

STAFF REPORT

TO: Environment & Planning Subcommittee - Commissioner Hearing

FROM: Paul Gibson, Consent Planner

REFERENCE: RM080841

SUBJECT: **ALBORN PROPERTIES LTD - REPORT EP09/08/14** - Report prepared for hearing of 31 August 2009

1. INTRODUCTION

1.1 Purpose of this Report

The following report is my assessment of land use consent application RM080841 to retrospectively authorise a kayak and mountain bike activity and a water taxi activity. Some aspects of the application are sought to be authorised at the current level that they are operating while others are to be limited. For example, the water taxi operation currently parks boats on the Franklin Street road reserve, which is no longer proposed.

An associated discharge consent application RM080844 to discharge wash water to land from water taxi operations has also been applied for. A report assessing RM080844 has been prepared by Leif Pigott, Council's Coordinator – Natural Resource Consents.

1.2 Proposal

The application is for land use consent to undertake a kayak and mountain bike hire/guide business and a water taxi business from sites in the Residential zone and Rural 1 zone (deferred Residential).

The activities include:

- operating an office and booking agency and some associated car parking at 229 Sandy Bay-Marahau Road, with two sandwich board signs proposed on this property;
- operating the kayaking and mountain biking business, including the storage of equipment and training of clients, at 8 and 10 Franklin Street, with two signs proposed on this property. Water taxi boats are proposed to be loaded and unloaded on this site;
- and long-term customer car parking; and the storing, washing, and refuelling of water taxi boats at 13A Franklin Street. These proposed activities will involve boat and tractor traffic along with customer vehicles travelling on Franklin Street between these sites as required, using the leg-in access to 13A Franklin Street.

A summary of the schedule of the water taxi operation is as follows:

- The number of water taxi seats are limited by the Department of Conservation's Concession Agreement which caps the seats at 74 entering the Abel Tasman National Park.
- The four water taxi boats are stored in the barn on 13A Franklin Street. They are fuelled on this site.
- Each morning the boats are towed by tractor down the right-of-way to the loading area on 8 and 10 Franklin Street (the kayak base). All parking, loading, and unloading of water taxi boats is now proposed on this site, with no loading or unloading occurring on the street or any public land. Only the boats needed that day are brought out of the barn. In the height of the season all boats will be used, however in winter usually only one boat is used.
- Passengers of the boats park their vehicles in the long term parking area on 13A Franklin Street.
- Some passengers board the boats and are taken to the boat ramp and others are taken to the boat ramp by motor vehicle.
- Upon leaving the water the passengers disembark on 8 and 10 Franklin Street.
- While the boats are in the water the tractor and trailer units are proposed to park on the designated boat parking spaces at 8 and 10 Franklin Street.
- At the end of the day the boats are taken by tractor back to the barn on 13A Franklin Street, washed down, and stored for the night.

A summary of the kayak and mountain bike operation is as follows:

- The number of kayak seats are limited by the Department of Conservation's Concession Agreement which caps the seats at 80 entering the Abel Tasman National Park.
- The kayaks are stored in the existing sheds on 8 and 10 Franklin Street.
- Bookings are taken from the office on 229 Sandy Bay-Marahau Road.
- Parking for more than single day users is in the long term parking area on 13A Franklin Street. Some parking is also available on site.
- Customers are given instruction on the use of the kayaks on the bark bed on 8 and 10 Franklin Street.
- Kayaks are taken down to the launching area by mini van and trailer.
- Mountain bikes are also hired from the site.

1.3 Background

In 2007 and 2008 the Council's compliance team discussed compliance with resource consents and Tasman Resource Management Plan provisions with various tourism operators in and around Marahau, including the applicant. Alborn Properties Limited have responded to the concerns raised by making this application to legitimise their activities in relation to the TRMP provisions.

The current activities are operating without resource consent. The application explains the background as to how this situation came about. In summary, it appears that the kayak and water taxi businesses were originally associated with the camping ground and they expanded incrementally without the required consents being obtained.

1.4 Further Information received since Submissions Closed

On 14 May 2009 and again on 14 August 2009 the applicant provided further information in relation to some matters raised in the submissions.

The 14 May 2009 information included:

- A plan showing the proposed location of the two sandwich board signs
- Advice that a 1.8 metre high fence is proposed to be constructed on the perimeter of the 13A Franklin Street site that adjoins the Abel Tasman Estates property.
- Confirmation that the laden weight of their vehicles is 6000kg.
- Advice that the application is amended so that instead of applying for parking and loading/unloading on the Franklin Street road reserve as originally applied for and notified, there is now no parking/loading/unloading proposed on the roadside berm.
- Confirmation that the applicant will meet the applicable New Zealand Transport Agency's standards.

The changes are explained in the Staig & Smith Limited letter dated 13 May 2009.

The 14 August 2009 further information includes:

- Advice that engine covers will be installed on the tractors.
- The volunteering of a solid fence consisting of overlapped wooden boards to a height of 1.8 metres along the boundaries with the residential sections including along the right-of-way to 13A Franklin Street and the western boundary of 10 Franklin Street.

- A Noise Management Plan that they volunteer to comply with. This includes volunteering that the tractor movements per day along the right-of-way to 13A Franklin Street shall be restricted to a maximum of 16 movements in the peak tourist season (December to March); 12 movements on the shoulder seasons (March to May, and October to December); and 6 movements in the off season (May to October).
- A site plan showing the provision of four tractor and trailer parks on 8 and 10 Franklin Street (the kayak base)

The changes are discussed in the Staig & Smith Limited letter dated 14 August 2009.

A copy of this information is attached to this report as **Appendix 7**.

These changes to the application have been proposed by the applicant as a result of additional information regarding effects and taking into account matters raised in submissions. It was determined that the application need not be renotified as the changes reduce the scope of the original proposal and do not in any way increase the scale of the proposal. Nor is the nature of the development changed. The changes will result in lesser effects than the original application as notified.

1.5 Site Description

The subject site is made up of three titles, two of which adjoin each other with the other title on the southern side of Franklin Street, Marahau. The following table describes the properties involved:

Address	Legal Description	Certificate of Title	Valuation Number
229 Sandy Bay-Marahau Road, Marahau	Lot 11 DP 4958	NL125/5	1931010000
8 and 10 Franklin Street, Marahau	Lots 1 & 2 DP 6931	NL2B/970	1931010101
13A Franklin Street, Marahau	Pt Lot 1 DP 12789	NL10C/676	1931008700

An aerial photograph is attached as **Appendix 1** of this report.

The property at 229 Sandy Bay-Marahau Road is zoned Residential under the TRMP. It is a corner site with Sandy Bay-Marahau Road along the eastern boundary and Franklin Street along the southern boundary. The site is well established for commercial use. It contains a single story building accommodating a shop, an office, and a café. Land use consent RM010582 was issued on 12 October 2001 to establish the store and office. On 14 August 2009 RM020239 was issued to operate the café.

A paved terrace and landscaped courtyard provide outdoor seating for patrons. The front of the site facing Sandy Bay-Marahau Road and the coast is landscaped with shrubs and ground covers. Planting is also established within the sealed parking area to the west of the building. A small garage is located towards the north-western corner of the site. A footpath bounds the site on the eastern and southern boundaries.

The property at 8 and 10 Franklin Street is zoned Residential. It has a two storey building located centrally on the property. This building is used as a dwelling and an office for the kayak and mountain bike operation. A series of sheds towards the north of the site are used to store kayaks and associated equipment. A barked area in the southwest corner of the property is used to instruct customers on the use of kayaks. Parking is located along part of the eastern boundary while water taxi tractor and trailer units parks are located at the front of the site.

The property at 13A Franklin Street is zoned Rural 1 (deferred Residential). Part of the site is used by the applicant. The property contains two dwellings, one of which is used by the applicant to accommodate staff. On 23 January 2002 land use consent RM010707 was granted to relocate the second dwelling.

A large barn is used to store four water taxi boats. A concrete yard area with diesel and petrol fuel tanks is located outside the barn. A grass long term parking area bounded by a deer fence is also used by the applicant. The majority of the remainder of the site is in pasture. A compacted base course right-of-way runs adjacent to the northern boundary and to the east of 15 Franklin Street.

1.6 Surrounding Area

Although the area is predominantly Residentially zoned it is of mixed use. The camping ground is located on the southern side of Franklin Street opposite the existing café/shop/office and kayak base. The camping ground accommodates approximately 50 powered sites in addition to five cabins and a backpackers operation. The café/shop/booking office is well established on 229 Sandy Bay-Marahau Road. The Outdoor Education Centre flanks the booking office and the kayak base to the north. It is zoned Recreation under the TRMP. There are approximately 20 dwellings located on Franklin Street in the Residential zone. A Department of Conservation (DoC) base at 15 Franklin Street accommodates a dwelling and a large shed and parking space for DoC vehicles. The property at 13A Franklin Street accommodating the water taxi storage barn and the long term parking area and two dwellings with the remainder of the site in grazing.

2. STATUS UNDER THE PLAN

2.1 Tasman Resource Management Plan

Due to the advanced stage of the Tasman Resource Management Plan (The Plan/TRMP) through the planning process, having become partially operative on 1 November 2008, pursuant to Section 19 of the Resource Management Act 1991, the TRMP is the dominant Plan for the application to be assessed under. No weight needs to be attributed to the Transitional District Plan.

The booking office at 229 Sandy Bay-Marahau Road and the kayak base and boat loading at 8 and 10 Franklin Street are zoned Residential. They are in the Land Use Disturbance Area 1, Special Domestic Wastewater Disposal Area and Coastal Environment Area under the TRMP. The boat storage and long term parking on 13A Franklin Street is zoned Rural 1 (deferred Residential). It is within the Special Domestic Wastewater disposal Area and part of the site is in Land Disturbance Area 1 while the remainder is in Land Disturbance Area 2. Part of the access leg is located within the Coastal Environment Area. All the applicable titles fall within the Marahau Cultural Heritage Precinct under the TRMP. A zoning map is attached as **Appendix 2** of this report.

The section of Franklin Street adjacent to the property is identified as an Access Road in the Plan Road Hierarchy and has a speed limit of 50 km/h.

The proposal complies with all except the following Plan standards:

a) Residential Zone Permitted Activity Standards:

17.1.2.1(b)(iii) commercial activities within a Residential zone (a Discretionary Activity under 17.1.2.2).

17.1.2.1(d) no more than one heavy vehicle is stored or parked on a Residential zoned site (a Discretionary Activity under 17.1.2.2).

b) Rural 1 zone Permitted Activity Standards:

17.5.2.1(b)(iv) commercial activity within a Rural 1 zone (a Discretionary Activity under 17.5.2.3).

c) Signage Permitted Activity Standards:

16.1.3.1(a) one sign a maximum of 0.5 m² in area per site. Two signs are proposed at the kayak operation (8 and 10 Franklin Street) and two sandwich board signs are proposed at the office/shop/café site (229 Sandy Bay-Marahau Road). They are a discretionary activity under 16.1.3.2.

d) Transport Permitted Activity Standards:

16.2.3.1(n) the surface of any parking area in the Residential zone is formed and sealed and spaces marked on the ground (a Restricted Discretionary activity under 16.2.6.1).

Overall the application is treated as a discretionary activity.

3. NOTIFICATION AND SUBMISSIONS

3.1 Processing Path

Under Section 93 of the Resource Management Act, it was necessary to notify the application as it was considered the adverse environmental effects may be more than minor. A total of 18 submissions were received. Of those 12 are in opposition, five are neutral, and one is in support with conditions.

A map showing the location of the submitters within the vicinity of the site is attached as **Appendix 3**.

3.2 Summary of Submissions

This is a summary of the matters raised in the submissions relating to the land use application only. A full copy of the submissions is available separately.

Submission 1: Mark Loveard, owner of 21 Franklin Street

The submission raises the following matters:

- Is neutral regarding the proposal provided a 2 metre high hedge is planted along the common boundary

Submission 2: Abel Tasman Estates Ltd, owner of 13A Franklin Street

The submission raises the following matters:

- Is neutral regarding the proposal provided a solid board fence is constructed around the long term parking area.

Submission 3: Newhaven Marahau Ltd

The submission raises the following matters:

- Is neutral regarding the proposal provided a solid board fence is constructed around the long term parking area.

Submission 4: Raymon Franklin, owner of 23 Franklin Street

The submission raises the following matters:

- The operation is no longer a small scale operation and is inappropriate in a Residential zone.
- The use of Rural 1 deferred Residential land for storage of water taxis and long term car parking has an adverse impact on amenity, particularly visual amenity.
- The activities are inappropriate for the Residential and Rural 1 deferred residential zones.
- The fact that the operation has “expanded over the years” is no justification for the creation of further impacts on residential amenity and land use.
- The boats park on both sides of the roadside in front of the Marahau camping ground thus impacting on road traffic.
- Embarkment and disembarkment of boat passengers takes place in front of the camping ground.

- The extended hours for the water taxi business will impact yet further on residential amenity.
- The proposals are contrary to the objectives and policies of the TRMP.
- The existing operations have expanded incrementally over time to the stage where there is too much activity. The activity should relocate to the Tourist Services zone.
- If consented there is no reason to believe that further incremental increase will not take place.
- The hours are not acceptable and the effects are adverse.
- The signs proposed will be cumulative with other existing signs and add to visual clutter. Marahau is a beachside settlement, not a resort.
- The applicant monopolises parking on the street, with boats and tractors, so it is not only increasing the dominance of commercial activity in the area, but providing difficult conditions for residential users and their visitors.
- More than one heavy vehicle will be parked on the site and only an estimate of the weight is provided.
- The car parks attract mud onto Franklin Street during wet periods and during summer generates considerable dust which impacts greatly on residential neighbours.
- It should be the responsibility of an applicant to internalise effects – roadside parking is inappropriate for this business given its scale and degree.
- The activity is of a scale that is inappropriate in the location proposed.

Decision Sought: Decline the application

Submission 5: Marahau/Sandy Bay Ratepayers and Residents Association Inc.

The submission raises the following matters:

- The loading/unloading and storing of boats on the public roadside is not an adequate and safe place to conduct this activity and poses potential safety risks.
- Restricting signage to within property boundaries is appropriate to ensure no safety hazard is generated.
- The association acknowledges previous complaints from residents of the Marahau community related to frequency of tractor movements, noise generated, negative effects on the environment, and speed of tractor drivers, especially along the channel passageway on the foreshore. The Association submits that the proposed commercial activities related to use of water taxis fall within acceptable parameters in terms of the factors mentioned above.

- Consideration of factors such as speed and noise should be taken into account for all access and passage areas.
- Recommended conditions relating to no boat parking or loading/unloading on road reserve, no off site signs, and use of tractors meet limitations agreed by the Marahau boat operators.

Submission 6: J, J and M Sauer, M Denton, C Rowe and P Saunders, 213 Sandy Bay-Marahau Road

The submission raises the following matters:

- Concern that the commercial operation has been able to expand since 1991 without consent in a residential area and only now has an application been made.
- Seek confirmation whether the 74 seat Department of Conservation concession is still valid and could it be increased in the future.
- Concern that the operator carries passengers in an open boat with no seatbelts by a tractor on a public road.
- Concern that the tractors exceed the noise limits in the Residential zone.
- Object to the increase in operating hours. Request that the operating hours be discussed with residents.
- The 30 km/h speed limit for tractors should be reduced.
- It is unacceptable for the water taxis to be parked at times on the roadside of Franklin Street.
- The problem along Franklin Street is parking, not traffic.
- Requests that the noise levels of the tractors travelling down the public road be retested prior to any consent being granted.
- Objects to the increase in operating hours as it interferes with living standards.

Decision Sought: Decline the application

Submission 7: Mark and Helen Kilvington, owners of 22 Franklin Street

The submission raises the following matters:

- There is only enough space to safely operate one business, not two. MSK Kayak business could relocate to the Tourist Services zone creating operating space for Marahau Water Taxis.
- Water taxis could use the MSK Kayak site to turn around, park, and load/unload passengers, making the operation organised and safe away from the roadside berm.

- The combined noise and traffic from Franklin Street has turned Franklin Street into a commercial and industrial area.
- Ideally all kayak and water taxi businesses should be grouped together in the Tourist Services zone.
- Water taxis are parking the wrong way facing into the oncoming traffic. Also parking very tightly on the berm against a residents garden border.
- Noisy quad bike parking on the berm.
- Concern regarding hours of operation.
- MSK Kayaks are parking their coach and vans along Franklin Street outside residents properties during the day.
- A clear sign is needed at the entrance to 13A Franklin Street as quite a few visitors cannot find the long term parking area.
- Currently the long term parking area is being abused by customers. They are camping in the field, using the camp sites facilities without paying, and urinating in nearby gardens.
- Visitors have been camping outside residents houses in the street and using the Council reserve on Franklin Street as a toilet.
- Concern about the sandwich board signs being a visual pollutant and creating a hazard to pedestrians.

Decision Sought: Decline the application. If granted they recommend conditions relating to keeping their operations on their own land, if extra hours are granted noise and activities should be conducted in a quiet and considerate manner, and sandwich boards be taken inside the shop every evening.

Submission 8: The Gail and Neville Hannen Family Trust, owner of 225 Sandy Bay-Marahau Road

The submission raises the following matters:

- The operation should move to the Tourist Services zone. The proposed site is a central hub for most of the campers and tourist activity.
- In the past decade there has been a significant increase in vehicle and people movements.
- We have a less relaxed and tranquil atmosphere to holiday from.
- Concern for their health regarding diesel fumes from idling tractors.
- The applicant regularly parks outside the property providing a negative visual impact.
- Safety concerns due to the stream of tractors.

Decision Sought: Decline the application

Submission 9: Graham Cook, owner of 223 Sandy Bay-Marahau Road

The submission raises the following matters:

- Concerned about where the boats collect and drop off passengers.
- Object to the increased hours of operation.

Decision Sought: Decline the application.

Submission 10: Barbara Franklin, owner of 219 Sandy Bay-Marahau Road

The submission raises the following matters:

- When the applicant purchased the property in 1997 the operations were on a much smaller scale.
- Noise and fumes from the tractors cause a lot of disturbance to residents.
- The extended operating hours are a concern.
- The sandwich board signs are inappropriate.
- Franklin Street and Sandy Bay-Marahau Road car parks are taken up by staff cars, vans, buses, and vehicles belonging to people going to the National Park for the day, leaving no room for beach day visitors.
- The use of road reserve to park the water taxis is causing major problems. People also assemble on the road causing traffic to stop while they board the boats.
- The remote parking is relieving the congestion problem a little but if this land is developed in the future this will be lost, so it is not a long term solution.
- For those living in Franklin Street backing onto the long term parking area it is creating a problem of dust, privacy, and noise.

Decision Sought: Decline the application.

Submission 11: Ian Franklin, owner of 219 Sandy Bay-Marahau Road

The submission raises the following matters:

- The operators who run commercial ventures from 8 and 10 Franklin Street should not be there. It is zoned Residential.
- There should not be any commercial parking at all along Franklin Street.
- The remote parking is only a temporary measure. It is causing dust, noise, and maintenance problems to the house owners which back on to this area.

Decision Sought: Decline the application

Submission 12: Tiakina te Taiao (a non-profit agency representing the environmental and resource management interests of Te Atiawa, Ngati Koata, Ngati Tama and Ngati Rarua)

The submission raises the following matters:

- The Marahau area has a long history of occupation and contains highly significant Maori archaeological and cultural values. For Maori, archaeological sites of Maori origin have a deeply personal significance.
- Concerned that these activities have taken place for quite some time without a resource consent.

Decision Sought: Grant the consent with appropriate conditions to ensure the water taxi wash down water does not contaminate the groundwater.

Submission 13: Alexander and Nancy Rae, owners of 16 Franklin Street

The submission raises the following matters:

- The use of the road parking impacts on pedestrians, residential traffic, customers at the shop, and guests at the camping ground.
- Passengers waiting to board the water taxis crowd the footpath and the road. Car traffic is blocked and pedestrians cannot walk freely.

Decision Sought: Decline the application.

Submission 14: Abel Tasman Land Company

The submission raises the following matters:

- The activities are inappropriate in the Residential zone (including the deferred Residential zone) as the adverse effects (traffic, noise, visual, signage, discharge) are contrary to the objectives and policies of the Residential zone.
- As the activities take place on more than one title, all titles should be legally held together so that they cannot be sold separately.
- The applicant should be required to provide parking and loading room on site and not rely on public land (road reserve etc) for parking and loading.
- Landscaping should be required to screen the activities from neighbouring properties and the general public.
- Signage should be compliant and contained on site.
- The activities should be reduced in scale to be more appropriate for a Residential zone or should be relocated.

Decision Sought: Decline the application

Submission 15: Betty de Liefde, owner of 269 Sandy Bay-Marahau Road

The submission raises the following matters:

- Concern that commercial vehicles may use the alternative access from 13A Franklin Street.
- Existing practice should not be a reason for granting consent.

Decision Sought: Grant consent with conditions relating to excluding use of the access adjoining 263 Sandy Bay-Marahau Road.

Submission 16: Wakatu Incorporation

The submission raises the following matters:

- Increase in traffic
- Inadequate parking for customers, employees and their associated vehicles and machinery required to operate the business. Any roadside parking should be made available for residential use as per the zoning.
- Increase in noise levels.

Decision Sought: Decline the application

Submission 17: Gillian, Donald, and Anne-Marie Campbell, owners of 19 Franklin Street

The submission raises the following matters:

- Suffered from a loss of enjoyment of their property. A particular concern is the dust contamination from the applicant's activities. With excessive vehicular movements dust is lifted up into the air, floats, and deposits all over the property and cottage and infiltrates inside the cottage if doors and windows are open. This is of particular concern as the drinking water is caught from the roof catchments. During the last 18 months the water supply has deteriorated with a high build up of sludge in the water tanks.
- The number of trips up the right-of-way.
- People regularly stay overnight in their vehicles in the long term parking area and cause disturbances in the night. People have urinated on the Campbell's back fence at night.
- The long term parking area is in grass, and presents an extreme fire risk from vehicles.
- Noise, vibration, and fumes are experienced in the Campbell's cottage from vehicles using the right-of-way.

- The gross laden weight of the trailer and boats is more than as stated in the application.
- Whilst the utilisation of road reserve for water taxi parking does not have an adverse effect on the Campbell's apart from the congestion it causes for the Franklin Street access which they are happy to use patience and care to pass by, they are concerned about the safety of the public in relation to passengers boarding boats on the road, tractors parked on the wrong side of the road, and trips between Franklin Street and the beach.
- Concern that the boat ramp poses danger if a boat with loaded passengers tips off the ramp. Suggests that the best practice would be to direct all passengers to board and disembark the water taxis at the bottom of the boat ramp, or from the jetty if high tide.

Decision Sought: Decline the application.

Submission 18: Alison Rae, owner of 13 Franklin Street

The submission raises the following matters:

- The commercial activities are having an adverse effect on the character of Marahau. The activities usually involve people assembling on Franklin Street prior to loading onto boats, tractors, trailers and boats parking on both sides of Franklin Street, and customers' cars parking down the residential end of Franklin Street. This at times results in impeding access along footpaths and blocking property accesses.
- The proposal to extend the hours will compound the problem.
- The application does not acknowledge that the ex-farm property at 13A Franklin Street will soon be subdivided into a residential development.
- Concern over use of the shared driveway to access the parking area including its poor state of repair, large potholes, dust, and commercial use.

Decision Sought: Decline the application.

4. PRINCIPAL ISSUE

For the above submissions the I consider the main issues are:

1. Noise effects, including nuisance and operation of the activities
2. Dust effects
3. Residential, rural and future residential amenity
4. Traffic safety and efficiency
5. Land productivity and fragmentation

6. Concern about further incremental increase, carrying passengers in the water taxis on the road, the long term car park and the reserve being abused by customers, and use of the boat ramp.

5. ASSESSMENT

5.1 RMA

The assessment is undertaken in accordance with the relevant sections of the Resource Management Act 1991.

5.2 Section 104 RMA

When considering applications for a change of conditions to a resource consent, and any submissions, the following matters under Section 104(1) of the Resource Management Act must be had regard to, subject to Part 2 of the Act:

- “a) any actual or potential effects on the environment of allowing the activity; and*
- b) (iii) any relevant regional policy statement, and proposed regional policy statement; and*
- b) (iv) any relevant provisions of a plan or the Plan; and*
...
- c) any other matters the consent authority considers relevant and reasonably necessary to determine the application.”*

Having considered these matters the application may be declined or granted consent, with conditions if necessary (Section 108).

The following sections of this report address the relevant matters listed in section 104 of the Act.

5.3 Actual and Potential Effects on the Environment

Under Section 104 of the Act, the actual and potential effects on the environment must be considered in the context of the requirement under Section 5, to avoid, remedy or mitigate adverse effects in the management of a natural or physical resource. The approach taken is that no consideration is taken of the unauthorised activities on the site. In assessing the effects there is no advantage due to the unauthorised businesses already having been operating.

Permitted Baseline

When forming an opinion as to whether an effect can be taken into account, section 104 (2) of the Act states that the Council may disregard an adverse effect of the activity if the Plan permits an activity with that effect.

The permitted baseline for activities at the kayak base at 8 and 10 Franklin Street (a Residential zoned site of 2109 square metres) is one dwelling.

The TRMP subdivision rules specify a minimum net area of 1000 square metres for Residentially zoned properties without wastewater servicing. As the site is 2109 square metres it may be possible to undertake a two allotment subdivision on the site resulting in two dwellings at 8 and 10 Franklin Street. As no subdivision is a permitted activity, this would constitute a controlled activity and would fall outside the permitted baseline. This would be subject to appropriate servicing and the existing buildings on the site would need to be removed. As the property is within the Coastal Environment Area the construction of any new dwelling would be at least a controlled activity.

The permitted baseline for activities in the Rural 1 zone (deferred Residential) at 13A Franklin Street are horticultural or agricultural activities. The TRMP provides particular exemptions from noise standards for any intermittent or temporary rural activity, including noise from mobile horticultural and agricultural equipment, forest and tree harvesting activities, animals except when associated with intensive livestock farming and animal boarding activities, and bird scarers and hail cannons.

Written Approvals

Section 104(3)(b) specifies that a consent authority must not have regard to any effect on a person who has given written approval to the application. The following written approvals have been provided by the applicant:

- *L Coffey, owner of 12 Franklin Street*
- *L Coffey, owner of 14 Franklin Street*
- *J Ward, owner of 23A Franklin Street*
- *Glen Gribben Whanau Trust, owner of 27 Franklin Street*
- *A & B Baldwin, owners of 29 Franklin Street*
- *I Trafford, owner of 31 Franklin Street*
- *C Johnson, owner of 32 Franklin Street*
- *K Knapp, owner of 33 Franklin Street*
- *P & S Alborn, owners of 221 Sandy Bay-Marahau Road*
- *The applicant has also provided a letter from Martin Rodd, the Department of Conservation's Area Manager Motueka. DoC owns 15 Franklin Street. While it is not on the standard written approval form the letter states that the Department does not have any concerns with the current use of the access by tractors.*

Following lodgement of the application, a site visit and review of the applicant's further information and consideration of the matters raised by submitters, the adverse effects (both actual and potential) have been summarised into the following five groups:

1. Noise effects
2. Dust effects
3. Residential, rural and future residential amenity
4. Traffic safety and efficiency
5. Land productivity and fragmentation

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

5.3.1 Noise Effects

Some of the submitters cite noise as a concern. There is concern that the tractors will exceed the noise limits in the Residential zone.

The TRMP has permitted standards regarding noise emissions. In relation to the noise that could be anticipated from 13A Franklin Street which is Rural 1 zoning, the TRMP provides exemptions from noise standards for any intermittent or temporary rural activity, including noise from mobile horticultural and agricultural equipment, forest and tree harvesting activities, certain animals, and bird scarers and hail cannons.

The applicant has volunteered that the tractor movements per day along the right-of-way to 13A Franklin Street be limited to a maximum of 16 movements from December to March; 12 movements from March to May, and October to December; and 6 movements from May to October. This is likely to be similar number of tractor movements for some permitted agricultural or horticultural uses on 13A Franklin Street.

Council's Co-ordinator Regulatory Services, Graham Caradus has provided a staff report and a follow up report in relation to noise from the proposed activities. A full copy of Mr Caradus' reports are appended to this report as **Appendix 4**.

Mr Caradus explains two separate standards, the first being the TRMP imposed noise performance standard, and the second being the requirement of the RMA 1991 to meet the "best practicable option" in limiting noise emissions. He identifies that a significant reduction in noise was achieved by the combined effect of the noise attenuation work completed on the tractor by the applicant, and the effect of a solid fence. Those improved levels recorded are likely to comply with TRMP noise standards if measured over a 10 minute period. Mr Caradus concludes that if both the noise attenuation work is carried out on tractors and solid, substantially constructed 1.8 metre high fences are placed on the boundaries of affected residential properties, that it could be argued that the applicant had taken all practicable options in limiting noise emission. That would also be dependant on the operators of the tractors observing obvious conduct requirements such as operating the tractors at idling speed only in those noise sensitive areas.

A submission explains that a noisy quad bike is used and at times is parked on the Franklin Street road berm very close to residential properties. There does not appear to be any mention of a quad bike in the application. If the Committee is of a mind to grant consent, it is recommended that a condition requiring the use of a quad bike or other similar vehicle meet the TRMP noise standards and be authorised under the road noise standards.

Several other conditions are recommended in order to attenuate noise. These include:

- The fitting of engine covers of the type used during the noise testing on 11 August 2009 to all tractors. Engine covers would need to be maintained and replaced if their performance is reduced.

- A solid fence consisting of overlapped wooden boards to a height of 1.8 metres should be constructed and maintained at all times along the boundaries with the Residential zoned properties. This includes the properties along the right-of-way to 13A Franklin Street and the western boundary of 10 Franklin Street (the kayak depot) and around the perimeter of the long term parking area on 13A Franklin Street.
- Compliance with the Noise Management Plan that the applicant volunteered to be In summary it includes:
 - a) The marine radios that are located within the boats shall be switched off when the boats are not in the water.
 - b) All servicing of the boats, except for quiet servicing such as oil changes, shall occur off site. Quiet servicing of the boats shall occur at 13A Franklin Street.
 - c) When refuelling at 13A Franklin Street, tractor engines shall be switched off.
 - d) At 13A Franklin Street, tractors are not to be left idling.
 - e) All tractors are to be maintained to be in good working order and any defects are to be repaired that are assessed as being potentially noisy, such as damaged pipes and mufflers.
 - f) When flushing boat engines, the propellers shall be immersed in a bucket of water.
 - g) The right-of-way to 13A Franklin Street shall be maintained to be in a good state of repair.
 - h) Tractor movements per day along the right-of-way to 13A Franklin Street shall be restricted to a maximum of 16 movements in the peak tourist season (December to March); 12 movements on the shoulder seasons (March to May, and October to December); and 6 movements in the off season (May to October).
 - i) Compliance with Land Transport New Zealand (LTNZ) regulations, including a 12 monthly safety check and Certificate of Fitness for all tractors and trailers.

5.3.2 Dust Effects

Effects from dust are raised in the submissions. The car parks attract mud onto Franklin Steeet during wet periods and generates dust which impacts on residential neighbours. A particular concern of the Campbells at 19 Franklin Street adjoining is the dust contamination from the applicant's activities. They consider that with excessive vehicular movements along the right-of-way dust is lifted up into the air, floats, and deposits all over the property and cottage and infiltrates inside the cottage if the doors and windows are open.

This is of particular concern to them as their drinking water is caught from the roof catchments. They state that during the last 18 months the water supply has deteriorated with a high build up of sludge in the water tanks.

The right-of-way where dust will be generated by tractors and customer vehicles using the long term parking area on 13A Franklin Street is located adjacent to the Residential properties along Franklin Street and is close to the camping ground. By way of comparison, it is acknowledged that a certain amount of dust may be generated by permitted rural uses on the Rural 1 zoned site however it is unlikely that rural dust generating activities would be concentrated along the Residential zone boundary as is proposed with the right-of-way. Consequently the potential for adverse dust effects from this proposal is considered greater than a permitted use. The use of the right-of-way is likely to be higher during drier months when dust will be created. The Campbell's who have raised the dust issue, already have a 1.8 metre high fence on or about their common boundary with the right-of-way so a fence alone is not considered sufficient to adequately mitigate the dust effect. Dugald Ley, Council's Development Engineer considers that the sealing of the right-of-way is required.

It is considered that the dust effect of the tractors and customer vehicles can be successfully mitigated by the sealing of the right-of-way from the entrance onto Franklin Street to the edge of the concrete yard outside the water taxi storage barn at 13A Franklin Street.

5.3.3 Amenity

None of the matters of national importance listed in section 6 of the RMA are relevant to the application or to this site. There are no coastal margins, wetlands, lakes or rivers, and there are no outstanding natural features, areas of significant indigenous vegetation or significant habitats of indigenous fauna. The site is highly modified from its natural state, as is the land surrounding it. 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;

"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. "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.

The extent to which the proposal represents efficient use and development of natural and physical resources will depend on the extent to which adverse effects arising from the proposal can be avoided, remedied or mitigated having regard to the general direction afforded by the Tasman Resource Management Plan.

Rural, Residential and deferred Residential Amenity

The amenity issues include adverse effects of noise, dust and adverse effects on visual amenity and effect of general amenity through having commercial activity operating within the neighbourhood.

The mixed land use in the proximity of the proposal is characterised by some residential dwellings, the Marahau camp ground, a Department of Conservation base, the café/office/shop, the Marahau Outdoor Education Centre, and land that is currently zoned as Rural 1 but deferred Residential zone.

The long term parking area and the water taxi storage area and the properties around this site are zoned deferred Residential. They are earmarked to become available for residential development once the appropriate servicing is provided. There is no date when this is proposed to happen. The presence of the water taxi barn in a residential area may result in amenity effects. However the landowners of the adjoining land zoned deferred residential have given their written approval for the proposal so no consideration of effects can be had on them. Notwithstanding this the requirement to paint the barn a recessive colour and to fence the long term parking area will provide some protection and enhancement to amenity.

It is considered that the proposed activity can be compatible in this environment and this appears to be borne out by the written approvals from many of the adjacent landowners at 12, 14, 23A, 27, 29, 31, 32, and 33 Franklin Street and 221 Sandy Bay-Marahau Road.

Visual Amenity

No new buildings are proposed as part of the application. The applicant seeks to continue using the main building on 8 and 10 Franklin Street for the kayak/mountain bike operation. The sheds towards the rear of the site are used to store equipment. The booking office is proposed on 229 Sandy Bay-Marahau Road and no changes to the building is proposed. The main buildings on these properties are considered to be compatible with the residential environment. They are well maintained, residentially proportioned, and provide character to the area.

The barn used to store the water taxis is constructed of corrugated iron. It is largely unpainted. It is recommended that a condition be imposed on any consent requiring the barn to be painted in recessive colours. This will improve the amenity of the building. This is especially important as the deferred residential zoning on the property means that it may be fully developed for residential dwellings in the future.

Some submissions raise concerns that the storage of the water taxis and the long term parking area on 13A Franklin Street have an adverse effect on visual amenity. As the barn and parking area is to the south of the dwellings along Franklin Street it will not affect their main outlook is to the north towards the Franklin Street road reserve. The provision of a solid fence of overlapped wooden boards 1.8 metres in height will screen the water taxi area and the long term parking from adjacent neighbours.

The property at 229 Sandy Bay-Marahau Road is extensively landscaped and it is recommended that an area of planting be provided at the front of 8 and 10 Franklin Street as shown on the Plan A of the recommended plans attached at the end of the recommendation in this report. The planting will soften the visual effect of the parking area.

A submitter considers that the signs proposed will be cumulative with other existing signs and will add to visual clutter. The Ratepayers and Residents Association consider that signage should be restricted to within the property boundaries to ensure no safety hazard is generated. As a result of submissions the applicant has provided further information that the sandwich board signs will be contained within the their property at 229 Sandy Bay-Marahau Road. The signs on the kayak base are orientated towards the camp ground not to any residential dwelling and are set back some distance from the road reserve which diminishes their visual effect.

Scale

Submissions consider that the scale of the operation is inappropriate in a Residential zone. The businesses are larger than home occupations allowed in the TRMP. They employ more staff than is permitted for home occupations. With the hours of operation limited, the effects of staff, customers and associated traffic movements will be limited to daytime hours. Given the seasonal nature of the businesses the scale of the operations drops off considerably during the winter months reducing them down to a very small scale during that period.

The applicant has volunteered to restrict tractor movements on the 13A Franklin Street right-of-way to a maximum of 16 movements in the peak tourist season (December to March); 12 movements on the shoulder seasons (March to May, and October to December); and six movements in the off season (May to October). This number of movements is considered to be similar to what could be expected from a permitted rural activity.

A submission seeks confirmation whether the 74 seat Department of Conservation concession for the water taxi customers into the Abel Tasman National Park is valid and whether it could be increased in the future. The Council cannot control the number of people allowed into the National Park for the kayak operation or the water taxi operation. This is determined by DoC. However a condition of consent can cap the number of seats in the kayaks and the water taxis at 80 and 74 respectively. Therefore any change to the DoC concessions would not affect the scale of the operations authorised by a resource consent. This would ensure that they do not increase incrementally further.

The residential area of Marahau is not a typical residential area. There is a lot of activity along the Sandy Bay-Marahau Road from through traffic travelling to the National Park, day visitors to the beach, campers from the Marahau camping ground and other tourist activities. Part of the character of the settlement is that it becomes busy in the summer months. The activities are considered to be appropriate for the level of activity expected within the central area at Marahau.

5.3.4 Traffic

Traffic effects are assessed in section 5.5 of this report, below. In brief, it is the Engineering Department's opinion that subject to conditions being imposed then any traffic related adverse effects created by this application can be mitigated satisfactorily such that effects are no more than minor.

5.3.5 Land Productivity and Fragmentation

Although the site of the long term parking and the water taxi storage is zoned Rural 1, it is deferred for Residential zoning. It is proposed to change to residential zoning when the required services are provided. Council has flagged its intention to rezone the property and as such the productive land values are compromised. Consequently the application's impact on rural productive and fragmentation is minor.

5.4 Policy Statements

The application was assessed against the relevant policy statements.

5.4.1 National Policy Statements

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

5.4.2 Regional Policy Statement

The operative Tasman Regional Policy Statement (TRPS) specifies the overriding policies of the Council when preparing other resource management plans and when considering applications for resource consent. The TRPS contains a number of policies and objectives relating to managing the natural and built environment of the Tasman District. These policies and objectives have been refined and expanded upon in the Tasman Resource Management Plan (TRMP). Most of the objectives and policies contained within the TRPS are mirrored in the TRMP. It is considered that if the policies, objectives and rules of the TRMP are met then so too are the policies and objectives of the TRPS.

5.5 Tasman Resource Management Plan

The TRMP has reached the stage where most of its sections are operative. Therefore in terms of this application, the objectives, policies and rules of the TRMP apply.

Objectives and Policies

There are five broad sets of objectives and policies in the TRMP relevant to this application. These relate to:

- effects of activities and amenity values
- land for commercial activities
- the Marahau settlement
- cumulative effects of land fragmentation on productive opportunities
- effects on transport safety and efficiency

Effects of Activities

Objective 5.1.2 Avoidance, remedying or mitigation of adverse effects from the use of land and enjoyment of other land on the qualities of the natural and physical resources.

Policy 5.1.3.1 To ensure that any adverse effects of... development on site amenity... and landscape values ... are avoided, remedied or mitigated.

Policy 5.1.3.9 To avoid, remedy or mitigate effects (such as noise, vibration, dust, and vehicles) beyond the boundaries of the site.

Amenity Values

Objective 5.2.2 Maintenance and enhancement of amenity values on-site and within communities, throughout the District.

Policy 5.2.3.4 To promote amenity through vegetation, landscaping, ... and screening.

Policy 5.2.3.8 To avoid, remedy or mitigate the adverse effects of traffic on the amenity of residential, commercial and rural areas.

Policy 5.2.3.9 To avoid, remedy or mitigate the adverse effects of signs on amenity values.

Policy 5.2.3.10 To allow signs in residential, rural residential, recreation and rural areas that are necessary for information, direction or safety.

Comments

The above objectives and policies confirm the need to protect amenity values and whilst Chapter 5 policies and objectives cover all zones, it is clear that residential and rural amenity values have to be safeguarded from adverse environmental effects. Some submitters consider that because these are commercial activities then they should not be sited in a Residential zone. The relevant TRMP objectives and policies allow commercial activities to be assessed on their merits within the Residential zone. If the adverse environmental effects of amenity, noise, dust, odour, visual effects, and traffic can be appropriately mitigated then the activities will not be contrary to the objectives and policies.

Commercial activities are generally uncommon in Residential zones. However this area of central Marahau is something of an anomaly with the camp ground, the Department of Conservation depot, and the café/office/shop all located in the Residential zone adjacent to the subject site. The proposed commercial activities will have some similar effects to residential activities. Generally residential dwellings have visual effects from the buildings they are located in, some noise effects, and traffic effects that are not limited by hours of operation. In order to meet the amenity objective the commercial activities will at least need to maintain amenity values on-site and within the community of Marahau.

The suite of mitigation measures proposed by the applicant along with additional conditions recommended in this report are considered to reduce the amenity effects to a level where the Residential amenity can be maintained. For the activity as it is operating now there is no doubt that the tractors do not meet the TRMP noise standard for night time of 70dBA Lmax. Graham Caradus' first noise test confirmed this. Subsequently the applicant has had an engine cover fitted and volunteered to erect a 1.8 metre high fence constructed of overlapping wooden panels on the Residential zone boundaries. Mr Caradus has measured the noise levels with the mitigation proposed and confirms that effects will be mitigated to a level that complies with the TRMP. Dust effects will be mitigated by sealing the right-of-way to 13A Franklin Street. Visual effects will be maintained by painting the water taxi storage barn and the kayak sheds in recessive colours, providing planting on 8 and 10 Franklin Street, and maintaining the tractors, boats and signs in good condition.

The current usual hours of operation are 7.00 am to 7.00 pm for the kayak/mountain biking operation and 8.00 am to 6.00 pm for the water taxi business. They seek extended hours of operation from 7.00 am to 8.00 pm. In the context of Objective 5.1.2 which seeks the avoidance, remedying or mitigation of adverse effects from the use of land and enjoyment of other land it is considered more appropriate for the operating hours for both businesses to be consistent with the kayak/mountain bike operation, that is 7.00 am to 7.00 pm. This will allow the evening to be free from business activity.

Closed board fencing is proposed along the interface between other Residential zoned properties and the subject site. An area of planting is recommended on 8 and 10 Franklin Street (the kayak base). The site has other planting close to the perimeter which assists in blending it in visually with the residential properties on Franklin Street. 229 Sandy Bay-Marahau Road where the booking office is proposed is already extensively landscaped. It is considered that the policy to promote amenity through vegetation, landscaping, and screening is met.

The amenity effects generated by traffic include noise, dust, and visual effects. The noise has been addressed by limiting the number of tractor movements on the 13A Franklin Street right-of-way to a level that is similar to a permitted activity such as a farm tractor. The tractors will be quieter than a standard farm tractor which typically does not have engine covers fitted. Dust effects will be mitigated by sealing the right-of-way. The tractors and boats are finished in corporate colours and will be required to be maintained visually. They will not be parked on the road reserve as has been the practice in the past. Traffic movements generated by the activities will be confined to day-time hours. Residential activities are not limited by hours of operation so they could have greater amenity effects from traffic during night time hours than these activities. Overall the adverse effects of traffic on the amenity of the Residential and rural area will be mitigated.

The signs proposed exceed the permitted area of 0.5 square metres. However the signage proposed on the kayak/mountain bike site will be attached to the building above the door. As such the sign becomes part of the bulk of the building and is less intrusive than if it were free standing at the front of the site. It is some distance from the road and is facing the camp ground not a residential dwelling.

The sandwich board signs will be located on the cafe/shop/office site, not on the footpath/road reserve as originally proposed. In their location on the corner of the site they will not be facing residential properties and will be compatible with the character and look of the commercial activities on the corner site at 229 Sandy Bay-Marahau Road. The adverse effects of signs on amenity values will be avoided.

The sandwich board signs will assist tourists, many of whom may not be familiar with the area, to easily locate the kayak and the water taxi businesses. The placement on the corner of the site will allow them to be visible to people on the main route, Sandy Bay-Marahau Road. The kayak/mountain bike sign is simple with clear wording which does not include superfluous information. The consent will allow signs in a residential area that provide information and are necessary for direction.

While some commercial activities can be incompatible with residential site amenity policies and objectives, this proposal in this location can be managed inside the property boundaries and in such a way that general and neighbourhood amenities are not compromised.

Land for Commercial Activities

Objective 6.6.2.1 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.

Policy 6.6.3.1 To retain a compact identifiable grouping of business activities in defined areas in settlements, with due regard to the convenience and safety of customers.

Policy 6.6.3.3 To ensure that the intensity and scale of tourist development in rural areas does not adversely affect the character, amenities and image of surrounding rural resources.

Policy 6.6.3.4 To provide opportunity for tourist activities to be grouped, and their effects contained, in key tourist areas.

Comments

The siting of the commercial activities adjoining the existing cafe/office/shop and on the opposite side of Franklin Street to the camp ground will contribute to the commercial focus of the cluster of tourist associated activities. Each tourist activity provides an integrated role in the services available to visitors, with the shop at 229 Sandy Bay –Marahau Road serving as the booking agency.

It will result in a compact identifiable grouping of tourist related business activities in a defined area in the central area of Marahau. This will provide convenience to visitors as they will be able to camp, shop, book tickets, dine at the cafe, take a water taxi, and hire a kayak or a mountain bike all in the same area. Importantly, the site is convenient to the boat ramp which is necessary for the commercial operation. Its location will ensure that the tractors need to travel only a short distance along Sandy Bay-Marahau Road to the boat ramp. It will provide opportunity for tourist activities to be grouped, and their effects contained, in key tourist areas.

Marahau Settlement

Issue 6.13.1 The extent, type and location of additional development at Marahau – consolidation at Marahau township or scattered development near the national park boundary.

Policy 6.13.3.1 To provide additional land at Marahau for residential and business development, consolidating between the existing arms of development, and for recreational and tourist development at the beachfront, in keeping with the special rural and coastal character of the area.

Policy 6.13.3.13 To avoid, remedy or mitigate the adverse effects of tourist activities and of the scale of tourist development at ... Marahau...

Comments

The siting of the activities in the location proposed utilise a site which has historically been used for commercial activity as the camp ground shop and for some level of kayak and water taxi operations. This contributes to consolidation of development at Marahau township rather than promoting scattered development near the national park boundary.

The proposal will assist in consolidating Marahau between the existing arms of development, and for recreational and tourist development at the beachfront. The water taxi trips into the Abel Tasman National Park and kayak trips are a special feature of the character of Marahau. These activities contribute to the experiences on offer for tourists visiting the area. The MSK Kayaks and Marahau Water Taxi businesses are both well established and are a part of the business community in Marahau.

The TRMP principal reasons and explanation for Marahau in 6.13.30 states that *“Further ventures will be encouraged to locate in or adjoining the township and so as to avoid the low-lying flood prone land in the Marahau Valley and the unstable coastal margin.”* The location proposed is within the township away from the Marahau Valley.

Cumulative Effects of Land Fragmentation on Productive Opportunities

Tasman District’s land resource is largely rural. Rural character, amenity values, and the productive use of rural land underpin 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.

Commercial activities in rural areas remove land from soil-based production.

Rural Environment

Objective 7.1.2 *Avoid the loss of potential for all land of existing potential productive value to meet the needs of future generations particularly land of high productive value.*

Policy 7.1.3.2 *To avoid remedy or mitigate the effects of activities which reduce the area of land available for soil based production purposes in rural areas.*

Policy 7.1.3.3 *To avoid remedy or mitigate adverse actual, potential and cumulative effects on rural land resource.*

Comments

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 is met.

This development of the water taxi storage barn and the long term parking area will not jeopardise the productive potential of the Rural 1 land at 13A Franklin Street, given its deferred Residential zoning. Council has already identified the site for urbanisation.

Effects on Transport Safety and Efficiency

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.

Objective 11.1.2 *A safe and efficient transport system, where any adverse effects of the use or development of land on the transport system are avoided, remedied or mitigated.*

Policy 11.1.3.1 *To promote the location and form of built development, particularly in urban areas, that avoids, remedies or mitigates adverse effects of traffic generation; provides direct and short travel routes by vehicle, cycling and pedestrian modes between living, working, service, and recreation areas; avoids an increase in traffic safety risk; ...*

- Policy 11.1.3.2 To ensure that land uses generating significant traffic volume: 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; and are designed so that traffic access and egress points avoid or mitigate adverse effects on the safety and efficiency of the road network.*
- Policy 11.1.3.4 To avoid, remedy or mitigate adverse effects of traffic on amenity values.*
- Policy 11.1.3.7 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.*
- Policy 11.1.3.11 To ensure that signs do not detract from traffic safety by causing confusion or distraction to or obstructing the views of motorists or pedestrians.*

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

“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”.

Comments

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.

Council’s Development Engineer, Dugald Ley has assessed the proposal on the roading network. His report is attached as **Appendix 5**. He concludes that the effects on the transport system will be mitigated by the design of the proposal and the conditions recommended.

The sealing of the right-of-way to 13A Franklin Street, the upgrading of the existing crossings on 8 and 10 Franklin Street (the kayak base) to extend the seal five metres into the site, and the provision of tractor and boat parks on the subject site will all contribute to the mitigation of the traffic effects on the roading network. The original proposal to have boats parked on the side of Franklin Street was unacceptable in terms of effects. A condition of consent is recommended that no parking/loading/unloading of tractors and boats shall be undertaken on the road reserve. This will restrict the activities to the subject sites and will improve the traffic environment from the current situation.

The location of the businesses provides direct and short travel routes to the coast, the boat ramp, the camp ground where many customers will stay at, and the store/booking office.

The traffic generated will have access to Franklin Street which is classed as an Access Road in the Council's roading hierarchy. According to the TDC Engineering Standards 2008 an access road has a capacity of 30 to 50 households. At an average of 10 vehicle movements per day for a dwelling this is the equivalent of 500 vehicle movements per day. Council traffic count taken on February 2009 during the peak tourist season recorded 320 vehicle movements per day on the Sandy Bay-Marahau end of Franklin Street and 50 traffic movements at the cul-de-sac end. As the application is retrospective and the activities were operating during February 2009 the number of traffic movements recorded on Franklin Street will include those generated by the kayak/mountain bike operation and the water taxi operation. This is well within the design capacity intended. It is important to note that both businesses are seasonal and the traffic numbers were taken near the peak of the tourist season. During much of the year the traffic generated by these activities will be significantly lower.

The traffic access and egress points avoid or mitigate adverse effects on the safety and efficiency of the road network as they are located away from the intersection and provide suitable visibility for drivers, pedestrians, and other road users.

The office/shop/cafe site has 11 sealed parking spaces with additional informal parking at the rear of the site. The kayak base has nine parking spaces although one will be inaccessible during times when the tractor and boats are parked on the site. There are four tractor and boat spaces on the kayak base which will accommodate all four water taxis. A further 27 parking spaces are provided in the long term parking area on 13A Franklin Street. The long term parking area is proposed to be in grass. This is considered to be appropriate given that it will be seldom required during the wetter months which coincide with the off season, limiting the potential for vehicles getting stuck and mud being tracked onto the road. As it is located some distance from the road any mud that may be on wheels will be removed by the time it gets to the road carriageway.

As the parking spans the three titles that are the subject of this application the applicant has volunteered a covenant on the three titles encumbering the titles. The parking provision will meet the policy 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.

Some submissions raise concerns about customers parking on the side of Franklin Street, at times limiting access to driveways, parking too close to private properties, and taking up spaces that should be available for residential properties. A submission suggests a sign is needed at the entrance to 13A Franklin Street so that customers can easily find the long term parking area. This is recommended as a condition of consent should the Committee grant the application.

Dugald Ley has considered the signage proposed as part of the application and assessed that provided the sandwich boards are located on the applicant's property the signs will not detract from traffic safety by causing confusion or distraction to or obstructing the views of motorists or pedestrians.

Summary of Policies and Objectives

The objectives and policies that are considered relevant to this application are summarised above. In particular Objective 5.1.2, supported by Policy 5.1.3.1 seeks to protect the amenity of an area while objective 5.2.2 seeks the maintenance and enhancement of amenity values on-site and within communities, throughout the District.

Objective 6.6.2.1 seeks effective accommodation of commercial activities on appropriately located sites to create a strong, vibrant commercial focus in the main towns.

The specific policies for Marahau are particularly relevant. Policy 6.13.3 is to provide additional land at Marahau for residential and business development, consolidating between the existing arms of development, and includes tourist development at the beachfront, in keeping with the special rural and coastal character of the area. Policy 6.13.3.13 seeks to avoid, remedy or mitigate the adverse effects of tourist activities and of the scale of tourist development at Marahau.

Objective 11.1.2 is to provide a safe and efficient transport system, where any adverse effects of the use or development of land on the transport system are avoided, remedied or mitigated. Council's Engineering Staff are satisfied that the proposed activity is consistent with the land transport policies and objectives.

5.6 Purpose and Principles of Resource Management Act 1991

Part 2 of the Resource Management Act states several matters to which regard must be had, or which must be recognized and provided for in order to achieve the sustainable management of resources.

Section 5 - Sustainable Management

This means managing the use, development and protection of natural and physical resources in a way, or at a rate, which enables communities to provide for their social, economic, and cultural well-being and for their health and safety.

Section 6 - Matters of National Importance

This section sets out matters of national importance.

Section 7 - Other Matters

Relevant matters to have particular regard to:

- (b) *The efficient use and development of natural and physical resources;*
- (c) *The maintenance and enhancement of amenity values; and*

(f) *Maintenance and enhancement of the quality of the environment.*

Section 8 - Treaty of Waitangi

This section of the Act requires the principles of the Treaty of Waitangi to be taken into account.

Sections 5 and 7 Comments

Although the Resource Management Act is generally enabling, and recognises that the needs of people and communities should be met with respect to their social, economic and cultural wellbeing, this should not be achieved at the expense of other matters set out in Section 5, which are the environmental parameters which should be observed. In particular, the ability of natural and physical resources to meet the needs of future generations must be sustained, and the adverse effects of activities must be avoided, remedied and mitigated.

The Act's purpose will be met by granting consent to the application, subject to the recommended conditions being adhered to. In my opinion the efficient use and development of the land resource will be best served by allowing the proposal. With the volunteered mitigation by the applicant and the recommended conditions imposed the commercial activities can be undertaken with minor effects on the environment in the central area of Marahau close to the boat ramp required for the activities.

Section 6 and 8 Matters

The proposal does not offend against any section 6 or 8 matters. Tiakina te Taiao have made a submission in relation to the discharge of wash water which is addressed in the associated staff report relating to the discharge consent application RM080844.

5.7 Other Matters (Section 104(c) RMA 1991)

Precedent

Case law has established that the granting of consent for one application may well have an influence on how another application should be dealt with. The extent of influence will depend upon the extent of similarities.

The current application has arisen due to the combination of the purposes of the applicant, the history of the businesses having grown as an offshoot of the camping ground, the distinct features of the site and the neighbouring site, and the presence of a large barn nearby for storing the water taxis. These site features include the location near the coast, and the property's orientation and size, and proximity to the Marahau boat ramp. The applicant has incorporated these site factors with their development aspirations in the hope of realising consent for their operations. The surrounding area is a mix of uses with the Marahau Education Centre, the café/office/shop, and the Marahau camping ground located along the Sandy Bay-Marahau Road frontage, residential properties, a small reserve and a DoC base in the "interior" on Franklin Street, and a Rural 1 (deferred Residential) zone flanking the southern properties along Franklin Street.

This combination of site and development related factors are unlikely to be easily duplicated elsewhere in the District.

DUE TO THE CONSISTENCY WITH THE PURPOSE OF THE RESOURCE MANAGEMENT ACT 1991 AND THE RELEVANT PROVISIONS OF THE PLAN, AND THE ENVIRONMENTAL EFFECTS GENERATED BEING ABLE TO BE ADEQUATELY MITIGATED, THE PROPOSAL CAN BE APPROVED ON ITS MERITS, AND THERE IS CONSEQUENTLY NO ISSUE OF PRECEDENT ARISING.

Carrying Passengers in Boats on the Road

Some submissions raise safety concerns regarding the practice of carrying passengers on the road in open water taxis with no seatbelts and the use of tractors to launch boats at the ramp. The safe use of vehicles on a public road is controlled by the New Zealand Police.

Rosalind Squire, Council's Consent Planner – Coast has considered this matter. A copy of her report is attached as **Appendix 6**. She advises that the Police have confirmed that they are working with the commercial operators at Marahau to improve a number of issues including the safe operation of the vehicles on the road. They are also working through some exemptions for the operators subject to strict conditions, including the condition of vehicles. They state that they are comfortable that the situation is in hand, but that if an incident involving injury occurred they would investigate it. They stressed that the drivers are required to have Class 2 licences and that they are generally experienced.

A submitter suggests that the best practice would be to direct all passengers to board and disembark the boats at the bottom of the boat ramp, or from the jetty during high tide. Rosalind Squire advises these matters has been discussed both by the Council and the Police. It is acknowledged that the area of the loading ramp is limited and for that reason it is considered preferable to have passengers loaded onto the boats at the operating base instead of being loaded in the restricted loading zone adjoining the ramp and open road.

The Long term car park and the Council Reserve on Franklin Street

Two submissions raise a matter that the long term car park is being abused by customers. They are camping in the field adjacent to the car park, using the camp facilities without paying, and urinating on private property. A submission records that visitors have been camping outside residents houses in the street and using the Council reserve on Franklin Street as a toilet.

This is an unacceptable situation which could be dealt with by the management of the operations. It is recommended that a sign stating "no camping" be erected on the long term parking site. In addition, at the end of the work day staff of the Water Taxi operation could advise any people camping in the field adjacent to the parking area that they need to move.

Incremental increase to the activities

A submitter suggests that if the applications are authorised then there is no reason to believe that further incremental increase will not take place. I can understand that this is a concern given the history of the activities.

However if clear and enforceable conditions of consent can be imposed this will provide all parties with certainty as to the extent of the operations. A review condition is recommended if consent is granted which provides the Council the opportunity to address any other matters should they arise. Consents are monitored and any non-compliance with conditions would need to be addressed.

6. SUMMARY

The application is a discretionary activity in the Residential and Rural 1 (deferred Residential) Zone. As a discretionary activity the Council must consider the application pursuant to Section 104(B) of the Resource Management Act 1991.

- **Part II matters** - The efficient use and development of a natural and physical resource depends on the extent of adverse effects arising from the proposal. In this case adverse effects such as noise, dust, parking and visual effects will be mitigated by limitations over hours of operation, covering tractor engines, fencing, sealing the right-of-way, amenity plantings, and other conditions. This will consequently allow the activity to use the existing resource sustainably.
- **Objectives and Policies of the Tasman Resource Management Plan (TRMP)** - The Tasman Resource Management Plan provides several objectives, policies and rules that do not support the establishment of similar activities in a residential and rural zone unless the adverse effects can be mitigated so they are no more than minor. The assessment of the relevant adverse effects concludes that they can be maintained at a level that is no more than minor.
- **Adverse Environmental Effects** – The noise will meet the permitted standards of the TRMP. Effects relating to amenity and traffic can be mitigated. The concerns raised in the submissions can be addressed by operating the commercial activities in a more sustainable manner limited by appropriate conditions of consent.
- **Other Matters** – The breaches related to TRMP rules and standards have been assessed and found to be no more than minor. Review of the activity through conditions of consent will ensure the activity remains appropriate and operates inline with any consent approval.

7. RECOMMENDATION

Pursuant to Section 104B of the Resource Management Act 1991, I recommend the resource consent application by Alborn Properties Ltd to:

- operate an office and booking agency and some associated car parking, with two sandwich board signs at 229 Sandy Bay-Marahau Road;
- operate a kayaking and mountain biking business, including the storage of equipment and training of clients, with two signs erected, and the loading and unloading of four water taxi boats at 8 and 10 Franklin Street, Marahau;
- and long-term customer car parking; and the storing, washing, and refuelling of water taxi boats at 13A Franklin Street, Marahau. These proposed activities

will involve boat and tractor traffic along with customer vehicles travelling on Franklin Street between these sites, using the leg-in access to 13A Franklin Street.

be **GRANTED**, subject to the following conditions pursuant to section 108 of the Act:

General

1. The activity shall be undertaken in accordance with the documentation submitted with the application and plans attached marked Plans A, B and C dated 19 August 2009, as amended by the conditions of consent.

Scale

2. The maximum number of water taxis operating from the site shall be four. The total number of seats within the four water taxis combined shall not exceed 74.
3. The maximum number of seats in kayaks available for hire from 8 and 10 Franklin Street shall be 80. For the avoidance of doubt, this means there will be less than 80 kayaks available for hire at any one time as some kayaks contain two seats.

Hours of Operation

4. The kayak/mountain bike operation and the water taxi operation shall only operate during the hours of 7.00 am to 7.00 pm.

Noise

5. Any part of the activity including any quad bike used by the water taxi operation or the kayak/mountain bike operation shall meet the Tasman Resource Management Plan noise standards.
6. Engine covers of the type used during the noise testing on 11 August 2009 shall be fitted to all tractors within one month of the issue of consent. Engine covers shall be maintained and be replaced when their performance is reduced. Within one month of the issue of consent the consent holder shall contact Council's Coordinator – Regulatory Services to request that the engine covers be inspected.
7. A solid fence consisting of overlapped wooden boards to a height of 1.8 metres shall be erected and maintained at all times along the boundaries with the Residential zoned properties. This includes the properties along the right-of-way to 13A Franklin Street and the western boundary of 10 Franklin Street (the kayak depot).

Advice Note:

This condition was volunteered by the applicant.

8. A solid fence consisting of overlapped wooden boards to a height of 1.8 metres shall be erected and maintained at all times along the boundaries of the long term parking area on 13A Franklin Street.

Advice Note:

This condition was volunteered by the applicant.

9. The Noise Management Plan quoted below shall be complied with at all times by the consent holder:
- a) The marine radios that are located within the boats shall be switched off when the boats are not in the water. This means that no radios will be operating from the boats at either 13A Franklin Street, 8 and 10 Franklin Street or 229 Sandy Bay-Marahau Road.
 - b) All servicing of the boats, except for quiet servicing such as oil changes, shall occur off site. Quiet servicing of the boats shall occur at 13A Franklin Street.
 - c) When refuelling at 13A Franklin Street, tractor engines shall be switched off.
 - d) At 13A Franklin Street, tractors are not to be left idling.
 - e) All tractors are to be maintained to be in good working order and any defects are to be repaired that are assessed as being potentially noisy, such as damaged pipes and mufflers.
 - f) When flushing boat engines, the propellers shall be immersed in a bucket of water.
 - g) The right-of-way to 13A Franklin Street shall be maintained to be in a good state of repair.
 - h) Tractor movements per day along the right-of-way to 13A Franklin Street shall be restricted to a maximum of 16 movements in the peak tourist season (December to March); 12 movements on the shoulder seasons (March to May, and October to December); and six movements in the off season (May to October).
 - i) Compliance with Land Transport New Zealand (LTNZ) regulations, including a 12 monthly safety check and Certificate of Fitness for all tractors, trailers, and any other vehicles including the quad bike.

Advice Note:

This condition was volunteered by the applicant, with the exception of the addition of other vehicles and the quad bike in subsection i).

Parking and Loading

10. All loading and unloading of passengers from the water taxis shall take place on the areas marked "boat loading parks" on attached Plan A dated 19 August 2009. For the avoidance of doubt, the loading and unloading of passengers from the water taxis shall not take place on the road reserve or on any public land.

11. All loading and unloading of kayak customers shall be undertaken on 8 and 10 Franklin Street. For the avoidance of doubt, the loading and unloading of kayak customers shall not take place on the road reserve or on any public land.
12. During operating hours all water taxi boats and associated tractors and trailers shall be parked on the areas marked "boat loading parks" on attached Plan A dated 19 August 2009. Water taxis that are not required for use shall be parked in the barn on 13A Franklin Street. For the avoidance of doubt, water taxis and associated tractors and trailers shall not be parked on the road reserve or on any public land.
13. No assembly of customers or staff related to either the water taxi operation or the kayak/mountain bike operation shall take place outside of the subject site.
14. All car parking / boat parking and loading areas / and manoeuvring areas shall be in accordance with Plans A & B attached and dated 19 August 2009.
15. The registered proprietors of Certificates of Title NL125/5 (229 Sandy Bay-Marahau Road), NL2B/970 (8 and 10 Franklin Street) and NL10C/676 (13A Franklin Street) shall register a covenant in favour of the Consent Authority made pursuant to Section 108(2)(d) of the Resource Management Act 1991. Evidence of the successful registration of this covenant shall be presented to Coordinator Compliance Monitoring within three months of the issue of this consent.

The operative part of the covenant shall state:

Titles NL125/5, NL2B/970 and NL10C/676 shall be encumbered so that one shall not be disposed of independently of the other. The registered proprietor shall at all times hereafter ensure that all parking spaces and loading areas remain in accordance with resource consent RM080841 Plan A dated 19 August 2009 or any subsequent consent.

The Consent Holder shall meet all costs of the preparation, execution and registration of the covenant.

Advice Note:

This will ensure car parking areas that are located on three separate titles continue to be provided while the activities are present on this site. In effect, this means that the three titles subject of this application shall be encumbered.

Access

16. The access leg shall be sealed from the concrete apron entrance of the access leg adjacent to Franklin Street to the concrete pad outside the water taxi storage barn on 13A Franklin Street.
17. The three vehicle crossings shall be upgraded with an extension of the road carriageway surface standard from the edge of the road carriageway to a minimum of 5.0 metres into the legal site.

18. No vehicles associated with the water taxi or kayak/mountain biking operations shall use the access leg from Pt Lot 1 DP 12789 (the long term car parking and the water taxi storage site) and Franklin Street. For the avoidance of doubt this is the access that is adjacent to 263 & 267 Sandy Bay-Marahau Road.

Planting

19. Amenity planting shall be established on 8 and 10 Franklin Street in the location shown on attached Plan A dated 19 August 2009. The planting shall consist of species that at maturity are no greater than 1.5 metres and no less than 1.0 metre in height and spaced no greater than 0.5 metres apart. All planting shall be implemented by 30 November 2009 and be maintained on an ongoing basis.

Colour

20. The exterior of the water taxi storage barn at 13A Franklin Street and the kayak, bike, and associated equipment storage sheds at 8 and 10 Franklin Street shall be painted/finished in colours that are recessive and which blend in with the immediate environment. The consent holder shall submit to the Council's Consent Planner, Motueka for approval within one month of the issue of consent 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.

The building shall be finished in colours that have been approved by the Council.

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.

Signage

21. The two sandwich board signs at 229 Sandy Bay Marahau Road shall advertise the water taxi and the kayak/mountain bike operations only.

22. During the hours of operation the two sandwich board signs shall be located within the legal boundaries of 229 Sandy Bay-Marahau Road. Outside of the hours of operation the two sandwich board signs shall be stored inside and shall not be visible from outside the site.
23. The signs on 8 and 10 Franklin Street shall be limited to the 4.88 by 0.5 metre "Mountain biking / Kayaking " sign and the two small signs, all attached to the main building and shown on attached Plan C dated 19 August 2009.
24. A sign shall be erected and maintained at all times at the entrance to the right-of-way on 13A Franklin Street stating "water taxi customer long term parking" or similar wording. The sign shall be visible from Franklin Street. The sign shall comply with the Tasman Resource Management Plan outdoor sign standards for the Residential zone, or subsequent planning document.
25. A sign shall be erected and maintained at all times at the entrance to the long term parking area on 13A Franklin Street stating "no camping" or similar wording. The sign shall comply with the Tasman Resource Management Plan outdoor sign standards for the Rural 1 zone, or subsequent planning document.
26. The signs shall not contain or incorporate retro-reflective materials, flashing illumination, or moving display.
27. All signs shall be maintained in good repair at all times.

Tractors and Boats

28. All tractors, trailers and boats shall be maintained in a tidy and clean condition.

Review

29. That pursuant to Section 128(1)(a) and 128(1)(c) of the Resource Management Act 1991, the Consent Authority may review any conditions of the consent for any of the following purposes:
 - a) to deal with any adverse effect on the environment which may arise from the exercise of the consent and which it is appropriate to deal with at a later stage; or
 - b) to deal with inaccuracies contained in the consent application that materially influenced the decision made on the application and are such that it is necessary to apply more appropriate conditions; or
 - c) to assess the appropriateness of imposed compliance standards, monitoring regimes and monitoring frequencies and to alter these accordingly.

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.

Other Tasman Resource Management Plan Provisions

2. This resource consent only authorises the activity described above. Any matters or activities not referred to in this consent or covered by the conditions must either:
 1. comply with all the criteria of a relevant permitted activity rule in the Tasman Resource Management Plan (TRMP);
 2. be allowed by the Resource Management Act; or
 3. be authorised by a separate resource consent.

Consent Holder

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

Development Contributions

4. The Consent Holder is liable to pay a development contribution for the activity subject to this resource consent in accordance with the Development Contributions Policy found in the Long Term Council Community Plan (LTCCP). The amount to be paid will be in accordance with the requirements that are current at the time the relevant development contribution is paid.

An invoice for the Development Contributions will be included upon issue of this resource consent. The activity will not be deemed legally established until all development contributions have been paid in accordance with Council's Development Contributions Policy under the Local Government Act 2002.

Change of Use

5. The change of use for the subject buildings to commercial use may require the appropriate formalisation and compliance checks under the Building Act 2004. Please contact the Council's Building Section to discuss this.

Monitoring

6. Monitoring of this resource consent will be undertaken by the Council as provided for by section 35 of the Act and a one-off fee has already been charged for this monitoring. Should the monitoring costs exceed this fee, the Council reserves the right to recover these additional costs from the Consent Holder. Costs can be minimised by consistently complying with conditions, thereby reducing the necessity and/or frequency of Council staff visits.

Archaeological

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

Colour

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

Colour Group*	Walls	Roofs
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
Finish	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.

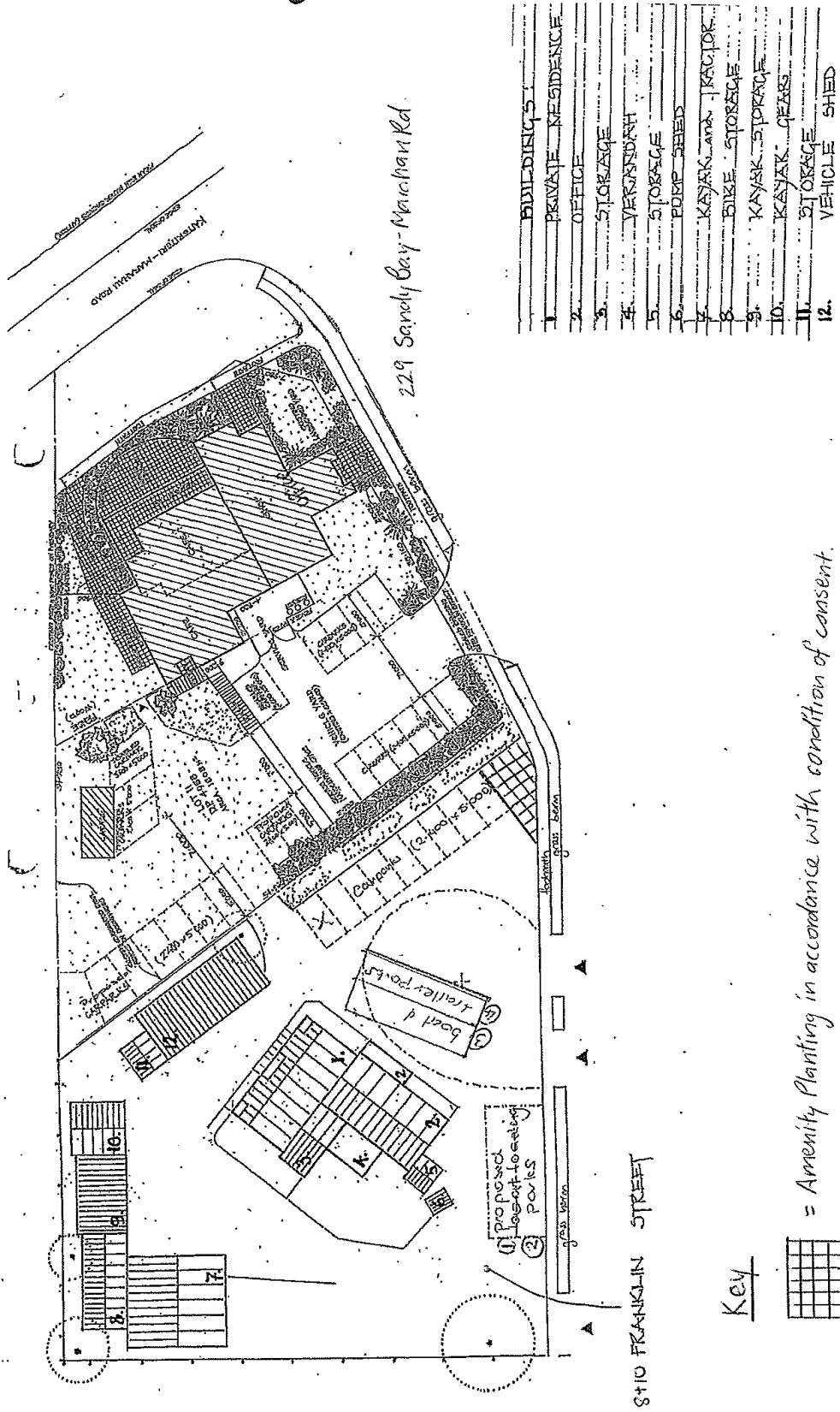
Interests registered on Property Title

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



Paul Gibson
Consent Planner

Plan A 19 August 2009

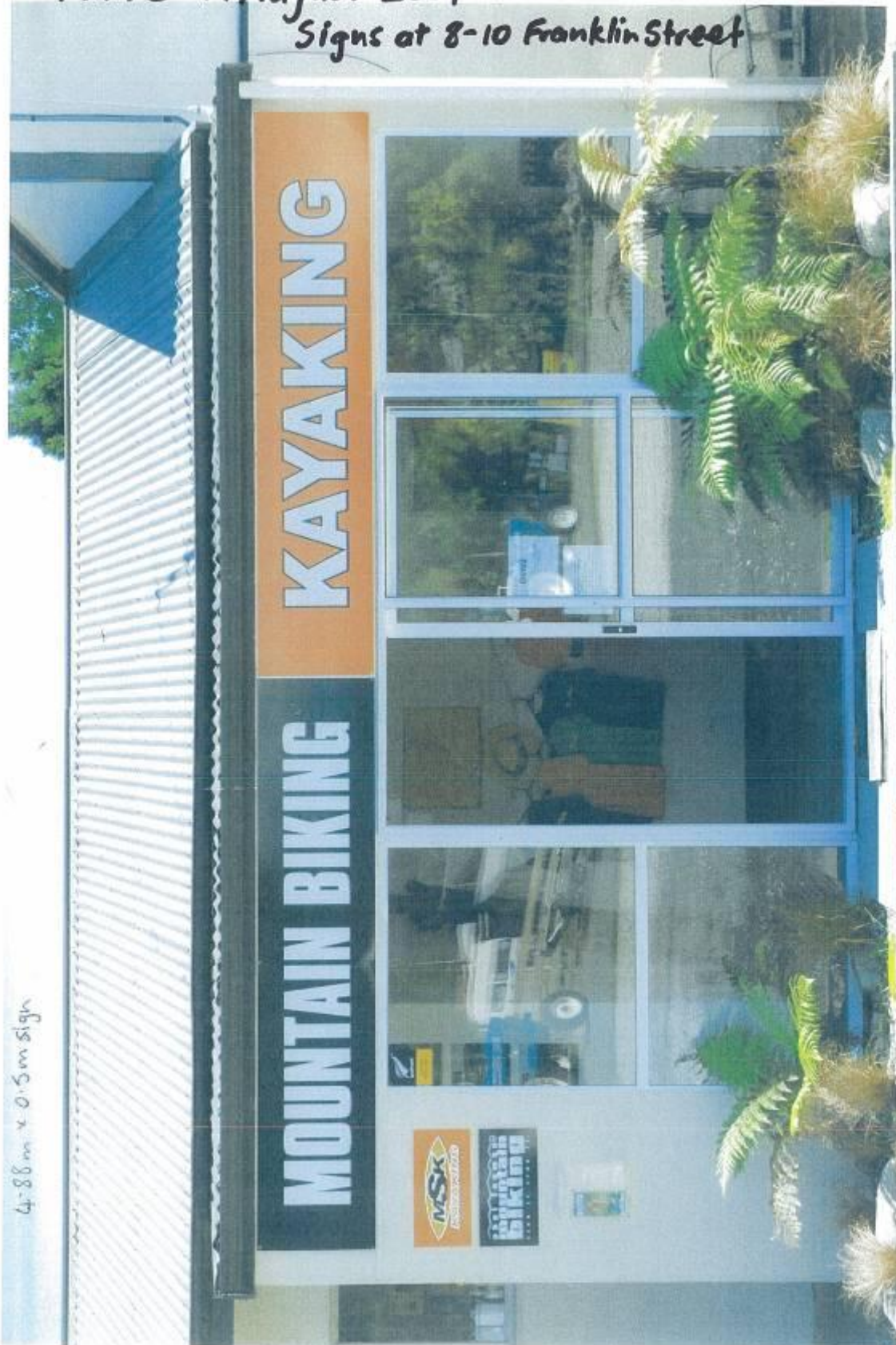


Plan B 19 August 2009

Key  = Water taxi storage + long term parking area



Plan C 19 August 2009
Signs at 8-10 Franklin Street

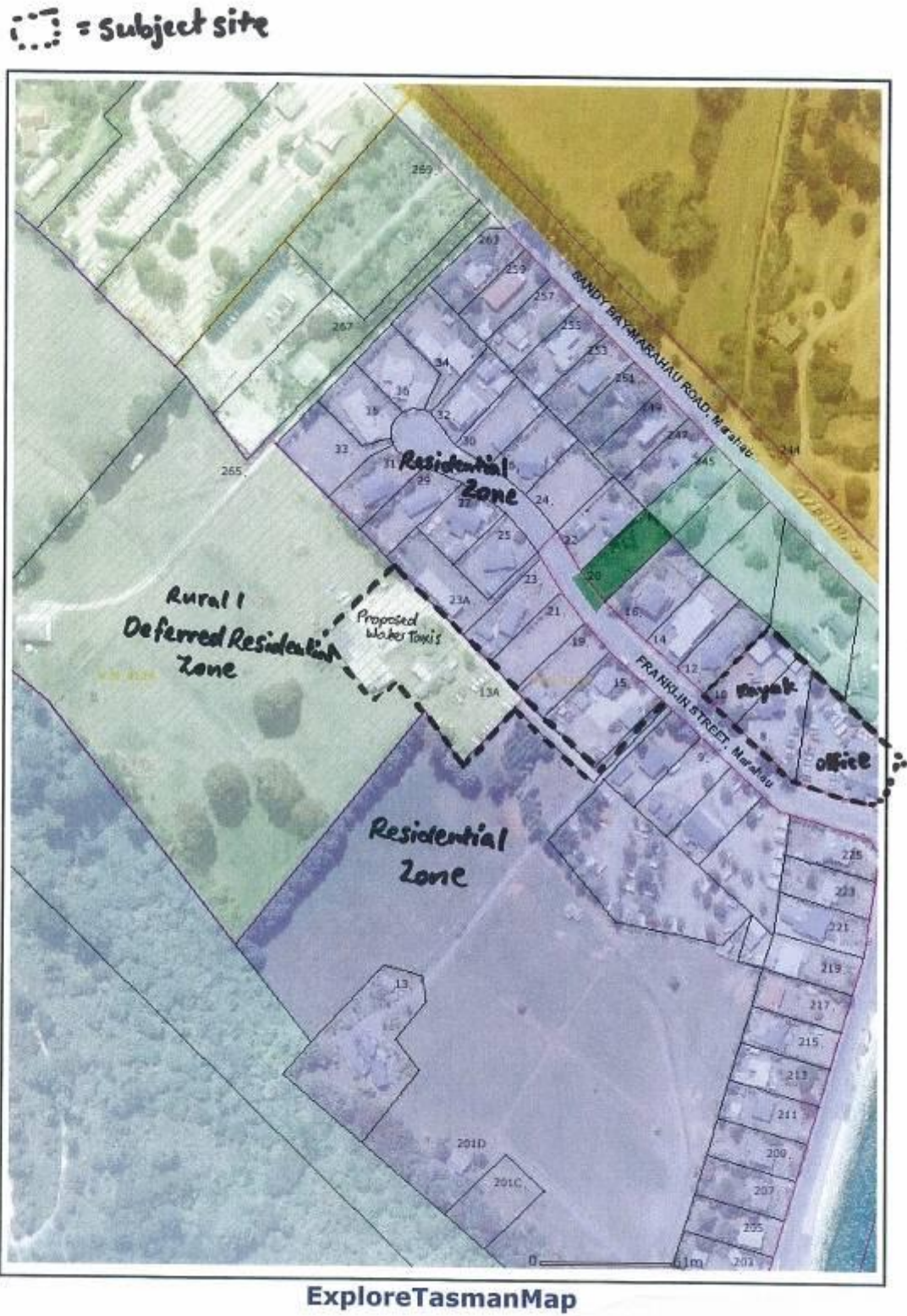


4.88m x 0.5m sign

APPENDIX 1
Aerial Photograph



APPENDIX 2
Tasman Resource Management Plan Zoning Map



APPENDIX 3 Location of Submitters



Memorandum
Environment & Planning Department

TO: Paul Gibson, Consent Planner

FROM: Graham Caradus, Co-Ordinator Regulatory

DATE: 20 July 2009

FILE NO: RM080841

SUBJECT: PROPOSED WATER TAXI BASE: ALBORN PROPERTIES LIMITED, MARAHAU

This report deals with the environmental health issues including noise and dust that may be generated by the proposed activity. A site visit was made by the writer on Friday, 17 July 2009. Council's planner Paul Gibson and Alborn Properties Ltd's, Peter Alborn were present at that time. I record my thanks to Mr Alborn for undertaking such running of tractors as was necessary for an assessment of likely noise effects. Noise appears to be the main environmental health issue. Weather conditions severely limited the sound level measurements that could be undertaken, but some useful data was collected. The aspects of the operation that are likely to generate noise are considered to be from two differing sources. These are identified separately in 1. and 2. below.

1. Noise generated by the operation and maintenance of water taxi vessels and associated equipment.

Noise from such sources is expected to come from, but not be limited to:

- The maintenance, flushing with fresh water and repair of outboard motors.
- The maintenance and repair of ancillary equipment such as tractors and trailers;
- The operation of radio equipment on vessels.

All such activities are not inherently noisy and the applicant would be required to adopt the best practicable means to ensure that noise from such sources was limited to a reasonable level. Such conduct could include but not be limited to:

- Ensuring that marine VHF radios are not left turned on once vessels have been removed from the water;
- If fresh water flushing of outboards or test running is required, to ensure that the outboard motor exhaust is well immersed in water (i.e. in a container of water) during the period the motor is run;
- Ensuring that restraint is exercised in other activities to reduce the noise from customer's voices so that such noise does not spill to adjoining residential properties, particularly early in the mornings and in the evenings.

2. Noise generated by the Operation Of Towing Vehicles

The noise from towing vehicles (for towing water taxis on their road trailers) is a significant effect as diesel powered tractors are used exclusively for this purpose. Observations made at the time of the site visit on 17 July 2009 were that the tractors in current use appeared to be reasonably well maintained from a noise perspective (otherwise: oil was noted dripping from some and that is considered unacceptable given the routine immersion in sea water these vehicles are subject to) with silencing apparatus fitted to the exhaust pipes. However, despite those factors, noise measured adjacent to these tractors was noted as L_A at about 83 dBA in a brief grab sample at a distance of approximately 2 metres.

A sound level from a drive-by where a tractor towed a trailer onto the applicant's property was measured from the boundary with the adjacent Residentially zoned property. Sound level measurement was only commenced when the tractor had left the road and was completely on the applicant's property (in the Residential zone). The L_{max} level recorded was 80dBA.

The noise level from the tractors used by the applicant to tow the boats up the access leg on 13A Franklin Street to the barn where they are parked at night is calculated from the known data to be higher than 80dBA. L_{max} levels in the order of 86dBA to 89dBA are expected on that boundary when a tractor passes on the driveway. This is due to the access leg being immediately adjacent to the boundary of 15, 19, 21, 23, and 23A Franklin Street and the distance between the tractors and the boundary being in the order of a metre. These properties are zoned Residential under the TRMP.

Subjective assessment suggested that the dominant noise generated by the tractor was from the high pressure fuel pump part of the motor, but other noise sources such as from the exhaust and transmission were also evident.

3. Expected Noise Compliance Standard

The proposed activity would be obliged generally to meet two standards in relation to noise as follows:

- a) The first obligation would be to meet the specific standard prescribed in the Tasman Resource Management Plan (TRMP) for Noise, Rural 1 and Residential Zones. The noise levels imposed by the TRMP for those two zones are:

	Day	Night
L_{10}	55 dBA	40 dBA
L_{max}		70 dBA

This performance standard establishes a "Day" L_{10} level and "Night" L_{10} and L_{max} levels. The hours of operation of the activity are identified in the application as those hours which are defined both as "Day" and "Night" in the TRMP Rural 1 and Residential zone noise standards. By virtue of the intended operation on public holidays and Sundays, the night time standard will be applicable to the proposed operation.

For absolute clarity, “night” is defined for the purposes of the noise rules in the TRMP as the hours outside of 7.00 am to 9.00 pm Monday to Friday inclusive and 7.00 am to 6.00 pm Saturday (but excluding public holidays). That is interpreted by the writer as “night” being those hours between 9.00pm to 7.00 am the following day Monday to Friday; 6.00 pm on Saturday to 7.00 am Monday mornings, and any public holiday. The more restrictive “Night” noise performance standards would be of significance in that the night time standard includes an L_{max} level of 70dBA, for which non compliance would be achieved by a single noise event, such as the nearby passing of a tractor. The dBA scale of measuring sound is not linear. It is a logarithmic measurement so the dB at one part of the loudness scale is not the same as any dB at any other part of the scale. The 80 dBA L_{max} recorded at the boundary of the Residential zone adjoining the kayaking property represents ten times the noise energy compared to the 70 dBA L_{max} specified in the TRMP. The difference between the 70 dBA compliance level for L_{max} and the 80 dBA L_{max} recorded would be perceived by most observers as being noticeable.

A noise level of L_{max} 80 dBA is generally high enough to cause disturbance during periods defined as “night” and is considered to be out of keeping with the general noise levels in residential areas. A 10 dBA exceedance is considered to be a significant breach of the TRMP noise standards.

The special audible characteristics (identifiable tonal components etc) would apply to the L_{10} levels and may not be applicable. Provided that tractors were only run for the relatively brief period required to manoeuvre water taxis on their trailers, and not left running when not under way, there is an assumption that the L_{10} levels may not be exceeded. This is because to trigger an L_{10} level in any 10 minute measurement period, the L_{10} level is by definition, that level of noise that occurs for a total of one minute. If significant noise from tractor movements were limited to less than one minute in any ten minutes relative to any particular residential site, the L_{10} level may therefore not be exceeded.

- b) The second obligation in relation to noise is to comply with s16 of the RMA. This places a duty on occupiers of land to avoid unreasonable noise by adopting the best practicable option to control emission of noise. This requirement places additional obligations over and above any need to comply with the TRMP noise standards. Such matters as sealing the driveways to reduce the noise of tires running in loose gravel may be a matter dealt with by these obligations.

4. Current Situation Relating to Compliance with Noise Performance Obligations

Subjective assessment supported by the limited sound level measurements undertaken at the time of my visit were that currently the noise generated by the tractors when passing along the driveway adjacent to the residential properties were not meeting the TRMP L_{max} noise performance standards. The same non-compliance was considered to occur in undertaking manoeuvres close to the customer pick-up area.

5. Other Environmental Health Issues: Dust

At the time of my visit, no evidence of dust generation as a consequence of operating tractors and trailers on the gravel driveway was noted. However, this matter is an issue that will require consideration given the close proximity of residential zoned properties.

Graham Caradus
Regulatory Services Coordinator

MEMORANDUM
Environment & Planning Department

TO: Paul Gibson, Consent Planner

FROM: Graham Caradus, Co-Ordinator Regulatory

DATE: 12 August 2009

FILE NO: RM 080841

SUBJECT **SUPPLEMENTARY REPORT: PROPOSED WATER TAXI BASE:
ALBORN PROPERTIES LIMITED, MARAHAU**

Background

This report is supplementary to the report made 21 July 2009 and details the follow up visit made to the site of the proposed operation on 11 August. In brief, the initial visit determined that the operation of the tractors close to the residential boundary resulted in a non compliance with noise standards imposed for the zone pursuant to the Tasman Resource Management Plan (TRMP). The intent of that visit was to undertake sound level assessments on a tractor that had noise attenuation work completed. I report as follows:

Sound Level Assessment

Location of measurement: Driveway to tractor park and adjacent residential sections.

Weather Conditions: Fine, 8/8 low cloud. Light breeze <2 m/s.

Time of measurements: 2.09 pm through to 2.56 pm on Tuesday, 11 August 2009

Equipment used

Meter used: Rion NL-18 Precision Integrating Sound Level Meter (SLM), serial number 00360034.

Calibration due date: 8 April 2011 (last completed by ECS Ltd)

Acoustic Calibrator: Bruel & Kjaer type 4230, serial number 1206832.

Calibration due date: 9 April 2010 (last completed by ECS Ltd).

Anemometer: Lutron AM-4203.

SLM operator: Graham Caradus

A microphone wind screen was used for the duration of the survey for each environmental measurement. For each result recorded, the SLM was hand held. The SLM was initially calibrated, and not shut down until re-calibrated at the end of the sequence of measurements. Calibration level limits were within 0.5 of 93.8 dBC and therefore complied with.

Measurement Sites

A number of sound level measurements were undertaken but two sites demonstrated the degree that the combined effects of noise attenuation work on the tractor and the existence of a solid fence could achieve. Both sites are marked on the map below and described as follows:

Site 1

This site is located on the north eastern side of the driveway, approximately 2 metres from the gate into the bulk of the Abel Tasman Estates Limited property. No barrier existed between the tractor and the measurement position.

Site 2

This site is located in the middle of the small open space adjacent to the sky dish attached to the north west gable end on the Campbell residence. A 1.8 metre high steel fence was situated between the driveway and the measurement position.



Results

	Site 1: Standard tractor Empty trailer	Site 2: Quietened tractor Loaded trailer
Measurement time	42 seconds	21 seconds
L_{eq}	68	56
L_{max}	81	63
L_{min}	47	41
L_{10}	71	61
L_{95}	48	44

The results that have been **bolded** are those that are of relevance to TRMP compliance, but the remaining data is also included as it contributes useful information.

Comment

The applicant has to meet two separate standards, the first being the TRMP imposed noise performance standard, and the second being the requirement of the RMA to meet the “best practicable option” in limiting noise emissions. A significant reduction in noise is achieved by the combined effect of the noise attenuation work completed on the tractor, and the effect of a solid fence.

Those improved levels recorded are likely to comply with TRMP noise standards if measured over a 10 minute period. It is my opinion that if both the noise attenuation work is carried out on tractors and solid, substantially constructed 1.8 metre high fences are placed on the boundaries of affected residential properties, that it could be argued that the applicant had taken all practicable options in limiting noise emission. That would also be dependant on the operators of the tractors observing obvious conduct requirements such as operating the tractors at idling speed only in those noise sensitive areas.

Discharge of contaminants into CMA

An additional matter that needs consideration is the discharge of oil from the tractors into the waters of the coastal marine area (CMA). An observation made of tractors parked near the boat launching ramp was that without exception they were to some extent leaking or dripping oil or diesel. These tractors operate on the beach and in the water and any oil that has escaped to the outside of the engine entablature or transmission, is likely to find its way into the CMA. To achieve the necessary avoidance of this occurrence, tractors would need to be maintained well and suitably cleaned.

Graham Caradus
Regulatory Services Coordinator

STAFF REPORT

TO: Environment & Planning Subcommittee

FROM: Dugald Ley, Development Engineer

REFERENCE: RM080841

SUBJECT: ALBORN PROPERTIES LTD, WATER TAXI AND KAYAK OPERATIONS, MARAHAU

This application is to operate a water taxi and kayak/mountain bike operation and provide associated boat storage and long term parking.

Franklin Street adjacent to the property is identified as an Access Road in the Tasman Resource Management Plan Road Hierarchy and has a speed limit of 50 km/h.

It is noted that the original proposal to have boats parked on the side of Franklin Street has been amended so that all tractors, trailers and boats will be parked, loaded and unloaded on the private site. Undertaking the above activities on the road reserve would not be accepted by the Engineering Department.

According to the Tasman District Council 2008 Engineering Standards and Policies an Access Road has a capacity of 30 to 50 households. A Council traffic count taken on February 2009 recorded 320 vehicle movements per day on the eastern end of Franklin Street and 50 traffic movements at the western end. As the application is to authorise the existing businesses and the activities were operating during February 2009, the number of traffic movements recorded on Franklin Street will include those generated by the kayak/mountain bike operation and the water taxi operation. This is within the design capacity intended. It is expected that during much of the year the traffic generated by these activities will be significantly lower than during the traffic count taken in February.

The vehicle crossings avoid or mitigate adverse effects on the safety and efficiency of the road network as they are located away from the intersection and provide suitable visibility for drivers, pedestrians, and other road users. They should be sealed from the carriageway a minimum of 5 metres into the properties to avoid chip being transported onto the Franklin Street carriageway.

The long term parking area is proposed to be in grass. This will not have an effect on the roading network as it is located some distance from Franklin Street any mud that may be on wheels will be removed by the time it gets to the road carriageway.

The proposal has been amended so that the sandwich boards will be located on the applicant's property. This will ensure that the signs will not detract from traffic safety by causing confusion or distraction to or obstructing the views of motorists or pedestrians. They will also not cause unnecessary obstacles on the footpath for pedestrians.

The right-of-way serving 13A Franklin Street is not in a good state of repair. Dust emissions on the nearby camp ground and residential properties and traffic effects will result. It is appropriate to require the sealing of the right-of-way.

The following conditions will mitigate the traffic effects:

1. Seal the vehicle crossings on 8/10 Franklin Street - minimum 2 coat chip seal from the Franklin Street carriageway a minimum of 5 metres into the site.
2. Seal the right-of-way on 13A Franklin Street - minimum 2 coat chip seal
3. No customers to be picked up off the road reserve.
4. All signs shall be on private property.

Dugald Ley
Development Engineer

STAFF REPORT

TO: Environment & Planning Subcommittee

FROM: Rosalind Squire, Consent Planner - Coastal

REFERENCE: RM080841

SUBJECT: ALBORN PROPERTIES LTD, WATER TAXI AND KAYAK OPERATIONS, MARAHAU

I am one of a number of Council staff assisting the Marahau Coastal Working Group. The Group is comprised of representatives of a number user groups including the Department of Conservation, Marahau Ratepayers and Residents Association and commercial operators. The Group meets periodically to work towards agreed measures to minimise adverse effects generated by the use of the road, parking area and foreshore for the delivery and launching of vessels to the Abel Tasman National Park.

Submissions to the application have requested that the noise levels of the tractors travelling down the public road be retested prior to any consent being granted. The Tasman Resource Management Plan noise rules apply to noise emitted from any given site. Once a vehicle is on the road reserve the Land Transport New Zealand – Land Transport (Road User) Rule 2004 applies, this is administered by the New Zealand Police.

The issue of on-site noise is addressed in the report from the Manager, Regulatory Services who has made some recommendations to attenuate noise emissions from the tractors. Assuming the recommendations are supported by Council and required as a condition of consent, this will go some way towards adopting the best practicable option to minimise the noise generated by the tractors while they use the public road. Otherwise the following rule (which is enforced by the New Zealand Police) applies:

Land Transport New Zealand – Land Transport (Road User) Rule 2004

7.4 Noise

- (1) A driver must not operate a vehicle that creates noise that, having regard to all the circumstances, is excessive.*
- (2) A person must not create by any means (for example, a car stereo) within or on a vehicle any noise that, having regard to all the circumstances, is excessive.*
- (3) In determining whether any noise is excessive, regard may be had, in addition to all other relevant matters, to—*
 - (a) the manner of operation of the vehicle:*
 - (b) the condition of the vehicle:*

- (c) the time of the day when the noise is created:*
 - (d) the locality where the noise is created:*
 - (e) the likelihood of annoyance to any person:*
 - (f) any relevant standard or specification that applies under the Act.*
- (4) Without limiting any enactment other than this rule, the following are authorised:*
- (a) the use of sirens fitted to emergency vehicles being used on urgent occasions:*
 - (b) when the driver is in distress, the use of audible security alarms fitted to small passenger service vehicles:*
 - (c) when a person in or associated with the use of the vehicle is in distress, the use of audible security alarms fitted to a motor vehicle that is being operated by the holder of a security guard's licence issued under the Private Investigators and Security Guards Act 1974 and that is being used to transport money or other valuable goods.*
- (5) A person must not, at any time,—*
- (a) use a warning device on a motor vehicle otherwise than as a reasonable traffic warning; or*
 - (b) make an unnecessary or unreasonably loud, harsh, or shrill noise by means of a warning device on a motor vehicle.*
- (6) A person must not operate a siren fitted to an emergency vehicle unless the vehicle is readily identifiable by means of—*
- (a) its construction; or*
 - (b) the operation of a beacon or beacons; or*
 - (c) an identification sign.*

Submissions also raise safety concerns with respect to carrying passengers on the road in open boats with no seatbelts and the use of tractors to launch boats at the ramp. The safe operation of vehicles on a public road is also controlled by the New Zealand Police.

I have spoken to relevant staff from the Police who have confirmed that they are working with the commercial operators at Marahau to improve a number of issues including the safe operation of the vehicles whilst on the road. They are also working through some exemptions for the operators subject to strict conditions, including the condition of vehicles. They state that they are comfortable that the situation is in hand, but that if an incident involving injury occurred they would investigate it. They stressed that the drivers are required to have Class 2 licences and that they are generally experienced.

A submitter suggests that the best practice would be to direct all passengers to board and disembark the water taxis at the bottom of the boat ramp, or from the jetty if high tide. This is an issue which has been discussed both by TDC and the Police. It is acknowledged that the area of the loading ramp is limited and for that reason it is considered preferable to have passengers loaded onto the boats at the operating base as opposed to being loaded in the restricted loading zone adjoining the ramp and open road.

Rosalind Squire
Consent Planner - Coastal



Our Reference: 10402
Your Reference: RM090841
13 May 2009

Tasman District Council
PO Box 123
MOTUEKA 7143

Attention: P Gibson

Dear Paul

RE: FURTHER INFORMATION REQUEST, ALBORN PROPERTIES LTD

Further to your information request of 9 April:

1. *Where are the sandwich board signs to be positioned?*

Enclosed is a map showing the position of the sandwich boards signs within the front gardens.

2. *Where and how high is the fence proposed in relation to the Abel Tasman Estates Ltd and Newhaven Marahau Ltd submission?*

The Applicant has consulted with John Davies of Abel Tasman Estates Ltd and Newhaven Marahau Ltd. He has advised the Applicant that a 1.2m fence would be suitable around the perimeter of the application site where it adjoins their subdivision. In terms of limiting of the fence, Mr Davies has advised the Applicant that it would be practical to wait until the subdivision is given effect to rather than construct the fence before any physical works are done on the subdivision site.

Enclosed is a copy of the email confirming this.

3. *What is the weight of the tractor/board laden?*

The tractor weight is 2500kg, and the trailer and water tank weight is 2200kg.

The laden weight of the vehicle is determined by the trailer and water tank, which is determined by the tow coupling. The Applicants tow coupling allows a laden weight of 3500kg, allowing a laden weight of 1300kg. With a petrol tank of 180 litres, this allows 14 passengers (average weight of 80kg) in the vehicles. The balance of passengers will be driven to the launch site.

The total laden weight is therefore 6000kg.

The TRMP requires that where vehicles weigh more than 3500kg, there be a "more or less level area" of 20m beyond the vehicle crossing. The application site, in particular the parking and manoeuvring areas are flat, complying with this requirement.

S92 response for Alborn Properties Ltd
Stag & Smith Ltd - 10402

Page 1 of 2
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4. *Do you intend to (or not) meet the conditions requested by the Ratepayers?*

a. *Parking for boats and trailers*

During the evening, the Applicant proposes parking at the lockup. During the day, the Applicant proposes parking and loading/unloading on their site, in front of the kayaking operation. The Application has been amended to remove the parking on the roadside berm.

b. *Sandwich board signs to be on property and not on road*

Refer to the map shown in 1 above.

c. *All boats/trailers/vehicles to comply with limitations agreed with operators in Marahau re upkeep, maintenance, noise, speed and passageway along foreshore.*

The Applicant has been working with LTSA (now NZTA) since 2008 to ensure that their operation complies with the requirements for operating on the roading network.

The Applicant is complying with the requirements, and has sought the appropriate exemptions. The speed limitation is set at 15km/hour and the noise level emissions are 65dBA, which the Applicant meets with standard mufflers.

Monitoring compliance will be undertaken by the Police and NZTA on regular basis and in particular in the main operating season.

Mr Neil McAlpine of NZTA is the Vehicle Standards Advisor for the Applicants. His contact details are 021-795-423.

The Applicant intends to comply with the provisions set down by NZTA to operate on the road.

We trust that this addresses the matters raised in the further information request and we look forward to a hearing date being set for this application.

Thank you for your assistance with this matter to date.

Yours faithfully

STAG & SMITH LTD

Jane Bayley

Resource Management Consultant
Email: jane@stagandsmith.co.nz
Direct Dial (03) 545 6653

S92 response for Alborn Properties Ltd
Stag & Smith Ltd - 10402

Page 2 of 2



jane@stajsmith.co.nz

From: Marcia Manulu [mailto:marciainet@net.co.nz]
Sent: Wednesday, 13 May 2009 2:58 p.m.
To: jane@stajsmith.co.nz
Subject: RE: Alton John re Alborn's Marahau

Jane
Great to catch up with you today. Yes we can confirm that points 1 & 2 as set out in your email of 13 May 09 is correct.

Regards,

JOHN DAVIES for Newhaven/Marahau Ltd and Abel Tasman Estates Ltd

Nelson Management Services 2006 Ltd
P O Box 716, Nelson
Phone 03 539-9741 Fax 03 539-9742
Email: marciad@netcozeal.co.nz

From: jane@stajsmith.co.nz [mailto:jane@stajsmith.co.nz]
Sent: Wednesday, 13 May 2009 2:20 p.m.

To: John Davies
Subject: Alton John re Alborn's Marahau

John

Thanks for meeting with me today.
As we discussed, the TDC are seeking confirmation about the fencing requested in the Abel Tasman Estates Ltd and Newhaven Marahau Ltd submissions.
The submissions requested a 2m high fence around the exterior of the application site where it bounds with your subdivision.
I understand that the Alborn's have discussed the submissions with you and that you have come to an acceptable solution.

1. That the fence be 1.8m to comply with the TRM
2. That the fence be erected at the time of applying for s224(c) for the subdivision

Can you please confirm that this is what has agreed with the Alborns
Regards
Jane

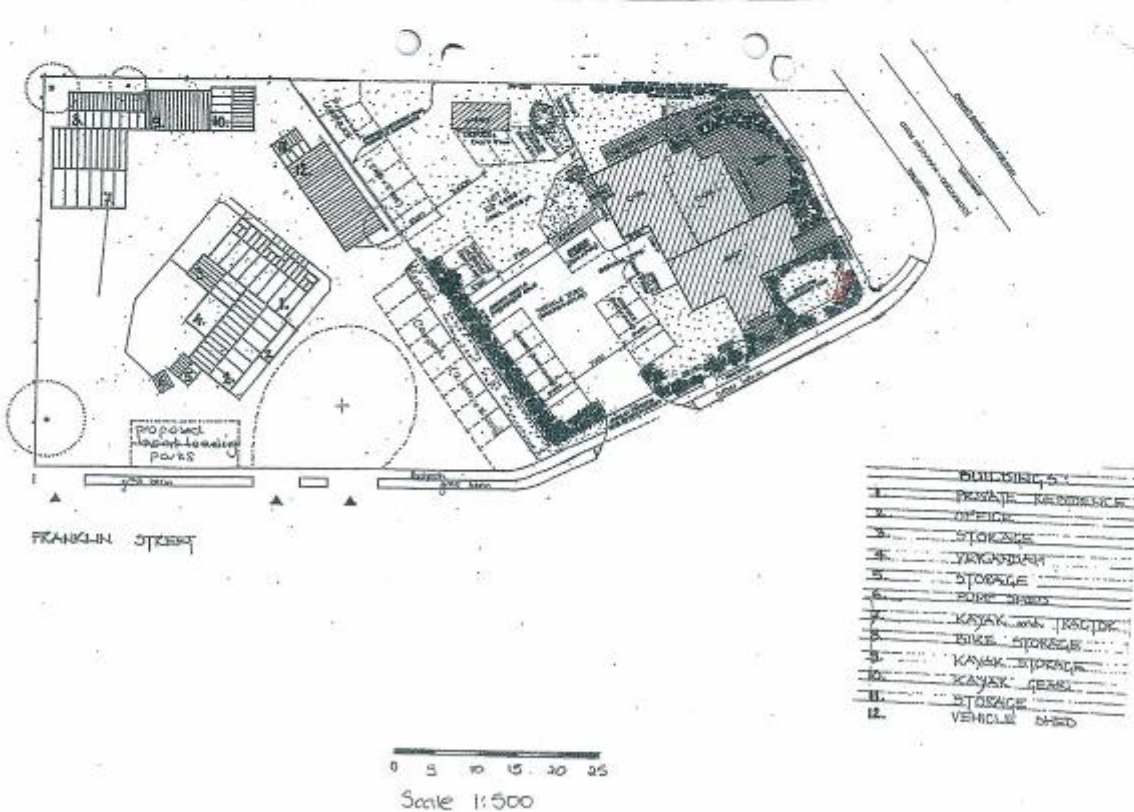
Jane Dalry
Resource Management Consultant
Ph: 001 55 545 5885

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1





Our Reference: 10402
Your Reference: RM080841 and RM080844

14 August 2009

Tasman District Council
PO Box 123
MOTUEKA 7143

Attention: P Gibson and L Pigott

Dear Paul and Leif

RE: ALBORN PROPERTIES LTD

Further to considering the submissions on the application, the Applicant has taken on board the issues raised by the submitters and proposes to offer the following mitigation.

Noise:

The Applicant has undertaken a trial of installing engine covers on one of the tractors to assess whether this would reduce the noise levels of the tractors. It requested Council undertake noise monitoring to assess the benefits of the covers.

The assessment identified that at the property boundary, behind a solid fence, the noise of the vehicles with engine silencing on the tractors is 63dBA L_{max} and 61dBA L_{eq}. Without the silencing, the vehicles reach an L_{max} of 66dBA. No fence increases the noise levels.

The Applicant therefore proposes to install engine covers on the four tractors to reduce noise emissions.

In addition, the Applicant proposes to erect a solid fence, consisting of overlapped wooden boards to a height of 1.8m along the boundaries with residential sections. This includes along the Right of Way to 13A Franklin St, and the western boundary of 10 Franklin St.

The Applicants have also prepared the following Noise Management Plan, which they will comply with:

1. The marine radios that are located within the boats shall be switched off when the boats are not in the water. This means that no radios will be operating from the boats at either 13A Franklin St, 8-10 Franklin St, or 226 Sandy Bay-Marahau Rd.
2. All servicing of the boats, except for quiet servicing such as oil changes, shall occur off site. Quiet servicing of boats shall occur at 13A Franklin St.
3. When re-fuelling at 13A Franklin St, tractor engines shall be switched off.
4. At 13A Franklin St, tractors are not to be left idling.

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5. All tractors are to be maintained to be in a good working order and any defects are to be repaired that are assessed as being potentially noisy, such as damaged pipes and mufflers.
6. When flushing boat engines, the propellers shall be immersed in a bucket of water.
7. The Right of Way to 13A Franklin St shall be maintained to be in a good state of repair.
8. Tractor movements along the Right of Way to 13A Franklin St shall be restricted to a maximum of 16 movements in the peak tourist season (December to March); 12 movements on the shoulder seasons (March to May, and October to December) and 6 movements in the off season (May to October).
9. Compliance with LTNZ regulations, including a 12 monthly safety check and Certificate of Fitness for all tractors and trailers.

Traffic:

Submitters raised the matter of traffic. As noted in the application, the Applicant has never undertaken a study on the ratio of clients to vehicles. Attached is an approximate breakdown of the types of traffic to the sites.

Clients arrive by four means:

- from the two camping grounds or local accommodation, in which case vehicles are left at the source of the accommodation;
- from the shuttle buses from Nelson and Motueka; or
- via personal vehicle.

It is estimated that between 20 and 30 percent of clients arrive in their own vehicles. Most of these would have more than one person per vehicle and for this exercise we estimate two people per vehicle.

Table 1: The number of cars to the sites per day

	Dec - March		March - May		May - Oct		Oct - Dec	
	Client #	Clients via cars #	Client #	Clients via cars #	Client #	Clients via cars #	Client #	Clients via cars #
Water Taxi	210	42	21	100	20	10	15	6
Kayaking	65	13	7	35	7	4	8	3
Combined # cars per day			28			14		5
								90
								18
								9
								5
								14

In terms of parking all four tractor and trailer units on site, while it is possible, the layout of the additional boat parks will result in one car park being blocked for its manoeuvrability. 1 note that this will generally occur at the start of the day, and then infrequently during the day, as there will usually be one set in operation. Please find enclosed the plan showing the parking layout.

As shown on in Table 1 above, kayaking operation estimates that seven cars will use the site during the peak season. Nine parks were to be provided. Even with the blocking of one of the parks, there is still sufficient parking for the operation. Those clients with personal vehicles using the kayaks for greater than a day trip usually park within the long term parking area on 13A Franklin St.



Discharges:

The main water supply which the Applicants use to wash down the boats is from the roof catchment of the shed, as identified in 3.16 of the application. I note that we did not mention where water comes from during dry periods. The Applicants back up supply for dry periods is from an existing water supply which serves the camping ground, to which they have a water right.

Submitters questioned the discharge facilities at 13A Franklin St. Currently the Applicant has a concrete pad on which they wash down vehicles and boats and refuel on. The concrete pad has been formed so that stormwater that falls on this area is directed to a sand trap prior to discharge.

The Applicant proposes to upgrade the facility to include an oil and grit interceptor. The oil and grit interceptor shall be designed to contain a minimum of 2000 litres of storage. Attached is a description of what is proposed to be installed.

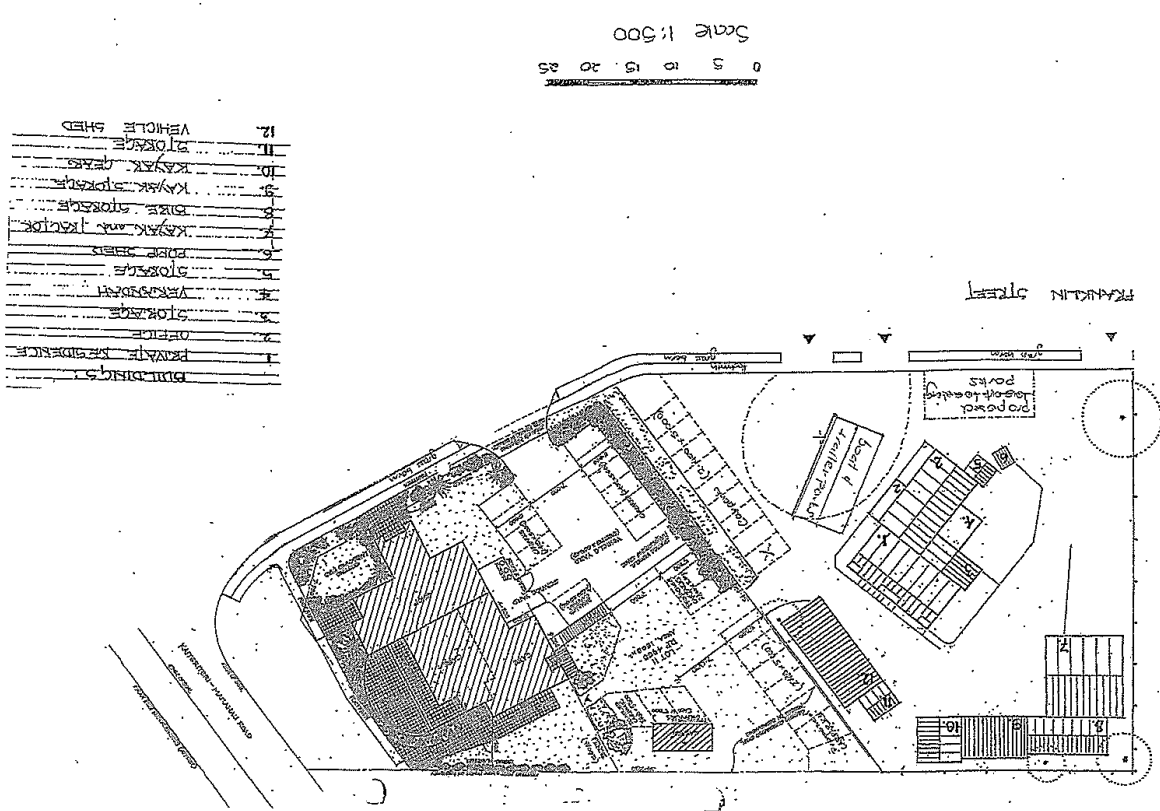
The outlet of the oil and grit interceptor shall be fitted with a manually operated isolating valve that can be closed to prevent discharge in the event of a spill. Staff shall be able to locate and turn the emergency shut off valve; this eliminates the danger of hydrocarbons contaminating the stormwater system.

An emergency spill response plan will be created which outlines procedures to be undertaken in the event that a spill occurs onsite. The site will be equipped with an emergency spill kit, which contains equipment and material such as oil absorbency pads, which can be used to clean up small-scale spills. Staff will be educated on this plan and made aware of the contents of the spill kit to ensure they know what to do should a spill occur.

In addition, waste oil from tractors and boats is collected and removed from the site by Bens Oil of Stoke.

Yours faithfully

Jane Bayley
Resource Management Consultant
STANG & SMITH LTD
Plt. DDI (03) 546 6883
End



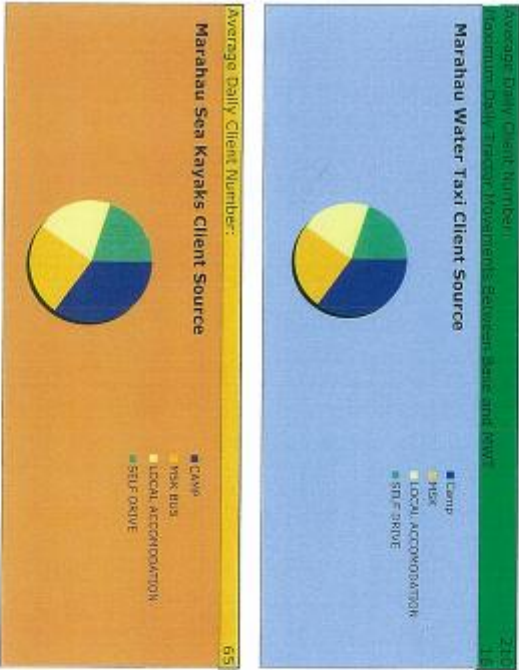
Client Travel Breakdown: Marahau Water Taxi & Marahau Sea Kayaks

The following provides an approximate overview of how the clients of Marahau Water Taxis (MWT) and Marahau Sea Kayaks (MSK) arrived for their respective trips.

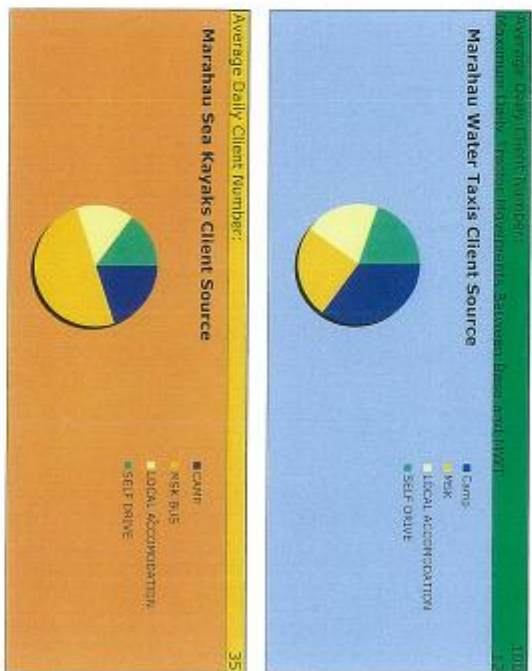
NB: In view of minimising commercial impact both MWT and MSK provide local and regional transport services with buses transporting clients between Nelson and Motueka on the MSK, Kayaking bus and internally within Marahau on the MWT complimentary shuttle. These services considerably reduce the vehicle movements of both companies clients and as such, reduce the localised impact at the service sites. This service continues to be more readily utilised by the clients and with that further minimising the visitor impact.

In addition, when analysing these approximations it should be noted that within the MWT data are the clients provided by MSK. Within the MSK clientele, over half of the clients utilise the MWT water taxi service, therefore over 50% of the MSK clientele are already accounted for within the MWT figures, or more simply put, are accounted for twice within the information presented.

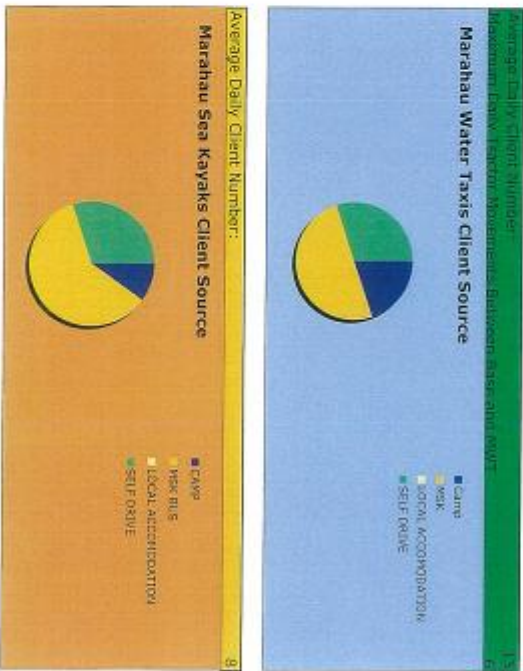
PERIOD 20/12 - 20/3



PERIOD 21/03 - 20/5



PERIOD 21/05 - 01/10



PERIOD 02/10 - 19/12

