

# MINUTES

**TITLE:** Environment and Planning Subcommittee  
Commissioner Hearing

**DATE:** Monday 28 March 2011

**TIME:** 9.30 am

**VENUE:** Council Chamber, 189 Queen Street, Richmond

**PRESENT:** Dr J Jones

**IN ATTENDANCE:** Principal Resource Consents Advisor (J Butler), Subdivision Officer (R Shirley), Forward Planner Reserves (R Squire), Development Engineer (D Ley), Administration Officer (J A Proctor)

**Application No. RM100613, RM100614 - P A Shortley and N M Brown, Motueka Valley Highway, Ngatimoti**

The application seeks the following:

**Subdivision Consent RM100613** To subdivide the land to create:  
Lot 1 of 0.92 hectares containing an existing house;  
  
Lots 2-4 of between 0.72 hectares and 1.2 hectares, each with a nominated building site;  
  
Lot 5 of 0.9 hectares, to vest in Tasman District Council as recreation reserve.  
  
Access to Lots 1-4 is via a new crossing place from Motueka Valley Highway.

**Land Use Consent RM100614** To construct a dwelling on each of Lots 2-4, in those locations shown on the subdivision plan.  
The subject land is in a Rural 1 Zone as defined by the Tasman Resource Management Plan.

The application site is located at 1453 Motueka Valley Highway, Ngatimoti, being legally described as Part Lot 6 DP 16565.

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

**Report and Decision of the Tasman District Council through an Independent Commissioner**

**Meeting held in the Tasman Room, Richmond on 28 March 2011  
Site visit undertaken on 25 March 2011  
Hearing closed on 28 March 2011**

An independent hearing commissioner (“the commissioner”) was engaged on behalf of the Tasman District Council (“the Council”) to hear the application lodged by **PA Shortley and NM Brown** (“the Applicant”), to subdivide land to create four rural residential sections and to vest land in the Tasman District Council as recreation reserve, and to construct a dwelling each of Lots 2 to 4. The application, made in accordance with the Resource Management Act 1991 (“the Act”), was lodged with the Council and referenced as RM100613 (subdivision) and RM100614 (land use).

**COMMISSIONER:** Dr Jeff Jones

**APPLICANT:** Mr Pat Shortley (Applicant)  
Ms Nick Brown (Applicant)  
Represented by Ms Jane Hilson (Planning Consultant)

**CONSENT AUTHORITY:** **Tasman District Council**  
Mr Ross Shirley (Subdivision Officer)  
Ms Ros Squire (Reserves Forward Planner)  
Mr Dugald Ley (Development Engineer)

**SUBMITTERS:** Ngatimoti Community Reserve Committee  
(Mr Steve Anderson and Ms Pam Coleman)  
Mr Robert Leenheer  
Mr Edward Stevens  
Mr Alan Bensemam  
Mr Allen Brereton (represented by Mr Bensemam)  
Mr J Kelly and Ms E Iannuzzi  
Dr Ed Kiddle

**IN ATTENDANCE:** Mr Jeremy Butler (Principal Resource Consents Adviser) -  
Assisting the Commissioner  
Miss Julie Proctor (Administration Officer)

## 1. SUMMARY

The commissioner has **GRANTED** resource consents to subdivide land and construct dwellings, subject to conditions.

## 2. DESCRIPTION OF THE PROPOSED ACTIVITY

The legal description of the land is Pt Lot 6 DP 16565, contained in CT NL11C/390, with an area of 5.0080 hectares. The registered proprietors of the land are Patrick Adrian Shortley and Nicola Mary Brown, who are jointly the applicant and also live on the property.

The existing site was created as a result of a subdivision approved by Council in 1991. The same subdivision also created four rural-residential sites and the original Ngatimoti Recreation Reserve. The Reserve area was subsequently increased in 1995 as a result of a boundary adjustment with the subject land.

The site immediately adjoins the existing Ngatimoti Recreation Reserve, which in turn adjoins the Ngatimoti School. The Reserve land contains the Ngatimoti Fire Station, car park, a BMX track and open space. The site also adjoins a cluster of four existing rural-residential sites. Otherwise, the surrounding land has a mixture of land uses including lifestyle, pasture, cropping and grapes. The catchment area for the community includes the rural localities of Pangatotara, Pokororo and Orinoco.

The proposal is to subdivide the land to create five lots as shown on the plan attached as Appendix A, being:

- (a) Lot 1 of 0.97 hectares containing the existing dwelling and accessory buildings;
- (b) Lot 2 of 0.93 hectares being a vacant rural residential site;
- (c) Lot 3 of 1.1 hectares being a vacant rural residential site;
- (d) Lot 4 of 0.72 hectares being a vacant rural residential site;
- (d) Lot 5 of 1.1 hectares to vest in the Tasman District Council as part of the Ngatimoti Recreation Reserve.

The areas of the proposed lots shown above were modified from that notified as a result of negotiations between the applicant and council officers in order to mitigate concerns of submitters.

The proposal also includes an application to construct a dwelling on each of Lots 2, 3 and 4.

### 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): none specified

Subdivision in the Rural 1 Zone is a controlled activity if, inter alia, the area of any of the allotments is 12 hectares or more - Rule 16.3.5.1. The proposed subdivision breaches the minimum area condition and is therefore a discretionary activity per Rule 16.3.5.2.

The construction of a dwelling in the Rural 1 Zone is a controlled activity if, inter alia, the site has an area of more than 12 hectares - Rule 17.5.3.2. The proposed land use to construct a dwelling breaches that condition and therefore is a restricted discretionary activity by virtue of Rule 17.5.3.3.

Overall, the applications together are considered as a discretionary activity.

### 4. NOTIFICATION AND SUBMISSIONS RECEIVED

The applications were publicly notified on 9 October 2010 pursuant to Section 95 of the Act. A total of 16 submissions were received. The following is a summary of the written submissions received and the main issues raised:

Submitter	Support/ Oppose	Reasons
NZ Fire Service Commission	Neutral	Requires water supply for fire fighting purposes
Donald John Sutherland	Neutral	Requires existing right-of-way easement to reserve to be surrendered
Tiakina Te Taiao	Neutral	Requires conditions re cultural heritage / archaeological sites and sediment control
Ross Stuart Hadley Joanne Rena Hadley	Support	Supports entire application
Ngatimoti Community Reserve Committee, C/- Steve Anderson	Oppose	Proximity of dwelling to reserve, more land needed for reserve
Russell Edwin Kiddle	Oppose	Subdivision of Rural 1 land
John Kelly & Elizabeth Iannuzzi	Support	No reasons given
Aiyanna & Robert Leenheer	Oppose	Requires conditions re dwellings, fencing, valuation, right-of-way, noise, vehicles
Allen Leigh Brereton	Oppose	Access and culvert, reserve area
Ngatimoti Rural Fire Service C/- Graham Durrant	Oppose	More land needed for reserve, proximity of dwellings
Alan Bensemman	Oppose	More land needed for reserve, proximity of dwellings

Ngatimoti Bowling Club C/- Madeline Rogers	Oppose	More land needed for reserve, proximity of dwellings
John Anderson	Oppose	More land needed for reserve, proximity of dwellings
Lesley Hadley	Oppose	More land needed for reserve, proximity of dwellings
Wolfram Gessler for Osina Trust	Support	Increased population of area, improves access
Edward Beaumont Stevens	Oppose	Cross-boundary effects

## 5. PROCEDURAL MATTERS

In his submission to the hearing Mr Brereton suggested that the new subdivision plan incorporating a larger reserve area and a different access location should have been renotified.

I infer from Mr Brereton's comments that he is concerned that there are parties who were prejudiced by the amendments made to the proposal after the close of submissions. It is important to note here that the subdivision design was changed as a direct result of the clear concerns raised in the submissions received, in an effort to mitigate those concerns.

Mr Shirley was clear in his opinion that the Ngatimoti Community Reserve Committee, the Volunteer Fire Brigade and the Council itself are effectively the owner and occupiers of the land affected by both the reserve extension and the access. The Council is also the "owner" of the Motueka Valley Highway.

This is an important consideration as Section 104(3)(d) prevents me from granting the consent if the application should have been notified (in this case re-notified) and was not. However, I am clear that all the parties who had an interest in the accessway (which is the only change that could be of any controversy) were already submitters, and that they were aware of the change through the pre-circulation of the Section 42A report and were present at the hearing. I am satisfied that there are no other parties that could have been excluded from the process or otherwise disenfranchised by the decision not to renotify the application.

## 6. EVIDENCE HEARD

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

## 6.1 Applicant's Evidence

### Ms Jane Hilson for the Applicant

Ms Hilson introduced the application and explained that the application that is to be considered differs from that originally applied for and notified. She stated that the reserve area had been increased, principally at the expense of Lot 2, which had decreased in size. Lots 2 to 4 were now to be served via the existing access to the fire station and recreation reserve secured by means of rights-of-way (ROW).

Ms Hilson addressed the key resource management issues as she saw them.

She considered that the effect on productive land values will be minor and will not fragment rural land resources. She noted that it is significant that the vesting of the reserve land is effectively a permitted activity and that doing so would remove much of what little productive land there is in the parent title.

Ms Hilson said that with volunteered restrictions on the height, colour, location and coverage of buildings there would be less than minor effects on rural character and amenity.

She did not agree that existing overhead electricity lines should be undergrounded as recommended by Mr Shirley. She also did not agree that the ROW should be sealed, because such a high standard would be unnecessary. She referred to Figure 16.2A of the TRMP and considered that it only requires a compacted basecourse surface.

Overall, she considered that change in the rural character and amenity will not be adverse and will not offend the objectives and policies of the TRMP.

Ms Hilson considered that the separation distances proposed for the dwelling site envelopes would be such that adverse effects on the recreation reserve and other surrounding properties will be avoided. Further to this she agreed to rural emanations easements and covenants to protect reserve activities.

She noted that access will now not be an issue as no new access crossings will be created as a result of the subdivision and there will be no intensification of the existing access crossing onto the Motueka Valley Highway (serving the proposed Lot 1).

In considering other matters, Ms Hilson briefly covered precedent. She considered that there are clear distinguishing features to this application which set it apart from any other applications that are likely to arise.

Ms Hilson considered there to be no matters of national importance and that Section 7 matters will not be offended.

## 6.2 Submitters Evidence

### **Ngatimoti Community Reserve Committee (Steve Anderson and Pam Coleman)**

Mr Anderson expressed his support for the vesting of Lot 5 with the new area of 1.1 hectares. He also supported the “no complaints clause” on the titles of the new residential lots, including Lot 1.

### **Mr Robert Leenheer**

Mr Leenheer spoke in support of the application, subject to his concerns relating to privacy and screening being addressed. He requested that the proposed dwelling area on proposed Lot 4 be moved further away from his boundary and that the area be reduced. Mr Leenheer requested that adequate screening be provided and that people do not use sprays on proposed Lot 4 in order to protect his organic vegetable plot.

Mr Leenheer was happy to drop other concerns outlined in his original submission, if these conditions were met.

Mr Leenheer advised that he had purchased his land believing that he would not have “close neighbours”. He was supportive of the application as he could recognise the community benefit, but wished to limit the possible impact on his privacy.

Mr Leenheer spoke of concerns regarding cars driving over the reserve and the occupants playing loud music.

### **Mr Edward Stevens**

Mr Stevens expressed his concerns that trees and buildings on proposed Lots 3 and 4 may shade his pasture. He requested that a no planting condition within 8 metres of his boundary be imposed. Mr Stevens asked that the condition limit the height of plantings to no more than 5.5 metres and that they be deciduous.

Mr Stevens tabled an aerial photograph upon which he had marked the approximate position of a field tile drain through the applicant’s property. He requested that the integrity of the tile drain be preserved and an easement created for it.

Mr Stevens considered that the original plan where all lots accessed the site via a new access was better as it would improve sight lines. Mr Stevens did not think that the existing mirror serving the access to the existing property (and therefore proposed Lot 1) was effective when pulling onto the road.

Mr Stevens suggested that a median strip would solve problems for down-river traffic following vehicles that will turn into the reserve and subdivision. Council should provide appropriate signage further along the highway and drop the speed limit.

Mr Stevens was opposed to the proposed access to the subdivision as the fire station would lose six car parks. He was concerned that there may be an accident involving a fire engine with the increased number of vehicles using the access.

Finally, Mr Stevens asked that the old 150 millimetre irrigation pipe from Lot 2 DP 378582 (CT 315583) on the north side of the Motueka Valley Highway, which exists over the subject property through to proposed Lots 3 and 4, be protected by an easement for possible future use.

### **Mr Alan Bensemam**

Mr Bensemam tabled his submission and spoke in support of the application.

He asked that the dwelling on proposed Lot 2 be positioned at least 20 metres from the new reserve. He also sought that proposed Lot 1 be included in recommended condition 13(j) which requires recognition of the reserve.

### **Mr Allen Brereton (represented by Mr A Bensemam)**

Mr Bensemam tabled Mr Brereton's submission and spoke on his behalf.

Mr Brereton considered that the existing proposed Lot 1 access should continue to be used. He said that he does not agree with the use of the reserve and fire station access.

Mr Brereton asked that both of his properties be protected by rural emanations easements over the proposed lots.

Mr Brereton also raised a procedural issue that I have dealt with above.

### **Mr J Kelly and Ms E Iannuzzi**

Mr Kelly spoke in support of the application and commented that it would be of benefit to the community.

### **Dr Ed Kiddle**

Dr Kiddle was unable to be present at the hearing and so submitted a written statement. I accepted this statement as a submission.

In his written statement Dr Kiddle expressed his opposition to the proposal as the subdivision of Rural 1 land in the manner proposed is inconsistent with the TRMP. He said that his concerns are loss of rural land and productive capacity, adverse effects on the rural character, and the possibility of a precedent being set.

Dr Kiddle supported strong local populations for schools and communities but considered that it can be achieved without subdivision of the most productive land.

Dr Kiddle described the land as being potentially very productive. He considered that small holdings are likely to become more important and profitable in the future and should not be destroyed.



Dr Kiddle foresaw the creation of a precedent as a particular risk of this subdivision. He considered that the argument that blocks are small and therefore unproductive will become easier to make as a result of this subdivision. He also considered that there are other areas in Tasman District where this kind of situation exists. He submitted that a “line in the sand” had been drawn by the 12 hectare controlled activity rules in the TRMP.

Dr Kiddle referred to Objective 7.1 of the TRMP and its related policies. He said that the proposal is contrary to that objective and those policies and it should be declined.

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

#### **Mr Ross Shirley (Subdivisions Officer)**

Mr Shirley clarified his recommended Condition 4 which had the effect of including the land covered by ROW B in the reserve. He said that an easement in gross to the Council over the land, by allowing its use by the Council’s “guests and invitees”, would effectively make it legal road and that this was not desirable.

Mr Shirley agreed with Mr Brereton’s suggestion that Lot 1 be included in recommended Condition 5 in relation to the rural emanations easement.

Mr Shirley considered that the cost of sealing the ROW was not prohibitive and he considered that in consideration of the density of the proposal, the Council should enforce high standards in terms of amenity, dust and noise and therefore sealing was warranted in this instance. Allowing side drains instead of kerb and channel, he noted, was a compromise.

Mr Shirley no longer sought that the overhead powerlines be removed.

Mr Shirley also concurred that proposed Lot 1 should be included in Condition 13(j), the no restraint or interference with the reasonable use of the Reserve condition.

Mr Shirley commented that he was initially of the opinion that Council should not be burdened with compliance issues relating to trees. However, having listened to Mr Stevens’ submission, he had changed his mind. Mr Shirley continued that the consent, if approved, should not impact on rural land and productivity. However, he noted that a shelter belt of trees could currently be planted as of right. He considered that if imposed, it would be appropriate that any condition refer to height and distance from the boundary and type of planting permitted.

#### **Ms Rosalind Squire (Reserves Forward Planner)**

Ms Squire stated that a considerable amount of time and effort had been spent in negotiations with the applicant in an attempt to resolve submitters’ concerns. It was acknowledged that a pragmatic solution had resulted and that there had been areas of compromise.

In response to questioning regarding planting a buffer on the reserve side of the ROW, Ms Squire advised that in managing its reserves, Council usually tried to work in conjunction with adjoining landowners. She continued that whereas some people wanted a buffer, others enjoyed the wide open views and sense of space. She noted that, from Council's point of view, there were security advantages in not having densely planted buffer areas.

Ms Squire confirmed that the sealing of the ROW was not necessary from the point of view of the reserve.

Ms Squire advised that the issue of loud music being played on, and unauthorised vehicle access onto the reserve grassed areas had been raised and was being addressed.

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

Mr Ley tabled a plan showing suggested additional road marking on the proposed joint access. He said that this would mitigate any adverse effects of vehicles meeting each other in opposite directions. He continued that it could be possible to place a "no stopping" area on each side of the highway.

Mr Ley concurred with the condition that the ROW should be sealed entirely.

In response to questioning, Mr Ley advised that it was preferable to have one access point (with a greater number of traffic movements) off a highway rather than two such accesses sharing those movements.

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

Ms Hilson said that the Council is in agreement with the proposed Lot 1 access staying open and that there would be no change to its use. She noted that there had been suggestions that it be improved. She submitted that it was not necessary.

Ms Hilson commented that what had become clear through the submission process was that a number of submitters who were initially opposed, were now in support of the application. Mr Brereton was the exception and she noted that there was no suggestion that Lots 2, 3 and 4 should not gain approval.

Regarding access to Lots 2, 3 and 4 Ms Hilson commented that various options had been discussed and that the Ngatimoti Community Reserve Committee had now tendered its support.

Ms Hilson referred to the existing planting along Mr Steven's boundary and said that chestnuts and walnut trees that are deciduous are already there.

Regarding the sealing of the ROW, Ms Hilson referred to Figure 16.2A of the TRMP which sets out formation standards. She did not consider that sealing was necessary given that proposed Lots 3 and 4 were off the end of the ROW. She also highlighted the evidence presented by the Council's Reserves Planner that sealing was not needed for the reserve.

## 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 subdivision adversely affect productivity values and fragment the rural land resource?**

Some submitters, principally Dr Kiddle, were concerned that this proposal would result in a loss and fragmentation of valuable Rural 1 zoned land from the District's high quality land resource. While I understand and concur with the importance of protecting the rural land resource there are several circumstances that diminish the effects of the fragmentation of the subject site.

Firstly and most importantly I accept the evidence of both Ms Hilson and Mr Shirley that the vesting of land as a recreation reserve is an activity that is permitted under the Act. i.e. it could happen as of right without resource consent. Dr Kiddle questioned the likelihood of this happening without the associated subdivision. I find that given that extra space is being actively sought by the Council's Parks and Reserves Department, and that compensation will clearly be paid, there is certainly a likelihood that such a transaction could occur without the associated subdivision.

What is left is a small block that is irregularly shaped and with only two small portions of usable land: one where proposed Lot 1 is, which has several buildings which restrict development, and the other to the south where proposed Lots 3 and 4 are located. The meandering incised stream and its floodway significantly compromises any productive potential in the remainder of the property.

Whilst theoretically there may be the potential for the southern area (proposed Lots 3 and 4) to be amalgamated with another adjacent title, I consider this to be most unlikely, given the existing pattern of development to the east. Overall I am satisfied that the adverse effects on rural productivity are minor.

**b) To what extent will the creation of rural-residential sections and construction of dwellings in the nominated locations create cross boundary and/or reverse sensitivity effects on the productive use of adjacent land?**

I am satisfied that any reverse sensitivity effects will be adequately dealt with by the unopposed imposition of rural emanations easements.

Mr Stevens had concerns about planting at the rear of proposed Lots 3 and 4. He sought protections on his land by way of limitations on tree planting and height limits. Mr Shirley supported this as he placed a primacy on the ability of productive land to be used as such.

I agree with Mr Shirley that it is important that a development does not adversely impact on the productivity of surrounding land. However, boundary plantings, including shelterbelts, are permitted and are not a fanciful possibility. The decision I have to make is whether the change from the existing subject site to the proposed rural residential style subdivision will increase, decrease or leave unchanged the likelihood of boundary plantings occurring. Neither Mr Stevens nor Mr Shirley presented evidence in this regard.

Overall, I consider that plantings on the southern boundary of the land are likely whether or not the land is subdivided. Therefore I do not see a compelling reason to impose controls on vegetation on the southern boundaries of proposed Lots 3 and 4.

**c) To what extent will the subdivision have adverse effects on the safety and efficiency of the Motueka Valley Highway and the access?**

I consider the proposed use of the fire station access to be by far the most sensible, practical and safe location for the connection of the three new lots to the Motueka Valley Highway.

Mr Stevens sought upgrades to the Highway to accommodate the down-valley traffic turning into the site, including a median strip and widening on the northern edge of the road.

I note that no expert traffic engineering evidence was presented to persuade me that it is necessary, and that the evidence presented indicates that from this proposed access point of view, the visibility along this section of the road is excellent and approaching vehicles will have plenty of warning that a vehicle is waiting to turn into the accessway.

Finally, I consider that the increase in vehicle numbers as a result of the subdivision will be minimal in comparison to the volume of traffic that can be expected to events on the reserve, particularly if and when sports facilities are developed. It seems more appropriate that such improvements, should they become necessary, be borne by the Council to accommodate large volumes of vehicles arriving at the recreation reserve over a short time period.

On this basis, I do not consider the improvements sought to be necessary

There was some discussion about the need for the trimming back of the southern bank of the highway to increase the sight distances for the existing Lot 1 crossing. The advice from Mr Ley was that such earthworks would be unnecessary as considerable volumes would need to be removed and that even then, only a small increase in visibility could actually be realised. I do not consider that such improvements are warranted given that there will be no increase in traffic using this access as a result of the subdivision.

**d) To what extent will the proposal have an adverse effect on rural character and amenity?**

I accept and, pursuant to Section 113(3) of the Act, adopt Mr Shirley's assessment of this matter as it is stated in Section 7.3 of his report.

In point (h) of that section Mr Shirley suggests that appropriate conditions are necessary to ensure that any effect on the rural character and amenity of the locality is minor. I agree with this and later in this decision I discuss my reasons for imposing certain conditions.

One important condition that relates to amenity concerns the sealing the ROW. Mr Shirley considered that sealing the ROW is appropriate to avoid the effects dust and noise. Ms Hilson said that sealing may be desirable but was not necessary to address the effects. She referred me to Figure 16.2A of the TRMP which states that for Rural Residential lots that are greater than 5000 square metres in area the minimum surface requirement is compacted base course<sup>1</sup>.

Figure 16.2A of the TRMP has value as a guide only as the table specifies permitted development standards. This application is for a discretionary activity and therefore I have the mandate to depart from these standards where appropriate.

In the circumstances of this proposal I consider that sealing most of the ROW is appropriate. While the lots are larger than 5000 square metres Lot 2 in particular is severely limited in usable space by the presence of the stream. The building site is fixed in relatively close proximity to the ROW. Therefore I consider this lot at least to be more in keeping with a less than 5000 square metre section which requires access to be sealed.

Further, with the location of the ROW next to the reserve I can see some advantages in it being sealed despite the comments of Ms Squire that it need not be.

Overall, this is a rural residential development in the heart of the Ngatimoti community and I consider it appropriate that it be finished to a high standard to achieve an excellent long term outcome. Having said that, I take Ms Hilson's point that the dwellings on Lots 3 and 4 are off the end of the ROW and should not be affected by dust and noise and therefore I have limited the extent of the seal to the end of ROW C.

## **8. RELEVANT STATUTORY PROVISIONS**

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

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<sup>1</sup> This standard is for accesses that have a gradient of less than 1:6. I record here that I found this particular table entry in Figure 16.2A difficult to interpret and I consulted Mr Ley on the matter. He clarified that the meaning of the table entry is that accesses should be sealed if steeper than 1:6 and compacted base course if of a lesser gradient.

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

## **8.2 Part 2 Matters**

In considering this application, I 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, I hereby **GRANT** consent, subject to conditions.

## **10. REASONS FOR THE DECISION**

### **Effects on the Environment**

I am satisfied that the adverse effects on rural productivity and land fragmentation will be minor due to the small area and irregular shape of the residual (after the vesting of the recreation reserve) land. I am also satisfied that the new allotments with dwellings and other rural residential style activities will not adversely affect neighbours, nor the wider rural character of the area.

I consider there to be a number of positive effects resulting from the proposal. Firstly the vesting of the recreation reserve will be of great benefit to the community. Secondly, the proximity of the new allotments will build the “heart” of Ngatimoti. The allotments will be of high quality and attractive locations to live.

I am also satisfied that the new lots will not compromise either the use of the reserve or legitimate rural activities through reverse sensitivity effects.

Finally, I consider that the proposed access to the new lots is in an appropriate location to consolidate vehicle movements through a well formed and well positioned crossing onto the Motueka Valley Highway.

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

Throughout his report Mr Shirley assessed the relevant objectives and policies from the TRMP. I accept and, pursuant to Section 113(3) of the Act, adopt Mr Shirley’s assessment and findings on these objectives and policies.

### **Other Matters**

I also accept and, pursuant to Section 113(3) of the Act, adopt Mr Shirley’s Section 7.8 where he discusses the matter of precedent. This matter was not raised in a significant way at the hearing except by Dr Kiddle. I record that I agree

that the circumstances of this case mean that there is little risk of setting a precedent for out of zone Rural 1 subdivisions.

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

Section 104 of the Act requires me to make a broad overall judgement as to how the merits of the application fit within the overall purpose of the Act as specified in Section 5.

At its core this case requires the balancing of the minor (but extant) effects on rural productivity against the positive effects of consolidating and infilling the cultural and social heart of Ngatimoti. Overall I am satisfied that the proposal is consistent with Part 2 and will achieve the purpose of sustainable management of natural and physical resources as set out in Section 5 of the Act.

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

Condition 4 of RM100613 has been included, as was recommended by Mr Shirley. The condition has the effect of requiring that the land shown as being part of proposed Lot 1 with ROW B over it is now to be vested with the Council as recreation reserve. ROW B will remain but it will now be in favour of Lots 2 to 4. I accept the reasoning given by Mr Shirley for this change.

I have not required the access to proposed Lot 1 to be upgraded (other than by sealing some of the accessway as required by Condition 7(a)) as I was persuaded that significant works would be required for minimal visibility gain and further that the work is not necessary to address an effect of the subdivision.

Condition 8(b) requires ROWs A, B and C to be sealed. ROW D no longer must be sealed. I was convinced that sealing was warranted for the higher use areas of the ROW but not once the ROW exits proposed Lot 2 and enters proposed Lots 3 and 4.

I agree with Mr Stevens that removing the overhead powerlines that may be useful in running a pump on the north side of the Motueka Valley Highway is unnecessary. Therefore I have not included a condition to this effect. I note that Mr Shirley's recommendation concerning the undergrounding of the bulk of the overhead power lines was withdrawn.

There were a number of other conditions that were called for by submitters but I have decided not to include them for the reasons set out or referred to below.

Related to the old pump location on the northside of the Motueka Valley Highway is an 150 millimetre diameter irrigation pipe running south through the subject property. Mr Stevens asked that this be protected for possible future use by way of an easement. I have not done this for a number of reasons:

- As I understand it, neither the pump nor a consent to take water exist;
- The use of the pipe would be dependent on a legal resource consent process to obtain water;

- The use of the pipe is very unlikely given that it will only serve two rural residential sized sections.
- The exact location of the pipe is not known and would need to be for an easement to be created.
- I understand that the easement would run largely through the recreation reserve to be vested. As such, its existence may impose unreasonable constraints on the Council.

Mr Stevens also identified a field tile drain that underlies an ephemeral swale that drains his land. I have not required this to be protected by an easement for two reasons. Firstly, an ephemeral watercourse is protected by the provisions of the Act and the TRMP and there are restrictions in what can be done within such a channel. Secondly, I see that there are options for Mr Stevens to divert any problematic surface water into the stream before it reaches the subject property (proposed Lot 3).

Mr Stevens also asked for upgrades to the firestation access to the Motueka Valley Highway. I have discussed my reasons for not imposing such conditions earlier in this decision.

I have also already discussed my reasons for not including restrictions on planting on the southern boundary of proposed Lot 4.

Mr Leenheer had concerns about the proximity of the new dwelling on proposed Lot 4 to his property. I was not persuaded that greater separation distances than the standards in the TRMP are warranted. Also, a covenant disallowing non-organic orchards on the subject property is not a reasonable condition given the legality of the agrichemicals that may be used and the controls in the Act and the TRMP over matters including spray drift.

Finally, there was some concern that Conditions 12(g) and 13(j), which require an acknowledgement on the new titles that the owners live adjacent to a reserve and cannot complain about activities that go on there, was too restrictive. Comment was made that people should still retain the right to complain about activities or effects that are unreasonable or outside the scope of the Reserve Management Plan. I agree with this and the conditions have been amended to allow for complaints when effects are unreasonable.

## **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 (RM100613), 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.



Land Use Consent, (RM100614 - construction of dwellings) will lapse five years after the issue of each of the certificates of title for the respective allotments (Lots 2 to 4) inclusive. This is a pragmatic approach to ensure that delays with the subdivision do not compromise the effective 'life' of the land use consent for the dwellings to be erected on the titles created by the subdivision.

Issued this 5th day of April 2011

A handwritten signature in black ink on a light yellow background. The signature is stylized and appears to read 'Dr Jeff Jones'.

Dr Jeff Jones  
**Commissioner**

CONFIRMED MINUTES



## RESOURCE CONSENT

**RESOURCE CONSENT NUMBER:** RM100613

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

**PA Shortley and NM Brown**  
(hereinafter referred to as “the Consent Holder”)

### ACTIVITY AUTHORISED BY THIS CONSENT:

To subdivide the land to create:

- Lot 1 of 0.97 hectares containing an existing house;
- Lots 2, 3 and 4 of 0.93 hectares, 1.1 hectares and 0.72 hectares, respectively, each with a nominated building site;
- Lot 5 of 1.1 hectares, to vest in Tasman District Council as recreation reserve.

### LOCATION DETAILS:

Address of property: 1453 Motueka Valley Highway  
Legal description: Pt Lot 6 DP 16565  
Certificate of title: NL11C/390  
Valuation number: 1928052800  
Easting and Northing: 2499343E 6000506N

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

### CONDITIONS

#### 1. Amalgamation

That Lot 5 hereon and Lot 5 DP 16565 (CT NL11C/389) and Lot 1 DP 17558 (CT NL11C/389) be held in the same computer register.

Land Information New Zealand reference: 980876

#### 2. Road to Vest

That the survey plan show road to vest over the small area of land at the north-west corner of Lot 1 to provide a smooth roadside boundary.

### **3. Proposed Dwelling Areas**

That the survey plan show the proposed dwelling areas on Lots 2, 3 and 4 as per the resource consent application plan (attached as Appendix A), with the exception that the proposed dwelling area on Lot 4 be shown set back 30 metres from the southern boundary.

#### **Advice Note:**

As there is an existing dwelling and a bach on Lot 1 no dwelling areas have been delineated thereon.

### **4. Right-of-way Easement B**

That the survey plan shows right-of-way B as being included in Lot 5 with the appropriate easements being granted to Lots 2, 3 and 4.

### **5. Rural Emanations Easements**

That rural emanations easements (in the form shown in Appendix B) be duly granted or reserved over Lot 4 hereon for the benefit of the land in CT 5C/830 (Stevens & Beatson) and Lot 3 hereon for the benefit of the land in CT 5C/830 (Stevens & Beatson) and the land in CT 3B/1240 (Brereton) and over Lots 1 and 2 hereon for the benefit of the land in CT 3B/1240 and CT 1D/916 (Brereton).

The purpose of the easement is to allow authorised farming activities to be undertaken on the dominant land without interference or restraint from the owners or occupiers of the servient land.

### **6. Easements General**

That any services located outside the boundaries of the lots that they serve be protected by an appropriate easement referenced in Council's Section 223 recital.

The easements are to include, but not be limited to, the rights of way.

#### **Advice Note:**

For the avoidance of doubt it is recorded that easements are not required for the 150 millimetre water supply pipe, nor the approximately 75 millimetre lateral pipe observed, nor the field tile drain identified by Mr Stevens.

