



STAFF REPORT

TO: Environment & Planning Subcommittee - Commissioner Hearing

FROM: Mark Morris, Co-ordinator - Subdivision Consents

REFERENCE: RM100173, RM100174 and RM100178

SUBJECT: **CARTER HOLT HARVEY HBU LTD - REPORT REP10-12-01 -**
Report prepared for hearing of 6, 7 and 8 December 2010

1. INTRODUCTION AND APPLICATION BRIEF

The purpose of this report is provide a Council report on the application by Carter Holt Harvey HBU Ltd to subdivide a 10.7 hectare title(CT NL 9C/707) into eight residential allotment plus Lots 9-15 to vest as accessways, recreation reserves and esplanade reserves.

My report will cover the overall planning assessment of the application assisted by reports from the following staff and consultants:

	Page
Appendix 1: Copy of the Application Plan	66
Appendix 2: Site Location Map	67
Appendix 3: Roading and Access Report Dugald Ley, Development Control Engineer	68 - 71
Appendix 4: Landscape Report Frank Boffa, Landscape Architect- Boffa Miskell	72 - 79
Appendix 5: Report on Wastewater Disposal Leif Pigott, Co-ordinator - Natural Resource Consents	80 - 86
Appendix 6: Natural Hazards Report Eric Verstappen, Resource Scientist - Rivers and Coast	87 - 92
Appendix 7: Report on Provision of Reserves Rosalind Squire, Consultant Planner, Community Services	93 - 105
Appendix 8: New Zealand Coastal Policy Statement 2010	106 - 122

A copy of the New Zealand Coastal Policy Statement (2010) (NZCPS) is appended to this report as Appendix 8.

As the NZCPS (2010) comes into effect on 3 December 2010 I have included an assessment of the application against the 2010 version of the NZCPS.

2. APPLICATION BRIEF

2.1 Proposal

The applicant is applying for the following consents:

- RM100173
A subdivision consent to create eight residential allotments (lots 1-8) plus Lots 9-15 to vest as reserve (access ways, recreation reserve and esplanade reserves)
- RM100174
A landuse consent to erect a dwelling on each of the proposed lots 1-8.
- RM100178
A Land Disturbance consent to carry out earthworks on the site.

Refer to **Appendix 1** for a copy of the application plan.

2.2 Site Location and Background

Refer to **Appendix 2** for a Site Location Map.

The site of 10.7 hectares is situated on a relatively narrow finger of land near the end of Kina Peninsula and the end of Kina Peninsula Road.

The property is bounded on the eastern side by the coast and on the western side by the Moutere Inlet.

The site is contained within a single title, but is split by a narrow strip of land which is owned by Kina Development Company (KDC). The property has rights-of-way over this strip, but it does not appear to be formed within the legal right of way, and instead the KDC property owners gain access via the one way metal roads, that run in a clock wise fashion around the site.

As part of the application, the applicant is seeking to form up and seal the shared access strip and close off the existing metal access road on the eastern (coastal) side of the site.

The entire site is relatively low lying with most of the site less than 6 metres above mean sea level, except for a raised bench currently covered in mature pine trees, that is proposed to contain the eight residential house sites. The applicant is essentially applying for a “generic” landuse consent for dwellings whereby a building site with a corresponding building height limit of up to 5.5 metres setting out a “building envelope” within which to build.

3. TASMAN RESOURCE MANAGEMENT PLAN (TRMP) ZONING, AREAS AND RULES AFFECTED

Activity	Relevant rules	Proposal	Status
Subdivision (Rural 2 zone)	16.3.6.1 - Controlled Activities if allotments at least 50 ha in area	Does not meet the Controlled Activity criteria	Discretionary Activity pursuant to 16.3.6.2
Subdivision adjoining the Coast	16.4.2.1 - Subdivision adjoining the Coast where allotments are less than 4ha.	Allotments less than 4ha.	Restricted Discretionary activity pursuant to 16.4.2.1
Right-of-way Access	16.2.2.1 (b) - Permitted activity where number of users is six or less.	Not a permitted activity	Restricted Discretionary Activity pursuant to 16.2.2.6
Earthworks (Land Disturbance Area 1)	18.5.3.1(k) Any earthworks within 200 metres of the coast is less than 1000m ² in area. 18.5.3.1(r) Any earthworks that disturbs an archaeological site.	Not permitted or Controlled Activity	Restricted Discretionary Activity pursuant to 18.5.3.3
Dwellings (Coastal Environment)	18.11.3.1 - Controlled Activity if dwellings are setback at least 100m from coast.	Not a Controlled Activity	Restricted Discretionary Activity Pursuant to 18.11.3.2
Wastewater discharge (on each dwelling site)	36.1.4 - permitted if it meets the requirements of 36.1.4 (a-j)	Designed to comply	Permitted

In terms of the subdivision consent under the Rural 2 zone rules it is a fully discretionary activity under Section 16.3.6.2 which states:

A resource consent is required. Consent may be refused, or conditions imposed. In considering applications and determining conditions, the Council will have regard to the criteria set out in Schedule 16.3A, as well as other provisions of the Plan and the Act.

Schedule 16.3A includes a total of 53 matters which provide assessment criteria for assessing the application. The relevant matters will be referred to in the Assessment of Effects in Section 7.1 of this report.

4. SUBMISSIONS AND AFFECTED PARTIES CONSENT

The application was publicly notified on 7 August 2010 and 112 submissions were received.

108 submissions opposed the application, three supported and one was neutral.

4.1 Summary of Submissions

Submitter	Reasons	Decision
1. New Zealand Fire Service Commission	<ul style="list-style-type: none"> • Concerned about the provision of sufficient water for fire fighting purposes • Wanted a condition imposed that a firefighting supply be provided in accordance with SNZ 4509:2008 and an advice note recommending that the optimal means of compliance with the code is the installation of fire sprinkler systems in accordance with NZS 4517:2010 	<p>Neutral</p> <p>Wishes to be heard</p>
2. Christine Small	<ul style="list-style-type: none"> • The site has been accessed freely by the public as if it were a public domain over several generations. • My children have been involved in tree planting projects on this site. • Areas such as this are diminishing around the country into private ownership and communities are missing out. • The public have always been led to believe that this has always been a reserve available to the public for recreational use. • Many people travel from around the country to use this piece of coastal land for family gatherings, fishing, barbeques, picnics etc and there are times when it is completely utilised such is its popularity. • The property should not be built on as it goes against everything that Council is proposing in low lying areas with the on-going concerns of global warming and rising sea levels. • TDC should look to purchasing this community asset from CHH in order to set it up as it has always been used, as a reserve for public use. 	<p>Opposes</p> <p>Did not state whether they wish to be heard.</p>
3. I Weber	<ul style="list-style-type: none"> • The land is too low and close to the coastline that is proving difficult and costly to manage due to erosion of the foreshore during storms. • The subdivision may end up costing ratepayers to pay for erosion protection if it “turns to custard”. • It would be better to work with the community to make the site a decent reserve for the public to enjoy. 	<p>Opposes</p> <p>Did not state whether they wish to be heard.</p>
4. Aly Cook	<ul style="list-style-type: none"> • To propose any development on the site is morally wrong and sets a terrible example to our children 	<p>Opposes</p>

Submitter	Reasons	Decision
	<p>who have won an environmental award for their work planting the borders of the domain.</p> <ul style="list-style-type: none"> • There are few large public areas like this and in the summer the site is very well utilized for waterskiing, work functions, cricket, fishing and orienteering etc. • The domain is more than the 72% being proposed to vest as reserve. The entire Baigent Domain or 100% of the site should remain as public domain for future generations and to show honour and respect to one of the founding pioneers of Nelson. • There is no place for further housing development at the end of the peninsular. • Also included comments from following people on the facebook page "Save LEH Baigent Memorial Domain Kina Tasman NZ" <ul style="list-style-type: none"> • Annie Coster • David Kemp • Jeni Platt • Catriona Searle • F Cook • Lisa Fowler • Chrissie Nolan • Taste Nelson • Tim Baigent • Fiona Oliver • Josi Markert • Tim Miller 	Does not wish to be heard
5. Easton Apples Ltd	<p>Oppose the following:</p> <ul style="list-style-type: none"> • Any change to the intent of the covenants honoured by Carter Holt Harvey Forests and before them Shell/Todd, that honoured historic Public open space. • Any further subdivision of the Rural 2 land. • Any housing , even one dwelling on a coastal property prone to erosion. Mistakes have been made in the past. Let us not repeat them. • Any land use change over the 10.7 ha site that has been in public use for over 700 years since the first Maori arrived in the district. • The erection of any dwelling on sand dune land that is physically unsuitable for houses. • The sealing of the road which would encourage more cars and boats and boy racers to this unique environment that is prone to coastal erosion. • The disturbance of the remains of the local Kina Maori murdered by Te Rauparaha, which are throughout the sand dunes on the Peninsula. • The removal of any native vegetation that is both regenerating and has been planted by Tasman 	Opposes Wishes to be heard

Submitter	Reasons	Decision
	<p>School Children under the covenant honoured by CHH Forests.</p> <ul style="list-style-type: none"> • Any restriction to public access to any part of this historic site. • The setting of any precedent that would allow the further development on the Kina Peninsula, that is outside the spirit of the TRMP. <p>We encourage the Council to be engaging with the local community to retain this Public Space in perpetuity.</p> <p>The Easton Family have enjoyed the environment of Kina Peninsula for over 100 years and we have no knowledge of being anything other than a public open space.</p> <p>The coastal erosion hazard in this area is significant and at the southern end of the site has lost at least 20 metres in the last 50 years and at least 10 metres in the last 3 years on our property on Jacket Island.</p>	
6 G Grimwood-Small.	<p>I am 14 years old and have been involved in tree planning in helping make the site a beautiful place for family and friends to enjoy for future generations.</p> <p>It is up to New Zealand to lead the world by not allowing this development to go ahead and take responsibility for protecting our environment.</p>	Opposes Wishes to be heard
7. Michael Baigent	<ul style="list-style-type: none"> • This land was given by my grandfather, Mr LEH Baigent, as a reserve area for the public, in perpetuity. The site was very important to him. He was very concerned that he should give something back to the people of Nelson, and specifically to Motueka. During his lifetime he took me to this place several times and mentioned, with enthusiasm, his plans for a gift of a reserve. • For this land to now be developed commercially would be a travesty, and is totally against the spirit and intention of the original covenant of my grandfather. • Opposed to the development since, once the land is developed, it can never be returned to the public. 	Opposes Did not state whether he wished to be heard.
8. Sandra Bishop	<ul style="list-style-type: none"> • The coastal hazard risk is too high for this area to be suitable for dwellings and maintenance of infrastructure into the future. • The Tonkin and Taylor report shows that development beyond 100 years is unsustainable and that the proposed residential lots are at risk 	Opposes Does not wish to be heard

Submitter	Reasons	Decision
	<p>from a 50% reduction in size by erosion with Lots 1, 2 and 8 by more than 50%.</p> <ul style="list-style-type: none"> • Effluent disposal is severely limited by the coastal erosion hazard. • The Tonkin and Taylor report recommends that dwellings need to be designed to be removed if the erosion hazard becomes too great. • The Kina Peninsula road level is below the 4.6m RL level and will require mitigation (road raising and revetment) 	
9. Lori Marevich	<ul style="list-style-type: none"> • The subdivision is too close to the Mean High Water Springs (MHWS) and has erosion problems. • Over height dwellings will affect outlook. • The proposal is not in keeping with the area with larger rural sites. The higher density could reduce the attractiveness of the area. • Potential noise problems for residential sites next to a reserve which currently has no neighbours. • Any buildings should be no more than 5m in height and finished in non-reflective colours. • Covenant on residential sites to allow permissible reserve noise up to 10.00 pm and that there be no recourse for Council for erosion protection. 	<p>Opposes</p> <p>Does not wish to be heard</p>
10. Charles Fulford.	<ul style="list-style-type: none"> • The Kina Beach Road and Kina Peninsula Road are unsafe for the existing traffic volumes without any foot or cycleways. • The site is on a fragile erosion prone sandspit. It is more vulnerable than the land in Mapua/Ruby Bay Area which Council has declared non-subdividable because of concern over rising sea levels and climate change. • The earthworks required to meet minimum heights above sea level are massive and the resulting earthworks will totally change the environment. • There is no adequate sewage system on the peninsula and there is no adequate means of disposal from 8 large houses on the size of the proposed lots. • It has been a common belief that the area in question was reserve in perpetuity and it is very popular recreational area with people through the region. Locals replanted the area with native plants when the pines were removed, believing they were enhancing public land. 	<p>Opposes</p> <p>Wishes to be heard</p>
11. Janet Lessor	<ul style="list-style-type: none"> • The 10.7ha site was set up by Baigents as a reserve intended for public use all the time. This was accepted by Carter Holt Harvey in working with the community providing the labour for planting and weeding and water over the past 11 	<p>Opposes</p> <p>Does wish to be heard</p>

Submitter	Reasons	Decision
	<p>years. The new CHH is disregarding the spirit of the covenant drawn up by the Baigents.</p> <ul style="list-style-type: none"> • Most of the reserve has been planted with carefully chosen indigenous vegetation. Under Section 6 of the RMA, it is matter of national importance to protect the natural character of the coastline from inappropriate subdivision. 	
12. John and Kate Speer.	<ul style="list-style-type: none"> • The development will cause environmental degradation especially in terms visual effects on the panoramic view from the State Highway and the unspoiled nature of the area. • It would be irresponsible of the Council to allow building on such a low lying sand dune. The Council could be held liable for compensation in future, for approving the development. The rate of erosion in the area is increasing with more frequent weather “events”, which can resulting in cutting off vehicle access to the site. • The construction of the proposed access road will destroy numerous trees planted about 1998 and tended by local residents. • Because of the extra noise and activity, the banded dotterel would lose another nesting area. • Even if there is no legal covenant, there should be an obligation by the applicant to honour the intent of the original land donor to preserve the area for recreational use by the public in perpetuity. 	<p>Opposes</p> <p>Does not wish to be heard</p>
13. Shirley Lunn	<ul style="list-style-type: none"> • This site is an accepted place of recreation for all of Motueka and the surrounding district. • Have used this place for many years as a picnic and walking area and it would be sad to see it taken over by houses with exclusive rights of ownership. • Had always understood that this land was donated to Council by the Baigent Family who wished the Council to care for it and be always available for public use and enjoyment. If this is not the case, then Council should buy it. 	<p>Opposes</p> <p>Did not state whether they wished to be heard.</p>
14. Galeo Estate Ltd C/-Wayne Vollmer	<ul style="list-style-type: none"> • Supports the development. • Resolves the ownership and public access issues on land which is private regardless of past agreements. • Would like to see water tanks buried into the ground. This could be required as a condition of consent. 	<p>Supports</p> <p>Does not wish to be heard</p>
15. Michael Rea	<ul style="list-style-type: none"> • The area has been considered a public amenity area for many years. • The area is prone to erosion and the fact that houses need to be designed to be relocated is an 	<p>Opposes</p> <p>Does not wish to be</p>

Submitter	Reasons	Decision
	<p>admission of the inundation potential.</p> <ul style="list-style-type: none"> • The potential for erosion is already evident on Jackett's Island. • The developer should contribute significantly to the replenishment of the seaward foreshore, which could be achieved by using Port Motueka dredgings and deposit them to the north of Kina Peninsula to augment the present foreshore. 	heard
16. Christopher Potter	<ul style="list-style-type: none"> • The site is fundamentally unsuited for residential purposes, as it is basically a sandspit. • Due to the coastal erosion hazard risk, there are conditions imposed to mitigate the hazard risk. However, this is dependent on certain physical interactions of sea level rise, wave climate and sediment supply which could all change in the future. • Effluent disposal into a sandy non-absorbent base may well result in significant leaching into the surrounding a estuary and seashore. • The building sites are unsuitable for dwellings except with raised pile foundations and being relocatable. • There is potential for conflict between the community use of the public spaces and the desire for visual and audible privacy of the occupants of the proposed 8 properties. • The approval of an application such as this one, will set a precedent that will encourage further residential development of the northern end of the Kina Peninsula. • The intention of the developer to seal the access road will put pressure on TDC to complete the sealing of the existing access road to the site. This will lead to a significant ongoing additional maintenance liability to TDC in terms of having to repair the road after storm damage. 	<p>Opposes</p> <p>Does not wish to be heard</p>
17. Gillian Pollock	<ul style="list-style-type: none"> • The TRMP protects coastal areas from development by way of the 100m building setback from the coast. The entire Kina peninsula is within 100m of the Tasman Bay or the Moutere Inlet. • The Kina shoreline is the only reasonably unspoilt coastal area between the Waimea Estuary and the Motueka river mouth. It is much valued by local people and visitors and is available to them at all stages of low and high tides. • The Kina Peninsula and the Moutere estuary form habitats for a wide variety of estuarine and coastal birds. • The Lee Baigent reserve has been used by the community for many years as an informal 	<p>Opposes</p> <p>Does wish to be heard</p>

Submitter	Reasons	Decision
	<p>recreation area. It does not need sealed roads, bollards and carparking.</p> <ul style="list-style-type: none"> • The entire reserve should be vested in the Tasman District Council and any changes made only after consultation with the community. • The proposed development would bring unwanted trappings of development such as formal landscaping, security gates, bollards sealed roads etc which are expensive and unnecessary. • There is no provision for bird life in this application. Development will bring cats and dogs which can have a devastating effect on local birdlife. • The proposed earthworks would destabilize the sandy substrate which would threaten the viability of the spit. • The Kina Peninsula is continually used by the public and it is unreasonable that the public should be barred from the site for 5 months during construction. • The minimum floor level of 4.75m above MHWS plus a building height of 5.5m gives an overall roof height of 10m above the high tide level, which would be obtrusive and overwhelm the surrounding area. • The application states that the coastal hazards should be re-assessed when they get closer than 35m from any dwelling. This could result in intrusive hard rock protection, just as at Ruby Bay. • The application plan states that it is only preliminary and it may vary from the final plan. This means there is no assurance what the final layout would be like. 	
<p>18. Kina Development Company. C/- Ian Kearney</p>	<ul style="list-style-type: none"> • The Kina Development Company (KDC) owns land adjacent to the proposed subdivision. It also owns an access strip down the middle of the subject site. • The proposed road access standard is inadequate. • Lack of provision of parking and toilet facilities for the users of the public space. • No provision for turning at the end of the access road. • Concern with the proposed road layout. • The subdivision layout should be modified. • The applicant accepts there are significant “adverse effects” which are listed on pages 12-19 of the application. • There are conflicts with the various plans and statements in the application. • Lack of detail of the improvements to be made. 	<p>Opposes</p> <p>Does wish to be heard</p>

Submitter	Reasons	Decision
19. Harry Place Preserve Ltd C/- Helen Hughes	<ul style="list-style-type: none"> • Loss of part of the LEH Baigent Memorial Reserve. The intention of the Baigent covenant was that the entire 10.7ha site be available for public use and this should be honoured. • There seems to be an underestimation of the erosion risk along the Tasman Bay shoreline and the Moutere Inlet shoreline. We have observed a loss of some 20m along parts of the Tasman Bay shore over the last 20 years. Erosion has been particularly severe where the Kina Peninsula Road is close to the Tasman Bay shoreline which has resulted in the road access being closed at various times. • Recent evidence based on the melting of the Greenland icecap suggest that the 100 year project line may be reached in only 50 years. • Future landowners should be responsible for costs associated with maintaining the access road. • There is a risk that treated effluent could discharge into the Moutere Inlet or the sea. • It is not possible to accommodate the effluent disposal areas within the proposed lots and maintain good separation distances to the property boundaries particularly taking account of future sea level rise. • Concerned about the standard of dwellings if they are to be relocatable. • Would prefer power lines to be relocated to the road rather than being supplied from the lines on Harry Place. 	Opposes Does wish to be heard
20. Mark Scales	<ul style="list-style-type: none"> • The amenity of this reserve will be significantly affected if the establishment of 8 residential allotments is authorised. • This land has always been exposed to the natural and inevitable process of erosion. In fact this has made Kina Peninsula a peninsula. The creation of a TDC esplanade reserve in front of the residential allotments means that TDC will be responsible for protecting the private residential properties behind the esplanade. • By 2060, erosion of the seaward coastline will result in the entire 20m esplanade reserve being removed through erosion. • While the establishment of public access through esplanade reserves is laudable, the public access already exists as a result of the LEH Baigent covenant. • The natural character of the coastal environment is under threat from this proposal which will change it into a more suburban environment. The current 	Opposes Does wish to be heard

Submitter	Reasons	Decision
	<p>reserve is appreciated because of it's unimproved natural values and isolation from residential activity which would be lost with this proposal</p> <ul style="list-style-type: none"> • There is also an issue of "reverse sensitivity" whereby the residential occupiers of Lots 1-8 start complaining about noisy activities in the reserve. 	
<p>21. Anna Weeks</p>	<ul style="list-style-type: none"> • This site incorporates the LEH Baigent Memorial Reserve which has been accessible to the public for many years. LEH Baigent gifted the land so that future generations could enjoy the area. • Local school children have been involved in planting trees over the years and seeing the area regenerate. • The site is basically a sand pit at the end of Kina peninsula. In this day of risk management is it really advisable to be building on unstable grounds which is subject to coastal erosion? • The visual impact of the development will be totally detrimental to the area, with the landscape changed irrevocably with 8 houses instead of the trees and bush which characterise the area at present. • It is likely that sections will be highly priced with high walls and gated properties which will not foster any sense of community in the area. • It is inevitable with the wastewater systems, being only metres above sea level in sandy soil, that there will some leaching into the sea, causing pollution and a health hazard. • If the access road is sealed, it will be huge burden on Council for maintenance to deal with ongoing coastal erosion. • The construction works to create the development will create a hazard from all the truck movements. • The Council should, instead of allowing this proposal, purchase the land from the applicant. 	<p>Opposes</p> <p>Does wish to be heard</p>
<p>22. Coastal Initiative Group C/- Janet Taylor</p>	<ul style="list-style-type: none"> • The subdivision fails to comply with following TRMP standards: <ul style="list-style-type: none"> i)Vegetation Clearance ii) Subdivision Site area iii) Access Standards iv) Coastal Environment Area rules. • There is no guarantee that the minimum width requirement will be met along the entire length of the reserve. • The site is fundamentally unsuitable for building residential properties because of the erosion risk to what is basically a sand spit. • Effluent disposal in sandy non absorbent base may result in significant leaching into the 	<p>Opposes</p> <p>Does wish to be heard</p>

Submitter	Reasons	Decision
	<p>surrounding estuary and seashore.</p> <ul style="list-style-type: none"> • The proposed development will cause irrevocable damage to the native vegetation and bird life, from both the construction works and the permanent residential occupation of the area. • There is potential for conflict between use of the public reserves and the desire for privacy for the occupants of the proposed 8 properties. • The approval of the development will set a precedent for further developments of the northern end of the Kina Peninsula. • The intention by the applicant to seal the access road within the site will put pressure on TDC to seal the rest of the access road which would lead to an on-going maintenance liability to TDC ratepayer to reinstate the road after storm damage. • The site contains recognised archaeological sites and it is likely that archaeological sites could be destroyed as part of the construction works. • While there may be benefits from the proposed reserve upgrade, this can lead to a higher congestion of traffic and noise which could count against the “perceived” benefit. • The site has been used by the public for decades and the Baigent covenant was seen as a way of securing community use of the reserve in perpetuity. • TDC, in conjunction with the rest of community, should work towards purchasing the entire 10.7ha site as a public reserve. 	
<p>23. Tasman Area Community Association C/- Tony Pearson</p>	<ul style="list-style-type: none"> • The proposed subdivision is not required to give effect to the private covenant which provided the site as a public reserve. • The “community benefits” are only necessitated by the creation of the eight residential allotments. • The proposal fails to comply with various standards of the TRMP, including subdivision area, access standards, earthworks, residential density and the Coastal Area Design Guide, which cumulatively result in effects on the environment that are more than minor. • The proposal will result in a significant cluster of small residential sections which will be of a size typical of urban sections, but without any servicing infrastructure and at risk from coastal hazards. • The site is physically unsuited to residential development because it is basically a sand spit with a high risk of coastal erosion and contamination from leaching of wastewater into the 	<p>Opposes</p> <p>Does wish to be heard</p>

Submitter	Reasons	Decision
	<p>estuary and sea.</p> <ul style="list-style-type: none"> • The coastal hazards are significant and therefore the subdivision should be declined under Section 106 of the Resource Management Act. • The proposed development will cause irrevocable damage to an area of coastal environment that is of significant importance to the residents of the region. • The proposal will result in reverse sensitivity effects that are more than minor, in that there is likely to be a conflict between the residents wanting visual and audible privacy and public use of the reserves. • The proposal will create a development precedent for Kina Peninsula that will encourage further development aspirations for the northern end of the Kina Peninsula. • The subdivision and associated earthworks involves significant earthworks in a Cultural Heritage Precinct, where there is a high likely hood of destroying archaeological sites. • The benefits of the proposed reserve upgrade is questioned, in that it could lead to increased traffic congestion and other adverse effects. • The proposal is contrary to the New Zealand Coastal Policy Statement. • The proposal is contrary to Chapters 5, 7 and 8 of the TRMP. • The proposal is contrary to the policies and objectives of the TRMP for rural residential development in the Coastal Tasman Area, of which the Kina Peninsula is a part of, in particular the TRMP's intent for Landscape character Sub-Unit 4A under the CTA Design Guide. • The proposal will not promote sustainable management of rural coastal resources, and is contrary to Sections 5 - 8 and Part 2 of the Resource Management Act 1991. 	
24. Richard Brown	<ul style="list-style-type: none"> • The people of Tasman are being given 7.66ha for free. • Some of the area is unattractive and unkempt and in need of some TLC. • The proposal will enable facilities to be improved. • The subdivision and the gift of the reserves more than honour LE Baigent's wishes and enable CHH to exit the area with mana. 	<p>Supports Does not wish to be heard</p>
25. Rush Family C/- Hamish Rush	<ul style="list-style-type: none"> • The Rush Family have been living in the Tasman village for over 90 years. • As a family we have been using the Baigent's Domain over this period and have become used to 	<p>Opposes Does wish to be</p>

Submitter	Reasons	Decision
	<p>the idea that it was always going to be used as a public space for ever.</p> <ul style="list-style-type: none"> • We have been actively involved in the replanting of the ex-forested land in conjunction with CHH and have a keen interest in the domain over the years. • The subdivision fails to comply with following TRMP standards: <ul style="list-style-type: none"> •Vegetation Clearance •Subdivision Site area •Access Standards •Coastal Environment Area rules. • There is no guarantee that the minimum esplanade reserve width requirement will be met along the entire length of the reserve. • The site is fundamentally unsuitable for building residential properties because of the erosion risk to what is basically a sand spit. • Effluent disposal in sandy non absorbent base may result in significant leaching into the surrounding estuary and seashore. • The proposed development will cause irrevocable damage to the native vegetation and bird life, from both the construction works and the permanent residential occupation of the area. • There is potential for conflict between use of the public reserves and the desire for privacy for the occupants of the proposed 8 properties. • The approval of the development will set a precedent for further developments of the northern end of the Kina Peninsula. • The intention to seal the access road within the site will put pressure on the TDC to seal the remaining section of access road to the site, which would be a heavy burden on ratepayers, particularly in terms of repairing storm damage. • The benefits of the proposed reserve upgrade is questioned, in that it could lead to increased traffic congestion and other adverse effects. 	heard
26. Hatton Oliver Family Trust.	<ul style="list-style-type: none"> • The subdivision fails to comply with following TRMP standards: <ul style="list-style-type: none"> i)Vegetation Clearance ii)Subdivision Site area iii)Access Standards iv) Coastal Environment Area rules. • There is no guarantee that the minimum esplanade reserve width requirement will be met along the entire length of the reserve. • The site is fundamentally unsuitable for building 	Opposes Does wish to be heard

Submitter	Reasons	Decision
	<p>residential properties because of the erosion risk to what is basically a sand spit</p> <ul style="list-style-type: none"> • Effluent disposal in sandy non absorbent base may result in significant leaching into the surrounding estuary and seashore. • The proposed development will cause irrevocable damage to the native vegetation and bird life, from both the construction works and the permanent residential occupation of the area. • There is potential for conflict between use of the public reserves and the desire for privacy for the occupants of the proposed 8 properties. • The approval of the development will set a precedent for further developments of the northern end of the Kina Peninsula. • The intention to seal the access road with in the site will put pressure on the TDC to seal the remaining section of access road to the site, which would be a heavy burden on ratepayers, particularly in terms of repairing storm damage. • The benefits of the proposed reserve upgrade is questioned, in that it could lead to increased traffic congestion and other adverse effects. • We believe the entire the 10.7hectare site should be in public ownership so it can be preserved for future generations as a public open space in a very natural and undeveloped environment. 	
27. Jeff White	<ul style="list-style-type: none"> • I, along with following individuals were former employees with Carter Holt Harvey Forest (CHHF) and Baigent Forest Industries (BFI) were all previously involved in the management of the LEH Baigent Reserve , prior to sale of CHHF to the Rank Group: <p>Wayne Wells, Former CHHF Harvesting Manager Neil Elder, Former CHHF Regional Manager Brian Grover, Former CHHF Regional Manager Leanne Martin, Former CHHF Woodflow Controller Brian Reed, Reed Contracting Doug Cooper, Buck Forestry Vickie Woodfine, Former CHHF Administration Russell Mead, Former CHH Genetics Manager Mike Fraser, Fraser logging.</p> <p>The above persons are all opposed to the to the proposal.</p> <ul style="list-style-type: none"> • We strongly oppose the subdivision of the LEH Baigent reserve for private residential use. The 	<p>Opposes</p> <p>Does not wish to be heard</p>

Submitter	Reasons	Decision
	<p>reserve was left in perpetuity for the free enjoyment of all locals and visitors to the Tasman Area.</p> <ul style="list-style-type: none"> • We maintained these facilities with pride, knowing this site was the legacy of an individual from one of the great pioneering families in the Nelson/Tasman region, whose effects and vision in sawmilling and forestry has contributed greatly to the local economy for many decades. • After the completion if harvesting of the remaining pine plantation on Moutere Inlet side in the mid 1990's and the coastal side in 2005, we undertook to enhance the surrounding areas with substantial restoration planting of native species which was undertaken with help and enthusiasm from children from local schools. For these children, who are now young adults, to potentially see their efforts destroyed for the sake of profiteering by an absentee landowner, is in our view totally unacceptable. • We have noticed a deliberate neglect of the reserve in terms of maintenance and weed control over the past two years, since this work ceased to be carried out by CHHF staff at the end of 2006. • This proposed subdivision will have a significant adverse effect on the rural and natural landscape, coastal and estuary habitat. • It will have a negative effect on the enjoyment by many of the locals and visitors to the district. • There are issues relating to the recognised historic sites, both known and those yet undiscovered, which do not seem to have been fully investigated or acknowledged in the consent application. 	
28. Friends of Nelson Haven.	<ul style="list-style-type: none"> • Fails to comply with the TRMP in particular the 100m setback from the coast. • The 20m width of the esplanade reserves is not guaranteed. • The Kina Peninsula is low-lying sand dune that is dynamic area being a food source and home to a number of bird species. • The Lee Baigent Community reserve is used on a daily basis by residents and visitors and is much valued area of coastline because of the natural values which have not been compromised by development. • The proposed development will be at risk from rising sea levels and storm events. Houses built in 	<p>Opposes</p> <p>Does wish to be heard</p>

Submitter	Reasons	Decision
	<p>some areas of Mapua are now having to be protected from encroaching sea by high rock walls which have cut access to the beach.</p> <ul style="list-style-type: none"> • There is no mention of where the additional 2340 m3 of material which will need to be imported to the site for the proposed earthworks. This could contain weed species which could cause problems later on. • The development will bring cats and dogs which will kill off local bird life. • Soakage from the septic tanks is likely to contaminate the coast. • The Kina peninsula is the one part of the coast that remains in a natural state and the regulations of the TRMP and the RMA should protect the coastline from intrusive and destructive development. 	
29. Roger Percival	<ul style="list-style-type: none"> • I have known this area as the LEH Baigent Memorial Reserve for over 20 years and it is a shock to hear that the promise of the reserve to the public is going to be withdrawn. • Even if CHH are within the law, it would be a disaster if the application was allowed to proceed. • I agree with all the points of the Tasman Area Community Association submission. 	<p>Opposes</p> <p>Does not wish to be heard</p>
30. Stephanie Percival	<ul style="list-style-type: none"> • This area should be kept as a public space to be enjoyed by anyone, not just those that live locally. • If Kina Peninsula is subdivided for dwellings now, it will lead to more subdivisions in the future. This would have a disastrous effect for the local and wider environment. 	<p>Opposes</p> <p>Does not wish to be heard</p>
31. Christopher Baigent (on behalf of the Baigent Family)	<ul style="list-style-type: none"> • Carters have kept us fully informed at each stage. • The upgrade and maintenance of the memorial is appreciated. • Retention of a reserve in a sheltered location is appreciated. • Subdivision is accepted as a pragmatic decision. • Housing adjacent to a reserve will deter vandals. 	<p>Support</p> <p>Did not indicate whether they wished to be heard.</p>
32. Estefanis Varinda	<ul style="list-style-type: none"> • Ecologically unsound and dangerous eg Sewage. • Infringement of peoples rights. • Sandbanks and beaches are for public use. • The public have had the right to use the reserve for 80 years. • The site has historical significance for local iwi. 	<p>Opposes</p> <p>Does not wish to be heard</p>
33. Johanna Markert	<ul style="list-style-type: none"> • Ecologically unsound and dangerous eg Sewage. • Infringement of peoples rights. • Sandbanks and beaches are for public use. • The public have had the right to use the reserve 	<p>Opposes</p> <p>Does not wish to be</p>

Submitter	Reasons	Decision
	<p>for 80 years.</p> <ul style="list-style-type: none"> • The site has historical significance for local iwi. • Beach use becomes uncomfortable with people yards backing on to it. • Houses should be on stilts with no fences and should have to keep a natural bush look. • Condition to be imposed that no complaints be made about the water sport noise. 	heard
34. Andrea Da Costa	<ul style="list-style-type: none"> • Ecologically unsound and dangerous eg Sewage. • Infringement of peoples rights. • Sandbanks and beaches are for public use. • The public have had the right to use the reserve for 80 years. • The site has historical significance for local iwi. • Beach use becomes uncomfortable with people yards backing on to it. • Houses should be on stilts with no fences and should have to keep a natural bush look. • Condition to be imposed that no complaints be made about the water sport noise. 	<p>Opposes</p> <p>Does not wish to be heard</p>
35.Fraser Campbell	<ul style="list-style-type: none"> • Alarmed that sites can only erected for a finite period and moved later due to sea level rise and coastal erosion. • There is a high potential for effluent to leach into the inlet or coastal water. • The high financial cost to ratepayers in making the road erosion proof for a few residents. • There is a risk to children who walk or bike along Kina Beach Road during the construction phase. • The proposal is short sighted and has potential risks to the environment. 	<p>Opposes</p> <p>Does not wish to be heard</p>
36.Viv Hitchcock	<ul style="list-style-type: none"> • How can anyone go against what the family wished for, which was for donating land to the community? • Such action will have impact on anyone gifting land to the greater community in the future. 	<p>Opposes</p> <p>Did not indicate whether they wished to be heard.</p>
37.Andrew Dodson	<ul style="list-style-type: none"> • Resident of Kina for 18 years. Our children have been involved in the planting of the reserve. • In the Carter Holt 2006 plan there was no mention of this proposal. • Phil Wright of CHH won an environmental award for the domain plantings. • Since then, CHH have given much less care of the reserve. • To take a piece of land that was gifted to the people of Nelson and Motueka and then ignore the covenant and the spirit of the law, is morally wrong. 	<p>Opposes</p> <p>Does not wish to be heard</p>

Submitter	Reasons	Decision
	<ul style="list-style-type: none"> This is a well utilised reserve by the community and locals. It should be preserved for future generations as a 10.7ha reserve that LEH Baigent intended in his gift to the people of the region. CHH should honour the covenant and in co-operation with TDC and the community work towards it staying public hands. 	
38.Ursula Schwarzenbach	<ul style="list-style-type: none"> LEH Baigent reserve is important to the local and wider community. The site is unsuitable for building residential dwellings, because of the sandy unstable ground that is exposed to flooding from sea level rise. Effluent disposal will put water quality and the coast at risk. The site was used by early Maori as well as European and is Wahi Tapu. 	<p>Opposes</p> <p>Does not wish to be heard</p>
39.James Hamilton	<ul style="list-style-type: none"> The entire domain should remain in public use as this was the intention of the Baigent Family when the area was first designated a reserve. If consent is granted for dwellings on the east side of the peninsula, and over time erosion endangers them and they have to be removed, there should be no cost to the ratepayers. All costs should be met by the landowners. 	<p>Opposes</p> <p>Does not wish to be heard</p>
40. Sue Ferguson	<ul style="list-style-type: none"> This land was intended to be a public domain, maintained in perpetuity by the owner, and this intention was protected by private covenant supposedly protecting the interests of the public. The covenant covers the whole 10.7 hectares. The proposed improvements such as bollards and carparking detract from the inherent charm of the area that has been enjoyed by generations of families without complaint. The applicant proposes huge earthworks which will close off the site for five months, thereby denying public access. Nothing in the application addresses the visual impact of the eight dwellings which are to be 5.5 metres in height, which should not be allowed because their visual effects cannot be mitigated. The applicant proposed removal of vegetation that was part of school plantings that won an environmental award. Why is profit more important than the environment that school children helped create? There are better ways of dealing with the land that are more in keeping with the intent of the covenant. 	<p>Opposes</p> <p>Does not wish to be heard</p>
41.Louise	<ul style="list-style-type: none"> Kina Peninsula and namely the Baigent Memorial 	<p>Opposes</p>

Submitter	Reasons	Decision
Raymond.	<p>Reserve is an iconic part of Tasman and for many years has been enjoyed by locals as a recreational area.</p> <ul style="list-style-type: none"> To see this area chopped into sections would be a disgrace. 	Does not wish to be heard
42. Tiakina Te Taiao	<ul style="list-style-type: none"> Tangata whenua have concerns about the following: <ul style="list-style-type: none"> The recognition of, and protection for the cultural heritage of the land proposed for subdivision. The impacts of the subdivision on the cultural landscape. Cumulative effects of subdivision in the Tasman District. The preservation and protection of cultural heritage. Waste management. Continuance of mahinga kai/mahinga maataitai (places to gather food/fishing grounds) and customary use activities. Coastal occupation and protection of kaimoana. The impacts of the general (uninformed) members of the public using the reserve/boat ramp picnic area. The protection of indigenous biodiversity. Hazards, including land instability, and sea level rise. Accessways including the formed "road" (KDCL legal strip and TDC right-of-way. 	Opposes Does wish to be heard
43. Robynne Harvey and Royce Heine	<ul style="list-style-type: none"> This Reserve was gifted to the people of Tasman District for our recreation and enjoyment. It is totally abhorrent that this can now be overturned and used for financial gain for Carter Holt Harvey. I am a regular user of the reserve 2-3 times a week. Over the summer it is very popular for picnics and gatherings, boating and swimming. All year round it is a wonderful spot to exercise and chill out. This land should be left as Mr Baigent intended, for recreation of the people of Tasman. 	Opposes Did not indicate whether they wished to be heard.
44. Paul Bell (on behalf of B and T Bell)	<ul style="list-style-type: none"> Inadequate explanation about who will maintain the access road and the accompanying sea wall, which is very susceptible to adverse weather conditions. It needs to be very clear on the responsibilities for the maintenance of the access road that will be shared with the Kina Development Company (KDC) at the end of the peninsula. Lack of information about how mains power will be conveyed to the house sites. It should be undergrounded. 	Opposes Does wish to be heard.

Submitter	Reasons	Decision
	<ul style="list-style-type: none"> Lack of information about any future water supply and how services such as rubbish disposal will be provided to the site. If there is reticulated water supply, it should be extended to the KDC land. The same would apply if there is going to be rubbish collection. Lack of information on how TDC will monitor increased boating and swimming activity, should ne the new plan be approved. As usage increases, there is a higher risk of accidents. 	
45. Craig Hunter	<ul style="list-style-type: none"> Kina has been a valuable getaway for the people of Tasman for generations. It is one of the last untouched coastal strips that is not chewed up subdivisions. So many other places are fenced up for people to stay out. This is still a place where people to walk and go fishing. Decisions should not always be based on money. 	<p>Opposes</p> <p>Does not wish to be heard</p>
46. Jean Stokx	<ul style="list-style-type: none"> Reasons for opposing are: <ul style="list-style-type: none"> Ecological. Historical Environmental- Nitrate discharge Wildlife preservation. Great community area for families to come together to BBQ and swim all summer. There should only be natural or environmental buildings. The application should be reassessed for waste management. 	<p>Opposes</p> <p>Does not wish to be heard</p>
47. Veronique Cornille.	<ul style="list-style-type: none"> I value history and heritage and those who have gone before. There is value beyond money and that is we borrow this planet for future generations. We owe a respect to the undeveloped places that have been left to us, and that is in honouring their legacy. I urge you to ensure that the Baigent Memorial Reserve is left as it is, for the benefit of all, and that it is protected from development forever. 	<p>Opposes</p> <p>Did not indicate whether they wished to be heard.</p>
48. Jenna Voigt	<ul style="list-style-type: none"> This is a public asset that is unequalled in the Motueka area throughout the summer. My family use the reserve frequently during the summer for wakeboarding and other recreational activities and has huge recreational value. This reserve should be left as it is for all to enjoy as a relaxed safe environment. 	<p>Opposes</p> <p>Did not indicate whether they wished to be heard.</p>
49. Maggie Williams	<ul style="list-style-type: none"> Subdividing a low-lying area in a time of predicted sea level rise does not make sense. Effluent disposal in a lowlying area, near the sea, would not seem advisable, with a high risk of 	<p>Opposes</p> <p>Does wish to be</p>

Submitter	Reasons	Decision
	<p>flooding by sea water and leaching into the surrounding land and sea.</p> <ul style="list-style-type: none"> • The use of water bores would risk salination from the sea. • The sale of land which has been recreation land for generations, is an injustice for the Kina/Tasman community. • Tasman will be surrounded by two major roads and there is a need for a recreational area such as this one. • The Tasman school has been using this site for recreation for many years and have planted trees on the peninsula. This demonstrates that the community has a vested interest in the retention of this area for recreation, not a crowded housing development. 	heard.
50. Paul and Susan Shand.	<ul style="list-style-type: none"> • This park has been enjoyed by our family for over 7 years and we love the simplicity of being in the outdoors in a coastal environment so close to our home. • Feel strongly that this is a special and unique place that does not exist anywhere else in the region, that has access for dogs and is a natural walking circuit. • Please save a rare environment enjoyed for what it is. Space, sea, community and all the creations of our children's imaginations. 	<p>Opposes</p> <p>Does not wish to be heard</p>
51. Valerie and Geoff Trow	<ul style="list-style-type: none"> • We have been to the domain many times over the recent years, for family and tramping club outings. • It should never be carved up for housing and because of climate change, no more land along the coast should be available for housing. • The domain is a place where you can play games without upsetting other users. Leave it as it is. 	<p>Opposes</p> <p>Did not indicate whether they wished to be heard.</p>
52. John and Sally Palmer	<ul style="list-style-type: none"> • I hope and expect that the Council will make every attempt to persuade the owner that the area should be vested as a community reserve. • The subdivision of any of the land would seem entirely inappropriate. 	<p>Opposes</p> <p>Did not indicate whether they wished to be heard.</p>
53. Lisa Lemaire	<ul style="list-style-type: none"> • I think it is important to all the people of Nelson, that the spirit of what Lewis Baigent intended, that the land be gifted to the people of Nelson for all to share and enjoy, be honoured. • It is up to the Council to protect our public spaces and not let too much go into the hands of individuals. • How far do we have to let it go, before there are no public spaces to enjoy, only private ownership for 	<p>Opposes</p> <p>Did not indicate whether they wished to be heard.</p>

Submitter	Reasons	Decision
	<p>a select few?</p> <ul style="list-style-type: none"> Let us keep public spaces in public ownership so we don't become tenants and outsiders in our own community. 	
54. John Krammer	<ul style="list-style-type: none"> Object to any change in the size or designation of the LEH Baigent reserve at Kina. The area is both attractive, convenient and safe for a range of leisure activities for young and old. The reserve that LEH Baigent bequeathed should be viewed with the vision of its creator taking into account the needs of generations yet to come. The new bypass has consumed reserve areas that were used for sport in the past. It is important to keep reserve areas rather than to reduce this site in size with more houses. Perhaps more beautification and landscaping, but otherwise leave it as it is. 	Opposes Did not indicate whether they wished to be heard.
55. Karen Hamlen-Williams	<ul style="list-style-type: none"> As a resident of Mapua I have witnessed the limitations that Council has in regard to coastal erosion. If Council was to grant this application, there would be a great inconsistency in Council policy. 	Opposes Did not indicate whether they wished to be heard.
56. David and Beryl Spenser	<ul style="list-style-type: none"> Wish to add our voice to the opposition to the sale of the Kina Peninsula land. 	Opposes Did not indicate whether they wished to be heard.
57. Thelma and Eric Rowell	<ul style="list-style-type: none"> The LEH Baigent Memorial Reserve has been a favourite family picnic place for many years and our youngest son learnt to water ski in the sheltered waters of the inlet. We are opposed to the sale of this land. 	Opposes Did not indicate whether they wished to be heard.
58. Ellen Farrow	<ul style="list-style-type: none"> This land should be protected as a public open space in accordance with the covenant placed on the land by the original owners. Carter Holt should respect this covenant. The area should be kept public for use by schools and the general public. 	Opposes Does not wish to be heard
59. Richard and Cyrina Hill	<ul style="list-style-type: none"> To subdivide and sell land which has been gifted to the people of Tasman, with remainder going to the Council, is against the nature of the gifted land. This is a recreational area that is enjoyed by hundreds of families each year. Houses on this domain mean the end of an era in 	Opposes Does wish to be heard

Submitter	Reasons	Decision
	kiwi history. <ul style="list-style-type: none"> • Mr Baigent allowed this land to be used by the people. • The local community and ourselves keep this area clean and user friendly by being there, not by being fenced out. • The land should be in a trust as with the Balmoral Reserve in Hurunui District. 	
60. Rochelle Harwood	<ul style="list-style-type: none"> • This is a well used public area for many recreational activities. • The land has been given to the public for many uses and this proposed plan will change this area by making it smaller and it will lose its tranquil and unique qualities. • We need to preserve this area for our children's children. • The ecosystem should be left alone. 	Opposes Does not wish to be heard
61. Angela Newport.	<ul style="list-style-type: none"> • Opposed to the subdividing of land gifted to the people of Tasman/Nelson. • Kina should be left as intended for use as an area for all, not to be privately owned. 	Opposes Does not wish to be heard
62. Richard Horrell	<ul style="list-style-type: none"> • The subdivision to create extra housing is contrary to the wording of the covenant agreed to by the previous owners. • This is a marvellous facility and any subdivision will create too many near neighbours to users of the foreshore and the flat recreational area. • The Baigent family set this area aside as a public area and it needs to be maintained as that, even if means that TDC has to contribute to the costs. • It is such a popular reserve that needs preserving. 	Opposes Does wish to be heard
63. Tim and Ngaroma Saunders	<ul style="list-style-type: none"> • This area is an asset unequalled in the Motueka area. • My family often use the reserve over summer for wakeboarding and picnicking and relaxed social activities. It has huge recreational value. That would be spoilt by subdivision and development. It would be devastating. • It should be left as it is as a very relaxed and safe environment. 	Opposes Did not indicate whether they wished to be heard.
64. Louis Kolff	<ul style="list-style-type: none"> • This land must remain as a public reserve in perpetuity. • It is unique location, with the coast on one side and the estuary on the other. • It is widely used by the public for both active and passive recreation and has been widely planted with native trees over the years. • It has magnificent mountain views and is a local icon. • I have used the domain for over 60 years. 	Opposes Does not wish to be heard

Submitter	Reasons	Decision
	<ul style="list-style-type: none"> It cannot be changed from the present zoning. 	
65. Edward and Maria Voigt	<ul style="list-style-type: none"> This area is a huge asset in the Motueka area, that is often used where families can have a gathering away from the populated areas such as Kaiteri. My family often use the reserve over summer for wakeboarding and picnicking and relaxed social activities. It has huge recreational value. That would be spoilt by subdivision and development. It would be devastating. It should be left as it is as a very relaxed and safe environment. 	Opposes Did not indicate whether they wished to be heard.
66. Robert Visser	<ul style="list-style-type: none"> There are errors in the Geotech report dealing with the wastewater discharge The suggested maximum discharge of 220 ltr per household is well below the accepted industry norm of 180 ltr per person. Because of the permeable sand and gravels, bacteria and nutrients will be washed into the sea. This subdivision has the potential to haunt the TDC ratepayers. There is no tidal marsh to absorb the wastewater nutrients which adversely affect nearby shellfish beds. 	Opposes Does wish to be heard
67. Marion and Peter Satherley	<ul style="list-style-type: none"> There is a need to preserve the natural environment as it currently stands. The need to preserve the only beach and reserve within the Ruby Bay Coast and Tasman District. There is no guarantee that there will be a full esplanade reserve. The development is on sand spit which is not suitable for such a development, including effluent disposal in the sand environment, which could result in leaching into the sea and the estuary. The impact to the residents and the community due to the increased noise, dust and hazards on the access roads. Potential conflicts between future residents and the public using the reserve. Potential for pressure to be placed on TDC, by the new residents, to seal the access road The reserve only requires minimal upgrading. Granting of this application would mean a huge loss to the community, now and into the future. 	Opposes Did not indicate whether they wished to be heard.
68. David Short.	<ul style="list-style-type: none"> The proposal is totally against the spirit of the 1982 Baigent Covenant. The high risk from coast hazards, particularly in future years, mean the risk is too great for development and should not be allowed as with the coastal areas proposed in the Mapua Development Plan. 	Opposes Does wish to be heard

Submitter	Reasons	Decision
	<ul style="list-style-type: none"> • There will be irreparable damage to the habitat of a fragile ecosystem. • There is real risk that onsite effluent disposal systems may fail which could pollute the estuary and Tasman Bay. • The fragility of the Kina Peninsula road that accesses the site is a major worry and it could be expensive to maintain. • The size of the lots is very small and if approved, could set a risky precedent and lead to others wanting to subdivide along the coastline. • The proposal to upgrade the reserve is unnecessary. 	
69. Gillian Gallacher	<ul style="list-style-type: none"> • Damage to an already fragile eco system from road works and dwelling construction is a great concern now and for the future. • The intention of the Baigent family was to establish a public reserve in perpetuity in memory of LEH Baigent. The proposal disregards this commitment to provide the whole site as a public reserve. • The Kina peninsula is a Cultural and Archaeological site. This should be recognised and preserve for the history of the region. • The visual impact of the subdivision from both the sea and the State Highway 60 will be evident. It will destroy the relatively unspoilt and rural coastline that the local community is proud of and enjoy. • I have lived in the area for over 20 years and seen the access road damaged by storms and high tides. If a new sealed road is built then the storm damage be even more expensive to repair. • The Kina Peninsula is a low lying sand dune/sand spit which together with sea level rise and storm hazards, makes the area unsuitable to build on. If development in Mapua is being stopped on this basis, why should it happen here? 	Opposes Did not indicate whether they wished to be heard.
70. Forest and Bird	<ul style="list-style-type: none"> • The application does not comply with the Objectives, Policies and Rules of the Tasman Resource Management Plan or the Regional Policy Statement. • The application does not comply with the policies of the New Zealand Coastal Policy Statement. • The social and cultural well being of people and communities has not been met and the natural physical resources cannot be sustained to meet the foreseeable needs of future generations. • The life supporting capacity of the associated ecosystems cannot be safeguarded and the adverse effects of the proposed activities on the 	Opposes Does wish to be heard

Submitter	Reasons	Decision
	<p>environment have not been avoided remedied or mitigated.</p> <ul style="list-style-type: none"> • The purpose of the RMA - the sustainable management of natural and physical resource cannot be achieved. • While the application appears to be generous in providing reserve areas(7.66ha) for the public, this needs to be balanced against the 1982 covenant that the memorial reserve was to cover the full 10.7 hectares. • The entire western coastline of Tasman Bay is known to have been occupied at times by pre-European Maori. Many of these occupation sites have been destroyed. Kina Peninsula is known occupation site and many artefacts and midden have found on this site. • The question remains: How can this heritage be best protected and respected for future generations? • The proposal suggests that use can be made of the existing ROW to and of the Peninsula (Lot 1 DP 4979). There is nothing to indicate that the owners of this right-of-way are agreeable to this access. • The right-of-way could be marked as private, to discourage public access. • Lot 15 is identified as esplanade reserve, yet it does not adjoin the mean high water springs. • The integrity of the TRMP is compromised in allowing residential lots without sewer reticulation in a Rural 2 zone. • The subdivision will adversely affect the amenity values of the area and result in a loss of public access. • The site still has a high level of natural character. It is a matter of national importance to preserve the natural character of the coastal environment. • The proposal is contrary of the policies in the TRMP relating to protecting landscape from inappropriate subdivision. • The proposal will commit Council to considerable expenditure for the sealing an maintenance of the access road to the site. • The proposed earthworks are contrary to the NZ Coastal Policy Statement which states that natural sand dune areas should be recognised and maintained. • The waste water disposal systems are likely to have negative impacts on the sea and the Moutere Inlet. 	

Submitter	Reasons	Decision
71. Brian Rhoades	<ul style="list-style-type: none"> • As Jackett Island property owners we are dependent on the continued public access to the Baigent Domain for safe boat Road?? access to our property. • Our property directly overlooks the proposed subdivision site from the seaward side. • While the application will provide public reserves, the cost of allowing the subdivision of this sensitive coastal land in contravention of the principles and provisions of the Tasman Resource Management Plan is too high a price to pay for public access to land donated and covenanted as a public reserve since 1982. • The application is socially irresponsible and contrary to the many principles and rules of the TRMP and the New Zealand Coastal Policy Statement. • The subdivision will detract from the enjoyment of our holiday home we purchased in 1994 with the full expectation that the planning rules would be enforced. • For generations the people of Tasman district have enjoyed public access to Kina peninsula, the Baigent Domain, boat access to the Moutere Estuary and one of the few sheltered water skiing lanes in the district. • Until recently CHH acted as if they intended to honour the Deed of Covenant. • The TDC have a responsibility to negotiate satisfactory solution with CHH which enables the public reserve to be maintained. • The unique natural coastline for Tasman is part of the Tourism attraction of the district and part of the recreational enjoyment of the area. This will be progressively destroyed by inappropriate residential subdivision of the type set out this application. • We note intention of the developer to tar seal the existing access road at it current level. Since 1994 we have observed the road washed out on two occasions. The road can be badly damaged in a few hours during a storm unless it is soundly constructed at an appropriate height and with adequate protection works. • TDC will have to pick up the cost of any repair work which, given past history and warnings in the engineering reports, could be extensive. 	<p>Opposes Does wish to be heard</p>
72. John Kelly	<ul style="list-style-type: none"> • The applicant is breaching the trust of the 	<p>Opposes</p>

Submitter	Reasons	Decision
	<p>community</p> <ul style="list-style-type: none"> • The area should remain reserve and not be cut into multi million dollar homes. • The interests of many are being replaced by a few. 	Does not wish to be heard
73.Adele Campion	<ul style="list-style-type: none"> • Our coastal lands are vitally important not only as places whereby people can go to enjoy but they are integral for birdlife, flora and fauna. • Development of this area will not only deny people of Nelson who have invested many hours planting trees for future generations, but will also compromise the coastal eco system. • The LEH Baigent Reserve is a unique sanctuary, lovingly tended by the people of the region. To deny them access to the land by subdividing the land and closing access to the beach is purely a commercial decision based on profit not people. 	Opposes Does not wish to be heard
74.Riley Neame	<ul style="list-style-type: none"> • This area is an asset unequalled in the Motueka area. • My family often use the reserve over summer for wakeboarding and picnicking and other similar activities. It has huge recreational value. That would be spoilt by subdivision and development. It would be devastating. • It should be left as it is as a very relaxed and safe environment. 	Opposes Did not indicate whether they wished to be heard.
75. Sylvia Shand	<ul style="list-style-type: none"> • The LEH Baigent Memorial Reserve is much valued by Nelson and Tasman people. • The area has good potential for continued use, whereas subdivision and built development will cause problems for future Councils with sea level rise and global warming. • Any civil engineer would surely advise against this subdivision. • The public deserves more time and consultation over this matter. • Leave the Reserve in the hands of the Tasman people. 	Opposes Did not indicate whether they wished to be heard.
76. M Perry	<ul style="list-style-type: none"> • This land was donated by Lew Baigent many years ago. • Does this mean that in the future the dying wishes are simply ignored by those who wish to make money. • Cannot imagine that subdivision is even being suggested. 	Opposes Did not indicate whether they wished to be heard.
77.Mark Merrian	<ul style="list-style-type: none"> • Ecological endangerment. • Environmental disaster - mussels and cockle shells will be poisoned by the nitrates from the sewage. • Endangered species live there. • Peoples right to the Queens chain. 	Opposes Does not wish to be heard

Submitter	Reasons	Decision
	<ul style="list-style-type: none"> • The site has a long history for both Tasmanites and iwi. • There should be holiday batches only with long drop toilets. • No complaints about noise from the reserve. • No spilling out on to beach of personal belongings. 	
78. Rhys Johnson	<ul style="list-style-type: none"> • Ecological, • History, • Environment, • Endangered wildlife, • Queens chain, • The land is for the people. 	Opposes Does not wish to be heard
79. Pip Weir	<ul style="list-style-type: none"> • Ecological • Environmental. • Wildlife endangerment. • Family place for people to use. • Community use. 	Did not state Did not indicate whether they wished to be heard.
80. Jim Matranga	<ul style="list-style-type: none"> • The land was left to the public and should not be developed. • Enough land has already been lost to coastal development. • Lewis Baigent intended this land be a gift to the community, and it should be left that way. 	Opposes Does not wish to be heard
81. Billy Wrigley	<ul style="list-style-type: none"> • It should not be subdivided because I use the whole space for playing with my friends, family and school. • If people live there, there might be more rubbish. 	Opposes Does not wish to be heard
82. David Melville On behalf of the Nelson/Golden Bay Branch Ornithological Society of New Zealand.	<ul style="list-style-type: none"> • There is no reference to the ornithological vales of the area in the application. • There are number of threatened species such as the Banded Dotterel and the Variable Oystercatcher that are present in this area. • There is no reference to the New Zealand Coastal Policy statement in the application. • The proposed construction works are likely to result in disturbance to bird nesting areas. 	Opposes Does wish to be heard
83. Martyn Peat	<ul style="list-style-type: none"> • This land was to be left by LEH Baigent in reserve for the publics use, it should be left that way. • It was his wish and it should be honoured. 	Opposes Does not wish to be heard
84. Andrew Templeton	<ul style="list-style-type: none"> • The area should stay as a public reserve, in total, in the spirit of the LEH Baigent covenant of 1982. • Kina Peninsula does not need any more urbanisation. 	Opposes Does wish to be heard
85. NZ Historic Places Trust.	<ul style="list-style-type: none"> • There should be further archaeological investigation to define the extent of the 	Opposes Does wish

Submitter	Reasons	Decision
	<p>archaeological deposits.</p> <ul style="list-style-type: none"> • Questions the level of earthworks to establish the house sites. • Any landscaping over a midden site would require a Section 18 authority under the HPA. • Recommends that Lots 1 and 2 be removed as these lots contain known sites and there is likelihood of further discovery. • Supports the intention to provide fencing of sites and interpretation panels. 	to be heard
86. Alan White	<ul style="list-style-type: none"> • The site is one of the few sites along the Kina peninsula that is readily accessible to the public. This would be ruined by the proposed subdivision. • The whole site should be retained as a reserve, maintained by TDC with, or without community help 	Opposes Does not wish to be heard
87. Betzy Iannuzzi	<ul style="list-style-type: none"> • Applicant is breaching the trust of the community and of the use of the land established by statement and precedent. • The offer to Council of parcels of reserve creates conflict. • The area should remain reserve, not be cut into multi million dollar homes. • The interests of many are being replaced by a few. 	Opposes Does not wish to be heard
88. David and Judy Mitchell	<ul style="list-style-type: none"> • There is a moral responsibility for the owner and the Council to ensure that the intention of the Baigent covenant to preserve this area as a reserve for community use is carried out. • Concerned that the site is low-lying and under threat from sea level rise. Over the past 20 years substantial erosions along this coast and the access road that on occasions have closed the road. • Opposed to the proposed earthworks, that involve a total of 53,430 cu metres of fill, which would include imported fill to build up dwelling sites. These earthworks will result in the natural dune system being destroyed. • The building up of parts of the coast and construction of rock walls can cause increased erosion in other areas. • In this area that is vulnerable to sea level rise, likely to be adversely affected by sea level rise, you cannot provide sustainable building sites. • The residential sites are smaller than the lot size permitted for the Rural 2 zone. • Concerned about the adequacy of the waste water disposal system which could lead to effluent discharges into the Moutere Estuary and the sea. • Concerned about the reduction in the reserve area 	Opposes Does wish to be heard

Submitter	Reasons	Decision
	<p>that was gifted to the community by Lewis Baigent and his family. This gift is greatly valued and should be enhanced, improved and protected.</p> <ul style="list-style-type: none"> Concerned about what appears to be a gated community and the reduction in access to the most attractive and scenic part of Kina peninsula. 	
89. Anthony Opie	<ul style="list-style-type: none"> Very concerned that the covenanted Baigent Domain gifted to the community should be permitted to be developed and the best parts sold off for residential housing. The fact that LEH Baigent gave this land “for all to share and enjoy” should mean that it is sacrosanct and immune from development. The Domain should be left in its present state as a reserve to serve the purpose that it was gifted for. 	Opposes Did not indicate whether they wished to be heard.
90. Philippa Wells	<ul style="list-style-type: none"> The school, of which I am part of, utilises the beach and reserve areas for a range of academic and environmental purposes. Students believe it to be an important part of their “Land identity”. I have used the area frequently for recreational use and value the unpopulated area and potential for preserving archaeological sites. 	Opposes Does not wish to be heard
91. Zara Davies-Reid	<ul style="list-style-type: none"> The land was gifted by the Baigent Family and was supposed to be for the community. Our school uses it for lots of things like cross country fun days out, orienteering and lots more, but if put houses on it, we no longer have a place to do these things. 	Opposes Does not wish to be heard
92. Conner Bithell	<ul style="list-style-type: none"> Opposed to the building of new dwellings and the removal of indigenous vegetation. In the past we have planted trees and used it for cross country and other activities such as orienteering, class trips, fun day out etc. 	Opposes Does not wish to be heard
93. Hannah Grimwood-Small	<ul style="list-style-type: none"> In the past Tasman school have planted, cleaned and used the LEH Baigent Memorial Reserve. My family have used the park for picnics and games for over 9 years. I am outraged that they plan to do this. 	Opposes Does not wish to be heard
94. Tayne Lockwood	<ul style="list-style-type: none"> Four years ago, my school came and planted trees in this area. We use this site for our cross-country race. We’d like to continue doing this stuff. 	Opposes Does not wish to be heard
95. Pieter Russon	<ul style="list-style-type: none"> Our school has used this land for a long time for educational purposes, cross country and class trips. Four years ago we planted native trees there and now they are going to rip them out. We have helped clear up the grounds by picking up litter. 	Opposes Does wish to be heard

Submitter	Reasons	Decision
96, OHT Bryden	<ul style="list-style-type: none"> • We would like to continue doing these things. • Or school spent a lot of time planting plants. • The road will be not safe while the buildings are being constructed, particularly for riding bikes on Kina road. • We practised biking there in the past. 	Opposes Does not wish to be heard
97.Margaret Deaker	<ul style="list-style-type: none"> • Given the TDC projections of Climate Change, to allow houses on low-lying land is worse than allowing “leaky” homes. • There should no sewage systems in sandy areas adjoining the beach front where shellfish are frequently gathered for food. • Kina Peninsula is the area’s only “green spot/recreational reserve” and is a valued asset to the community. 	Opposes Does not wish to be heard
98. Colin Smith	<ul style="list-style-type: none"> • This is a special area that was gifted to us to use and to have the right to go there taken away is just not OK. • I’ve been going there for 60 years and now my children and grandchildren go there. • It’s quite wild and that makes it special and it definitely does NOT need any sort of development • The access road is already under threat so we don’t need any more development in the area. 	Opposes Does not wish to be heard
99. Gillian Todd	<ul style="list-style-type: none"> • The entire area should remain a quiet public place. • It was gifted for public use and it is a local icon. • My family has special memories associated with the reserve and I would hate that future generations would not have this truly local place for recreation. 	Opposes Does not wish to be heard
100. Janice Baily	<ul style="list-style-type: none"> • The land should be a reserve, left in its wild state, not tidied up or beautified. • We need “wild” places, planted with natives as has already been started here. • There should not be any dwellings on this sandbank. 	Opposes Does wish to be heard
101. Alastair Rose	<ul style="list-style-type: none"> • Over the past 55 years I have enjoyed this delightful area which was donated by Lew Baigent for public use. • The beach on the inlet side provides a glorious place to BBQ, water-ski, swim and enjoy beautiful sunsets, and has been popular for large picnics for local firms and organisations. • Part of the attraction of the domain is that it remains basic. It would lose that appeal if it was upgraded and there would be safety issues from increased traffic and use of the water channels. • The road access is prone to erosion and sometimes completely destroyed by high tides coinciding with northerly storms. 	Opposes Does not wish to be heard

Submitter	Reasons	Decision
	<ul style="list-style-type: none"> The subdivision would be against the wishes of Lew Baigent who wanted the public to enjoy the Reserve in perpetuity. 	
102.Sarah Armstrong.	<ul style="list-style-type: none"> Serious oversight by TDC to not ensure that the Baigent reserve became a Council reserve. I am opposed to the suggestion public access could be restricted and community native planting could be destroyed. There will be an adverse impact on bird life. The land should be purchased by TDC for community use with some improvements. 	Opposes Did not indicate whether they wished to be heard.
103. Sandra Rolls (On behalf of Rm 3 of Tasman Christian School.	<ul style="list-style-type: none"> Rooms 2 and 3 of this school have been involved in the conservation effort in this area and have spent many hours planting native trees to turn this area into a more natural environment for birds and animals. If this subdivision goes ahead all this work will be in vain. We feel we were misled by CHH into thinking that the plantings were permanent and that the children would be able to visit in years to come as natural reserve area. The domain should be left as it is so that it can be enjoyed by the community for many years to come. 	Opposes Does not wish to be heard
104. Fletcher (Y4)	<ul style="list-style-type: none"> Tasman Bay Christian School do not understand why you would let people take the land that we planted plants on . It's insane! Please don't let them subdivide. 	Opposes Did not indicate whether they wished to be heard.
105.Caleb (Y5)	<ul style="list-style-type: none"> At Tasman Bay Christian School we have done lots of work to make Kina look good. Lots of people go fishing at Kina. Its not fair on us. Please don't subdivide! 	Opposes Did not indicate whether they wished to be heard.
106. Hannah and Annaliese (Y2)	<ul style="list-style-type: none"> We do not understand why you are destroying this bit of land. It is not fair. Why do you have to put houses in this wonderful place? Why can't you put homes somewhere else? 	Opposes Did not indicate whether they wished to be heard.
107. Tate (Y5)	<ul style="list-style-type: none"> Why are you letting people cut down trees at Kina, that schools have worked on for years? It is not fair for people who want to go swimming and boating but they can't because the boat ramp 	Opposes Did not indicate whether

Submitter	Reasons	Decision
	might be closed and there will be houses in the way!	they wished to be heard.
108. Tia and Olivia (year 4)	<ul style="list-style-type: none"> We don't want you to make Kina different because otherwise schools will not be able to plant trees. You're ruining peoples houses that live in Kina. 	Opposes Did not indicate whether they wished to be heard.
109. Liam and Andre (Year 5)	<ul style="list-style-type: none"> We do not understand why you can take this public place away from everybody that enjoyed this property and it is just not fair! Mostly everyone planted trees there, and it should stay a public place. 	Opposes Did not indicate whether they wished to be heard.
110. Keilah and Ari (Year 3)	<ul style="list-style-type: none"> We don't want Kina to be different, because we want it to stay the same. We should plant more trees and make it more natural. 	Opposes Did not indicate whether they wished to be heard.
111. Save Lee Baigent Memorial Domain Kina Facebook C/- David Short	<ul style="list-style-type: none"> 296 Facebook entries opposing the application. 	Opposes Does not wish to be heard
112. Rosalie Wood.	<ul style="list-style-type: none"> This was a gift to the people of Motueka and Nelson and the Council needs to reinstate the original covenant to ensure Mr Baigent's wishes are preserved for future generations. This is a much loved area of many locals and holiday makers visiting the area. 	Opposes Does not wish to be heard

4.2 Summary of submissions by topic:

1. Sufficient water for fire fighting.	1,
2. Effects of powerlines	19, 44
3. Availability for public access	2, 11, 15, 20, 21, 24, 25, 32, 33, 36, 37, 41, 45, 46, 48, 51, 57, 59, 60, 62, 63, 65, 70, 74, 76, 86, 90, 102
4. Against the Baigent Covenant:	5, 13, 21, 23, 27, 29, 36, 37, 40, 47, 53, 54, 58, 59, 60, 61, 62, 63, 64, 65, 68, 71, 72, 76, 80, 83, 88, 89, 91, 101, 112
5. Important recreational area.	11, 13, 15, 17, 24, 25, 32, 33, 37, 38, 41, 45, 45, 46, 47, 48, 51, 53, 57, 59, 60, 62, 63, 74,

	79, 86, 90, 91, 92, 97, 98, 99, 101, 109
6. Council should purchase entire site or entire site remain open to the public.	17, 21, 22, 26, 30, 37, 38, 39, 43, 52, 53, 58, 71, 72, 75, 80, 86, 87, 89, 99, 100, 102, 103,
7. Concerned about reserve upgrade:	25, 26, 44, 50, 51, 53, 67, 68, 101
8. Reserve upgrade is appreciated.	31,
9. Concerned about Esplanade reserve width.	25, 26, 28, 67, 78
10. Houses will help deter vandalism in reserve.	31,
11. Site has been used for tree planting for public reserve.	49, 73, 92, 92, 93, 94, 95, 96, 103, 107
12. Concerns about coastal erosion.	2, 3, 5, 8, 15, 16, 19, 20, 21, 22, 23, 26, 28, 35, 49, 55, 69, 75, 88, 97
13. Destruction of archaeological sites and historical sites important to iwi.	5, 22, 23, 32, 38, 42, 46, 69, 77, 78, 85, 90
14. Concern about sealing of road access and future maintenance	5, 16, 19, 22, 25, 35, 44, 67, 68, 70, 71
15. Road access unsafe	10, 18, 25, 26,
16. Erosion hazard to road access	68, 69, 71, 98, 101
17. Concerned about increased traffic	22,
18. Should not subdivide Rural 2 land	5, 64,
19. Too close to the coast.	9, 17, 28,
20. Concerned about visual amenity of the dwellings.	9, 12, 17, 21, 33, 69, 106
21. Loss of the natural and rural character	9, 11, 20, 23, 27, 28, 67, 69, 70, 71, 100
22. Problems with residents complaining about noise.	9, 16, 20, 22, 23, 25, 26, 33, 34, 67, 77
23. Concerns about wastewater disposal	8, 10, 16, 21, 22, 25, 26, 28, 32, 33, 34, 35, 38, 42, 46, 49, 66, 70, 77, 88, 97
24. Set a precedent for other developments	16, 22, 23, 25, 26, 30, 68, 87
25. Concerned about effects on birdlife:	17, 22, 28, 46, 77, 82, 102
26. Concerned about earthworks.	17, 22, 23, 28, 40, 69, 70, 88
27. Effects of construction works.	35, 40, 69, 70, 82, 88
28. Vegetation clearance and effects on natural ecosystems	22, 23, 25, 26, 27, 40, 46, 49, 60, 70, 73, 77, 78, 92, 107
29. Residential sites too small.	22, 23, 25, 26, 68, 88
30. Contrary to the policies and objectives of the TRMP.	23, 70, 71,
31. Contrary to NZCPS	23, 70, 71, 82

4.3 Affected Parties Consent

No affected parties consent was provided with the application.

5. PRINCIPAL ISSUES

The principal issues associated with the applications are:

- a) Is this an appropriate development in the coastal environment?
- b) Will it adversely affect the landscape values of the area?
- c) Has the natural character of the site been retained or enhanced?
- d) Are the proposed residential sites at risk from coastal erosion and inundation?
- e) Are the visual effects of the proposed dwellings more than minor?
- f) Is the proposed development consistent with the policies and objectives of the Tasman Resource Management Plan and the New Zealand Coastal Policy Statement (2010)?
- g) Can the residential sites be serviced for on-site wastewater disposal without adversely affecting the coastal environment?
- h) Will the development of a small rural residential allotments cause conflicts with the use of the proposed reserve?
- i) Can the new allotments be provided with adequate access?
- f) Is the road access to the site subject to long term natural hazards?
- g) Will the benefits of the reserves outweigh the negative effects of the residential dwellings?

6. STATUTORY PROVISIONS

The application is a Discretionary activity within the Rural 2 Zone and therefore the Council must consider the application pursuant to Section 104 of the Resource Management Act 1991.

The matters for the Council to address in Section 104 are:

Part II matters;

the actual and potential effects on the environment of allowing the activity (Section 104 (1)(a));

relevant objectives and policies in the Tasman Regional Policy Statement, and the Tasman Resource Management Plan (Section 104 (1) (b));

The relevant objectives and policies of the New Zealand Coastal Policy Statement.

any other matter the Council considers relevant and reasonably necessary to determine the application (Section 104 (1)(c)).

6.1 Resource Management Act Part II Matters

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

Section 5 sets out the **purpose** of the Act which is to promote the sustainable management of natural and physical resources. "Sustainable management" means:

"Managing the use, development and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while -

sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and

safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and

avoiding, remedying, or mitigating any adverse effects of activities on the environment

Sections 6, 7 and 8 set out the **principles** of the Act:

Section 6 of the Act refers to matters of *national importance* that the Council shall recognise and provide for in achieving the purpose of the Act. Relevant matters to this application are:

6(a) *the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development;*

6(b) *the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development;*

6(c) *the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna;*

6(d) *the maintenance and enhancement of public access to and along the coastal marine area, lakes and rivers;*

6(e) *the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga ;*

6(f) *the protection of historic heritage from inappropriate subdivision use and development;*

While the application does enhance public access to the coast by way of the provision of esplanade reserves, it does not preserve the natural character of the

coastal Environment & the creation of eight residential allotment is considered “inappropriate” in coastal environment that has level of natural amenity. Should be part of the executive summary, same for below s7?

Section 7 of the Act identifies other matters that the Council shall have particular regard to in achieving the purpose of the Act. Relevant matters to this application are:

7(b) the efficient use and development of natural and physical resources;

7(c) the maintenance and enhancement of amenity values;

7(d) intrinsic values of ecosystems;

7(f) maintenance and enhancement of the quality of the environment;

7(g) any finite characteristics of natural and physical resources; and

7(i) the effects of climate change

It is considered that the proposed subdivision will not maintain or enhance amenity values or the quality of the environment.

The roading network of the Tasman District is a “physical resource” and it is likely the creation of the eight residential allotments will force Council into spending significant amounts of money in maintaining the Kina Peninsula Road access to the site which is prone to coastal erosion. This is considered to an inefficient use of the Council’s roading resource.

Climate change over the next 100 years will have significant adverse effect on the application site and it’s road access. It is likely that protection measures to deal with climate change over the next 100 years, will in themselves cause an adverse affect on the amenity values of the immediate coastal area.

Section 8 of the Act shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).

If consent is granted, the proposed activity must be deemed to represent the sustainable use and development of a physical resource and any adverse effects of the activity on the environment are avoided, remedied or mitigated.

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

Overall, it is considered the proposed subdivision and development is contrary to Part II of the Act.

6.2 Tasman Regional Policy Statement

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

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

6.3 Tasman Resource Management Plan

The most relevant Objectives and Policies to this application are contained in:

- Chapter 5 “Site Amenity Effects”
- Chapter 6: “Urban Environment Effects”
- Chapter 7 “Rural Environment Effects”;
- Chapter 8 “Margins of Rivers, Lakes, Wetlands and the Coast”
- Chapter 9 “Landscape”
- Chapter 13 “Natural Hazards”

Details of the assessment of the proposed activity in terms of these matters are addressed through the assessment of actual and potential effects in paragraph 7.1 below and analysis and discussion on the relevant policies and objectives in paragraph 7.2 of this report.

7. ASSESSMENT

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

7.1 Actual and Potential Environmental Effects

7.1.1 Permitted Baseline

Under Section 104 (2) of the Resource Management Act the Council may use the “permitted baseline” test to assess the proposal. Under this principle the proposal is compared with what could be done as permitted activities under the relevant Plan.

Subdivision

In terms of the subdivision there is no permitted activity rule in the Rural 2 Zone so the permitted baseline test is not considered relevant for subdivision.

Building Construction

Because of the Coastal Environment Area rules, all new buildings require resource consent, except for small additions to the existing buildings, allowing up to a 50% increase in the size of the buildings. This could only apply to the small existing toilet block in the Domain, so the permitted baseline has little relevance to the land use consent for the dwellings.

Earthworks

Because the site is a designated archaeological site, any earthworks will require a resource consent, so the permitted baseline has little relevance to the land use consent for earthworks.

7.1.2 Effects on Productive Values.

Schedule 16.3A Matter (1)

The productive value of the land in Rural 1, Rural 2 and Rural 3 zones, and the extent to which the proposed subdivision will adversely affect its potential availability.

The site has very low productive values because of the very sandy soils, which limit the productive use to forestry, which is compromised by the public use of the area. The effect of the subdivision on productive values will be no more than minor.

7.1.3 Effects on Amenity Values and Character.

Schedule 16.3A Matter (2)

The potential effects of the subdivision on the amenity values and the natural and physical character of the area.

Schedule 16.3A Matter (4)

The potential effects of the subdivision on the character of the coastal environment, wetlands, lakes and river.

Frank Boffa, Landscape Architect has provided a landscape assessment of the proposal which is appended to this report as Appendix 4. Mr Boffa assesses the amenity landscape effects of the eight additional dwellings on the site in the context of the existing development at the northern end of the peninsula. He states in (4) para 7 :

“The addition of 8 further houses, which are likely to be more substantial in size and visually prominent, will have adverse, cumulative effects on the natural character of the peninsula that cannot be easily avoided, remedied or mitigated. The removal of the landmark pine plantation to accommodate the subdivision and development of houses will change the appearance of the landscape setting of the outer peninsula and in so doing will further highlight the appearance of additional houses, all of which will seek to establish and maintain expansive coastal and estuary views.”

He goes on to state in (4) para 8, that in relation to the effects of the proposed dwellings and the associated tree removal that it will have a “*significant and adverse effect on the natural character of the coastal/ estuarine environment at Kina.*”

The northern end of the Kina Peninsula has very low density residential development and high natural values. It is highly visible from all around the Moutere Inlet and from the State Highway leading into Motueka.

This is compounded by the fact that the house sites are clustered close together and need to be raised up to be above coastal inundation levels.

The application has not proposed specific house designs, but instead is a “generic” application with a designated house site and a maximum height, thus creating a building “envelope” for each site. If these eight “building envelope” were superimposed on the visual landscape of the site, you would find that the buildings would clearly change the amenity of the site.

While landscaping has been proposed for each of the building sites, it is my experience in 14 years of dealing with clusters of houses in coastal locations, where dwellings are built for coastal views, that it is unlikely that the visual effects of the dwellings can be effectively avoided, remedied or mitigated.

Section 2 of the Resource Management Act defines “amenity values” as:

“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.”

This means public feedback is important in assessing effects on amenity values. In this case, over 100 submissions are opposing the proposal. Many are opposed on the basis of the adverse amenity effects. Very few submissions highlight any positive amenity effects of the proposal.

7.1.4 Effects of Natural hazards

Schedule 16.3A Matters

(3) *The extent which the effects of natural hazards will be avoided or mitigated”*

(29) *The effects of existing or future buildings on an allotment in relation to natural hazards and effects on adjoining sites and whether future building or development should be limited to particular parts of the allotment, or minimum floor levels set.*

Eric Verstappen has provided a report (Appendix 6) assessing the natural hazard risk of the proposed development and has reviewed the applicant’s report on natural hazard risk.

Mr Verstappen agrees that in the short term (ie less than 50 years) the proposed dwelling sites are unlikely to be subject to significant erosion hazard risk. (para 3.10). However in terms of the subsequent 50 years, there appears to be a significant erosion hazard risk affecting the site. In fact, the T and T report has a coastal erosion line, that by 2110 will have reached many of the proposed dwelling sites,(and consumed the entire coastal esplanade reserve). It is likely that at this stage that erosion is beginning to threaten the sites, dwelling owners will be pressuring Council to install hard rock protection for their properties and house sites, in the same way as is currently happening in Ruby Bay. This would create significant adverse amenity effects on the coast line, and could result in the loss of public access along the coast.

It appears that the main mitigation measure to deal with the long term coastal erosion and inundation, is that the proposed dwellings are to be relocatable, so that they can be relocated to another site. The problem is that there is no alternative sites on this property for them to move to. It is unlikely that property owners would be willing to relocate, without significant recompense from the Council. I do not see that this is a practical mitigation measure.

The other significant natural hazard issue with this subdivision is the hazard risk to the Kina Peninsula Road accessing the site. This matter is further covered in Dugald Ley’s report which is appended to this report as Appendix 3.

At present the last 750m section of road serves the KDC property, the Baigent Domain and the Harry Place Preserve property (though I understand that the Harry Place Preserve has a right-of-way access through the Helme subdivision, which would by-pass the most erosion prone section of road).

The road is impassable at times, because of storm surges, but as this road only serves the Domain and the few baches at the end of the road it is not a major inconvenience. It is likely with projected sea level rise and increased storm activity in the future, it will become more difficult and expensive to maintain because of the need to raise the road and provide more and more hard rock protection, particularly with sea level rise, which will leave a much longer of road exposed to the elements, with 750 metres of coastline needing to be protected instead of 300m at present.

Mr Ley has advised that to just protect the existing 300m of road, will cost at least \$200,000 (Appendix 3 para 5.5). It is likely that the ongoing cost will rise exponentially as more coastline becomes exposed. Add to this, is that in the post 50 year time frame a long portion of the private access, from the road end to the house sites is likely to require hard rock protection.

The problem of coastal erosion and increasing costs of coastal protection for the access road in future, is such that the Dugald Ley has advised on 5.5 of his report that:

It would be my recommendation that Council abandon its commitment to this road as it will require increased funding from ratepayers for the benefit of only a few holiday homes.

In the light of the significant ongoing maintenance issues with the road access, it would be totally inappropriate to approve eight residential sites that would be totally dependent on this erosion prone stretch of road. There is no doubt, that the future residents of these eight allotments would put pressure on Council to install costly rock protection, when at the same time Council will be having to protect many existing settlements.

The only sustainable long term solution for this site that I see is to not have any additional residential sites and to have a “low key” reserve that may not be accessible at all times.

7.1.5 Provision of Reserves

Schedule 16.3A Matter

(5) “Adequacy of provision for public open space, esplanade reserves and esplanade strips”

This matter is dealt with Ros Squire’s report which is appended to this report as Appendix 7.

It is acknowledged, that there is a positive benefit from the vesting of the reserves areas that have been volunteered by the applicant. However, this does need to be looked at in the context that the entire site has always been available to the public for at least 50 years, and that intention of LEH Baigent was to have the site available to the public in perpetuity.

At present, the Baigent Domain does provide a high level of natural amenity and a special tranquillity that comes from not having any nearby residences. This existing amenity will change, with the creation of the eight dwelling sites, where instead of a bush backdrop, you will have a backdrop of large dwelling, within an urban environment. This will significantly change the character of the reserve area.

The other problem of the esplanade reserve on the coastal frontage in particular, is that according to the applicant's own hazard risk evidence, the esplanade reserve in front of the dwelling sites will disappear within the next 100 years. The applicant's "possible shoreline 2010" is well inside the residential site boundaries. This has happened at Ruby Bay, where esplanade reserves created in the 1980's are now part of the sea bed, because of continuing erosion.

It is likely in the post 50 year era, that as the shoreline gets closer, home owners will increasingly want to put hard rock protection on their coastal frontage, which is likely to destroy the amenity of the beach.

The problem with the lot layout, is that it does not provide any flexibility for the sea to come and go without expensive protection. Whereas if the site was a single reserve, there would be much more flexibility to deal with sea level change.

7.1.6 Servicing Effects

Schedule 16.3A matters

- (6) *The adequacy of design, capacity, standard and staging of existing or proposed public utilities servicing the subdivision, including any impact on utilities servicing the wider area and outlets to, or connections with, public systems, and the ability to accommodate future developments on adjoining land, and their ability to avoid, remedy or mitigate effects on a temporary or permanent basis.*
- (7) *The cumulative effects of the subdivision on the District's infrastructure and its efficient use and development, including the capacity and capabilities of the road network and utility services to meet demands arising from the subdivision.*
- (8) *For water supply, the extent of compliance with the "Drinking Water Standards for New Zealand 1995" or any subsequent replacement of this standard.*
- (11) *The adequate provision of potable water and water for fire fighting.*

There do not appear to be any problems with power and telephone servicing for this subdivision.

Fire water supplies would need to be provided for each house site, in accordance with SNZ PAS 4509:2008. This has been requested by the New Zealand Fire Service which are a submitter(1) to this application.

Stormwater should be able to be dealt with within each allotment

7.1.7 Effects from on-site waste water systems.

Schedule 16.3A Matters

- (10) *Where wastewater disposal will occur within the net area of the allotment, the extent to which the site and soil assessment, design and construction of the system complies with the AS/NZS 1547; 2000, taking into account the requirements of rules in Chapter 36 regulating the discharge of wastewater.*
- (12) *Whether the treatment and disposal of wastewater and stormwater from the proposed allotments is likely to adversely affect water quality, public health or environmental health, or safety, taking into account the provisions of Schedule 16.3C and the powers under Section 220(d) of the Act.*

Leif Pigott has provided a report on onsite waste water disposal (Appendix5), which confirms that on-site waste water disposal should be possible on each site without adverse effects on the environment, including the coastal marine area.

7.1.8 Cross Boundary Effects

Schedule 16.3A Matter

- 9) *The relationship of the proposed allotments with the pattern of adjoining subdivision, land use activities and access arrangements, in terms of future potential cross-boundary effects.*

Some of the submitters are concerned about cross boundary issues, whereby residents of the proposed house sites will complain about the use of the reserve, which at present has very few limitations on its use.

7.1.9 Earthworks

Schedule 16.3A Matters

- (23) *The extent to which any earth cut or fill will remove existing vegetation, alter existing landforms, affect water quality, or affect existing natural features, such as water courses.*
- (24) *The extent to which any cut or fill can be restored or treated to resemble natural landforms.*
- (25) *The extent to which the earthworks will have an adverse visual effect on the surrounding area.*
- (26) *Whether the proposed earthworks will increase or decrease the risks from natural hazards either on, or outside, the land being subdivided.*
- (33) *The adequacy of provisions for management of construction and site works, including an environmental management plan, to avoid or mitigate any adverse effects from noise, dust, stormwater and silt run-off, and the clearance and disposal of vegetation and other waste.*

These matters are dealt with Mike Mackiggan's report which is appended to this report. Mr Mackiggan's conclusion is that the adverse effects of the proposed earthworks should be able to be avoided, remedied or mitigated by way of conditions which he outlined in his report.

7.1.10 Archaeological or Heritage Sites

Schedule 16.3(a) matters:

(31) [(23) Proposed]	<i>In relation to land, including a heritage site or item referred to in Schedules 18.1A, 18.1B, 18.1C or 18.1D, and a protected tree referred to in Schedule 18.1B:</i>
	<i>(i) whether the proposed subdivision would have an adverse or beneficial effect on the integrity or heritage and protected tree value of the site or item, and the extent of that effect;</i>

(ii) the extent to which land integral to the significance of an archaeological site or site of significance to Māori would be separated from that site;

(iii) the provisions of any relevant management plan.

The assessment of these matters is also dealt with in Mike Mackiggan's report in Appendix 5. Mr Mackiggan has recommended special conditions to be imposed on the earthworks consent to ensure that the effects on any archaeological sites are avoided remedied or mitigated.

7.1.11 Access and Roading Effects

Schedule 16.3A matters:

(34) The degree of compliance with provisions of the current Tasman District Council District Engineering Standards, or the ability to achieve acceptable standards by alternative means.

(36) [(26B) Proposed]	<i>The relationship of any new road with existing roads, including determining the road hierarchy class of any new road, newly formed road or any required upgrading of an existing road.</i>
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(37) The extent to which an existing road needs to be up-graded to manage effects of traffic generated by the subdivision, taking into account the existing state and use of the road and the construction standards of section 18.8 rules for that particular class of road.

(38) The ability to comply with the site access and vehicle crossing requirements of Rule 16.2.2.1.

(40) The appropriateness of, or need to provide, access by way of a road rather than a private way.

(41) The adequacy of road layout, including road access to adjoining land.

(42) The provision, design and routes of cycleways, walkways and bridle-paths, including linkages between any site and local retail areas, schools, reserves, bus routes and arterial roads.

- (43) *The effect of roads and private vehicular access on waterways, ecosystems, drainage patterns or the amenities of adjoining properties.*
- (44) *The necessity for, and appropriateness of, sealing rural collector and access roads.*
- 48) *Where roads in the subdivision would connect existing roads:*
 - (i) *the form, location and function of the road connection;*
 - (ii) *the standard of construction of the connecting road;*
 - (iii) *the promotion and protection of public health and safety.*

These matters are considered in Dugald Ley’s report which is appended to this report as Appendix 3. Mr Ley’s conclusion is that while the internal access, should be able to be dealt with by way of conditions, there are serious concerns about the road access to site via Kina Peninsula Road, because of long term erosion and inundation hazard, so much so, that Council may have to abandon this road access in the future. These matters are further covered in 6.1.4 above, and in Eric Verstappen’s report in Appendix 7.

Because of the serious long term erosion hazard risk to the road access to this site, it is unlikely that any realistic conditions can imposed on the road access to mitigate this hazard risk.

7.1.12 Effects on ecosystems and Biodiversity.

The Moutere Inlet is considered to be an area with nationally important ecosystem values according to Schedule 25.1F of the TRMP:

21	Moutere Inlet	A line following the general line of the outer beaches from Kina Peninsula to Jackett Island and from the Island to Port Motueka.	Moderate sized estuary (~ 750 ha). Notable for presence of white heron and royal spoonbill. Habitat for banded rail is now restricted to the head of the inlet. Marsh crane have also been observed in the inlet.	National
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Residential activity, with the associated effects of pets, buildings and noise has the potential to adversely affect these important ecosystem values of the inlet and the coastal edge at the northern end of the Kina peninsula.

As a result of the recent native plantings, the site has the potential to enhance biodiversity values with the native tree plantings on the raised platform separating the coast from the grassed area on the inlet providing native bush habitat that is very rare on the Kina peninsula.

The creation of the eight residential sites will destroy much of the native habitat on the raised bench separating the coast and the inlet.

While the proposed landscaping may provide some habitat enhancement, it will not provide same biodiversity values as the present site if the plantings are managed to enhance native regeneration.

7.1.13 Summary of Assessment of Effects

Overall, it is considered that, despite some positive benefits from the provision of reserves and public access, that the adverse effects on the environment of the proposal are more than minor.

8. RELEVANT OBJECTIVES AND POLICIES OF THE TRMP

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

- Chapter 5 “Site Amenity Effects”
- Chapter 6: “Urban Environment Effects”
- Chapter 7 “Rural Environment Effects”;
- Chapter 8 “Margins of Rivers, Lakes, Wetlands and the Coast”
- Chapter 9 “Landscape”
- Chapter 13 “Natural Hazards”

a) Chapter 5: Site Amenity Effects.

The relevant objectives and policies are as follows:

5.1.2 Objective

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

5.1.3 Policies

5.1.3.1 *To ensure that any adverse effects of subdivision and development on site amenity, natural and built heritage and landscape values, and contamination and natural hazard risks are avoided, remedied, or mitigated.*

5.1.3.4 *To limit the intensity of development where wastewater reticulation and treatment are not available.*

5.1.3.5 *To ensure that the characteristics, including size, soil type and topography of each lot of any proposed subdivision or built development are suitable for sustainable on-site treatment of domestic waste in unreticulated areas, particularly in areas where higher risks of adverse effects from on-site disposal of domestic wastewater exist.*

5.1.3.12 *To protect the natural character of coastal land from adverse effects of further subdivision, use or development, including effects on:*

- (a) *natural features and landscapes, such as headlands, cliffs and the margins of estuaries;*
- (b) *habitats such as estuaries and wetlands;*
- (c) *ecosystems, especially those including rare or endangered species or communities;*
- (d) *natural processes, such as spit formation;*
- (e) *water and air quality;*

having regard to the:

- (i) *rarity or representativeness;*
- (ii) *vulnerability or resilience;*
- (iii) *coherence and intactness;*
- (iv) *interdependence;*
- (v) *scientific, cultural, historic or amenity value;*

of such features, landscapes, habitats, ecosystems, processes and values.

While the proposed development can provide for on-site wastewater treatment without adverse effects on the environment, it is considered that the “natural character” of the site will be adversely affected by the creation of the eight residential sites and their associated dwellings.

b) Chapter 6: Urban Environment Effects

The relevant objective and policies are as follows:

6.4 Coastal Urban Development

6.4.1 Issue

Avoidance of inappropriate subdivision in the coastal environment.

6.4.2 Objective

Containment of urban subdivision, use and development so that it avoids cumulative adverse effects on the natural character of the coastal environment.

6.4.3 Policies

- 6.4.3.1** To avoid the creation of new settlement areas in the coastal environment.
- 6.4.3.2** To provide for future growth of key coastal settlements landward rather than along the coast.
- 6.4.3.3** *To protect the coastal environment from sprawling or sporadic subdivision, use and development.*

The proposed subdivision is considered to be contrary to this objective and policies, in that it creates a new settlement area in a rural area with high degree of natural

character. It is considered to be sporadic subdivision, outside the settlement areas that the objective seeks to contain development to.

c) Chapter 7: Rural Environment Effects

7.2.2 Objective

Provision of opportunities to use rural land for activities other than soil-based production, including papakainga, tourist services, rural residential and rural industrial activities in restricted locations, while avoiding the loss of land of high productive value.

7.2.3 Policies

7.2.3.1 *To enable activities which are not dependent on soil productivity to be located on land which is not of high productive value.*

7.2.3.2 *To enable sites in specific locations to be used primarily for rural industrial, tourist services or rural residential purposes (including communal living and papakainga) with any farming or other rural activity being ancillary, having regard to:*

- (a) the productive and versatile values of the land;*
- (b) natural hazards;*
- (c) outstanding natural features and landscapes, and the coastal environment;*
- (d) cross-boundary effects, including any actual and potential adverse effects of existing activities on such future activities;*
- (e) servicing availability;*
- (f) the availability of specific productive natural resources, such as aggregates or other mineral sources;*
- (g) transport access and effects;*
- (h) potential for cumulative adverse effects from further land fragmentation;*
- (i) maintaining variety of lot size;*
- (j) efficient use of the rural land resource;*
- (k) cultural relationship of Māori to their land.*

7.2.3.4 *To enable the subdivision of land or amalgamation of land parcels for the preservation of:*

- (a) significant natural values, including natural character, features, landscape, habitats and ecosystems;*
- (b) heritage and cultural values;*

where preservation is assured through some statutory instrument and statutory manager.

- 7.2.3.5** *To ensure that activities which are not involved or associated with soil-based production do not locate where they may adversely affect or be adversely affected by such activities.*

The objective and policies of Section 7.2 seek to provide rural residential development in rural areas, which is primarily achieved by the provision of specific the Rural Residential zone and the Rural 3 zone. While it does provide the opportunity for some rural residential development outside the specified zoned areas, it is considered that the proposed subdivision on this site would have an adverse effect on the coastal and natural environment of the area, and would be at risk from natural hazards.

7.3 Rural Residential Development in Coastal Tasman Area

7.3.1 Issues

There is a desire in the community for residential development opportunities within a rural part of the District, used productively and having some existing rural residential development. Managing the pressure for and cumulative effects of residential development in the Coastal Tasman Area which is a rural area close to the coast, to the District's main urban centres, and to major transport routes, while protecting the productive values of the rural land resource, coastal and rural character, and amenity values.

7.3.3 Policies

- 7.3.3.1** To identify an area (Rural 3 Zone) within the Coastal Tasman Area within which rural residential and residential development is enabled while avoiding, remedying and mitigating adverse effects on the environment.
- 7.3.3.2** To identify areas (Rural 1 locations) within the Coastal Tasman Area where the potential adverse effects of further subdivision and development for residential or rural residential purposes are of such significance that further development is discouraged.
- 7.3.3.3** To ensure that the valued qualities of the Coastal Tasman Area, in particular rural and coastal character, rural and coastal landscape, productive land values, and the coastal edge and margins of rivers, streams and wetlands are identified and protected from inappropriate subdivision and development.
- 7.3.3.4** To define within the land made available for residential and rural residential development within the Coastal Tasman Area, areas in which different rules provide for different types and intensities of subdivision and development.
- 7.3.3.5** To protect land of higher productive values within the Coastal Tasman Area.
- 7.3.3.6** To protect rural and coastal character, including landscape and natural character, and productive land and amenity values from development

pressures in parts of the Coastal Tasman Area outside the areas where development is specifically provided for, including Kina Peninsula and the land to the west of the Moutere Inlet.

- 7.3.3.7** To enable residential and rural residential development to take place from December 2003 over at least a 20-year period in the Rural 3 Zone and the Waimea Inlet Rural Residential Zone that generally reflects a ratio of 25 percent developed area to 75 percent open space or unbuilt area across the total area of both zones.
- 7.3.3.8** To avoid, remedy or mitigate adverse effects of development on land, surface and ground water resources, and the coastal marine area.
- 7.3.3.9** To ensure that residential and rural residential development within the Coastal Tasman Area is able to connect to reticulated water supply services provided by the Council within two decades.
- 7.3.3.10** To ensure that adverse effects arising from servicing of subdivision and residential development are avoided, whether by way of on-site management, or provision of off-site reticulation.
- 7.3.3.11** To improve access and progressively upgrade roads throughout the Coastal Tasman Area in accordance with development, while avoiding or mitigating adverse effects on landscape, natural character and amenity.
- 7.3.3.12** To progressively develop a network of interconnected pedestrian, cycle and equestrian routes, and reserves within the Coastal Tasman Area, including to and along the coast.
- 7.3.3.13** To mitigate adverse effects on rural landscape and character by evaluating subdivision, development and wastewater discharge proposals together, when providing for further residential and rural residential development in the Coastal Tasman Wastewater Management Area.
- 7.3.3.14** To take into account, and avoid or mitigate potential cumulative adverse effects on rural character, rural landscapes and amenity values, including the potential impact that complaints from new residential activities can have on existing productive activities, arising from adverse cross-boundary effects, when assessing the effects of subdivision and development in the Coastal Tasman Area.
- 7.3.3.15** To support proposals to restore, enhance or protect natural features and areas such as wetlands and coastal indigenous vegetation, with weed control and indigenous plantings appropriate to the area, as part of subdivision and development design in the Coastal Tasman Area.
- 7.3.3.16** To protect from further subdivision and development, land that has been retained as open space either within any allotment or as an allotment, in an approved subdivision in the Rural 3 Zone, for its productive, rural or coastal character, landscape, amenity, or wastewater discharge management value.

- 7.3.3.17** To avoid or mitigate exposure of subdivision and development to road noise, including from State Highway 60 and the designated Ruby Bay Bypass.
- 7.3.3.18** To enable additional development in the Mapua Rural Residential Zone, subject to servicing requirements, and evaluation of the effects of specific proposals in accordance with the 'Coastal Tasman Area Subdivision and Development Design Guide'.
- 7.3.3.19** To allow for limited development beyond that provided for as a controlled activity within the Waimea Inlet Rural Residential Zone, subject to availability of services and evaluation of the effects of specific proposals, in accordance with the 'Coastal Tasman Area Subdivision and Development Design Guide'.
- 7.3.3.20** To avoid potential effects of past land contamination on future residential and rural residential activities.
- 7.3.3.21** To provide for the servicing of the Rural Residential Zones in the vicinity of Permin Road in the longer (post 15-year) term.
- 7.3.3.22** To avoid adverse off-site effects, including cumulative effects and water contamination effects, resulting from the disposal of domestic wastewater to land arising from inappropriate scale, design, or location of subdivision and development of land for residential purposes in the Wastewater Management Area.

The policies under Section 7.3 seek to enable rural residential development within the specific Rural 3 and Waimea Inlet Rural residential zoned areas subject to the above policies and the Coastal Tasman Area Subdivision and Development Design Guide. By allowing development within these zoned areas the remaining coastal land would be protected from "inappropriate subdivision and development".

The proposed subdivision is considered to be contrary to these policies, in that it is outside the zoned areas for rural residential development in the Coastal Tasman Area and it does not protect the "coastal character" and "coastal landscape" of the site.

7.4.2 Objective

Avoidance, remedying or mitigation of the adverse effects of a wide range of existing and potential future activities, including effects on rural character and amenity values.

7.4.3 Policies

- 7.4.3.1** To ensure that there is sufficient flexibility for a wide range of productive rural activities to take place, while avoiding, remedying or mitigating adverse effects.
- 7.4.3.2** To provide for rural activities which may involve levels and types of effects, including noise, dust, smoke and odour, that may be permanent,

temporary or seasonal, and that may not meet standards typically expected in urban areas.

- 7.4.3.3** To provide for the maintenance and enhancement of local rural character, including such attributes as openness, greenness, productive activity, absence of signs, and separation, style and scale of structures.
- 7.4.3.4** To exclude from rural areas, uses or activities (including rural-residential) which would have adverse effects on rural activities, health or amenity values, where those effects cannot be avoided, remedied or mitigated.
- 7.4.3.7** To facilitate the amalgamation of land parcels as a means of avoiding, remedying or mitigating adverse effects of use or development on rural character or amenity values.
- 7.4.3.8** To enable the subdivision of land for conservation or protection of features or resources that particularly contribute to the rural character of the area.
- 7.4.3.9** To avoid, remedy or mitigate servicing effects of rural subdivision and development, including road access, water availability and wastewater disposal.

The objective and policies in Section 7.4 seek to reduce the conflicts between rural residential development and existing rural activities and to ensure that the existing rural character and amenity can be maintained or enhanced. It is considered that rural character and amenity of this site would not be able to be maintained or enhanced, and the creation of the residential sites would result in loss of openness and natural character that currently dominates the site.

Also in terms of long term road access to the site, the long term natural hazard risk to the Kina Peninsula Road restricts the ability of the site to be used for any sort of permanent housing.

d) Chapter 8: Margins of Rivers, Lakes, Wetlands and the Coast

The relevant objective and policies in this chapter are as follows:

8.2.2 Objective

Maintenance and enhancement of the natural character of the margins of lakes, rivers, wetland and the coast, and the protection of that character from adverse effects of the subdivision, use, development or maintenance of land or other resources, including effects on landform, vegetation, habitats, ecosystems and natural processes.

8.2.3 Policies

- 8.2.3.1** To maintain and enhance riparian vegetation, particularly indigenous vegetation, as an element of the natural character and functioning of lakes, rivers, the coast and their margins.
- 8.2.3.2** To control the destruction or removal of indigenous vegetation on the margins of lakes, rivers, wetlands and the coast.

8.2.3.3 To avoid, remedy or mitigate adverse effects of land management practices on the margins of water bodies, including wetlands.

8.2.3.4

[8.2.3 Proposed]

To avoid, remedy or mitigate adverse effects of buildings or land disturbance on the natural character, landscape character and amenity values of the margins of lakes, rivers, wetlands or the coast.

8.2.3.5 To set aside or create an esplanade reserve, esplanade strip or access strip at the time of subdivision of land adjoining water bodies or the coastal marine area, where there is a priority to protect the natural character of those margins.

8.2.3.6 To adopt a cautious approach in decisions affecting the margins of lakes, rivers and wetlands, and the coastal environment, when there is uncertainty about the likely effects of an activity.

8.2.3.7

[8.2.6 Proposed]

To ensure that the subdivision, use or development of land is managed in a way that avoids where practicable, and otherwise remedies or mitigates any adverse effects, including cumulative effects, on the natural character, landscape character and amenity values of the coastal Environment & the margins of lakes, rivers and wetlands.

8.2.3.8 To preserve natural character of the coastal environment by avoiding sprawling or sporadic subdivision, use or development.

8.2.3.10 To ensure that where subdivision, use or development are limited in order to maintain the open space or natural character of coastal land, complementary limits are applied to the use or development of adjoining foreshore and sea.

8.2.3.11 To maintain or acquire reserves of at least 20 metres width along the coastline of the District, for natural character, ecological or public access purposes, particularly along estuary margins, dunes, sandspits and cliffs.

8.2.3.16 To manage the location and design of all future buildings in the coastal environment to ensure they do not adversely affect coastal landscapes or seascapes.

8.2.3.17 To pursue and encourage restoration and enhancement of coastal and riparian areas where natural character has been degraded by past human activities.

8.2.3.18 To avoid, remedy or mitigate adverse effects on natural coastal processes of the subdivision, use or development of land, taking account of sea-level rise.

8.2.3.19 To avoid, remedy or mitigate adverse effects of vehicle access on foreshore, beaches and estuary margins.

8.2.3.20 To ensure that where erosion protection works are deemed to be necessary to protect existing settlements or structures that these are designed as much as

possible to harmonise with the natural character of the coastline, river bank or lake shore.

8.2.3.21 To protect historic and cultural sites in riparian margins and the coastal environment.

While the proposed development is in accordance with some parts of Chapter 8, by providing public access to and along the coast, and the provision of esplanade reserves, it does not preserve the natural character of the site and is likely to require, in the long term, coastal protection of the access road and protection of the house sites themselves, which would significantly adversely affect the coastal environment.

e) Chapter 9: Landscape

The relevant objective and policies and values are as follows:

Objective 9.1.2

Protection of the District's outstanding landscapes and features from the adverse effects of subdivision, use or development of land and management of other land, especially in the rural area and along the coast to mitigate adverse visual effects.

9.1.3 Policies

9.1.3.3 To ensure that structures do not adversely affect:

- (a) visual interfaces such as skylines, ridgelines and the shorelines of lakes, rivers and the sea;
- (b) unity of landform, vegetation cover and views.

9.1.3.4 To discourage subdivision developments and activities which would significantly alter the visual character of land in outstanding landscapes (including adjoining Abel Tasman, Nelson Lakes and Kahurangi national parks).

9.1.3.5 To promote awareness and protection of landscape (including seascape) values.

9.1.3.6 To manage activities which may cause adverse visual impacts in the general rural area.

Not yet operative as at 1 November 2008

9.1.3.7 To ensure that land disturbance including vegetation removal and earthworks does not adversely affect landscape character and rural amenity value in the Coastal Environment Area in locations of public visibility, particularly where there are distinctive natural landforms.

Objective 9.2.2

Retention of the contribution rural landscapes make to the amenity values and rural character of the District, and protection of those values from inappropriate subdivision and development.

9.2.3 Policies

- 9.2.3.1** To integrate consideration of rural landscape values into any evaluation of proposals for more intensive subdivision and development than the Plan permits.
- 9.2.3.3** To retain the rural characteristics of the landscape within rural areas.
- 9.2.3.4** To encourage landscape enhancement and mitigation of changes through landscape analysis, subdivision design, planting proposals, careful siting of structures and other methods, throughout rural areas.
- 9.2.3.5** To evaluate, and to avoid, remedy or mitigate cumulative adverse effects of development on landscape values within rural areas.

Frank Boffa has provided a detailed assessment of the policies and objectives in Chapter 9 in his report on Appendix 4. The proposal is considered to be contrary to these objectives and policies as the proposed residential development will adversely affect the natural and coastal landscape values of the area.

f) Chapter 13: Natural hazards

It is considered that that the relevant objectives and policies are as follows:

13.1.2 Objective

Management of areas subject to natural hazard, particularly flooding, instability, coastal and river erosion, inundation and earthquake hazard, to ensure that development is avoided or mitigated, depending on the degree of risk.

13.1.3 Policies

- 13.1.3.1** To avoid the effects of natural hazards on land use activities in areas or on sites that have a significant risk of instability, earthquake shaking, fault rupture, flooding, erosion or inundation, or in areas with high groundwater levels.
- 13.1.3.2** To assess the likely need for coastal protection works when determining appropriate subdivision, use or development in the coastal environment and, where practicable, avoid those for which protection works are likely to be required.
- 13.1.3.3** To avoid developments or other activities that are likely to interfere with natural coastal processes including erosion, accretion, inundation, except as provided for in Policy 13.1.3.7.
- 13.1.3.4** To avoid or mitigate adverse effects of the interactions between natural hazards and the subdivision, use and development of land.

- 13.1.3.5** To avoid, unless there is effective mitigation, the expansion of flood-prone settlements onto those parts of the surrounding flood plains where they might be subject to flood hazard.
- 13.1.3.7** To maintain or consider the need for protection works to mitigate natural hazard risk where:
- (a) there are substantial capital works or infrastructure at risk; or
 - (b) it is impracticable to relocate assets; or
 - (c) it is an inefficient use of resources to allow natural processes to take their course; or
 - (d) protection works will be effective and economic; or
 - (e) protection works will not generate further adverse effects on the environment, or transfer effects to another location.
- 13.1.3.8** To promote the maintenance and enhancement of coastal vegetation in areas at risk from coastal erosion.
- 13.1.3.13** To avoid new subdivision, use or development that would hinder the ability of natural systems and features (such as beaches, dunes, wetlands or barrier islands) to protect existing subdivision, use or development from natural hazards (such as erosion, inundation, storm surge, or sea level rise).

It is considered that the proposed subdivision is contrary to the policies and objectives contained in Chapter 13 in that there is a significant hazard from long term coastal erosion and inundation, that cannot be avoided, remedied or mitigated and is likely to result in costly and unsightly hard rock protection works for the road access and the house sites in the future.

8.3 New Zealand Coastal Policy Statement (2010)

A copy of the New Zealand Coastal Policy Statement is appended to this report as Appendix 9:

The relevant objectives and policies are as follows:

Objective 2

To preserve the natural character of the coastal Environment & protect natural features and landscape values through:

- recognising the characteristics and qualities that contribute to natural character, natural features and landscape values and their location and distribution;
- identifying those areas where various forms of subdivision, use and development would be inappropriate and protecting them from such activities; and
- encouraging restoration of the coastal environment

Objective 5

To ensure that coastal hazard risks taking account of climate change, are managed by:

- locating new development away from areas prone to such risks;
- considering responses, including managed retreat, for existing development in this situation; and
- protecting or restoring natural defences to coastal hazards.

Policy 3 Precautionary approach

- (1) Adopt a precautionary approach towards proposed activities whose effects on the coastal environment are uncertain, unknown, or little understood, but potentially significantly adverse.
- (2) In particular, adopt a precautionary approach to use and management of coastal resources potentially vulnerable to effects from climate change, so that:
 - (i) avoidable social and economic loss and harm to communities does not occur;
 - (ii) natural adjustments for coastal processes, natural defences, ecosystems, habitat and species are allowed to occur; and
 - (iii) the natural character, public access, amenity and other values of the coastal environment meet the needs of future generations.

Policy 13 Preservation of natural character

- (1) To preserve the natural character of the coastal Environment & to protect it from inappropriate subdivision, use, and development:
 - (a) avoid adverse effects of activities on natural character in areas of the coastal environment with outstanding natural character; and
 - (b) avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of activities on natural character in all other areas of the coastal environment;

including by:

- (c) assessing the natural character of the coastal environment of the region or district, by mapping or otherwise identifying at least areas of high natural character; and
 - (d) ensuring that regional policy statements, and plans, identify areas where preserving natural character requires objectives, policies and rules, and include those provisions.
- (2) Recognise that natural character is not the same as natural features and landscapes or amenity values and may include matters such as:
 - (a) natural elements, processes and patterns;
 - (b) biophysical, ecological, geological and geomorphological aspects;
 - (c) natural landforms such as headlands, peninsulas, cliffs, dunes, wetlands, reefs, freshwater springs and surf breaks;
 - (d) the natural movement of water and sediment;

- (e) the natural darkness of the night sky;
- (f) places or areas that are wild or scenic;
- (g) a range of natural character from pristine to modified;
- (h) experiential attributes, including the sounds and smell of the sea; and their context or setting.

Policy 15 Natural features and natural landscapes

To protect the natural features and natural landscapes (including seascapes) of the coastal environment from inappropriate subdivision, use, and development:

- (a) avoid adverse effects of activities on outstanding natural features and outstanding natural landscapes in the coastal environment; and
- (b) avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of activities on other natural features and natural landscapes in the coastal environment; including by:
- (c) identifying and assessing the natural features and natural landscapes of the coastal environment of the region or district, at minimum by land typing, soil characterisation and landscape characterisation and having regard to:
 - (i) natural science factors, including geological, topographical, ecological and dynamic components;
 - (ii) the presence of water including in seas, lakes, rivers and streams;
 - (iii) legibility or expressiveness - how obviously the feature or landscape demonstrates its formative processes;
 - (iv) aesthetic values including memorability and naturalness;
 - (v) vegetation (native and exotic);
 - (vi) transient values, including presence of wildlife or other values at certain times of the day or year;
 - (vii) whether the values are shared and recognised;
 - (viii) cultural and spiritual values for tangata whenua, identified by working, as far as practicable, in accordance with tikanga Māori; including their expression as cultural landscapes and features;
 - (ix) historical and heritage associations; and
 - (x) wild or scenic values;
- (d) ensuring that regional policy statements, and plans, map or otherwise identify areas where the protection of natural features and natural landscapes requires objectives, policies and rules;
- (e) including the objectives, policies and rules required by (d) in plans.

Policy 18 Public open space

Recognise the need for public open space within and adjacent to the coastal marine area, for public use and appreciation including active and passive recreation, and provide for such public open space, including by:

- a) ensuring that the location and treatment of public open space is compatible with the natural character, natural features and landscapes, and amenity values of the coastal environment;
- b) taking account of future need for public open space within and adjacent to the coastal marine area, including in and close to cities, towns and other settlements;
- c) maintaining and enhancing walking access linkages between public open space areas in the coastal environment;
- d) considering the likely impact of coastal processes and climate change so as not to compromise the ability of future generations to have access to public open space; and
- e) recognising the important role that esplanade reserves and strips can have in contributing to meeting public open space needs.

Policy 25 Subdivision, use and development in areas of coastal hazard risk

In areas potentially affected by coastal hazards over at least the next 100 years:

- (a) avoid increasing the risk of social, environmental and economic harm from coastal hazards;
- (b) avoid redevelopment, or change in land use, that would increase the risk of adverse effects from coastal hazards;
- (c) encourage redevelopment, or change in land use, where that would reduce the risk of adverse effects from coastal hazards, including managed retreat by relocation or removal of existing structures or their abandonment in extreme circumstances, and designing for relocatability or recoverability from hazard events;
- (d) encourage the location of infrastructure away from areas of hazard risk where practicable;
- (e) discourage hard protection structures and promote the use of alternatives to them, including natural defences; and
- (f) consider the potential effects of tsunami and how to avoid or mitigate them.

It is accepted that the proposal does provide for public open space and esplanade reserves in accordance with Policy 18.

However, overall, the proposed subdivision is considered contrary to the New Zealand Coastal Policy Statement (2010) for the following reasons:

- It does not preserve the natural character of the area.
- It does not locate development away from an area of risk.

- It does not take a pre-cautionary approach to natural hazards in order to reduce economic loss to the community in terms of the long term cost of maintaining road access to the site.
- It does not protect the natural landscape of the site.
- It does not avoid the social, environmental and economic harm from the increasing hazard risk over the next 100 years.

I am familiar with the New Zealand Coastal Policy Statement (1994), and if the hearings panel are of a mind to assess this application under the NZCPS 1994, I would consider that this proposal is also contrary to the 1994 NZCPS.

9. SUMMARY AND CONCLUSIONS

- 9.1 The permitted baseline test is not considered relevant for this proposal as there virtually no permitted subdivision and landuse activities.
- 9.2 The subdivision is not considered to adversely affect productive values of the site.
- 9.3 The site has a high level of natural character and a very low level of built development. This natural character and amenity will be adversely affected by the proposed residential development which will create an urban style of development in contrast to the natural setting of the area.
- 9.4 The site and the road access in particular, will be subject to significant coastal hazard over the next 100 years. It is likely that the hazard risk in the 50-100+ year timeframe cannot not be effectively mitigated without significant coastal protection works for the properties or, from a dwelling safety perspective, relocation of the dwellings off site.
- 9.5 The road access to the site is already subject to a coastal hazard risk. This risk will be compounded, with future sea level rise, to such an extent that Council may have to “abandon” maintaining the road access in the future, as the length of road to be protected gets longer and longer. The long term hazard risk to the site, which cannot be effectively mitigated, warrants the decline of the subdivision application under Section 106 of the Resource Management Act 1991.
- 9.6 It is acknowledged that there will be a positive benefit from the creation of the recreation and esplanade reserves associated with the subdivision. However , the esplanade reserve on the Tasman Bay side may disappear over the next 50-100 years because of coastal erosion.
- 9.7 It is accepted that the residential allotments could serviced for on-site wastewater and stormwater disposal, and condition can be imposed to provide fire fighting water storage.
- 9.8 Special conditions would need to be imposed on any earthworks to ensure that it does not adversely affect the coastal Environment & any archaeological sites.
- 9.9 While the provision of internal access is not considered to be a problem, there serious problem with the provision of long term road access to the sites. The Council’s Engineering Department cannot guarantee road access in the long term.

- 9.10 The proposed subdivision and residential development is considered to be contrary to the objectives and policies of the Tasman Resource Management Plan.
- 9.11 The proposed development is considered to be contrary to Part II of the Act in that it is considered to be inappropriate subdivision and development in the coastal environment.
- 9.12 The proposed development is considered to be contrary to the New Zealand Coastal Policy Statement (2010).
- 9.13 Overall, the adverse effects on the environment, of the proposal, are considered to be more than minor, and it is not considered to be sustainable management of natural and physical resources required by the Resource Management Act 1991.

10. RECOMMENDATION

- 10.1 I strongly recommend that the Subdivision Consent (RM100173) and Land Use Consents (RM100174 and RM100178) by Carter Holt Harvey be **DECLINED**.

11. CONDITIONS

It is considered that conditions cannot be imposed to mitigate the adverse effects of this proposed subdivision and land use. Because of this, I will just provide a basic outline of the conditions, that may be imposed on the consents.

11.1 Subdivision Consent RM100173

11.2 Existing Right-of-Way over Lot 1 DP 4979

Constructed to comply with TDC Engineering Standards including engineering plans.

11.3 Easements

11.4 Dwellings

Consent notices relating to location, height, appearance and landscaping.

11.5 Financial Contributions

Reserve Fund payments as per Section 16.5.2.4 of the TRMP.

11.6 Power and Telephone servicing

Underground servicing as per TDC Engineering standards.

11.7 Landscaping

Landscaping of the reserves as per the applicant's landscape plan.

11.8 Esplanade reserves

Lots 12, 14 and 15 to vest as esplanade reserve with a minimum width of 20 metres.

Landuse Consent: RM100174:

11.9 Dwelling Location

Dwelling located in accordance with application plan.

11.10 Dwelling height

Dwelling height in accordance with applicant's landscape plan.

11.11 Wastewater disposal

Wastewater treatment and disposal in accordance with the requirements of 36.1.4 of the TRMP.

11.12 Earthworks

All earthworks as per RM100178.

11.13 Exterior Colours

All exterior colours shall be recessive colours that blend in with the coastal environment.

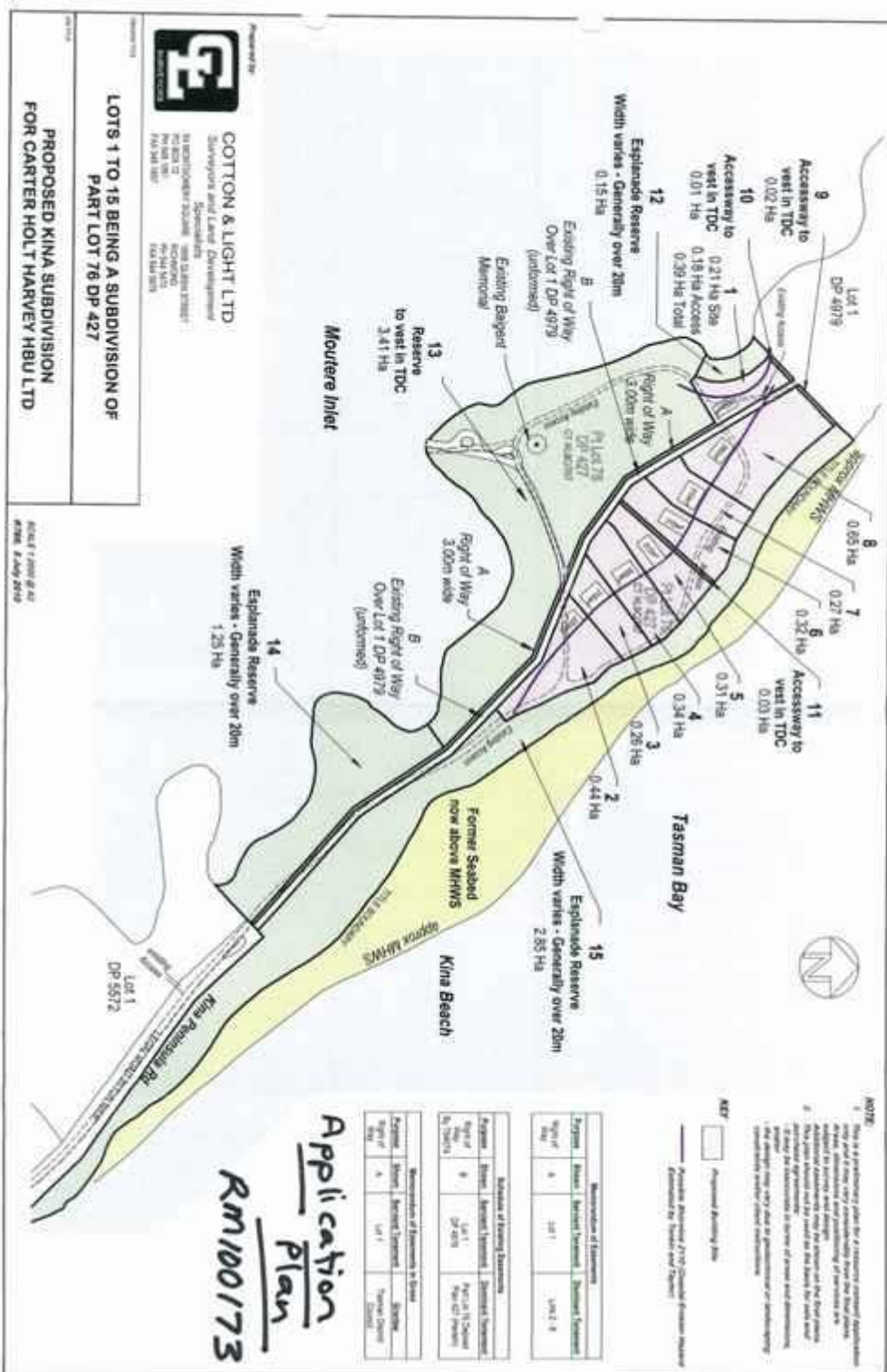
11.14 Natural Hazards.

Minimum ground level and floor levels. Houses to be of raised pile construction.

Mark Morris

Co-ordinator - Subdivision Consents

**APPENDIX 1:
Application Plan: RM100173**



**APPENDIX 2:
Site Location Plan:**



TO: Environment & Planning Subcommittee - Commissioner Hearing

FROM: Dugald Ley, Development Engineer

REFERENCE: RM100173

SUBJECT: **Carter Holt Harvey Subdivision - Kina Peninsula Road - Report prepared for meeting of 6, 7 and 8 December 2010**

1. PURPOSE

- 1.1 This report is to discuss engineering infrastructure aspects of the above subdivision that will create eight residential lots from the existing title CT NL 9L/707, Pt Lot 76 DP427.

2. BACKGROUND

- 2.1 Existing Road - Kina Peninsula Road is approximately 2.6 kilometres in length with the last 500 metres being an unsealed/gravel formation. There is a further 655 metres before the private access enters the extreme western end property being CT NL 123/169 owned by Kina Development Co. Ltd. From aerial photos it appears that eight existing dwellings are located on this one title, the majority being holiday/cottage style dwellings.
- 2.2 The above Carter Holt Harvey property is located at the western end of Kina Peninsula Road. This road is accessed off Kina Beach Road and then to the old state highway 60, now named Aporo Road.
- 2.3 Council has no other infrastructure other than the roading asset in this location. Therefore any new lot created will be self-sustaining in regard to drinking water/fire fighting water supplies, wastewater disposal and stormwater disposal.
- 2.4 Kina Peninsula Road (sealed section-eastern end) varies in width from 5.0-6.0 metres and carries on average 280 vehicles per day. The unsealed (western end) section is 5.0 metres wide and reduces to 4.0 metres at the end of the legal road. The average vehicle numbers per day over this section is approx 60.
- 2.5 The unsealed section of the legal road is located between recent rock protection works and the base of the cliff. The approximately elevation of the Kina Peninsula Road in terms of Tasman District Council datum is RL4.0 metres (MSL =0.0m) at the eastern end (on the existing seal) reducing to RL3.5 metres along the exposed coast and then rising back up to RL4.0 metres to RL4.5 metres at the western end.
- 2.6 The unsealed formation for Kina Peninsula Road can be classed as a substandard access track with no cross slope formation, no side drains and substantial foundation materials ie basic track.

- 2.7 Kina Peninsula Road past the end of the seal serves the Kina Development property, Carter Holt Harvey property (this application) which contains the Baigent memorial and one other lot, ie CT NZ 137/2, Lot 1 DP5572.

3. HISTORY OF ACCESS/PROTECTION

- 3.1 Council has carried out intermittent work on the road and protection of it over the last few years.
- 3.2 Originally there has been a one-lane gravel track serving this isolated peninsula. The area has been a popular spot for picnics and for the launching of light water craft and access to Jakkett Island for a number of years. The road can be unusable at times due to storm damage over and on the road near the exposed area of the coast.
- 3.3 In the mid 1980s a clay bund was constructed to protect the road edge and, to a lesser extent coastal erosion problems.
- 3.4 At that time the road was not accessible at all times due to high spring tides and poor drainage.
- 3.5 In 1995 an application (NN950436) was approved to install a 250 metre long timber retaining wall along the length of the exposed area of Kina Peninsula Road. Options at that time included abandoning the road and placing it above the cliff on private property. Due to cost, that option was dismissed. The final option of a timber pole wall with driven piles 2.0 metres into the ground was installed in approximately 1996.
- 3.6 By 2005 erosion and “end effects” were starting to appear at the location of the timber wall and further rock revetment work was undertaken (RM060842) to allow further rock works to be undertaken under emergency provisions.
- 3.7 In 2008 heavy storms destroyed much of the timber retaining wall and overtopped and eroded the road. A continuation of the rock revetment work was authorised by RM080916 replacing most of the timber wall.
- 3.8 As recently as 28 April 2010 a high tide at 8.35 am overtopped the rock work exposing the filter cloth and dislodging the base course of the road behind (Note the RL of the road at this point is 3.5m.-Photos available)
- 3.9 Ministry of Environment documents-“Preparing for Climate change-March 2009” Outline that annual average sea levels have increased at the rate of 1.6 mm per year from 1900. That equates to 50mm over the last 40 years. Hence the increased erosion taking place now.

4. FUTURE ROAD IMPROVEMENTS

- 4.1 It is clear that the road will continue to come under pressure from erosion and this will be compounded by future sea level rise and climate change.
- 4.2 Presently the road does become impassable at irregular intervals and with the limited amount of traffic this is acceptable.

- 4.3 This application will increase the number of residents, ie eight new dwellings and there will be an expectation that full access will be available at all times. The applicant's coastal hazard specialist acknowledges that there will be further erosion in the future and have specified predicted erosion of 90 metres over the next 100 years. They have also specified minimum building platforms of RL4.6m elevation. Their assessment of the road has outlined that it is likely to become at risk over the next 50 to 100 years and wave overtopping will occur.
- 4.4 They advise that extending the rock revetment works and raising the road elevation and include a monitoring regime for the road are measures to look at for the future.
- 4.5 Right-of-way - A 655 metre existing right-of-way (mostly unformed) continues off the legal road and leads directly to the western end of the peninsula. An unformed gravel loop track envelopes part of the Baigent memorial and existing pine trees.
- 4.6 The application is to establish a new formation along the alignment of the existing legal right-of-way and combine rights-of-way A and B (applicants plan) into the one formation. As mentioned in the applicants proposal, (page 7) "The new right-of-way will allow for the formation over both rights-of-way A and B of a 6.0 metre sealed carriageway with an overall legal width of 9.0 metres". This is also reconfirmed in the applicant's landscape assessment viz Tom Carter "the proposed road will be chip-sealed with swale drains....."
- 4.7 Expected traffic movements will increase by the additional of the eight new dwellings and by legalisation and improvements to the reserve which was not well advertised in past years. Dust nuisance in summer will be an issue however the applicant's offer to seal the access road will mitigate some of these issues.

5. CONCLUSIONS

- 5.1 It is clear that the road will come under pressure from natural climate change issues in the future. It is also clear that new residents will have expectations of permanent access to their property at all times. It is my view that with an increased number of residents in the area that there is an increased risk of this community becoming isolated due to the Kina Peninsula Road being made non-passable and overtopping in extreme and more regular storm events. Note many of the existing buildings are of a holiday cottage/batch nature and with respect, not built with high quality materials.
- 5.2 It is my view that Council should take a cautious/conservative approach to developments where residents are unerringly placed at risk. Serious consideration should be given to climate change predictions and, for that matter liquefaction as recently highlighted in the Canterbury earthquake. These matters are further expanded in the TDC Coastal engineers report.
- 5.3 It would be my recommendation that Council abandon its commitment to this road as it will require increased funding from ratepayers for the benefit of only a few holiday homes. A separate rating area for this ongoing maintenance work may be a future option by Council to investigate.
- 5.4 Should the road remain where it is and the application approved then I concur with the applicant's specialist that to protect the road that "...likely mitigation would include extended rock revetment and raising the road elevation.....".

5.5 Road raising costs and revetment works plus sealing the road could be in the order of \$200,000 + GST. There will also be resource consents required and likely to be substantial increase in Construction traffic over a 2 to 3 month period. As mentioned in 2.6 above the existing road is likely to deteriorate with this increased traffic due to the pine plantation removal, subdivision construction traffic etc

6. SUMMARY

6.1 It is clear that Council has an obligation to maintain the existing road formation where it terminates approximately 500 metres before the Baigent memorial. The Engineering Department has no intention of extending the legal road any further as our liabilities would increase immeasurably. It is clear, as noted above, that with eight additional dwellings that the expectation of permanent access to and along the road will be heightened. It is appropriate therefore that the applicant needs to mitigate some of these concerns to allow the application to proceed.

Dugald Ley
Development Engineer

Carter Holt Harvey HBU Ltd - Subdivision of the Baigent Memorial Domain at Kina

1. Background

Carter Holt Harvey HBU Ltd (the Applicant) has lodged an application for land use consent and subdivision consent to create 8 lifestyle lots varying in size from 0.21ha to 0.65ha within the 10.7ha privately owned Domain site on the Kina Peninsula. The Applicants intend to upgrade the area of Domain currently used as a public reserve and to vest the balance of the land comprising a foreshore esplanade and walkways within Council as a public reserve.

The site is currently zoned Rural 2 in the Tasman Resource Management Plan (TRMP). Under the appropriate Plan Rules the erection of one dwelling is permitted.

This Review will focus on the Landscape Report (July 20, 2010) prepared for the Applicant by Tasman Carter Ltd, and will specifically cover the following TRMP matters-

- Rural Environment
- Natural Character
- Landscape
- Visual and Aesthetic Character

2. Subdivision Design

The scope of the Tasman Carter work outlined in Paragraph 3 of the Landscape Report appears to be based on the premise that an 8 lot subdivision is an appropriate level of development provided it is designed and assessed in accord with the landscape planning framework of the TRMP. From a landscape perspective, and given the sensitive nature of this particular section of the coastal environment, the fundamental question of appropriateness and scale clearly needs to be addressed as a basis for confirming if, and what level of development is or might be appropriate on the site, and secondly, the form and scale of any development.

In Paragraph 13, the Landscape Report states that the Applicant no longer wishes to manage the Domain and that in order to vest the land currently used by the public, the Applicant seeks to subdivide part of the coastal frontage into 8 residential lots. It is on this basis that the Landscape Report appears to be founded, with no discussion as to why 8 lots and not 1 or even 2 lots might be more appropriate given the sensitivities of the site, the policy provisions of the TRMP, and the discretionary nature of the application. Accordingly, the Landscape Report appears to be based on the Applicant's preferred outcome rather than an informed assessment based on environmental considerations and in particular, the relevant policy provisions of the TRMP.

3. TRMP Policy Provisions

In Paragraphs 44 - 47 under the heading "The Landscape Planning Framework" a selection of Schedule 16.3A Assessment Criteria for Subdivision are listed and in part

referred to. However, the Landscape Report fails to consider the relevant resource management issues, objectives and policies outlined in the TRMP which inform the rules applying to land use and subdivision. In this regard the Landscape Report appears to assess an 8 lot subdivision against a selection of criteria from Schedule 16.3A, rather than firstly assessing the site, and any development of it, against the relevant TRMP resource management issues, objectives and policies, and in particular those relating to the rural environment, natural character, landscape, and visual/aesthetic character.

Rural Environment - Chapter 7

This section of the TRMP deals specifically with the fragmentation of rural land, the availability of rural land for a range of purposes, and the protection of rural character and amenity. In this regard the Rural 1 Zone covers areas identified as having the highest existing and potential productive values. The Rural 2 Zone covers areas which do not have the highest productive values, with the Rural 3 Zone being specifically developed to accommodate limited rural residential development whilst protecting the more productive land.

With respect to rural residential development in the Coastal Tasman Area, the following policies are particularly relevant.

Policy 7.3.3.1

“To identify an area (Rural 3 Zone) within the Coastal Tasman Area within which rural residential and residential development is enabled while avoiding, remedying and mitigating the adverse effects on the environment.”

The rural land within the Coastal Tasman Area that has been identified as Rural 3 is shown on Map 169 and does not include the Kina Peninsula which is zoned Rural 2.

Policy 7.3.3.3

“To ensure that the valued qualities of the Coastal Tasman Area, in particular, rural and coastal character, rural and coastal landscape, productive land values, and the coastal edge and margins of rivers, streams and wetlands are identified and protected from inappropriate subdivision and development.”

The current Rural 2 zoning recognises and ensures that the rural coastal landscape character of the area is protected and maintained. Subdivision of the scale and density proposed, namely 8 lots within 3.04ha of the 10.7ha site, is a Rural 3 density like subdivision which has been specifically excluded from Landscape Unit 4A (TRMP Map 169) on the Kina Peninsula. This policy is further amplified in Policy 7.3.3.6 which seeks

“To protect rural and coastal character, including landscape and natural character, and productive land and amenity values from development pressures in parts of the Coastal Tasman Area outside the areas where development is specifically provided for, including Kina Peninsula and the land to the west of the Moutere Inlet.”

In Paragraph 51, the Landscape Report states that “within the TRMP the site is located within Landscape Sub-unit 4A of the Rural 3 Zone and that within this zone, one of the matters restricting Council’s discretion is consistency with the Design Guide for Subdivision and Development in the Coastal Tasman Area.” This is not correct. While the site is within Landscape Unit 4A (Map 169) it is in fact within the Rural 2 Zone as shown on Zone Map 85.

As noted in Chapter 1, The Coastal Tasman Area Subdivision and Development Design Guide was prepared specifically to “inform and guide landowners, developers, potentially affected people and the wider community about rural development expectations in the Rural Zone”. While the Design Guide has applications in all rural zones, its primary purpose is to educate and advocate good outcomes in these areas.

Chapter 4 of the Location Specific Guidelines, Section 4.7 deals with Landscape Unit 4 as a whole, namely the entire Kina Landscape Unit. Sub-Section 4.7.3 on the other hand, deals specifically with the Kina Peninsula Sub-unit 4A. With regard to this area, 4.7.3 states that -

“Maintaining landscape qualities will be achieved by limited opportunities for subdivision and the location of additional house sites in this landscape Sub-unit.”

The Kina Peninsula Sub-unit includes the entire peninsula extending to the north-west from Kina Beach Road. Within this area there is Rural 1, Rural 2 and Rural Residential zoned land. The “limited opportunities for subdivision” does not therefore refer specifically to the Rural 2 land as seems to be implied in Paragraph 5.7 of the Landscape Assessment Report. The general outcomes noted in 4.7 of the Design Guide and referred to Paragraph 56 of the Landscape Report, relate to Landscape Unit 4 as a whole and not Sub-unit 4A as the Landscape Report implies in Paragraphs 57 and 58.

In terms of the TRMP in relation to Sub-unit 4A, it is clear that further residential subdivision and development in this area is not anticipated beyond any infill that may be permitted within the existing rural residential zoned land. To suggest that limited opportunities “opens the door” for subdivision and development on the application site as it meets the general provisions of the Kina Landscape Unit as a whole is misleading and incorrect.

Paragraph 3.2(a) of the Applicants’ Assessment of Effects on the Environment & Statutory Assessment (Annexure A), notes that Provision 4.7.3 of the Design Guide suggests that :

“Maintaining landscape qualities will be achieved by there being no further subdivisions for house sites in the Landscape Sub-unit.”

This is in conflict with what is stated in the Landscape Report.

4. Natural Character

When considering applications for subdivision and land use consents in the coastal environment, as a matter of national importance Council is required to have regard to natural values and natural character identified in Section 6(a) of the Resource Management Act. In this regard the TRMP Natural Character Objective 8.2.2 seeks

the

“Maintenance and enhancement of the natural character of the margins of lakes, rivers, wetlands and the coast, and the protection of that character from adverse effects of the subdivision, use and development or maintenance of the land or other resources, including effects on landform, vegetation, habitats, ecosystems and natural processes.”

While there are a number of policy provisions that relate to this application, 3 of the more relevant policies are

Policy 8.23.7

“To ensure that the subdivision, use or development of land is managed in a way that avoids where practicable, and otherwise remedies or mitigates any adverse effects, including cumulative effects, on the natural character, landscape character and amenity values of the coastal environment

Policy 8.2.3.8

“To preserve natural character of the coastal environment by avoiding sprawling or sporadic subdivisions, use or development.”

Policy 8.2.3.16

“To manage the location and design of all future buildings in the coastal environment, to ensure they do not adversely affect coastal landscapes or seascapes.”

The existing 8 lot Kina Development Company (KDC) development at the tip of the peninsula, while visible from sections of the Coastal Highway and other locations to the west, generally appears as a relatively low profile “bach like” development.

The addition of 8 further houses, which are likely to be more substantial in size and visually prominent, will have adverse cumulative effects on the natural character of the peninsula that cannot be easily avoided, remedial or mitigated. The removal of the landmark pine plantation to accommodate the subdivision and development of houses will change the appearance and landscape setting of the outer peninsula and in so doing will further highlight the appearance of additional houses, all of which will seek to establish and maintain expansive coastal and estuary views.

I understand the existing stand of pine on the application site can be removed as of right and at any time irrespective of the outcome of the current application. The removal of these trees, which are a particular landmark feature, would have a significant effect on the appearance of the outer peninsula. Notwithstanding this change as a result of the tree removal, the cumulative effect of 8 houses would be considerably more apparent and would, in my opinion, be a significant and adverse effect on the natural character of the coastal/estuarine environment at Kina.

The layout of the proposed subdivision appears to be based on potential coastal hazard issues and the need for house floor levels to be located on the higher points of the relatively flat site. Paragraph 65 of the Landscape Report refers to “houses 2-8 being located on the landform which extends northwest along the peninsula.” As a

result of this, the development appears as a strip of residential development with more urban like characteristics rather than rural residential characteristics.

For example, the identified building platforms ranging in size from 200m² to 310m² are generally in the order of 15-20 metres apart. This proximity along with the maximum house heights for 7 of the 8 sites being 5.5 metres above a floor RL level of 5 metres, suggests that the houses will be quite visible and will appear to be more urban than rural residential in density and character.

The existing houses on the KDC site all appear to have finished floor levels of around 3.5 metres. Each of these single storey houses also appear to be in the order of 3.5 - 4 metres in height. On the basis of this, the KDC houses would be around 7 - 7.5metres above MSL. By way of comparison, the RL's for the application house sites 2 to 8 are set at 5 metres with a maximum building height of 5.5metres, giving a total overall height of 10.5 metres above MSL. Thus the overall heights of the application houses 2 to 8 would be some 3 metres higher than the existing KDC houses. This increase in height and the density of these houses will be particularly visible from the Moutere Inlet, the Coastal Highway, the upgraded Domain and the proposed esplanade reserve on Tasman Bay.

In the Landscape Report's Conclusions (Paragraph 72), reference is made to the potential effects of the development on natural character. However, the only references made in the Report to natural character effects are in Paragraph 44 (4) which simply restates a rule in the TRMP regarding the consideration of natural character effects, and the third bullet point in paragraph 58 which suggests that the maintenance of a large area of open space will make the buildings appear to be recessive.

The Assessment of Effects Report (Annexure A) also fails to address natural character matters and in Section 3.2 (a) refers to the Landscape Report as having assessed the coastal landscape in terms of the relevant TRMP provisions.

In my view, the Landscape Report has not addressed natural character in any meaningful manner, not does it make any reference to the 1994 New Zealand Coastal Policy Statement or the 2008 Proposed New Zealand Coastal Policy Statement, both of which are relevant to this application. The Applicant's Assessment of Effects Report and the Landscape Report appear to focus on the reserve/open space benefits of vesting and upgrading the Domain land, on the basis that these benefits outweigh the environmental effects of the proposed 8 lot subdivision.

5. Landscape

While landscape is an essential part of the natural character of the coastal environment, amenity values are also recognised in the RMA and the TRMP as being important considerations. With regard to outstanding natural features and landscapes, Objective 9.1.2 seeks -

“Protection of the District's outstanding landscape features from the adverse effects of subdivision, use or development of land and management of other land, especially in the rural area and along the coast to mitigate adverse effects”

While the Kina Peninsula is not identified in the TRMP as an outstanding natural feature or landscape, it is a significant landscape feature in terms of other rural land along the coast to be protected from the adverse effects of subdivision use or development.

In the context of Rural Landscape Values (Section 9.2), the need for recognition of local as well as wider landscape character and values as a basis for evaluating the acceptability of proposals for subdivision and development is identified as a particular issue (9.2.1.2). In this regard, Objective 9.2.2 seeks the

“Retention of the contribution rural landscapes make to amenity values and rural character of the District, and protection of those values from inappropriate subdivision, use and development.”

Policy 9.2.3.1 further emphasises the need

“To integrate consideration of rural landscape values into any evaluation of proposals for more intensive subdivision and development than the Plan permits”.

The TRMP does not include the application site in its Rural 3 Zone which was specifically created to accommodate rural residential development. The subject site is clearly zoned Rural 2 with the application seeking a more intensive subdivision and development than the Plan permits. In addition, the proposed development is more urban in density and character and will appear to be visually prominent in its coastal environment area setting. While there will be benefits associated with the vesting of public reserves and the upgrading of the Domain, these benefits in landscape terms do not outweigh the adverse effects of the subdivision on the environment. The adverse effects will also be visually apparent from the created esplanade reserve as well as the upgraded Domain which will be backdropped by an urban like subdivision compared to its existing landmark treed backdrop.

6. Visual and Aesthetic Character

In seeking to retain the special characteristics of particular localities, Objective 5.3.2 of the TRMP seeks the:

“Maintenance and enhancement of the special visual and aesthetic character of localities”

In regard to this objective the relevant policies include

Policy 5.3.3.2

“To maintain the open space and value of rural areas”

Policy 5.3.3.3

“To avoid, remedy or mitigate the adverse effects of the location, design and appearance of buildings, signs and incompatible land uses in areas of significant natural or scenic, cultural, historic or other special amenity value.”

With reference to the Domain, Paragraph 41 of the Landscape Report acknowledges that

“Despite being in private ownership, the area has significant passive recreation values for the public, based on the open space and coastal access utilised for walking and exercising dogs often brought to the area by car.”

However, in Paragraph 43, the Landscape Report goes on to state that

“The reserve despite its rural zoning within the TRMP is not considered to have rural landscape characteristics necessarily flow from the management of productive land use practices, which is not the case at the Domain.”

While I agree the reserve has significant passive recreational values, it also has water related recreational values as well as significant natural, scenic and general amenity values. With regard to rural character, I do not agree with the statement that the reserve has no rural character as it is not in a productive land use. The land is zoned rural, it is essentially open space, and it reflects the characteristics of a rural environment rather than an urban environment. The productiveness of the land is not in my opinion a determinant of ruralness.

7. Vegetation Management

While the vegetation management plans show extensive plantings within the subdivided lots and the adjacent reserves, the retention of native plantings within the subdivided lots and the extent of further plantings appears to be unrealistic. Paragraph 17 of the Landscape Report notes that within Lots 2 - 8 the existing pines will be carefully removed so as to retain the native undergrowth. Based on the size and density of the pines, the retention of significant areas of native vegetation is unlikely to be achieved due to the need to access and remove the trees and the large stumps as well as the need to form access driveways and building platforms, and to make provisions for house construction activities and lay down areas, as well as providing for open curtilage areas about each dwelling.

While the Subdivision Development Plan (Tasman Carter Sheet 2) shows the intended extent of native planting to be retained and/or replanted, this appears to be unrealistic given the planting shown extends up to the edge of each house and driveway with no areas for vehicle manoeuvring and onsite parking, or indeed any open outdoor areas associated with each dwelling unit. Clearly houses 2 - 8 will be built for privacy and views to the north, and consequently would seek to have large open areas oriented out towards Tasman Bay. In this regard it is likely that vegetation would be planned and selected so as to not obscure or compromise the open and expansive north facing coastal views.

Paragraph 21 of the Landscape Report tends to reinforce this assumption by referring to the vegetation within the proposed Tasman Bay Esplanade Reserve as being likely to be ‘modified or removed’ to enable replacement vegetation to be planted which will grow to a maximum height of 3 metres. Clearly this would further maintain and protect the expansive open views to Tasman Bay from the proposed house sites. While the houses within the KDC site are closer to the coast and largely oriented towards the Moutere Inlet, the density of planting about the houses is sparse with extensive open areas for outdoor living and viewing. Sheet 5, Annexure A in the Landscape Report illustrates the pattern of planting on the KDC site. It is likely that the density of planting on the Tasman Bay side of Lots 2 - 8 will be similar to that which has occurred on the KDC site rather than what is illustrated on the Tasman

Carter plans. The result being that the proposed houses will be considerably more visible than what has been portrayed in the plans and outlined in the Landscape Report.

While perhaps pedantic but nevertheless illustrative of other design issues associated with the proposed subdivision and development of the site, the driveways to the houses appear problematic as they would require reversing movements in addition to sight line difficulties to the main access road which provides pedestrian access linkage between Lots 5 and 6 from the Domain to the northern esplanade reserve area. Vehicle access to and/or from Lots 2 - 8 to the access road as illustrated in the plans also presents challenges in terms of alignment and sight lines.

8. Summary and Conclusions

The Applicant's Landscape Report appears to be based on the premise that an 8 Lot subdivision is an appropriate level of development on the Kina Peninsula site. Accordingly, the Landscape Report appears to seek justification for a particular outcome, rather than being an informed assessment of the site and its development in its particular coastal setting.

In my opinion, the Landscape Report has not adequately assessed the effects of the proposed subdivision and development of 8 residential lots against the relevant TRMP resource management issues, objectives and policies.

In my opinion, the proposed development will have significant adverse effects and is contrary to the relevant provisions of the RMA, the TRMP and the New Zealand Coastal Policy Statement.

The Applicant's Assessment of Environmental Effects Report and the Landscape Report in particular, appear to focus on the reserve/open space plan benefits of vesting and upgrading the Domain on the basis that these benefits outweigh the environmental effects of the proposed 8 Lot subdivision.

In my opinion the landscape mitigation measures proposed will not be effective in mitigating the adverse effects of the proposed development.

I consider the nature and scale of the proposed development to be inappropriate in this location and on this site in particular

Frank Boffa
October 21, 2010

APPENDIX 5:
Staff Report - Wastewater Treatment and Disposal

TO: Environment & Planning Subcommittee - Commissioner Hearing

FROM: Leif Pigott, Coordinator- Natural Resource Consents

REFERENCE: RM100178

SUBJECT: **Carter Holt Harvey HBU Ltd**

1. INTRODUCTION

The Principal Planner's report outlines the background to the application. The purpose of this report is to provide an assessment and recommendation for the disposal of wastewater to land.

No consent has been applied for yet for the discharges and this report is to comment upon some concerns raised by submitters.

It is my view that the discharges on the proposed lots can be designed to meet the conditions of the Permitted Activity as defined by Rule 36.1.4 of the Tasman Resource Management Plan

2. APPLICATION BRIEF

2.2 Proposal

The overall proposal has already been described in the Planner's report on the Subdivision and Land Use consents (RM100173 and RM100174).

Location

The application site is located at 311 Kina Peninsula Road, Kina Peninsula, Tasman. The legal description of the land is Part Lot 76 DP 427 and all land is contained in Certificate of Title NL9C/707.

The application states the following:

"On site domestic wastewater management is proposed for the residential lots. We have carried out a site and soil evaluation for onsite effluent disposal using AS/NZS 1547:2000, "On site domestic Wastewater management" as a guide.

The proposed subdivision is not located within the wastewater management area, special domestic wastewater disposal area or aquifer protection area. We assess that correctly installed on-site wastewater management systems should meet the permitted activity requirements of Rule 36.1,4 of the Tasman Resource Management Plan.

The proposed effluent disposal area within the lots are shown indicatively. These areas are generally located within gently inclined to flat lying vegetated coastal dunes. The sites are located greater than 1.5 m from any adjoining property boundary and 20 m from the coastal marine area, any surface water body and domestic water supply bore. We assess that the proposed effluent disposal sites are unlikely to be affected by surface flooding or inundation by storm surge.

The superficial site soils generally consist of loose silty sand topsoil overlying loose dune sand. We have assessed and categorized the soils exposed in TP1 using the A5/NZS 1547:2000 Table 4.1,1 as a guide, we assess the soils to be rapidly draining Category 1 gravels and sands.

Groundwater was not encountered in the test pits. Assuming that the disposal systems are designed such that soakage and soil saturation is confined to the upper 1 m soil profile then there should be sufficient clearance of at least 500 mm to the average winter level of groundwater.

It is very likely that the soils will be rapidly draining - Category 1. This would be assessed in more detail as part of any detailed wastewater design included as part of the building consent application.

2.3 Zoning and Consent Requirements

The site is located not located in any specific wastewater areas as defined within the TRMP. Thus the permitted activity rule 36.1.4 provides the permitted baseline

3. NOTIFICATION

The bundled applications were publicly notified on 7 August 2010.

There were 112 submissions to the application. The summary of submissions report is appended to Mr Morris' Hearing report on RM100173 and RM100174. By far the majority of the submissions were in opposition to the proposals.

A total of 22 submissions included comments in opposition to the Wastewater required in able to facilitate the proposed subdivision.

3.1 Summary of Submissions

Submitter	Reasons	Decision
10. Charles Fulford.	<ul style="list-style-type: none"> There is no adequate sewage system on the peninsula and there is no adequate means of disposal from 8 large houses on the size of the proposed lots. 	Opposes Wishes to be heard
19. Harry Place Preserve Ltd C/- Helen Hughes	<ul style="list-style-type: none"> There is a risk that treated effluent could discharge into the Moutere Inlet or the sea. It is not possible to accommodate the effluent disposal areas within the proposed lots and maintain good separation distances to the property boundaries particularly taking account future sea 	Opposes Does wish to be heard

Submitter	Reasons	Decision
	level rise.	
21. Anna Weeks	<ul style="list-style-type: none"> It is inevitable with the wastewater systems, being only metres above sea level in sandy soil, that there will be some leaching into the sea, causing pollution and a health hazard. 	Opposes Does wish to be heard
22. Coastal Initiative Group C/- Janet Taylor	<ul style="list-style-type: none"> Effluent disposal in sandy non absorbent base may result in significant leaching into the surrounding estuary and seashore. 	Opposes Does wish to be heard
23. Tasman Area Community Association C/- Tony Pearson	<ul style="list-style-type: none"> The site is physically unsuited to residential development because it is basically a sand spit with a high risk of coastal erosion and contamination from leaching of wastewater into the estuary and sea. 	Opposes Does wish to be heard
25. Rush Family C/- Hamish Rush	<ul style="list-style-type: none"> Effluent disposal in sandy non absorbent base may result in significant leaching into the surrounding estuary and seashore. 	Opposes Does wish to be heard
26. Hatton Oliver Family Trust.	<ul style="list-style-type: none"> Effluent disposal in sandy non absorbent base may result in significant leaching into the surrounding estuary and seashore. 	Opposes Does wish to be heard
28. Friends of Nelson Haven.	<ul style="list-style-type: none"> Soakage from the septic tanks is likely to contaminate the coast. 	Opposes Does wish to be heard
32. Estefanis Varinda	<ul style="list-style-type: none"> Ecologically unsound and dangerous eg Sewage. 	Opposes Does not wish to be heard
33. Johanna Markert	<ul style="list-style-type: none"> Ecologically unsound and dangerous eg Sewage. 	Opposes Does not wish to be heard
34. Andrea Da Costa	<ul style="list-style-type: none"> Ecologically unsound and dangerous eg Sewage. 	Opposes Does not wish to be heard
35. Fraser	<ul style="list-style-type: none"> There is a high potential for effluent to leach into the 	Opposes

Submitter	Reasons	Decision
Campbell	inlet or coastal water.	Does not wish to be heard
38.Ursula Schwarzenbach	<ul style="list-style-type: none"> • Effluent disposal will put water quality and the coast at risk. 	Opposes Does not wish to be heard
42. Tiakina Te Taiao	<ul style="list-style-type: none"> • Tangata whenua have concerns about the following: • Waste management. • Continuance of mahinga kai/mahinga maataitai (places to gather food/fishing grounds) and customary use activities. • Coastal occupation and protection of kaimoana. 	Opposes Does wish to be heard
46. Jean Stoke	<ul style="list-style-type: none"> • Environmental- Nitrate discharge • The application should be reassessed for waste management. 	Opposes Does not wish to be heard
49.Maggie Williams	<ul style="list-style-type: none"> • Effluent disposal in a lowlying area, near the sea, would not seem advisable, with a high risk of flooding by sea water and leaching into the surrounding land and sea. 	Opposes Does wish to be heard.
66. Robert Visser	<ul style="list-style-type: none"> • There are errors in the Geotech report dealing with the wastewater discharge • The suggested maximum discharge of 220 ltr per household is well below the accepted industry norm of 180 ltr per person. • Because of the permeable sand and gravels, bacteria and nutrients will be washed into the sea. • There is no tidal marsh to absorb the wastewater nutrients which adversely affect nearby shellfish beds. 	Opposes Does wish to be heard
67. Marion and Peter Satherley	<ul style="list-style-type: none"> • The development is on sand spit which is not suitable for such a development, including effluent disposal in the sand environment, which could result in leaching into the sea and the estuary. 	Opposes Did not indicate whether they wished to be heard.
68. David Short.	<ul style="list-style-type: none"> • There is real risk that onsite effluent disposal systems may fail which could pollute the estuary and Tasman Bay. 	Opposes Does wish to be heard
77.Mark Merrian	<ul style="list-style-type: none"> • Environmental disaster - mussels and cockle shells will be poisoned by the nitrates from the sewage. 	Opposes Does not

Submitter	Reasons	Decision
	<ul style="list-style-type: none"> There should be holiday baches only with long drop toilets. 	wish to be heard
88. David and Judy Mitchell	<ul style="list-style-type: none"> Concerned about the adequacy of the waste water disposal system which could lead to effluent discharges into the Moutere Estuary and the sea. 	Opposes Does wish to be heard
97.Margaret Deaker	<ul style="list-style-type: none"> There should no sewage systems in sandy areas adjoining the beach front where shellfish are frequently gathered for food. 	Opposes Does not wish to be heard

3.2 Key Issues Raised by the Submissions

1. General concern about the sewage disposal on this site.
2. Sensitive receiving environment with the shellfish beds
3. The land application area is very close to the coast and there is a risk of sea level rise
4. Protection of the coastal water quality.

Staff accept the point raised by submitter 66- Robert Visser The applicant has incorrectly stated the wastewater loading and a loading rate of 180 litres per day per person is normally used as part of the wastewater design. The design loading is normally assessed when the applicant applies for building consent.

4. ASSESSMENT

All wastewater systems require building consent and the Council assess the design of the proposed system when the building consent is submitted. Council has a set of guidelines that represent good practice and the wastewater designer needs to be accredited with the Council.

It is vital that on-site wastewater management systems are designed, installed and managed to reflect the nature of the site conditions and constraints associated with the property and dwelling. If they do not, domestic wastewater will not be treated or contained on-site and the discharge will result in adverse effects off-site. Guidelines (attached to this report) have been prepared to assist wastewater practitioners to design, install and manage wastewater management systems in a manner that avoids this situation from occurring.

These guidelines effectively serve two functions. Firstly, some parts of Tasman District's environment presents considerable constraints to successful on-site management of domestic wastewater, including soils of low permeability, thin soils, high groundwater systems, unconsolidated fill, and unstable land. The Council has been approving on-site systems, and monitoring their operational performance for many years now. There is an organisational awareness of how different on-site

systems perform in such variable conditions. The guidelines are designed to apply this accumulated experience so that designers and installers avoid the mistakes of the past. This is reflected in a number of design and installation standards set out in the guidelines.

Secondly, the guidelines represent current best practice in the field of on-site management of domestic wastewater in Tasman District. Best practice evolves over time in response to new technology and better understanding of the factors that influence on-site management of domestic wastewater.

The guidelines require site and soil evaluations to be undertaken as part of the process of designing new on-site systems. The evaluation enables any constraints to effective on-site wastewater servicing to be identified and ensures that the on-site wastewater management system selected is appropriate to the site conditions. The Council system requires that site and soil evaluations must be completed by accredited evaluators.

a) General concern about the sewage disposal on this site.

The overall site is large at over 10 hectares, with each of the proposed lots being at least 2000 square metres. Nothing on the basic layout of the sites will prevent a suitably designed system from working well. There are processes in place to assess the design of wastewater as noted above.

b) Sensitive receiving environment with the shellfish beds

It is accepted that the land application area will work like an intermittently loaded sand filter. These are known to be quite robust and provide high levels of treatment, as noted within the application:

Studies have shown 99.99% virus reduction in just 0.6m depth of filter sand. In this case the depth of unsaturated sands through which the effluent will pass will be at least this depth. Thus, after the passage of effluent through the underlying sands, bacteria and virus removal will be significant resulting in relatively low concentration in the receiving groundwater.

Wastewater receives further 'treatment' by bacteria in the soil following its discharge from the wastewater system. The discharge should occur at a rate within the hydraulic capacity of the soil (i.e. at rate at which the soil can physically absorb and transmit the water). If the discharge is maintained below this rate then typically the soils remain aerobic (air spaces are present within the soil), so the water is treated by aerobic bacteria.

Sandy soils are very good at removing pathogens from wastewater. Most of the reduction in pathogens occurs directly below the wastewater field well before the discharge reaches the groundwater. The Permitted Activity Rule 36.1.4 specifies the following:

- (e) The design and operation of the system must result in the depth of unsaturated soil between the effluent disposal field and the average winter level of groundwater or of the basement rock being no less than 500

millimetres or sufficient to ensure that the discharge does not result in any bacterial contamination of groundwater beyond the property boundary.

Additionally, the plan specifies a minimum setback of 20 metres from the coast. The wastewater disposal areas will be greater than the 20 metre setback.

c) The land application area is very close to the coast and there is a risk of sea level rise

Sea level rise is likely to happen slowly. Wastewater systems have relatively short life 15-20 years before significant work is required, thus renewal of the wastewater systems will occur several times allowing them to be moved or modified to avoid or mitigate the risk of sea level rise.

d) Protection of the coastal water quality- nutrients .

The nutrient loading from a single dwelling on each of the proposed 8 lots is small. The runoff from the catchment feeding it to the estuary is many orders of magnitude larger. Each of plumes will be relatively diffuse before it reaches the coastal waters.

Summary

The wastewater discharges are covered by the Permitted Activity Rule 36.1.4 of the TRMP. Using the information provided by the applicant and Council's staff knowledge of wastewater systems I am satisfied that adequate designs the wastewater discharges from this site can meet the Permitted Activity standard.

The Council has processes in place to assess the wastewater design when the building consent for the house is applied for.

Given the size of the sites, the density of dwelling and the soil types, the risk to the coastal environment from the discharge is very low.

Sea level rise could become an issue and that may require modifications to the wastewater systems however the time horizon of sea level rise exceeds the predicted useful life of any wastewater system.

Leif Pigott

Coordinator- Natural Resource Consents

TO: Environment & Planning Subcommittee - Commissioner Hearing

FROM: Eric Verstappen, Resource Scientist Rivers and Coast

REFERENCE: RM100173, RM100174

SUBJECT: **Carter Holt Harvey Subdivision - Kina Peninsula Road**

1. PURPOSE

- 1.1 This report addresses coastal hazard risk exposure and potential mitigation measures available for the site of the proposed subdivision of title NL9C/707, being Pt Lot 76 DP427, to create 8 residential lots.

2 PHYSICAL SETTING

- 2.1 The location of the land subject to proposed subdivision is well described by the applicant and their consultants. In brief, the title is located near the northern end of the Kina peninsula, with a western coastal boundary with the Moutere Inlet and eastern boundary with the open coast of Tasman Bay. The geologic composition of the property is essentially cohesionless sand and medium-fine gravels to a depth of at least 10 metres. The surface topography comprises a combination of lower lying relatively flat areas to the northwest and undulating coastal ridges and dunes rising to a maximum elevation of approximately 6m amsl.

3. COASTAL HAZARD RISK

- 3.1 A coastal hazard assessment has been undertaken by Tonkin and Taylor Ltd (T&T) for the applicant. The report identifies that the property and present-day road access to it has been primarily subject to varying degrees of coastal erosion (and to a lesser extent seawater inundation) over at least the last 100 years or so, as determined from cadastral and aerial photographic records, other Council records and site observation.
- 3.2 I generally concur with the historical shoreline erosion assessments contained in the T&T report. The Moutere Inlet shoreline has for the most part remained relatively stable and affected by erosion to no more than a minor degree. This is due to the generally low wave energy environment within the estuary, resulting from the relatively short fetch over the inlet for wave generation to occur. The Tasman Bay shoreline by comparison has experienced more dynamic but still relatively mild-moderate dynamic change, particularly on the shoreline immediately adjacent to and north of the proposed 8 lot subdivision. Further to the south however, erosion and accretion dynamics are more significant and variable, resulting in the need to provide over 300m of structural protection to the road edge within the last 10-15 years, commencing some 200m south of the property. Plans in the T&T report show the variation in shoreline change over the last 100 years or so, derived from cadastral and aerial photographic records.

- 3.3 From historical records, the eastern shoreline of the property has been subject to mild to moderate erosion and accretion phases, along with periodic seawater inundation during storm events, where storm surge coincident with high spring tide results in wave runup and inundation of lower lying nearshore land. Seawater inundation hazard is possible and may have historically occurred on the low lying land adjacent to the Moutere Inlet shoreline west of the proposed subdivision sites, as land levels are as low as 2.5m amsl. However, Council has no record to my knowledge of any significant inundation event occurring on this low lying reserve land, or on the eastern margins of the proposed lots, where land levels are generally speaking significantly higher.
- 3.4 The variability and severity of historic and present day coastal processes and dynamics do not, in my view, suggest that the proposed subdivision sites will likely be subject to erosion or inundation hazard risk into the future under a present-day climate, or that cannot be mitigated (if necessary) by “soft engineering” techniques. However, the same cannot be said regarding potential erosion and inundation hazard risk to the proposed subdivision sites (and land access to them) within a scenario of projected future climate change.
- 3.5 The potential effects of climate change are required to be considered under various planning instruments, including the Resource Management Act, Council’s planning documents and the New Zealand Coastal Policy Statement. The Ministry for the Environment (MfE) have issued guidelines with respect to planning recommend allowance for a base sea level rise (SLR) of 0.5m by 2100, but with examination of the consequences of SLR of 0.8m, relative to the 1980-1999 average. It is noted however that more recent research findings (summarised in a paper “Sea Level Rise - Emerging Issues” by Dr J Weston of the Royal Society NZ in Sept 2010), as well as forthcoming reports from the IPCC, are likely to result in an increased recommended SLR allowance for planning purposes in the future.
- 3.6 The Coastal Hazard Assessment document provided for the applicant by TandT provides a comprehensive climate change scenario overview and assessment of potential effects of SLR on coastal processes and erosion and seawater inundation risk to the shorelines of the property as a whole and the proposed subdivision in particular. I generally concur with the authors findings and also acknowledge the difficulties inherent in assessing potential erosion responses on the shoreline east of the proposed subdivision under projected climate change, including the limitations of the Bruun rule in this location to estimate potential shoreline retreat distances.
- 3.7 Adding to the TandT assessment of potential adverse effects of projected climate change over 50 and 100 year timeframes on shoreline retreat and seawater inundation hazard risk is the contribution to and further exacerbation of both these hazard risks to the property occasioned by altered tidal exchange between the open coast and the Moutere Inlet. The channel location and cross section area is relatively stable for present tidal volumes, with its offshore location essentially only influenced by littoral drift processes from the north. However, the stability of the Kina channel will be inevitably be adversely affected by an increase inlet tidal prism volume resulting from an increase in sea level. The channel cross section area and offshore location are respectively both likely to increase and change in response to increased tidal flows and altered littoral drift dynamics offshore. These changes may

exacerbate the erosion and inundation potential of the foreshore on the northern end of the Kina peninsula, including the subject property.

- 3.8 There are two hazard risk scenarios associated with this development proposal. There is hazard risk exposure to the proposed titles on the one hand and to the inevitable building development on those titles on the other. The author assesses and quantifies potential erosion and hazard risk for both scenarios and in so doing notes that the proposed subdivision will create titles that will endure indefinitely ie well beyond the 50-100 year timeframes normally considered for the lifetime of developments on the land itself. However, he assesses potential hazard risk mitigation measures for development on the titles only and not for the titles themselves.
- 3.9 Figure 6 in the T&T report shows possible shoreline locations by 2060 and 2100, along with proposed dwelling locations and two reassessment trigger lines. These trigger lines are proposed as where reassessment of erosion hazard (and presumably also inundation risk) should be undertaken so as to implement further hazard mitigation measures as necessary. While the author indicates a degree of conservatism in his assessment of erosion rates, it is nevertheless evident from that assessment that coastal erosion may potentially reach or intrude within the proposed boundaries of several of the proposed subdivision lots by 2060. By 2110, shoreline erosion is indicated as having prospectively reached the proposed dwelling sites, many metres within the eastern property boundary lines. Yet this hazard risk and more importantly, the measures that may be necessary (and are invariably demanded) to mitigate this risk well before the hazard impact the title, have not been evaluated.
- 3.10 The author of the T&T report consistently indicates in his assessment that it is very unlikely that the proposed dwellings will be subject to any erosion hazard risk over the next 50 years. I have no compelling reason to disagree with that view. However, for the subsequent 50 year period, there is a significant degree of cautious, almost concerned circumspection in the author's evaluation of hazard risks to the dwellings during that period. I concur with that cautious view also. Trigger lines for reevaluation of risk are proposed, along with measures including minimum ground and floor levels (to mitigated inundation hazard) and dwelling relocatability (to mitigate erosion hazard).
- 3.11 Remaining with the potential hazard risk to dwellings and proposed hazard mitigation measures for these developments, if erosion hazards manifest themselves during the lifetime of the dwellings, there remains little relocation potential within the site due to its size, while also allowing for an area for wastewater treatment to occur. In the alternative, while allowing for building relocatability off-site preserves the opportunity to save the building from hazard risk or destruction, such a drastic measure should not be regarded as an acceptable expectation on the owner of the day and used as justification to create a land title and allow development in a hazard area. Market forces and "let the buyer beware" in such circumstances serve more the developer than the owner and wider community, in my view.
- 3.12 However, it is very likely that long before hazard mitigation measures to any dwellings on the proposed sites are seriously put to the test, it is certain that erosion and inundation hazards will have significantly threatened, if not directly impacted, the property titles as well as the road access to them. There is a long track record of

property owners wishing to mitigate erosion and inundation hazards to their properties and almost invariably long before the properties become significantly directly affected by these hazards.

- 3.13 Climate change projections indicate that sea level rise will continue to rise beyond the 50-100 year time frame considered in the T&T coastal hazard assessment report. Should climate change and sea level rise occur at or near current projected rates, this will result in a coastal process dynamic of persistent and increasing erosion rates and frequency and severity of seawater inundation episodes within and beyond the nominal 100 year life of dwellings in the proposed subdivision development.
- 3.14 Erosion and seawater inundation hazard risk, in a climate of steadily rising sea level accompanied by a likely persistent erosion trend on this shoreline, cannot be mitigated cost effectively or for anything but a relatively short period of time by “soft engineering” measures (eg beach nourishment, coast care works, dune planting), just as is the case at present. The proposed sites may potentially require the construction of bund walls of some form to reduce if not exclude potential seawater inundation and will almost certainly require hard engineering measures (eg rock revetments) to satisfactorily mitigate potential erosion hazard.
- 3.15 In addition to the proposed subdivision of and dwelling developments on the subject property, the road access to this land from the south has for some 15 years or more been subject to significant erosion and inundation hazards. A variety of erosion mitigation measures, culminating in the present rock revetment structure, that also serves to moderate (but not remove) inundation hazard, have been constructed adjacent to the road edge over approximately 300m length. This is also noted in the TandT report.
- 3.16 However, the comment in the report’s executive summary, that the road is likely to become at risk over the next 50-100 years due to sea level rise, while true, overlooks the fact that the road has been and remains at risk from these hazards. While erosion risk has been mitigated for part of the road, a degree of inundation risk to this area, sufficient to make the road impassable during a storm event coinciding with a high spring tide, remains. This is due to the revetment lacking sufficient elevation to prevent wave overtopping.
- 3.17 Further detailed comments are made by Mr Ley in his report with respect to Council’s preferred management of this road and how these may change should the subdivision and dwelling developments proceed. From a coastal hazard management perspective, erosion and seawater inundation hazards will continue to prevail along the coastal access road and will significantly increase in response to projected sea level rise in the next 50-100 years.
- 3.18 It is inevitable, in my view, that any increased level of residential development on the Kina peninsula north of the present end of seal will increase landowner and local community aspirations and potential demands for an increased level of access security and functionality. This would require progressively raising the crest level of the rock revetment, as well as strengthening the revetment itself, to mitigate inundation hazard risk and damage arising from increased wave forces due to sea level rise. To fully mitigate present wave overtopping and inundation of the road will require the crest level of the revetment to be raised more than a 1m (to at least RL

4.5-5.0m). In response to a projected future sea level rise climate, revetment crest elevation of around 3m or more is likely to be required by 2100.

3.19 North of the Council road reserve and south of the proposed subdivision lot, there remains a tract of private property that will also be increasingly subject to coastal erosion and seawater inundation risk. This 300m stretch of coastline is generally lower lying than the area in the vicinity of the dwelling sites and is potentially susceptible to accelerated erosion due to its low lying nature. This part of the property consists largely of land accretion that has occurred since around 1912. If the TandT 2060 and 2110 possible shoreline retreat hazard lines shown in Fig 6 of the report are extrapolated southwards, it can be reasonably inferred that erosion and certainly inundation hazards are likely to become significant in this area within the next 50 years and critical by 2110.

3.20 As a consequence, significant erosion and inundation hazard protection measures will likely need to be made to this southern coastal margin of the property. Hazard mitigation measures, which will almost inevitable need to consist of “hard” rather than “soft” engineering solutions, will likely need to be implemented ahead of similar measures ultimately required to mitigate coastal hazards to the subdivision sites, to preserve a functional access to the proposed dwelling sites themselves.

4. SUMMARY

4.1 The applicant’s property is presently a single title largely used by the public as a reserve. It lacks building or other structures and is otherwise largely undeveloped. The property to the north is also a single title but contains around 8 modest baches and associated sheds that have been present for a number of years. The nature of the developments on these two titles is such that prevailing coastal erosion and inundation hazards have had little to no impact on the use of the land or prompted the implementation of hazard mitigation measures to these properties. The one exception has been that Council has seen fit to provide some relatively modest rock revetment and timber wall erosion protection to some 300m of road located hard against the shoreline, to preserve reasonable, unsealed access to these properties.

4.2 This application is not for a subdivision and dwelling development in circumstances where the existing title is already subject to such modification and use. Potential coastal erosion and inundation hazard risks have been assessed for the property and proposed subdivision sites. Within the 50-100 year lifetime of proposed dwelling for the sites to be created, projected climate change and sea level rise will very likely result in the sites and buildings becoming subject to significant seawater inundation and erosion hazards. While mitigation measures for the dwellings has been proposed, consisting of minimum floor and ground elevation, there will ultimately arise a time that dwellings remaining on the sites will become untenable, if climate change effects occur as presently projected, let alone get worse, as is the present trend.

4.3 Long before the dwellings are significantly threatened by inundation and then erosion hazard, the dwelling sites will themselves be threatened by erosion hazard. This will inevitably prompt a demand for hazard mitigation measures to be implemented. In a persistent sea level rise scenario, erosion trends are also likely to predominate, largely ruling out the potential for cost effective soft engineering mitigation measures to be implemented for long term hazard protection. As these hazards risks also prevail on the property shoreline south of the dwelling lots and Council access road

itself, erosion and inundation hazard mitigation measures, ultimately of a hard engineering nature, will also be demanded and be necessary, so as to maintain road access to the properties.

5. CONCLUSION

The proposed subdivision of the land and development of dwellings on the 8 titles created would, from a coastal erosion and inundation hazard risk exposure perspective, in all likelihood be acceptable if present day coastal dynamics were to continue to prevail. However, the potential adverse effects of projected climate change and sea level rise on the property shorelines, the titles proposed to be created and ultimately on the dwellings themselves are fundamentally significant and severe within and beyond the lifetime of the sites and proposed developments thereon. These potential erosion and inundation hazards cannot be satisfactorily mitigated in the long term without the construction of significant, permanent, hard engineering structures on this otherwise natural shoreline. The proposed subdivision and dwellings, together with the hazard mitigation measures proposed in the application (and considered inevitable as noted above) are considered to be contrary to Objective 5 and Policies 3, 13, and 25 of the NZCPS (2010). These provisions of the NZCPS are noted in the addendum attached to this report.

6. RECOMMENDATION

Due to the significant potential adverse effects of coastal erosion and seawater inundation on the property as a whole within and beyond the lifetime of the proposed subdivision and building developments on the sites created, given present and potential future projected climate change and sea level rise by 2110 and beyond, and that these potential adverse effects cannot be mitigated without causing significant adverse effects on the environment, I recommend that the subdivision application be declined under Section 106 of the Resource Management Act 1991.

Eric Verstappen
Resource Scientist Rivers and Coast

Environment & Planning Department

To: Mark Morris, Co-ordinator Subdivisions
From: Rosalind Squire, Forward Planner, Reserves
Reference: RM100173
Subject: **Carter Holt Harvey HBU Ltd, Kina Peninsula, Tasman.**

1. INTRODUCTION

The purpose of this report is to respond on behalf of the Community Services Department to the proposals outlined in the application with respect to the vesting of reserves and upgrading of onsite facilities. The advice is given without prejudice, the overall merits of the subdivision are not considered.

I am familiar with the site and surrounding area and have considered the application in the context of existing formed and unformed legal roads, reserves and walkways in the vicinity of the site.

2. BACKGROUND

- 2.1 Both the application and Section 1.1 of the principal planner's report provide a history of the application site and the status of the covenant entered into between Baigent Holdings and Shell New Zealand Holding Company. Both reports also provide a detailed description of the site and the surrounding area.
- 2.2 I understand that the Deed of Covenant (Attached in Appendix 1 of this report) has not been registered against the Certificate of Title and the Companies that were party to the covenant no longer exist and as such it has no legal effect. However, for the sake of completeness although the covenant refers to "land described in Schedule 7" it also states that Baigent Holdings "shall continue to hold that part of the land described in the Schedule hereto, which is known as the LEH Baigent Memorial Domain, as a reserve for the use of the public" and maintain in a reasonable state and condition that same land and the road giving access thereto. These obligations were to expire if the land was ever vested in the Crown or local authority. A further deed of covenant was to be entered into if the land was disposed of by the company.
- 2.3 In the absence of all the schedules to the covenant (The applicant has no record of Schedule 7) it is not entirely certain if the covenant referred to all or only part of the land which is the subject of the subdivision application. In the absence of Schedule 7 the text in the covenant which states "that part of the land described in the Schedule

The unnumbered schedule attached to the covenant refers to land described as Pt Lot 76 DP427 being part of CTIB/1365 (recorded as NL 9C/707 in the application documents) and is 10.7 hectares i.e. the entire area which is the subject of the subdivision application.

hereto, which is known as the LEH Baigent memorial Domain, as a reserve for the use of the public” could be interpreted either way.

2.4 As stated in the application the site is currently owned by Carter Holt Harvey HBU Limited. Although it is privately owned the land has been maintained by the landowner and has been effectively functioning as a public reserve since 1982.

3. CONTEXT

3.1 There are two larger Council owned reserves in the immediate Kina/Tasman area, these are shown in Figure 1 below. One reserve adjoins the Moutere Estuary to the north of Tasman Township (Tasman Memorial Recreation Reserve - 1.86ha) and the other adjoins Tasman Bay at Cliff Road (Kina Beach Recreation Reserve - 2.4ha).



Figure 1: Existing Coastal Reserves in the Kina/Tasman area

3.2 There is an existing esplanade reserve on the estuary side of the peninsula which was created when a Rural Residential property to the south was subdivided in 2000, this is shown in Figure 2. There are no other esplanade reserves in the immediate vicinity of the site, however, there is an area of unalienated Crown land between the eastern cadastral boundary of the site and mean high water springs which provides for public access along the shoreline.

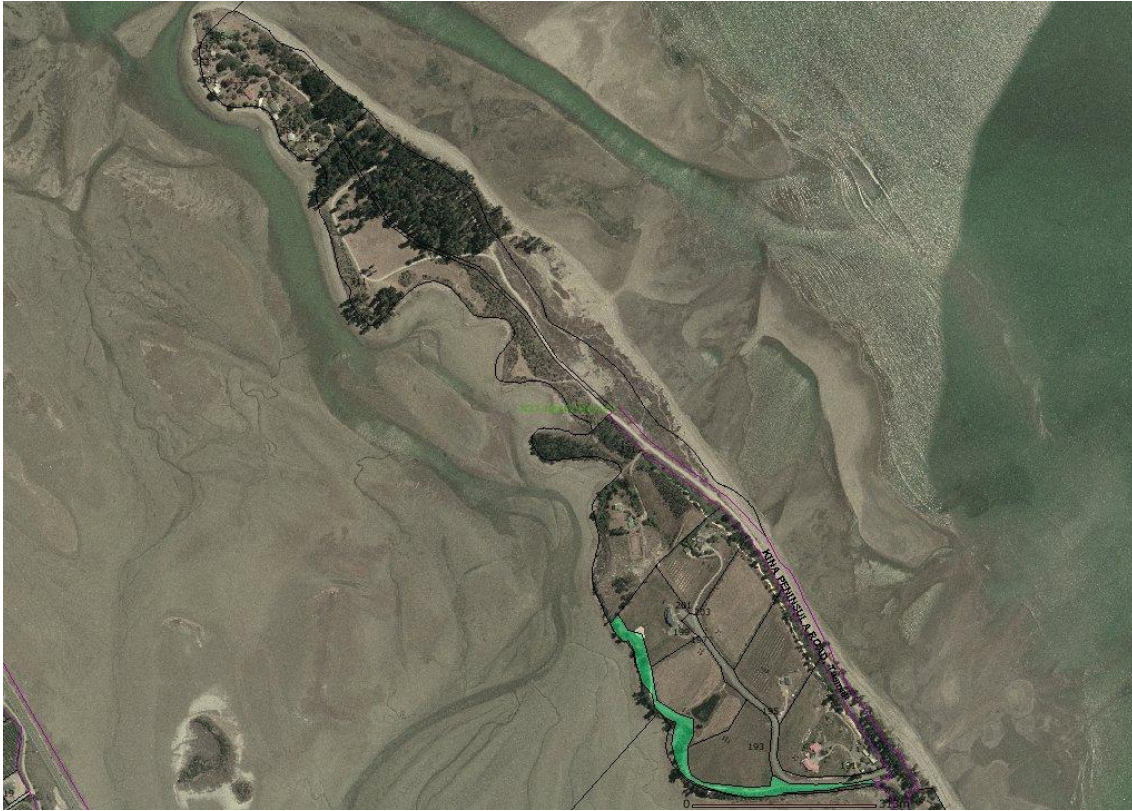


Figure 2: Existing Esplanade Reserves in the immediate vicinity of the site

4. THE APPLICATION

- 4.1 The subdivision application includes the vesting of 3.4 hectares of land as Local Purpose Reserve (purpose not defined) for a cost of one dollar. The balance of the land not included in the proposed residential allotments (4.31 ha) is proposed to be vested as Local Purpose Reserve (Esplanade). This does not include the previously mentioned area of unalienated Crown land adjoining Tasman Bay. This land would continue to be administered by Land Information New Zealand and be available open to public access.

5. SUBMISSIONS

- 5.1 The principle planner's report provides a summary of the submissions and outlines the main submission issues. The majority of the submissions oppose the subdivision for a variety of reasons and submit that the site should be bought by the Council and vested as a reserve. The significance of the site to the local and wider community and their commitment to its ongoing use is strongly emphasised. The general scarcity of coastal reserves is also highlighted as is the general desire for the intent of the Deed of Covenant to be honoured.
- 5.2 The following is a discussion of the principle issues raised in submissions and outlined in the principle planner's report which require a response from the Community Services Department.

5.2.1 Availability of the site for public access

The reserve areas proposed to be vested as part of the application would provide for public access to and along the coastal marine area, protection of the LEH Baigent Memorial and substantial areas for recreational use. Although this does not meet the wishes of many of the submitters who want the entire site vested in Council, the land is privately owned and (due to the fact that the covenant was not registered on the title) is able to be sold on the open market. Although we consider that there is an obligation to protect the site of the Memorial and access to it, if the land is purchased by a private individual or other legal entity, they would theoretically have the ability to prevent public access to the entire site. We consider the vesting of the proposed reserves in Council to be a tangible benefit for the local and wider Tasman community.

5.2.2 Purchase and vesting of site in Council or retention of the existing status

As already stated, although many submitters request that the land be purchased by Council and vested as a reserve, we don't consider that this is the appropriate forum for that discussion. The Council has a subdivision application to consider which is required to be assessed on its merits. One of the positive effects of the subdivision is the vesting of substantial areas of reserve in Council at no cost. This would ensure that those areas would be available for public access and recreational use in perpetuity.

5.2.3 Proposal contrary to the intent of the Baigent Covenant

As outlined in section 2.2 and 2.3 of this report, in the absence of all the schedules to the covenant and/or personal communication with the parties involved at the time, it is not entirely certain if the covenant referred to all or part of the land which is the subject of the subdivision application. It is fair to conclude that if the intent of the Deed of Covenant was to preserve the area surrounding the Memorial and access to it, then that has been honoured. However, if the intent was to preserve the entire site then it has not.

5.2.4 Importance of the area as a recreational asset

The importance of the area as a recreational asset and the community's very genuine connection to the site is acknowledged. Although the proposal does not satisfy the community's aspirations to have the entire area vested as reserve, it does volunteer the vesting of substantial areas which would become a significant recreational asset to the community.

5.2.5 Upgrading of facilities

The proposal includes some upgrading of existing facilities on the site, including the toilets, access ways, launching area and the LEH Baigent Memorial. This upgrading was volunteered by the applicant and is supported. The Department progressively upgrades facilities as and when required and in accordance with the Reserves Management Plans, Asset Management Plans and Long Term Council Community Plans and annual planning process. The area which is the subject of this application is not owned by Council and as such we have had no involvement with the existing facilities and there has been no budget set aside for facility upgrades. As such if the

reserve was to vest in Council we would support the upgrading of the existing facilities on site.

5.2.6 Local Purpose Reserve (Esplanade) width

There are sections of the proposed esplanade reserve on the Tasman Bay coastline which are less than the 20 metres anticipated by the Resource Management Act 1991 and the Tasman Resource Management Plan. If Council is of a mind to approve the application they could recommend that the reserve has a minimum width of 20 metres. Having said that, much of the area along the eastern boundary of the site does not adjoin mean high water springs and there is a substantial width of unalienated Crown land available for public access. It is considered that the area available provides sufficient room to provide for the purposes specified in section 229 of the Resource Management Act 1991:

- (a) *To contribute to the protection of conservation values by, in particular,—*
 - (i) *Maintaining or enhancing the natural functioning of the adjacent sea, river, or lake; or*
 - (ii) *Maintaining or enhancing water quality; or*
 - (iii) *Maintaining or enhancing aquatic habitats; or*
 - (iv) *Protecting the natural values associated with the esplanade reserve or esplanade strip; or*
 - (v) *Mitigating natural hazards; or*
- (b) *To enable public access to or along any sea, river, or lake; or*
- (c) *To enable public recreational use of the esplanade reserve or esplanade strip and adjacent sea, river, or lake, where the use is compatible with conservation values.*

However, if the coastal hazard assessment is correct, the area of land adjoining Tasman Bay which would be available for public access in the 75 to 100 year timeframe will become increasingly limited unless coastal protection works are provided.

5.2.7 Status of the proposed reserves

Section 16 of the Reserves Act 1977 (The Act) states that where any reserve is vested in a local authority which did not derive its title to the land from the Crown and is or remains vested in a local authority, that local authority shall, by resolution, classify the reserve according to its principal or primary purpose, as defined in sections 17 to 23 of the Act.

The Cultural Impact Assessment (CIA) undertaken on behalf of Tiakina te Taiao contains draft recommendations including a statement that if consent is granted to the subdivision, the reserve surrounding the memorial should be classified as a Historic Reserve under section 18 of the Act. The principal or primary purpose of historic reserves is to protect and preserve in perpetuity such places, objects, and natural features, and such things thereon or therein contained as are of historic, archaeological, cultural, educational, and other special interest. We would not oppose this classification as it recognises the role played by LEH Baigent in the early development of this part of the District.

The CIA states that “ ... the 2.85 hectares identified on the Tasman Bay side of the subdivision plan as esplanade reserve cannot carry this mechanism”. While it is acknowledged that esplanade reserves are set aside from the line of mean high water springs, this would not be the case here as the boundary in question does not

immediately adjoin that line. However, what is proposed reflects the intent of the law and it is considered appropriate that if the subdivision application were to be granted and the reserve vested, that it be classified as a Local Purpose Reserve (Esplanade) under section 23 of the Act as its principle purpose would be the same as those provided for in section 229 of the Resource Management Act 1991.

5.2.8 Landscaping/Access

We generally support the landscaping plan submitted with the application, but do not support any restriction in the height of plantings within the reserve between the proposed residential sites and the coast. Any plantings would need to be located and maintained in a manner that enables them to grow to their natural mature height and form. We would also require any access ways to have a minimum width of 6 metres.

6. SUMMARY

- 6.1 It is clear that many members of the Community have a strong connection to the site and would like to see the entire area vested in Council as reserve. However, as already discussed this is not considered to be the appropriate forum for that discussion, Council has an application before it which it is required to assess on its merits. If the decision is made to approve the application in its' current form (and the intent of the deed of covenant was to ensure public access is maintained to the memorial and immediately surrounding area) the Community Services Department considers that the intent of the covenant has been honoured. We also consider that the vesting of a total of 4.31 hectares of Local Purpose Reserve (Esplanade), much of which is greater than 20 metres in width, is sufficient to achieve public access to and along the coast and to enable recreational use of the reserve and contribute to the protection of conservation values. We also support the upgrading of existing facilities on site and the Memorial.

I am happy to answer any questions

Rosalind Squire
Forward Planner, Reserves

Appendix 1 – Deed of Covenant

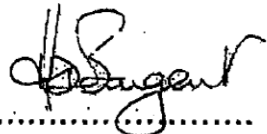
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2/ 8

TO: H. BAIGENT & SONS LIMITED
("Baigent")
111 Rutherford Street
NELSON.

BAIGENT HOLDINGS LIMITED a duly incorporated company having its registered office at Wellington ("the Company") hereby gives you notice pursuant to Section 11.3 of an Agreement bearing date the 15th day of October 1982 and entered into between Shell New Zealand Holding Company Limited and the shareholders of Baigent ("the Agreement") that it requires Baigent to agree to maintain at its expense that part of the land referred to in Schedule 7 of the Principal Agreement known as "the L.E.H. Baigent Memorial Domain" on the basis set out in the Agreement AND the Company calls upon Baigent to forthwith enter into a Deed of Covenant in the form set out in Schedule 12 to the Agreement

DATED at Nelson the : day of *December*



.....
H.D. BAIGENT /Secretary to the
Company

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opt

18AL83 3317 CPT *** \$1.00
NEW ZEAL/ ID STAMP OUT/ WNL

FORM OF DEED OF COVENANT

(L.E.H. BAIGENT MEMORIAL PARK)

THIS DEED made the 6 day of December 1982

BETWEEN

H. BAIGENT AND SONS LIMITED a duly incorporated company having its registered office at Nelson (hereinafter together with its successors and assigns called "Baigent") of the one part; AND
BAIGENT HOLDINGS LIMITED a duly incorporated company having its registered office at Nelson (hereinafter together with its successors and assigns called "Baigent Holdings") of the other part;

WHEREAS

- (a) an Agreement (hereinafter called the "Principal Agreement") dated the 15th day of October 1982 has been made between the persons named in Schedule 1 thereto (hereinafter called "the Shareholders") of the one part and Shell New Zealand Holding Company Limited, (hereinafter called "Shell"), a duly incorporated company having its registered office at Wellington as trustee for and on behalf of a company to be formed, of the other part;
- (b) under the Principal Agreement the Shareholders agreed to sell and Shell, for itself and for a nominee or nominees approved by the Shareholders, agreed to purchase certain shares in Baigent and the Shareholders agreed to form a holding company to hold the shares in Baigent which are not to be sold under the Principal Agreement;
- (c) subsections 11.2 and 11.3 of the Principal Agreement provided:

BAIGENT



"11.2 The Shareholders and Shell agree that Baigent will transfer the land described in Schedule 7 to the Shareholders' Holding Company in such a way that the ultimate acquisition of that land by the Shareholders' Holding Company shall be at no cost to the Shareholders' Holding Company and that Baigent will continue to be liable for the debt secured by the mortgage registered against that land at the date of this Agreement. For that purpose, the Shareholders and Shell shall procure:

11.2.1 that Baigent shall enter into and execute a transfer and such other documents as may be necessary to effect the transfer of that land to the Shareholders' Holding Company in such a way that the ultimate acquisition of the land by the Shareholders' Holding Company shall be at no cost to the Shareholders' Holding Company and in such a way that the stamp duty payable by the Shareholder's Holding Company and any other duties, taxes and levies payable by Baigent or by the Shareholders' Holding Company on or in respect of the transfer are reduced to the greatest extent permitted at law;

11.2.2 that Baigent will assist in or join with the Shareholders' Holding Company in obtaining any consents that are necessary to enable the transfer of that land to the Shareholders' Holding Company; and

11.2.3 that, prior to the transfer of that land to the Shareholders' Holding Company, Baigent shall obtain a release of that land from the mortgage registered against it at the date of this Agreement.

- 3 -

11.3 The Shareholders and Shell agree that, notwithstanding 11.2, the Shareholders' Holding Company, by notice in writing to Shell and to Baigent, may elect not to have the land described in Schedule 7 transferred to the Shareholders' Holding Company but may instead in such notice call upon Baigent to agree to maintain at its expense that part of the said land known as "the L.E.H. Baigent Memorial Domain", including the Memorial to the late L.E.H. Baigent erected thereon and the roadway giving access thereto, AND, forthwith following receipt of any such notice from the Shareholders' Holding Company, Shell shall and the Shareholders shall each take all reasonable steps open to them to procure that Baigent shall enter into a Deed with the Shareholders' Holding Company in the form set out in Schedule 12;"

Baigent Holdings is the shareholders' holding company formed by the Shareholders to hold the shares in Baigent which are not to be sold under the Principal Agreement;

since the execution of the Principal Agreement, Shell has procured the incorporation of Shell Forestry New Zealand Limited (hereinafter called "Shell Forestry"), under section 9 of the Principal Agreement Todd Forestry Limited (hereinafter called "Todd Forestry") has been designated and approved as the purchaser of 20% of the shares in Baigent and Shell Forestry and Todd Forestry have entered into an Adopting Agreement with Shell, the Shareholders, and Baigent Holdings under which Shell Forestry and Todd Forestry have adopted the Principal Agreement;

- (f) Baigent Holdings has given notice in writing to Shell Forestry and to Baigent in accordance with subsection 11.3 of the Principal Agreement; and
- (g) this Deed is in the form set out in Schedule 12 of the Principal Agreement, amended as approved by the parties hereto, and the



- 4

land described in the Schedule hereto is the land described in Schedule 7 of the Principal Agreement;

NOW THEREFORE THIS DEED WITNESSETH that it is hereby agreed and declared by and between the parties hereto as follows:

1. Baigent hereby covenants with Baigent Holdings that Baigent shall continue to:
 - 1.1 hold that part of the land described in the Schedule hereto, which is known as "the L.E.H. Baigent Memorial Domain", as a reserve for the use of the public; and
 - 1.2 maintain in a reasonable state and condition that part of the land described in the Schedule hereto, which is known as "the L.E.H. Baigent Memorial Domain", together with the memorial to the late L.E.H. Baigent erected thereon, all recreational improvements installed by Baigent thereon and the roadway giving access thereto.
2. Baigent hereby covenants with Baigent Holdings that Baigent shall maintain at all times an adequate tree cover on that portion of the said land immediately adjacent to the existing grassed area but shall progressively fell matured trees thereon and replace the same with selected stock.
3. The obligations of Baigent hereunder shall cease and determine if the said land is vested as public reserve in the Crown or in the local authority having jurisdiction thereover or otherwise sold, transferred or disposed of by Baigent with the consent of Baigent Holdings.
4. Baigent hereby charges its estate or interest in the said land in favour of Baigent Holdings as security for the performance of

- 5 -

Baigent's obligations under this Deed AND Baigent acknowledges that Baigent Holdings shall be entitled to register and maintain a caveat against Baigent's estate or interest in the said land pursuant to the Land Transfer Act 1952 for as long as Baigent's obligations under this Deed subsist.



- 5. Upon the sale transfer or other disposition by Baigent of the said land, Baigent shall procure that the purchaser or transferee thereof shall enter into and execute a Deed of Covenant in favour of Baigent Holdings containing the same covenants and conditions as are contained in this Deed unless that sale, transfer or other disposition is the vesting of the said land as a public reserve in the Crown or in the local authority having jurisdiction thereover or is made to Baigent Holdings or unless Baigent Holdings agrees otherwise.

IN WITNESS WHEREOF this Deed has been executed on the day and in the year first hereinbefore written.

SCHEDULE

All that piece of land situated in Block VIII Motueka Survey District containing TEN DECIMAL SEVEN HECTARES (10.7ha) more or less being part Lot 76 on Deposited Plan 427 and being part of the land comprised in Certificate of Title Volume IB Folio 1365 (Nelson Registry)

- 6 -

THE COMMON SEAL of
H. BAIGENT & SONS LIMITED
was hereunto affixed in)
the presence of:



H. Baigent
Secretary

THE COMMON SEAL of BAIGENT)
HOLDINGS LIMITED was hereunto)
affixed in the presence of:)



H. Baigent
Director

**APPENDIX 9:
New Zealand Coastal Policy Statement (2010)**