

MINUTES

TITLE: Environment & Planning Subcommittee
Commissioner Hearing
DATE: Monday, 10 May 2010
TIME: 9.30 am
VENUE: Yacht Club, Tarakohe Harbour, 995 Abel Tasman Drive,
Pohara

PRESENT: Mr D Collins (Chair), Cr B W Ensor and Cr S J Borlase

IN ATTENDANCE: Principal Resource Consents Advisor (J Butler), Consent Planner -Subdivision (W Horner), Development Engineer (D Ley), Forward Planner -Reserves (R Squire), Consent Planner -Natural Resources (D Henehan), Administration Officer (J A Proctor)

1. COBA HOLDINGS LIMITED, COLLINGWOOD - APPLICATION Nos. RM090764 and RM090868

The application sought the following:

- RM090764 -Subdivision and Land Use Consent** To subdivide three existing titles to create the following:
- Proposed Lot 1 comprising 1.23 hectares, which will provide right of-way access, and be amalgamated with Lot 4;
 - Proposed Lot 2 comprising 2530 square metres which will be amalgamated with Lot 5;
 - Proposed Lot 3 comprising 7420 square metres which contains an existing dwelling;
 - Proposed Lot 4 comprising 14.11 hectares;
 - Proposed Lot 5 comprising 6.87 hectares which contains an existing dwelling;
 - Proposed Lot 6 comprising 2.08 hectares which contains an existing dwelling;
 - Proposed Lot 7 comprising 18.10 hectares; and
 - Proposed Lot 8 comprising 2.25 hectares, as Esplanade Reserve which would be vested with the Council.

A land use consent is also sought to construct a right-of-way with access onto Excellent Street that is longer than the permitted activity criteria specified in the Tasman Resource Management Plan.

**Land Use Consent
RM090868**

To undertake earthworks for the construction of the right-of-way associated with the subdivision application described above (Application RM090764).

The subject land is zoned Rural 2 and Open Space. It is within the Coastal Environment Area and contains a Protected Ridgeline as defined by the Tasman Resource Management Plan.

The application site is located on the coastline of Golden Bay south of Collingwood, being 94 and 170 Excellent Street, Collingwood, being legally described as CFR NL10C/1020 comprising Part Section 21-22 Survey Office Plan 4359 and Part Section 411 Survey Office Plan 13346 containing 24.2740 hectares; CFR NL3D/1385 Ltd, comprising Section 1-3 and Part Section 4 Reserve J Square 14 containing approximately 13.9313 hectares; CFR NL6A/387 comprising Section 120 Milnthorpe Suburban District containing 2.7370 hectares.

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 COBA HOLDINGS LTD as detailed in the following report and decision.
CARRIED**

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

**Meeting held at the Pohara Boat Club, Tarakohe, Golden Bay on 10 and 11 May 2010
Site visit undertaken on 9 May 2010
Hearing closed on 25 May 2010**

A Hearing Panel for the Tasman District Council ("the Council") was convened to hear the application lodged by **Coba Holdings Ltd** ("the Applicant"), to subdivide three existing titles into nine lots and to undertake earthworks for the construction of right-of-ways. The application, made in accordance with the Resource Management Act 1991 ("the Act"), was lodged with the Council and referenced as RM090764 (subdivision) and RM090868 (land use).

HEARING COMMITTEE: Commissioner David Collins, Chairperson
Councillor Brian Ensor
Councillor Stuart Borlase

APPLICANT: Ms Camilla Owen (Counsel for the applicant)
Mr Tom Carter (Landscape Architect)
Ms Jane Hilson (Planner)

CONSENT AUTHORITY: **Tasman District Council**
Ms Rosalind Squire (Reserves Forward Planner)
Mr Dugald Ley (Development Engineer)
Mr Daryl Henehan (Consent Planner, Natural Resources)
Mr Wayne Horner (Consent Planner, Subdivisions)

SUBMITTERS:
Ms Jo-Anne Vaughn
Mr Trevor Riley
Ms Sara Chapman
Ms Wendy Drummond
Ms Eileen Watson
Mr Patrick Smith
Mr Allan Vaughn (GB Branch Royal Forest & Bird Society)
Mr Joe Bell
Mr Don Mead (Friends of Golden Bay Inc.)

IN ATTENDANCE:
Mr J Butler (Principal Resource Consents Adviser) - Assisting the Committee
Mrs V Gribble (Committee Secretary)

1. SUMMARY

The Committee has **GRANTED** subdivision and land use resource consents, subject to the deletion of one of the proposed building sites, the provision of further public access, the provision of greater protection of vegetation, and other conditions.

2. DESCRIPTION OF THE PROPOSED ACTIVITY

COBA Holdings Limited has lodged resource consent applications relating to a nine lot subdivision, and earthworks to form a right-of-way, at 94 and 170 Excellent Street, Collingwood.

The proposed development is to subdivide three existing titles to create the following:

- Proposed Lot 1 comprising 1.23 hectares, which will provide right-of-way access, and be amalgamated with Lot 4;
- Proposed Lot 2 comprising 2,530 square metres which will be amalgamated with Lot 5;
- Proposed Lot 3 comprising 2.21 hectares which contains an existing dwelling;
- Proposed Lot 4 comprising 12.64 hectares;
- Proposed Lot 5 comprising 6.77 hectares which contains an existing dwelling;
- Proposed Lot 6 comprising 2.08 hectares which contains an existing dwelling;
- Proposed Lot 7 comprising 18.10 hectares;
- Proposed Lot 8 comprising 2.25 hectares, as Esplanade Reserve which would be vested with the Council; and

- Proposed Lot 9 comprising 1,140 square metres Reserve to Vest in Council as a public access walkway.

A land use consent is also sought to construct a right-of-way with access onto Excellent Street that does not meet the permitted activity criteria specified in Figure 16.2A of the Tasman Resource Management Plan (TRMP) due to the right-of-way being too long. The land use consent sought also covers the earthworks required by the TRMP.

This site is located approximately two kilometres south of the township of Collingwood and is adjacent to the coast. The settlement of Milnthorpe is approximately 1.5 kilometres south of this site. Appendix A shows the subdivision plan and the names of the various "streets" both formed and unformed around the site.

The existing access to this site is via a formed right-of-way from the intersection of Excellent Street and Orion Street over proposed Lot 1, Lot 2 and Lot 5 to the existing dwellings. It is proposed to augment this access with the formation of Right-of-Ways B, C and D to provide access to Lots 3, 4, 6 and 7.

There are existing residential dwellings on Lots 3, 5 and 6 with consent for short term living accommodation on Lot 5 being permitted in accordance with RM040678.

The more productive parts of these lots are the cleared flatter parts running parallel to the coast. The soils in this location are considered to be Class E soils which have a lower range of productive versatility.

It appears that there has been some coastal erosion over time, particularly to the north of this site. It is unknown if, in the longer term, an erosion - accretion cycle is operating along this section of coast.

The steeper slopes are covered by regenerating broadleaf native vegetation that is generally more mature in the area of the existing gullies and streams.

This land is held in three separate titles which are all adjacent to each other and owned by the applicant.

A Protected Ridgeline identified on the Planning Maps of the TRMP is further inland from this site and is above the potential building sites identified in the Tasman Carter Landscape Report that forms part of the application.

There is currently no public access to the coast, nor an esplanade reserve in this area. The applicant has volunteered to vest a 20 metre wide esplanade reserve (Lot 8) along the coast with a connecting walkway (Lot 9) to a section of unformed road reserve to provide for future public walking access.

There is a known midden oven within proposed Lot 7 inland from the potential Building Site 7/B and the applicant has consulted with the Department of Conservation file keeper regarding the effects of their proposal. This oven is identified as a Cultural Heritage Site M25-034 within Schedule 16.13C of the TRMP. There may be further historic material discovered during any earthworks carried out on this site.

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 2 and Open Space

Area(s): Land Disturbance Area 1, Coastal Environment Area and a Protected Ridgeline

The subdivision application is considered to be a Discretionary Activity under subdivision rule 16.3.6.2 in that the proposal has allotment areas less than the Controlled Activity standard of 50 hectares in the Rural 2 Zone, and the proposed rights-of-way will not meet the permitted access standards required by Figure 16.2A, as they are over length.

Subdivision within the Open Space Zone is a Discretionary Activity under Rule 16.3.9.1.

The land use application is a Restricted Discretionary Activity under rules 16.4.2.1 and 16.4.2.2 in relation to the creation of Esplanade Reserves.

The proposed earthworks do not comply with Permitted Activity Rule 18.5.2.1 due to earthworks being greater than 1,000 square metres within 200 metres of the Coastal Marine Area. Therefore, the activity would be a Restricted Discretionary Activity in accordance with Rule 18.5.2.5.

Overall, this suite of applications is considered to be a Discretionary Activity.

4. NOTIFICATION AND SUBMISSIONS RECEIVED

The application was notified on 9 January 2010 and eighteen submissions were received. Twelve submissions oppose the application with nine of these submitters wishing to be heard. Four submitters support the grant of this application with two of these submitters wishing to be heard. One submission sought conditions should consent be granted while reserving the right to be heard.

Submitter	Reasons	Decision Sought
NZ Fire Service Commission	The New Zealand Fire Service seeks a fire fighting water supply to each new dwelling that complies with the New Zealand Standard SNZ PAS 4509:2008.	Neutral
NZ Historic Places Trust	The New Zealand Historic Places Trust is concerned about the potential disturbance of archaeological sites in the area of this subdivision and requests an advisory note be attached to any consent issued.	Neutral
EJ Watson	Considers that the provision of public access is inadequate with this proposal.	Decline
M E Smith	Supports the entire application.	Grant

Submitter	Reasons	Decision Sought
M Gearity	Considers that the coastal area between Collingwood and Milnthorpe is a special coastal margin that should be protected from further development.	Decline
M Fisher	Supports this application subject to public access being granted for vehicle and or pedestrian access to the coast.	Grant
J Vaughan	Concerned about the loss of natural character and visual effects.	Decline
A Vaughan on behalf of Royal Forest & Bird Society (Golden Bay)	Concerned about the loss of natural character and visual effects and seeks conditions if granted such as no further subdivision, no more than one dwelling per lot, mitigation for visual effects of dwellings and no cats to be kept.	Decline
Incredible Adventures Limited	Concerned about traffic effects/noise and the lack of public access to the beach.	Decline
H Wallace	Concerned about the loss of natural character and visual effects.	Decline
R Cosslett	Concerned about the loss of natural character and visual effects.	Decline
P W Smith	Lack of public access to the coast provided by this application.	Decline
S Chapman	Supports the application and would like Council to require public access to the beach.	Grant
G and B Solly	Potential cross boundary effects from this subdivision.	Decline
T H Riley	Practical public vehicle access to the coast if granted. Concerned about the loss of natural character, visual effects and increased fire risk to Milnthorpe area.	Decline
G Wells and W Drummond	In conjunction with this proposal the submitters seek the rationalisation of the existing legal access arrangement to their property through additional road legalisation and right-of-way arrangements.	Grant
A J Bell	Concerned about the loss of natural character, visual effects and public access. Also concerned about visual impacts as a result of earthworks as the coastal forest is regenerating and earthworks will be incompatible with Milnthorpe Scenic Reserve.	Decline
Friends of Golden	Concerned about the loss of natural character and	Decline

Submitter	Reasons	Decision Sought
Bay Inc.	visual effects, seeks building controls if granted along with no further subdivision permitted and public access. Also need to allow for coastal erosion with the width of any esplanade reserve. Concerned about visual impact of earthworks.	

5. PROCEDURAL MATTERS

There were no procedural matters which required a ruling.

6. 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.

6.1 Applicant's Evidence

Ms Camilla Owen (Counsel for the applicant)

Ms Owen said that the proposed subdivision will result in two additional titles (Lots 4 and 7) that will have the capacity for a new house to be erected. However, one of the existing three titles does not have a house on it and the applicant would be entitled to build one. So, in fact, only one additional house over and above what is entitled to occur is proposed.

Mr Carter's work has identified two alternative building locations on each of Lots 4 and 7 that any new house will be limited to.

Ms Owen acknowledged that public access to and along the coast is a matter of national importance and recognised in the New Zealand Coastal Policy Statement. The matter is obviously of high importance to submitters. She said that public pedestrian access is provided for in the proposal by way of a walkway reserve along the northern boundary of proposed Lot 5 which connects to a paper road and then the partially formed Excellent Street.

Mr Tom Carter (Landscape Architect)

Mr Carter described the landscape context including the relative wilderness values of the Milnthorpe Scenic Reserve, the importance of the regenerating bush on the steeper hills facing the sea and the relatively settled farmed terrace adjacent to the sea.

Mr Carter referred to the submissions which put emphasis on coastal wilderness and landscape values, and that they raised concerns over ribbon development along the coast. Mr Carter referred to the Tasman District Council Landscape Character Assessment, 2005 written by Boffa Miskell which recommended that the Ruataniwha Inlet and the Parapara Inlet be considered for classification as Outstanding Natural Features. He also referred to the NZCPS which prioritises the preservation of the natural character of the coastal environment.

Mr Carter assessed the site as having moderate to high natural character overall. He said that it is important that the new development is recessive and that sprawling or sporadic development is to be avoided.

Mr Carter described how two sites on each proposed residential lot have been identified. The sites are identified as 4A and 4B, and 7A and 7B. Only one site on each title is to be developed. He said that further resource consents to build on sites 4A and 7A will not be needed as they are outside of the Coastal Environment Area, but that it would be prudent to impose design and landscape controls that will apply at building consent stage. Access can be relatively easily achieved to all four sites using existing overgrown tracks.

Mr Carter said that it is important that the existing vegetation is kept, except for within the building footprint and construction zone. However, he went on to state that he does not support the officer's proposed Condition 22B which seeks formal protection of the vegetation mapped, as that level of protection is not warranted.

Ms Jane Hilson (Planner)

Ms Hilson expressed her opinion that this is an appropriate location and scale for coastal subdivision taking into account a wide range of landscape, amenity, land productivity and public access and recreation considerations.

She referred to Mr Carter's assessment that the southern end of this coastal segment has wilderness values, but noted that neither the Milnthorpe Reserve Committee, nor the Department of Conservation have submitted against this application.

She also considered that the proposed controls on the location and building design will ensure that these values are retained.

Ms Hilson said that public access has been adequately provided for by the existence of legal unformed road and the provision of a walkway lot to the coast from the end of the road reserve.

With regard to amenity, Ms Hilson said that the rural amenity is already influenced by the presence of three houses, farming and tracks. She said that with the retention of vegetation the allotments proposed will not be inconsistent with the size and use of other properties characteristic of the coastline.

Ms Hilson said that she does not support public road access through the site to the top of the hill or the beach. She also does not agree with the road upgrades sought by Mr Ley.

Ms Hilson also supported the use of an Esplanade Strip rather than a Reserve so that public access is secured in the event of further coastal erosion.

6.2 Submitters Evidence

Ms Jo-Anne Vaughn

Ms Vaughn said that public access is not a big requisite for her and that she foresaw subdivision leading to owners who did not care for their properties and that weeds would infiltrate as a result.

She placed great value on the coastline and its native vegetation. She did not consider that the rules in place allowed this subdivision to take place and that it must be done in a way that protects the Golden Bay coastal landscape.

Mr Trevor Riley

Mr Riley said that the public access lot provided was not suitable as it is too steep. He did not consider it to be a suitable solution for public access.

He said that the applicant is using Mars Street for its own purposes and to balance this they should be required to provide practical and real public access to the coast. He said that a small loss of privacy from providing such access is a small price to pay.

Ms Sara Chapman

Ms Chapman supported the application and saw no grounds for declining sensitive development. However, she sought better access for emergency services vehicles.

With regard to public access she said that the applicant's land provides the only opportunity for public pedestrian access between Collingwood and Milnthorpe and it will provide a circular walk from Collingwood. She considered that public access should continue right down Right-of-Way A to the coast and that the impact on the owners will be minor compared to the benefits.

Ms Chapman said that it is unsatisfactory that establishing a walking route using the unformed road reserves from the end of Excellent Street be formed at "some future time" as this does not provide certainty. She also considered this route to be impractical.

Ms Wendy Drummond

Ms Drummond sought that access to their land-locked property that is currently only accessible by beach be formalised as part of this proposal. Their property is immediately to the north of the applicant's. She said it would enable them to stop using their vehicle on the beach which is not desirable.

Mr Allan Vaughn (Golden Bay Branch Royal Forest & Bird Society)

Mr Vaughan spoke in opposition to the application.

Mr Vaughan stated that the Society was committed to protecting wildlife and reserves and requested that cats and dogs be prohibited from the proposed subdivision.

The Society requested that if the application be approved, that no further subdividing of the land occurred.

Mr Joe Bell

Mr Bell said that approving further subdivision would fragment the rural land in a way not envisaged by historic and current planning. He considered that more buildings would compound the impact of the existing three-storied Baas house.

Mr Bell suggested that boundary adjustments should be considered, but no new titles.

He supported the improvement of public access.

Mr Bell also advised that the Department of Conservation did not have sufficient resources to make a submission on every Resource Consent application and that no weight should be attributed to the lack of comment from the Department.

Mr Bell stated that discreet development was the same as ribbon development in that the cumulative effect was infill of land.

Mr Bell commented that gorse should not be removed as it assisted in vegetation regeneration.

Mr Don Mead (Friends of Golden Bay Inc.)

Dr Mead stated that further development was not supported, as the area had high natural character.

Dr Mead tabled a photograph taken from the southern end of Milnthorpe Park looking North West.

Dr Mead stated that the Baas house stood out and that the cut of earthworks evident in the photograph was not acceptable. Dr Mead thought that the proposed subdivision was the "thin end of the wedge" and that Council should postpone its decision until Council's landscape report had been prepared or, decline the application immediately.

Dr Mead submitted that the area has high natural values and rejected Mr Carter's assessment that it was only moderate to moderate/high. Dr Mead felt that the area would be of even higher value in 20 years time when the native vegetation had regenerated.

Dr Mead stated there were other approaches the applicant could take with regards to native areas such as covenanting them for protection.

Dr Mead stated that the application area should not be opened up for development and that existing areas should be used for additional housing.

Dr Mead did not agree with Mr Carter's assessment that this type of development was "discreet infill".

In response to questioning, Dr Mead advised that the esplanade strip should be wider than 20 metres to allow more latitude for the public and vegetation growth. He also stated that it would be helpful if the proposed building sites were not visible from the beach.

6.3 Other Communications

Ms Eileen Watson

Ms Watson said in a letter that she was not going to attend the hearing as the application now provides for public access via proposed Lot 9.

Mr Patrick Smith

Mr Smith also wrote and said that he also would not attend as the thrust of his submission has been satisfied by the provision of public access via Lot 9.

6.3 Council's Reporting Officers' Reports and Evidence

Mr Dugald Ley (Development Engineer)

Mr Ley confirmed that the Council officers are satisfied with a 4.5 metre right-of-way width and that a right-of-way was more suitable given the topography than a road. He said that the Council was not inclined to maintain a sub-standard road.

In response to questioning, Mr Ley advised that the sealing of the extension of Excellent Street that he had recommended was a safety issue.

Ms Ros Squire (Reserves Forward Planner)

Ms Squire stated that an esplanade strip is more appropriate than a reserve, given coastal erosion and anticipated sea level rise.

Ms Squire acknowledged Mr Riley's comments regarding the steepness of proposed Lot 9 which would limit users as steps would need to be installed.

With regard to obtaining access to the top of proposed Lot 9, Ms Squire said that it was feasible to form a walkway from Excellent Street to Washington Street but that it would require steps and accessibility could be a problem.

Ms Squire advised that the Council had no desire to form a walkway in the proposed esplanade strip. She said that removing existing vegetation was not an option as one of the principles of the strip was to protect coastal vegetation. Public access along the beach is sufficient.

Mr Daryl Henehan (Consent Planner, Natural Resources)

Mr Henehan confirmed that recommended Condition 5 of his report should state a five year term as suggested by Ms Hilson.

Mr Henehan volunteered that recommended Condition 7 should be changed to "Prior to commencement of the earthworks to form ROW C, building pads 4B and 7B and the associated driveways,..."

Mr Henehan agreed that recommended conditions 15 and 21 should be deleted.

Mr Wayne Horner (Consent Planner, Subdivisions)

Mr Horner stated that overall the level of information provided by the applicant had been outstanding and that a reasonable mitigation package had been volunteered.

Mr Horner recommended that the vegetation on the site be protected by way of a consent notice.

Mr Horner addressed the matter of the house that could be built as of right on the title at the southern end of the applicant's property. He said that he considered it a permitted activity to build a dwelling but that a right-of-way would need to be obtained.

Mr Horner advised that having heard the evidence he continued to support the application.

6.4 Applicant's Right of Reply

Ms Owen stated that a number of the submitters concerns had been addressed in the substantive evidence already presented.

Ms Owen stated that Cr Ensor had already commented that a Rural 2 subdivision provided the opportunity for controls to be put in place as requested by several submitters.

Ms Owen reiterated that the application proposed to add one further house only.

Ms Owen disputed Mr Ley's claim that Excellent Street required a further 20 metres of seal as a direct result of the subdivision being approved. Ms Owen continued that there was no link and that if there was a safety issue, then Council should deal with it accordingly. She also disputed the requirement to contribute \$5,000 towards the upgrade of Orion Street as there is no direct link with the proposal.

She reminded us that the proposal only involved one extra house and therefore it wasn't ribbon development down the coast.

On behalf of the applicant Ms Owen agreed to a limitation on the keeping of cats on the properties.

Ms Owen submitted that the applicant had crafted the conditions to aim for sensitivity not invisibility in terms of housing. Ms Owen confirmed that the houses would be located in such a way that you may see the roof from the beach.

Ms Owen stated that Mr Carter was adamant that there was no requirement for a height restriction to be placed on buildings. This is in line with TRMP approach, however, if the vegetation covenant was in place, then that would provide another comfort layer.

7. PRINCIPAL ISSUES AND OUR MAIN FINDINGS

The principal issues that were in contention and our main findings on these issues are:

- a) To what extent will the proposal have adverse effects on the amenity, rural character and wilderness values of the location? Can the proposal be considered "sprawling ribbon development"?**

With regard to the landscape qualities of the site and surrounds, we agree with the comments of both Mr Carter and many of the submitters. The site seems to have moderate to high values and also the coast has a relatively remote and

wilderness feel, particularly opposite the southern end of the application site adjoining Milnthorpe Reserve.

We are generally satisfied that the conditions that have been recommended and, in the main, accepted by the applicant will be effective in largely screening the houses from the coast (which is our principal concern). Mr Carter's description of the setting was of more intensive coastal housing along the beach to the north of the site spreading south from Collingwood. He then described a progressive petering out of houses to the south in the form of Mr Haugh's house and the Baas House.

As a result Mr Carter considered the proposed new houses on two of the four nominated locations to be sensitive infilling. With the exception of site 7B we agree. Site 7A does extend housing to the south but the site is set well back from the coast, is on a rounded landform and will be barely visible from the beach.

Site 7B however is likely to be more visible. A house in that location would be obvious from the beach to the immediate north and, in the event that the eucalypt trees near the boundary are felled, from in front of Milnthorpe Reserve to the south. The location is quite well hidden from the beach directly in front of the site, but only by gorse which also may be removed. Any replacement vegetation would take a long time to adequately screen a building in this location in such close proximity to Milnthorpe. Further, we do consider that a house in this location is extending the "ribbon" of coastal development southwards to its maximum possible extent.

We can foresee a scenario where further infilling could be justified by the existence of a house at 7B. The argument at the time would be that it is just more infilling and not ribbon development. This should be avoided.

One of the major landscape features detracting from the amenity is the Baas house. While it is existing and beyond the scope of the existing consent, we strongly recommend that at some point in the future the visual dominance of the house be reduced by painting it in recessive colours and by softening the bulk of the house with plantings.

b) If the proposal is approved, what level of protection should be given to the existing regenerating vegetation?

Both Mr Carter and Ms Hilson relied substantially on the current existence of the regenerating native bush as mitigation for additional houses. Clearly, the vegetation was also important to many submitters, both those who presented and those who did not.

We therefore consider that protection of the vegetation is of crucial importance in ensuring that the effects on the environment will be as they have been described. Its protection is also a positive effect resulting from the subdivision, both as habitat value and as a natural and green façade to the land when viewed from the beach and the sea.

We consider that protection of just the areas of broadleaf vegetation identified by Mr Carter is not sufficient. This would allow the other areas to be cleared for

sloping lawns, woodlots or other such uses. While such uses are anticipated in most of the Rural 2 Zone we do not consider them to be appropriate in this location. If the area is to be developed (as is sought) then the vegetation on the hillside must be protected and the areas currently dominated by gorse allowed to regenerate into broadleaf bush.

c) To what extent is suitable public access to and along the coast provided for by the proposal?

Public access is a big issue in this case. The point of access volunteered by the applicant is roughly mid-way between Collingwood and Milnthorpe which provides an ideal location for loop tracks from either direction.

The applicant has volunteered the vesting of a reserve to enable access to the coast from unformed legal road reserve. The suggestion is that a track will, at some time be formed along the unformed part of Excellent Street, and then south to the end of proposed Lot 9 along Trafalgar Street. Frankly, we do not consider this to be sufficient to enable effective public access to the coast.

Provision of public access to the coast is a matter of national importance under the Act and the NZCPS, and it also has a high level of importance in the TRMP. Subdivision is the best, and often only, opportunity to achieve such public access linkages and opportunities and in this case it can easily be achieved along the existing access road to the top of proposed Lot 9.

It may be argued that providing for public access through the application site along the existing formed access (which is partly on legal road) to the volunteered access strip along the north boundary (proposed Lot 9) is not addressing an adverse effect of this proposal. Our perception is that subdivision like this has the effect of making it more difficult to negotiate public access in the future, and the overall scheme of the Act is that arrangements for likely public access needs, both for vehicles and pedestrians, are to be secured at the time of subdivision. The lists of types of conditions that may be imposed on subdivisions in sections 108 and 220 of the Act are not exhaustive: *“a resource consent may be granted on any condition that the consent authority considers appropriate, including any condition of a kind referred to in subsection (2).”* (Section 108).

This is an exceptional situation where a matter of national importance, *“the maintenance and enhancement of public access to and along the coastal marine area, lakes and rivers”* (section 6(d)), which we are required to *“provide for”*, can be realistically provided for only through legal access to part of the formed accessway from Excellent Street. The submissions of Mr Riley, Ms Chapman and others seek real, practical and timely public access to the coast; not as a faint possibility at some stage in the future. We agree that is important and warranted both under the Act and the TRMP. Subdivision is a privilege that comes with both benefits and burdens. Public access to the coast at this point will be a major benefit to offset against the negative effect of further development in the coastal environment.

We considered whether some provision should be made for public access by vehicle, as requested by some submitters. The options would be to require an easement over just the formed strip leading from Excellent Street, or an

easement over the existing or proposed accessways down towards the coast with an extension to the coast. In our assessment, public vehicle access right to the coast would be highly desirable but it would significantly undermine the privacy of the property owners. There is no practical alternative for vehicles - it is not practical for example to form proposed Lot 9 for vehicles. Vehicle access over just the formed leg in from Excellent Street would be convenient for the public, but we do not see it as necessary in terms of section 6(d). It is something that could perhaps be negotiated with the applicant as a separate matter from this consent application.

d) What contributions to roading improvement are appropriate given the scale and location of the subdivision?

Ms Owen and Mr Ley have expressed two opposite and rather extreme points of view on this matter. Mr Ley said that significant contributions and work are required on both Orion Street and Excellent Street. Ms Owen said that the subdivision is not directly adjacent to the roads in question and therefore there is no direct causative effect.

We take a middle view on the matter. We find that the traffic generated by the subdivision will inevitably use either Orion or Excellent Street; there is no avoiding this. However, we also find that the increase in traffic will be a small percentage of the traffic utilising these roads given that they now act as a back door entrance to Collingwood. We therefore find that some contribution is appropriate, but not all of what Mr Ley sought.

e) While it is not one of the principle issues of contention, we feel it is appropriate to mention our findings regarding Ms Drummond's access situation. Unfortunately, this is not an issue or effect of the application and therefore we are prevented from imposing conditions on the consent that would be for the purpose of aiding Ms Drummond.

As we understand it the access formation that is in proposed Lot 1 of this subdivision is not formed to a standard that the Council's engineering staff would accept for vesting as public road. However, it occurs to us that if Ms Drummond were to be willing to pay the cost of upgrading the road to the appropriate standard (as she may be willing to do if she is serious about getting legal access to her dwelling) then the Council may accept Lot 1 as legal road.

Clearly, this solution would have to be a three-way agreement between the applicant, Ms Drummond and the Council. But, we see the potential for a "win-win-win" outcome: The applicant would have the use of an upgraded road which it no longer has to maintain, Ms Drummond would be closer to gaining access to her dwelling, the public would have vehicular access to a point closer to the coast, and the Council would not be receiving a substandard road to upgrade and maintain.

In summary, with the involvement of a third party, this solution is clearly not one which we can require through this consent decision. However, we encourage the three parties to discuss the options for the upgrade and vesting of Lot 1 as road to achieve a good outcome.

8. RELEVANT STATUTORY PROVISIONS

8.1 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) the New Zealand Coastal Policy Statement;
- b) Tasman Regional Policy Statement (TRPS); and
- c) the Tasman Resource Management Plan (TRMP).

8.2 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.

9. DECISION

Pursuant to Section 104B of the Act, we **GRANT** consent, subject to the deletion of one of the building sites (site 7B), the provision of further public access, and other conditions.

10. REASONS FOR THE DECISION

Effects on the Environment

With the deletion of building site 7B we consider that the effects on natural character and amenity are acceptable. We believe that the bulk of the subdivision is appropriate given the landscape quality and absorbance, the avoidance of effects on productive values and the proximity to Collingwood.

We do not, however, grant permission for the building location area labelled 7B as we do consider that this will result in undesirable ribbon development along the coast. Even a low house in this location would be visible, and potentially highly visible if some vegetation is removed, from the beach, low tide flats and the sea. The lack of a volunteered maximum building height gives us further cause for concern.

We consider that there are significant positive effects from the provision of effective and immediate public access to the coast from Excellent Street. Having walked down through proposed Lot 9 we believe this strip could be readily developed as a walkway. We do not believe it is practical however to expect that the public will reach this walkway via long lengths of steep paper roads.

We are satisfied that the earthworks will cause only minor and short-lived impacts on the landscape. This is not a location where it is reasonable to expect no impact. As long as it is sensitively constructed and vegetation is left to screen it, earthworks, tracking and such can be absorbed and become part of the landscape.

Objectives and Policies of the TRMP

Chapter 7 of the TRMP addresses the rural environment and broadly seeks that productive land is retained while less productive land is appropriately used. It appears to be common ground among all parties that nothing in the application offends the provisions of this chapter and we agree.

Objective 8.1.2 of Chapter 8 seeks to maintain and enhance public access to and along the coast where it is of recreational value to the public. Policy 8.1.3.1 has essentially the same goal.

Policy 8.1.3.4 is to set aside or create an esplanade reserve, esplanade strip or access strip at the time of subdivision of land adjoining the coastal marine area, where there is a priority for public access. Access strip is explicitly stated and we consider that requiring Right-of-Way A to be used for this purpose is entirely appropriate in the circumstances.

We accept and adopt Mr Horner's assessment of the provisions Chapter 9, although we consider that the deletion of building site 7B better achieves the outcomes sought.

We also accept and adopt Mr Horner's assessment of the provisions of Chapter 11 in relation to land transport effects.

The New Zealand Coastal Policy Statement 1994

We are satisfied that the deletion of building location area 7B will better give effect to the aspects of the NZCPS that direct us to allow development in areas that are already compromised (Policy 1.1.1). The sensitive location of the remaining building location areas will give effect to policies 1.1.3, 1.1.4 and the relevant policies of Section 3.2.

Policy 1.1.5 states that it is a national priority to restore and rehabilitate the natural character of the coastal environment where appropriate. We see the ongoing protection of the coastal vegetation in this location as entirely appropriate and in keeping with this policy, particularly in the Golden Bay setting where a high level of amenity and wilderness remains. The restoration of the coastal margin from unsuccessful farming in the past is important.

Purpose and Principles of the Act

Pursuant to Section 6 we consider the following matters of national importance to be relevant and we have taken them into account in making our decision:

- 6(a) the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development;
- 6(c) the protection of significant indigenous vegetation and significant habitats of indigenous fauna; and
- 6(d) the maintenance and enhancement of public access to and along the coastal marine area ...;

Pursuant to Section 7 we have also had particular regard to the following other matters in making our decision:

- 7(b) the efficient use and development of natural and physical resources;
- 7(c) the maintenance and enhancement of amenity values;
- 7(d) intrinsic values of ecosystems; and
- 7(f) maintenance and enhancement of the quality of the environment.

We consider that our decision, particularly the conditions protecting vegetation and excluding cats will promote the outcomes sought by Section 7. While arguably not “*significant indigenous vegetation*” or “*significant habitat of indigenous fauna*” as set out in Section 6, the bush on this property has the potential to rapidly become so if it is allowed to mature. It is of little value for farming and fulfils a very valuable role in maintaining and enhancing the quality of the coastal environment.

Adopting a broad overall judgement approach to the purpose of the Act, we are satisfied that the proposal, as amended by us through the imposition of conditions, is consistent with Part 2 and achieves sustainable management of natural and physical resources as set out in Section 5 of the Act.

11. COMMENTARY ON CONDITIONS OF CONSENT

The consents have a number of conditions that were not sought or not accepted and, in some cases, possibly not anticipated by the applicant. Nevertheless we consider that the conditions we have imposed are important and necessary to ensure that this subdivision is an acceptable outcome under the provisions of the Act.

As described above, the easement for public access over Lots 1 and 2 is a very important consideration. We understand from legal advice sought that the approval of Incredible Adventures Ltd, who have a right-of-way over Lot 1, is not required as the creation of another easement does not compromise their ability to use the private road to pass and repass.

Flexibility is allowed for in Condition 13 to allow a negotiated solution between the applicant, the Council and Ms Drummond along the lines of what was discussed in Section 7(e) above.

The deletion of building site 7B is also imposed as has been discussed above in the body of the decision.

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.

Section 125(2) of the Act makes particular provision for the lapsing of subdivision consents. In the case of the subdivision consent (RM090764), this consent is given effect to when a Survey Plan is submitted to the Council for the subdivision under Section 223 of the Act. Once the Survey Plan has been approved by the Council

under Section 223 of the Act, the consent lapses three years thereafter unless it has been deposited with the District Land Registrar as outlined in Section 224 of the Act.

Issued this 22nd day of June 2010

A handwritten signature in blue ink, appearing to read "David W. Collins".

Commissioner David Collins
Chair of Hearings Panel



RESOURCE CONSENT

RESOURCE CONSENT NUMBER: RM090764

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

COBA Holdings Ltd
(hereinafter referred to as “the Consent Holder”)

ACTIVITY AUTHORISED BY THIS CONSENT:

To subdivide three existing titles into nine lots including 5 residential titles.

LOCATION DETAILS:

Addresses of properties: 94 and 170 Excellent Street, Collingwood

Legal Descriptions and
Certificates of Title: Part Section 21 and 22 SO 4359, and Pt Sec 411 SO
13346 (CT NL10C/1020)

Sections 1 to 3 and Part Section 4 Reserve J Square 14
(CT NL3D/1385)

Section 120 Milnthorpe Suburban District (CT NL6A/387)

Valuation numbers: 1862014000
1862014001
1862014002

Easting and Northing: 2483359E 6056702N

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

CONDITIONS

Subdivision Plan

1. The subdivision and development shall be carried out generally in accordance with the application plan prepared by Planscapes New Zealand Limited, titled COBA Holdings Ltd, and attached to this consent as Appendix B dated 22 April 2010

(attached), unless inconsistent with the conditions of this consent in which case the conditions shall prevail.

Easements

2. Easements are to be created over any services located outside the boundaries of the lots that they serve as easements-in-gross to the Tasman District Council for Council reticulated services or appurtenant to the appropriate allotment.
3. Easements shall be shown on the Land Transfer title plan and any documents shall be prepared by a Solicitor at the consent holder's expense. The Building Sites on Lot 4 and Lot 7 shall be shown on the Land Transfer title plan.
4. A rural emanations easement shall be registered over Lots 3 and 4 in favour of Part Lot 2 DP 13273. This easement shall be in general accordance with the wording set out in Appendix A attached to this consent.
5. The easements over Rights-of-way A-D shall include access rights for Tasman District Council staff and contractors to carry out works on the Esplanade Strip, walkway reserve and for track formation on road reserve.
6. Reference to easements is to be included in the Council resolution on the title plan at the section 223 stage.

Amalgamations

7. That Lot 1 and Lot 4 hereon be held together and one Computer Register be issued to include both parcels.
8. That Lot 2 and Lot 5 hereon be held together and one Computer Register be issued to include both parcels.

The LINZ consultation reference is 913580.

Staging

9. The following staging is authorised:

Stage 1: Lots 2, 3, 5 and 9 with an esplanade strip over Lot 5 and balance area.

Stage 2: Lots 1, 4, 6 and 7.

Earthworks

10. The earthworks for the formation of the Right-of-Ways B, C and D shall be carried out in accordance with the Conditions of RM090868.

Esplanade Strip

11. An instrument shall be registered over Lots 5, 4, 6 and 7 that allows the creation of an esplanade strip in favour of Tasman District Council in accordance with the following:

An esplanade strip 20 metres wide shall be created over Lots 5, 4, 6 and 7 adjoining mean high water springs. The purpose of this strip is to enable public access to and along the coast and to enable public recreational use of the strip and the coast. All the prohibitions of Clause 2 of the Tenth Schedule apply to the strip, with the exception of subsection (e); Clause 3 shall apply to allow the esplanade strip to be fenced with any existing fencing relocated or removed; Clauses 4 and 7 shall not apply, however Clauses 5 and 6 shall apply.

No structures shall be erected within the esplanade strip without the written approval of Council's Reserves Manager. Approval may be granted subject to conditions.

The owner of the underlying land shall not carry out any landscaping or planting within the esplanade strip without the written approval of the Council's Reserves Manager.

Lot 9 and Public Access

12. The Reserve to vest shown as Lot 9 on Appendix B dated 22 April 2010 (attached) shall be a minimum of 5.0 metres in width and up to a maximum width of 10.0 metres to allow for track construction on the steeper gradients. The location of the boundary shall be subject to agreement and survey prior to section 223 approval.
13. The consent holder shall register a public access easement over Lots 1 and 2 to enable the public to gain legal and practical pedestrian access to Lot 9 (described in Condition 12).

Advice Notes:

1. This condition is required as immediate practicable access is required as a result of this subdivision. Access via the unformed part of Excellent Street and Trafalgar Street is not considered practicable.
2. An alternative solution to the creation of an easement over Lot 1 would be the upgrade and vesting of the road as described in Sections 7(e) and 11 of the decision accompanying this consent document. Vesting would require the agreement of both the consent holder and the Council's Transportation Manager. It is recommended that these parties and Ms Wendy Drummond (174 and 176 Beach Road) discuss the options and advantages for upgrading the road. We consider it a far more preferable option than Ms Drummond resorting to forming Trafalgar Road to gain legal access to her property. Officers checking the applicant's compliance with the above condition should be accepting of an alternative solution that achieves the same public access outcome but may involve the vesting of road.

Access Formation, Right-of-Way A

13. The access shown as Right-of-Way A and formation on Mars Street between Right-of-Ways A and B shown on Appendix B dated 22 April 2010 (attached) shall, as a minimum, be formed as follows:
 - i) A minimum lane width of 4.5 metres;
 - ii) A two coat chip sealed surface if the gradient is greater than 1:6;

- iii) Two 1.0 metre side drains with concrete culverts;
- iv) Two 500mm wide metal shoulders;
- v) Compacted basecourse if gradient is less than 1:6.

Access Formation, Right-of-Ways B, C and D

14. The access shown as Right-of-Ways B, C and D on Appendix B dated 22 April 2010 (attached) shall be formed as follows:
- i) A minimum lane width of 4.5 metres plus passing bays;
 - ii) A two coat chip sealed surface if the gradient is greater than 1:6;
 - iii) One 1.0 metre side drain with concrete culverts;
 - iv) Two 500mm wide metal shoulders;
 - v) Minimum legal width of 6.5 metre plus allowance for passing bays;
 - vi) Compacted basecourse if gradient is less than 1:6.

Excellent Street / State Highway Intersection

15. A cash contribution of \$5,000 towards the cost of extending the seal on Excellent Street where it meets the State Highway shall be paid to the Council.

Engineering Plans

17. Engineering plans detailing all services are required to be submitted to the Tasman District Council Engineering Manager for approval prior to the commencement of any works. All engineering details are to be in accordance with the Tasman District Council Engineering Standards and Policies 2008. All necessary fees for engineering plan approval shall be payable.

Commencement of Works and Inspection

18. The Tasman District Council Engineering Department shall be contacted five working days prior to the commencement of any engineering works.
19. No works shall commence on-site until the engineering plans have been approved by the Tasman District Council Engineering Manager.

Engineering Works

20. All works shall be constructed in strict accordance with the Tasman District Council Engineering Standards and Policies 2008, or to the Tasman District Council Engineering Manager's satisfaction.

Engineering Certification

21. At the completion of works a suitably experienced chartered professional engineer or registered professional surveyor shall provide the Tasman District Council Engineering Manager with written certification that the works have been constructed in accordance with the approved engineering plans, drawings and specifications and any Council approved amendments.

Consent Notices

22. The following consent notices shall be registered on the certificate of title for the relevant allotments pursuant to Section 221 of the Resource Management Act.

The consent notices shall be prepared by the applicant's solicitor and submitted to Council for approval and signing. All costs associated with approval and registration of the consent notices shall be paid by the consent holder.

Consent notices in accordance with conditions of this consent shall be placed on the allotments as they are created:

A. Building Location Restrictions

For Lot 7 all buildings shall be located within Building Site 7/A as identified on the Land Transfer Plan. For the avoidance of doubt no buildings may be located within Building Site 7/B.

For Lot 4 all buildings shall be located within Building Site 4/A or Building Site 4/B as identified on the Land Transfer Plan.

These building sites are identified on Appendix C (amended Sheet 6 of the Tasman Carter Landscape Report for Coba Holdings Limited, dated 22 April 2010) as attached to this consent notice.

Further resource consent approval will be required for buildings constructed within the Coastal Environment Area of the TRMP.

B. Native Vegetation Protection

The Broadleaf Native Vegetation identified on Appendix D (amended Sheet 4 of the Tasman Carter Landscape Report for Coba Holdings Limited, dated 22 April 2010) attached to this consent notice, shall not be removed, damaged or cleared except as required for the construction of buildings, for the location of water storage tanks, the construction and maintenance of walkways, driveways or right-of-ways. This restriction on removal or damage does not apply to species which may either be substantial exotic trees (pines or eucalypts) or exotic weeds, but does apply to gorse cover that is acting as a nursery for native species.

This restriction shall include the vegetation which may assist in screening the dwellings on Lots 4 and 7 from any view from the coast.

For the avoidance of doubt this protection of vegetation covers area that is additional to that identified on Sheet 4 of the Tasman Carter Landscape Report.

C. Building Site Stability / Hazards

At the time a Building Consent is submitted to the Council, certification that an area within each selected Building Site as shown on Appendix C on Lots 4 and 7 is suitable for the construction of a residential building shall be submitted from a chartered professional engineer practicing in civil engineering. This certificate shall define the area suitable for the construction of residential buildings within the selected Building Site and shall be in accordance with NZS 4404:2004 Schedule 2A.

Any application for the construction of a building within Building Site 4/B shall be supported by a report from a suitably qualified person addressing the coastal hazards for this site and any recommended mitigation for these hazards if required.

D. Building Colour

The exterior of all new buildings (including water tanks) on Lots 3 - 7 shall be finished in colours that are recessive and which blend in with the immediate environment.

Buildings shall be finished in colours that meet the following standards:

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

* Based on BS5252:1976 (British Standard Framework for Colour Co-ordination for Building Purposes). Where a BS5252 descriptor code is not available, a sample colour chip equivalent to acceptable BS5252 colours is satisfactory.

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

The exterior surfaces of all buildings shall be non-reflective.

E. Landscaping and Building Construction

At the time of Building Consent for any building on Lots 4 and 7 a Landscape Architect shall confirm in writing to Council's Environment & Planning Manager that:

- (a) There are no large unrelieved expanses of roofs and walls within the building design;
- (b) The shape of the building generally reflects the background landforms;
- (c) The vertical height of the building and scale of earthworks to form the building site have been minimised;
- (d) The proposed style and form of the new building is suitable for the surrounding landscape;

- (e) The visual prominence of the building and earthworks, when viewed from the coast, has been minimised and how that has been achieved;
- (f) Confirm if a Landscape Plan is required to help integrate the building into the landscape and/or to mitigate visual effects of earthworks.

If a Landscape Plan is required then it shall:

- (i) Show how the proposed buildings would be integrated within the landscape;
- (ii) Take into account the natural form of the land, the form of the buildings and any surrounding vegetation;
- (iii) Include a planting schedule and maintenance program. Any dead plants shall be replaced within the next planting season.
- (iv) Include a plant schedule to ensure compatibility of the plant selection with the adjacent land generally in accordance with Annexure C of the Tasman Carter Landscape Report, dated 22 April 2010.

The approved Landscape Plan shall be completed within two years following the commencement of the building construction.

No building shall commence on the site until the Landscape Plan has been approved by Council's Environment & Planning Manager.

Written confirmation shall be provided to Council's Environment & Planning Manager from a suitably qualified landscaping professional that the landscaping has been fully completed in accordance with the approved Landscape Plan within 30 months of the commencement of building construction.

F. Water Storage for Fire fighting

Any new dwelling constructed on Lots 4 and 7 shall be provided with water storage capacity of at least a 45,000 litres. Tanks shall be fitted with 100 mm camlock couplings. This system shall be maintained.

G. Access to Building Sites

The access to the selected building site within Lot 4 and Lot 7 as shown on Appendix B dated 22 April 2010 (attached to this consent notice) shall be formed as follows:

- a) A maximum gradient of 1:5;
- b) Compacted basecourse surface;
- c) One side drain;
- d) Concrete culverts;
- e) Total carriageway width of 3.5 metres, with passing bays at 50 metre intervals.

H. Services

Power and telephone cables within Lots 4 and 7 shall be laid under ground and aligned so as to create minimum disturbance of landform and vegetation (ie within the formation or upgrading of internal access to the building sites).

Advice Note:

It is also recommended that either fibre optic cable, or else facilities for the future installation of fibre optic cable, be installed.

I. Cultural Heritage

There is a known Cultural Heritage site within Lot 7 and there may be other undiscovered sites within this area. The discovery of any pre-1900 archaeological site (Maori or non-Maori) which is subject to the provisions of the Historic Places Act needs an application to the Historic Places Trust for an authority to damage, destroy or modify the site.

J. Prohibition of Cats

No cats may be kept or housed by any of the owners, occupiers, guests or users of any dwellings on Lots 4 and 7. This notice is to protect the recovery of bird life in the regenerating coastal margin forest, and to protect coastal birdlife that may live, nest, visit or feed on the adjacent coast. For the avoidance of doubt, this consent notice was volunteered by the applicant at the time of subdivision.

Financial Contributions (based on two new sites)

23. Payment of financial contributions assessed as follows:

Reserves and Community Services

5.5% of the assessed market value of the area of one notional 2,500 square metre area within a Building Site on Lots 4 and 7 as identified on Appendix B dated 22 April 2010 (attached).

The valuation will be undertaken by Council's valuation provider within one calendar month of Council receiving a request for valuation from the Consent Holder. The request for valuation should be directed to the Consents Administration Officer at Council's Richmond office. The cost of the valuation will be paid by Council.

The value of Lot 9, the esplanade strip and access easements over Lots 1 and 2 will be credited against the Reserves and Community Services Financial Contributions.

If payment of the financial contribution is not made within two years of the date of this consent, a revised valuation will be required and the cost of the revised valuation shall be paid by the Consent Holder.

Advice Note - Development Contributions

Council will not issue the Section 224(c) certificate in relation to this subdivision until all development contributions have been paid in accordance with Council's Development Contributions Policy under the Local Government Act 2002.

The Development Contributions Policy is found in the Long Term Council Community Plan (LTCCP) and the amount to be paid will be in accordance with the requirements which are the amount to be paid and will be in accordance with the requirements that are current at the time the relevant development contribution is paid in full.

This consent will attract development contributions for two new lots in respect of roading.

GENERAL ADVICE NOTES

1. Officers of the Council may also carry out site visits to monitor compliance with resource consent conditions.
2. The Consent Holder should meet the requirements of the Council with regard to all Building and Health Bylaws, Regulations and Acts.
3. Access by the Council or its officers or agents to the property is reserved pursuant to Section 332 of the Resource Management Act.
4. All reporting required by this consent should be made in the first instance to the Council's Co-ordinator Compliance Monitoring.
5. 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. In the event of Maori archaeological sites (e.g. shell midden, hangi or ovens, garden soils, pit depressions, occupation evidence, burials, taonga) or koiwi (human remains) being uncovered, activities in the vicinity of the discovery should cease. The Consent Holder should then consult with the New Zealand Historic Places Trust's Central Regional Office (PO Box 19173 Wellington, phone (04) 801 5088, fax (04) 802 5180), and not recommence works in the area of the discovery until the relevant Historic Places Trust approvals to damage, destroy or modify such sites have been obtained. The discovery of any pre-1900 archaeological site (Maori or non-Maori) which is subject to the provisions of the Historic Places Act needs an application to the Historic Places Trust for an authority to damage, destroy or modify the site.

Issued this 22nd day of June 2010



Commissioner David Collins
Chair of Hearings Panel



RESOURCE CONSENT

RESOURCE CONSENT NUMBER: RM090868

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

COBA Holdings Ltd
(hereinafter referred to as “the Consent Holder”)

ACTIVITY AUTHORISED BY THIS CONSENT:

To undertake earthworks for the construction of roads.

LOCATION DETAILS:

Addresses of properties: 94 and 170 Excellent Street, Collingwood

Legal Descriptions and
Certificates of Title: Part Section 21 and 22 SO 4359, and Pt Sec 411 SO
13346 (CT NL10C/1020)

Sections 1 to 3 and Part Section 4 Reserve J Square 14
(CT NL3D/1385)

Section 120 Milnthorpe Suburban District (CT NL6A/387)

Valuation numbers: 1862014000
1862014001
1862014002

Easting and Northing: 2483359E 6056702N

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

CONDITIONS

1. The Consent Holder shall ensure that all works are carried out in general accordance with the application submitted by Planscapes (NZ) Ltd, dated 18 November 2009 and details contained in the report prepared by Tasman Carter Ltd., dated 22 April 2010. Where there are any apparent conflicts or inconsistencies between the information provided and the conditions of this consent, the conditions shall prevail.

2. The Consent Holder shall contact Council's Co-ordinator Compliance Monitoring at least 24 hours prior to commencing works for monitoring purposes.
3. The Consent Holder shall be responsible for all contracted operations relating to the exercise of this resource consent, and shall ensure that all personnel working on the site are made aware of the conditions of this resource consent and with the Management Plans required by Condition 25 of this consent, and shall ensure compliance with consent conditions.
4. A copy of this resource consent shall be available to contractors undertaking the works, and shall be produced without unreasonable delay upon request from a servant or agent of the Council.
5. The earthworks authorised at each Lot shall be completed within five years of the commencement of works at that Lot. This may be extended by the Council's Co-ordinator Compliance Monitoring if a valid reason for an extension is provided in writing (for example, the contractor goes out of business or unforeseen geological issues).
6. Should the Consent Holder cease or abandon work on-site, adequate preventative and remedial measures to control sediment discharge shall be taken first, and shall thereafter be maintained for so long as necessary to prevent sediment discharge from the site. All such measures shall be of a type, and to a standard, which are to the satisfaction of the Council's Coordinator, Compliance Monitoring.
7. Prior to the commencement of the earthworks to form Right-of-Way C, building pad 4B and the associated driveways, the Consent Holder shall submit to the Council's Co-ordinator Compliance Monitoring, a certificate signed by an appropriately qualified and experienced engineer to certify that the appropriate erosion and sediment control measures have been constructed in accordance with the Earthworks Plan (Condition 24) and the conditions of this consent. The certified controls shall include, where relevant, diversion channels, sediment fences, decanting earth bunds and sediment retention ponds. The certification for these measures for each construction phase shall be supplied to the Council Co-ordinator Compliance Monitoring.
8. The work shall be carried out during normal work hours (i.e., 7.30 am to 5.30 pm) to limit the nuisance of noise and access of vehicles.

Earthworks

9. The Consent Holder shall undertake all practicable steps to minimise the effect of any contaminant discharges to the receiving environment.
10. The Consent Holder shall ensure that any discharge of contaminants onto or into land or water from any activity is avoided, remedied or mitigated to ensure no contaminants are present at a concentration that is, or is likely to have, a more than minor effect on the environment.
11. No petrochemical or synthetic contaminants (including but not limited to oil, petrol, diesel, hydraulic fluid) shall be released into water from equipment being used for the activity and no machinery shall be cleaned, stored, or refuelled within 5 metres of any watercourse.

12. Fuels, oils and hydraulic fluids associated with the operation shall be stored in a secure and contained manner in order to prevent the contamination of adjacent land and/or waterbodies.
13. All machinery on the work site shall be refuelled, and any maintenance works undertaken, in such a manner as to prevent contamination of land and surface water. Spillage of contaminants into any watercourse or onto land shall be adequately cleaned up so that there is no residual potential for contamination of land and surface water. If a spill of more than 20 litres of fuel or other hazardous substance occurs, the Consent Holder shall immediately inform Council's Co-ordinator Compliance Monitoring.
14. All practical measures shall be taken to ensure that any dust created by operations at the site and vehicle manoeuvring (in accessing the site and driving within it) shall not, in the opinion of Council's Co-ordinator Compliance Monitoring, become a nuisance to the public or adjacent property owners or occupiers. The measures employed shall include, but are not limited to, the watering of unsealed traffic movement areas, roadways and stockpiles as may be required.
15. The Consent Holder shall take all practical measures to limit the discharge of sediment with stormwater run-off to water or land where it may enter water during and after the earthworks.

Advice Note:

In particular, the key earthworks should be carried out during fine weather periods when the likelihood of erosion and sedimentation will be least.

16. The Consent Holder shall monitor weather patterns during the construction phase and works shall be discontinued and appropriate protection and mitigation measures put in place prior to forecast heavy rainfalls and where resulting floods reaching the site works.
17. The Consent Holder shall stop construction in heavy rain when the activity shows sedimentation in run-off that may enter water that is more than minor in the opinion of the Council's Compliance Officer.
18. Sediment and erosion controls shall be implemented and maintained in effective operational order at all times.

Advice Note:

Appropriate sediment control equipment including erosion protection matting and batter covers should be kept on-site for use in minimising potential sedimentation problems from areas of exposed soil.

19. All erosion and sediment control measures shall be inspected after any major rainfall event and any problems shall be rectified within 24 hours required.
20. The discharge of stormwater shall not cause in the receiving water any of the following:
 - (a) the production of any visible oil or grease films, scums or foams, or conspicuous floatable or suspended material;

- (b) any emission of objectionable odour;
- (c) the rendering of freshwater unsuitable for bathing;
- (d) the rendering of freshwater unsuitable for consumption by farm animals; or
- (e) any adverse effect on aquatic life.

Revegetation

21. All exposed ground excluding the driveways and building platforms shall be revegetated as soon as practical and shall be within 12 months of completion of the works so that erosion/downhill movement of soil is limited as much as is practical. This shall include supplemental planting of appropriate vegetation that enhances the stability and minimises surface erosion.

Advice Note

Where practical native vegetation shall be used as per the landscaping plan

Earthworks Management Plan

22. Prior to undertaking any activities authorised by this consent, the Consent Holder shall prepare an Earthworks Management Plan.
23. The Consent Holder shall carry out operations in accordance with the provisions of the approved Earthworks Management Plan.
24. Any changes to the Earthworks Management Plan shall be made in accordance with the methodology and approved procedures in that plan and shall be confirmed in writing by the Consent Holder following consultation with Council's Compliance Officer. Changes to the Earthworks Management Plan shall not be implemented until authorised by the Council's Co-ordinator Compliance Monitoring.
25. The Earthworks Management Plan required by Condition 24 shall set out the practices and procedures to be adopted in order that compliance with the conditions of this consent can be achieved, and in order that the effects of the activity are minimised to the greatest extent practical. This plan shall, as a minimum, address the following matters:
- (a) description of the works;
 - (b) engineering design details;
 - (c) silt and dust control during earthwork stages;
 - (d) temporary activities and equipment storage in specified areas;
 - (e) construction programme including timetable, sequence of events and duration including any landscaping;
 - (f) construction methods and equipment to be used;
 - (g) dust sources and potential impact during construction;

- (h) methods used for dust suppression during construction activities;
- (i) location, design, operation and maintenance of stormwater run-off controls and sediment control facilities;
- (j) detailed specifications of the diversion of any water bodies including channel configurations and rehabilitation measures;
- (k) detailed specifications of the spoil storage and stabilisation;
- (l) traffic management and property access management;
- (m) contingency plans (eg, mechanical failures, oil/fuel spills, flooding, landslips);
- (n) assessment and monitoring procedures;
- (o) methodology and approval procedures for making changes to the Earthworks Management Plan;

The following are the general principles and outcomes that shall be achieved as a result of the writing and implementing the Construction, Erosion and Sediment Control Plan:

- (a) minimise the disturbance to land;
- (b) stage construction;
- (c) protect steep slopes;
- (d) protect watercourses;
- (e) stabilise exposed areas as soon as possible;
- (f) minimise the run-off velocities;
- (g) revegetate as soon as possible;
- (h) install perimeter controls and protect disturbed areas from run-off sourced above site;
- (i) employ detention devices;
- (j) take the season and weather forecast into account;
- (k) use trained and experienced contractors and staff;
- (l) update the plan as the project evolves;
- (m) assess and monitor.

Advice Note:

The Consent Holder is directed to the following documents for more detail on earthworks and sediment control: eg, Auckland Regional Council's Technical publication TP90, Erosion & Sediment Control Guidelines for Land Disturbing Activities in the Auckland Region.

Review of Consent Conditions

26. Council may, for the duration of this consent, review the conditions of the consent pursuant to Section 128 of the Resource Management Act 1991 to:
- 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 impose or review contaminant limits, loading rates and/or discharge volumes and flow rates of this consent if it is appropriate to do so; and/or
 - d) to review the frequency of sampling and/or number of determinands analysed if the results indicate that this is required and/or appropriate;
 - e) to require consistency with any relevant Regional Plan, District Plan, National Environmental Standard or Act of Parliament.

Expiry

27. This resource consent expires 15 years after the date of granting.

ADVICE NOTES

1. Officers of the Council may also carry out site visits to monitor compliance with resource consent conditions.
2. The Consent Holder should meet the requirements of the Council with regard to all Building and Health Bylaws, Regulations and Acts.
3. Access by the Council or its officers or agents to the property is reserved pursuant to Section 332 of the Resource Management Act.
4. All reporting required by this consent should be made in the first instance to the Council's Co-ordinator Compliance Monitoring.
5. Council draws your attention to the provisions of the Historic Places Act 1993 that require you in the event of discovering an archaeological find (eg, shell, midden, hangi or ovens, garden soils, pit, depressions, occupation evidence, burials, taonga) to cease works immediately, and tangata whenua, the Tasman District Council and the New Zealand Historic Places Trust should be notified within 24 hours. Works may recommence with the written approval of the Council's Environment & Planning Manager, and the New Zealand Historic Places Trust.
6. This resource consent only authorises the activity described above. Any matters or activities not referred to in this consent or covered by the conditions must either:

- a) comply with all the criteria of a relevant permitted activity rule in the Tasman Resource Management Plan (TRMP);
 - b) be allowed by the Resource Management Act; or
 - c) be authorised by a separate resource consent.
7. If the removal or destruction of indigenous vegetation does not comply with Permitted Activity Rule 17.6.5.1, additional resource consent will be required.

Issued this 22nd day of June 2010



Commissioner David Collins
Chair of Hearings Panel

APPENDIX A - RM090764

Right to Emit Noise from Rural Activities and Drift from Agricultural and Horticultural Sprays

1. Definition

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

2. Rights and Powers

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

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

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

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

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

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

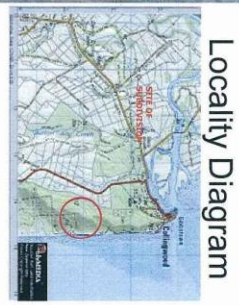
- (c) The owners or occupiers from time to time of the Dominant Tenement shall at all times use sprays in accordance with usual agricultural and horticultural practices in the District.

APPENDIX B - RM090764



Lots 1 - 9 being Proposed Subdivision of
 Pt Sec 411 SO 13346, Pt Sec 1-3 &
 Pt Sec 4 Sq 14 RS J, Pt Sec 21 & 22 SO 4359,
 & Section 120 Milnthorpe SD

① Mars Street
② Orion Street
③ Taralga Street



Locality Diagram

Proposed Lot	Survey	Section	Corner
A	Lot 1 (Henson)	Lot 2, 3, 5, 6 & 7 (Henson)	Lot 3, 6 & 7 (Henson)
B	Lot 4 (Henson)	Lot 3, 6 & 7 (Henson)	Lot 3, 6 & 7 (Henson)
C	Lot 4 (Henson)	Lot 3, 6 & 7 (Henson)	Lot 3, 6 & 7 (Henson)
D	Lot 6 (Henson)	Lot 1, 3, 4 & 7 (Henson)	

Proposed Lot	Survey	Section	Corner
A	Lot 1 (Henson)	Lot 2, 3, 5, 6 & 7 (Henson)	Lot 3, 6 & 7 (Henson)
B	Lot 4 (Henson)	Lot 3, 6 & 7 (Henson)	Lot 3, 6 & 7 (Henson)
C	Lot 4 (Henson)	Lot 3, 6 & 7 (Henson)	Lot 3, 6 & 7 (Henson)
D	Lot 6 (Henson)	Lot 1, 3, 4 & 7 (Henson)	

NOTES:

This subdivision was approved as activity on theday of 20.... subject to the conditions noted in the file.

APPLICANT: Cobla Holdings Ltd.
 Incorporated in: CT (VIC/200, 301388 & 6A/097)

AMALGAMATION CONDITIONS:
 That Lot 1 & 4 hereon be amalgamated and one Certificate of Title issues
 That Lot 2, 5, 6 & 7 hereon be amalgamated and one Certificate of Title issues

STAGES:
 Stage 1: Lots 1, 3, 4, 6, 7 & Balance of Lot 8
 Stage 2: Lots 1, 3, 4, 6, 7 & Balance of Lot 8
 Stage 3: Lots 1, 3, 4, 6, 7 & Balance of Lot 8

WARNING:
 This subdivision was approved for the purpose of a resource consent application only. It is not a resource consent. An application for a resource consent must be made to the relevant authority in accordance with the Resource Management Act 1991 and the Resource Management Act 1991 Regulations. The resource consent must be obtained before any development is carried out on the site.

Client: Cobla Holdings Ltd.
 Excellent Street
 Collingwood

Scale: @ A3 = 1:5000
Date: 22/04/2010

planscapes
 Surveying and
 Resource Management
 1000/99 Mt. Zion

Appendix C - RM090764



Note: Planscapes Ltd information takes precedence

site not authorised

Building Sites

Coba Holdings Ltd

22.4.10

Amended Sheet 6

Appendix D - RM090764



Legend



Indicative Distribution of Broadleaf Native Vegetation



Vegetation to be protected and allowed to regenerate.

Vegetation

Coba Holdings Ltd

22.4.10

Amended **Sheet 4**

Date Confirmed: _____

Chair: _____