### **7. Access to Lot 1**

- (a) That the existing vehicle crossing servicing Lot 1 be upgraded by sealing for a distance of 10 metres from the edge of the carriageway seal.
- (b) That prior to undertaking the upgrading works a vehicle crossing permit is to be submitted to the Council for approval. All works are to be undertaken in accordance with the approved permit.

## **8. Access to Lots 2, 3 and 4**

- (a) That right-of-way A, including the existing vehicle crossing, be upgraded to improve and delineate the access to the reserve, car park and fire station and to the rural-residential lots. The works are to include realignment of the existing kerb, drainage, landscaping, sealing and ground marking. The improvements shall be consistent with the diagram shown in Appendix C.
- (b) That rights of way B, C and D be designed and constructed to the following standards:
  - (i) legal width right-of-way B and C: 6.5 metres;
  - (ii) traffic lane width rights of way B and C: 4.5 metres, sealed surface;
  - (iii) legal width right-of-way D: 5 metres;
  - (iv) traffic lane width right-of-way D: 3.5 metres, compacted basecourse surface;
  - (v) seal widening at corners and passing bay;
  - (vi) shoulders 2 x 500 millimetre metalled;
  - (vii) provision for drainage;
  - (viii) turnouts to be constructed to each allotment.
- (c) Prior to undertaking any works engineering plans prepared in accordance with Council's Engineering Standards & Policies 2008 be submitted to Council for approval. All works are to be completed in accordance with the approved plans.

## **9. Fencing**

That the Lot 5 boundary adjacent to Lots 2, 3 and 4 be fenced with a standard post and wire fence.

## **10. Electricity and Telephone**

That Lots 2, 3, 4 and 5 be provided with live underground electricity and telephone connections to the main body of the lot. Written confirmation that the connections have been satisfactorily provided is required from the network authorities.

## **11. Financial and Development Contributions**

That a financial contribution be paid as provided by Chapter 16.5 assessed as follows:

- (a) one-third of 5.62% of the total market value (at the date of this consent) of notional building site of 2500 square metres contained within each of Lots 2, 3 and 4.

The Consent Holder shall request the valuation to be undertaken by contacting Council's Administration Officer (Subdivision). The valuation will be undertaken by Council's valuation provider at Council's cost.

If payment of the financial contribution is not made within 2 years of the date of this consent and a revised valuation is required as provided by Rule 16.5.2.4(c) of the TRMP, the cost of the revised valuation shall be paid by the Consent Holder.

**Advice Note:**

A copy of the valuation together with an assessment of the financial contribution to be paid will be provided to the Consent Holder within 1 calendar month of Council receiving the request to undertake the valuation.

The financial contribution otherwise payable has been reduced by two-thirds in accordance with an agreement with the Tasman District Council in recognition of Lot 5 vesting as a reserve.

**Development Contributions Advice Note**

Council will not issue the Section 224(c) certificate in relation to this subdivision until all relevant development contributions have been paid in accordance with the Council's Development Contributions Policy under the Local Government Act 2002. The power to withhold a Section 224(c) certificate is provided under Section 208 of the Local Government Act 2002.

The Development Contributions Policy is found in the Long Term Council Community Plan and the amount to be paid will be in accordance with the requirements which are current at the time the relevant development contribution is paid in full. This consent will attract a development contribution in respect of roading for three lots.

**12. Consent Notices - Lot 1**

The following conditions are to be complied with on a continuing basis by the subdividing owner and subsequent owners and are therefore to be subject to consent notices in accordance with Section 221 of the Act, such notices to be prepared by the Consent Holder.

- (a) That any new or replacement dwelling have a maximum height of 5.5 metres above ground level.
- (b) That any new or replacement dwellings and/or accessory buildings be finished in recessive colours.
- (c) That each new or replacement dwelling is provided with on-site water storage area of not less than 23,000 litres and whether the storage is provided by an above-ground or an underground tank, the tank is fitted with an accessible

100 millimetre female round thread coupling to enable connection with firefighting equipment and that the water source be supplied from a rainwater supply or a surface water source or a groundwater source that is both reliable and potable.

- (d) That the effluent treatment and disposal system for each new or replacement dwelling have regard to the On-site Effluent Disposal Report attached to this document and otherwise to comply with the conditions for a permitted activity for the discharge of domestic wastewater under the appropriate rule of the TRMP operative at the time of building consent application or other wise be the subject of a resource consent. Design and certification of the treatment and disposal system is to be undertaken by an appropriately competent person. (Note: appropriately competent person is defined in the TRMP.)
- (e) That the stormwater from new or replacement buildings and hard surfaces be managed and disposed of on-site so that the stormwater discharge complies with the conditions for a permitted activity for the discharge or diversion of stormwater or drainage water the appropriate rule of the TRMP operative at the time of building consent application or other wise be the subject of a resource consent. Design and certification of the discharge of stormwater is to be undertaken by an appropriately competent person. (Note: appropriately competent person is defined in the TRMP.)
- (f) That the foundations of all new or replacement dwellings be designed and certified by an appropriately competent person. (Note: appropriately competent person is defined in the TRMP.)
- (g) That the owners of Lot 1 shall acknowledge that their property adjoins a recreation reserve and that certain activities may, from time to time, be undertaken on the reserve land that may adversely impact on their own properties. The owners shall further acknowledge that they shall allow any activity authorised by the Reserves Management Plan to be undertaken on the reserve without unreasonable interference or restraint.

### **13. Consent Notices - Lots 2, 3 and 4**

The following conditions are to be complied with on a continuing basis by the subdividing owner and subsequent owners and are therefore to be subject to consent notices in accordance with Section 221 of the Act, such notices to be prepared by the Consent Holder.

- (a) That any dwellings be located within the proposed dwelling area shown on the survey plan.
- (b) That the there is no more than one dwelling on each allotment.
- (c) That the maximum height of any dwelling or accessory building be 5.5 metres above ground level.
- (d) That all dwellings and accessory buildings be finished in recessive colours.

- (e) That the total area of all buildings on an allotment is not greater than 500 square metres.
- (f) That each dwelling is provided with on-site water storage area of not less than 23,000 litres and whether the storage is provided by an above-ground or an underground tank, the tank is fitted with an accessible 100 millimetre female round thread coupling to enable connection with firefighting equipment and that the water source be supplied from a rainwater supply or a surface water source or a groundwater source that is both reliable and potable.
- (g) That the effluent treatment and disposal system for each dwelling have regard to the On-site Effluent Disposal Report attached to this document and otherwise to comply with the conditions for a permitted activity for the discharge of domestic wastewater under the appropriate rule of the TRMP operative at the time of building consent application or other wise be the subject of a resource consent. Design and certification of the treatment and disposal system is to be undertaken by an appropriately competent person. (Note: appropriately competent person is defined in the TRMP.)
- (h) That the stormwater from buildings and hard surfaces be managed and disposed of on-site so that the stormwater discharge complies with the conditions for a permitted activity for the discharge or diversion of stormwater or drainage water the appropriate rule of the TRMP operative at the time of building consent application or other wise be the subject of a resource consent. Design and certification of the discharge of stormwater is to be undertaken by an appropriately competent person. (Note: appropriately competent person is defined in the TRMP.)
- (i) That the foundations of all dwellings be designed and certified by an appropriately competent person. (Note: appropriately competent person is defined in the TRMP.)
- (j) That the owners of Lots 2, 3 and 4 shall acknowledge that their properties adjoin a recreation reserve and that certain activities may, from time to time, be undertaken on the reserve land that may adversely impact on their own properties. The owners shall further acknowledge that they shall allow any activity authorised by the Reserves Management Plan to be undertaken on the reserve without unreasonable interference or restraint.

## **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 advises that the provisions of the Historic Places Act 1993 that require that in the event of discovering an archaeological find (eg, shell, midden, hangi or ovens, garden soils, pit, depressions, occupation evidence, burials, taonga) works cease immediately, and tangata whenua, the Tasman District Council and the New Zealand Historic Places Trust 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.

Issued this 5th day of April 2011



Dr Jeff Jones  
**Commissioner**





## RESOURCE CONSENT

**RESOURCE CONSENT NUMBER:** RM100614

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

**PA Shortley and NM Brown**  
(hereinafter referred to as "the Consent Holder")

### ACTIVITY AUTHORISED BY THIS CONSENT:

To construct a dwelling on each of Lots 2, 3 and 4 authorised by resource consent RM100613

### LOCATION DETAILS:

Address of property: 1453 Motueka Valley Highway  
Legal description: Pt Lot 6 DP 16565  
Certificate of title: NL11C/390  
Valuation number: 1928052800  
Easting and Northing: 2499343E 6000506N

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

### CONDITIONS

1. That any dwellings be located within the proposed dwelling area shown on the survey plan.
2. That there is no more than one dwelling on each allotment.
3. That the maximum height of any dwelling or accessory building be 5.5 metres above ground level.
4. That all dwellings and accessory buildings be finished in recessive colours that blend in with the local environment.
5. That the total area of all buildings on an allotment is not greater than 500 square metres.

6. That each dwelling is provided with on-site water storage area of not less than 23,000 litres and whether the storage is provided by an above-ground or an underground tank, the tank is fitted with an accessible 100 millimetre female round thread coupling to enable connection with firefighting equipment and that the water source be supplied from a rainwater supply or a surface water source or a groundwater source that is both reliable and potable.
7. That the effluent treatment and disposal system for each dwelling have regard to the On-site Effluent Disposal Report attached to this document and otherwise to comply with the conditions for a permitted activity for the discharge of domestic wastewater under the appropriate rule of the TRMP operative at the time of building consent application or other wise be the subject of a resource consent. Design and certification of the treatment and disposal system is to be undertaken by an appropriately competent person. (Note: appropriately competent person is defined in the TRMP.)
8. That the stormwater from buildings and hard surfaces be managed and disposed of on-site so that the stormwater discharge complies with the conditions for a permitted activity for the discharge or diversion of stormwater or drainage water the appropriate rule of the TRMP operative at the time of building consent application or other wise be the subject of a resource consent. Design and certification of the discharge of stormwater is to be undertaken by an appropriately competent person. (Note: appropriately competent person is defined in the TRMP.)
9. That the foundations of all dwellings be designed and certified by an appropriately competent person. (Note: appropriately competent person is defined in the TRMP.)

#### **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 advises that the provisions of the Historic Places Act 1993 require that in the event of discovering an archaeological find (eg, shell, midden, hangi or ovens, garden soils, pit, depressions, occupation evidence, burials, taonga) works cease immediately, and tangata whenua, the Tasman District Council and the New Zealand Historic Places Trust 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.

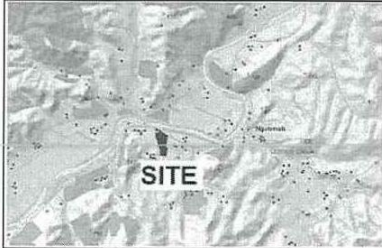
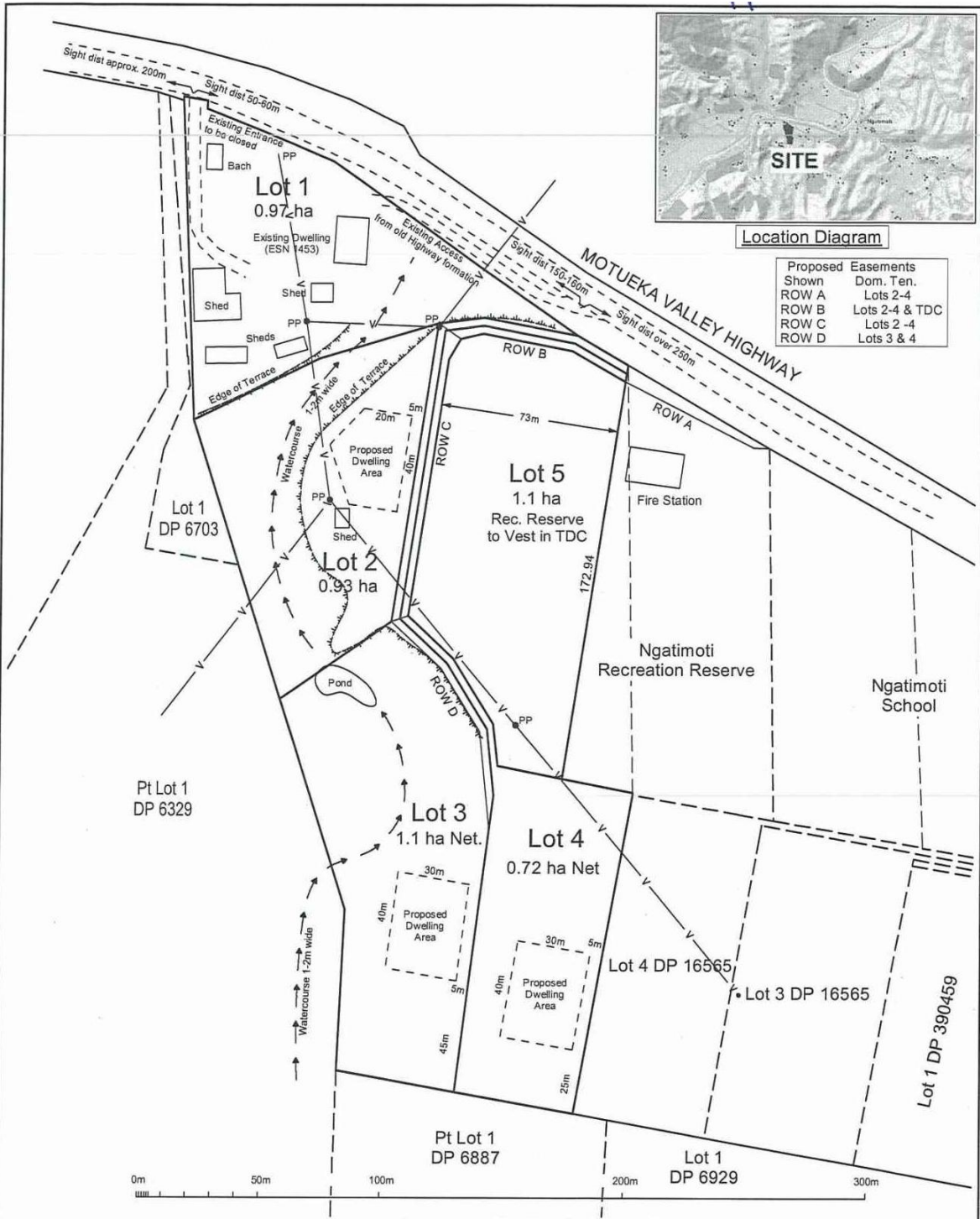
Issued this 5th day of April 2011

A handwritten signature in black ink on a light yellow background. The signature is stylized and appears to read 'J. Jones'.

Dr Jeff Jones  
**Commissioner**

CONFIRMED MINUTES

Appendix A - RM100613, RM100614



Proposed Easements Shown	Dom. Ten.
ROW A	Lots 2-4
ROW B	Lots 2-4 & TDC
ROW C	Lots 2 - 4
ROW D	Lots 3 & 4

Prepared by Nikkel Surveying  
 PO Box 423 Motueka  
 Ph (03) 528 1015  
 Project No: 1789-SHO

Proposed Subdivision of  
 Pt Lot 6 DP 16565

Applicant:  
 P.A. Shortley & N.M. Brown

Date: February 2010 Scale: 1: 1500 (A3) Sheet: 1 of 1

TDC RM - 100613

No. 1	Amendment	Date
2	Increase Reserve to Vest Lot 1 access	Dec. 2010



Design
Drawn
Checked
Approved
Date

NOTE:  
 (1) This plan has been prepared for the purposes of a Resource Consent Application only. It is not a precise survey plan. As areas and dimensions are likely to vary upon survey this plan should not be attached to sale and purchase agreements without an appropriate condition to cover such variations.  
 (2) Verify all dimensions on site.  
 (3) Do not scale from this drawing.

## 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

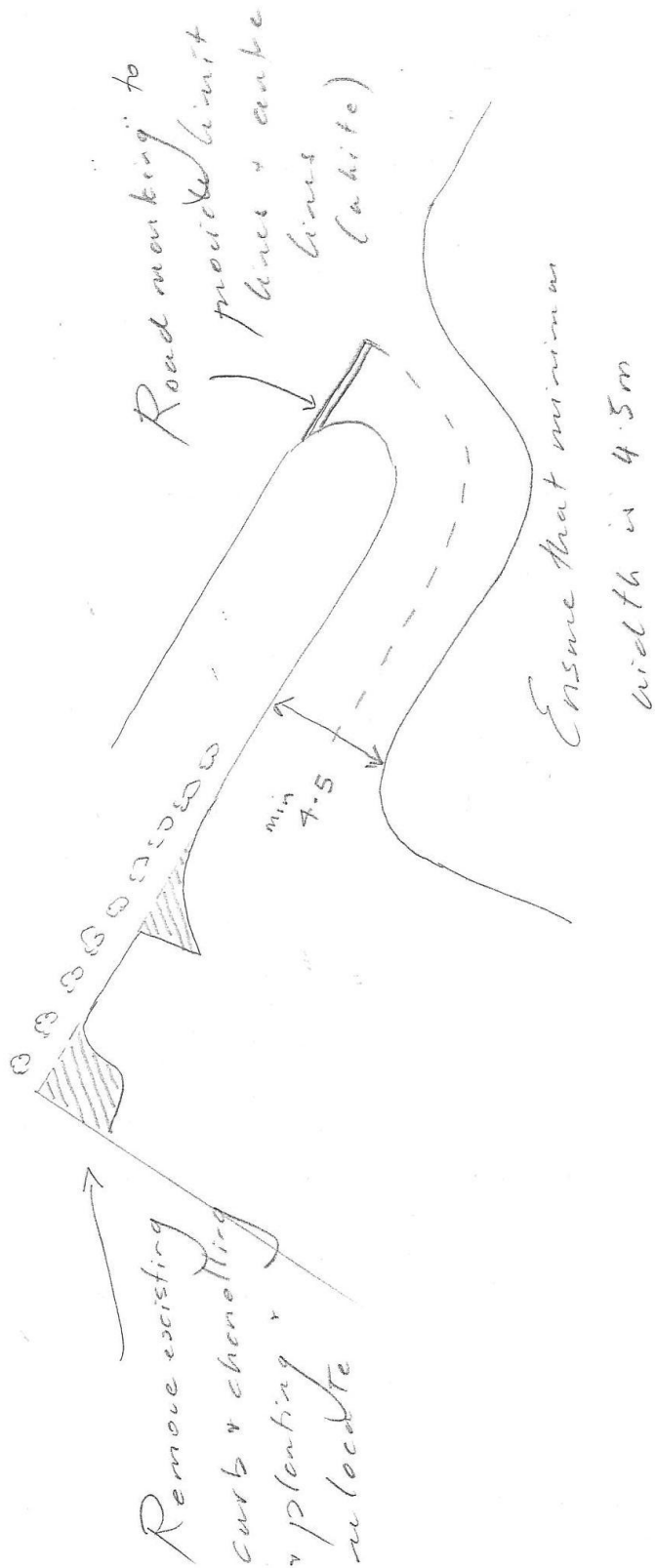
- (a) The owners or occupiers from time to time of the Servient Tenement shall allow authorised farming activities to be carried out on the Dominant Tenement without interference or restraint.
- (b) All noise emitted from hail cannons, frost protection devices and farming practices and equipment shall 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.



Date Confirmed:

Chair: