



STAFF REPORT

TO: Environment & Planning Subcommittee

FROM: Mandy Bishop, Consent Planner

REFERENCE: RM0050633

SUBJECT: **MOTUEKA HALLS TRUST – REPORT EP05/11/02** - Report prepared for 8 November 2005 Hearing.

Personal Background

I graduated with first class honours from Massey University in 2002 with a Bachelor of Resource and Environmental Planning. I have approximately two years equivalent full time experience in resource consent processing for regional, district and unitary authorities. I am a graduate member of the New Zealand Planning Institute.

1. APPLICATION BRIEF

1.1 Proposal

The application is for land use consent to use an existing dwelling to conduct church meetings. The meeting times are as follows:

- Every Monday 7.30 pm to 8.30 pm;
- Occasional meetings on Fridays 7.30 pm to 8.30 pm;
- Regular meetings on Sundays 6.00 am to 7.00 am; and
- Two Sundays a fortnight apart in one month, a mid afternoon meeting then a four month period of no Sunday afternoon meetings.

Up to fifty people attend the occasional meetings and up to thirty five people attend the regular meetings.

1.2 Location and Legal Description

The property is located at 63 Tudor Street, Motueka (see Appendix 1 attached).

The legal description of the land is Lot 3 DP 3661 Certificate of Title 2A/1196.

1.3 Zoning and Consent Requirements

The land is zoned Residential under the Proposed Tasman Resource Management Plan. The zoning is considered to be operative (as there are no outstanding appeals of relevance to this proposal), so no analysis is given of the Transitional Plan provisions.

The application is considered to be a Restricted Discretionary Activity under the relevant rules of the Proposed Tasman Resource Management Plan in that:

- The hours of operation for the non-residential activity are outside the permitted 7.00 am to 11.00 pm standard for the Sunday morning meeting being 6.00 am to 7.00 am; and
- The vehicle movements to and from a community activity in combination with any other permitted activity on the site will be up to 40 vehicle movements on two Sundays a month, a fortnight apart then a four month break before the two meetings will be held again. The rest of the time the vehicle movements will comply with the permitted standard of 30 vehicle movements per day.

2. INTRODUCTION

2.1 The Setting

The site is a 819 square metre site about half way along Tudor Street that adjoins a rural residential zone to the rear. The site is flat and is amongst residentially developed properties. There is a driveway to the east of the property adjoining 65 Tudor Street that leads to a carport attached to the dwelling. Existing vegetation are on the western and southern boundaries.

The applicants propose to relocate the vehicle crossing to the centre of the property to access proposed parking to the west and rear of the property. Two parking spaces are proposed in the carport area. Thirteen car parks are to be provided on-site.

3. NOTIFICATION AND SUBMISSIONS

Limited Notification of the application occurred on 9 September 2005. The submission period was extended to close on 7 October 2005 to allow for the late inclusion of vehicle movements being over the permitted standard.

Two submissions were received, both requesting to be heard.

W and J Coppins

Oppose the application stating the proposal is inappropriate in a quiet residential neighbourhood, will compromise the use and enjoyment of properties in the vicinity and is unnecessary given the permitted operating hours. The proposed landscaping will not mitigate the noise and amenity impacts and they question the potential for the applicants to disregard rules with future expansion since the applicants did not apply for the vehicle movement breach in the first instance. They believe the site is too small and parking opportunities too limited to accommodate 50 people attending any meeting and the scale of the hard surface is out of keeping with the residential character.

They believe the application is contrary to Plan objectives and policies, contrary to Part 2 of the Resource Management Act and the non-residential use compromises the integrity of the Plan. They wished to be heard in support of their submission.

A Lewis

Supports the proposal as it provides a community need, is in keeping with the rest of the neighbourhood as shown by the written approvals obtained, the attendees are respectful of neighbours and endeavour to keep outside noise to a minimum and compared to what is permitted the two issues breaching Plan rules have less of an impact than a normal residential situation involving shift workers, several noisy vehicles, outside music etc. He wishes to be heard in support of his submission.

4. STATUTORY CONSIDERATIONS

4.1 Resource Management Act

Part II Matters

In considering an application for resource consent, Council must ensure that if granted, the proposal is consistent with the purpose and principles set out in Part II of the Act.

If consent is granted, the proposed use of the existing dwelling must be deemed to represent the sustainable use and development of a physical resource and any adverse effects of the activity on the environment are avoided, remedied or mitigated. The critical issue of this consent is the potential effect of the operating hours of the Sunday morning church meeting on the surrounding residential amenity.

These principles underpin all relevant Plans and Policy Statements, which provide more specific guidance for assessing this application.

Section 104

Subject to Part II matters, Council is required to have regard to those matters set out in Section 104. Of relevance to the assessment of this application, Council must have regard to:

- Any actual and potential effects of allowing the activity to go ahead (Section 104 (1) (a));
- Any relevant objectives and policies in the Tasman Regional Policy Statement and the Proposed Tasman Resource Management Plan (Section 104 (1) (b));
- Any other relevant and reasonably necessary matter(s) to determine the consent (Section (1) (c)).

In respect of Section 104 (1) (b), the Proposed Tasman Resource Management Plan is now considered to be the dominant planning document, given its progress through the public submission and decision-making process.

Section 104C sets out the framework for granting or declining consent based on the status of an activity as set out in the relevant Plan.

4.2 Tasman Regional Policy Statement

The Regional Policy Statement seeks to achieve the sustainable management of land and coastal environment resources. Objectives and policies of the Policy Statement clearly articulate the importance of protecting land resources from inappropriate land use and development.

Because the Proposed Tasman Resource Management Plan was developed to be consistent with the Regional Policy Statement, it is considered that an assessment under the Proposed Plan will satisfy an assessment against Policy Statement principles.

4.3 Tasman Resource Management Plan

The most relevant Objectives and Policies are contained in: Chapter 5 'Site Amenity Effects' and Chapter 11 'Land Transport Effects'. These chapters articulate Council's key objectives: provision of residential and community facilities that enable people to provide for their social and cultural well-being, ensure character and amenity values are maintained or enhanced and provision of a safe and efficient land transport system.

The most relevant Rules which follow from these imperatives are contained in Chapter 16.2 "Transport (Access, Parking and Traffic)" and "17.1 "Residential Zone Rules".

Details of the assessment of the proposed activity in terms of these matters are set out in the chapters following.

5. ASSESSMENT

In accordance with Section 104 of the Resource Management Act, Council must consider the actual and potential effects on the environment of allowing the activity, have regard for any relevant objectives, policies, rules, and consider any other matters relevant and reasonably necessary to determine the application. The applicant has consulted with adjoining properties and properties across the road and written approvals provided include the Hay Family Trust. The Council must not have regard to any effect on them pursuant to section 104(3)(b) of the RMA.

5.1 Assessment of Environmental Effects

Pursuant to Section 104 (1) (a) of the Resource Management Act, the following effects assessment has been set out:

Permitted Baseline

Section 104(2) gives a consent authority the ability to disregard adverse effects on the environment of activities that the Plan permits, if it so wishes. This is the "permitted baseline" and can provide a yardstick for the effects that otherwise might arise.

The Plan permits small scale community activities in the Residential zone provided they do not generate excessive traffic that can cause a nuisance to neighbours and the activity meets other applicable permitted standards in chapters 16 and 18 of the Plan. Chapter 16 includes access and parking provisions.

This proposal breaches the hours of operation for non-residential activities in that one meeting on Sunday will commence at 6.00 am instead of the permitted 7.00 am. The proposal also results in vehicle movements up to 40 movements on two Sundays in a five-monthly period instead of the permitted 30 vehicle movements per day. On-site parking meets the required standard of one space per four persons.

The occasional breach of the vehicle movements is considered to be very minor due to the infrequent breach especially considering on fine days people may walk to the meetings and cars may contain more than four people. Each individual meeting complies with the 30 vehicle movements; it's only when there are two meetings on the same day (twice in a five monthly cycle), that the standard is breached. The use of the dwelling for church meetings is potentially permitted by the Plan, but in this case there is a breach of the hours of operation by one hour on one day of the week.

This breach occurs at 6.00 am on Sunday mornings that is a time that can cause nuisance to neighbours. As meetings are held inside the noise of the actual meeting is considered to be very minor but the coming and going of vehicles and people opening and closing car doors has the potential to disturb neighbours. The Plan however does not restrict residential activities producing similar effects such as family gatherings, parties and shift workers albeit they comply with the noise standard for the zone.

The nuisance factors for neighbours with a 6.00 am start on Sundays is also likely to be similar had they started at 7.00 am on Sundays. The disturbance at 7.00 am would be permitted by the Plan but at 6.00 am it is not. The one hour difference means neighbours' sleep is disrupted one hour earlier but as the dwelling will be unoccupied outside meeting times there will be no other early morning disturbances during the week. A permitted Community activity could involve meetings held seven days a week commencing at 7.00 am or 10.00 pm where the combined disturbance for neighbours would be greater than one meeting a week commencing one hour earlier than permitted and the three other meetings are commencing mid-afternoon or 7.30 pm.

The disturbance is also for short periods of time as people arrive to and depart from the meetings. There are a maximum of four meetings per week, each meeting lasting approximately one hour. The rest of the time the dwelling is vacant leaving neighbours undisturbed for the majority of the week.

In summary, when considering all of the above, the proposal will produce same or similar effects on the environment when compared to what is permitted by the Plan.

Amenity Values

Amenity values, as defined in Section 2 of the Resource Management Act 1991, 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.”

Land use frequently has effects that cross property boundaries that may add to or detract from the use and enjoyment of neighbouring properties. This proposal has the potential to detract from the amenity values by increasing the number of people normally on a residential property and having associated concentrated arrivals and departures. This can reduce privacy for neighbours, cause annoyance from the traffic noise and alter the character of the residential area.

The church meetings are held indoors and people are only outside the property when arriving to or departing from meetings. The larger than normal numbers of people on-site will only be noticeable for short periods of time. The dwelling is to be vacant outside the approximately five hours of meeting time per week. The site therefore is to be vacant most of the time yet still appears residential in nature as there will be no signage associated with the proposed activities.

While the parking area will involve more hard surface than currently exists on-site, the Plan does not restrict the amount of hard surfacing on a site and many residential properties choose to have less garden or grass areas to maintain. The main parking area is to the rear of the site that will be screened from the street frontage by the existing dwelling. The appearance of the site will change with the increased parking but this can happen as of right for any residential activity. The combination of proposed landscaping and the street frontage remaining nearly the same as the existing situation will maintain the surrounding residential character.

The Plan does not restrict the number of people visiting a site for family functions or control the hours that people come and go from a property in association with residential activities. Normal residential activities do not however involve regular large gatherings but as these gatherings are a maximum of four times per week these meetings will not dominate the character of the site or area. Overall the proposed activities subject to conditions of consent will maintain the existing residential character.

Privacy Effects

The applicants have volunteered to plant shrubs and construct a solid fence along the boundary with 65 Tudor Street to help maintain the privacy for the neighbours. Meetings take place indoors and people are only outside for short periods of time in arriving to and departing from the site. Due to the short duration of people actually being next-door with the site being unoccupied for the majority of the week, privacy for the occupants of 65 Tudor Street can be said to be enhanced.

Traffic Effects

The Plan restricts vehicle movements and limits of hours of operation of community activities as there's recognition that community activities often generate traffic noise. Some Community activities however need to be located in residential areas to reduce peoples' travelling distances to provide for their well-being, so the aim of the restrictions is to prevent adjoining residential properties being disturbed by traffic noise. Council's Development Engineer has determined the effects of the vehicle movements associated with the proposed activities are minor in terms of the safe and efficient operation of the roading network.

The application states the proposed activity will not generate noise outside of the permitted levels and given the low impact nature of church meetings this is reasonable. Other resource consents granted for similar church meetings in Richmond have not generated any complaints. The noise produced will have a nuisance effect on the occupants at 65 Tudor Street but as stated above this noise is short term, the property is noiseless for the majority of the week and disturbance at 6.00 am on Sunday mornings is the same kind of disturbance that could occur as of right at 7.00 am on Sunday mornings (as long as there was only one meeting per day). As only up to 35 people attend this 6.00 am meeting not all of the thirteen car parks on-site may be required and conditions of consent can ensure parks further away from 65 Tudor Street are utilised first.

In contrast the Plan permits home businesses in residential areas as long as there are no visitors, clients or deliveries outside the hours of 8.00 am to 6.00 pm Monday to Saturday, the business is not conducted on Sundays and public holidays and should the site share an access or is in a cul-de-sac there are no other employees, visitors, clients or deliveries associated with the business. Visitor accommodation is excluded from the above. These kinds of restrictions would seem to suit the residential activities better but Community activities such as churches, halls, care and health facilities by their nature operate outside of normal business hours and the Plan has provided for their inclusion where people reside as long as the scale is not too large.

The disturbance associated with the proposed Community activity one hour earlier on one day of the week is considered to be no more than minor given the vacancy of the site outside meeting times and proposed conditions of consent that lessen the impact of the disturbance.

Summary of Effects

The proposal will have adverse effects on the existing residential environment that are no more than minor. This is due to the frequency and scale of proposed meetings, the vacancy of the site outside meeting times and recommended conditions of consent mitigating some potential adverse effects.

5.2 Relevant Plans and Policy Statements.

The land use activity must be deemed to be consistent with relevant objectives and policies pursuant to Section 104 (1) (c) and (d) of the Act. The most relevant Plan is considered to be the proposed Tasman Resource Management Plan and will be used in this assessment. Because this was developed to be consistent with the Regional Policy Statement, the assessment would also be considered satisfy an assessment under the Policy Statement.

The following summarises the most relevant plan matters and provides brief assessment commentary:

Chapter 5 - Site Amenity Effects Council must ensure that the character and amenity values of the site and surrounding environment are protected, and any actual or potential effects of the proposed activities must be avoided remedied or mitigated, including cross boundary effects.

Objectives: 5.1, 5.2, and 5.3A As detailed in the assessment of effects (Chapter 5.1), the existing character and amenity values are maintained and enhanced in some instances.

Policies: 5.1.1, 5.1.4, 5.2.1, 5.2.4, 5.2.8, 5.3A.2

Chapter 11 – Land Transport Effects The effects of land use activities are managed to ensure the safe and efficient operation of the land transport system.

*Objective 11.1
Policies 11.1.2,
11.1.2B, 11.1.4*

Chapter 16.2 – Transport (Access, Parking and Traffic) Rules The proposed activity is subject to permitted activity performance standards and conditions set out in Rules 16.2.2 (Vehicle Access) and 16.2.3 (Provision for Parking and Loading).

Chapter 17.1 – Residential Zone Rules The proposed activity is subject to permitted and restricted discretionary activity performance standards and conditions set out in Rules 17.1.2 and 17.1.7A.

Chapter 5 *Site Amenity Effects* is concerned with the effects of land uses that cross property boundaries that may add to or detract from the use and enjoyment of neighbouring properties. They may also affect local character.

Objective 5.1.0 seeks to avoid, remedy or mitigate adverse effects from land use on the use and enjoyment of other land and on the qualities of natural and physical resources. Policies specify effects on site amenity and off-site effects of noise and vehicles are avoided, remedied or mitigated.

Objective 5.2.0 seeks to maintain and enhance amenity values on-site and within communities. Policies include privacy issues, landscaping and traffic effects.

Objective 5.3A.0 seeks to accommodate accessible community facilities in urban areas. Policies include allowing local community activities in residential areas provided these do not compromise the character or amenity of the residential neighbourhood.

The proposal utilises and upgrades (through landscaping) an existing physical resource where the effect on the appearance of residential character is in keeping with the neighbouring area. The effects, including cumulative effects of breaches of permitted standards have previously been assessed as being no more than minor.

Chapter 11 *Land Transport Effects* seeks to provide a safe and efficient land transport system.

Objective 11.1.0 ensures the adverse effects of the use of land on the transport system are avoided, remedied or mitigated. Policies ensure activities generating significant traffic volume are located on roads that can receive the traffic volume, do not adversely affect the amenity values and provide adequate on-site parking.

Recommended conditions of consent can ensure the frequency of meetings are of a scale compatible with the residential area and parking is utilised to create the least disturbance on adjoining properties.

In conclusion it is considered that the proposed activities subject to recommended conditions of consent are not contrary to the policies and objectives of the Proposed Plan.

5.3 Part II Matters

The proposed land use activities are considered to be consistent with the purpose and principles contained in Part II of the Resource Management Act.

Part II of the Act is concerned about enabling people and communities to provide for their social, economic and cultural wellbeing while:

- avoiding, remedying or mitigating any adverse effects of activities on the environment (section 5(c))
- having regard to the efficient use and development of physical resources (section 7(b)); and
- maintaining and enhancing amenity values (section 7(c));

It is considered that the application is consistent with the Act's purpose of achieving the sustainable management of natural and physical resources by using an existing dwelling to provide an accessible community meeting place while maintaining or enhancing the quality of the residential environment.

5.4 Matters of Discretion and Control in the Plan

The proposal is a restricted discretionary activity due to the hours of operation and number of vehicle movements associated with church meetings on Sundays. Council has restricted its discretion to matters including:

- the extent to which the activity will result in the loss of residential character;
- the ability to mitigate adverse noise and visual effects by screening of activities from adjoining roads and sites;
- the scale of any building, structures and car parking compared to existing permitted development;
- adverse effects of the activity in terms of traffic and parking congestion on-site and safety and efficiency of roads giving access to the site;
- the duration of the consent and the timing of reviews of conditions; and
- financial contributions, bonds and covenants in respect of performance of conditions.

In consideration of these matters, the proposal retains the residential character by using an existing dwelling, provides the permitted standard for on-site parking, will not interfere with the safety and efficiency of roads giving access to the site and proposed landscaping and the number and frequency of meetings will mitigate adverse noise and visual effects of the site from 65 Tudor Street.

5.5 Other Matters

Precedence and Cumulative Effects

Precedence in itself is not an "effect" but the subsequent approval of this proposal to lead to other similar applications for community activities each wanting like treatment. This can lead to a cumulative effect that is very much a relevant adverse effect under Section 3 (d) of the Act.

In resource management terms, the cumulative effect of establishing a pattern of consent decisions based on other applicants wanting similar outcomes, can have adverse effects on significant resource management issues. The issue of "precedence" must be acknowledged in practical terms as giving rise to cumulative adverse effects:

- Applications for consent are lodged on the basis that consent to previous applications have been granted under like conditions; and
- Council can expect pressure to act consistently in its application of Plan objectives, policies, rules and assessment criterion. That is, Council is expected to be consistent in its decision-making.

There are various factors that make this proposal appear to comply and conform to Plan provisions and the residential setting:

1. Churches and associated activities are commonly found in residential areas;
2. The site is surrounded by residential development and the use of an existing dwelling with no associated signage maintains the residential character;
3. Adequate on-site parking, low frequency of meetings and site vacancy outside meeting times ensure disturbance on adjoining properties are of short duration ; and
4. It is considered that the proposed activities subject to recommended conditions are likely to result in similar environmental outcomes that the Plan anticipates for residential areas.

6. CONCLUSIONS

- 6.1 The proposal is a Restricted Discretionary Activity under the Proposed Plan.
- 6.2 While the hours of operation for non-residential activities is breached for one hour once a week this disturbance is considered to be minor compared to the majority of times the site is vacant. Had the meeting commenced at the permitted time the disturbance effects are the same or similar.
- 6.3 The proposal uses an existing dwelling, will enhance existing landscaping and will not involve signage so will maintain the residential character.
- 6.4 The effects of the vehicle movement breach for two Sundays in a five-monthly cycle will be no more than minor.
- 6.5 The development is compatible with the residential setting that would enable the Council to approve the proposed activities without undermining the integrity of the Plan to achieve its environmental outcomes.
- 6.6 The policies and objectives of the Proposed Plan seek to ensure the use of the land does not adversely affect the character and amenity of the area while providing for accessible community facilities in urban areas.
- 6.7 It is considered that this proposal, on this particular site, subject to recommended conditions of consent is consistent with the policies and objectives of the Proposed Plan and with the Act's purpose of achieving the sustainable management of natural and physical resources. The adverse effects on the environment will be no more than minor. Therefore the application should be approved under Section 104C of the Resource Management Act 1991.

7. RECOMMENDATION

That pursuant to Section 104C of the Resource Management Act, I recommend the application to undertake church meetings at 63 Tudor Street, Motueka be granted.

8. CONDITIONS

If the Committee grant the application, I recommend the following conditions be imposed:

1. The maximum number of meetings to be held in any given week is four.
2. No signs associated with the church meetings shall be placed on the property.
3. Landscaping and fencing shall be undertaken in general accordance with details provided with the application and shall be completed by 8 February 2006.
4. The hours of conducting the church meetings shall be between 7.00 am and 11.00 pm except for the Sunday morning meeting that shall commence no earlier than 6.00 am.
5. A minimum of thirteen car parks are to be provided on-site as per Plan A dated 8 November 2005 attached and forming part of this consent. Parking spaces numbered 1 to 10 on Plan A are to be occupied first with spaces 11 to 13 only being used when spaces 1 to 10 are full.

Notations

1. Any matters not referred to in this application for resource consent or are otherwise covered in the consent conditions must comply with the Proposed Tasman Resource Management Plan (PTRMP) or the Resource Management Act 1991 or further resource consent is required to be obtained.

Note: the access relocation shall be in accordance with Council standards and a Vehicle Crossing permit is required to be obtained. See forms in Appendix 2.

2. The permitted noise standard for the Residential Zone is required to be complied with at all times.

Mandy Bishop
Consent Planner – Motueka





PERMIT APPLICATION FOR VEHICLE ACCESS CROSSING

Urban

Rural

The Engineering Manager
Tasman District Council

Date
File No

NAME

ADDRESS

CONTACT PHONE NUMBER

LOCATION OF PROPOSED WORKS *(Include distance from nearest intersection)*

Please attach sketch showing location of proposed vehicle crossing

NAME OF CONTRACTOR

NOTE

1. Administration fee \$100.00 inc GST
2. All construction work to be carried out in keeping with the existing carriageway.
3. All construction work to be carried out in accordance with TDC Engineering Standards

PRIVATE CONTRACTORS

Private Contractors may be authorised by special permit to undertake works on Council property (See Item 3 of Conditions below).

If a Private Works is undertaken by any person in road reserve without authority it becomes an offence.

CONDITIONS AND APPROVALS OF PRIVATE WORKS

1. Council may agree to undertake "**Private Works**" on or in connection with private land at the expense of the applicant. Any outstanding charges arising from such agreement are a charge upon the land. (Sec 137(1) Local Government (Rating) Act 2002 (2002 No 6).
2. Wilful or negligent destruction of, or damage to, works or property is punishable pursuant to Section 694 Local Government Act 1974.
3. Only Council has the power to undertake "private works". If any person requires any work to be done on any public property or utility, they must apply to Council to have the work undertaken. Council may authorise that person to do the work, if they are suitably qualified, but that work will only be done under the auspices of, and in accordance with, the directions and standards of Council.

4. Substandard works on public property, not in accordance with TDC Engineering Standards nor to the satisfaction of the Engineering Manager may be removed and replaced at the expense of the applicant.

I the applicant accept the terms and conditions as outlined on this form.

Applicant's Signature: _____

Date _____

Office Use Only

| | |
|-----------------------------------|--------------|
| Site Inspection Date: | |
| Culvert Required: Yes / No | Size: |
| Existing Road Surface | |
| Sighting Distances Ok | |
| | |
| Application Fee Paid | |
| Permit No | |
| Final Inspection Date | |

APPLICATION APPROVED Yes No

SIGNED **DATE**