



STAFF REPORT

TO: Environment and Planning Hearing Committee

FROM: Bob Askew – Consent Planner, Motueka

REFERENCE: RM041237

SUBJECT: **CW DRILLING AND INVESTIGATION LTD - REPORT EP05/05/04**
- Report Prepared for 16 May 2005 hearing

1. PROPOSED ACTIVITY

To operate a light industrial activity being a well drilling contractor's yard in the Rural 1 Zone at Lower Moutere.

Note that the activity also includes the proposed discharge of treated waste from truck washing and this matter will be covered separately in the Discharge Planner's report.

2. SITE LOCATION

The property is located at 85 Lower Moutere Highway, Motueka and is located at the southern entrance to the Lower Moutere settlement and is about 250 metres within the 70 kph speed restriction for the settlement. The property is close to the coast and Moutere River (circa 400 metres). The property is about one kilometre north from Lower Moutere School. See appended location and site maps.

The property was previously owned by the Holland family but is now owned by the directors of the applicant's company and their partners.

3. LEGAL DESCRIPTION and PLAN ATTRIBUTES

The legal description of the property is Lot 2 DP 1884.

The area of the property is 3.4413 hectares and is currently mostly in pasture.

The property has two existing sheds on the site one being an open bay type farm shed, the other being a closed shed with closed lean-to addition which used to be used by the former land owner as an engineering workshop. The property also has a typical older style rural dwelling on it and which has a rather large garden area appurtenant.

Historically the property appears to have been used as pastoral in association with an adjoining 5.6666 hectares block, however there is an existing resource consent (Ref T2/9/1/118 for a Machinery Workshop).

This consent was granted to the previous owner/occupier Mr A H B Holland in 1973 but the use has since lapsed for some years.

As part of this consent an old blacksmiths workshop was demolished and in 1977 the original homestead on the property was demolished and the extended workshop built in its place. The replacement dwelling was located further northwards to the current site to avoid the flooding problems on the southern side.

Note that although the site has had consent and has been used as an engineering workshop that the site has not been included in Council's potentially contaminated sites register. A site visit carried out by the writer on 26 April 2005 did not perceive any obvious evidence of contamination in or around the shed but what may be uncovered during any earthworks is unknown.

Surrounding properties are either used for orchard, pastoral or residential/rural use (both larger 'lifestyle' properties as well as more urban styled ribbon residential development) that forms the Lower Moutere settlement.

The property is adjoined by residential and pastoral land to the north; pastoral land to the east; mixed orchard and pastoral land to the south and with an orchard and packhouse complex across the road to the west with residential properties across the road further to the north.

Planning Map Zones / Notations

The land is zoned Rural 1 in the Tasman Resource Management Plan. The property also has identified an archaeological site (Ref. N27-110 Midden/Oven) on the northern side of the property and has two identified specimen trees (Refs. 296 - Lawsons Cypress and 477 - Northern Rata). Both trees have a 'C' Heritage Classification. The trees are located with other trees near the road entrance to the property and is in the location in the garden area where the original homestead would have been.

A very small part of the south east corner of the property is within the Coastal Environment Area. The land is all within Land Disturbance Area 1.

The Council's hazard mapping data indicates that the southern half of the property is in an area that may be liable to flooding. Site inspection noted that the site topography in the proposed yard area has swales which are likely to hold/carry stormwater during flooding episodes.

The property was zoned Rural MA in the Tasman Transitional Plan (Motueka and Environs section).

4. CONSENT TYPE and AFFECTED RULES

Transitional Plan

Specified Departure – changed by the Resource Management Act 1991 (as amended) to Discretionary Activity.

It is acknowledged that the Transitional Plan has been superseded by the Tasman Resource Management Plan (TRMP) and the TRMP will therefore be used in assessing this application.

Tasman Resource Management Plan

Discretionary activity

Relevant Affected Rules:

17.4.2(b)(i) and (vi) - Rural 1 – Permitted Activities – Activities not permitted include any Industrial or Rural Industrial Activity and a Commercial Activity;

17.4.3 - Rural 1 – Discretionary Activities – Land Use.

Note that for the Rural 1 Zone, Rules under 17.4.2 provide for performance standards for Odour, Dust and Noise for permitted land use activities, also rules under 17.4.4 provide for criteria for permitted building activities.

Other relevant Rules are contained in:

16.1.5A - Controlled Activities - Outdoor Signs in Rural Outdoor Signs in Rural Zones;

16.2.2 - Vehicle Access Considerations;

16.2.3 - Provision for Parking and Loading;

16.5.12 - Financial Contribution on Resource Consent

16.7.3 - Permitted Activities - Hazardous Facilities;

18.6.2 Permitted Activities - Land Disturbance Area 1

Also note that matters relevant to the proposed Discharge application which have not been listed here will be included in the Discharge Planner's report.

Predominance of the Transitional versus Proposed Plan.

Under Section 104(b)(iv) of the Resource Management Act 1991 Council is required to have regard to any relevant objectives, policies, rules or other provisions of an (operative) plan or proposed plan.

The status of the Proposed Plan, (ie the Tasman Resource Management Plan), has for the purposes of the current land and zoning passed all stages where there remains any relevant matters that would require any consideration of any of the matters under the Transitional Plan.

5. CONSULTATION, APPROVALS and SUBMISSIONS

5.1 Consultation

Prior to lodgement of the proposal, the applicant's consulted with nearby neighbours by sending written documentation on the proposed activities and to, presumably, obtain written approval from those neighbours if they were happy with the proposal.

Those neighbours contacted were as follows:

Name	Postal Address	Legal Description	Response
N and J Smith	79 Moutere Highway	Lot 10 DP 4265	Written approval
W and D Buck	67 Moutere Highway	Lot 2 DP 302807	Written objection
L and C Brouwer	11 Wilkinson St, Motueka	Lot 3 DP 1884	Verbal objection
C French	82 Moutere Highway	Lot 1 DP 6800	Written objection
A Wood and J Wall	Seaview Ave, Mairi	Pt Lot 1 DP 8943	Written approval
Holland Family Members	C/- Hamish Holland	Lot 1 DP 1884	Written approval

The applicants have also consulted with the Regional Filekeeper of the NZ Historic Places Trust and have also consulted with local iwi regarding the archaeological site on the property.

5.2 Approvals under Section 104(3)(b) of the Resource Management Act 1991

The Council cannot consider any adverse effects on persons that would normally considered to be potentially adversely affected by a proposed activity that have given written approval to the activity.

The following persons have given such written approval:

Name	Affected Address	Legal Description
N H and J E Smith	79 Moutere Highway	Lot 10 DP 4265
A B and AR Wood Eretum Ochards	84 Moutere Highway	Pt Lot 1 DP 8943

Note that the applicants received written approval from the Holland Family Trust but that this was in the form of a submission in support and has been treated as such.

5.3 Submissions

Ten submissions were received six of which oppose the application with four submissions being in support. Submissions opposing the application include a petition which has 138+ names which range from nearby Lower Moutere residents and those in Motueka/Riwaka to those living as far away as Dovedale, Mapua, Upper Moutere, Orinocco and Richmond.

A letter from the New Zealand Historic Places Trust (NZHPT) has not been recorded as a submission on the file however the writer's opinion is that the letter is in clearly a submission and the writer has asked for this matter to be corrected on Council's database.

Whilst the submission is neither in support or opposition, it does provide a condition for any approval that a professional archaeological assessment be undertaken to identify any archaeological sites in the area of proposed earthworks and to clearly establish the boundaries of the recorded archaeological site on the property. Should there be found to be any 'reasonable cause' that any archaeological site (whether or not it is recorded) may be modified, damaged or destroyed as a result of activities, then authorisation for such work to proceed will be required from the Trust pursuant to the provisions of the New Zealand Historic Places Act.

Comment on NZHPT Submission

The applicants commissioned an archaeologist (Amanda Young) to undertake an assessment of the site and a copy of her report dated 4 February 2005 is appended to this report.

Whilst no evidence was found of either recorded or unrecorded archaeological sites, the archaeologist recommended that an archaeological authority be obtained from NZHPT so as to avoid any time delays should archaeological evidence be uncovered. Such evidence would be in relation to the recorded site N27/110 or the original Starnes homestead that was built on the property in the location of the proposed yard works.

5.3.1 Submissions in opposition are as follows:

Submitter	Received	Ref. #	Reasons for Opposition	Decision	Planner's Comment
C and J French	14/01/05	2	<p>Loss of productive land to industry;</p> <p>Mixing industry with rural/residential;</p> <p>Loss of farming opportunity to alternate buyer;</p> <p>Noise from activities;</p> <p>Cross boundary effects already apparent and development will detract from 'rural scene';</p> <p>Discharge concerns;</p> <p>Moutere Highway narrow and concerns for school children;</p> <p>Proposal will set a precedent;</p> <p>Other areas better suited for industrial development;</p> <p>Visual impact to entrance to Lower Moutere;</p> <p>Financial loss by affecting residential property values.</p>	Decline	<p>The submitters live across the road from the subject site (82 Moutere Highway) in a 3000m2 residentially used Rural 1 Zoned property. The submitters adjoin an existing packhouse and orchard to the south and east (Wood's) with ribbon rural 1 residential properties to the north.</p> <p>Matters raised by submitters will be included in comments below table and in the assessment of effects later in this report.</p> <p>Note matters regarding discharge issues will be addressed separately by Council's Discharge Planner in her report.</p> <p>These submitters indicated that they do wish to be heard at the hearing.</p>
W Buck	14/01/05	3	<p>Concerns regarding proposed discharge;</p> <p>Cross boundary effects including building and structures and contaminant spray drift;</p> <p>Plan proscribes certain industrial activities where adjoining or across road from a Residential Zone.</p>	Decline	<p>The submitter lives on a 6.6 hectares Rural 1 Zoned pastoral block adjoining the subject property to the north (67 Moutere Highway).</p> <p>The submitter has referred to matters of restricted discretion regarding building development in the Rural 1 Zone. The applicants are not proposing any approvals for building structures therefore this matter has no relevance to</p>

Submitter	Received	Ref. #	Reasons for Opposition	Decision	Planner's Comment
					<p>this application.</p> <p>Reference to the prohibition of certain industrial activities adjoining residential zones is not relevant as the proposed activity only proposes, inter alia. "minor repairs to plant and machinery" and the adjoining residential properties are all zoned Rural 1 and not Residential therefore the relevance to the current proposal is not clear except that it is likely to be raising concern regarding industrial activity next to residential activities.</p> <p>Note matters regarding discharge issues will be addressed separately by Council's Discharge Planner in her report.</p> <p>This submitter indicated that he does wish to be heard at the hearing.</p>
C and L Brouwer	14/01/05	4	<p>The Rural 1 and Industrial Zones have been provided to ensure residents and the environment are protected and it should be unnecessary for residents to have to defend against requests to contravene Council Rules;</p> <p>Petition reflects concern of residents of Lower Moutere Area and also parents of children attending the Lower Moutere School;</p> <p>Wish to retain the scenic character of the area;</p>	Decline	<p>These submitters own a 6.2 hectares Rural 1 Zoned mixed organic horticultural and pastoral block adjoining to the south of the subject property.</p> <p>Whilst the submitters do not live on the property they have recently applied for and been granted resource consent for a dwelling on the property (Ref RM041350).</p> <p>Matters raised by submitters will be included in comments below</p>

Submitter	Received	Ref. #	Reasons for Opposition	Decision	Planner's Comment
			<p>Establishment of industry will spread and take over - note spot zoning in Hau Road and the conflicts that has created;</p> <p>Noise will have adverse effect.</p>		<p>table and in the assessment of effects later in this report.</p> <p>These submitters indicated that they do wish to be heard at the hearing.</p>
D Wilkins and N Walsh	17/01/04	5	<p>Lower Moutere is a Rural/Residential Zoned area and industrial development should be confined to existing industrial zones;</p> <p>No alternative sites investigated;</p> <p>No intention to integrate into the rural environment; this will have detrimental impact on the character of Lower Moutere and adversely affect residential property values;</p> <p>Concerns regarding contaminant discharge;</p> <p>Failure to recognise integral nature of Lower Moutere School;</p> <p>Concerns regarding road safety with particular reference to use of road by school children who walk to school.</p>	Not stated but assumed that it is to decline the application.	<p>The submitters live across the road and to the north of the subject site (76 Moutere Highway) in a 2000m2 residentially used Rural 1 Zoned property. The submitters are close to an existing packhouse and orchard to the north-west (Kirk's) with ribbon rural 1 residential properties to the north and south.</p> <p>The Lower Moutere settlement is all zoned Rural 1. There are no Residential or Rural-Residential Zones, however there are existing residentially sized and used lots forming the ribbon development that constitutes the settlement.</p> <p>Alternative sites have been considered and this is stated in paragraph 7 of their AEE and was also confirmed at the site inspection but that the site was not going to become available for at least two years.</p> <p>Potential lack of integration and adverse effects on the character of the Lower Moutere rural character are matters discussed later in this report but are matters</p>

Submitter	Received	Ref. #	Reasons for Opposition	Decision	Planner's Comment
					<p>to be noted.</p> <p>Matters regarding discharge will appear in the separate report of the Council's Discharge Planner.</p> <p>The 'integral nature of Lower Moutere School' and the affect on road safety and consequently children walking to school has not been addressed by the applicants but will be referred to later in this report.</p> <p>These submitters indicated that they do wish to be heard at the hearing.</p>
O and J Smith	14/01/05	8	<p>Traffic movements; road safety concerns particularly school children and cyclists;</p> <p>Noise close to residents;</p> <p>Social, cultural and economic setting; adverse visual effects which will have adverse effect residential settlement and adversely affect residential property values;</p>	<p>Not stated but has provided conditions as follows:</p> <p>Widen road 50m either side of entrance;</p> <p>Limit noise to specific times during the day;</p> <p>Council needs to provide for industrial development away from residential development.</p>	<p>The submitters live across the road from the subject site and approx 80 metres north in a 2021m2 residentially used Rural 1 Zoned property. The submitters adjoin ribbon rural 1 residential properties to the north an south with orchards adjoining to the west.</p> <p>Matters raised by submitters will be included in comments below table and in the assessment of effects later in this report.</p> <p>These submitters indicated that they do wish to be heard at the hearing.</p>
Various (Petition) C/- W Buck	14/01/05	10	<p>Inappropriate for productive land;</p> <p>Most school children cycle to school and increase heavy vehicle traffic presents a road hazard;</p> <p>Moutere Highway is a 'popular country</p>	Decline	<p>Petition has involved collecting 138 signatures (plus possibly another 3? that are illegible) and signatures whilst mostly from local residents include some from those living quite some distance</p>

Submitter	Received	Ref. #	Reasons for Opposition	Decision	Planner's Comment
			<p>corridor' and industry will detract from rural ambience;</p> <p>Concerns at discharge of wastes;</p> <p>Precedent will be set leading to further encroachment and loss of productive land.</p>		<p>from the property.</p> <p>Matters raised in the petition will be included in comments below table and in the assessment of effects later in this report.</p> <p>No petitioner (other than existing submitters) has stated whether they wish to be heard.</p>

5.3.2 Comments on submissions in opposition

Note no comments have been made in regards to the proposed discharge consent as these matters will be fully addressed in the Council Discharge Planner's report.

The six submissions including the petition/submission which oppose the application have very similar issues identified as concerns and the comments here will provide a basic introduction to the assessment of affects made later in this report.

In the writer's opinion the principal issues relate to rural and residential amenity, traffic safety, loss of land based productivity and precedent/cumulative effects.

Amenity

The amenity issues include adverse effects of noise, adverse effects on visual amenity (particularly from the yard area) and loss of general amenity through having an 'industrial site in the neighbourhood. Loss in residential amenity is asserted by some submitters to have an adverse effect on residential property values. The matter of noise although having been provisionally assessed in the AEE, has since been assessed by a consulting acoustic engineers (Michael Hunt Associates) see copy appended to this report. The statement made by one submitter that present neighbours state that "they are the noisiest business in the area' was checked by the writer with three residents living directly opposite their premises in Old Wharf Road. Residents stated that the grinding noise was intrusive but taking that aside the business had little impact. Of course comments from residents living opposite a long established industrial site might have an opinion that was more tolerant towards the inevitable effects that would occur. One interesting comment was that one resident commented that they business owners were friendly and approachable.

Following a site visit on 26 April 2005 it was clear that the current rural amenity from this pastoral property does provide an attractive and peaceful environment. However some permitted rural activities are quasi industrial in their effects (eg orchards with pack-houses and coolstores). Usage of hail cannons and bird scarers have a history of complaint associated with their (permitted) use. Deer farms have been known to be particularly noisy at times and orchards have occasional noise from sprayers and packhouse/coolstore operations.

The visual amenity of rural areas is considered to be high however farm buildings can be quite large and occupy 5% of land in buildings (except dwelling and greenhouses which have no limitation) and up to a maximum 2000m² of building footprint area can be built on sites larger than 4.0 hectares. On the subject site of 3.4 hectares the total area of restricted buildings (ie not dwellings or greenhouses) could be as much as 1700 m². Note however that the uses of such buildings would need to relate to the use of the land on which they are sited.

Building colours are also not controlled outside of the Coastal Environment Area.

Recently concerns have been raised over the use of large areas of red netting for crop protection/enhancement such netted areas being a permitted activity as the netting is considered to come within the definition of a 'greenhouse'.

The writer is unable to comment as to how the proposed activity might affect property values other than to reflect that the current passive use of the land has a high amenity value but to note that such passive use cannot be guaranteed for the future. The Acoustic Consultant's report has measured noise levels and confirmed that they comply with the permitted activity Rules for the Rural 1 Zone

Traffic

Traffic safety concerns are both in regards to increased vehicle movements and in regard to road user safety particularly children going to school who either cycle or walk there along the Moutere Highway. Also heavy truck movements have been raised as an issue.

The matter of increased traffic movements has been discussed with Councils Roading Engineers who have not requested any changes other than that the widened access be formed in accordance with Council's Engineering Standards. Specifically no road widening has been required which has been based on the relatively few traffic movements noted within the AEE and Noise reports. The AEE makes an assessment of average daily return movements of one delivery truck, one drill rig movement, twelve car movements and two courier van movements. In relation to the average daily vehicle movements along the Moutere Highway of 1600, and in consideration of the good site visibility and 70kph speed limit it has been considered by Council Engineers that the proposed activity will have minimal adverse effect on the efficient and safe use of the road.

Land Productivity

Loss of productivity will occur on the area of land to be used for the activity which is estimated to be around 6000 m² or about 18% of the total property area of 3.4 hectares. Whilst this area being taken out of production may not by itself be significant the potential for expansion of the industrial activity on the site or pressure applied for other similar activities either on this or neighbouring sites would lead to a significant adverse effect. By comparison on-site packhouse and coolstore complexes which would be similar in area of land occupied are essential to the land based productivity and their specific use provides limitations although there have been applications approved for use of redundant packhouse buildings for alternate industrial/commercial activities.

Whilst it could be argued that use of existing sheds can have an economic benefit without loss of land based productivity (as the land has already had its productivity removed) the case for the current property is quite different in that a large area of land will have its top-soil removed and although the applicants have committed to keep that soil on-site it is unlikely that it would be re-instated to its original condition given the long term commitment by the applicants to establish their business.

The existing sheds on the property are relatively small and whilst adequate for any farm related activity or small scale home occupation type of business, are probably going to need either substantial upgrading/enlarging or replacing to accommodate the proposed activities on the site. The total area of the existing sheds is around 340 m² and it should be noted that the land can accommodate as of right up to

1700 m² of building footprint area. Note however the use of such buildings have to be ancillary to the permitted activities on the land.

Precedent Effects

Submissions have raised concerns regarding the precedent effect that establishing a light industry would create and that this might lead to other similar applications in the area and would thus change the rural residential character of the Lower Moutere settlement. The reference to the Hau Road area and how the historically used abattoir facility has led to industrial spot zoning and expansion for other industrial activities which have led to significant adverse reaction from residents in Hau Road has been noted by one submitter. Many of the complaints at Hau Road relate to the increased usage of an otherwise very quiet access road by heavy vehicles and to the noise/dust from a metal crusher on the site.

One submission notes the apparent unavailability of industrial zoned land. This may be a significant factor that has led to the current application. The applicants have stated in their AEE and have confirmed verbally that they have tried to secure industrial zoned land but that such land has not been available for at least two years. The writer is aware of the number of enquires for available industrial land in Motueka and it is acknowledged that such land is extremely scarce. The property sought by the applicants has also been looked at by a number of other industrial developers and this well mean that the price of industrial zoned land becomes very inflated to the point of being unaffordable for small local businesses, particularly those that require the large land area for yard storage/parking rather than for a building for manufacturing.

The matter of land cost is not a matter for consideration under the Resource Management Act but it is noted as being a factor that increases pressure to use alternate land resources for activities.

This lack of available industrial land is the subject of Council studies and it is anticipated that the current shortfall may only be a temporary situation.

Similar pressures and increase in prices has occurred for residential and rural residential development.

5.3.4 Submissions in support are as follows:

Submitter	Received	Ref. #	Reasons for Support	Decision	Planner's Comment
H M Holland	17/12/04	1	Effects will be similar to historical use of light industrial workshop	Approve	<p>The supporter although resident in Australia is representing the Holland Family Trust. Mrs G L Holland owns a 5.6 hectares block adjoining the subject site to the east.</p> <p>The matter of the engineering workshop has been researched from Council files. The consent, issued in May 1973, was limited to Mr Holland and one employee and that the activity was restricted to the one building and one acre (circa 4000m²) of land. Also no top-soil appears to have been removed as a result of that activity.</p> <p>The historical activity was therefore significantly smaller in scale with less environmental impact than the proposed activity.</p> <p>The submitter indicated that he does not wish to be heard at the hearing.</p>
Lower Moutere Water Scheme Ltd C/- K W Palmer	17/01/05	6	<p>Applicants have a business that provides support to local farming community through their knowledge of local water issues;</p> <p>Application is well researched and activity should be able to be carried out as planned;</p> <p>Noted that the irrigation well on the</p>	Approve	<p>Whilst it is acknowledged that the applicant's local knowledge of water resources and their well drilling expertise is an asset to the farming community it is not evident that, if the applicants fail to obtain consent to use this site, that they would leave the area as they are already established in an</p>

Submitter	Received	Ref. #	Reasons for Support	Decision	Planner's Comment
			property has been subject to salt water intrusion during the 1991/2 drought.		industrial are in Motueka. The submitter indicated that he does wish to be heard at the hearing.
K W Palmer	13/05/04	7	Same as submission 6	Approve	The submitter whilst not a nearby resident is a prominent local horticulturist and lives in Hursthouse Street. The submitter indicated that he does wish to be heard at the hearing.
N H and J E Smith	30/11/04	9	Support for truck was water discharge; Plenty of room and not close to neighbours	Approve but any land lease or subdivision be discussed with neighbours who like their rural outlook	The submitter lives on a an adjoining property (79 Moutere Highway) in a 962m2 residentially used Rural 1 Zoned property. Mr Smith was an affected adjoining owner when Mr Holland applied for consent for the machinery workshop in 1973. No lease or subdivision of land has been applied for or indicated in the proposal. Matters related to discharge will be addressed by Discharge Planner. The submitter indicated that he does not wish to be heard at the hearing.

5.3.4 Comments on submissions in support

Note no comments have been made in regards to the proposed discharge consent as these matters will be fully addressed in the Council Discharge Planner's report.

No additional comments are considered necessary by the writer beyond those that have been stated in the tables and matters that will be addressed in the assessment of effects made later in this report.

Matters relating to the unrecorded submission made by the New Zealand Historic Places Trust have already been addressed earlier in this report.

6. STATUTORY PROVISIONS

Consideration of Applications

Applications for resource consent must be considered on their merits under Section 104(1) of the Resource Management Act 1991 and that regard should be had to:

- (a) *Any actual or potential effects on the environment of allowing the activity;*
- (b) *Any relevant provisions of—*
 - (i) *a national policy statement;*
 - (ii) *a New Zealand coastal policy statement;*
 - (iii) *a regional policy statement or proposed regional policy statement;*
 - (iv) *a plan or proposed plan; and*
- (c) *Any other matter the consent authority considers relevant and reasonably necessary to determine the application.*

When forming an opinion for the purposes of subsection (1)(a), a consent authority may disregard an adverse effect of the activity on the environment if the plan permits an activity with that effect. This has become known as the 'Permitted Baseline' and will be discussed further in the report.

The considerations under Section 104(1) are subject to Part 2 of the Act, which sets out the purpose and principles of resource management, the purpose of which is to promote the sustainable management of natural and physical resources.

Determination of Applications for Discretionary Activities

Section 104B of the Resource Management Act 1991 (as amended) provides:

After considering an application for a resource consent for a discretionary activity or non-complying activity, a consent authority—

- (a) *may grant or refuse the application; and*
- (b) *if it grants the application, may impose conditions under section 108.*

7. CONSIDERATION OF MATTERS UNDER PART 2 OF THE ACT

Part 2 of the Act covers from Sections 5 through to 8, Section 5 sets out the purpose of the Resource Management Act 1991 and all assessments, considerations and decisions of proposed activities must be made in regards to the purpose and principles of the Act which is sustainable management of natural and physical resources and while doing so providing for future needs, safeguarding the environment and avoiding remedying, or mitigating any adverse effects of the activity on the environment.

It is important to note that the Purpose of the Resource Management Act is stated in Section 5 as "to promote the sustainable management of natural and physical resources".

It could be considered therefore that the proposed development will be inconsistent with the purpose of the Act in that a natural land resource will be lost.

Whilst it is considered that under Section 6, there are no matters of national importance relevant to this application Section 7 of the Act provides for the following "Other Matters" to have particular regard to:

- The efficient use and development of natural and physical resources;
- The maintenance and enhancement of amenity values;
- Maintenance and enhancement of the quality of the environment;

Note in the above that "amenity values" means those natural or physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes and "environment means the social, economic, aesthetic, and cultural conditions which affect or which are affected by, amongst other things, ecosystems and their constituent parts, including people and communities, amenity values and all natural and physical resources.

So whilst the proposal involves the use of an existing buildings and the development of an activity may have benefits to the farming community such activity should not be to the prejudice of the environment and the amenity of the neighbourhood.

The last matter to be considered under Part 2 of the Act is Section 8 which makes provision to take into account the principles of the Treaty of Waitangi

Copies of all applications for resource consent are served on Iwi as part of Council's partnership protocols.

Iwi have made no submission on this application and matters relative to the interests of the NZHPT have been duly considered by the applicants.

Regardless that iwi have made no submission on this proposal, Council has, in achieving the purpose of the Act, taken into account the principles of the Treaty of Waitangi, and has acted in good faith with regard to ensuring that the interests of Maori have been taken into account.

8. ASSESSMENT OF ACTUAL and POTENTIAL EFFECTS – PERMITTED BASELINES

Following a site visit and reviewing the applicant's Acoustic Consultants report and also consideration of the matters raised by submitters on the proposal it is clear that the adverse effects (both actual and potential) can be summarised into the following four groups:

1. Noise Effects
2. Rural and Residential Amenity
3. Traffic Safety
4. Loss of Land Based Productivity
5. Precedent/Cumulative Effects

The provisions of Section 104(2) of the Resource Management Act 1991 provides that:

“When forming an opinion for the purposes of (assessment of effects) a consent authority may disregard an adverse effect of the activity on the environment if the plan permits an activity with that effect.”

This comparison with permitted activities is referred to as the “Permitted Baseline”.

Permitted Baseline

Since 1 August 2003 amendments to the Resource Management Act 1991 have provided for changes in regards, inter-alia, to codification of the ‘permitted baseline’ and this has modified how Council decides whether effects will be minor and/or who are affected persons.

Prior to the 2003 amendments to the Resource Management Act 1991, Councils, when deciding whether effects were minor and/or who were affected were obliged to apply the ‘permitted activity baseline test’. This baseline test was required subsequent to Court of Appeal decisions, however with the amendments to the Act the baseline test is now discretionary, that is Council may take these matters into consideration but they do not have to. This is important as the Tasman Resource Management Plan was promulgated at a time when ‘permitted baselines’ were not a factor to be considered and because of this applicants have sometimes argued baselines that may not be appropriate. The Act limits the permitted baseline to those matters which are permitted activities in the Plan.

Matters relevant to this application that form part of the permitted baseline include noise effects, and the Proposed Plan provides performance standards which if complied with, form a ‘test’ against which activities that produce noise can be assessed and therefore classed as permitted or discretionary activities.

Noise Effects

The noise effects have been evaluated both informally by the applicants and by Acoustic Consultants, Malcolm Hunt Associates.

In the writer's opinion noise effects would have the potential to be one of the most significant issues, and it has been important for the applicant to be thorough in providing evidence about the nature and degree of anticipated noise from the activity.

The proposed hours of the activity are from 7.30am to 5.30pm weekdays, which means that the evaluation for noise is based on 'day-time' levels provided the applicants don't intend working on public holidays.

From the reports it appears that the activity can comply with the permitted baseline for noise standards in the Rural 1 Zone, these standards are as follows:

Rule 17.4.2(d)

Noise generated by the activity, when measured at or within the notional boundary of any dwelling in a Rural Zone (other than any dwelling on the site from which the noise is being generated), Rural Residential, Papakainga or Tourist Services zone, or at or within any site within a Residential Zone, does not exceed:

	<i>Day</i>	<i>Night</i>
<i>L10</i>	<i>55 dBA</i>	<i>40 dBA</i>
<i>Lmax</i>		<i>70 dBA</i>

Except that this condition does not apply to all noise from any intermittent or temporary rural activity, including noise from:

- (i) mobile horticultural and agricultural equipment;*
- (ii) forest and tree harvesting activities;*
- (iii) animals, except when associated with intensive livestock farming and animal boarding activities;*
- (iv) bird scarers and hail cannons.*

N.B. Day = 7.00 am to 9.00 pm Monday to Friday inclusive and 7.00 am to 6.00 pm Saturday (but excluding public holidays).

Night= all other times plus public holidays.

The measurement and assessment of noise at the 'notional boundary' of a dwelling applies whether the measurement location is within Tasman District or in an adjacent district.

'Notional Boundary' is a point 20 metres from the façade of the dwelling most exposed to the noise or the property boundary if that is closer to the dwelling.

Noise must be measured and assessed in accordance with the provisions of NZS 6801:1991, 'Measurement of Sound' and NZS 6802:1991, 'Assessment of Environmental Sound'.

Note that noise may exceed the performance standards for intermittent or temporary rural activities, so such things as roaring deer, bird scarer guns or night-time pea harvesters would not be controlled by this Rule despite their producing disturbingly loud noise.

The acoustic consultant's report has considered three sites:

- A. The site boundary to the closest residential dwelling (French's – objectors)
- B. Site boundary of subject property

C. The site boundary to the residential dwelling adjoining northern boundary (Smith's – supporters)

The consultants have confirmed that the activity can meet the performance standards under the Tasman Resource Management Plan

The consultants have also included a range of mitigation measures that provide a 'best practicable option' to reduce noise and whilst these may not be required to achieve compliance with the Rule they meet the spirit of the Act to ensure any noise does not exceed a reasonable level.

The proposed noise reduction has been stated by the consultants to be effectively achieved by providing an acoustic fence for the acoustic protection of nearest dwellings to the north.

In regards to potential effects cognisance must be taken of the possibility of future additional residential development occurring on the Brouwer land and the acoustic consultants have not addressed this in their report; however the applicants were not privy to the consent application made by the Brouwer's as that application was dealt with non-notified as a controlled activity.

In the opinion of the writer similar noise levels could be anticipated at the Brouwer residential property and it seems clear that compliance with the noise standards is achievable for any future dwelling on their property as proposed in the location approved in the consent which is set back 85m from the northern boundary with the applicants' property and will be further from the proposed noise source (shed 1 in the acoustic report) than either the dwellings assessed at sites A or C.

Notwithstanding the distance of any proposed dwelling on the Brouwer property such matters involving improved acoustic isolation of noise producing activities can be done relatively simply by ensuring all openings in the walls of the shed are closed and that the walls are lined internally with acoustic material and in addition, installing an acoustic fence adjoining the Brouwer property so as to comply with the permitted activity noise standards in the Plan.

Note that noise assessment have been carried out in terms of the Proposed Plan Rules which uses a noise descriptor based on dBA L10. Under current New Zealand Standard practices measurements for environmental nuisance noise assessment the use of dBA L10 is required.

The L10 has been called the 'nuisance noise' level and for typical environmental noises works well in terms of human response to noise complaints.

Whilst the noise levels may be within prescribed limits, the duration and 'character' of the noise from some of the activities (eg angle grinding) may be argued as being atypical of rural noises however a typical noise in this area would include sprayers and these may have much higher noise levels but are for limited periods both in duration and seasonal activities.

Any further queries on noise levels can be addressed at the hearing and the writer will be happy to explain.

Rural and Residential Amenity

Currently the environment is typical of many rural settlement areas of the District there being mixture of uses including orcharding as a predominant use, but also some pastoral farming and rural residential 'lifestyle' activities together with the more urban style 'urban' ribbon residential. Including with the rural farming practices in the area are pack houses, coolstores, worker accommodation and a variety of sheds of various shapes, sizes, ages and conditions.

The existing built environment on the subject property which includes a dwelling and two sheds, would be permitted to be retained regardless of what type of development occurred on the land.

In regards to the proposed activities within the sheds these can have an adverse effect on residential amenity, the principal effect being noise even though the permitted noise levels of the Plan are complied with as discussed previously.

Other matters affecting the residential and rural amenity outside of the buildings are outside storage, truck and other vehicle parking/storage and signage.

Referring again to the permitted baseline, relevant activities with similar effects, the proposal would include 'home occupations' in the Rural 1 Zone.

The provisions for 'home occupations' in the Proposed Plan prescribe maximum building area of 75 m² and there are controls on the maximum number of workers as well as those for signage parking and of course noise.

Home occupations that have come up in Rural areas include potteries, hand crafts production and sales, food manufacturing including boutique wineries (no alcohol sales permitted), apiaries and honey-houses, small engineering workshops and visitor accommodation (bed and breakfast) for up to six guests.

The proposed activity would however be considered to have significantly greater adverse effects than a home occupation.

The proposed yard area will give rise to adverse amenity effects in regards to rural and residential amenity, however it is not uncommon to find similar sized yard areas associated with packhouses having such things as pallets, various machinery and sundry material 'stored' outside.

The key difference being that the farm activities are intrinsically related to the productive enhancement of the property, therefore it is accepted that some land productivity is lost to provide for essential infrastructural assets thereby creating a greater productive benefit overall.

In the subject case there will be no associated land productivity benefits and there is no essential need for the activity to be carried out in a rural area.

Traffic Effects

In the TRMP there are no Rules relevant to this application to control vehicle movements to and from the site. Rural properties can vary widely in vehicle movements from practically none for dormant uses like forestry and pasture, to frequent movements including heavy vehicles for an orchard/packhouse during the busy fruit picking season.

Based on the information supplied with the application it would be considered that vehicle movements for the proposed activity would be low.

Compared to a packhouse the vehicle movements would be considered to be far fewer but of course the applicants proposal is a year round operation as opposed to a seasonal one for orchards.

The existing access to the property is good having visibility in excess the Tasman Resource Management Plan. The proposed Plan provides requirements for sight-lines to enable clear visibility from an access for 175 metres. The current accesses position certainly exceeds this.

Loss of Land Based Productivity

The site is located on Hau sandy soils which are amongst the best quality soils in New Zealand for land based productivity. Whilst the applicants intend to retain on site, topsoil that is to be removed from the yard area, the redistribution of such soil will inevitably means its replacement on the denuded area will likely be impractical.

Although the area to be scraped of topsoil is circa 6000m², and arguably will, by itself, not have a significant adverse effect, the potential for expansion of the scraped area with the potential expansion of the business could have a potentially more significant adverse effect.

It is interesting however that the Tasman Resource Management Plan has no Rule that requires productive land to be used productively. Letting land lie idle is a permitted provided the site is maintained tidy and weed/pest free in accordance with current pest control statutes.

The writer considers that by far the greatest amount of lost production that has occurred in the district to date is due to rural residential 'lifestyle' occupation of land with or without fragmentation of land by subdivision.

A permitted baseline would include the residential occupation of the site with the ubiquitous 'pony paddock' or perhaps extensive park-like landscaping.

In regards to the yard area a permitted activity in the Land Disturbance Area 2 is land disturbance involving earthworks provided that the excavation/recontouring involves no more than one metre in height or depth and is no more than one hectare in any 12 month period.

The permitted activity rules require the area of bare ground created had to be protected from soil erosion by revegetation 'or other method of protection within 12 months from the date of the disturbance.

This would seem to permit the establishment of the yard area including the hard surface area for truck parking.

Further a recent Environment Court decision (Mytton vs TDC) on an abatement issued by Council on a contractor parking trucks on his Rural 1 Zoned land was deemed not to be an industrial or rural industrial activity by itself.

Whilst this decision has determined that parking of trucks on Rural 1 Zoned land is a permitted activity, the provisions of Section 104(2) of the Resource Management Act 1991 provides that:

*“When forming an opinion for the purposes of (assessment of effects) a consent authority **may** disregard an adverse effect of the activity on the environment if the plan permits an activity with that effect.”*

The emphasis on the word ‘may’ is the writer’s and is made to clearly show that with any permitted activity associated with a proposal, that the Council has the discretion whether or not it chooses to disregard adverse effect of it.

The write considers that in the case of Mytton that Council was of a mind that the activity had adverse effects and as such warranted the issue of an abatement notice.

Whilst Council (unless it varies its Plan) must follow the Court Ruling to allow a landowner to park their tucks on their Rural 1 land it does not have to disregard the adverse effects of that activity in its consideration of this application for resource consent.

Analysis and discussion of the policies and objectives of the Tasman Resource Management Plan made later in this report will clearly show that loss of soil-based productivity is a significant issue that Council wishes to avoid. Xxx

Precedent/Cumulative Effects

The granting of a resource consent does not necessarily create a precedent by itself but all resource consents must follow consistency in the application of legal principles. Whilst no two resource consents are ever identical it can be considered that granting of one consent may well have an influence on how another application should be dealt with. If a resource consent has aspects that can clearly distinguish it from the general such that its situation and or circumstances are unique or rare then precedent is unlikely to be able to be applied. In the subject case however the writer considers that there are no unique or rare circumstances that would tend to distinguish this application from say one that may follow after to establish another contractor’s yard on an adjoining or nearby site. Therefore it may be considered that in granting this application it is probable (more likely than not) that other similar applications would be made on reliance of that decision.

Other cases where the writer has supported use of Rural land for commercial/industrial activity have involved two key supporting factors:

1. Either the activity was intrinsically linked to the productivity of the land as in the case of coolstores and packhouses

2. Where the activity has not been linked to the productivity of the land, the land has already been modified by the development of yard areas and significant building infrastructures (eg redundant packhouses or existing industrial/commercial buildings). In those cases it has been considered that there would be no change to the productive capacity of the land and conditions have been agreed by the applicants that the use be limited both in terms of preventing transfer in use to a successor in title and by limiting the duration of the activity activity to a period of up to 15 years.

In this case the proposed activity is not one considered to be intrinsically linked to the productivity of the land and the existing buildings and appurtenances do not persuade the writer to consider that their existence provides adequate support for arguing approval of this application.

The applicants have openly and honestly admitted that they will need to enlarge the workshop building in addition to developing the large yard area and that they intend to establish the business on site in a manner that will be permanent rather than transitory (eg temporary use pending alternate and appropriate industrial zoned land becoming available).

The proposed activity is also likely to lead to application for fragmentation of the industrial component of the land from the balance rural use which seem superfluous and unnecessary to the business use of the land. If this were to occur, then coupled with the matters of cumulative loss of land productivity and the cumulative impacts on rural and residential amenity, then the adverse effects would be significant

9. RELEVANT NATIONAL POLICIES

There are no relevant national policy issues and the New Zealand Coastal Policy is not relevant to this application.

10. RELEVANT REGIONAL POLICY STATEMENTS

The Tasman Regional Policy Statement has the following relevant policies

Section 5 – Urban Development Issues

The Regional Policy Statement (RPS) states the following:

Issue 5.1

ALLOCATION OF HIGH QUALITY PERIURBAN LANDS

“Urban expansion onto adjacent areas of highly productive soils in some parts of the District has resulted in their irreversible loss. Horticulture is a significant economic activity in Tasman District and areas of highly versatile land for horticultural or other high value uses are limited. These areas are adjacent to the significant urban centres of Richmond, Motueka and Takaka. Where there is continuing urban growth, especially in centres adjoining areas of high quality soils, a means of sustaining the potential of the land resource to meet the needs of future urban dwellers and horticulturalists has to be found. This may require a slowing of growth on the urban fringe by encouraging more medium density development in the core of the major

centres, or by containing peripheral growth. Continued peripheral growth may divert public funds needed to upgrade existing infrastructure”.

“The principal benefit of containment of urban boundaries in Richmond, Motueka and other centres is that existing investment in horticulture can continue and the supply of limited horticultural land is not diminished”.

Comment

This policy clearly does not support the proposed activity.

The property has Hau plain soils which are a very fertile stony, sandy loam soil that extends across the southern half of the Motueka plains and are some of the most fertile and productive soils in the country. Whilst the current site would have had some irrigation limitations due to salt water intrusion into on-site bore supplies the promulgation of the Lower Moutere irrigation scheme has removed that impediment from the lands productivity.

In regards to urban/rural interface effects the RPS says:

Issue 5.4

URBAN/RURAL BOUNDARY CONFLICTS

“The District is an important horticultural area and conflicts often arise on the urban boundary between urban activities and the adverse effects of rural activities such as agrichemical spraying; smoke nuisance and contamination from domestic fires and burning of farming, orchard, forestry or industrial waste; operating bird scarers and hail guns; planted shelter belts; and stock farming such as piggeries. This issue also extends throughout rural areas where there are cross-boundary conflicts between rural properties”.

“Similar conflicts may occur with some industries, the effects of which may be acceptable in a rural location but not in an urban area. That is, either the amenity of the urban neighbourhood of the industry would be reduced, or the industry be required to meet urban environmental performance standards”.

Comment

The policies identify the conflict between rural and residential activities and go on to state that industries may be acceptable in rural locations but could adversely affect the urban (residential) amenity unless those industries met residential performance standards (permitted baselines).

The question here is whether the proposed activity will be harmonious with a rural environment as well as the residential one.

Section 6 – Land Resource Issues

This part of the RPS discusses a number of issues which may have relevance to this application.

Matters raised as concerns include sustaining lands with high productive capacities, issues regarding land fragmentation and conflicts with cross-boundary effects, particularly the rural-residential interfaces.

The following extracts are considered relevant:

Issue 6.2

MANAGEMENT OF THE ADVERSE EFFECTS OF LAND FRAGMENTATION

“There is an irreversible cumulative reduction in the productive versatility of particular rural areas, or the District at large. This cumulative effect may not be significant in those rural areas of the District having modest or limited inherent versatility. However, the cumulative effect is significant in areas with high productive versatility. In such areas, growth in the number of small sites as separately developed properties, progressively reduces the opportunities for people to carry out a range of soil-based production activities”.

“There is a need to maintain a range of rural property sizes to allow for continued access to land for a range of productive land uses”.

“Key pressures for increasing land fragmentation are increased interest in rural “lifestyle” residential living, particularly in areas relatively close to urban settlements, and the economic incentive for existing rural property owners to subdivide their land”.

Comment

Land fragmentation is a significant challenge for the Tasman District Council. In particular land that has high value for soil based productivity need to maintain their versatility by avoiding land fragmentation. Whilst the major cause for land fragmentation has been rural residential living additional pressures from other non-soil based activities have also been a factor.

Issue 6.4

MANAGEMENT OF THE ADVERSE EFFECTS OF RURAL LAND USE ACTIVITIES ACROSS PROPERTY BOUNDARIES

“There are some rural activities which will nearly always have undesirable physical effects associated with them that develop or extend across property boundaries. In many cases, the activity will be intimately linked to the land use, and while effects can be mitigated, there may still be some impact. For example, noise and smell from piggeries cannot be avoided completely. Conflicts may develop through adjacent land activities changing to result in specific adverse effects for one property owner in particular. There is a conflict between farms that use agrichemicals and properties, including organic farms, where people wish to avoid exposure to agrichemicals. Contaminant discharges arise from a variety of activities and include on-site effluent disposal, fertiliser use, dust and smoke. Such discharges can also cause undesirable effects across property boundaries”.

“An aspect of this issue is the potential intensification of conflicts through properties becoming owned by people who have limited awareness of or tolerance to such

adverse effects, commonly as former town dwellers residing in rural areas as a lifestyle change. This suggests a heightened need for conflict resolution, rather than necessarily different standards for mitigating such effects”.

Comment

Rural 1 zoned land is generally considered to be that which has the highest potential for productivity.

There is often a misconception that rural zoned land has natural and benign qualities however in reality, rural land, particularly rural 1 zoned land can have permitted activities that are potentially in conflict with the natural environment such as the use of biocides and fertilisers. Noise associated with farming activities may not disturb the natural environment as much but has potential to cause nuisance to residential properties, particularly those that have occupiers that have no affinity to surrounding farming activities.

Matters of adverse effects are clearly identified as having greater impact on residential properties and that is self evident. The report writer also lives in a rural residential small lot and has experienced adverse effects from farming operations associated with adjoining packhouse and coolstore.

The activity is likely to have some adverse effect on the existing residential amenity and on the general rural amenity, particularly the change of character of the southern entrance to the Lower Moutere settlement.

Section 10 – Contamination and Waste

This section identifies the risks from discharges into the environment which can occur either as a deliberate discharge (e.g. septic tank effluent fields) or by accident (e.g. spillages of hazardous substances).

The existing and proposed uses on the site have the ability to create issues regarding the generating and disposal of wastes.

At the time of site inspection no obvious contamination was evident outside of the building but whether any material has been buried on-site as part of the earlier engineering uses remains unknown.

The objectives in the policy statement are to avoid, remedy or mitigate the actual and potential release of contaminants into the environment.

Deliberation on the matters in the proposed discharge consent will be full covered in the Council's Discharge Planner's report.

11. RELEVANT PLANS

As stated previously, the Proposed Tasman Resource Management Plan is the planning document to be considered.

The Proposed Tasman Resource Management Plan, also embodies the provisions of the Regional Policy Statement and is written in the context of the Resource Management Act 1991.

Tasman Resource Management Plan (Proposed Plan) Policies and Objectives

Objectives in the Proposed Plan which are relevant to this matter are numerous and cover areas such as site amenity, urban and rural land issues and land transport effects.

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

Chapter 5: Site Amenity Effects

Issues:

- (a) Provision for appropriate protection, use and development of the District's resources so that activities at one site do not adversely affect the use and enjoyment of another site, or resource.
- (b) Residential and community facilities and services which enable people to provide for their social, economic and cultural well being and for their health and safety.
- (c) Amenity can be compromised in site development and site use.
- (d) Some localities exhibit special characteristics which people wish to retain.
- (e) Safety of people, property, and resources.

Objectives	Policies
<p>5.1.0 Avoidance, remedying or mitigation of adverse effects from the use of land on the use and enjoyment of other land and on the qualities of natural and physical resources.</p>	<p>5.1.1 To ensure that any adverse effects of subdivision and development on site amenity, natural and built heritage and landscape values, and contamination and natural hazard risks are avoided, remedied, or mitigated.</p>
	<p>5.1.4 To avoid, remedy, or mitigate effects of:</p> <ul style="list-style-type: none"> (a) noise and vibration; (b) dust and other particulate emissions; (c) contaminant discharges; (d) odour and fumes; (e) glare; (f) electrical interference; (g) vehicles; (h) buildings and structures; (i) temporary activities; <p>beyond the boundaries of the site generating the effect.</p>

Objectives	Policies
	<p>5.1.7</p> <p>To avoid, remedy, or mitigate the likelihood and adverse effects of the discharge of any contaminant beyond the property on which it is generated, stored, or used.</p>
	<p>5.1.9A</p> <p>To avoid, remedy, or mitigate adverse effects of urban use and development on rural activities at the interface between urban and rural areas.</p>
	<p>5.1.12</p> <p>To provide sufficient flexibility in standards, terms and methods for rural sites to allow for the wide range of effects on amenities which are typically associated with rural activities, and which may vary considerably in the short or long term.</p>
<p>5.2.0</p> <p>Maintenance and enhancement of amenity values on-site and within communities, throughout the District</p>	<p>5.2.1</p> <p>To maintain privacy in residential properties</p> <p>5.2.8</p> <p>To avoid, remedy or mitigate the adverse effects of traffic on the amenity of residential, commercial and rural areas.</p> <p>5.2.9</p> <p>To avoid, remedy or mitigate the adverse effects of signs on amenity values.</p> <p>5.2.10</p> <p>To allow signs in residential, rural residential, recreation and rural areas that are necessary for information, direction or safety.</p>
<p>5.3.0</p> <p>Maintenance and enhancement of the special visual and aesthetic character of localities</p>	<p>5.3.2</p> <p>To maintain the open space value of rural areas.</p> <p>5.3.3</p> <p>To avoid, remedy or mitigate the adverse effects of the location, design and appearance of buildings, signs and incompatible land uses in areas of significant natural or scenic, cultural, historic or other special amenity value.</p>
<p>5.4.0</p> <p>Reduction of risks to public health and safety, property and the environment, arising from fire and hazardous substances.</p>	<p>5.4.2</p> <p>Avoid, remedy or mitigate the likely adverse effects of facilities for the manufacture, storage, use or disposal of hazardous substances, on human health, other land use activities or the environment, including those effects arising from the location, design, construction or management of such facilities</p> <p>5.4.4</p> <p>To avoid any escape or discharge to surface water or groundwater, or drift to other property, of any hazardous substance, from within the site where it is used.</p> <p>5.4.4A</p> <p>To require adoption of land management practices that avoid the potential for creating future contaminated sites.</p> <p>5.4.4B</p> <p>To require the preparation of a contingency plan to avoid, remedy or mitigate any adverse effects of an emergency discharge or accidental spill of hazardous substances.</p> <p>5.4.4C</p> <p>To encourage the reduction in the use of hazardous substances.</p>

The following extracts from the introduction, principal reasons and explanations for Chapter 5 are considered relevant:

“Land use frequently has effects which cross property boundaries. Those effects may add to or detract from the use and enjoyment of neighbouring properties. They may also affect natural resource values, such as air and water quality, or common goods such as views or local character.

Adverse cross-boundary effects are commonly noise, dust, vibration, odour, contamination, shading and electrical interference. Amenity values such as privacy, outlook, views, landscape, character and spaciousness may also be affected.

Within a site, amenity may stem from the versatility of the site; the proportions of buildings, open space, and vegetation; provision for vehicles; the benefits of daylight and sunlight both indoors and outside.

The health and safety of people, communities and property is a significant part of site amenity, both within the site and between sites. Contaminants, including noise, and fire, hazardous substances and natural hazards, are factors in maintaining or enhancing amenity values.

The density of development influences the degree of some effects. In other cases it influences the perception of when an effect becomes adverse: for example, development at urban density produces different expectations of privacy than is achieved in rural areas.

In rural areas, adverse effects are particularly apparent between residential activities with urban amenity expectations, and the range of possible rural land uses. In urban areas, adverse effects can occur between all types of activities.”

“Subdivision and development commonly occurs at locations which share attributes valued by the community, such as sustainable management of land for rural activities and scenic or natural attractions. Continued urban development at these locations may reduce those values. Sometimes developments may provide an opportunity for more formal protection of valued features and may include other mechanisms for enhancing the environment. Policy 5.1.1 is a general policy which addresses the management of effects of change in land use in both the urban and rural environment”

“Policy 5.1.4 is intended to contain nuisance effects”

“Advertising in rural, recreation and residential areas is often a detraction from the amenity of these areas and in these areas, signs are restricted as to scale and positioning”.

“There is strong community preference to retain the residential character of residential areas. While some non-residential activities such as schools, churches and halls are complementary to that character, others are not compatible with the amenity of residential areas and should be excluded - by plan rules or by decisions on consent applications”.

“Hazardous substances present a variety of risks to people’s health and safety, and to natural resources. They need to be contained, used in prescribed ways, and any accidental spillage or release remedied according to an approved contingency plan.”

“Contaminated sites should not be used for any purpose which might release contaminants from the site, except the removal of contaminated material for disposal by approved methods. Further investigation may reveal additional contaminated sites”..

Comment

The above objectives and policies selected by the writer confirm the need to protect amenity values and whilst Chapter 5 policies and objectives cover all zones, it is clear that rural and rural/residential amenity values have to be safeguarded from adverse environmental effects.

The writer's opinion in regards to the proposed activities is that they are generally not compatible with rural site amenity policies and objectives.

The applicant proposes to transfer their current storage and use of 2300 litres of diesel in an above ground tank to the subject site. The applicants have stated that the fuel tank is to be stored in a bunded area and compliance with Council's Hazardous Facility rule 16.7. Additionally, small amounts of waste oil and flammable liquids (thinners and enamels) are to be stored on the site. A concrete pad is to be constructed for the waste oil storage and a pre-fabricated flammable goods store is to be constructed for the storage of the thinners and enamels. No more than 20 litres of thinners and 10 litres of is proposed to be held on site at any one time.

Resource consent is not being sought to authorise the storage and use of these hazardous substances so compliance with Council's permitted activity requirements is required.

Rule 16.7.3 permits the bulk storage of less than 5000 litres of petrol, oil or diesel. The small quantities of flammable liquids (thinners and enamels) proposed would not exceed the consent index status for a permitted activity in the Rural 1 zone.

Rule 16.7.3 permits the storage and use of the quantities of hazardous substances proposed by the applicant, provided compliance with a number of conditions. These conditions are appended to this report for reference.

Chapter 6: Urban Environment Effects

Relevant Issues:

There is a limited availability of land for industrial activities where adverse effects can be adequately avoided or mitigated. Effective management of land for commercial activities minimises adverse effects on surrounding land. While there has been some small-scale tourism development in the rural area, a general dispersal of commercial activities will undermine the vitality of the District's commercial centres. It is important to sustainably manage these centres as physical resources that are convenient, attractive and safe.

Objectives	Policies
6.4.0 Accommodation of a wide range of industrial activities in locations where adverse effects on other values and activities are avoided, remedied or mitigated.	6.4.1 To promote a form of settlement that identifies areas where industry can operate with the required services and without adverse effects on or from other activities 6.4.3 To identify areas where light industry can operate with convenient access to the transport system and without adverse effects on or from other activities. 6.4.5 To avoid a reduction of amenity standards in residential areas by industrial activities. 6.4.6

	To avoid the adverse effects of industrial activities that are unrelated to the rural environment on the amenity and character of rural areas.
6.5.0 Effective accommodation of a wide range of commercial activities on appropriately located sites, including a strong, vibrant commercial focus in the main towns of the District.	6.5.2 To ensure that commercial activities operate in a manner and in a setting likely to provide a high standard of safety, amenity and efficiency.

The following extracts from the introduction, principal reasons and explanations for Chapter 6 are considered relevant:

“New residents have been attracted to the District because of its intrinsic qualities such as good climate and attractive environment”

“Industrial land is a scarce resource. Industry has specific locational requirements and the following criteria are indicative of general industry needs:

- (a) Proximity to main access roads.*
- (b) Adequate roading for heavy vehicles.*
- (c) Proximity to labour force.*
- (d) Separation from sensitive environments, including residential areas, rivers, streams, the coast and aquifer recharge areas.*
- (e) Services such as sewer and water.*
- (f) Flat land.*

Specific areas have been set aside for industry and this would be advantageous for industry because these needs have been taken into account.

The Council has had a wide variety of industrial zones, with some recognising specific industries - especially resource processing industries in the rural area. This Plan continues with that approach where there is a community benefit from the industry remaining in the rural area. Small-scale rural service businesses may be able to be permitted through the resource consent process in appropriate circumstances”.

“Residential activities are not encouraged in industrial zones, unless they are for on-site custodial purposes, because of the lower environmental standards that apply”.

“There are many sites in the rural area which contain rural industries which have had a resource processing zoning in the previous District Plan. Many are wood or gravel based industries with elements of noxiousness such as noise, dust and heavy traffic generation, which would not fit comfortably into a general industrial zone. However, the Council still wishes to maintain a minimum standard of environmental quality, so minimum standards in relation to noise, dust and landscaping apply. There are also former depots and workshops which are a physical resource that could be put to good use”.

Comment

Some of the policies and objectives regarding urban environment effects clearly oppose the development of industrial activities outside of prescribed (zoned) areas and particularly avoiding residential areas. It is noted however that the Plan does acknowledge that within the rural environment processing and servicing industries and commercial activities exist. The Plan also acknowledges that former depots and workshops are a physical resource that could be put to good use. These latter statements may support the proposal. In regards to use of industrial zoned land for the proposed activity it has become widely known that the limited amount of industrial zoned land is becoming increasingly difficult to find available. Also an activity that includes the need for large land areas for parking and on-site storage have more challenges finding suitable industrial zoned land to accommodate such parking and storage. Whilst it is acknowledge that there may be suitable sites, the availability of such sites appears to be the current problem.

Chapter 7: Rural Environment Effects

Relevant Issues:

Tasman District's land resource is largely rural. Rural character, amenity values, and the productive use of rural land underpins the social, economic and cultural well-being of the people of the District.

The fragmentation of rural land is the progressive breaking up of land parcels through subdivision in association with subsequent land use activities such as buildings, other structures and roads. Land fragmentation may occur for a variety of reasons. While fragmentation may allow for more intensive use of rural land for soil-based and other rural activities, with resulting social and economic benefits, the principal effect of land fragmentation in the Tasman District has been the cumulative reduction in opportunities for the productive potential of land to be taken up, either within sites or over larger areas.

As new structures or services are established, the range of soil-based production activities that can be physically or economically undertaken, progressively reduces in scope. The reduction in productive potential of any land, together with the physical coverage of productive land, may reinforce the demand for further fragmentation. This effect is particularly significant for the relatively small amount of land in the District with high productive value (approximately five percent). This land is a finite resource and its loss through fragmentation is effectively irreversible.

Industrial and commercial activities in rural areas remove land from soil-based production. To date, these activities have not affected the viability of soil-based production. However, their presence can affect rural character and amenity values.

Industrial, commercial and residential activities inevitably involve buildings and services development. This development brings with it effects which can detract from the environmental quality and rural character of the areas in which they are situated or through which they are serviced. The cumulative effects of such development can be the creeping "urbanisation" of rural areas.

An important aspect of managing rural environmental effects is recognising the qualities and character of rural areas, and the legitimacy of existing established activities and a range of potential future activities which involve the productive use of the land resource.

A main issues Council has to consider is how to provide for non-soil-based production uses in rural areas, without diminishing the availability of the productive land resource and how to maintain an appropriate level of protection of rural character, ecosystems and amenity values.

Objectives	Policies
<p>7.1.0 Avoid the loss of potential for all land of existing and potential productive value to meet the needs of future generations, particularly land of high productive value.</p>	<p>7.1.2 To avoid, remedy or mitigate the effects of activities which reduce the area of land available for soil-based production purposes in rural areas.</p>
<p>7.2.0 Provision of opportunities to use rural land for activities other than soil-based production, including papakainga, tourist services, rural residential and rural industrial activities in restricted locations, while avoiding the loss of land of high productive value.</p>	<p>7.2.1 To enable activities which are not dependent on soil productivity to be located on land which is not of high productive or versatile value.</p> <p>7.2.3 To enable sites in specific locations to be used primarily for rural industrial or rural residential purposes (including communal living and papakainga) with any farming or other rural activity being ancillary, having regard to:</p> <ul style="list-style-type: none"> (a) the productive and versatile values of the land; (d) cross-boundary effects, including any actual and potential adverse effects of existing activities on such future activities; (g) transport access and effects; (h) potential for cumulative adverse effects from further land fragmentation (i) efficient use of the rural land resource;
<p>7.3.0 Avoidance, remedying or mitigation of the adverse effects of a wide range of existing and potential future activities, including effects on rural character and amenity values.</p>	<p>7.3.1 To ensure that there is sufficient flexibility for a wide range of productive rural activities to take place, while avoiding, remedying or mitigating adverse effects.</p> <p>7.3.2 To provide for rural activities which may involve levels and types of effects, including noise, dust, smoke and odour, that may be permanent, temporary or seasonal, and that may not meet standards typically expected in urban areas.</p> <p>7.3.3 To provide for the maintenance and enhancement of local rural character, including such attributes as openness, greenness, productive activity, absence of signs, and separation, style and scale of structures.</p> <p>7.3.4 To exclude from rural areas, uses or activities (including rural-residential) which would have adverse effects on rural activities, health or amenity values, where those effects cannot be avoided, remedied or mitigated.</p> <p>7.3.5 To exclude from rural-residential areas, uses or activities which would have adverse effects on rural-residential activities, health or amenity values, where those effects cannot be avoided, remedied or mitigated.</p>

The following extracts from the introduction, principal reasons and explanations for Chapter 7 are considered relevant:

“People and communities value rural locations for purposes other than soil-based production, and where these purposes can be achieved without compromising productive values, rural character and amenity values, provision can be made for

them. This objective, and associated policies, establishes a framework within which Plan provisions such as rules and zones are developed, and consent applications can be evaluated. The policy is supported by methods to encourage responsible management by resource users”.

“Rural areas are working and living environments. They also provide much of the amenity value and character of the District as a whole.

If rural character is to be protected, it is essential that productive rural activities are not overly constrained by standards and conditions based on amenity value that are set at a much higher level than biophysical necessity. Nevertheless, activities in rural areas should not involve effects that significantly adversely impact on rural character and amenity values. This set of objectives and policies aims to provide a balanced approach.

Inevitably some activities, by their scale, intensity or other effect, have the potential, individually or cumulatively, to adversely affect the environmental qualities and other aspects of the environment that this section protects. Such potential effects can be identified on the basis of activity types, and the effects of individual proposals can be evaluated through the application process”.

“The District’s diverse rural landscape, including the working rural landscape, requires careful consideration in terms of this objective whenever an activity or development is proposed that requires consent”.

Comment

Council has acknowledged the pressures and diverse usages of rural land. The Council has to constantly maintain the balance between these uses and at the same time ensure that the fundamental purpose of the Act to promote the sustainable management of natural and physical resources.

It is sometimes difficult for bona fide farming activities to operate in the District these days. Rural dwellers want the open space and peace of the countryside but not the adverse effect of some types of soil based production.

Where a non-soil-based activity is proposed its acceptance with residential occupiers would depend on the comparison with the existing and potential farming uses.

Council has provided for rural industries in specific zones. The potential to create other spot zones (even those done by way of resource consent rather than zone change) must be considered most carefully having regard not only to amenity values but the loss of productive land which essential is an asset that cannot be re-created or replaced.

Chapter 11: Land Transport Effects

Relevant Issues:

The adverse effects on the safe and efficient provision and operation of the land transport system, from the location and form of development and carrying out of land use activities.

Increases in traffic volumes from adjacent land use activities that generate vehicle trips may put pressure on particular routes. Urban subdivision and development as well as rural development may increase the demand for upgrading routes, including attention to travel time and hazardous roading situations.

Policies in this section are not only about providing a safe driving environment, but also about ensuring safety for people in the environment through which vehicles are driven. Amenity in that environment is also a relevant issue.

Objectives	Policies
<p>11.1.0</p> <p>A safe and efficient transport system, where any adverse effects of the subdivision, use or development of land on the transport system are avoided, remedied or mitigated.</p>	<p>11.1.1</p> <p>To promote the location and form of built development, particularly in urban areas, that:</p> <ul style="list-style-type: none"> (a) avoids, remedies or mitigates adverse effects of traffic generation; (c) avoids an increase in traffic safety risk; <p>11.1.2</p> <p>To ensure that land uses generating significant traffic volume:</p> <ul style="list-style-type: none"> (a) are located so that the traffic has access to classes of roads that are able to receive the increase in traffic volume without reducing safety or efficiency; (b) are designed so that traffic access and egress points avoid or mitigate adverse effects on the safety and efficiency of the road network. <p>11.1.2B</p> <p>To avoid, remedy or mitigate adverse effects of traffic on amenity values.</p> <p>11.1.3</p> <p>To control the design, number, location and use of vehicle accesses to roads; including their proximity to intersections and any need for reversing to or from roads; so that the safety and efficiency of the road network is not adversely affected.</p> <p>11.1.4</p> <p>To ensure that adequate and efficient parking and loading spaces are provided, either on individual sites or collectively, to avoid or mitigate adverse effects on the safety and efficiency of the road network.</p> <p>11.1.7</p> <p>To ensure that signs do not detract from traffic safety by causing confusion or distraction to or obstructing the views of motorists or pedestrians.</p>

The following extracts from the principal reasons and explanations for Chapter 11 are considered relevant:

“Intensive traffic-generating activities such as commercial and industrial activities need convenient access to major routes. Because access causes a reduction in the carrying capacity of roads and a potential conflict with passing vehicles, the location and detailed design of access is important. Accesses that are too wide or too narrow, at a position of impaired visibility or located too close to intersections, can cause traffic conflict”.

“Adequate on-site parking is required for activities to prevent the spread of on-street parking, which can interfere with the safe operation of the transport network and property access to the network”.

“Signs adjacent to roads have the potential to cause driver distraction. Traffic signs should be easily read. To achieve the highest degree of safety, roadside information directed at road users needs to be kept to a minimum, located in positions with

adequate visibility and have clear and concise messages that can be rapidly read by road users”.

Comment

The above objectives and policies identify the need to avoid conflicts with traffic having particular regard to issues of traffic safety and efficiency, including the effects on existing roading, provision of adequate parking and amenity values.

The writer's opinion in regards to the proposed activities is that potentially whilst the use may have no more than low traffic generating capabilities, that the use will generate a minor increase in vehicular traffic that will be large and slow-moving and that safe visibility at access/egress points is an important consideration.

The matter of signage has to be taken into account to ensure the policies are not compromised (although the proposed sign submitted with the application can meet the standards for a controlled activity)

Permitted Rules

Permitted Activity Rules in the Tasman Resource Management Plan that need to be considered are those relating to transport, signage, earthworks and discharges, such rules being mostly operative.

In addition to the Plan Rules Financial Contributions are applicable to development under the terms of the Long Term Community Council Plan (LTCCP).

The writer has checked the matters relevant to those rules and it appears that the proposal will meet the permitted activity criteria or that amendments to the proposal by use of conditions of any consent can provide those matters to come within the permitted baselines.

Transport and access issues have already been dealt with.

The proposed sign for the activity appears to be modest and can comply with the controlled activity provisions of the Proposed Plan.

Discharges, other than those covered in the Discharge Planner's report include the domestic wastes from the existing dwelling and these are not considered to be increased by the activity and probably discharges will reduce provided no laundry, dishwashing or significant personal ablution is carried out. The domestic wastes can therefore be considered as an existing use for the purposes of discharge.

The report writer considers that the proposed activity can comply with those provisions.

The matter of financial contributions may be irrelevant as no engineering impact has been noted from Council Engineers and the proposal was notified prior to the new levies proposed in the Long Term Council Community Plan (LTCCP).

12. EXECUTIVE SUMMARY AND RECOMMENDATION

The establishment of an industry in a rural environment, particularly a rural environment that has high amenity values and with residentially used properties nearby is considered inappropriate.

The Tasman Resource Management Plan provides several objectives, policies and rules that do not support the establishment of such activities.

The status quo for the current site is that of a residential, pastoral small-holding. That the area of the land is only 3.4 hectares does not distinguish it from the many other similar sized landholdings in the Motueka Plains area.

The proposed use of the building for noise producing activities and the effects of parking/storage and traffic movements will create adverse effect on residential and rural amenity in the area. Whilst it may be considered not unreasonable to use an existing significant redundant resource such as a disused packhouse with appurtenant yard area for a use that does provide some non soil-based productivity and employment in a rural community, the existing shed(s) on the site are not by themselves considered to be sufficiently significant to provide support for the proposed activity.

The applicants however may agree to and or offer to accept limitations and conditions on their proposed activities to persuade Council that the proposal will not have major adverse effects including cumulative and precedent effects as discussed in this report.

If the applicants are willing to accept very tight controls and limitations on the operation of the business as indicated in the draft conditions including the non-transference of the business, then it is possible that the activity could be established without significant adverse effect on the current environment and there may not be any threat to any future changes that might denigrate the residential and amenity values of the area.

If the applicants do not wish to accept such controls then it would be apparent that the proposed industrial activity would have adverse effects and that these would be more than minor.

It is the writer's opinion that any industrial activity on rural zoned land should only be considered as a transitional activity and also only where existing infrastructures a site modification would mean that no impact on soil based productivity occurs.

The Lower Moutere area is one that has historically been subject to ribbon residential subdivision and use of properties for urban residential and rural residential lifestyle purposes and, as is sometimes the case, people come to live in the rural areas from non-rural areas and have an expectation of peace and quiet living in the countryside.

The writer concludes that the proposal by the applicants should not, on balance, be approved but that if Council considers otherwise the writer's opinion is that the proposal should only be approved if the activity has adequately reduced

environmental effects through conditions and be for a limited 'transitional period' and with no transference of the activity permitted.

Note that transfer restrictions and limited duration of consent may be considered ultra-vires and the applicants would need to volunteer such conditions in writing. In addition limitations on the floor area of buildings would need to be a volunteered condition. Such a condition is necessary to avoid the maximum permitted area of buildings for the site (1700m²) being used for the activity.

13. REASONS FOR DECISION

Subject to the provisions of Part 2 of the Resource Management Act 1991, an analysis of effects, consideration of the existing activities within the neighbourhood and permitted by the Plan and following review of the policies and objectives of both the Transitional and Proposed Plans, the writer considers that the activity will have effects that are more than minor.

The writer considers that it is not possible to adequately or effectively avoid, remedy or mitigate those adverse effects through conditions attached to any consent.

Although the subject property is within an area used for orcharding with some neighbouring associated rural industrial effects, the proposed activity would be out of character with the immediately surrounding land uses which includes residential uses.

The use of the existing buildings for industrial activity would be inappropriate for anything but a short interim duration.

Establishment of the activity is likely to lead to further similar applications on rural zoned land in the area. This may be exacerbated by the current apparent scarcity of industrial zoned land in the Motueka area.

The establishment of the activity is likely to lead to a future consent to subdivide off the industrial activity separate from the balance rurally used part of the property.

14. RECOMMENDED CONDITIONS

While I have recommended that the application be declined, should Council decide to grant consent the following conditions have been set out without prejudice, for the guidance of Council.

General

1. The establishment and operation of the business shall, unless otherwise provided for in the conditions of the consent, be undertaken in accordance with the documentation submitted with the application.
2. The total area of all buildings used in association with the activity shall not exceed a gross floor area of 500m².

Note: This condition will need to be volunteered by the applicant

3. Monitoring of the consent is required under Section 35 of the Resource Management Act 1991, and a deposit fee is payable at this time. Should monitoring costs exceed this initial fee, Council will recover this additional amount from the resource consent holder. Costs can be minimised by consistently complying with conditions and thereby reducing the frequency of Council visits.

Note: Nothing in this consent provides for the damage, destruction or removal of the protected trees that are located on the property.

Limitations of Transfer of Consent

4. The consent for the activity will cease if the current title holders cease to own the land on which the activity takes place (ie Lot 2 DP 1884);

Note: This condition will need to be volunteered by the applicant

Duration of Consent

5. Council, pursuant to Section 123 of the Resource Management Act 1991, specifies that this consent shall expire 10 years following the date that it becomes effective or at such time that the activity has been discontinued for a continuous period of 12 months or more as provided in Section 10 of the Act (whichever is the earlier).

Note: This condition will need to be volunteered by the applicant

Limitation on Subdivision

6. A covenant is to be registered on Lot 2 DP 1884 preventing further subdivision, other than minor boundary adjustments, whilst resource consent RM041237 is effective.

Note: This condition will need to be volunteered by the applicant

Noise

10. Without limiting the applicants compliance with the permitted activity noise levels for the Rural 1 Zone. the consent holders shall provide the best practicable option to mitigate noise by the following works to be carried out within one month of the date of this consent becoming effective:
 - Angle grinding shall only be operated inside of the shed;
 - The consent holders shall ensure doors remain closed in the workshop during use of the grinder to reduce noise transmission;
 - The consent holder shall erect an acoustic fence comprising an earth mound or close boarded timber fence. The height of any such mound or fence shall be not less than 1.8 metres above ground level and shall be positioned to optimise noise reduction to the properties of Messrs French, Brouwer and Smith.
11. Council may review any matters relating to noise control any time that consent may be granted for any new dwelling within 100 metres of the activity, other than any dwelling on the property on which the activity is carried out.

Work Practices

12. No more than ten full-time equivalent persons shall be employed in the activity.
13. Other than within buildings, no general storage of parts, equipment (except vehicles) and or machinery relating to the activity shall occur on the site.
14. Hours of operation shall only be between 7.30am to 5.30pm Monday to Friday. No work shall be carried out on Public Holidays.

Note that this shall not preclude the access to and from the property by any vehicles either returning or leaving during the weekends or public holidays.

Access and Parking

15. The existing access to property shall be widened to 12 metres. Such work shall be subject to Council Engineering approval for a crossing permit
16. The applicant shall provide for access to and egress from the property such that vehicles do not encroach on the edge of the road seal of the Moutere Highway.
17. The applicant shall seal the access from the seal on Moutere Highway to at least 10 metres within the property boundary.
18. Access into the property and including vehicle parking and the yard area shall be provided with an all-weather, dust free surface.

Hazardous Substances

19. No hazardous substances other than those described in the application shall be permitted;

Notation:

The Consent Holder must comply with the permitted activity requirements for the storage and use of hazardous substances on the site (Chapter 16.7 of the proposed TRMP) unless the activity is otherwise authorised by resource consent. The Consent Holder is also reminded of their obligation to comply with all relevant requirements of the Hazardous Substances and New Organisms Act, 1996.

Should storage of such substances exceed an effects ratio of 0.5, calculated in accordance with Schedule 16.7b of the Proposed Tasman District Plan, for either fire/explosion, human health or environment, a further consent shall be obtained.

Amenity

20. The applicant shall commission a landscape professional (landscape architect or landscape gardener) to prepare a landscape plan (including planting programme and planting maintenance schedules) for the property. The plan shall include details of the plant sizes at the time of planting and intended species. Such a plan is to include appropriate measures to help screen and reduce the visual prominence of the existing and any proposed buildings associated with the activity, the yard area and any outdoor storage as viewed

from the Moutere Highway, or any dwelling on any property other than the subject property.

21. The landscape plan shall be submitted to the Environment and Planning Manager within six months of this consent becoming effective. The landscaping shall be implemented and maintained in accordance with the approved landscaping plan within the first planting season following consent being given effect to.
22. All exterior artificial lighting shall be appropriately subdued and sufficient only for security and access. No artificial lighting shall create any glare to adjoining residential properties or public places.
23. The proposed yard area and any outdoor storage shall be set back from the boundary with Moutere Highway at least ten metres and at least 5.0 metres from any internal boundary. The Yard area shall also be clear of the drip line of protected trees on the property so as to avoid damage to those trees.
24. The proposed yard area shall not exceed the general dimensions as indicated in the application.
25. The proposed sign with the exception of the area of the sign which may be up to 2.0m² shall comply with the relevant rules for a permitted sign in the Rural zone as provided under Tasman Resource Management Plan Rule 16.1.5.

Earthworks

26. No earthworks shall either dam or divert the natural flow of flood waters from the property
27. Without prejudice to condition any surface material or topsoil removed from the work area development will be redistributed on the property and re-sown in grasses or otherwise protected from soil erosion as soon as practicable and no later than 12 months of the disturbance occurring.
28. Prior to any excavation or earthworks being undertaken on the property, the local Iwi (Te Awhina) will be consulted as to the appropriate procedures and protocols excavating around archaeological sites. If archaeological material is discovered during the proposed work, the provisions of Section 9 - 21 of the Historic Places Act 1993 and all other statutory requirements will be observed. Te Awhina Runanga will be consulted to ensure that all such finds are managed appropriately in terms of the tikanga Maori.

Note the above condition has been volunteered by the applicants.

Notation:

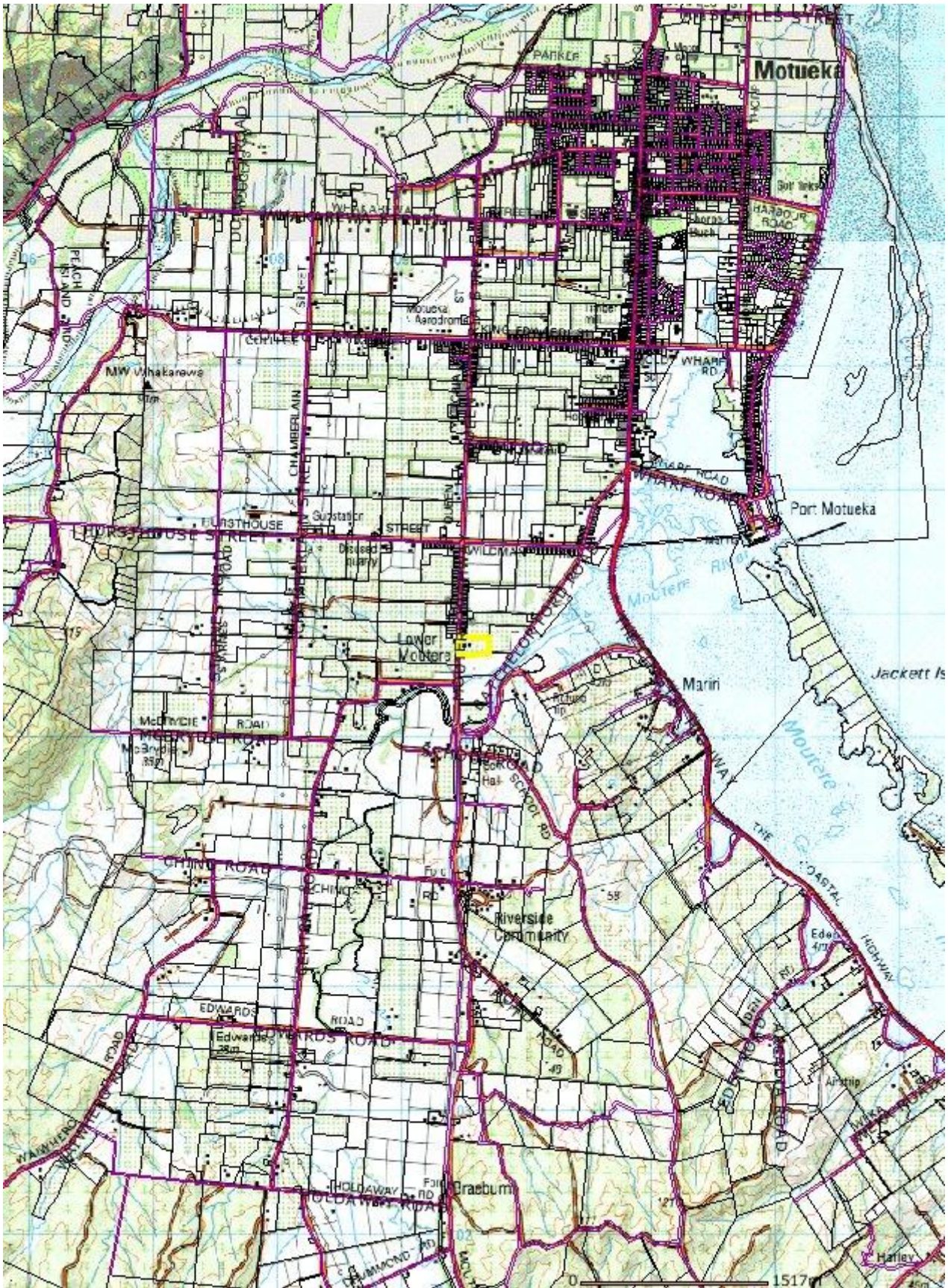
Council is aware of existing pre-European archaeological sites in this area and there is a strong possibility of further sites existing. The discovery of an archaeological site is subject to the provisions of the Historic Places Act and an application must be made to the Historic Places Trust for an authority to modify or destroy the site. It is a recommendation of the archaeologist that an authority under Section 11 of the Historic Places Act 1993 be obtained prior to work commencing as this would avoid delays should any site be disturbed during the course of earthworks.

Bob Askew
Consent Planner

Appendices

- 1. Location Plan**
- 2. Site Plan Showing Planning Features**
- 3. Existing Location of CW Drilling**
- 4. Archaeologists Report**
- 5. Acoustic Report**
- 6. Photographs taken at site visit (April 2005)**
- 7. Extracts of TRMP Rules – a). Hazardous Facilities
b). Permitted Signs – Rural Zone**

Location Plan



Site Aerial Showing Planning Features



Existing Site of CW Drilling



Photo's Taken at Site Visit



Looking towards proposed yard area



Dwelling

Shed 1 (Proposed Workshop)



Shed 1 (Proposed Workshop)



Shed 2 (Proposed Storage)

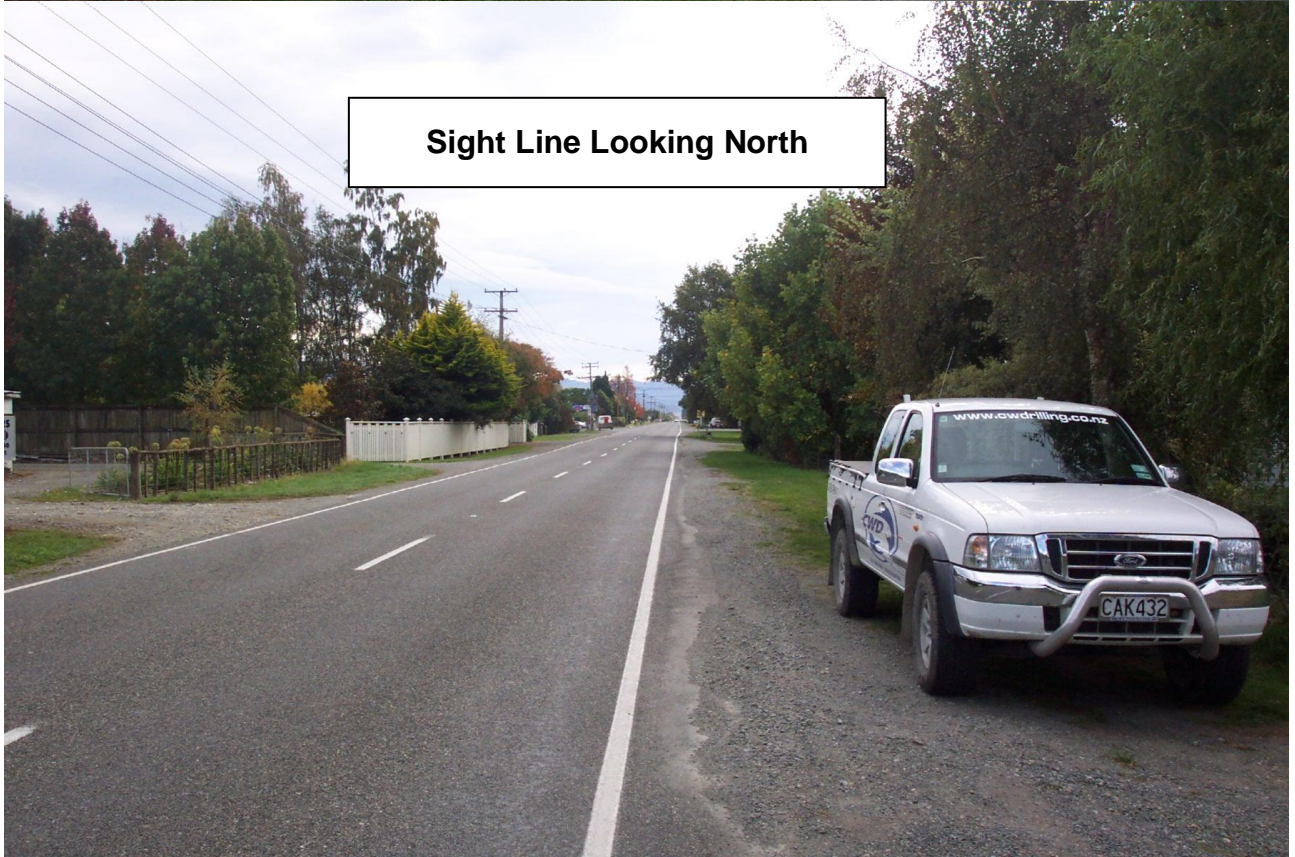


Shed 2 (Proposed Storage)





Sight Line Looking South



Sight Line Looking North