

# MINUTES

**TITLE:** Environment and Planning Committee  
Commissioner Hearing  
**DATE:** Friday, 29 July 2011  
**TIME:** 9.30 am  
**VENUE:** Tasman Council Chamber, 189 Queen Street,  
Richmond.

**PRESENT:** Commissioner Graham Taylor

**IN ATTENDANCE:** Consent Planner - Subdivision (P Webby), Principal  
Resource Consents Advisor (J Butler), Transportation  
Manager (G Clark), Executive Assistant (V M Gribble)

**1 APPLICATION NO RM110007, RM110008, RM110010 - ATAMAI TRUST  
(FORMERLY ATAMAI VILLAGE COUNCIL), PANGATOTARA,  
MOTUEKA VALLEY ROAD**

The application sought the following:

**Subdivision Consent - RM110007**

To subdivide proposed Lots 5 - 8, 11 and 12 with interchangeable stages 1A - 1D in the Rural Residential (Pangatotara) Zone.

This application proposes two new allotments (Lots 11 and 12) additional to the allotments (Lots 5 - 8) approved by RM080626.

This application also proposed realignment of Right-of-Way B1 to provide access from the Mytton Heights private way for six additional allotments (Lots 5 - 8, 11 and 12).

**Discharge Consent - RM110010**

Stormwater discharge for Lots 11 and 12.

**Land Disturbance Consent - RM110008**

Land disturbance on Lots 11 and 12 to create access roads and building platforms, and additional earthworks associated with the proposed realignment of Right-of-Way B1.

The application site is located at Pangatotara, Motueka Valley Road, being legally described as Lot 12 DP 428120 and Lot 1 DP 421225 (CFR 511851).

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

**THAT pursuant to Section 104B and 104C of the Resource Management Act, the Commissioner GRANTS consent to Atamai Trust as detailed in the following report and decision.**

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

**Meeting held in the Motueka Service Centre on 29 July 2011**

**Site visit undertaken on 28 July 2011**

**Hearing closed on 29 July 2011**

Decision of Graham Taylor, appointed as an Independent Commissioner by the Tasman District Council (“the Council”) to hear applications lodged by **Atamai Trust** (“the Applicant”), for:

**Subdivision Consent (RM110007)**

A subdivision application which creates Lots 5-8 (already approved by RM080626V7) and two new allotments Lot 11 (5035 m<sup>2</sup>) and Lot 12 (5250 m<sup>2</sup>).

To provide access from Lots 5-8 and 12 from proposed right-of-way (ROW) B1 to Mytton Heights right-of-way.

To provide access from Lot 11 from right-of-way (ROW) B2 and B3 to Mytton Heights right-of-way.

**Land Use Consent (Application RM110008)**

To undertake earthworks for Lots 11 and 12 for the construction of rights-of-way, private driveways, building platforms, to the extent not already covered by RM080636.

**Discharge Permit (Application RM110010)**

To discharge stormwater collected from buildings, roads and stormwater detention ponds associated with the subdivision described above RM110007 for Lots 11 and 12 to the extent not already covered by RM080639. This application covers stormwater discharges during both the construction period and also the post-construction period to an unnamed tributary of the Motueka River.

The applications, made in accordance with the Resource Management Act 1991 (“the Act”), were lodged with the Council and referenced as RM110007, RM110008 and RM110010

**COMMISSIONER:** Graham Taylor  
**APPLICANT:** Atamai Trust  
**CONSENT AUTHORITY:** **Tasman District Council**

**SUBMITTERS:** Support  
J Heissner (Regali Tedechi Trust) - 58A Mytton Heights  
Medipsych Ltd - 58C Mytton Heights  
ACHE Trust (WHH Heinigen) - 58B Mytton Heights  
Oppose  
P and G R Butterfield - 80 Mytton Heights  
T B Liebich and P H Brine - 86 Mytton Heights  
P I Arthur - 58 Mytton Heights

**IN ATTENDANCE:** Mr Jeremy Butler (Principal Resource Consents Adviser) -  
Assisting the Commissioner  
Mrs Valerie Gribble (Committee Secretary)  
Tony Bamford (Applicant Counsel)  
Jane Hilson (Applicant Planner)  
Chris Pawson (Applicant Traffic Engineer on behalf of David  
Petrie)  
Jurgen Heissner (Submitter in Support - 58A Mytton Heights)  
Jack Santa Barbara (Medipsych, Sumitter in Support - 58C  
Mytton Heights) - Statement Tabled  
Pauline Webby (Tasman District Council Subdivision  
Planner)  
Gary Clark (Tasman District Council Transport Manager)

## 1. SUMMARY

The resource consents are **GRANTED** subject to conditions to carry out a subdivision which creates Lots 5-8 and 12, with access from proposed ROW B1 to Mytton Heights and Lot 11 with access from ROW B2 and B3 to Mytton Heights, and to undertake earthworks and discharge stormwater pertaining to Lots 11 and 12 to the extent not already covered by RM080636 and RM080639.

## 2. DESCRIPTION OF THE SITE AND PROPOSED ACTIVITY

The proposal is for subdivision, earthworks and stormwater discharge consents in respect of a proposal to create six rural residential allotments and a balance allotment accessed from Mytton Heights private right-of-way ("ROW"), located at Pangatotara, Motueka Valley Highway, being Lot 1 DP 438910 comprised in CFR 544283 (note that this differs from the plan and title references provided in the application, as a new title issued for the site on 26 May 2011 replacing the previous title. A copy was provided at the hearing attached to a letter from the applicant's surveyor, Mr Ward).

The site is located on a west facing hill slope extending up from the Motueka River Valley floor, approximately 6 kilometres south of Motueka on the east side of the Motueka Valley Highway, and has frontage and legal access from both the Motueka Valley Highway and the Mytton Heights ROW.

The existing Mytton Heights ROW serves 18 allotments including existing older rural residential properties created since 1993 along the Mytton Heights ridge above the site to the north and east, as well as more recent sites (including the subject site and recently subdivided lots 9 and 10) created as part of the Atamai Village Council (now named "Atamai Trust") subdivisions since 2008. Although it is a ROW, I was advised that the formation meets the Tasman Resource Management Plan ("TRMP") standards that would apply to a legal road. It has a legal width of 10m and formed width of 6m for the first 300m of its length. The rights appurtenant to the application site under the ROW are described in Easement Certificate 343856.6 and the Property Law Act 2007 and do not limit the number of additional allotments that can be served from it. I was advised that the Council has investigated legalising the ROW as a public road in future, however for the time being, and for the purpose of assessing this application, it must be considered as a ROW.

Subdivision application RM110007 proposes the creation of six rural residential allotments, identified on the subdivision plan as lots 5 - 8 and 11-12 inclusive. All allotments exceed 5000m<sup>2</sup> in area and comply with the density standards for the zone. Lots 5 - 8 have previously been approved by way of subdivision consent RM080626 and subsequent variations. The approved subdivision proposed access to lots 5 - 8 via a new right of way accessing the Motueka Valley Highway adjacent to the existing Mytton Heights ROW intersection. The application seeks to create the same allotments but with a different access identified on the plan as ROW B1, intersecting with the existing Mytton Heights ROW 57m from the road intersection. Two additional allotments being lots 11 and 12 are also proposed. Lot 12 will be accessed from ROW B1, and Lot 11 from ROW's B2 and B3 which provide access to existing lots 9 and 10. The subdivision will increase the number of users of the Mytton Heights ROW from 18 to 24. As the proposal creates additional allotments it has been lodged as a fresh application, rather than a change of conditions under Section 127 of the Act.

Proposed building platforms have been identified on each allotment, and the proposal is to provide for servicing including on-site wastewater disposal and solar electricity generation, in accordance with the sustainable "eco-village" philosophy of the development. I also understand that owners of sites within the subdivision will have communal access to the collective food commons area in the balance lot.

Areas identified as A1 and A2 on the subdivision plan have been shown to vest for future road upgrading, should the Council request so in future for the purpose of upgrading Mytton Heights to legal road status. Consent notices are proposed to secure these areas.

Earthworks in respect of lots 5 - 8 are already approved by existing resource consent RM080636. Application RM110008 seeks approval for additional earthworks associated with lots 11 and 12 for the construction of rights of way, private driveways and building platforms to the extent not already covered by RM080636.

Similarly, stormwater discharges in respect of buildings, roads and stormwater detention ponds in respect of lots 5 - 8 have already been approved by RM080639.

Application RM110010 seeks consent to discharge stormwater for lots 11 and 12 to the extent not already covered by RM080639, as well as stormwater discharges during both the construction and post-construction periods to an unnamed tributary of the Motueka River.

I note that the application document lodged also sought to vary existing consents RM080626, RM080636, RM080639 and RM080725 where they relate to lots 5 - 8. This essentially involved consequential amendments to ensure consistency with the amended layout. However such amendments are not necessary, as the new subdivision consent would replace the existing approval in respect of lots 5 - 8.

I visited the site on Thursday 28 July, prior to the hearing. I observed the Mytton Heights ROW and the location and layout of the proposed subdivision and access in relation to the location of other properties including those of the submitters.

### 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 Residential (Pangatotara)  
Areas: Land Disturbance 2

All allotments comply with the 5000m<sup>2</sup> minimum allotment area for sites without waste water reticulation in Table 16.3D of the TRMP. I was also advised at the hearing that despite its unusual shape, Lot 11 complies, although shape is one of the assessment matters for subdivision. The proposal meets all of the applicable subdivision standards for controlled activity subdivisions in rule 16.3.8.1 except for part (a) which requires that the activity does not contravene any other applicable rule in chapters 16, 17 or 18. In this case the proposal contravenes Transport Rule 16.2.2.1(b) as the number of users of the Mytton Heights ROW will exceed 6 (ref Table 16.2A). Although contravention of the transport rule on its own is a restricted discretionary activity, the overall subdivision proposal is deemed a full *discretionary activity* by subdivision rule 16.3.8.4.

Land use consent is required in respect of earthworks within Land Disturbance Area 2, as they will exceed 2.0m in height or depth, and are deemed a *restricted discretionary activity* under rule 18.5.3.3. This is only required in respect of land disturbance not already authorised by RM080636.

Discharge of stormwater on lots 11 and 12 not authorised by RM080639 does not comply with Rules 36.4.2.1 - 36.4.2.2, as it will be from buildings created after 28 July 2007, will not be to a Council maintained network, and is located in a rural-residential zone. It requires resource consent as a *restricted discretionary activity* under rule 36.4.2.3.

### 4. NOTIFICATION AND SUBMISSIONS RECEIVED

The applications were limited notified pursuant to Section 95B of the Act. A waiver of the closing date for serving submissions was allowed for possible late submissions from some parties, after the Council was made aware of an error in the applicant's name stated in the applications. The applications were lodged under the name “Atamai Village Council” which was the former name of the applicant however this

had changed to "Atamai Trust" in April 2010. The error was corrected at the request of the applicant, after being brought to the Council's attention.

A total of six submissions were received. Three submissions in support were lodged by:

- J Heissner, (Regali Tedechi Trust) - 58A Mytton Heights
- Medipsych Ltd - 58C Mytton Heights
- ACHE Trust (WHH Heinigen) - 58B Mytton Heights

The submissions in support all cited safety improvements and reduced environmental damage with the relocated ROW.

Three submissions in opposition were lodged by:

- P and GR Butterfield - 80 Mytton Heights
- TB Liebich and PH Brine - 86 Mytton Heights
- P I Arthur - 58 Mytton Heights

The submissions in opposition were opposed to the use of the Mytton Heights ROW by additional users, for reasons of ROW ownership, non-necessity of the new access, diminished residential identity and increased vehicular and pedestrian traffic. They did not oppose the "legitimate" subdivision of lots 11 and 12 - however opposed the access to them as well as lots 5 - 8 from the Mytton Heights ROW, rather than the already consented ROW. Two submissions also opposed any building platform on lot 11 if it were to be within the covenanted "no build" area on the site. I was advised at the hearing that the lot 11 building platform is in fact shown on the subdivision plan in the lower part of the site adjacent to the existing pond, therefore avoids the no-build area.

Appearances and/or statements were presented to the hearing on behalf of Mr Heissner and Mr Santa Barbara (Medipsych). I also received a copy of written advice from the Butterfields that they would not be attending the hearing and their reasons for this. In determining the applications I have considered the matters raised by all submitters to the application.

## **5. PROCEDURAL MATTERS**

Prior to the hearing I was made aware of various allegations that had arisen as to the processing of the application. These related to two main matters being:

1. Whether the named applicant is a "person" who may apply for a resource consent as defined in the Resource Management Act (and whether as a consequence any consent granted would be lawful); and
2. Whether other persons should have been served notice of the application.

I was provided with copies of correspondence between the Council and various parties on these issues. I was also contacted directly via email by two Mytton Heights landowners including Mr N Davidson (70 Mytton Heights), who had not lodged submissions, however I declined to respond directly to them, as to do so outside the hearing process would be unfair to other parties.

In relation to the first issue, the application was lodged under the name "Atamai Village Council" which is the previous name of the applicant under which the existing consents were granted. The applicant changed its name to "Atamai Trust" in April 2010, prior to the new application being lodged. Prior to the closing of submissions on the application, the Council received correspondence from a lawyer acting for the Davidsons stating that Atamai Village Council does not exist as a legal entity and is not therefore a "person" who may apply for resource consent under s.88 of the RMA. Hence it was alleged that any consent granted would be invalid. Other discrepancies regarding failure to provide an address for service for the applicant were alleged.

The Council subsequently confirmed the correct name and address for service of the applicant (the address had been provided with the application but not included with the Council notice), and advised parties of the correct details. The applicant requested that the Council amend the applicant's name in writing - it was not as has been alleged a "unilateral" decision of Council staff. Parties were given additional time in which to lodge submissions.

I was presented with legal submissions at the hearing by Mr Bamford, and was also referred to the Environment Court decision in *Congreve* C029/06 which dealt with a similar situation. In the *Congreve* case the Court agreed that a legal person must be named as the applicant for resource consent. However it did not consider that it was necessarily fatal if through mistake or ignorance, a non-existent person is named, as there are mechanisms to identify the real legal person. I also note that it did not rule on whether the definition of "person" is inclusive and might therefore include a trading name, as this was not argued before it.

The Court also commented that "*at the consent authority stage it is less important for the public to know who the applicant is, than what the application is for, and where the site it applies to is.*" In this case the application is quite clear in this regard.

The Court did not strike out the appeal or set the earlier decision aside and require the resource consent process to start anew. Instead it gave leave for the applicant to provide notice of the name change, and subsequently proceeded to hear the appeal. I also note reference in the decision to a passage in *Marsh v Wanganui District Council* C212/2000, in which the Court commented that "*...the Environment Court does not concern itself with technicalities over the identity of parties, including applicants, so long as at the time of the hearing there is an identifiable legal person...*"

I am satisfied that the steps taken by the Council in advising parties of the correct applicant name and allowing an extended submission period were reasonable and lawful, did not prejudice any parties, and were consistent with the approach of the Court in *Congreve*. The activities for which consent were sought are also clearly described in the application such that persons could understand them. The fact that some parties then chose not to lodge submissions is not a matter I can comment on further. I am satisfied that the correct applicant was identified at the time of the hearing, and the hearing and decision were therefore able to proceed.

The second matter in dispute relates to whether other persons should have been served notice of the application. I have been provided with a copy of the Council s.95 Notification Report and Decision which was made by staff under delegated authority. The report specifically identifies persons considered affected under s95E, and refers to one Mytton Heights ROW user who was identified as not being affected.

I am satisfied that the proper process has been undertaken in accordance with the Act. As this decision has already been made under delegated authority it is not a matter which I am able to consider further, nor am I delegated to do so in any case.

## **6. EVIDENCE HEARD**

Statements of evidence on behalf of the applicant, expert witnesses, Mr Heissner, Mr Santa Barbara, and Council reporting officers were pre-circulated prior to the hearing, therefore I was able to read and familiarise myself with their content, and they were taken as read. I asked parties to summarise the main points and answer questions.

The following is a summary of the evidence presented to the hearing.

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

Legal submissions were presented by Mr Bamford. These addressed the issues concerning the change in name of the applicant and whether a legal "person" exists for the purpose of section 88. I have discussed this matter in the preceding section.

Jane Hilson spoke to her planning evidence. She noted that she generally concurred with the Council Officer's s.42A report from Ms Webby but considered that the stormwater discharge should be a restricted discretionary activity under TRMP Rule 63.4.2.3. Ms Webby confirmed this at the hearing.

Ms Hilson discussed the submissions, and considered that many matters raised in the submissions in opposition relating to signs, road vesting, ROW maintenance and ownership are not within the scope of the applications. She clarified the issue relating to the lot 11 building platform location raised by Mr Arthur and Mr Butterfield. She noted that the submitters in opposition were concerned with access matters - however she did not consider that mere ownership of strips within the ROW gives rise to adverse effects per se. No submissions raised concerns with the stormwater or land disturbance consents.

She considered that the existing subdivision consent RM080626 effectively becomes a "permitted baseline" against which the effects of the proposal must be assessed. The differences to consider relate to the provisions of two additional (complying) lots, and the changes to the access.

She considered the key resource management matter to be traffic safety, which is also a matter to be addressed by traffic engineers. She noted that the application site has a legal right of access to Mytton Heights ROW and that the easements do not limit the number of users. This was confirmed by copies of titles and easement certificates provided to the hearing by David Ward of Davis Ogilvie.

The TRMP transport rules limit the number of permitted users of a right of way to 6. Beyond this requires resource consent as a restricted discretionary activity under rule 16.2.2.6. The TRMP limits its discretion to specified matters concerning access and vehicle crossings, and traffic effects.

Ms Hilson referred to the Council report by Mr Clark which concludes that Mytton Heights private way has been designed and formed to a standard that is consistent with a public road. She also cited positive effects from allowing the new access in



that it avoids a small wetland area, and concurred with the traffic engineering advice that the access would be superior in terms of traffic safety compared to consented ROW B1.

In terms of traffic amenity effects she considered that the wide physical formation of the first 230m of Mytton Heights, and the remoteness of this part of the ROW from other user residences, were such that effects would be less than minor.

Her evidence discussed relevant objectives and policies relating to transport effects, and rural character and amenity values, and concluded the proposal to be consistent with these.

Ms Hilson noted that stormwater management for lots 11 and 12 was discussed in the ESS report and considered to be consistent with the methods adopted for the approved subdivision. She identified and discussed the relevant assessment criteria under schedule 16.3A and rule 35.4.4.

She similarly discussed the potential effects of earthworks relating to forming building sites and access for lots 11 and 12, and realignment of ROW B1 against the relevant assessment criteria in schedule 16.3A and rule 18.5.3.3.

Having regard to the reports of the respective engineers to the project, and the Council's s.42A reports, she considered that the effects of land disturbance would avoid, remedy or mitigate adverse environmental effects.

Overall Ms Hilson supported the Council Officer's recommendation of approval, and also noted and concurred with recommended changes to the applicant volunteered conditions.

In answer to questions, Ms Hilson confirmed that the existing rights which the property has over the Mytton Heights ROW extend along the full length of the ROW. Accordingly the same rights will ensue on future owners of the new lots. She also confirmed that as such, new owners will also be subject to the same obligations as other owners concerning maintenance and upkeep of the whole ROW over which they have rights - and not just the first section from the road to the ROW B1 entrance.

Chris Pawson spoke to the traffic evidence of Mr Petrie who was unable to attend the hearing. Mr Petrie's evidence described the existing traffic environment and consents, discussed the background to the consented access, described the new access proposal from Mytton Heights, assessed the effects of access in relation to the TRMP, and responded to submissions and Mr Clark's s.42A report. In his assessment he concluded that the additional traffic generated by six lots onto Mytton Heights ROW is of such minor effect that it is unlikely to be noticeable to existing users of the ROW and highway.

Mr Petrie's evidence described the existing ROW as being formed to the standard of a local road within the section to be used by the 6 new lots. He referred to the report of Mr Clark which noted the Council's past acceptance of additional lots on Mytton Heights on the basis that it is formed to such a standard. Under the TRMP a local road built to this standard can serve up to 60 lots.

He discussed the consented access arrangements which had arisen as a result of concerns with sight lines at the originally proposed ROW / highway intersection and a desire at the time not to use Mytton Heights ROW. This resulted in the consented layout whereby ROW B1 would intersect with the highway at an acute angle at the same intersection location as Mytton Heights. He agreed with Mr Clark that this creates a potentially confusing situation for unfamiliar motorists, and that a more desirable outcome would be for ROW B1 to access directly to Mytton Heights well clear of the highway intersection, as is now being proposed.

From a traffic safety perspective he considered that the avoidance of the complex consented intersection would result in an overall benefit. He also considered that the effect of additional vehicle wear from domestic vehicles accessing the ROW would be minimal. He also considered that the effect of additional vehicle and pedestrian traffic on other Mytton Heights users would be insignificant, due to the location being close to the road intersection and remote from dwellings further up the ROW.

## **6.2 Submitters Evidence**

Mr Heissner spoke to his written statement which had been pre-circulated. He represented the interests of six Mytton Heights ROW users through properties owned by his family trust and as a trustee of Atamai Trust which owns three sites.

He discussed the reasons for the application to relocate ROW B1. The first related to traffic safety benefits. The second related to reduction in environmental impacts through avoiding access construction over a small wetland remnant. Thirdly, he considered that the relocated ROW would be less visually intrusive on the rural environment as it requires less earthworks and roading.

In response to questions he confirmed that there was a minor cost difference between the consented and proposed access construction, however this was not significant in the context of the overall development, and as such cost was not a driver for the change in access.

A written statement from Mr Santa Barbara was provided however he was unable to attend the hearing. The statement affirmed his support for the proposal as he considered the revised ROW to be safer, less confusing for motorists, and more aesthetically pleasing than the consented access.

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

Pauline Webby spoke to her planning report which had been pre-circulated and was taken as read. She noted that lots 5 - 8 had already been approved by RM080626, therefore her assessment only addressed the matters that were changed with the new application, being the relocated ROW B1, and the creation of lots 11 and 12, as well as the subsequent additional land disturbance and stormwater consents.

Her report described the application and background, the status of the proposal under the TRMP, and the submissions lodged. She agreed with Ms Hilson's assessment as to the restricted discretionary activity status of the stormwater consent.

Ms Webby outlined the relevant statutory provisions, and identified the key issues for assessment, which she considered to be access to Mytton Heights, stormwater discharge and servicing, and land disturbance.

In relation to the access proposals she noted that the site has existing easement rights over the ROW. These rights are determined by the easement certificates and by the Property Law Act 2007, and include no specific measures limiting use of the right of way for subdivision. In answer to questions she confirmed that the Council does not have any authority to change these rights, and that the TRMP assessment matters and rules do not include consideration of private property rights which are covered by property law.

She relied on the evidence of the Council's Transportation Manager, Mr Clark in respect of the effects of the further six users of Mytton Heights.

She assessed stormwater discharge, servicing and land disturbance effects in respect of lots 11 and 12, with reference to relevant matters contained in the TRMP in objectives 12.1.2 and 33.3.2 and related policies, and the subdivision assessment matters in schedule 16.3A. She referred to the Engineering Sustainable Solutions ("ESS") report provided by the applicant, which had been audited by the Council's Resource Scientist. The Council scientist was satisfied that the measures outlined in the ESS report relating to earthworks and stormwater management continue to appropriately and satisfactorily address the potential adverse effects of the development of additional lots 11 and 12.

Ms Webby also provided assessment of proposed lots 11 and 12 against objective 5.1.2 relating to amenity. She noted the irregular shape of lot 11 but considered that it made good use of a building platform overlooking the reformed pond area.

Overall she considered that the consents should be granted subject to recommended conditions.

Gary Clark, the Council Transportation Manager spoke to his evidence. He described the site, road network and local crash history. Mr Clark then discussed the Mytton Heights ROW in relation to existing legal rights of use, and the limitations of the TRMP rules which limit rights of way to six users. He advised that this restriction relates to construction standards and whether the formation should be a public road.

He noted that in this case Mytton Heights meets the standards for a public road, and that on previous subdivisions a notation on titles referred to as the "surrender clause" had been required to provide a mechanism to have the road taken by Council - however this had not been correctly done at the time. He considered that despite this, the intention had always been that Mytton Heights would be used for future access for additional sites, due to the formation standard, the intent of the surrender clause (although not correctly actioned), and being the only feasible location to serve the rural residential zone.

He discussed the history of the previous consented ROW B1, and why the access had been moved. He considered that the consented access leads to an intersection design that is not good practice and could lead to crashes. The layout is complex and leads to potential for motorists to misunderstand the intentions of other drivers. There is also limited forward sight distance for right turning vehicles.

In assessing the application, Mr Clark noted that the use of Mytton Heights as the subdivision access negates the need for the approved access to be constructed. He considered that the increase in flows would be easily accommodated with no discernable effect on other road users.

He had reviewed and generally agreed with the traffic assessment and conclusions contained in the application.

In discussing the submissions, Mr Clark noted that one of the real issues with Mytton Heights is the age of the seal. The seal is approaching an age where it will become brittle due to age rather than wear. This will require a complete re-seal. He advised that this is a civil matter between owners and the Council has no input into this. I note the response to my earlier question of Ms Hilson, that the new owners would become liable for their share of such maintenance. Mr Clark also confirmed that even if the original consented access were constructed, owners of lots 5 - 8 would still have rights over Mytton Heights ROW to access the commons area in Lot 1.

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

I am mindful that subdivision consent has already been granted including lots 5 - 8 under RM080626 and that existing stormwater and land disturbance consents will remain in place for lots 5 - 8 under RM080639 and RM080636.

The subdivision application has been lodged as a fresh consent due to the differences arising from the ROW relocation and new lots 11 and 12, and as a whole is deemed a full discretionary activity, which means my discretion is not limited. However I also concur with the approach used by both Ms Webby and Ms Hilson that the existing consent for lots 5 - 8 provides a baseline for assessment. I do not necessarily agree with the suggestion of Ms Hilson that this constitutes a "permitted" baseline. That is a term commonly used with reference to statutory tests whereby a consent authority may disregard the effects of a permitted activity, which is not the case here. I do however agree that the existing unimplemented consent in relation to lots 5 - 8 forms part of the existing consented environment under which the application is to be considered. In approving lots 5 - 8 under RM080626 the Council will have necessarily satisfied itself as to the appropriate assessment matters for subdivision in the TRMP.

I also note that although the proposal is deemed a full discretionary activity under subdivision rule 16.3.8.4, this is triggered by non-compliance with transport rule 16.2.2.1(b) which on its own would trigger restricted discretionary activity status.

Accordingly I agree that the principal issues pertaining to the subdivision relate to those matters which are different from that approved under RM080626 - being the new location of ROW B1 accessing Mytton Heights, and the creation of new Lots 11 and 12.

Other matters requiring consideration are stormwater discharge and land disturbance in respect of lots 11 and 12 to the extent not covered by the existing consents.

My findings in respect of these issues are as follows:

### **a) MYTTON HEIGHTS ACCESS**

The main matters requiring consideration in relation to the Mytton Heights access relate to:

- Land ownership issues; and
- ROW formation and construction; and
- Traffic safety issues; and
- Amenity effects issues

I have considered these issues, also having regard to the assessment matters contained in the TRMP.

The land ownership issues form the crux of the submissions in opposition. The submissions by Mr Butterfield and Mr Arthur both describe the rights of way as being in private ownership, which cannot be transferred, and with easements giving mutual rights to other ROW landowners, and to agreed additional users as specified in documents including a 2001 subdivision agreement with the original Mytton Heights developer. They consider the effects on them of any additional users on the right of way to be *“more than minor in view of the reality of their joint ownership of the land in question.”*

On the basis of the facts, and given the evidence of Ms Webby and Ms Hilson, I find these statements to be inaccurate. It is true that the individual right of way strips are in private ownership - they are contained within the respective titles to each owners property. However the easement certificates registered against the titles clearly give rights to other property owners to pass over the land for the purpose of access. These rights attach to the properties to which they are granted, and as a matter of law pass down to subsequent titles on subdivision.

Accordingly, while the submitters are correct that “ownership” of each strip cannot be transferred, the same cannot be said of the rights and obligations enjoyed by properties under the easements, which do transfer on sale or subdivision. The advice I received was that there is nothing in the easement certificates that prevents this occurring. I do not consider that the existence of a private agreement with an earlier property developer is a relevant matter for consideration. Such an agreement was between the purchaser and the developer and is not a matter that can be enforced by the Council. It is apparent that such limits on additional ROW users were not carried through to the easement certificates registered against the titles.

For these reasons I agree with the advice of Council staff that the landowner rights and obligations under the right of way easements are controlled by the Property Law Act 2007 and the relevant easement certificates, which do not restrict additional users of the ROW on subdivision. This is a civil matter that the Council has no authority over.

I do not therefore consider that ownership of a ROW per se necessarily gives rise to relevant environmental effects to consider in an RMA context. Relevant environmental effects may arise from the actual effects of the increased use of the right of way from matters such as safety, noise, visual, disturbance, congestion, privacy and other amenity related reasons which I discuss below. One of the main determinants of such effects is the standard of construction.

I do not include wear and maintenance as relevant RMA effects. This is because the right and obligations as to maintenance of a ROW are specified in the easement

certificates and are therefore a civil matter between parties. However I also note Mr Clark's comments that the Mytton Heights surface will soon require replacement due to age deterioration rather than wear. If the subdivision proceeds, the new owners of lots within the subdivision will become liable for maintenance also, therefore will have to share in such cost. This would not appear to disadvantage existing ROW users as their cost share would presumably decrease.

What the Council does have authority over in an RMA context is the use of the right of way in terms of the TRMP rules. These rules limit the number of permitted users of a ROW to six. I note that exceedance of this number is not non-complying or prohibited. Instead it triggers restricted discretionary activity consent, and the TRMP includes assessment matters under which this should be considered. The TRMP therefore anticipates situations arising where ROW users may exceed six, and provides a framework for considering such applications. The assessment matters relate primarily to issues concerning access and vehicle crossings, construction standard and traffic effects.

In relation to the ROW formation and construction, I heard that the first 300m of the Mytton Heights carriageway over which access to ROW B1 and B2 will occur is formed to a standard consistent with the TRMP carriageway standards for a local road serving up to 60 properties. I note that if it were a legal road it would not comply with the requirement for a separate footpath, and heard evidence from Mr Petrie that this is not uncommon in rural areas and in this case there is no footpath to connect to anyway. In such circumstances I agree a footpath would not be warranted. This does not raise any matters of non-compliance, as Mytton Heights is not a legal road therefore the rule does not apply. The comparison with road standards has been made for evaluative purposes relating to adequacy of the carriageway for vehicle traffic therefore the lack of a footpath is not relevant to that assessment. Evidence from both traffic engineers was that the existing formation and intersection will accommodate the additional six users with no perceptible adverse effects to other ROW users or motorists on the highway. I accept that conclusion. I also note that even under the consented subdivision, owners of lots 5 - 8 would have had rights to use Mytton Heights in any case, through their interest in the Atamai Village "Commons" area.

In relation to safety, I also agree that the proposed ROW B1 location is superior to the consented location. In visiting the site and viewing the plans prior to the hearing I noted that the consented ROW location was somewhat unusual in that it would enter the existing Mytton Heights intersection with the highway at an acute angle. These concerns were reinforced by the evidence of Mr Petrie and Mr Clark who advised that the layout did not meet best practice and commented as to potential driver confusion and accident risk arising from the consented layout.

I note that no contrary evidence as to ROW construction or safety effects was contained in submissions or presented to the hearing.

The final matter I consider relevant in terms of Mytton Heights is whether any adverse amenity related effects may arise in terms of matters such as noise, disturbance, visual, character or other issues from increased vehicular use.

I have already found that the effects of additional users on the right of way will have no perceptible adverse traffic effects on existing users of Mytton Heights or the highway. During my site visit I observed the section of Mytton Heights from various

locations, including adjacent to submitter properties on the ridgeline. I noted that the initial 300m section of Mytton Heights is located approximately 500m from the closest dwelling, and is screened from view of properties on the ridgeline by distance and topography. There are very few locations where the intersection area is able to be viewed from ridgeline properties except for the occasional glimpse. Furthermore, I noted that ridgeline properties are generally oriented towards views to the north and east across Tasman Bay. I do not therefore consider there to be any adverse visual effects on these properties.

Similarly I consider that the distance is such that any additional vehicle noise or disturbance will not give rise to adverse effects. Any noise (if any) received will be imperceptible from that on the highway, or that which would have occurred if the consented ROW B1 were constructed.

Finally, I also note the statements by the applicant that the relocation of ROW B1 will have a positive effect and allow retention of a small remnant wetland area. However I place little weight on this, as the wetland area is included in area A1 - which is to be subject to a consent notice to vest in Council as future road. If that were to occur, the wetland area could be ultimately lost anyway.

Accordingly in relation to the additional use of Mytton Heights I find that:

- Issues of land ownership and easement rights are not relevant RMA considerations and do not in themselves constitute environmental effects; and
- The existing Mytton Heights easements do not restrict additional users accessing the ROW following subdivision; and
- The TRMP provides a framework and assessment matters for considering access serving more than 6 users; and
- The existing Mytton Heights formation is constructed to a suitable standard to accommodate six additional users; and
- Any adverse effects of the additional use on existing users of Mytton Heights and the highway will be less than minor; and
- The proposed ROW B1 provides a safer intersection and access layout compared to the consented location; and
- The additional use of the lower section of Mytton Heights will not result in adverse amenity effects on properties further up Mytton Heights.
- The lack of footpath on Mytton Heights does not give rise to any non-compliance, nor impact on the suitability of the ROW formation for the additional access.

I therefore conclude that any adverse environmental effects of the increased use of Mytton Heights arising from the use and location of ROW B1 and B2 will be less than minor.

## **b) NEW LOTS 11 AND 12**

New lots 11 and 12 fully comply with all relevant standards for controlled activities, including minimum area, and are only deemed discretionary activities due to the contravention of the transport rule relating to right of way users which I have assessed above.

Accordingly, in all other respects these lots are of a kind that may be anticipated in the zone and would normally be approved on a non-notified basis.

I note that none of the submissions specifically opposed the creation of these allotments except insofar as they will access Mytton Heights.

The proposal is that lots 11 and 12 be created subject to the same general terms and conditions as already accepted by the Council in the approval of other lots in RM080626. I received and accept the advice from Ms Webby that these lots would be consistent with the zone anticipated outcomes, and that necessary building platforms, access and servicing can be provided.

### **c) STORMWATER AND LAND DISTURBANCE**

Consideration of these matters is only required in respect of matters relating to lots 11 and 12 not already authorised by RM080636 and RM080639.

These matters were not opposed in submissions or otherwise contested in any evidence presented at the hearing. I therefore rely on the evidence of Ms Webby in this regard.

I note that the proposal is that the stormwater and land disturbance consents be subject to the same terms and conditions as already accepted by the Council and imposed on other lots in the subdivision. The applications have been reviewed by the Council's Resource Scientist who has advised that the measures outlined relating to earthworks and stormwater management continue to appropriately and satisfactorily address the potential adverse effects of the development of additional lots 11 and 12. I accept that advice.

## **8. RELEVANT STATUTORY PROVISIONS**

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

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 Tasman Resource Management Plan (TRMP). No other policy statements or plans are relevant to the consideration of the applications.

### **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 Sections 104B and 104C of the Act, I **GRANT** consents, subject to conditions.



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

### **Effects on the Environment**

Given the preceding assessment and having regard to the relevant assessment matters in the TRMP I find that any adverse effects on the environment pertaining to the subdivision, and in particular the increased use of the Mytton Heights ROW, will be less than minor.

I find that the creation of new lots 11 and 12 is consistent with the environmental outcomes anticipated in the rural residential zone, and that the proposed conditions will mean that any adverse effects of land disturbance and stormwater runoff will be minor and will be appropriately mitigated.

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

The granting of the consents will be consistent with the relevant objectives and policies of the TRMP. In particular:

The additional use of the Mytton Heights ROW will be consistent with Objective 11.1.2 as it avoids adverse effects of the subdivision of land on the transport system. In this respect I find the proposal better achieves the objective than the consented subdivision.

Use of Mytton Heights ROW does not give rise to adverse traffic amenity effects that would be inconsistent with Policy 11.1.3.4.

Creation of lots 11 and 12 will be consistent with Objective 5.1.2 relating to amenity, and in particular those parts of related policies 5.1.3.1 and 5.1.3.5 concerning effects of subdivision on amenity and landscape values, and suitability for on-site domestic waste treatment.

Stormwater discharge and land disturbance on lots 11 and 12 will be consistent with relevant objectives 33.3.2 and 12.1.2 respectively, and relevant related policies.

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

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

## **11. CONDITIONS OF CONSENT**

Conditions have been imposed on all resource consents, based on those volunteered by the applicant, subject to amendments recommended by Ms Webby and accepted by the applicant at the hearing.

The conditions will ensure that the subdivision is constructed to an appropriate standard including services, and that any adverse environmental effects arising from the subdivision, land disturbance and stormwater discharges will be avoided, remedied or mitigated.

No condition has been imposed to require a footpath on Mytton Heights, as it is not a legal road, and the existing lack of footpath does not alter the effects of the additional vehicle use such that a footpath would become necessary.

## **12. LAPSING OF CONSENTS**

Section 125(2) of the Act makes particular provision for the lapsing of subdivision consents. In the case of the subdivision consent (RM110007), 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.


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

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

An exception is made for Land Use RM110008 relating to land disturbance during the earthworks component which will expire three years from the issue of the respective titles to lots 11 and 12.

The Discharge Permit RM110010 expires in 35 years which is the maximum provided in the Act for such consents and is considered appropriate as the activity is unlikely to change significantly once the development has been completed.

Issued this 19<sup>th</sup> day of August 2011



Graham Taylor  
**Commissioner**



## RESOURCE CONSENT

**RESOURCE CONSENT NUMBER:** RM110007

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

**ATAMAI TRUST**  
(hereinafter referred to as “the Consent Holder”)

### ACTIVITY AUTHORISED BY THIS CONSENT:

- a) Subdivision of Lot 1 DP 438910 to create Lots 5-8, 11 and 12.
- b) To provide access from Lots 5-8 and 12 from proposed right-of-way (ROW) B1 to Mytton Heights right-of-way.
- c) To provide access from Lot 11 from right-of-way (ROW) B2 and B3 to Mytton Heights right-of-way.

### LOCATION DETAILS:

Address of property: 232 Motueka Valley Highway

Legal description: Lot 1 DP 438910

Certificate of title 544283

### CONDITIONS

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

1. The subdivision shall be undertaken in general accordance with the information submitted with the application for consent and the following plans and reports entitled:
  - (a) Plan prepared by Davis Ogilvie titled “*Proposed Subdivision of Lot 1 DP4212250*”, Project Number 25225 dated 1 December 2010, attached as Plan A;
  - (b) Report by Geologic Ltd, titled: “*Geotechnical Investigation Proposed 6 Lot Subdivision Atamai Village, Motueka Valley Highway*” dated November 2010;
  - (c) Report by Engineering Sustainable Solutions (ESS) Ltd, titled: “*Proposed Subdivision of Lot 1 DP4212250 for Atamai Land Trust at Motueka Valley - Engineering Report*” dated November 2010;

- (d) Further information report for stormwater by Engineering Sustainable Solutions (ESS) Ltd, titled: "*Additional Stormwater calculations*" dated October 2008;
- (e) Further information report for stormwater by Engineering Sustainable Solutions (ESS) Ltd, titled: "*Stormwater report and calculations*" dated August 2008.

If there is any conflict between the information submitted with the consent application and any conditions of this consent, then the conditions of this consent shall prevail.

### **Staging**

- 2. To stage the subdivision consent RM110007 as follows:
  - (a) Stage 1A: ROW B1
  - (b) Stage 1B: Lots 5 and 6
  - (c) Stage 1C: Lots 7 and 8
  - (d) Stage 1D: Lots 11 and 12

#### **Advice Note:**

The order of commencement and completion of Stages 1A, 1B, 1C and 1D is interchangeable, so long as legal and practical vehicular access within ROWs B1-B3 is provided for the respective allotments within each stage.

### **Building Location Areas**

- 3. The Consent Holder shall, prior to Section 223 approval, centre peg the building platform areas shown on Lots 5 to 8, Lots 11 and 12, on the scheme plan. These building location areas shall each have a diameter of 30 metres.

### **Easements**

- 4. Easements are to be created over any services located outside the boundary of the allotment that they serve. Reference to easements is to be included in the Council resolution on the title plan and endorsed as a Memorandum of Easements.
- 5. Easements shall be created over any rights-of-way and shall be shown in a Schedule of Easements on the survey plan submitted for the purposes of Section 223 of the Act. 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.
- 6. Reference to easements shall be included in the Council resolution on the Section 223 certificate and shown in a memorandum of easements on the survey plan required by Section 223 of the Act.

### **Rights-of-way and Access Formation**

- 7. All earthworks for the formation of rights-of-way shall be carried out in accordance with the conditions of RM110008 (land disturbance consent).

8. Right-of-way B1 shall be sealed from the edge of the seal to Mytton Heights right-of-way, with the seal being a minimum 6.0 metres width for a distance of 15 metres from the road edge, thereafter a minimum 3.5 metres lane plus gravel shoulders on each side together with side drains draining to an approved system, and with suitable passing bays provided in accordance with figure 16.2A of the Tasman Resource Management Plan.
9. The right-of-way B1 shall be formed so that it extends to, and smoothly adjoins the existing carriageway to Mytton Heights ROW, including as it must be more or less level for a distance of 10 metres from the edge of the seal.
10. The right-of-way B1 shall be constructed in accordance with the information contained within reports by Report by Geologic Ltd, titled: *“Geotechnical Investigation Proposed 6 Lot Subdivision Atamai Village, Motueka Valley Highway”* dated November 2010 and by Engineering Sustainable Solutions (ESS) Ltd, titled: *“Proposed Subdivision of Lot 1 DP421225 for Atamai Land Trust at Motueka Valley - Engineering Report”* dated November 2010;
11. Stormwater from the ROW B1 shall be directed to discharge points that are authorised by discharge consents RM080639 and RM110010 and in accordance with report by Engineering Sustainable Solutions (ESS) Ltd, titled: *“Proposed Subdivision of Lot 1 DP4212250 for Atamai Land Trust at Motueka Valley - Engineering Report”* dated November 2010.
12. Culverts as required under the rights-of-way, together with secondary flow paths, shall be appropriately designed to Council’s Engineering Standards & Policies 2008, or as otherwise approved by Council’s Engineering Manager.
13. ROW B1 shall be formed at a maximum grade of 1-in-6 with an all-weather surface and access to the boundary of each of Lots 5-8, 11 and 12 prior to section 224 approval.

### **Water Supply**

14. Water storage for Lots 5-8, 11 and 12 shall be in accordance with the report by Engineering Sustainable Solutions (ESS) Ltd, titled: *“Water supply and onsite wastewater systems, for proposed Subdivision of Lots 2, 3, 4 and 12 DP 428120 for Atamai Land Trust at Motueka Valley - Engineering Report”* dated September 2010.

#### **Advice Note:**

Consent notices requiring each lot to have access to 46 000 litres of water are required by Condition 25.

### **Commencement of Works and Inspection**

15. No works shall begin on-site until the engineering plans have been approved pursuant to Condition 17
16. The Council’s Engineering Department shall be contacted at least five working days prior to the commencement of any engineering works. In addition, five working days notice shall be given to the Council’s Engineering Department when soil density testing, pressure testing, beam testing or any other major testing is undertaken.

**Advice Note:**

Prior to the commencement of work the Consent Holder and its representatives may be invited to meet with Council staff to discuss the work to be undertaken including (but not limited to) roles and responsibilities, timing of the works and reporting.

**Engineering Works and Plans**

17. Engineering plans detailing all works and services for each respective stage shall be submitted to the Council's Engineering Manager and approved prior to the commencement of any works on each of Stages 1A to 1D of the subdivision. All plans shall be in accordance with either the Council's Engineering Standards & Policies 2008 or else to the satisfaction of the Council's Engineering Manager. The plans shall include (but not necessarily be limited to):
  - (a) all roading and associated works as set out in Conditions 7 to 13;
  - (b) stormwater culverts.

**Advice Note:**

For the avoidance of doubt, with regards to engineering plans to Council, engineering plans can be submitted separately as they relate to each stage. Council's engineers have advised that stormwater should relate to each discrete stage.

18. Engineering plans shall not be approved until the Management Plan required by consent RM110008 and RM080636V1 (Land Disturbance Consents) has been submitted and approved.
19. All works shall be done in accordance with the approved engineering plans.

**Engineering Certification**

20. At the completion of works, a suitably experienced chartered professional engineer or registered professional surveyor shall provide the Council's Engineering Manager with written certification that all works, including culverts, have been constructed in accordance with the approved engineering plans and the conditions of this consent.
21. Where fill material is, as part of developing this subdivision, placed on any part of Lots 5-8, 11 and 12 a suitably experienced chartered professional engineer shall certify that the filling has been placed and compacted in accordance with NZS 4431:1989 Code of Practice for Earth Fill for Residential Development. The certification shall, as a minimum, be in accordance with Appendix A of that standard.
22. "As-built" plans of all engineering works (all services, roading, etc) shall be provided to and approved by the Council's Engineering Manager prior to the lodgement of a Section 223 survey plan so that easement areas can be accurately determined.

**Stormwater**

23. New culverts shall be provided under the Motueka Valley Road if required to increase the flow capacity to serve the altered rainfall run-off for the catchments affected by this subdivision. This requirement will be confirmed by Council's Engineering Manager at the engineering plan stage of the subdivision.

## Financial Contributions

24. The Consent Holder shall pay a financial contribution for reserves and community services in accordance with following:
- (a) The amount of the contribution shall be 5.62 per cent of the total market value (at the time subdivision consent is granted) of a notional 2500 square metre building site within each of Lots 5-8, 11 and 12.
  - (b) The Consent Holder shall request in writing to the Council's Consent Administration Officer (Subdivision) that the valuation be undertaken. Upon receipt of the written request the valuation shall be undertaken by the Council's valuation provider at the Council's cost.
  - (c) If payment of the financial contribution is not made within two years of the granting of the resource consent, a new valuation shall be obtained in accordance with (b) above, with the exception that the cost of the new valuation shall be paid by the Consent Holder, and the 5.62 per cent contribution shall be recalculated on the current market valuation. Payment shall be made within two years of any new valuation.

### Advice Notes:

A copy of the valuation together with an assessment of the financial contribution will be provided by the Council to the Consent Holder.

Council will not issue a completion certificate pursuant to Section 224(c) of the Act 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 that are current at the time the relevant development contribution is paid in full.

## Consent Notices (Volunteered)

25. The following consent notices shall be registered on the certificate of title for Lots 5 to 8, 11 and 12 pursuant to Section 221 of the Resource Management Act. The consent notices shall be prepared by the Consent Holder'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.
- (a) The location of any new dwelling or habitable building (including sleepouts) on the property shall be within the Building Location Area shown on Title Plan DPXXX.
  - (b) On completion of the earthworks for construction on building platforms on each allotment, and prior to building consent application being submitted to Council, certification from a chartered professional engineer or geotechnical engineer experienced in the field of soils engineering (and more particularly land slope and foundation stability) confirming that the building platform is suitable for the erection of residential buildings shall be submitted to the Council's Engineering Manager. The certificate shall define on each lot within the building location area that is suitable for the erection of residential buildings and shall be in

accordance with Schedule 2A of NZS 4404:2004 Land Development and Subdivision Engineering.

**Advice Note:**

Any limitations identified in Schedule 2A may, at the discretion of the Council, be the subject of a consent notice pursuant to Section 221 of the Resource Management Act 1991 prior to the issue of the Section 224(c) certificate. This consent notice shall be prepared by the Consent Holder's solicitor at the Consent Holder's expense and shall be complied with by the Consent Holder and subsequent owners on an ongoing basis.

This consent notice acknowledges that the Consent Holder has engaged geotechnical engineer advice in selection of the building location areas on the scheme plan, but that their earthworks will not occur as part of the subdivisional construction works and therefore certification of the building platforms prior to Section 224 approval to the subdivision is inappropriate. Each building platform and associated earthworks will be undertaken by the allotment's owner prior to building consent application,

- (c) The owner shall for any earthworks involved in forming a building site, property access and terracing/recontouring comply with the conditions of RM110008 (Land Disturbance Consent), including the Construction, Erosion and Sediment Management Plan prepared under that consent.
- (d) Any recommendations or recommended conditions resulting from the engineering certification required under Conditions 17-19 above shall be identified as consent notices pursuant to Section 221 of the Act.
- (e) The wastewater treatment system shall be in accordance with the report by Engineering Sustainable Solutions (ESS) Ltd, titled: *"Proposed subdivision of Lot 1 DP 421225 for Atamai Village Council" at Motueka valley* dated November 2010. The onsite wastewater treatment and disposal system shall be designed by, and its construction supervised and certified by a suitable qualified and experienced person.
- (f) The owner shall comply with all conditions of the applicable stormwater discharge consents.

**Advice Note:**

The stormwater discharge consent is held in the name of Atamai Trust and includes discharge from individual allotments and the common land holdings.

- (g) Each lot shall be provided with a lower rainwater detention tank and water storage of 23,000 litres and an upper rainwater detention tank and water storage of 23,000 litres to be located in accordance with the report by Engineering Sustainable Solutions (ESS) Ltd, titled: *"Proposed subdivision of Lot 1 DP 421225 for Atamai Village Council" at Motueka Valley* dated November 2010. Water storage tanks shall as far as is practicable be buried within the ground for the purposes of minimising their visual effects.
- (h) Roof-mounted photovoltaic panels are required as no national power grid supply is provided.



- (i) A level hard stand area shall be provided and kept clear at each dwelling site for use by firefighting vehicles.
- (j) Installation of fireplaces or burners in dwellings shall be restricted to low emission models only.
- (k) **It is the responsibility of the registered proprietor of Lots 5-8, 11 and 12 DP XXX to provide telephone servicing which has not been provided at the time of subdivision.**

### **Hours of Construction and Works Activity**

26. Works and construction activity associated with this consent shall be limited to between 7.30 am and 6.00 pm daily, excluding Saturdays, Sundays and public holidays.

### **GENERAL ADVICE NOTES**

#### **Council Regulations**

1. This resource consent is not a building consent and the Consent Holder shall meet the requirements of the Council with regard to all Building and Health Bylaws, Regulations and Acts.

#### **Other Tasman Resource Management Plan Provisions**

2. Any activity not covered in this consent shall either comply with:
  - (a) the provisions of a relevant permitted activity rule in the Tasman Resource Management Plan; or
  - (b) the conditions of separate resource consent for such an activity.
3. This consent is granted to the abovementioned Consent Holder but Section 134 of the Act states that such land use consents “attach to the land” and accordingly may be enjoyed by any subsequent owners and occupiers of the land. Therefore, any reference to “Consent Holder” in the conditions shall mean the current owners and occupiers of the subject land. Any new owners or occupiers should therefore familiarise themselves with the conditions of this consent, as there may be conditions that are required to be complied with on an ongoing basis.
4. Access by the Council’s officers or its agents to the property is reserved pursuant to Section 332 of the Resource Management Act 1991.
5. Pursuant to Section 127 of the Resource Management Act 1991, the Consent Holder may apply to the Consent Authority for the change or cancellation of any condition of this consent.

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

Issued this 19<sup>th</sup> day of August 2011



Graham Taylor  
**Commissioner**

UNCONFIRMED MINUTES



## RESOURCE CONSENT

**RESOURCE CONSENT NUMBER:** RM110008

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

**ATAMAI TRUST**  
(hereinafter referred to as “the Consent Holder”)

### ACTIVITY AUTHORISED BY THIS CONSENT:

To undertake earthworks for Lots 11 and 12 for the construction of rights-of-way, private driveways, building platforms, to the extent not already covered by RM080636V1.

### LOCATION DETAILS:

Address of property: 232 Motueka Valley Highway

Legal description: Lots 11 and 12 of approved subdivision RM110007 of Lot 1 DP 438910

Certificate of title: 544283

### CONDITIONS

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

1. The earthworks shall be undertaken in accordance with the documentation submitted with the application and consent conditions listed in this resource consent document. Where consent conditions conflict with information submitted with the application, the consent conditions shall prevail.
2. The earthworks shall be carried out in general accordance with the application and plans submitted by Planscapes (NZ) Ltd on behalf of Atamai Village, including reports and plans by:
  - (a) Plan prepared by Davis Ogilvie titled “*Proposed Subdivision of Lot 1 DP4212250*”, Project Number 25225 dated 1 December 2010, attached as Plan A;
  - (b) Report by Geologic Ltd, titled: “*Geotechnical Investigation Proposed 6 Lot Subdivision Atamai Village, Motueka Valley Highway*” dated November 2010;
  - (c) Report by Engineering Sustainable Solutions (ESS) Ltd, titled: “*Proposed Subdivision of Lot 1 DP4212250 for Atamai Land Trust at Motueka Valley - Engineering Report*” dated November 2010;

- (d) Further information report for stormwater by Engineering Sustainable Solutions (ESS) Ltd, titled: "*Additional Stormwater calculations*" dated October 2008;
- (e) Further information report for stormwater by Engineering Sustainable Solutions (ESS) Ltd, titled: "*Stormwater report and calculations*" dated August 2008.

unless inconsistent with the conditions of this consent, in which case these conditions shall prevail.

- 3. 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.
- 4. The Consent Holder shall appoint a representative(s) prior to the exercise of this resource consent, who shall be the Council's principal contact person(s) in regard to matters relating to this resource consent. At least 10 days prior to beginning the works authorised by this consent, the Consent Holder shall inform the Council's Co-ordinator of Compliance Monitoring of the representative's name and how they can be contacted within the works period. Should that person(s) change during the term of this resource consent, the Consent Holder shall immediately inform the Co-ordinator and shall also give written notice to the Co-ordinator of the new representative's name and how they can be contacted.

**Council's Co-ordinator Compliance Monitoring shall also contact engineering staff at the same time to ensure any works commencement is done in conjunction with the approved engineering plans associated with RM110007.**

- 5. The Consent Holder shall carry out operations in accordance with the provisions of the approved Construction, Erosion and Sediment Management Plan (Condition 33).
- 6. If excavations reveal adverse ground conditions, such as the presence of soft and/or water-saturated ground or layers of plastic clay, a chartered professional engineer practising in geotechnical engineering or an experienced engineering geologist must be engaged to evaluate ground conditions.
- 7. All the works shall be supervised by a Chartered Professional Engineer.
- 8. Contractors and staff carrying out the work shall be experienced and trained in erosion and sediment control.

**Advice Note:**

Contractors and staff should be familiar with guidelines of the Technical Publication No. 90 "Erosion and Sediment Control" (Auckland Regional Council) or other similar guidelines.

**Contaminant Management**

- 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. Only fuels, oils and hydraulic fluids associated with the operation, and in the volumes required, may be stored on-site. Such substances shall be stored in a secure and contained manner in order to prevent the contamination of adjacent land and/or waterbodies.
13. The Consent Holder shall notify the Council as soon as is practicable, and as a minimum requirement within 12 hours, of the Consent Holder becoming aware of a spill of hazardous materials, fuel, oil, hydraulic fluid or other similar contaminants. The Consent Holder shall, within seven days of the incident occurring, provide a written report to the Council, identifying the causes, steps undertaken to remedy the effects of the incident and any additional measures that will be undertaken to avoid future spills.
14. Should the Consent Holder cease or abandon work on-site, it shall first take adequate preventative and remedial measures to control sediment discharge, and shall thereafter maintain these measures 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 Council's Co-ordinator Compliance Monitoring.
15. Prior to bulk earthworks commencing for each construction phase within the subdivision, 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 Construction, Erosion and Sediment Control Plan (Condition 33) 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's Co-ordinator Compliance Monitoring.
16. All disturbed vegetation, soil or debris shall be handled so that it does not result in diversion or damming of any river or stream. All stockpiled material shall be bunded to protect against stormwater erosion.
17. All disturbed vegetation, soil or debris shall be disposed of off-site or stabilised to minimise the risk of erosion. All other waste materials shall be disposed of off-site at premises licensed to receive such materials.
18. 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 Regulatory Services, 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.

19. Topsoil and subsoil shall be stripped and stockpiled separately. This shall then be re-spread at completion of the works.
20. 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.

21. 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; and
  - (e) any adverse effect on aquatic life.
22. 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 heavy rainfalls and floods reaching the site works.
23. The Consent Holder shall stop construction in heavy rain when the activity shows sedimentation that is more than minor in the view of the Council's Compliance Officer.
24. Sediment 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.

25. All erosion and sediment control measures shall be inspected after any major rainfall event and any problems shall be rectified within 24 hours required.
26. All exposed ground shall be revegetated 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.

## **Culverts**

27. All culverts within drains shall be armoured at the outlet to protect against erosion.
28. No significant erosion, scour or deposition shall result from the placement of culverts.
29. The Consent Holder shall ensure that for the duration of this consent any debris build-up is removed and ensure scour protection measures are installed and maintained at the inlet and outlet of all culverts.
30. Any culverts within watercourses shall be constructed to allow fish passage both up and down stream.

## **Roading and Access Tracks**

31. The water table, cut-offs and culverts shall be constructed and installed to prevent scour, gullyng or other erosion for the formed or constructed surface.
32. All batters shall be constructed to avoid batter failure.

## **Construction, Erosion and Sediment Management Plan**

33. Prior to undertaking any activities authorised by these consents, the Consent Holder shall prepare a Construction, Erosion and Sediment Management Plan. Works shall not commence before these plans have been approved by the Council's Co-ordinator Compliance Monitoring.

### **Advice Note:**

The Consent Holder for the subdivision earthworks intends to prepare a Construction, Erosion and Sediment Management Plan that will serve both the subdivision and residential earthworks processes. The residential earthworks compliance with the Construction, Erosion and Sediment Management Plan is required within RM110007 (Subdivision Consent) Condition 25, by Consent Notice (c).

34. The Construction, Erosion and Sediment Management Plan required by Condition 33 shall comply with the relevant conditions of the resource consents RM110008 and RM080636V1.

The Construction, Erosion and Sediment Management Plan may be amended as the Consent Holder considers appropriate during the period of these consents. Any changes to the Construction, Erosion and Sediment Management Plan shall be made in accordance with the methodology and approved procedures set out in Condition 37 and shall be confirmed in writing by the Consent Holder following consultation with the Council's Co-ordinator Compliance Monitoring.

### **Changes to the management plan shall not be implemented until authorised by the Co-ordinator Compliance Monitoring.**

35. The consents (RM110008 and RM080636V1) shall be exercised in accordance with the Construction, Erosion and Sediment Management Plan prepared by the applicant in accordance with these conditions.

36. At any time during the period of these consents, a copy of the latest version of the management plan shall be on site and available to all relevant staff.
37. The Construction, Erosion and Sediment Management Plan required by Condition 33 shall set out the practices and procedures to be adopted in order that compliance with the conditions of the 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) construction method for watercourse crossings;
  - (m) staff and contractor training;
  - (n) traffic management and property access management;
  - (o) contingency plans (eg, mechanical failures, oil/fuel spills, flooding, landslips);
  - (p) public access, community information and liaison procedures;
  - (q) complaints and reporting procedures;
  - (r) cultural and archaeological protocols (including discovery protocols);
  - (s) assessment and monitoring procedures;
  - (t) methodology and approval procedures for making changes to the Construction, Erosion and Sediment Management Plan.



**Advice Note:**

The following are the general principles that should be adhered to when writing and implementing the Construction, Erosion and Sediment Management 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;
- (n) keep on-site run-off velocities low by the use of the following: contour drains, retention of natural vegetation, provision of buffer strips of vegetation, low gradients and short slopes, control anticipated erosion and prevent sediment from leaving the site.

**Monitoring**

- 38. The Consent Holder shall contact Council's Co-ordinator Compliance Monitoring at least 24 hours prior to commencing works for monitoring purposes.
- 39. The Consent Holder shall ensure that the site is left in a neat and tidy condition following the completion of the works.

**Hours of Construction and Works Activity**

- 40. Works and construction activity associated with this consent shall be limited to between 7.30 am and 6.00 pm daily, excluding Saturdays, Sundays and public holidays.

## **Review Conditions**

41. The Council may review any or all of the conditions of the consent pursuant to Section 128 of the Resource Management Act 1991 for all or any of the following purposes:
- (a) to deal with any adverse effect on the environment which may arise from the exercise of the consent that was not foreseen at the time of granting of the consent, and which is therefore more appropriate to deal with at a later stage; and/or
  - (b) to review the contaminant limits, loading rates and/or discharge volumes and flow rates of this consent if it is appropriate to do so; and/or
  - (c) to review the frequency of sampling and/or number of determinands analysed if the results indicate that this is required and/or appropriate;
  - (d) to require consistency with any relevant Regional Plan, District Plan, National Environmental Standard or Act of Parliament.

## **Expiry**

42. The residential (Lots 11 and 12) earthworks component of this consent will apply to each of the individual titles for Lots 11 and 12, therefore for each certificate of title the land disturbance consent will expire three years from the issue of each of the respective titles for Lots 11 and 12.

## **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. Building consent will be required for these works.
3. Access by the Council or its officers or agents to the property is reserved pursuant to Section 332 of the Resource Management Act.
4. All reporting required by this consent should be made in the first instance to the Council's Co-ordinator Compliance Monitoring.
5. This resource consent only authorises the activity described above. Any matters or activities not referred to in this consent or covered by the conditions must either:
  - (a) comply with all the criteria of a relevant permitted activity rule in the Tasman Resource Management Plan (TRMP);
  - (b) be allowed by the Resource Management Act; or
  - (c) be authorised by a separate resource consent.

6. Plans attached to this consent are (reduced) copies and therefore will not be to scale and may be difficult to read. Originals of the plans referred to are available for viewing at the Richmond office of the Council. Copies of the Council Standards and documents referred to in this consent are available for viewing at the Richmond office of the Council.
7. Monitoring of this resource consent will be undertaken by the Council as provided for by Section 35 of the Act and a one-off fee has already been charged for this monitoring. Should the monitoring costs exceed this fee, the Council reserves the right to recover these additional costs from the Consent Holder. Costs can be minimised by consistently complying with conditions, thereby reducing the necessity and/or frequency of Council staff visits.

Issued this 19<sup>th</sup> day of August 2011



Graham Taylor  
**Commissioner**



## RESOURCE CONSENT

**RESOURCE CONSENT NUMBER:** RM110010

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

**ATAMAI TRUST**  
(hereinafter referred to as “the Consent Holder”)

### ACTIVITY AUTHORISED BY THIS CONSENT:

To discharge stormwater collected from buildings, roads and stormwater detention ponds associated with the subdivision described above RM110007 for Lots 11 and 12 to the extent not already covered by RM080639V1. This consent covers stormwater discharges during both the construction period and also the post-construction period to an unnamed tributary of the Motueka River.

### LOCATION DETAILS:

Address of property: 232 Motueka Valley Highway  
Legal description: Lots 11 and 12 of approved subdivision RM110007 of Lot 1 DP 438910 Certificate of title: 544283

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 and plans submitted by Planscapes (NZ) Ltd on behalf of Atamai Village, including reports and plans by:
  - (a) Plan prepared by Davis Ogilvie titled “*Proposed Subdivision of Lot 1 DP4212250*”, Project Number 25225 dated 1 December 2010, attached as Plan A;
  - (b) Report by Geologic Ltd, titled: “*Geotechnical Investigation Proposed 6 Lot Subdivision Atamai Village, Motueka Valley Highway*” dated November 2010;
  - (c) Report by Engineering Sustainable Solutions (ESS) Ltd, titled: “*Proposed Subdivision of Lot 1 DP4212250 for Atamai Land Trust at Motueka Valley - Engineering Report*” dated November 2010;

- (d) Further information report for stormwater by Engineering Sustainable Solutions (ESS) Ltd, titled: *“Additional Stormwater calculations”* dated October 2008;
- (e) Further information report for stormwater by Engineering Sustainable Solutions (ESS) Ltd, titled: *“Stormwater report and calculations”* dated August 2008.

unless inconsistent with the conditions of this consent, in which case these conditions shall prevail.

2. The stormwater disposal system will be designed in accordance with Council’s Engineering Standards & Policies 2008 (or the most recent version). If the Consent Holder chooses to install a system that does not comply with Council’s Engineering Standards & Policies 2008 (or the most recent version) then written approval to do so must be obtained from the Council before the design is submitted for approval. Detailed design of the stormwater for each allotment shall be supplied with any building consent application.
3. The stormwater disposal system shall not cause any damming or diversion of floodwaters that may affect adjoining properties. To achieve this, the Consent Holder shall ensure adequate on-site disposal of roof and surface waters is provided through an appropriate stormwater drainage system.
4. The Consent Holder shall install two rainwater storage tanks each with minimum capacity of 23,000 litres each. Stormwater from the roof area shall be piped to the stormwater tanks and the outfalls shall discharge to adjacent gullies or the right-of-way drain. These discharge points shall be constructed to avoid any erosion.
5. A stormwater cut-off drain shall be provided 3 metres upslope of the top of the cut slope for the building platform to prevent stormwater from upslope flowing over the cut slopes. These drains shall drain towards the right-of-way drain and proposed culverts. No stormwater shall be allowed to discharge over fill material.
6. The discharge shall not cause the production of conspicuous oil or grease films, scums or foams, or floatable or suspended material in any receiving water.
7. The discharge or diversion shall not cause or contribute to erosion of land, including the bed of any stream or drain.
8. The discharge shall not cause or contribute to any damage caused by flooding.

### **Hours of Construction and Works Activity**

9. See RM110008 (Land Disturbance Consent).

### **Expiry**

10. This consent expires 35 years from the date that it is granted (per Section 123(d) of the Resource Management Act 1991).

**Advice Note:**

This is the maximum duration allowed under Section 123 of the Resource Management Act 1991.

**Review**

11. Council may, for the duration of this consent and within three months following the anniversary of its granting each year, review the conditions of the consent pursuant to Section 128 of the Resource Management Act 1991 to:
  - (a) deal with any adverse effect on the environment which may arise from the exercise of this consent that were not foreseen at the time of granting of the consent, and which it is therefore more appropriate to deal with at a later stage; and/or
  - (b) 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) require compliance with operative rules in the Tasman Resource Management Plan or its successor; or
  - (d) require consistency with any relevant Regional Plan, District Plan, National Environmental Standard or Act of Parliament.

**GENERAL ADVICE NOTES**

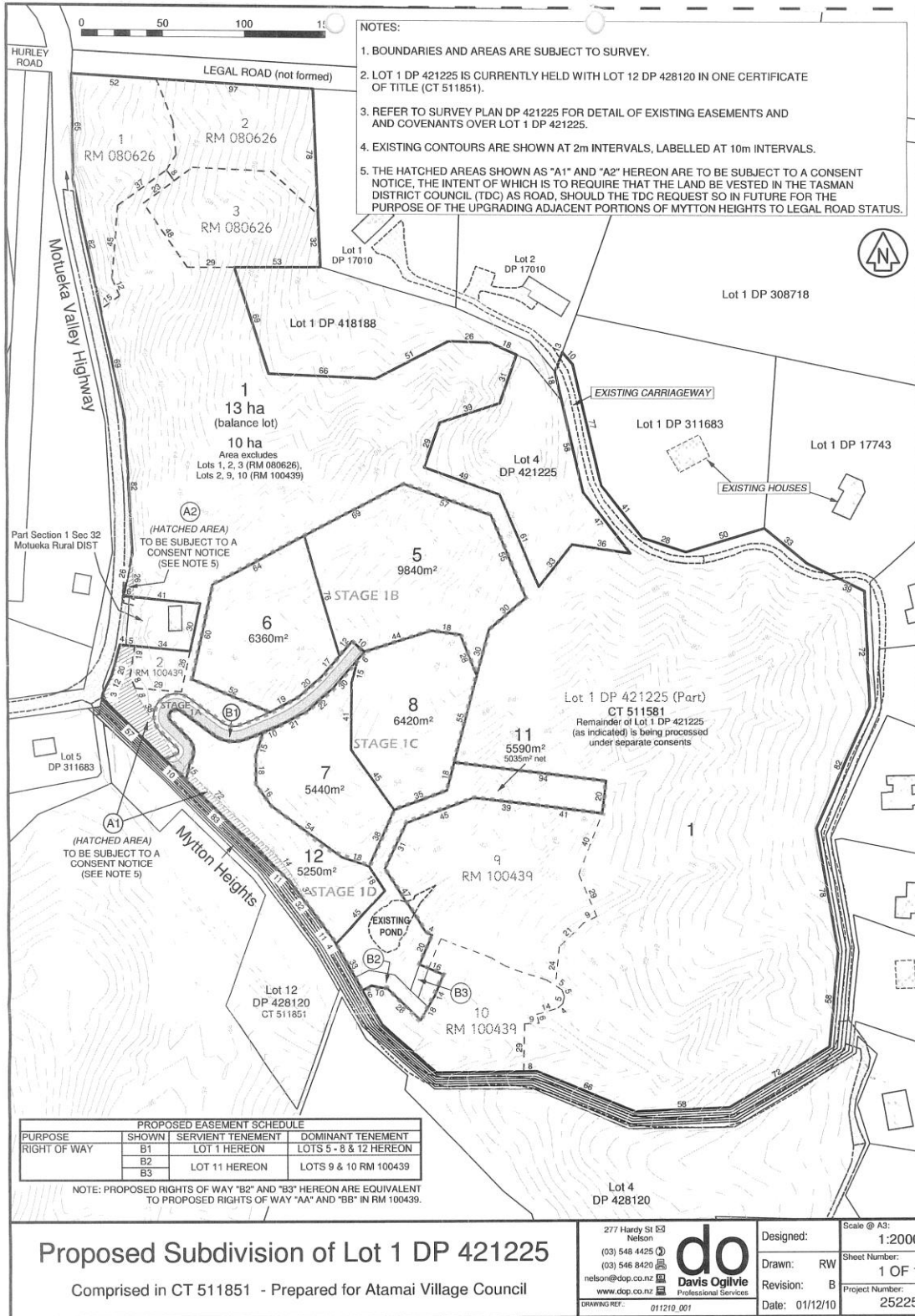
1. Officers of the Council may also carry out site visits to monitor compliance with resource consent conditions.
2. This consent must be read in conjunction with RM110008.
3. The Consent Holder should meet the requirements of the Council with regard to all Building and Health Bylaws, Regulations and Acts.
4. Access by the Council or its officers or agents to the property is reserved pursuant to Section 332 of the Resource Management Act.
5. All reporting required by these consents should be made in the first instance to the Council's Co-ordinator Compliance Monitoring.
6. 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.

7. These resource consents only authorise the activity described above. Any matters or activities not referred to in these consents 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 19<sup>th</sup> day of August 2011



Graham Taylor  
**Commissioner**



Date Confirmed:

Chair: