivity of the site for crops could be regained and that the current existence of the gardens would be no impediment to that.

Due to the wording of the original resource consent, Mr Aubrey did not consider that effect had been given to the consent as the functions depend on the reception centre being built.

Mr Aubrey considered the effect of traffic to be unknown as it is impossible to limit numbers that may attend a memorial service and it is unlikely that wedding numbers could be enforced. Mr Aubrey confirmed his understanding that the roads (Paton and Clover) do not meet the relevant Engineering Standards.

Mr Aubrey considered that rural character will be adversely affected, especially outside working hours which is when such facilities get maximum use.

Mr Aubrey was also concerned about the mercury discharge.

Mr Allan Brodie

Mr Brodie considered the use of the productive Rural 1 land to be inappropriate. He said that standards governing contamination of soil and crops change and the application should be declined to avoid the risk of contamination.

He said that the road is dangerous and increased traffic will increase risks.

Mr Simon Pascoe

Mr Pascoe said that he has recently been diagnosed with mercury poisoning and he lives 1 km downwind of the Gardens site. He stated that he has a genotype that is vulnerable to mercury; he is less able to remove it from his body. He said that he has had his amalgam fillings removed and has to take other drugs to remove the mercury. He said that he does not want any extra mercury put in to the atmosphere anywhere near where he lives.

Mr Pascoe said that the application should be rejected or else conditions imposed so that mercury discharge is avoided (mercury abatement technology or removal of amalgam fillings prior to cremation).

Mr Steve Richards

Mr Richards presented an aerial plan showing the extent of local opposition to the proposal. The property is in a very prominent location within the community.

Mr Richards considered that the proposal is an excess of commercial activity and will adversely affect the rural character of the immediate area through noise, discharges and vehicle movements. The proposal is not complementary with the surrounding land uses. Cemeteries in the district should be considered as alternative sites for cremation services.

Mr Richards was concerned that the ponds that are proposed near the crematorium discharge will leak and deliver mercury to the aquifer which is the drinking water supply for the area.

Mr Richards considered the increase in traffic to be dangerous and unacceptable.

He considered that there is very little certainty in the effects that have been identified by the applicant's witnesses. He said that the placement of new buildings and the creation of the memorial garden will severely limit the ability of the land to be used productively.

5.3 Council's Reporting Officer's Report and Evidence

Ms Jane Harley (Consent Planner, Land Use)

Ms Harley reviewed the application and evidence. She qualified her recommendation for a weekly limit of ten events by saying that there should also be a yearly limit of maybe 50 events.

Cr Bryant asked if Ms Harley had changed her mind about loss of Rural 1 land. Ms Harley said she has not changed her mind and Mr Burton would address that matter further.

Commissioner Collins said the evidence from submitters is that they are worried about big events and night events, rather than the numbers of events. He observed that there seems to be surprise amongst submitters that there are 75 events per year as stated by Mr Etherington. Ms Harley said it's a matter of having certainty for people living nearby as to frequency of events. There is an expectation that the Gardens will be closed at dusk. You could single out the evening events. If larger events occur, then the traffic management plan needs to be reviewed.

Commissioner Collins asked how you would deal with vehicle numbers for funerals. Ms Harley said there are ways through conditions and monitoring to address the concerns.

Commissioner Collins said a lot of submitters have said this is against the TRMP and asked how well Ms Harley sees it fitting within the TRMP. Ms Harley said this site has the ability to absorb the impacts that other sites may not. There is no appropriate or designated zone for crematoriums, they are considered on a case by case basis.

Mr Leif Pigott (Coordinator Natural Resources Consents)

Mr Pigott confirmed that he was satisfied with the quality of the discharge from the crematorium. He was satisfied that the monitoring and efficiency measures built into the technology will ensure that it operates as expected.

With regard to the effects on grapes, Mr Pigott conceded that he does not know exactly how it will effect them. However he would expect the concentrations to be very low (as stated by Mr Iseli and Mr Pilgrim). He also said that any mercury that does end up entering the wine-making process will probably be separated out with the fines as it is likely to be insoluble in the acidic environment.

Mr Pigott stated that under the TRMP the wastewater would need to be treated to a high level (secondary standard) and that this would be checked when the building consent is applied for. Wastewater systems can be designed to cope with any number of people. Secondary treated wastewater will not affect the groundwater as there is a vertical separation distance of 20 metres of gravels.

Mr Andrew Burton (Resource Scientist, Land)

Cr Bryant asked if Mr Burton felt that the land could be returned to a productive use. Mr Burton said that it is extremely difficult and almost impossible to retrieve the soil profile that gives the land its productivity and versatility.

Cr Bryant said with modern technology most of the topsoil has been relocated on the site. Is it not a case of just mixing and contouring? Mr Burton said it is difficult because you can't get the transition between topsoil and subsoils down through profiles.

Cr Bryant said some of the submitters with small properties are saying that they are on economic blocks. Is there no crop that could be productively grown? Mr Burton agreed that there is some productive potential. He said that the economics are variable but generally the smaller the size the less you can efficiently grow. That is why we don't encourage lifestyle blocks on the Plains.

Mr Gary Clark (Transportation Engineer)

Mr Clark said that his assessment looked at the crematorium and the existing activity. He said that the crematorium will attract additional people. He considered it appropriate that a Traffic Management Plan be implemented to deal with large events.

Cr Bryant asked if Mr Clark envisaged one traffic management plan for the whole property, or a different plan for each activity area. Mr Clark said he would expect there will be two or three types of traffic management plans for various events. He said that the applicant would have to have some idea of how many people will be attending. At the moment there is no control and with a crematorium there will be more large events.

Mr Clark said that for larger events there could be a paddock for parking which would be part of a Traffic Management Plan. Such events may also require a staff member to be on the road reserve telling people where to park and ensure that people park efficiently. He conceded that it is difficult predicting how many cars will arrive before an event.

Mr Clark accepted that the nearby roads do not meet the Council's engineering standards but they are wide enough to accommodate the level of traffic using them. He agreed that there are issues with pedestrians, cyclists and horse riders because of the road widths. He said that the Council has no intention to provide footpaths along these roads because it is a rural area.

Commissioner Collins asked about the sight distance looking east along Clover Road East when exiting the crematorium site. Mr Clark stated that he is comfortable with access arrangement. He added that he would have preferred to see an exit onto Paton Road as well to provide for better circulation.

Cr Bryant asked if the marking of car parks is desirable. Mr Clark said that if car parks are marked then compliance is better.

5.4 Applicant's Right of Reply

Mr McFadden stated that little of what has been said by submitters was supported by any evidence, as is required in hearings on matters being considered under the Act.

In addressing a concern by several submitters that, once the current consent was obtained the applicant would then continue to pursue the reception centre through its live appeal on the previous unsuccessful application, Mr McFadden stated that he has withdrawn the appeal on the decline of the previous application.

Mr McFadden confirmed the applicant's belief that the existing 1991 consent has been given effect to. He said that it is clear from the existing consent file that all manner of functions, including outdoor ones, were applied for and much has been

done. He said that just because one part of the works (the reception centre) was not completed, does not mean that the entire consent has lapsed.

With regard to water supply, Mr McFadden stated that there is water available to the site as a permitted activity and rainwater collection could supplement this. He submitted that this would be ample.

Mr McFadden said that the applicant called a planner (Mr Quickfall) who found that the proposal was not contrary to the TRMP.

With regard to soil productivity Mr McFadden said that any ashes will be contained within memorial plaques and not mixed with the ground. Therefore, relocation will be possible and therefore the land will not become “unusable” for cultural reasons. No evidence was given to challenge Mr Burton’s or Mr Bennison’s conclusions. He restated that the Gardens are productive and will continue to be so.

With regard to noise, Mr McFadden said that the application is not about outdoor functions. With regard to the visual impact he said that no evidence was called contradicting Mr Langbridge’s evidence and it is hard to see how an impact could be caused by an activity that is contained within the site and screened by high vegetation.

Mr McFadden restated Mr Day’s opinion that it is not unsettling for mourners to have noise from the agricultural zone occurring around them. He said that it is expected that there will be some noise and the reverse sensitivity issue is of no moment.

In addressing mercury Mr McFadden submitted that that Dr Barker’s argument about the “As Low As Reasonably Achievable” principle was not relevant as it is not a measurable standard. He said that that principle should not be elevated to some sort of requirement. He referred to the BioGro standard and said that the volunteered maximum soil concentration of 0.5 mg/kg is half of that required by BioGro. Mr McFadden also pointed to the much higher numbers of cremations in the European examples sited.

Mr McFadden referred to the mercury abatement technology sought by Mr Marshall. He said that this technology is not straightforward, is not warranted for a crematorium of this capacity, and is not viable for this cremator type.

Mr McFadden restated the position of Mr Clark who said that Paton Road is not dangerous, and the positions of Ms Harley and Mr Pigott who did not change their recommendations on the application.

6. THE EXISTING CONSENT (P910069)

The first matter that confronts us when considering this application is the environmental effects of the existing Gardens of the World, operating under the consent that was granted for the Gardens back in 1991. This matter is important as it defines the “receiving environment” for the current application. There are two aspects to this issue which must both be considered in parallel:

1. Has the existing consent been given effect to and therefore can functions be legally carried out?

and

2. Are the activities interdependent; will one have any bearing on how the other is carried out? We consider these two matters in turn before drawing a conclusion on the matter.

a) **To what extent has the existing consent (P910069) been given effect to? Is the applicant allowed to hold functions in the Gardens? What are the rights and responsibilities of the holder of that consent (Gardens of the World Ltd)?**

These questions have emerged as important matters during the course of this hearing as the answers define the receiving environment for the effects of what is now sought. The issue is not just the effects of what has been occurring on the site; it is also necessary for us to have a clear understanding of what could occur under the 1991 consent. We consider it is evident that the new owner of the site will be more likely to host larger outdoor functions. Our task is to determine whether granting this application will, either on its own **or cumulatively**, promote sustainable management of natural and physical resources.

We would start by saying, as we said in the Memorandum to the Parties issued shortly after the hearing, that we have no power to make a formal declaration on whether the existing consent has been given effect to - only the Environment Court can do that. However, in determining the current application we must make some decision on the matter based on the Council's practice, our best judgement and also the need to be conservative.

We feel that it is clear from reading the original application that was lodged for consent P910069 that it was always the intention that there would be two elements to the application - outdoor functions, and indoor functions in the reception centre. The application sought permission "*to establish and operate tourist gardens ... together with facilities for weddings and other functions, and various outdoor entertainments and attractions **including** permission to erect a reception centre of up to 230m² ...*" (our emphasis). We feel that this wording shows that the reception centre was a subset of the overall proposal. Essentially, the gardens and functions were the activity sought and the reception centre was a facility to enable certain types of functions.

Further, the Environmental Impact Assessment lodged with the application stated that "*the proposal is to provide an extra and better venue for functions such as weddings with an emphasis on the outdoor setting, but **at a later stage** with excellent facilities in a modern functions centre.*" (our emphasis).

In the decision on the application there is no signal given that the reception centre was seen as an essential element which had to be constructed to make the functions activity acceptable to the decision-maker. With the benefit of hindsight, it is arguable that separate sets of conditions should have been imposed to keep the operation of indoor and outdoor functions separate and to give more certainty. However, we feel that it is entirely pragmatic to assume that consent for the functions has been given effect to, and the consent for the function centre has not. If there is a problem it is with the wording of the consent document rather than what was applied for and granted by the decision-maker.

With regard to the current application, it is also most conservative to assume that the existing consent has been given effect to. This means that there is a baseline traffic and noise impact which we must consider as part of the existing environment. If it is found at a later date by the Environment Court that the existing consent has not been given effect to, and has entirely lapsed, then the functions will cease and the effects on the environment will be further reduced from what we have considered.

b) To what extent will the activities proposed by this application (establishment of a crematorium, memorial gardens, chapel, and use of the site for a commercial service) be physically and functionally separated from the existing Gardens of the World and the activities that take place there?

Initially, counsel for the applicant told us that the consents sought will not have any bearing on the existing consent. He said that there should be no need for discussion about functions or the effects of traffic or noise or parking etcetera as they are authorised under the existing consent and what is being proposed will not change those effects.

We agree that the crematorium and memorial gardens nearby would not increase the number of weddings or some other functions, although we do still consider that the effect of the current proposal needs to be considered on top of what can currently be done as of right. However, a grant of the current application will create more of a “one stop shop” service for funerals, cremations and interment of ashes. It can reasonably be expected that the applicant company will promote the use of the Gardens of the World for outdoor funerals/celebrations of life. Incidentally, Mr Day indicated that there is always a “plan B” indoor venue available in case of inclement weather.

Many people in opposition to the proposal see the current proposal as a ramping up of what the applicant can do both as part of the existing application and also the events and functions that will be promoted. From the evidence we have heard and the lack of specific conditions on the existing consent we observe that Mr Etherington never intended to hold a lot of functions, nor was he intending them to be very great in size. In granting consent the Council saw no need to impose conditions on the number and scale of outdoor functions. It appears that Mr Etherington never really advertised the venue in a concerted way and consequently the effects of the functions were slight. We detect that much of the opposition to the current application stems from the recent increase in the frequency and scale of functions. While this ramping up may be unpopular, as discussed above it appears that the consent holder is entitled to do this.

Conclusion and procedure

What this matter boils down to is that, as far as we are currently concerned, the applicant holds a consent for functions on the Gardens of the World site that is remarkably free of constraint. (Although, the original application for the existing consent specifies a “theoretical maximum” of 300 people, which arguably forms a limit of sorts on the scope of the consent as the consent holder cannot go beyond what was applied for.) It is the applicant’s right to hold and exercise that consent as much or as little as it chooses within the scope of the original application, the conditions and the Act. However, in considering the proposed

application for a crematorium etcetera we had serious concerns about authorising another suite of activities into this receiving environment due to the likelihood that effects, that could as of right become quite significant, would be further exacerbated. As we had no power to limit the existing consent we issued a memorandum to all the parties.

7. THE COMMISSIONERS' MEMORANDUM

Following adjournment of the public part of the hearing and the applicant's lodgement of the right of reply in writing, we issued a Memorandum to the Parties involved in the hearing. The memorandum set out our limitations with regard to determining the status of the existing consent and our inability to impose conditions on that consent. It also stated that we were "...*uneasy about allowing any more traffic and activity ... in a situation where there is a real possibility that large outdoor functions are consented, with little or no constraints*". The memorandum set out some possible constraints on the operation of Gardens of the World that we suggested could be volunteered by the applicant as an amendment to the present application and called for comment on these constraints from submitters, the Council's reporting staff, and the applicant.

We undertook this process as it was the most efficient and pragmatic way to proceed. Whilst we provided the applicant with an opportunity to volunteer constraints on what can take place on the site, we considered it reasonable to give some indication of our thinking about the sort of constraints that would be necessary to make the receiving environment acceptable for the granting of the current application. We were not 'held to ransom' by the applicant in any way as we retained the ability at all times to decline the consent if we felt that what was volunteered by the applicant did not go far enough, or if there were other effects resulting from the present proposal, for example from the discharge of contaminants or the loss of productive land which were outside the scope of the memorandum.

Submitters' comments

Several submitters questioned the appropriateness of giving the applicant an opportunity to volunteer an amendment to the application. Many considered that the existence of the existing 1991 consent was reason enough to decline the current application.

Many submitters also took the opportunity of restating concerns that they had with both the existing consent and the current proposal.

Ms Trina Zimmerman said that she "*understand[s] that the Committee cannot place conditions on [the existing] consent, so it is trying to get around the cumulative effects by asking the applicant to volunteer conditions itself. This means that the Committee is hamstrung by what the applicant is prepared to agree to, and that the applicant, rather than the Committee, will end up deciding whether this consent can be granted.*"

Ms Gepp (counsel for the Living in Hope group) drew attention to the problem of imposing any conditions that may be volunteered by the applicant to the existing consent. From her comments it was clear that a method would be needed to ensure that the existing consent was effectively and legally restrained by whatever may be volunteered.

Ms Gepp also said that *“in seeking a middle path that will allow the consent to be granted, the Committee in proposing conditions may be focussed on conditions that the applicant will agree to, rather than conditions that are factually capable of avoiding, remedying or mitigating the adverse effects of existing and proposed activities on the application site.”* She considered that the tenor of the restrictions proposed in the memorandum suggests that this is the case.

A number of other submitters also submitted comments including suggestions of potentially suitable restrictions.

Council Officers’ comments

Council officers chose not to make any comment on the memorandum.

Applicant’s comments

The comments from submitters were forwarded to the applicant. Mr McFadden on behalf of the applicant agreed that the existence of the 1991 consent is a live issue before us and that it forms part of the existing environment. He agreed that as the Panel has identified the potentiality of cumulative effects then it is appropriate that these effects be addressed by way of the memorandum.

Mr McFadden volunteered a range of constraints on what in his submission is currently permitted that, notably:

- Limit the maximum number of participants to 225 at any event;
- Restrict night time events to 10 per year and no more than two in any seven day period;
- Restrict electronically amplified events to 10 per year and no more than two in any seven day period;
- Restrict events exceeding 100 participants to 25 per year and no more than two in any seven day period;
- Require management of traffic when more than 100 attendees are anticipated;
- Restrict ticket sales to pre-sale only; and
- Require an upgrade of the capacity of the carpark.

Mr McFadden amended the present application to include these restrictions on how the site will operate and also made a commitment to apply under Section 127 of the Act to vary the conditions of the existing consent accordingly. We consider that would give additional clarity, by avoiding any inconsistency between what is permitted under the 1991 consent and what is actually permitted because of

volunteered restrictions on functions now forming part of the present application. It is not particularly unusual to have more than one consent applying to a property, but it is best if they are consistent.

8. PRINCIPAL ISSUES AND MAIN FINDINGS OF FACT

Once the matter of the existing consent had been determined and the applicant had been given an opportunity to volunteer some restrictions on functions carried out under the existing consent we were in a position to assess the substantive and evidential matters. The principal issues that were in contention and our main findings on these issues are as follows. Where the existing consent is discussed it is done so on the basis that it will be constrained by the terms of the present application that have been volunteered by the applicant.

a) What productive values does the site have and to what extent is the site still available for productive use? To what extent will the proposal compromise the potential for productive use of the site in the future?

In contrast to the previous application which was declined by the previous Committee, the scope of this application is almost entirely limited to the area of land to the rear of the existing dwelling; where a grapefruit orchard currently exists.

From the evidence presented we understand that the soil and growing conditions are of significant value. The land in this area has not been markedly disturbed as it has been in the Gardens site itself, and, we assume, it still retains the natural soil profile which Mr Burton told us contributes to its high productive capacity.

The previous decision stated:

The TRMP contains a strong policy framework that protects the zone from subdivision and development that is inappropriate. In effect, for a non productive proposal to be granted on the best Rural 1 land the bar is set very high in achieving the requirements of Section 5 of the Act.

We agree with that statement. However in this case the applicant provided additional evidence from Mr Appleton about the productive values of the existing Gardens. It was stated by Mr McFadden and Mr Bennison that these productive values would be continued onto the proposed memorial gardens through the planting of fruit and seed source trees. A significant level of productivity will be maintained on the area currently occupied by the grapefruit orchard. We note that a condition to this effect was not volunteered by Mr McFadden but we assume, since it was asserted in evidence, that the applicant will not object to such a condition being imposed.

As for the Gardens of the World site itself, the only change proposed through this application is the addition of a small kiosk. Many submitters argued that the addition of buildings to the Gardens site will reduce the chances of the land ever being used for productive purposes again. On this issue we find that the development of the kiosk will further contribute to establishing the Gardens as a permanent land use. However, we do not see this as a bad thing. We are persuaded by Mr Burton and Mr Bennison that the value of the soils is much

reduced for high intensity horticulture by the destruction and mixing of their profile. We understand the type of productivity that Mr Appleton explained to us and we see that the establishment of a kiosk for ticketing and light refreshments will make the retention of this form of productivity more certain and viable.

We also see the fact that ashes will be stored within the plaques (as opposed to buried or scattered) as very significant as it allows for their potential relocation. This makes it more feasible to change the use of the land to some other more traditional productive use in the future. We agree that had ashes been buried then there may have been a cultural imperative that the land be forever considered tapu.

b) To what extent will the proposal adversely affect the amenity of local residents, both on its own and cumulatively with the existing consent?

The previous Committee found, when assessing essentially the same application but with a reception centre included, that:

“there is likely to be a significant cumulative effect on the rural character of the area and on the amenity of neighbours. From one source or another there is likely to be a more or less continuous level of traffic, people and noise.”

From the evidence we have heard we are satisfied that the *“continuous level of traffic, people and noise”* is no longer an issue. The application does not include a reception centre and the effects of this sort from the crematorium, chapel and memorial gardens are likely to be minimal. It appears that it was largely the reception centre which caused much of the disquiet with the previous Committee when it stated that:

“It is an unavoidable fact that many people leave functions in a noisy fashion. In the car park there is the very high likelihood of ongoing noise, particularly at night-time, including loud farewells, car doors slamming, horns tooting and lights shining.”

We are satisfied that the controls on outdoor functions now volunteered will mean that the additional activities associated with the crematorium, memorial garden and the ticket kiosk will not have a cumulative effect that is more than minor. Clearly, there are a large number of small scale booked “events” which are very “low-key” and inconspicuous such as photograph shoots for weddings held elsewhere, group picnics, and bus tours. It is the larger events such as weddings, large funerals and concerts with large numbers or loud sound amplification which have the potential to cause adverse effects. Now that these have been effectively limited we are satisfied that the effects are acceptable.

c) To what extent will the generation of traffic by the proposal, and cumulatively with the existing consent, adversely affect road safety?

Further to point b) above, the evidence of Mr Day and Mr McGregor that the volume of traffic attending cremations is very low gives us confidence that the adverse traffic effects arising from this activity will be minor. And the volume of traffic attending the memorial gardens the rest of the time will be negligible.

We expect the effect of the ticket kiosk will be to slightly increase the volume of traffic attending the Gardens, but again, this will not push traffic volumes to any more than a very minor level. In this regard we accept Mr McGregor's evidence.

Again, as with point b) above, bulges of traffic may occur at certain times but this is authorised by the existing consent. Under the volunteered conditions we consider that the traffic volume will be limited (given a maximum attendance of 225 persons at any function), and will be better managed to utilise the space in the upgraded car park. We do not feel that consent for the ticket kiosk, crematorium and memorial gardens will exacerbate this traffic.

d) To what extent might there be reverse sensitivity issues between the proposed activities and the adjacent and nearby rural activities?

We accept that the potential for "reverse sensitivity" effects is a factor against granting the consents. Mr Day acknowledged that he would have to expect some noise from rural activities on neighbouring properties. It is hard to see how the consent holder could reasonably complain about such noise given that acknowledgement, given that the potential for such noise has been very publicly pointed out, and given the fact that it is permitted by the zone rules.

The other source of potential "reverse sensitivity" complaints would be patrons. We have included a review condition that would allow the Council to at least partly address any problems with unrealistic expectations on the part of people hiring the venue by for example requiring the consent holder to include a statement about the possibility of noise in the hire agreement.

e) What are the positive effects resulting from the proposal?

The evidence was that a crematorium and chapel on this site would meet a demand. While we accept the argument advanced by submitters that there is no evidence of a shortage of capacity at the existing crematoria in the region, the purpose of the Act is broadly enabling so there is no onus on the applicant to prove need in that sense. It seems likely that these facilities will be more convenient for people living in this part of the region.

More significantly, the proposed facilities will provide a setting for what is an important event in family life that is not currently available. We can appreciate the synergy between the Gardens of the World and the proposed crematorium and memorial gardens. It will be convenient for those families who want an outdoor funeral/celebration of life to be able to walk through to the crematorium afterwards and later return to collect the ashes and place them in the memorial garden.

A number of submitters in support also emphasised the importance of the Gardens of the World as a venue and as an attraction. We agree that this development increases the likelihood that the Gardens will be retained with full public access.

f) To what extent will the discharge of smoke or a heat haze from the chimney of the crematorium have an adverse effect on the amenity of nearby residents?

We find that the slight smoke or heat haze from the chimney of the crematorium will have a minimal and short term effect. Indeed it seems very unlikely that the smoke or haze will be any more than barely visible. It is highly probable that the discharge will disappear into the landscape within a very small amount of time. We are not persuaded that neighbours need to be protected from an activity which is a normal part of the life of the community.

g) Will the discharge of mercury, PM₁₀ or any other contaminants have an adverse effect on the health or well being of the nearby residents?

We were convinced by the evidence of Mr Iseli and Mr Pilgrim that there will be no effect from the discharge of contaminants, particularly mercury. The evidence of these experts was unchallenged and clearly showed the volume of the discharge to be well below even very conservative guideline levels.

A number of submitters expressed concern about any level of mercury discharge. With respect, we find this to be an indefensible position. Mercury is a naturally occurring element in soils and in the air and is discharged in small concentrations as a result of various types of combustion - even from household coal and wood burners. It does not hold that because a contaminant such as mercury is dangerous at high concentrations then it must be "a bit dangerous" at low concentrations. As with most natural compounds or elements there is a threshold concentration (usually close to public health guideline levels) below which there are no effects and above which the effects start to emerge and get worse as concentrations increase. In this case, from the evidence we have, we are satisfied that the concentration of mercury will be well, well below that threshold concentration and those health guideline levels.

h) What effect will the discharge of mercury have on the organic status and perception of goods produced nearby?

From the evidence presented this matter was given a significantly greater airing than at the first hearing where, it appears, much uncertainty remained. Some uncertainty still remains, as was admitted by Mr Iseli and Mr Pilgrim, as there do not appear to have been any studies internationally specifically on the level of deposition of mercury on grapes that can be expected. However, bearing in mind the low levels of deposition on the ground predicted by air modelling we are confident that the direct deposition of mercury on Mr Greenhough's grapes will not affect his organic status any more than the deposition of various contaminants from vehicles on the nearby road affect organic status.

In terms of the perception of the proximity of the cremator to the vineyards it seems that the only way that visitors to the winery, and customers in particular, will know that the crematorium is there is if someone points it out to them. In that case some people might see the proximity of the crematorium as a problem, but we do not think resource management decisions should be greatly influenced by fears with no scientific basis. We expect that any initial adverse reaction from regular customers who are aware of this application would diminish with time as the memorial gardens are established and the chapel and stack are increasingly hidden from view.

9. RELEVANT STATUTORY PROVISIONS

9.1 Policy Statements and Plan Provisions

In considering this application, we have had regard to the matters outlined in Section 104 of the Act. In particular, we have 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).

The proposed activity contravenes Section 15 of the Act, and therefore the Council has also had regard to the matters outlined in Sections 105 and 107 of the Act.

9.2 Part 2 Matters

In considering this application, we have 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 Panel **GRANTS** both the land use and discharge consents subject to conditions.

11. REASONS FOR THE DECISION

Effects on the Environment

As the previous Committee found, this is a complex case with a wide range of potential effects and with an underlying layer of complexity caused by the existence of the 1991 consent.

The restrictions voluntarily placed on the existing consent by the applicant are an important factor in the granting of the consent. Prior to those conditions being volunteered we were uneasy about granting an additional consent to intensify activities into such an unregulated environment. That concern has now been obviated.

There are a few effects that are particular to this current application and have no overlap with the existing consent for the Gardens. We will start with these.

Mercury Discharge

From the evidence of Mr Iseli and Mr Pilgrim, and supported by Mr Pigott, we are convinced that there will be no adverse effects from the discharge of mercury. The volume of mercury released is simply too small given the small scale nature of the crematorium. We do not consider it is appropriate to compare it with the very large scale crematoriums in Europe which do thousands of cremations per year. The low buildup of mercury around the Motueka crematorium is evidence of that. We are also comforted by the volunteering of soil testing conditions by the applicant.

While no evidence directly testing the accumulation of mercury in grapes was presented, there was sufficient other evidence about the accumulation of the metal in plant matter for us to be comfortable that the risk of accumulation in grapes is very very low.

We do see a small risk to Mr Greenhough in terms of the perception of his product. However, we think that this will be effectively dealt with through screening and landscaping of the site which will very much absorb the cremator into the landscape as was suggested by Mr Langbridge. The Act is enabling and we do not consider this risk to be sufficient to decline the application.

Reverse Sensitivity

We see that the risk of a “reverse sensitivity” impact is low. The consent holder will be well aware of the expectation of noise from the neighbouring rural properties and it is hard to see how the consent holder could reasonably complain. The rules in the TRMP are also very clear in their permissance of agricultural and horticultural noise.

If direct complaints by patrons becomes a problem then, as noted above, it may be appropriate that the Council review the conditions of consent to address any problems with unrealistic expectations on the part of people hiring the venue.

Land Productivity

We largely see the consideration of land productivity being limited to the area to the rear of the existing house which is currently in grapefruit orchard. We accept Mr Burton’s comment that the major limitation to the 0.7 hectares of land is its “small size which will severely compromises [sic] the economic viability and potential of most crop choices”. Mr Burton confirmed that due largely to the earthworks for the lake that will destroy the soil profile the versatility of this land will be reduced in the same was as has already happened in the existing Gardens. While we see this loss of productive land as regrettable it is the small size and elongated shape of the lot which inherently limits its effective use.

However, some productivity values remain and we see that the imposition of a condition requiring the establishment of fruit, cropping and seed source trees to be appropriate and consistent with the commitments that the applicant made at the hearing. In addition, the trees and other plantings will extend the ecological and habitat values for native fauna.

The rest of the effects are either interrelated with or build upon those effects resulting from the activities occurring in the Gardens.

Traffic

The traffic resulting from the actual subject of this application is minimal. However, if it were to occur on top of the entirely unregulated regime of the previous consent then we would have concerns about the overall sustainability and effects of the proposal. We understand that Paton Road in particular is not up to the Council’s current engineering standards (contained in the Engineering Standards and Policies 2008) but, at the same time, is not inherently dangerous. Given the voluntary caps put on events and the volunteering of traffic management conditions we are satisfied that

there will now be some meaningful regulation and the traffic effects will be entirely manageable.

Parking

With a volunteered maximum event size of 225 attendees we consider that the parking situation does need to be improved to achieve more capacity and more formality. As previously stated we expect the demand for events (particularly funerals) to increase as a result of this proposal and we do not consider that the car parking area can currently accommodate the vehicles of 225 people. With the car park upgrade required and the execution of an effective traffic management plan we are satisfied that the parking arrangements can be more successful and effects reduced.

However, despite the best will in the world, during the bigger events we certainly expect that there will still be cars parked on the road side. This cannot be helped. But with limitations now in place on the numbers of large and late night events we do not consider the occasional influx of cars to the location to be a significant adverse effect.

Noise, Amenity and Rural Character

The issue of noise is entirely related to the effect that the current proposal will have on events at the Gardens as we do not consider that the crematorium, memorial gardens, chapel or ticketing kiosk will cause any noise that is more than negligible beyond property boundaries. As previously stated, we do expect the current proposal to increase the demand for the Gardens as a venue location. Up to a certain size (say 100 people attending) we see this as a positive and with very few adverse effects on the environment.

An increase in the number of funerals will be directly attributable to the presence of the crematorium. However funerals are not noisy events. Short excerpts of music may be played but overall the mood and noise levels are subdued.

Weddings certainly can be noisy but we do not consider that an increase in weddings can be directly attributable to the application before us. The ticketing kiosk itself will not provide a venue that is considerably more attractive than what currently exists. The same could not be said of the reception centre which was a part of the previous unsuccessful application. Therefore, given the lack of restrictions on the existing 1991 consent we see that, as a by-product of this process, the local residents have obtained significant gains in the restriction of noise than what could otherwise reasonably expect.

The previous Committee made mention of the extensive management measures that were required to achieve the environmental outcomes sought. With the deletion of the reception centre and the volunteering of conditions on the existing consent we see that the level of detailed management has been reduced and the level of certainty about what is acceptable is increased.

The previous Committee also said that there was likely to be "*a significant cumulative effect on the rural character of the area [due to] from one source or another ... a more or less continuous level of traffic, people and noise*". Again, with the deletion of the reception centre and, in particular, the café component of the reception centre we

expect there to be a much reduced adverse effect on rural character. There will be an increase in visitors to the memorial garden and attending cremations and interments but this will not be of the same scale as the type of traffic that would attend a café in a location such as the Gardens.

In terms of the screening of the site and the absorbance of the facilities into the landscape, we agree with Mr Langbridge. After a couple of years we expect that the buildings and activities will be effectively screened and will be of very low prominence in the rural environment.

Positive Effects

Section 104(1)(a) is not limited to adverse effects; positive effects are also part of our consideration.

A major positive effect is the likely securing of the public access and usage of the Gardens in the long-term. Many submitters said that it was entirely possible that the Gardens could be returned to productive use, while this may be true of the rear section (as discussed elsewhere in this decision) it is far more likely that the existing Gardens would not be bulldozed but would be acquired as a lavish private garden. While this decision does not provide 100% assurance of perpetual public access it certainly makes it vastly more likely. The provision and maintenance of this access was certainly one of the central messages from the submitters in support of the application.

The provision of further fruit, cropping and seed source trees, as well as rare habitat for native birds on the Waimea Plains is also an evident benefit arising from the proposal.

We also agree with the submitters who said that the Gardens will be an excellent place to farewell loved ones. Although funerals will be conducted under the existing 1991 consent the provision of the cremation services will certainly make the venue more attractive and convenient. Similarly, the memorial garden will be a fine location to reflect and remember.

Objectives and Policies of the TRMP

The following Policies and Objectives have been considered relevant for this proposal:

- Chapter 5: Site Amenity Effects
- Chapter 7: Rural Environment Effects
- Chapter 11: Land Transport Effects
- Chapter 34: Discharges to Air

Chapter 5: Site Amenity Effects

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.

Policies

- 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.*
- 5.1.3.9 *To avoid, remedy, or mitigate effects of:*
- a) noise and vibration;*
 - b) dust and other particulate emissions;*
 - c) contaminant discharges;*
 - g) vehicles;*
 - h) buildings and structures;*
- beyond the boundaries of the site generating the effect.*
- 5.1.3.14 *To provide sufficient flexibility in standards, terms and methods for rural sites to allow for the wide range of effects on amenities which are typically associated with rural activities, and which may vary considerably in the short or long term.*

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.*
- 5.2.3.9 *To avoid, remedy or mitigate the adverse effects of signs on amenity values.*

These policies and objectives largely reflect the environmental effects that were addressed above. We consider that the proposal is consistent with these above policies and objectives as the adverse effects are satisfactorily avoided, remedied or mitigated.

Chapter 7: Rural Environment Effects

Objective 7.1.2 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.

Policies

- 7.1.3.2 *To avoid, remedy or mitigate the effects of activities which reduce the area of land available for soil-based production purposes in rural areas.*
- 7.1.3.3 *To avoid, remedy or mitigate adverse actual, potential, and cumulative effects on the rural land resource.*

Objective 7.2.2 Provision of opportunities to use rural land for activities other than soil-based production, including papakainga, tourist services, rural residential and rural industrial activities in restricted locations, while avoiding the loss of land of high productive value.

Policies

- 7.2.3.2 *To enable sites in specific locations to be used primarily for rural industrial, tourist services, or rural residential purposes with any farming or other rural activity being ancillary, having regard to:*
- c) outstanding natural features and landscapes;*
 - g) transport access and effects;*
 - j) efficient use of the rural land resources;*
- 7.2.3.5 *To ensure that activities which are not involved or associated with soil-based production do not locate where they may adversely affect or be adversely affected by such activities.*

Objective 7.4.2 Avoidance, remedying or mitigation of the adverse effects of a wide range of existing and potential future activities, including effects on rural character and amenity values.

Policies

- 7.4.3.1 *To ensure that there is sufficient flexibility for a wide range of productive rural activities to take place, while avoiding, remedying or mitigating adverse effects.*
- 7.4.3.3 *To provide for the maintenance and enhancement of local rural character, including such attributes as openness, greenness, productive activity, absence of signs, and separation, style and scale of structures.*
- 7.4.3.4 *To exclude from rural areas, uses or activities (including rural-residential) which would have adverse effects on rural activities, health or amenity values, where those effects cannot be avoided, remedied or mitigated.*
- 7.4.3.5 *To exclude from rural-residential areas, uses or activities which would have adverse effects on rural-residential activities, health or amenity values, where those effects cannot be avoided, remedied or mitigated.*
- 7.4.3.6 *To ensure that adequate physical or spatial buffers or other techniques are applied when allowing new allotments or buildings primarily or exclusively for residential purposes in rural areas, so that productive land use opportunities are not compromised.*

The relevant excerpts of Chapter 17 reproduced above contain a real mix of objectives and policies for the rural land resource. This represents an attempt to balance the need to protect productive land while allowing some scope for other developments where appropriate.

Overall, we do not think that the proposal is consistent with the relevant objectives and policies of this Chapter; however we would not go so far as to say that the proposal is repugnant to them. Many participants in the hearing, depending on which side of the fence they were sitting, pointed out the relative merits of Objective 7.1.2 versus Objective 7.2.2. The latter certainly does allow for some non soil-based production uses but with the rider that productive land should be protected. This approach is also supported by Policy 7.2.3.2. In this case we agree that the land is

productive and we see that the earthworks required to create the lake in the middle will permanently reduce this productivity. However, the area of land is small and some less traditional forms of productivity will be undertaken.

Policy 7.2.3.5 indicates concern that non soil-based activities do not interfere with soil-based activities. The proposed memorial gardens will be soil-based, but the crematorium clearly would not be. If there was any real prospect that the discharge from the crematorium will affect the particularly sensitive organic vineyard nearby there would be direct conflict with this policy. As discussed above however, the evidence was that the concentrations of the contaminant of particular concern, mercury, would be well below even the stringent Biogro standard.

Overall, while the use of some of the most productive and versatile land in the district for a crematorium, chapel and memorial gardens is marginally inconsistent with these objectives and policies there are a wide range of other considerations and positive effects that we have taken into account in making our decision.

Chapter 11: Land Transport Effects

Objective 11.1.2 A safe and efficient transport system, where any adverse effects of the subdivision, use or development of land on the transport system are avoided, remedied or mitigated.

Policies

11.1.3.1 To promote the location and form of built development, particularly in urban areas, that:

- (a) avoids, remedies or mitigates adverse effects of traffic generation;*
- (c) avoids an increase in traffic safety risk;*

11.1.3.4 To avoid, remedy or mitigate adverse effects of traffic on amenity values.

11.1.3.7 To ensure that adequate and efficient parking and loading spaces are provided, either on individual sites or collectively, to avoid or mitigate adverse effects on the safety and efficiency of the road network.

Throughout this case it has been important for all parties to clearly separate the current application from that which was granted by the existing 1991 consent. There are clearly overlaps in relation to the kiosk and in relation to the frequency and scale of events. We are clear that the volunteered constraints that have arisen out of the hearing process are more restrictive than what existed previously. With only minor traffic increases predicted as a result of the crematorium, chapel and memorial garden we are satisfied that the proposal will not be inconsistent with the above objective and policies.

Policy 11.1.3.7 certainly gives support for an upgrade of the car park as has been volunteered. In contrast to the previous application, with the limitation on the number of late night finishes and the lack of a reception centre we do not consider that 11.1.3.4 will be offended by the proposal.

Chapter 34: Discharges to Air

- Objective 34.2.0 The discharge of contaminants to air in such a way that avoids, remedies or mitigates adverse effects while:*
- a) maintaining existing air quality; and*
 - b) enhancing air quality where existing quality is degraded for natural or human uses or values.*

Policies

- 34.2.1 To ensure that any discharges of contaminants to air are undertaken in a way that avoids, remedies, or mitigates any adverse effects on the receiving environment or surrounding activities.*
- 34.2.1A To allow or regulate contaminant discharges to air in relation to their actual or potential contamination effects, including:*
- (a) Adverse effects on human health.*
 - (b) Adverse effects on amenity values.*
 - (c) Contamination of adjacent sites.*
- 34.2.2 To provide for contaminant discharges to air while maintaining or enhancing the ambient air quality.*
- 34.2.6A To manage air quality to meet National Environment Standards for ambient air quality, especially in relation to concentrations of PM10.*
- 34.2.6D To take into account national guidelines for air quality when considering applications to discharge contaminants into the air.*
- 34.2.6F To take into account potential adverse effects on ambient winter-time PM10 concentrations in the Richmond Airshed of discharges to air that may enter the Richmond Airshed.*

We do not see that the discharge to air will be inconsistent with this objective and these policies. We are certainly satisfied that the discharge will not affect human health, amenity values or ambient air quality.

Other Matters

If it is found through Environment Court proceedings that the existing 1991 consent has indeed lapsed then we do not see this as fatal to this consent. Indeed, if that consent has lapsed and no events are authorised then the effects of this proposal must be viewed simply against the existing environment and what can be done as of right. In that event we would see the overall effects as being even further reduced.

The decision to grant this application is subject to a number of volunteered limits on functions. These are identified in Schedule A (attached). In the applicant's "Response to Memorandum of Commissioners" dated 3 March 2010 the current application was amended so as to include these constraints. In effect these constraints will operate as if they were conditions on the existing 1991 consent. A commitment was also made by the applicant that a change of conditions application under Section 127 of the Act would be made.

Purpose and Principles of the Act

We do not consider that there are any matters of national importance specified in Section 6 of the Act that are relevant here, nor is Section 8 relevant.

In making our decision, and pursuant to Section 7 of the Act, we have had particular regard to the following:

- (b) the efficient use and development of natural and physical resources;
- (c) the maintenance and enhancement of amenity values;
- (f) maintenance and enhancement of the quality of the environment; and
- (g) any finite characteristics of natural and physical resources.

Adopting a broad overall judgement approach to the purpose of the Act, we are 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.

12. LAPSING OF CONSENT(S)

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

13. EXPIRY OF CONSENT(S)

Pursuant to Section 123 of the Act, land use consents have no expiry provided they are given effect to within the lapse period provided.

The Discharge Permit (RM090539) expires in 35 years which is the maximum provided in the Act for such consents and is considered appropriate as the activity is unlikely to change significantly once the development has been completed.

Issued this 27th day of April 2010



David W Collins
Chair of Commissioner Panel

Schedule A -

Volunteered amendments to application to restrict exercise of resource consent P910069

The restrictions below have been volunteered as amendments to this application for resource consent. They form a suite of baseline restrictions that restrict the exercise of resource consent P910069. They will operate as effectively conditions on resource consent P910069. The applicant has stated that it will apply to add the restrictions to the existing consent pursuant to Section 127 of the Act. The wording is as per the constraints volunteered by the applicant, which largely followed the set of restrictions suggested in our Memorandum, but with some minor grammatical and formatting improvements.

(Note: numbering of these restrictions begins at 12 to follow on from existing Condition 11 on resource consent P910069.)

Event Management

12. Events shall be carried out in accordance with the following:

Maximum Participants

- a) There shall not be more than 225 participants at any event.

Event Frequency

- b) Night-time events (see definition below) shall not exceed more than 10 events per calendar year, and not more than two events in any consecutive seven day period, in accordance with Table 1 set out below.
- c) Events involving electronically-amplified music shall not exceed 10 events per calendar year and not more than two events in any consecutive seven day period, in accordance with table 1. This condition does not apply to acoustic instruments which do not involve any electronic amplification, or recorded music played at wedding and funeral ceremonies.
- d) Events (day-time or night-time) exceeding 100 participants (but not more than 225) shall be limited to 25 events per calendar year and shall not exceed more than two events in any consecutive seven day period in accordance with Table 1.

Table 1: Event frequencies

Event type	Maximum number of events per annum	Maximum number of events in any consecutive seven day period
Night time	10	2
Amplified music	10	2
Exceeding 100 participants	25	2

Closing Times

- e) Events shall be concluded and the site cleared of participants in accordance with the following restrictions in Table 2:

Table 2: Closing times

Event	Event concluded	Site cleared
Day-time	10pm	10.30pm
Night-time	midnight	12.30am

Event Management

- f) Where an event is anticipated to have more than 100 attendees the consent holder shall provide for parking wardens to undertake management of traffic into the tourist gardens car park in accordance with the traffic management plan.
- g) Entry to any public events (such as, but not limited to, concerts or shows) shall be by pre-sold tickets with no gate sales.
- h) The consent holder shall stagger the bookings of events in a manner that provides not less than 1 hour between the conclusion of one and the commencement of another, to the intent that there shall not be more than one event occurring at the same time in the tourist gardens at the Gardens of the World site.

Advice Note 1: for the avoidance of doubt “event” is defined as any booked event for the tourist gardens at the Gardens of the World site, and includes weddings, funerals, concerts and other private or public functions.

Advice Note 2: “Night-time” events are defined as events commencing after evening civil twilight, as defined by Civil Aviation. “Day-time” events are events which commence before evening civil twilight.

Advice Note 3: these restrictions are volunteered by the Applicant.

Car Parking Layout

13. Car parks for the tourist gardens on the Gardens of the World site shall be laid out in accordance with the parking plan attached as Annexure A and dated April 2009.

Advice Note 1: This was volunteered by the Applicant.

Noise

14. Noise generated by the activity on the site, when measured at or within the notional boundary of any dwelling on any adjacent site in a Rural zone, or at or within the boundary of any site within the residential zone, does not exceed:

	Day	Night	Saturdays 6.00 pm to 9.00 pm, Sundays and Public Holidays
LA _{eq} (15 minutes)	55dB	40dB	40dB
LAF _{max}		70dB	

Note:

Night = 9.00pm to 7.00am inclusive.

Day= all other times but excluding Saturdays 6.00 pm to 9.00pm, Sundays and Public Holidays."

Noise must be measured and assessed in accordance with the provisions of NZS6801:2008 Acoustics - Measurement of environmental sound and NZS6802:2008 Acoustics - Environmental noise."

Note: For the avoidance of doubt notional boundary, in relation to noise means:

- (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 (a).

Advice Note 1: These standards were volunteered by the Applicant.

Access and Parking

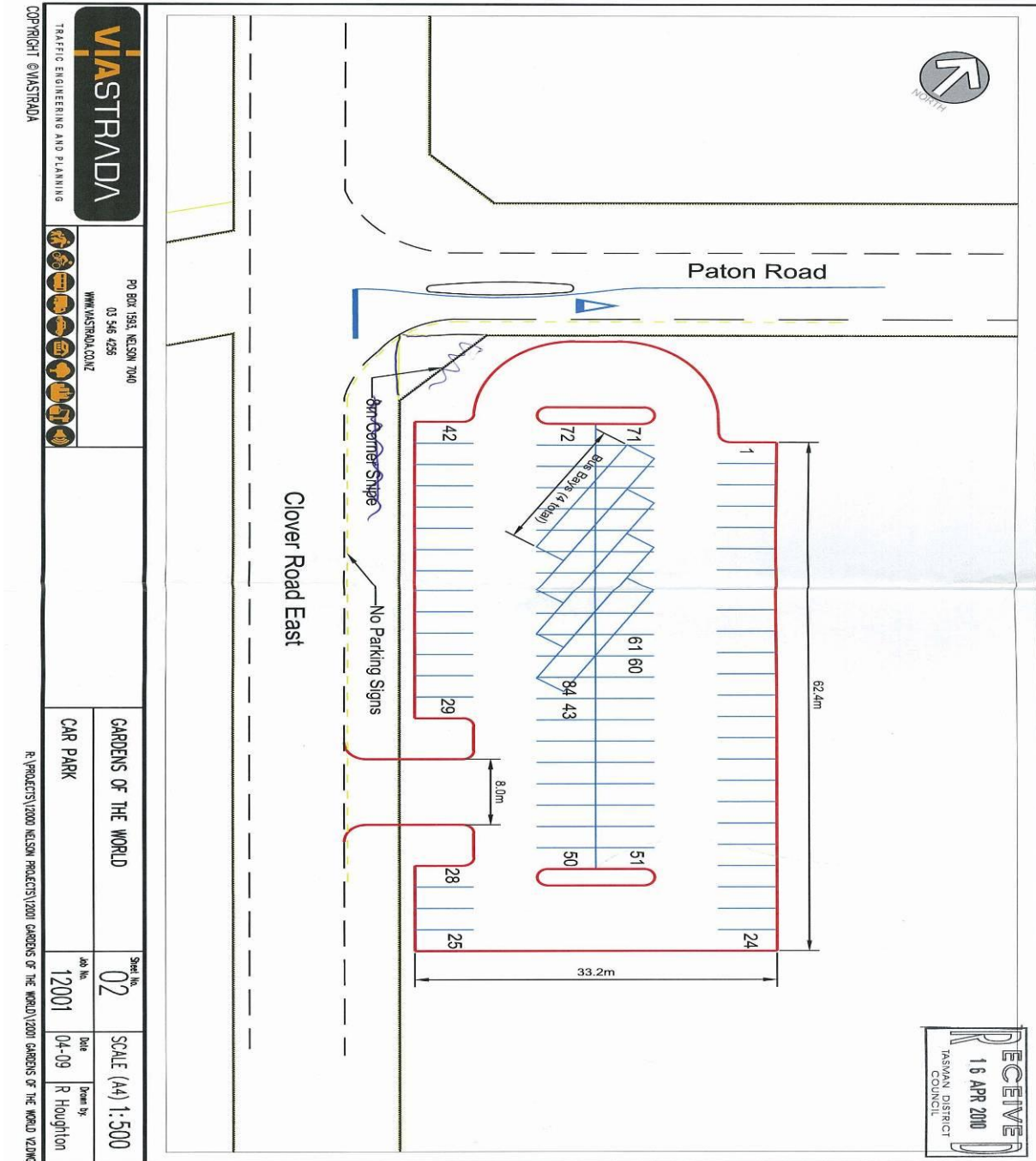
15. The applicant shall prepare a traffic management plan for the purpose of managing traffic during events exceeding 100 people. This plan shall be submitted to the Council's Transportation Manager within three months of this consent becoming effective, and shall include the following:
 - (a) Procedure for making available parking wardens;
 - (b) Coach parking and circulation management;
 - (c) Road-side parking control;
 - (d) Arrival and departure control; and
 - (e) Noise mitigation associated with parking activities.

Advice Note 1: This requirement was volunteered by the Applicant.

16. The consent holder shall monitor the parking and traffic occurring as a result of activities on the site. The monitoring shall be undertaken for a two year period from the date of commencement of this consent and submitted to Council's Transportation Manager for consideration and review every six months during that period.
17. The consent holder shall not erect any structures, and shall trim vegetation so that the area shown as "splay" on Annexure B (attached) is at all times kept clear so as to enable visibility from Paton Road into Clover Road East and from Clover Road East into Paton Road.

18. The consent holder shall place "No Parking on Grass" signs on the fencing of Lot 1 DP 18219, adjacent to both Paton Road and Clover Road East.
19. The consent holder shall formally submit a Service Request to the Council's Engineering Department for the painting of yellow parking limit (no stopping) lines either side of the two vehicle crossings on Clover Road East. These shall extend for at least 5 metres either side of the existing crossings. All costs of this process are to be met by the consent holder. If the process is successful, the parking limit lines are to be in place prior to the activity commencing on the site

Annexure A - Parking upgrade plan



Annexure B - Road splay





RESOURCE CONSENT

RESOURCE CONSENT NUMBER: RM090538

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

Gardens of the World Limited
(hereinafter referred to as “the Consent Holder”)

ACTIVITY AUTHORISED BY THIS CONSENT:

To establish and operate a crematorium and associated place of assembly, memorial garden and ticket kiosk.

LOCATION DETAILS:

Address of property:	95 Clover Road East
Legal description:	Lot 1 DP 18219
Certificate of title:	NL12A/1049
Valuation number:	1943044000
Easting and Northing:	2521302E 5980872N

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

CONDITIONS

General

1. The establishment of the proposed crematorium, place of religious assembly, memorial gardens, ticket kiosk, associated parking, servicing and signage shall be in accordance with the application dated August 2009, plans attached to and forming part of this consent labelled RM090538 Plans A-E and dated April 2009 (attached), the evidence presented at the hearing, and the volunteered amendments to the application in the document entitled “Response to Memorandum of Commissioners” dated 3 March 2010.

Where there is any apparent conflict between the information provided with the application, further information and any condition of consent, the conditions shall prevail.

Ticket Kiosk

2. The ticket kiosk building shall be established in accordance with the Site Plan attached to and forming part of this consent labelled RM090538 Plan A and dated April 2009.
3. The ticket kiosk shall be no greater than 40 square metres in area.
4. The kiosk shall sell entry tickets to the Gardens of the World and ancillary sales shall be limited to over-the-counter non-alcoholic refreshments.
5. The hours of operation for the ticket kiosk and the ancillary sale of refreshments shall be limited to between 9.00 am and one half an hour after sunset.

For the purposes of this condition "sunset" is as specified in the appropriate New Zealand Nautical Almanac (see the Land Information New Zealand website).

Memorial Gardens

6. Any ashes proposed to be retained in the memorial gardens shall be contained within the memorial plaques so as to be potentially transferable from the site at a future date.

Chapel / Crematorium

7. The Chapel / Crematorium Building shall be constructed in general accordance with the site plan, floor plans and elevation drawings labelled RM090538 Plans B, C, D and E and dated April 2009 (attached).
8. The Chapel / Crematorium Building shall be registered as a place of religious assembly for a maximum seating capacity of 25 people at any one time.
9. The Chapel shall not be used for funeral services and shall only be used for private committals.

Landscaping

10. Landscaping of the Memorial Garden shall be undertaken and thereafter maintained in accordance with the attached Landscaping Plan designed by Rory Langbridge, in accordance with Appendix A to the evidence of Rory Langbridge (attached as Plans A and B and dated April 2009) with the following amendment:

- (a) The planting plan shall include at least 10 fruit or nut trees and/or seed source trees that are of regional or national value for seed collection purposes.

Implementation of the plantings referred to in the Landscape Plan shall include:

- (a) Amenity plantings and hedging on boundaries shall be implemented in the first planting season after the consent commences;
- (b) The remainder of the landscape planting shall be progressively implemented from the first planting season after commissioning of the Chapel / Crematorium Building;

11. Boundary plantings shall be maintained at a height of at least 6 metres so to provide screening from neighbouring properties.

Noise

12. Noise generated by the activity on the site, when measured at or within the notional boundary of any dwelling on any adjacent site in a Rural zone, or at or within the boundary of any site within the residential zone, does not exceed:

	Day	Night	Saturdays 6.00 pm to 9.00 pm, Sundays and Public Holidays
L _{Aeq} (15 minutes)	55dB	40dB	40dB
L _A F _{max}		70dB	

Note:

Night = 9.00pm to 7.00am inclusive.

Day=all other times but excluding Saturdays 6.00 pm to 9.00pm, Sundays and Public Holidays.”

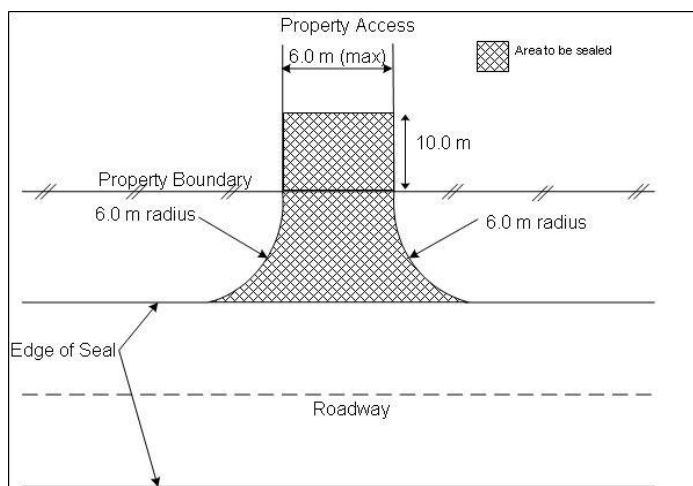
Noise must be measured and assessed in accordance with the provisions of NZS6801:2008 Acoustics - Measurement of environmental sound and NZS6802:2008 Acoustics - Environmental noise.”

Note: For the avoidance of doubt notional boundary, in relation to noise means:

- (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 (a).

Access and Parking

13. The consent holder shall upgrade and seal the (existing) two access points into the subject property from Clover Road East prior to the activity commencing on the site. The seal shall extend from the existing sealed road edge for a distance of at least 10 metres inside the subject property. The design shall be in accordance with the Figure below.



Advice 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.

14. The driveway access to the Memorial Garden and Crematorium shall be upgraded to include a passing bay that shall be located in such a position and formed to the satisfaction of Council's Transportation Manager.

Parking and Access Plan

15. The consent holder shall submit a car parking and access plan for the memorial garden and chapel for certification by the Council's Transportation Manager. This plan shall be certified by the Transportation Manager and implemented prior to the chapel or memorial garden being open. As a minimum the plan shall:
 - (a) take access from the existing crossing on Clover Road;
 - (b) show on site manoeuvring; and
 - (c) show how the parks will be physically marked on the ground.

The plan will be certified by the Council's Transportation Manager if it achieves the following outcomes:

- (a) Ingress and egress to the site is appropriately designed in accordance with best traffic engineering practice;
 - (b) adequate turning visibility is achieved;
 - (c) adequate visibility within the site is achieved for accessing the car park and manoeuvring;
 - (d) a passing bay is incorporated in accordance with Condition 14; and
 - (e) carpark dimensions and manoeuvring distances are adequate.
16. The carpark design shall incorporate design features that avoid the spill of artificial light beyond the boundaries of the site. Features such as security lighting, accessway and carpark illumination (if any) shall utilise discrete lighting fixtures that direct light downward.

Directional Signage

17. The Gardens of the World sign shall contain directional information to direct traffic into the on site parking area. This shall be erected prior to any services taking place in the chapel building.

Signs

18. The consent holder shall be entitled to erect two on-site advertising signs at each entrance off Clover Road East. The signs shall not exceed 1 square metre in area or 3 metres in height, and shall meet all Permitted Activity standards for signs in the Rural 1 Zone. The signs shall be for the purposes of identification of The Gardens of the World, Memorial Gardens and the chapel; they shall also contain the appropriate directional information to direct traffic safely toward the on site parking.

Glare

19. All exterior lighting shall be directed away from adjoining properties and roading networks. All exterior building surfaces (excluding windows) and solid fencing shall be finished in a non-reflective surface.

Financial Contributions

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

Financial Contribution - Building	
Component	
Building Consent (\$0 to \$50,000 value)	0%
Building Consent (\$50,001 to \$200,000 value)	0.5%
Building Consent (above \$200,001 value)	0.25%
Notes: The financial contribution is GST inclusive. The building consent value is GST exclusive. The contribution due on a building should be identified separately from other contributions set for any resource consent for an activity that includes buildings. The financial contribution shall be determined by taking the total estimated value of the work required for a building consent and applying each component identified in the table to that value and the contribution is the sum of the components.	

Review

21. Pursuant to Section 128(1) of the Act, the Council may, during the month of April each year, review any conditions of the consent for any of the following purposes:
- to deal with any adverse effect on the environment which may arise from the exercise of the consent and which it is therefore appropriate to deal with at a later stage;
 - to review the noise limits specified in Conditions 12 of this consent should these be deemed to be inappropriate;
 - to avoid or mitigate any "reverse sensitivity" effects on adjacent property owners due to their legitimate production of noise or odour for agricultural or horticultural purposes;
 - to review the appropriateness of the conditions relating to access and parking to address adverse effects that may arise as a result of the exercise of this consent; and/or
 - to require consistency with any relevant Regional Plan, District Plan, National Environmental Standard or National Policy Statement.

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.

Other Proposed Tasman Resource Management Plan Provisions

2. This resource consent only authorises the activity described above. Any matters or activities not referred to in this consent, associated Discharge Permit RM090539 or covered by the conditions must either:
 - (a) comply with all the criteria of a relevant permitted activity rule in the Tasman Resource Management Plan (TRMP);
 - (b) be allowed by the Resource Management Act; or
 - (c) 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.

Development Contributions

4. The Consent Holder is liable to pay a development contribution in accordance with the Development Contributions Policy found in the Long Term Council Community Plan (LTCCP). The amount to be paid will be in accordance with the requirements that are current at the time the relevant development contribution is paid.

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

Monitoring

5. 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 Consent Holder. Costs are able to be minimised by consistently complying with conditions and thereby reducing the frequency of Council visits.

Interests Registered on Property Title

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

Historic Places Act 1993

- 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 27th day of April 2010



David W Collins
Chair of Commissioner Panel

Plan A dated April 2009
RM090538, Gardens of the World Limited



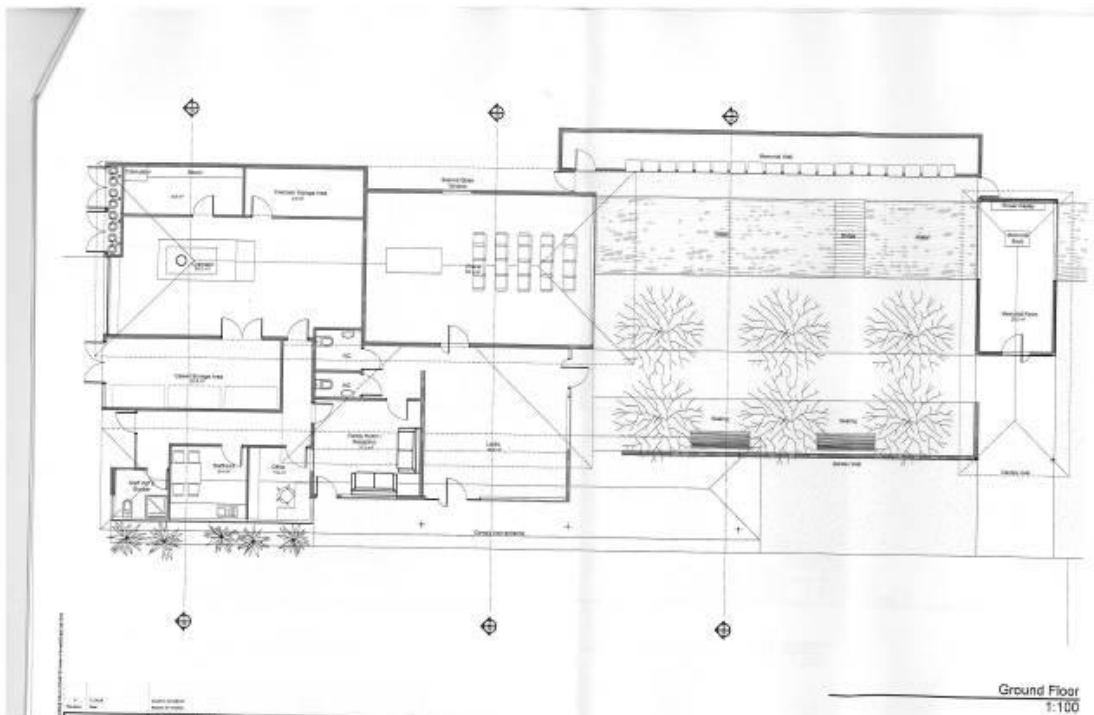
Gardens of the World Site Plan

**Plan B dated April 2009
RM090538, Gardens of the World Limited**



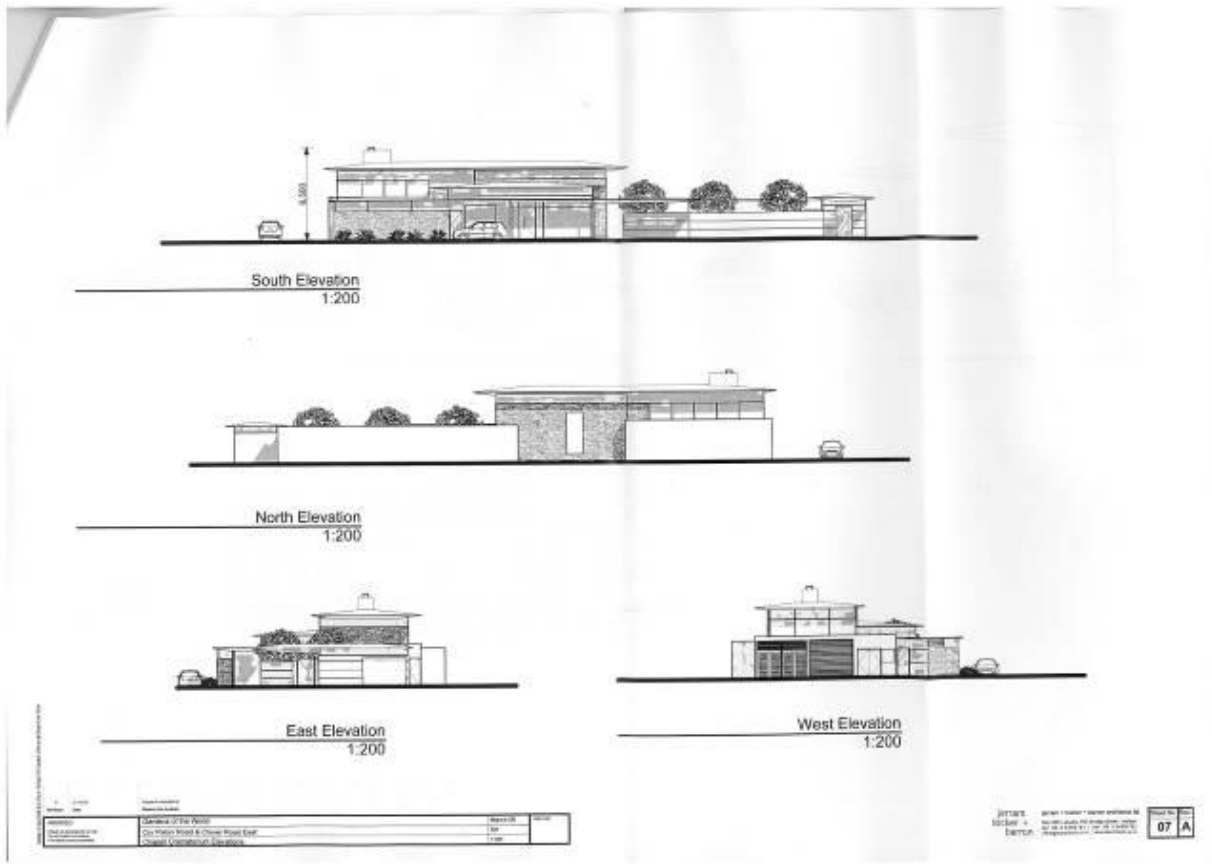
Memorial Garden Site Development and Landscape Plan

**Plan C dated March 2009
RM090538, Gardens of the World Limited**

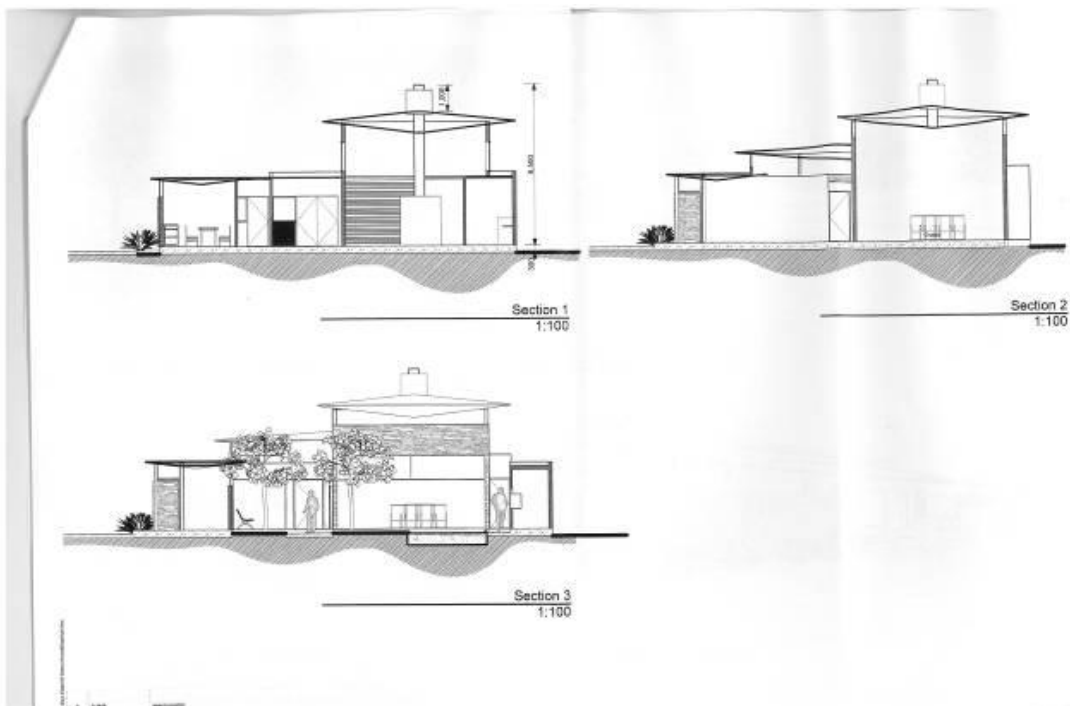


Crematorium / Place of Religious Assembly Floor Plan

**Plan D dated March 2009
RM090538, Gardens of the World Limited**



**Crematorium / Place of Religious Assembly Elevations
Plan E dated March 2009
RM090538, Gardens of the World Limited**



Crematorium / Place of Religious Assembly Sections

Plan F
RM090538, Gardens of the World Limited





RESOURCE CONSENT

RESOURCE CONSENT NUMBER: RM090539

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

Gardens of the World Limited
(hereinafter referred to as “the Consent Holder”)

ACTIVITY AUTHORISED BY THIS CONSENT:

To discharge the combustion products from a gas-fired crematorium to air.

LOCATION DETAILS:

Address of property:	95 Clover Road East
Legal description:	Lot 1 DP 18219
Certificate of title:	NL12A/1049
Valuation number:	1943044000
Easting and Northing:	2521302E 5980872N

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 accordance with the application and plans submitted by Quickfall Associates Limited that is dated August 2009.

Management

2. The discharge shall be from a liquefied petroleum gas (LPG)-fired cremator.
3. The total number of cremations performed each year shall not exceed 365. A maximum of three cremations may be performed each day except that this condition does not apply in the event of a pandemic, natural disaster or other special circumstance.
4. The discharge into air from the cremator shall occur via a stack at a height of at least 6.5 metres above ground level and at least 1 metre above the roof ridgeline of the building.

5. The discharge shall be directed vertically into air and shall not be impeded by any obstruction above the stack which decreases the vertical efflux velocity, below that which would occur in the absence of such obstruction.
6. The automated gas-fired cremator shall be programmed and operated in such a manner that the secondary combustion chamber temperature during cremation exceeds 800 degrees Celsius.
7. The gas-fired cremator shall have a secondary combustion chamber gas residence time of at least two seconds at 871 degrees Celsius, averaged over the period of one cremation. The temperature of gases in the secondary combustion chamber shall be continuously monitored and recorded during operation of the cremator. Records shall be provided to the Tasman District Council on request.
8. The liquefied petroleum gas burning rate shall not exceed 80 litres per hour.
9. The temperature of gases in the secondary combustion chamber of the gas-fired cremator shall be continuously displayed and shall be visually monitored during cremation to check compliance with Conditions 6 and 7.
10. The consent holder shall keep records of the total number of cremations performed each week and each year. These records shall be provided to the Council's Coordinator Compliance Monitoring each year by the 1 May.
11. The opacity of emissions from the stack shall not be darker than Ringelmann Shade 1 as determined in accordance with the New Zealand Standard 5201:1973, except for a period not exceeding two minutes in each hour of operation.
12. Any handles and nameplates that are made from chlorinated plastic or solid metal shall be removed from the casket exterior prior to cremation.
13. The discharge shall not cause odour or particulate matter that is offensive or objectionable beyond the boundary of the property on which the consent is exercised.
14. The cremator shall be serviced at least once every year by a person competent in the servicing of such appliances. The servicing shall include adjustments to ensure compliance with the conditions of this consent. Service reports shall be prepared and retained and copies shall be provided to the Council's Coordinator Compliance Monitoring each year by the 1 May.

Monitoring

15. The consent holder shall measure the mercury concentration in the soil in accordance with Condition 16. The measurements shall be made prior to the commencement of the cremator operation and subsequently in the six months prior to the five year, 10 year, and 15 year (and every five years after that) anniversary of the first cremation carried out at the facility.
16. Sampling shall consist of at least four individual soil samples collected from the top 3-5 centimetres of surface soil at or near the property boundary, including at least one sample to the southwest of the stack, at least one sample to the south of the stack and at least one sample to the northeast of the stack.

17. The method of sample analysis shall in accordance with USEPA method 200.2, modified USEPA Method 245.5 or a similar method acceptable to the Tasman District Council. The analysis shall be carried out by an IANZ-accredited testing laboratory.
18. The results of the sampling and analysis shall be forwarded to the Tasman District Council (Attention: Coordinator Compliance Monitoring) within six weeks of the date of sampling.

Complaints

19. A record of any complaints relating to the odour, smoke and particulate matter shall be maintained and shall include:
 - a) The location where odour and/or deposited particulate matter was detected by the complainant;
 - b) The date and time when the odour and/or deposited particulate matter was detected;
 - c) Description of the wind speed and wind direction when the odour and/or deposited particulate matter was detected by the complainant;
 - d) The most likely cause of the odour and/or deposited particulate matter detected;
 - e) Any corrective action undertaken by the consent holder to avoid, remedy or mitigate the odour and/or deposited particulate matter detected by the complainant; and
 - f) The name and contact details of the complainant.

These records shall be provided to the Tasman District Council each year by 1 May.

Review and Expiry

20. 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 Act 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, discharge parameters and soil testing requirements if it is appropriate to do so; and/or
 - d) to require consistency with any relevant Regional Plan, District Plan, National Environmental Standard or National Policy Statement.

22. The duration of the consent shall be 35 years from the date of commencement.

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. Building consent will be required for these works.
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. 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 Tasman Resource Management Plan (TRMP);
 - b) be allowed by the Resource Management Act; or
 - c) be authorised by a separate resource consent.
6. 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.
7. Monitoring of this resource consent will be undertaken by the Council as provided for by Section 35 of the Act and a one-off fee has already been charged for this monitoring. Should the monitoring costs exceed this fee, the Council reserves the right to recover these additional costs from the Consent Holder. Costs can be minimised by consistently complying with conditions, thereby reducing the necessity and/or frequency of Council staff visits.

Issued this 27th day of April 2010



David W Collins
Chair of Commissioner Panel

Date Confirmed:

Chair: