



## STAFF REPORT

**TO:** Environment & Planning Subcommittee

**FROM:** Mandy Bishop, Consent Planner

**REFERENCE:** RM080481 and RM080482

**SUBJECT:** **M and B WRATT – REPORT EP08/10/05** - Report prepared for hearing of 6 October

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### 1. APPLICATION BRIEF

#### 1.1 Proposal

The application is for land use consent to replace an existing beach cottage and sheds with a new dwelling. The existing beach cottage is located partially on the Council's Open Space Reserve. There are four dwellings on the subject site, with each dwelling being independently owned and having a share in the overall property title. The footprint of the new dwelling will be entirely sited within the legal boundaries of the subject property and will breach residential zone permitted activity criteria in respect of site coverage, setback from boundaries and daylight angle. Consent for the earthworks associated with these activities has also been sought.

#### 1.2 Location and Legal Description

The property is located at 40 Stephens Bay Road, Kaiteriteri (see Appendix 1 attached).

The legal description of the land is Lot 10 DP 5620 Certificate of Title NL 3D/1116. The applicant owns a quarter share of the title with the rest being divided as follows:

- E Dennett a quarter share;
- B Inglis and P Taylor an eighth share;
- P Greaney and Milnes Beatson Trustee Company Ltd a quarter share; and
- J Ryder an eighth share (the opposing submitter).

#### 1.3 Zoning and Consent Requirements

The land is zoned Residential and is within the Coastal Environment Area and Land Disturbance Area 2 under the Proposed Tasman Resource Management Plan. These zoning and areas are 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. There are known archaeological sites in the immediate vicinity of the subject site.

The application is considered to be a **Non-Complying Activity** under the relevant rules of the Proposed Tasman Resource Management Plan in that:

- The total building coverage is increased from 34.15 per cent to 37.9 per cent;
- The dwelling and deck will breach setback requirements from the road (northern) and side (eastern) boundary;
- The daylight angles are breached on the eastern boundary;
- Part of the dwelling is within the 30 metre setback from Mean High Water Springs; and
- Associated earthworks breach the permitted standard in Land Disturbance Area 2.

Existing infringements that will be unchanged by the proposal include having more than one dwelling per site and less than 450 square metres in area for each dwelling.

## **2. INTRODUCTION**

### **2.1 The Setting**

The site is a 1011 square metre site on the southern side of Stephens Bay Road adjoining the Open Space Zone and beach. The site slopes gently up from the road edge to where two of the existing dwellings are located (owned by Wratt and Dennett) and then behind these dwellings the land slopes steeply up the hillside to Anarewa Crescent where the dwelling owned by Ryder is located to the south of the Wratt cottage and the dwelling owned by Greaney is behind the Dennett house. Views to the coast are to the northeast and east (see photographs in Appendix 2).

The applicant has provided a copy of a Deed of Agreement dated 1974 identifying four areas where each party shall have “exclusive right of possession habitation and control of all that portion of the said land... including the buildings erected thereon”. The agreement also made reference to disturbance, appearance of land and buildings, vegetation, rates, selling their interest, disputes and vegetation or building improvements not obstructing the view of any other party. The copy provided is not signed by all parties and there is no reference to it on the title but the location of the proposed dwelling will be located entirely within Area 4 allocated to the Wratt family (see Appendix 3 for the Deed of Agreement).

## **3. NOTIFICATION AND SUBMISSIONS**

The applicants began consulting with other property owners approximately two years ago and the applicants have attempted to obtain written approvals. No approvals were provided with the application and Limited Notification of the application occurred on 17 July 2008.

One submission was received requesting to be heard.

## **J Ryder**

Opposes the application as the increased building coverage could prejudice consent being obtained for future alterations to her dwelling. The overall site area divided by the existing number of dwellings gives 253 square metres and 33 per cent of that is 83.43 square metres building coverage as of right. The proposed cottage is 123 square metres and the submitter stated she would be happy with the proposed cottage if the floor area is 80.41 square metres. The submitter opposes the fireplace and chimney as this will affect air quality to her property at certain times and opposes the car parking proposal as well as the garage as this discriminates her lack of available parking. She would like the Council to refuse/decline the application.

## **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 dwelling alterations 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 application is the potential effect of the dwelling and associated earthworks on the surrounding coastal environment.

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 (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 104D 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', Chapter 6 'Urban Environment Effects', Chapter 8 'Margins of Rivers, Lakes, Wetlands and the Coast', Chapter 10 'Significant Natural Values and Cultural Heritage' and Chapter 12 'Land Disturbance Effects'. These chapters articulate Council's key objectives: To contain urban use and development so that it avoids cumulative adverse effects on the natural character of the coastal environment, ensure character and amenity values are maintained or enhanced, to prevent archaeological sites and sites of significance to Maori being damaged and to reduce the risk of damage and sedimentation resulting from land disturbance.

The most relevant Rules which follow from these imperatives are contained in Chapter 17.1 "Residential Zone Rules", Chapter 18.6 "Rules for Land Disturbance Area 2" and Chapter 18.14 "Coastal Environment Area".

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 to any relevant objectives, policies, rules, and consider any other matters relevant and reasonably necessary to determine the application. As K Stevenson has provided approval for the application the Council must not have regard to any effect on her 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 building construction subject to meeting bulk and location requirements for the residential zone and meeting other applicable permitted standards in chapters 16 and 18 of the Plan. Chapter 16 includes access and parking provisions and Chapter 18 includes land disturbance and coastal environment provisions.

This proposal breaches building coverage, setback, daylight angle and earthworks provisions. The existing situation already breaches most of these factors and while the total increase in building area is 38.2 square metres in area, the proposal will not produce same or similar effects on the environment when compared to what is permitted by the Plan. It does however produce the same or similar effects as the existing physical situation.

### **Coastal Character and Amenity Values**

The coastal environment of Kaiteriteri is considered to be an area with high amenity values. Part II of the Resource Management Act under Section 6(a) seeks to protect the coastal environment and outstanding landscapes from inappropriate subdivision, use and development. The Plan recognises the natural character of Kaiteriteri has been compromised but still has high scenic and recreation values and is a key tourist area.

The Council's policies and objectives on the urban environment seek to protect the coastal environment from the adverse effects of activities thereby maintaining and enhancing the character and amenity values of the area. 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.”*

Alterations and extensions of existing residential activities have the potential to detract from the amenity values by reducing privacy and increasing the dominance of buildings in a coastal environment. The scale and location of the proposed beach cottage replacement will maintain if not enhance the wider coastal area because:

- the new beach cottage will be sited further back from the beach than the existing cottage;
- the size of the new beach cottage is not larger than the Greaney house and garage on the same site and while bigger than the existing cottage the overall size and design of the new cottage will not be dominant in the area. The proposed features of decks, retaining walls and low maintenance section are compatible with the nature of other holiday homes in the area;
- the setbacks from both the eastern and road boundaries have been improved by the proposal;
- privacy of other dwellings on-site and beach users are maintained with no windows on the southern elevation, few windows on the western elevation and the beach cottage will be further away from public areas than the existing cottage;

- the new cottage will improve the visual amenity from the existing cottage and sheds that are in a poor state of repair;
- the height of the dwelling is well under the permitted 6.5 metres and the use of mono-pitched roofs combined with earthworks and location on-site has preserved if not enhanced the existing view shafts enjoyed by other dwellings;
- the colours of the new cottage will be recessive and less noticeable than the existing white cottage;
- landscaping will use native species appropriate to the coastal environment; and
- the chimney has been designed to not intrude on view shafts and the associated fireplace will have to comply with clean air designs as appropriate for any new dwelling in the residential zone outside the Richmond Airshed.

The site is flanked by an Open Space Zone to the east separating the site from the beach and a large road reserve to the north with approximately 14 metres of berm land or informal parking area between the property and the road edge. Removing an existing cottage and sheds with no formal parking area and replacing them with a cottage and garage to be wholly within the subject property, further back from boundaries, with sufficient on-site parking and of a design and colour scheme that is recessive will maintain if not improve the coastal character and amenity of the site and area.

### **Shading Effects**

The existing cottage already breaches the daylight angle for the eastern boundary given that half of it is over the property boundary. The new cottage easily complies with height standards and has been kept low to avoid impacting on views experienced from nearby dwellings. Given the constraints of the site the shading effects on the Open Space Zone will have adverse effects that are no more than minor especially since most shading will occur in winter when there are few people using the adjoining reserve. The Council's Community Services Department accepts the position and design of the new cottage.

### **Effects on Cultural and Heritage Values**

The site is near known archaeological sites and being in a coastal area more artefacts may be uncovered during the proposed earthworks. The applicant will employ an iwi monitor to be on-site during excavations. They are aware of their obligations under the New Zealand Historic Places Trust and recommended conditions of consent will reinforce this.

### **Future Effects**

The submitter referred to potential prejudice limiting her ability to develop her cottage given the proposal increases the building coverage over the permitted standard of 33 per cent and over the restricted discretionary standard of 35 per cent. The Alterations to the submitter's cottage is likely to require resource consent for other factors including earthworks, reduced setbacks and an increase in height given the topography of the area. An assessment of the effects of the development would be

part of the normal processing of any resource consent application should the submitter apply for alterations and additions and the application would be assessed and processed in a like manner to this proposal – the effects of any development would be assessed in terms of how it impacts on the existing environment.

The granting of this consent while allowing increased breaches would not obstruct the granting of a proposal for the submitter as long as the effects of the development were considered to be no more than minor. Comprehensive Residential Developments do provide for site coverage to be up to 40 per cent through a resource consent process and the plan does not prohibit development over a certain building coverage. Applications are processed on a case-by-case basis.

The granting of this consent incorporates the forming of a driveway to the new on-site garage that will presumably remove some area of road reserve the submitter may use for parking. The lack of on-site parking for the submitter is a matter outside the scope of this application as the submitter has no right or licence to occupy the road reserve to the exclusion of others.

### **Summary of Effects**

The proposal will have adverse effects on the existing coastal Kaiteriteri environment that are no more than minor. This is due to the location and scale of the proposed cottage mostly improving an existing situation as well as 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 5.3* 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, 5.1.9, 5.2.1, 5.2.3, 5.2.4, 5.2.6, 5.2.7, 5.3.1, 5.3.3, 5.3.4, 5.3.5.*

*Chapter 6 – Urban Environment Effects* Urban expansion is managed to ensure effects on the character of coastal locations are no more than minor.

*Objectives:* 6.2, 6.3, 6.6, 6.13. The Plan encourages the efficient use of land and infrastructures within Kaiteriteri as long as adverse effects are mitigated.

*Policies:*6.2.1,6.2.1 A,6.2.3,6.2.4,6.3.3, 6.6.2,6.13.3,6.13.7

*Chapter 8 – Margins of Rivers, Lakes, Wetlands and the Coast* – Protection of the coastal environment from inappropriate use and development promotes the sustainable management of natural and physical resources.

*Objectives* 8.1, 8.2

*Policies*

8.1.1,8.1.3,8.2.3, 8.2.6,8.2.10, 8.2.14, 8.2.19

*Chapter 10 – Significant Natural Values and Cultural Heritage* - Archaeological sites including sites of significance to Maori form part of the unique heritage of the District. Many of these sites are along the coast and the relationship of Maori and their culture and traditions with these sites is a matter of national importance in the RMA.

*Objective* 10.1

*Policy* 10.1.5

*Chapter 12 – Land Disturbance Effects* The adverse effects of land disturbance including induced slope instability and sedimentation are to be managed through sustainable practices.

*Objective* 12.1

*Policy* 12.1.2

*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 17.1.4 and 17.1.5

*Chapter 18.6 – Land Disturbance Area 2 Rules* – The proposed activity is subject to permitted and controlled activity performance standards and conditions set out in Rules 18.6.7 and 18.6.9

*Chapter 18.14 – Coastal Environment Area Rules* – The proposed activity is subject to permitted and controlled activity performance standards and conditions set out in Rules 18.14.2 and 18.14.3

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 buildings 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, daylight, sunlight and outdoor living provisions.

Objective 5.3.0 seeks to maintain and enhance the special visual and aesthetic character of localities. Policies include maintaining the low density character of urban areas and adverse effects on the character and cultural value of the area are avoided, remedied or mitigated.

*The proposal replaces an existing physical resource where the effect on the appearance of urban density is unchanged or improved. The effects, including cumulative effects of existing and increased breaches of permitted standards have previously been assessed as being no more than minor. The development is compatible with the character of the Kaiteriteri area.*

Chapter 6 *Urban Environment Effects* is concerned with the effects of urban growth and development.

Objective 6.2.0 and its related policies acknowledge urban growth and development can be sustained if it consistent with available services and infrastructure. The subject property is fully serviced and will be accessed by a new driveway.

Objective 6.3.0 and related policies seeks to contain urban development so that it avoids adverse effects on the coastal environment. The proposed activities will be improving an existing situation and are similar in nature to other buildings in the Kaiteriteri holiday environment. Conditions of consent can ensure the control of sediment and stormwater discharges are sustainable.

Objective 6.6.0 and associated policies seek to maintain and enhance distinctive characters of urban settlements and integration with landscapes.

Issues 6.13(c), (f) and (g) recognise the slope instability and archaeological sites in Kaiteriteri and seek to consolidate development within existing urban boundaries. Policies 16.13.3 and 16.13.7 seek to control sedimentation and instability and encourage the efficient use of land and infrastructure within Kaiteriteri.

*The proposal, subject to recommended conditions of consent, is deemed to be compatible with the Kaiteriteri environment, removes buildings located outside property boundaries or are in a state of disrepair and replaces it with a modestly sized cottage recessed into the hillside further back than the existing buildings. While the cottage will be larger it is of a size that will not dominate the landscape and proposed native landscaping further blends the development into the coastal environment.*

Chapter 8 *Margins of Rivers, Wetlands and the Coast* recognises the coastline and its margins in the District is a finite resource and are highly regarded by residents and visitors for seascape values, recreation, tourism, historic and cultural values. Objective 8.1 and related policies seek to retain public access to and along the coast

Objective 8.2 and associated policies seek to protect the coastal character, amenity values and cultural sites while enabling the maintenance of physical resources for the well-being of the community.

*The natural character of Kaiteriteri has been adversely affected by people's activities and provisions are in place to protect important scenic and cultural values. This protection is not sacrosanct in that the area is closed to any further development. It allows for existing resources to be maintained and for amenity values to be enhanced provided the development does not harm other aspects. The proposal conforms to these objectives as removal of the existing cottage from the Open Space Zone enhances public access along the coast and proposed landscaping integrates the building into the landscape.*

Chapter 10 *Significant Natural Values and Cultural Heritage* aims to protect and enhance cultural items recognising they contribute to the character, identity and visual amenity of the District. It also recognises Maori have special relations with these sites and the RMA treats these relations as highly important. Objective 10.1 and associated policies protect these sites from the risk of damage or destruction.

*The applicants are aware of the sensitivity of the area and their obligations should any artefact be uncovered during excavations. They have consulted with iwi and have agreed to employ an iwi monitor on-site for the duration of the excavations. Conditions of consent that reinforce these actions are recommended.*

Chapter 12 *Land Disturbance Effects* recognises the Separation Point Granite terrain in Kaiteriteri is susceptible to erosion and sediment generation upon disturbance if not managed appropriately. Soil loss can harm aquatic habitats, adversely effect drainage patterns and damage archaeological sites. Leaving cut slopes open to the weather can induce instability and slope failure.

*Recommended conditions of consent can ensure sustainable practices are employed during earthworks so these adverse effects are no more than minor.*

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:

- Sustaining physical resources to meet the needs of future generations (section 5(a));

- avoiding, remedying or mitigating any adverse effects of activities on the environment (section 5(c))
- protecting the coastal environment from inappropriate use and development (section 6(a));
- recognising the importance of the relationship of Maori and their culture and traditions with sites of significance (section 6(e));
- protection of historic heritage from inappropriate development (section 6(f));
- the efficient use and development of physical resources (section 7(b));
- maintaining and enhancing amenity values (section 7(c));
- maintaining and enhancing the quality of the environment (section 7(f)); and
- recognising any finite characteristics of natural resources (section 7(g)).

It is considered that the application is consistent with the Act's purpose of achieving the sustainable management of natural and physical resources by altering and slightly extending an existing dwelling and outdoor living area to make more efficient use of the site while maintaining or enhancing the quality of the Kaiteriteri environment.

#### 5.4 Matters of Discretion and Control in the Plan

The proposal is a **non-complying** activity due to the building coverage exceeding 35 per cent and there are no restricted matters in the Plan for non-complying activities. Aside from the coverage matter the activity would have been a restricted discretionary activity where Council has restricted its discretion to matters including:

- the extent to which the character of the site will remain dominated by open space and vegetation rather than buildings;
- the extent to which there is a need for increased building coverage;
- the extent to which the scale, design and appearance of the buildings will be compatible with the locality;
- any adverse effects on adjoining properties in terms of dominance by buildings, loss of privacy, access to sunlight and daylight and loss of opportunities for views;
- the provision of adequate outdoor living area;
- the ability to mitigate any adverse effects of increased coverage;
- the extent the building detracts from the pleasantness of the site as viewed from the street and adjoining sites;
- the extent the building is compatible with other buildings and sites in the area;

- the extent there is a need to intrude into the daylight angles and the shading effects;
- the colour of buildings and landscaping;
- the location and timing of earthworks and disposal of waste material; and
- damage to coastal water and any cultural heritage site.

In consideration of these matters, the proposal has been specifically designed to make the most efficient use of the available on-site space while keeping the development at a scale harmonizing with the landscape and maintaining or enhancing existing privacy and amenity values. The two “tests” for non-complying activities have been satisfied in that the adverse effects of the activity on the environment will be minor and the activity will not be contrary to the Plan’s objectives and policies. Consent may still be refused even though one or both “tests” have been satisfied but there would appear to be no environmental gain in refusing consent. Other options for development have been investigated including rebuilding the cottage in its present location, extending the cottage, re-locating the cottage and a range of different designs and locations. This proposal was selected after consultation with other owners of the site for overall maintenance of view shafts, minimizing earthworks and building footprint, retention of privacy for nearby dwellings, minimizing the height, providing sufficient space for the applicants and improving the setbacks from boundaries.

## 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 from coastal residential properties 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 conform to Plan anticipated environmental outcomes and blend in with the coastal setting:

1. There are a number of existing breaches of permitted standards and the development will improve most of these breaches;



2. The site is surrounded by residential development on sloping sites that are also likely to breach some permitted standards to some degree. Future development of these properties will be assessed in a like manner to determine their adverse effects on the environment;
3. The holiday environment produces many low maintenance sections and decked outdoor living areas taking advantage of the seascape and coastal setting; and
4. It is considered that the proposed development subject to recommended conditions is likely to result in similar environmental outcomes that the Plan seeks to locate in established coastal developments.

### **Multi-party Issues**

Under the RMA, section 88(1) "A person may apply to the relevant local authority for resource consent." The application does not have to be made by an owner or all owners of the subject property. Legal opinion has been previously sought and if "an owner" applied for consent and it passes relevant tests the Council is obliged to issue it. Obligations under cross-lease type agreements are a separate matter beyond the Council's control.

## **6. CONCLUSIONS**

- 6.1 The proposal is a Non-Complying Activity under the Proposed Plan.
- 6.2 While the building coverage is 37.9 per cent the situation of four dwellings on one site remains unchanged. Topography physically separates the site and the proposed size of the house is less than another existing house on-site and will be further setback than the existing cottage.
- 6.3 The proposal makes more efficient use of indoor and outdoor living space, maintains view shafts and privacy for other on-site dwellings and enhances the potential use of the Open Space Zone adjoining the beach.
- 6.4 The effects of the breaches when considered individually and cumulatively will be no more than minor given the existing situation and constraints of the site.
- 6.5 The development is compatible with the Kaiteriteri beach holiday 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 and protects land from erosion, water bodies from sedimentation and archaeological sites from damage or destruction.
- 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 104D of the Resource Management Act 1991.

## 7. RECOMMENDATION

That pursuant to Section 104D of the Resource Management Act, I recommend the application to replace a beach cottage and associated earthworks on Lot 10 DP 5620 be **granted**.

## 8. CONDITIONS

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

1. The removal of the existing cottage and sheds and construction of the new cottage shall be sited and carried out in accordance with the application documents and plans attached to this consent labelled Plan A - E. If there is any conflict between the information supplied with the consent application and any conditions of this consent then the conditions of consent shall prevail.
2. The exterior walls of the new cottage shall be setback at least 1.0 metre from the eastern boundary adjoining Lot 44 DP5620 (the Open Space Zone) and at least 4.5 metres from the northern boundary adjoining the Stephens Bay Road reserve.
3. The exterior of the cottage shall be finished and maintained in the following colours:

<b>Part of Building</b>	<b>Colour</b>
Roof	Coloursteel Indigo Blue
Walls	James Hardie Linea Weatherboard Escapade B61
Basement and retaining walls	Concrete

The consent holder may use alternative colours provided the prior written approval of the Council has been obtained. The Council will give its approval to alternative colours provided they are recessive colours which blend in with the immediate environment. In the event that alternative colours are to be used, the consent holder shall submit to the Council for approval the following details of the colours proposed to be used on the walls and roof of the building:

- a) the material to be used (e.g. paint, colour steel);
- b) the name and manufacturer of the product or paint;
- c) the reflectance value of the colour;
- d) the proposed finish (e.g. matt, low-gloss, gloss); and
- e) Either the BS5252:1976 (British Standard Framework for Colour Co-ordination for Building Purposes) descriptor code, or if this is not available, a sample colour chip.

**Advice Note:**

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

4. The Consent Holder shall construct the access to the subject property from Stephens Bay Road within three months of the proposed dwelling becoming habitable. The seal shall extend from the existing sealed road edge to the parking and turnaround area inside the subject property. The design shall be in accordance with Plans A and E.

**Note:**

All cost associated with the access upgrade is to be met by the Consent Holder and a Vehicle Access Crossing Permit is required to be obtained through Council's Engineering Department.

5. The Consent Holder shall engage the services of a representative of Tiakina te Taiao Limited to be present during any earthworks. The Consent Holder shall contact Tiakina te Taiao Limited, PO Box 1666, Nelson (ph (03) 546 7842) at least five working days prior to commencing any earthworks and advise it of the commencement date of the earthworks. In the event of Maori archaeological sites (eg shell midden, hangi or ovens, garden soils, pit depressions, occupation evidence, burials, taonga) or koiwi (human remains) being uncovered, activities in the vicinity of the discovery shall cease. The Consent Holder shall then consult with the New Zealand Historic Places Trust's Central Regional Office (PO Box 19173 Wellington, phone (04) 801 5088, fax (04) 802 5180), and shall not recommence works in the area of the discovery until the relevant Historic Places Trust approvals to damage, destroy or modify such sites have been obtained.

**Advice Note:** The discovery of any pre-1900 archaeological site (Maori or non-Maori) which is subject to the provisions of the Historic Places Act needs an application to the Historic Places Trust for an authority to damage, destroy or modify the site.

6. Landscaping in accordance with Plan E shall be implemented by 30 November 2010 and thereafter maintained.

**ADVICE NOTES****Council Regulations**

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

**Proposed Tasman Resource Management Plan**

2. Any activity not referred to in this resource consent must comply with either:
  1. a relevant permitted activity rule in the Proposed Tasman Resource Management Plan (PTRMP);
  2. the Resource Management Act 1991; or



- the conditions of a separate resource consent which authorises that activity.

### Consent Holder

- This consent is granted to the abovementioned Consent Holder but Section 134 of the Act states that such land use consents “attach to the land” and accordingly may be enjoyed by any subsequent owners and occupiers of the land. Therefore, any reference to “Consent Holder” in the conditions shall mean the current owners and occupiers of the subject land. Any new owners or occupiers should therefore familiarise themselves with the conditions of this consent, as there may be conditions that are required to be complied with on an ongoing basis.

### Interests Registered on the Certificate of Title

- The Consent Holder should note that this resource consent does not override any registered interest on the property title.

### Colour

- As a guide, the Council will generally approve colours that meet the following criteria:

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

\* Based on BS5252:1976 (British Standard Framework for Colour Co-ordination for Building Purposes). Where a BS5252 descriptor code is not available, the Council will compare the sample colour chip provided with known BS5252 colours to assess appropriateness.

Mandy Bishop  
**Consent Planner**







DATED \_\_\_\_\_ 1974

J. R. RYDER & ANOR.

- with -

F. HOLYOAKE & ORS.

DEED OF AGREEMENT

100

Rout, Milner & Fitchett  
Solicitors,  
NELSON.

THIS DEED is made the                      day of                      1974  
BETWEEN JOSEPHINE RUTH RYDER of Riwaka and HILDA MARY INGLIS  
of Lower Moutere both Married Women of the first part  
FLOSSY HOLYOAKE of Riwaka Married Woman of the second part  
KINGSLEY GEORGE FRATER of Riwaka Farmer of the third part  
AND HARRY WILLIAM WRATT of Auckland Public Servant of the  
fourth part, WHEREAS the parties hereto have agreed to purchase  
ALL THAT piece of land containing One rood (1r.) more or less  
being Lot 10 Deposited Plan 5620 and being Part Section 96

District of Motueka and being part of the land comprised in  
Certificate of Title Volume 140 folio 6 (Nelson Registry) and  
it is intended that the said land be transferred to them as  
tenants in common in the following shares that is to say : -

By the said Josephine Ruth Ryder as to one undivided one-  
eighth share

By the said Hilda Mary Inglis as to one undivided one-eight  
share

By the said Flossy Holyoake as to one undivided one-quarter  
share

By the said Kingsley George Frater as to one undivided one-quarter  
share

By the said Harry William Wratt as to one undivided one-quarter  
share

AND WHEREAS the parties hereto have separate cottages and other  
buildings erected upon the said land AND WHEREAS it is desired  
to enter into these presents for the purpose of setting forth  
the rights of the said parties inter se NOW THEREFORE THESE  
PRESENTS WITNESS that the parties hereto do each of them  
covenant with the others of them as follows : -

1. The said Josephine Ruther Ryder and Hilda Mary Inglis  
and any purchaser from them being the owner or owners for the  
time being of the undivided shares or interests of the said  
Josephine Ruth Ryder and Hilda Mary Inglis as tenants in common  
and their his or her tenants servants agents workmen and

*WRATT*

visitors and all persons having lawful business with them him or her notwithstanding the undivided joint interests or shares of the other parties hereto in the said land shall be entitled to the exclusive right of possession habitation and control of all that portion of the said land marked "Area 1" on the diagram drawn hereon including the buildings erected thereon (all hereinafter referred to as "Area 1") as if in all respects the said Josephine Ruth Ryder and Hilda Mary Inglis and any transferee or transferees from the owner or owners for the time being of the said undivided shares or interests as tenants in common in the said land were the sole owners or owner of the said Area 1 and it is hereby expressly agreed and declared that any breach of this covenant by the other parties hereto shall render them or him or her liable in damages or otherwise as a trespasser in all respects as if they were persons unconnected with the said land and not the owner of an undivided share or interest therein.

2. The said Flossy Holyoake and any purchaser from her being the owner or owners for the time being of her undivided share or interest as tenant in common and their his or her tenants servants agents workmen and visitors and all persons having lawful business with them him or her notwithstanding the undivided joint interests or shares of the other parties hereto in the said land shall be entitled to the exclusive right of possession habitation and control of all that portion of the said land marked "Area 2" on the diagram annexed hereto including any buildings erected thereon (all hereinafter referred to as "Area 2") as if in all respects the said Flossy Holyoake and any transferee or transferees from the owner or owners for the time being of the said undivided share or interest as tenant in common in the said land were the sole owner or owners of the said Area 2 and it is hereby express-

KLs

ly agreed and declared that any breach of this covenant by the other parties hereto shall render them or him or her liable in damages or otherwise as a trespasser in all respects as if they were persons unconnected with the said land and not the owner of an undivided share or interest therein.

3. The said Kingsley George Frater and any purchaser from him being the owner or owners for the time being of his undivided share or interest as tenant in common and their his or her tenants servants agents workmen and visitors and all persons having lawful business with them him or her notwithstanding the undivided joint interests or shares of the other parties hereto in the said land shall be entitled to the exclusive right of possession habitation and control of all that portion of the said land marked "Area 3" on the diagram annexed hereto including any buildings erected thereon (all hereinafter referred to as "Area 3") as if in all respects the said Kingsley George Frater and any transferee or transferees from the owner or owners for the time being of the said undivided share or interest as tenant in common in the said land were the sole owner or owners of the said Area 3 and it is hereby expressly agreed and declared that any breach of this covenant by the other parties hereto shall render them or him or her liable in damage or otherwise as a trespasser in all respects as if they were persons unconnected with the said land and not the owner of an undivided share or interest therein.

4. The said Harry William Wratt and any purchaser from him being the owner or owners for the time being of his undivided share or interest as tenant in common and their his or her tenants servants agents workmen and visitors and all persons having lawful business with them him or her notwithstanding the undivided joint interests or shares of the other parties hereto in the said land shall be entitled to the

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exclusive right of possession habitation and control of all that portion of the said land marked "Area 4" on the diagram annexed hereto including any buildings erected thereon (all hereinafter referred to as "Area 4") as if in all respects the said Harry William Wratt and any transferee or transferees from the owner or owners for the time being of the said undivided share or interest as tenant in common in the said land were the sole owner or owners of the said Area 4 and it is hereby expressly agreed and declared that any breach of this covenant by the other parties hereto shall render them or him or her liable in damages or otherwise as a trespasser in all respects as if they were persons unconnected with the said land and not the owner of an undivided share or interest therein.

5. The parties hereto hereby covenant mutually with each other that they will not do or suffer to be done any act or thing which shall constitute a nuisance to the others of them but shall quietly and peacefully occupy and inhabit their respective separate premises causing as little disturbance as may reasonably be possible to the occupiers of the other of the said premises consistent with the reasonable ordinary use of their respective separate premises.

6. The parties hereto shall keep their respective premises in a reasonable state and condition and so as not to detract from the appearance of the said land and improvements thereon as a whole, and in particular will not in the event of permits becoming available for further alteration or extension construct any building or addition to any existing building which would obstruct the view of any of the other parties hereto but should the local body by-laws be amended or varied authorising permits then this part of this Clause shall be reviewed by the parties hereto.

7. The parties hereto will not plant or permit to grow any new tree which will impede the view of the other parties hereto

and will trim from time to time the existing trees to a reasonable extent.

8. The parties hereto will ensure that no fire hazard will be permitted to arise on the land of which such party has the exclusive use and occupation.

9. The parties hereto hereby mutually covenant with each other than they will respectively pay for and bear all rates and outgoings (if any) in respect of the said land (excluding land tax and insurance on the respective buildings erected on the said land) in proportion to their respective undivided shares in the said land, and will also bear in similar proportion the cost of keeping in a reasonable state and condition the adjoining explanade reserve and road frontage, provided always that in no case will any party incur any expense in connection with the maintenance and tidying of the said adjoining land as aforesaid without first consulting the other parties hereto and in any such case where it is not possible to secure agreement as aforesaid the dispute shall be referred to arbitration in manner provided in Clause 14 hereof.

10. That in the event of any of the parties hereto desiring to dispose of his or her interest in the said land and of the buildings of which that party has the exclusive use a valuation shall be made by two registered Valuers or in the event of their being unable to agree by their umpire to be appointed by them prior to entering upon their valuation and the other parties shall be entitled to purchase such interest at the said Valuation. If the other parties hereto or one <sup>of</sup> or more/~~them~~ do not purchase the said undivided share at the price aforesaid then the party desiring to sell shall be entitled to dispose of his interest in the said land and buildings on the open market without any restrictions.

*W.A.*

11. If the buildings of which any of the parties hereto have the exclusive use shall be destroyed by fire then upon the request of such party the other parties shall purchase the undivided share of such party in the said land at a price to be determined in the same manner as provided in Clause 10 hereof.

12. In the event of the sale of any interest in the said land under the two preceding clauses hereof the purchase price shall unless the parties shall otherwise agree be paid in cash at the expiration of one month from the date upon which notice of the valuation is given to the proposed purchasers.

13. Notwithstanding anything hereinbefore contained the share of any party hereto in the said land and the rights of such party hereunder may be disposed of by such party by Will or in the event of any party hereto dying intestate the said interest may be transferred to the persons entitled thereto under the provisions of The Administration Act 1952.

14. That in case of sale by any party hereto or any transferee or transferees therefrom or other registered proprietor or proprietors for the time being of his her or their share or interest or any part thereof in the said land such proposed transferor will at the expense in all things of the proposed transferor secure such proposed transferee to enter into a Deed of Covenant with the then other registered proprietors of the said land containing (mutatis mutandis) the same covenants conditions and agreements as are herein contained.

15. All disputes and questions whatsoever which shall during the term hereby granted arise between the parties hereto touching this agreement or the construction or application

*Handwritten initials*

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thereof or any clause or thing herein contained or as to any matter in any way relating to the demised premises shall be referred to a single arbitrator in case the parties agree upon one or otherwise to two arbitrators one to be appointed by each party to the difference or by their umpire in case of dispute and such reference shall in all respects be deemed to be a submission to arbitration within the meaning of the Arbitration Act 1908 or any statutory modification thereof for the time being in force.

IN WITNESS WHEREOF these presents have been executed the day and year first hereinbefore written

SIGNED by the said JOSEPHINE RUTH )  
RYDER in the presence of : - )

Name :

Occupation :

Address :

SIGNED by the said HILDA MARY )  
INGLIS in the presence of : - )

Name :

Occupation :

Address :

SIGNED by the said FLOSSY HOLYOAKE )  
in the presence of : - )

Name :

Occupation :

Address :

SIGNED by the said HARRY WILLIAM )  
WRATT in the presence of : - )

Name : *H. Wratt*

Occupation : *Secretary*

Address : *41 Rutland Rd. Auckland, 3*

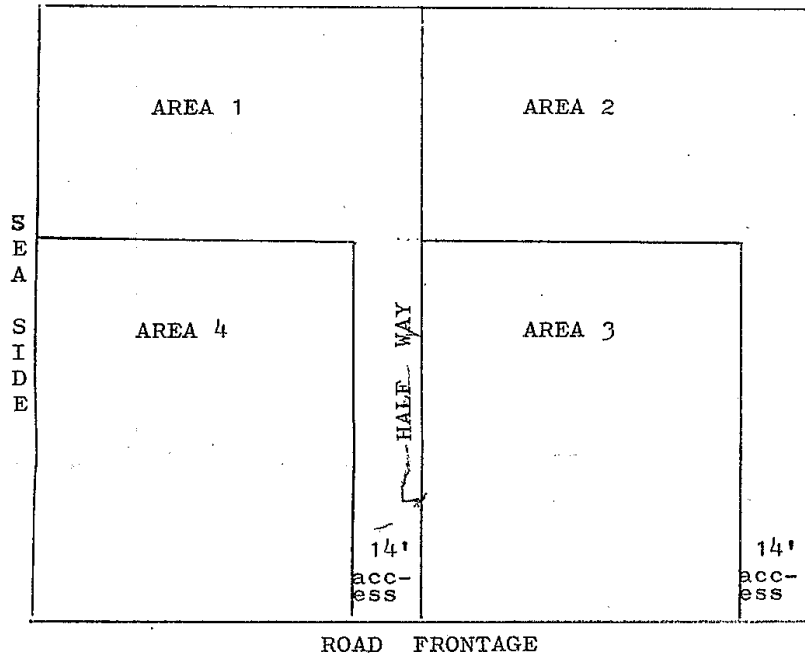
SIGNED by the said KINGSLEY GEORGE )  
FRATER in the presence of : - )

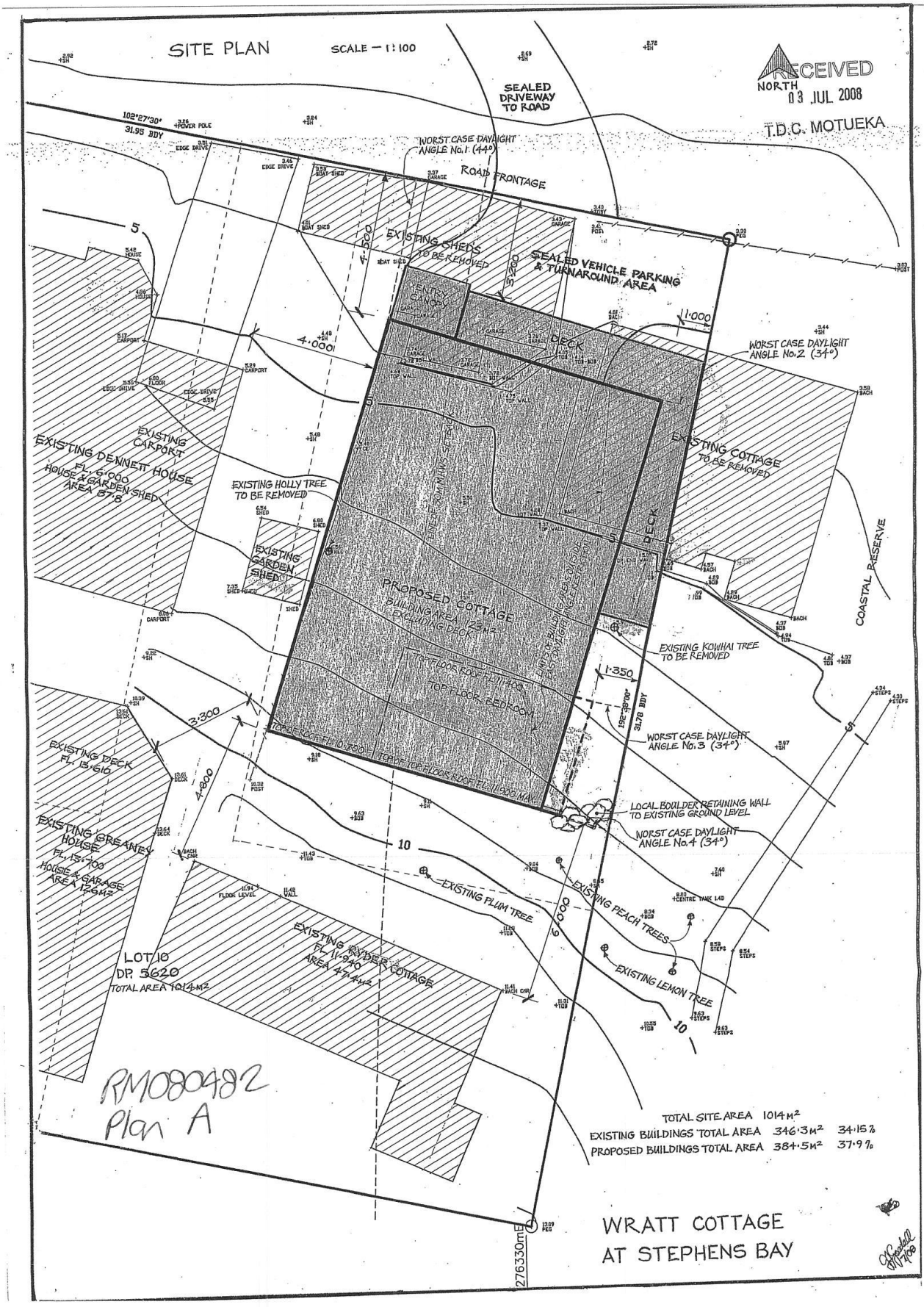
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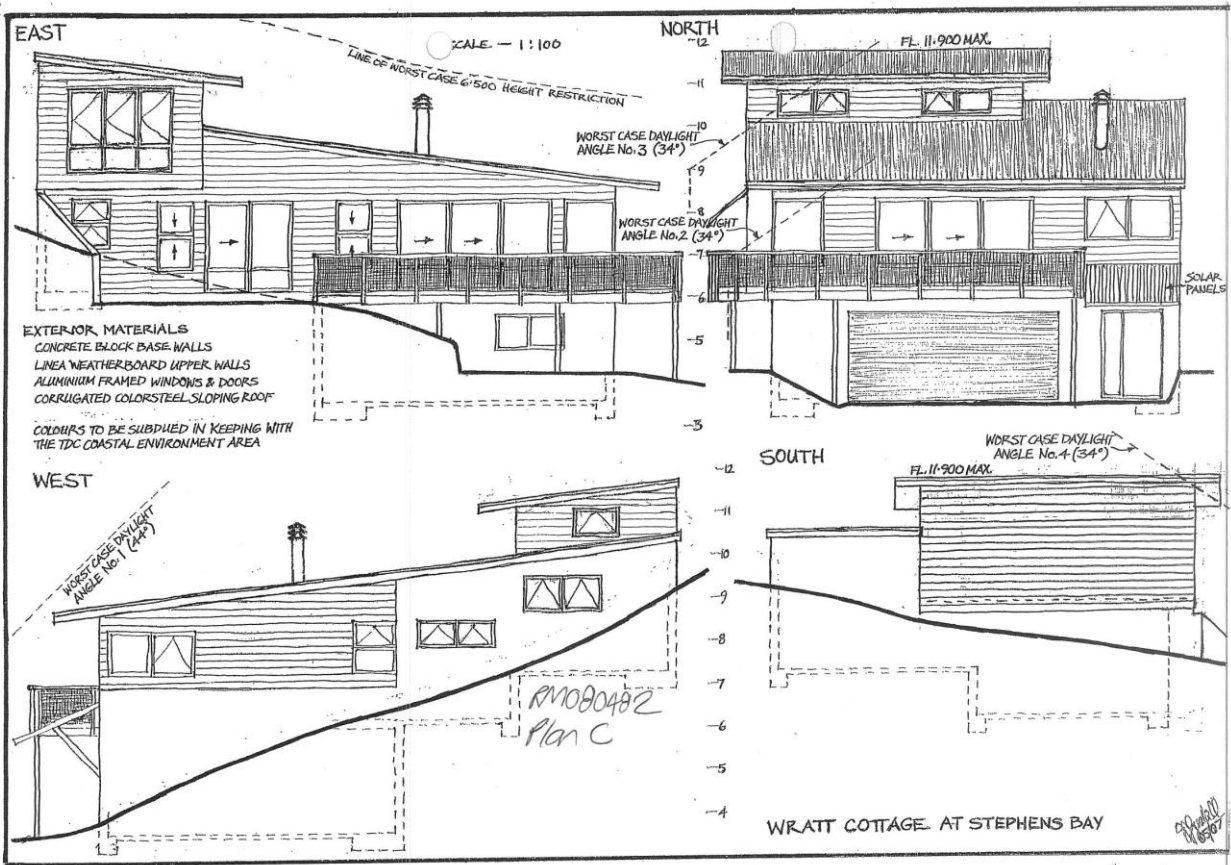
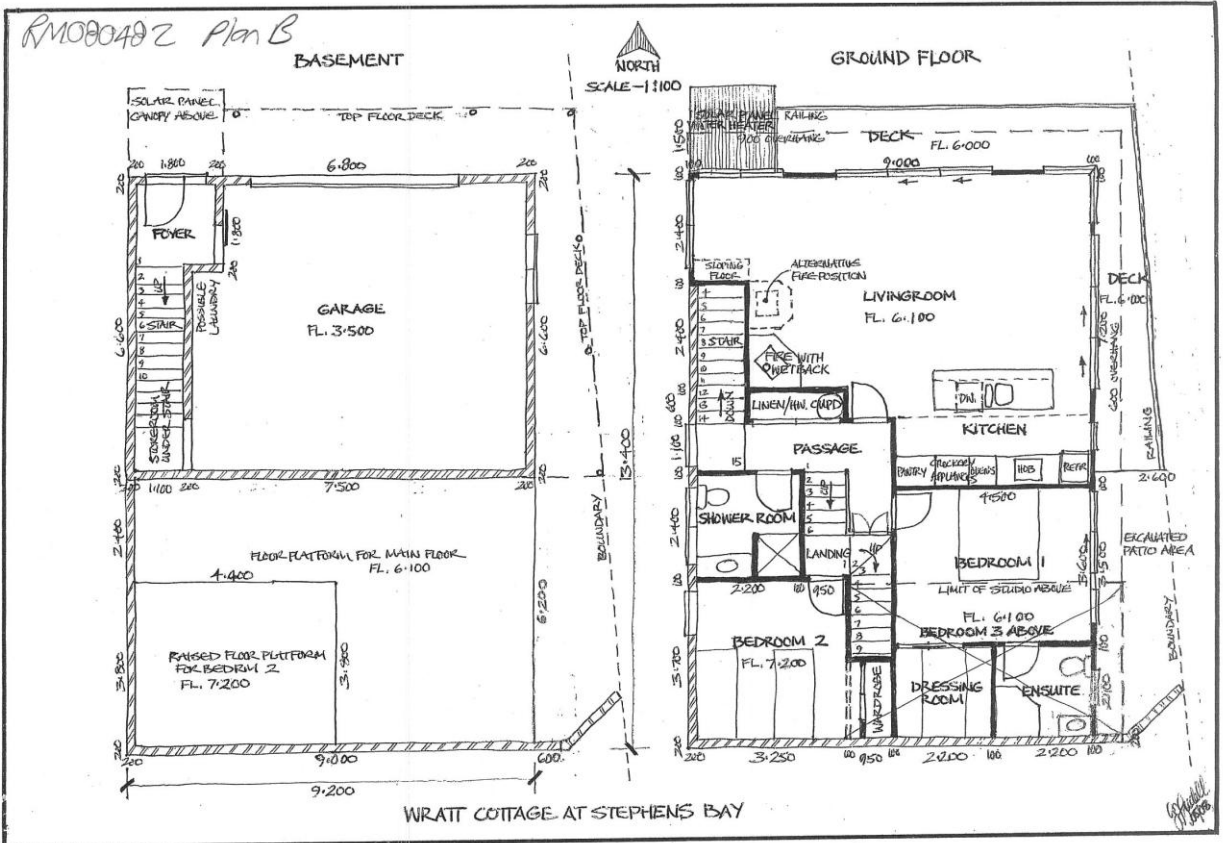
Occupation : \_\_\_\_\_

Address : \_\_\_\_\_

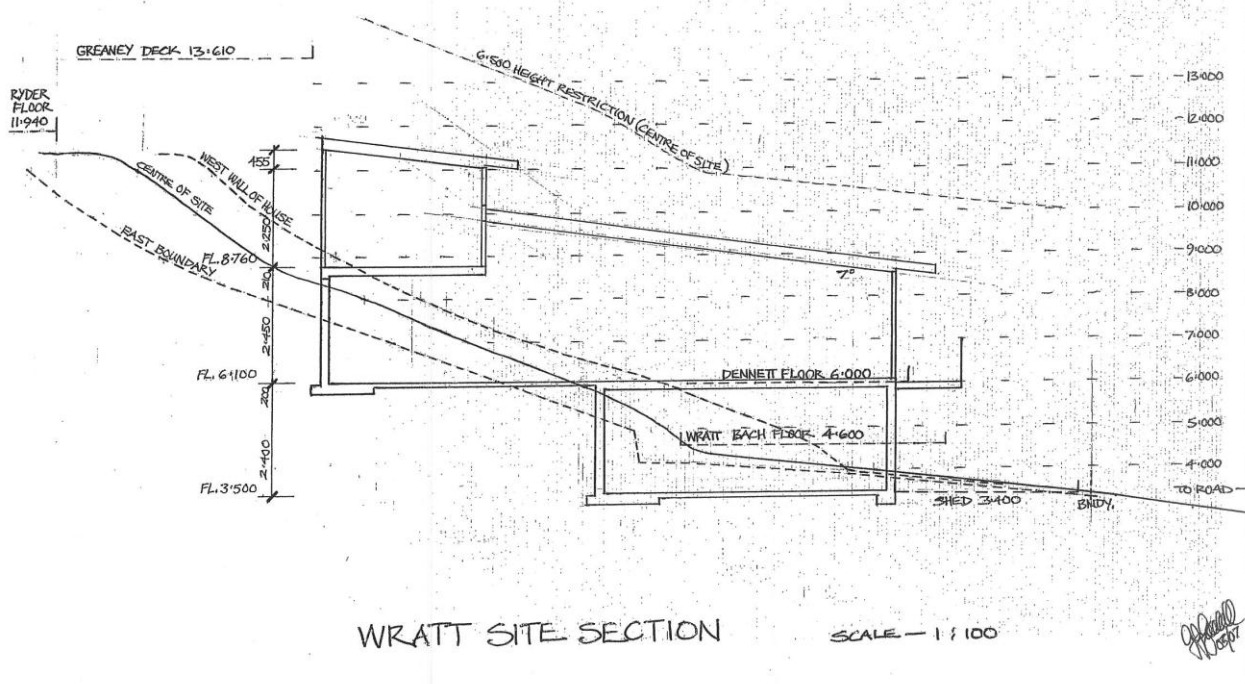
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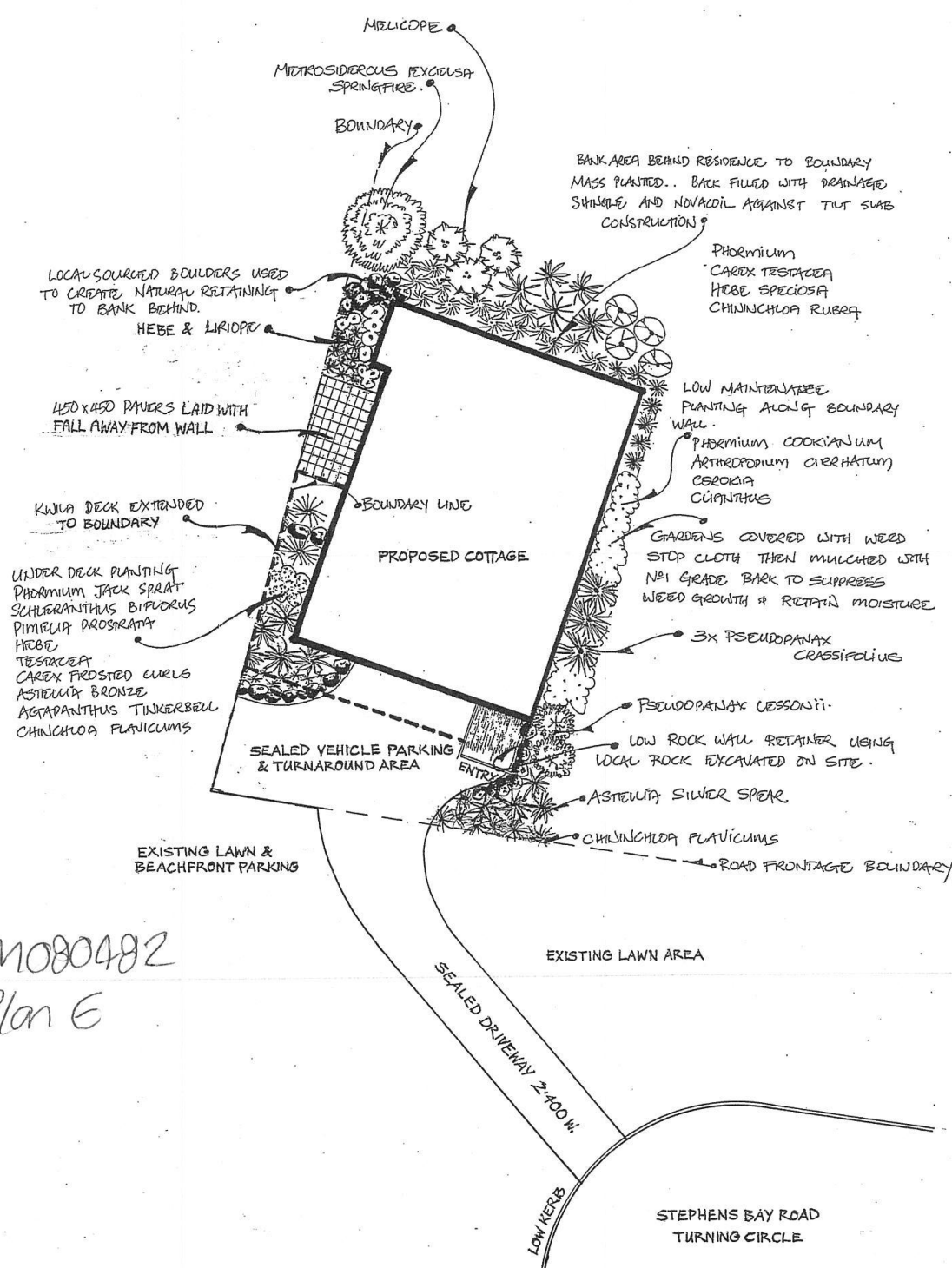




RMD00482  
Plan D







RM080482  
Plan E

# LANDSCAPE PLAN CONCEPT

FOR: MR & MRS WRATT  
42 STEPHENS BAY  
KAITIHERI  
MOTUEKA

