



STAFF REPORT

TO: Environment & Planning Subcommittee - Commissioner Hearing

FROM: Mike Mackiggan, Consent Planner, Natural Resources

REFERENCE: RM100178

SUBJECT: **CARTER HOLT HARVEY HBU LTD - REPORT REP10-12-02 -**
Report prepared for meeting of 6, 7 and 8 December 2010

1. INTRODUCTION

Section 1.1 of the principle planner's report outlines the background to the application. The purpose of this report is to provide an assessment and recommendation for the land disturbance application RM100178.

2. APPLICATION BRIEF

2.1 Proposal

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

The land disturbance application (RM100178) as amended on 26 July 2010, and subsequently Publicly Notified 7 August 2010 sought to undertake the following:

- "To carry out earthworks totalling 4530 cubic metres as part of construction of access roads and building platforms." (A typo error was made in the in the advertisement - it should have read 5430 cubic metres)

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.

A Current Interest on the title is an Easement Instrument (54074) which grants the applicants right-of-way over the currently unformed access strip which is owned by the adjoining land parcel to the north - Lot 1 DP 4979 (CT NL123/169), that land owned by the Kina Development Company Limited and which is occupied by eight baches at the northern end of the Peninsula.

The 10.7014 hectare site runs south-east to north-west along the coast, with the beach forming the eastern boundary and the Moutere Inlet the western boundary. As

mentioned above the land owned by the Kina Development Company Limited forms the northern boundary to the site, with private residential land (Harry Place Preserve Ltd.) to the south. The site occupies the central part of a coastal strip developed with a mix of baches and permanent homes.

The application site is accessed via approximately 0.7km of metalled private road as Council's legal road ends 0.7km south of the site, with the sealed extent of that ending some 0.5 km before the end of the public road.

Mr Dugald Ley will be addressing the access/upgrade/maintenance implications likely to be generated by the proposal and for which application for resource consent has not yet been applied. These may involve further earthworks to raise the level of the road and/or further rock revetment works.

(For example, if the proposal is approved, and the applicants are required to raise and the level of the road by 0.5m to mitigate for sea level rise, plus rock revetment work to protect that newly sealed surface, then this would require 1200m length by 6m width, and 0.5m depth = 3600 cubic metres of fill, plus rock revetment work, so conservatively 4500 cubic metres of additional fill materials and works disrupting access to the domain and Kina Development Company's land.)

2.2 Zoning and Consent Requirements

The site is located within a Rural 2 Zone, the Coastal Environment Area, and Land Disturbance Area 1 in the Tasman Resource Management Plan (TRMP).

The site is located within a Cultural Heritage Precinct with known archaeological sites on the property.

Under Rule 18.5.2.5 the land disturbance activity/earthworks are deemed to be a Restricted Discretionary Activity, Council's discretion is limited to the following:

- (1) *The extent, timing, and duration of bare ground.*
- (2) *The location, timing of construction, design and density of earthworks including roads, tracks or landings.*
- (3) *The re-establishment of vegetation cover.*
- (4) *The disposal and stabilisation of waste material or fill.*
- (5) *Loss of or damage to soil.*
- (6) *Damage to riparian vegetation or soil.*
- (7) *Damage to animal or plant communities or habitats in water bodies or coastal water.*
- (8) *Effects of the activity on river or stream flows.*
- (9) *Sedimentation effects on subsurface streams or caves in karst.*
- (10) *The potential for slope instability.*
- (11) *The visual effects of the activity, including the effects and screening of the locality from excavations, heaps, dumps, spoil, materials, buildings and machinery.*
- (12) *Potential damage to any cultural heritage site or area, including any archaeological site or site of significance to Māori.*
- (13) *Damage to any natural habitat or feature.*
- (14) *The duration of the consent (Section 123 of the Act) and the timing of reviews of conditions and purpose of reviews (Section 128).*

- (15) *Financial contributions, bonds and covenants in respect of the performance of conditions, and administrative charges (Section 108).*

Additional Matters for Destruction or Removal of Indigenous Vegetation

- (27) *The setting aside or creation of an esplanade reserve or esplanade strip as appropriate.*
- (28) *The significance of the indigenous vegetation, including its representativeness, and significance as a habitat for indigenous fauna.*
- (29) *The contribution of the indigenous vegetation to the protection of other natural values.*
- (30) *The practicality of providing protection to the indigenous vegetation by setting aside or creating an esplanade reserve or esplanade strip.*

Additional Matters for Earthworks within 200 metres of the Coastal Marine Area

(31)[(30)Proposed]

Effects on the landscape character, natural character and amenity value of the locality, having regard to:

- (a) *natural features and distinctive natural landforms;*
- (b) *landscape and seascape values;*
- (c) *significant natural values;*
- (d) *the nature of any existing development.*

The land disturbance does not comply with Permitted Activity Rule 16.13.6.1 as there are known Cultural Heritage sites present on the land and is deemed to be a Restricted Discretionary Activity in accordance with Rule 16.13.6.3. Council's discretion is restricted to the following:

- (1) *Any matters raised in a report prepared in accordance with requirement 19.2.1.14.*
- (2) *Any matter necessary to ensure the protection of a cultural heritage site.*
- (3) *Any matter necessary to ensure kaitiakitanga over a wāhi tapu site or wāhi tapu area.*
- (4) *Any matters relevant to ensuring the appropriate management of a previously unknown cultural heritage site that is discovered during any land disturbance activities associated with the proposed activity.*

Because this consent is part of a "bundle" of consents, including the subdivision consent for the proposed eight new residential allotments, which is a Discretionary Activity by virtue of Rule 16.3.6.2 the land disturbance application RM100178 must also be assessed as a **Discretionary Activity** and be considered under s104 (B) of the Act.

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 33 submissions included comments in opposition to the Earthworks required in able to facilitate the proposed subdivision.

Those submissions containing reference to the Earthworks and their impacts were numbered:

Nos: 5, 10, 11, 12, 16, 17, 18, 19, 21, 22, 23, 25, 26, 27, 28, 35, 40, 42, 67, 68, 69, 70, 71, 77, 78, 79, 82, 85, 88, 92, 94, 95, and 107.

There were a range of issues raised by submitters, with common themes recurring. The principal issues raised regarding ***the notified application as presented to Council***, (and the number of times by submitters) were as follows:

| Item | Issue | Number of submissions | Submission Numbers |
|------|---|-----------------------|---|
| a) | The construction effects of the proposal in terms of noise, dust, heavy traffic hazards | 12 | 10,11,16,18,19,21,22,25,26, 35, 67, 69 |
| b) | The importation of fill material to coastal dunes | 8 | 16, 22, 23, 25, 26, 28, 70, 88 |
| c) | The damage to existing flora and fauna | 18 | 5, 12,16, 22, 23, 25, 26, 67, 68, 69, 77, 78, 79, 82, 92, 94, 95, 107 |
| d) | The introduction of foreign flora and fauna and soil | 7 | 16, 22, 23, 25, 26, 28, 67 |
| e) | The adverse effects on a known archaeological area | 10 | 5, 16, 18, 22, 23, 27, 42, 69, 78, 85 |
| f) | The loss of public access during the earthworks | 7 | 17, 25, 26, 40, 70, 71, 107. |
| g) | The necessity for a new accessway in an archaeological precinct | 1 | 85 |
| h) | The effects upon dynamic coastal dunes | 2 | 17, 88 |
| i) | The rock revetment works resulting in impacts elsewhere along the coast | 1 | 88 |

(I would comment that numerical ranking of submission issue by the number of submissions received does not in my opinion correlate to the actual importance of the issues raised. As I will go on to explain, submitters have only been able to submit on the applications and information before them, and in my opinion several important aspects have been omitted by the applicants, or fudged.)

4. ASSESSMENT

a) The construction effects of the proposal in terms of noise, dust, heavy traffic hazards.

The application as notified summarises on application page 8 the earthworks required as *“totalling approximately 5430 m³. Of this, approximately 1720 m³ of unsuitable material will be exported off the site and 2430 m³ imported onto the site(i.e. involving traffic movements).... Earthworks comprise the following:*

- *Earthworks associated with formation of the new 6m wide access road(right of way)*
- *Earthworks associated with access ways to the building sites*
- *Earthworks associated with establishing building platforms on the new lots.”*

Application pages 13 - 15 go into greater detail regarding the construction traffic movements and effects, stating that the total volume of earthworks is 4060 m^3 of cut and fill and that assuming all the trips use a standard truck of 6 m^3 capacity, *“estimated construction traffic generation is around 677 trips in total.”*

The applicants consultant then states that *“over an estimated four month/80 day construction period (five days/week), this equates to an average of around eight-nine truck trips (to and from) per day (one per hour).”*

“Off-site traffic effects include potential dust nuisance from extra construction traffic”

“Possible amenity effects include dust and noise.”

“The proposed hours of operation for the earthworks are between 7.00 am and 6.00 pm Monday to Friday, and 9.00 am to 5.00 pm Saturdays and Sundays(except for the domain, where there will be no earthworks undertaken on weekends).”

“Recreational use of the domain will be disrupted during earthworks. In order to avoid effects on domain users, and also for health and safety reasons, access to the domain during weekdays will be restricted to Kina Development Company residents and to those associated with the development (i.e. contractors and Council staff).”

Twelve submitters (Nos: 10,11,16,18,19,21,22,25,26, 35, 67, 69) expressed concern regarding the construction effects and safety issues surrounding heavy traffic movements upon the Kina Peninsula Road.

Whilst the majority of submissions focused on the overall question of whether the proposed subdivision should go ahead, and the issues regarding the misunderstanding / confusion over the status of the domain, the fundamental inaccuracies of the applications' assessment of the earthworks volumes, likely effects, traffic movements and loss of access to the domain seem to have been largely overlooked.

The applicants consultant has taken the lower of the two figures mentioned for overall volume of exported and fill material - 4060 m^3 and divided this by the average heavy truck capacity - 6 m^3 to suggest that therefore 677 trips will be involved in “total”.

However that figure of 677 is for full trucks only, whereas in reality for every full truck leaving or entering the site, an empty one makes the return journey. Hence heavy truck movements along Kina Peninsula Road will be more likely around 1,350 trucks. (Mr Dugald Ley's report discusses the road wear and tear implications of this).

There remain a further 1370 cubic metres of estimated earth-working internal to the site, which by the consultants figures equates to another 228 heavy truck movements in-and-around the domain, or 456 heavy truck movements by my calculations.

The other aspects seemingly overlooked by both the applicants and as a result the submitters, are the prior heavy traffic effects that will be generated and necessitated by the removal of the mature pine trees that require to be cleared from the site before any of the above earthworks can even begin. These will involve the felling and removal from site of all of the pine trunks, the de-stumping of the resulting “cleared” peninsula, and the removal of those large stumps and root balls, plus the slash and

branches etc from the felled pines. No figures have been suggested for this work, and the applicants consultant implies that said forestry work is 'permitted activity' and therefore does not require to be considered.

If this work was indeed normal forestry operation in the Rural 2 zone then that logic would be valid, however the above forestry felling and site clearing is necessitated by this bundle of residential Discretionary Activities, and the cumulative effects of the forestry operation should therefore be taken into consideration as well.

These forestry effects extend to the visual/landscape effects upon the coastal and estuarine environment for this high visibility site. Mr Morris has commissioned Mr Frank Boffa of Boffa Miskell Landscape Architects to peer review the applicants' Landscape Assessment by Tasman Carter Limited.

I concur with Mr Boffa's professional opinions regarding the visual impacts and environmental effects of the removal of the pine trees and proposed subsequent development, and with Mr Boffa's conclusions:

"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."

"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....."

.....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."

F. Boffa, October 2010

There will be significant heavy traffic / construction effects on site, and affecting use and access to the domain for weeks if not months before any of the earthworks even begin.

The submitters have concerns regarding the heavy traffic effects and potential conflicts with other road network users in the vicinity of Kina Peninsula without apparently realising the full implications that public access to the domain will be restricted to weekends only, and that whilst an undertaking has been made by the applicants consultant that no earthworks operation will be undertaken in the domain area at weekends, no such undertaking applies to the proposed residential allotment

sites. Indeed the applicants' AEE states that earthworks will be seven days a week, apart from public holidays.

The submitters' concerns regarding the construction effects are all valid, and should the Hearing Commissioners approve the applications contrary to the Mr Morris' recommendation to decline, then the proposed forestry clearing and earthworks will have unavoidable adverse effects which will be more than minor for the duration of those works.

However, it is likely at appropriate conditions could be imposed to remedy or mitigate those unavoidable effects.

In doing so, it must be acknowledged that any mitigating conditions may prolong the time required to complete the works, thereby extending the time that the public might be denied access to the domain.

(Should an additional 4500 cubic metres of fill material and rock revetment be required to ensure upgraded access to the site this will involve a further 1500 heavy truck movements and restricted access, plus extended construction times.)

b) The importation of fill material to coastal dunes

Eight submitters (Nos: 16, 22, 23, 25, 26, 28, 70, 88) commented on the issue of fill material to provide compacted flood free building platforms for the proposed dwellings being incompatible (e.g. clays) with the existing sand dunes and that the nature of the dunes might be compromised by the works.

The proposal if approved will result in a fundamental change to the Kina Peninsula. In my opinion the peninsula's central spine 'dunes' will largely disappear, as the earthworks and de-forestation will unavoidably alter the landscape and level it out.

The applicant's consultant engineers report prepared by Tonkin and Taylor entitled Geotechnical Feasibility Assessment and dated March 2010 in section 7.2 addresses issues regarding fill material and states "Testing of proposed fill materials will be required to assess their compatibility for proposed earthworks. From our experience beach sands and gravels can be placed as structural fill in accordance with NZS4431:1989 but care is required, especially with soil moisture control."

The nature and content of fill materials could be mitigating conditions of consent should overall approval be granted to the proposal.

c) The damage to existing flora and fauna

Eighteen submitters (Nos: 5, 12, 16, 22, 23, 25, 26, 67, 68, 69, 77, 78, 79, 82, 92, 94, 95, 107) expressed concern about the adverse effects that the earthworks as notified will have upon the existing flora and fauna upon the affected parts of the peninsula. This is unquestionable and unavoidable should the proposals be approved. The effects can however be remedied and mitigated by appropriate landscaping condition requirements.

As described above, the de-forestation works, and stump removal will have a significant impact upon the existing flora and fauna, and those effects have been overlooked by the applicants. Several submitters have commented upon the native planting work undertaken over the years by the local school as promoted at that time by Carter Holt Harvey.

The applicant's consultant landscape architect, Mr Tom Carter of Tasman Carter Ltd. has commented in paragraph 17 of his report dated 20 July 2010 that *"Lots 2 to 8 are located in the northwest corner of the site where there is currently a copse of old pines. The pines will be removed carefully so as to preserve the native plants growing underneath. Elsewhere native and selected exotic vegetation will be preserved"*.

Unless these natives can be carefully extracted and stored on-site for re-planting post-earthworks completion, it is in my opinion likely that they will be destroyed during the forestry felling and de-stumping operations.

As the resulting allotments will be private residential sections, any re-planting conditions should be aimed at the proposed public domain area, not the private sections.

d) The introduction of foreign flora and fauna and soil

As well as damage and destruction of existing flora and fauna, seven submitters (Nos: 16, 22, 23, 25, 26, 28, 67) are concerned that material brought onto the site as part of the earthworks fill material may contain foreign flora and fauna (eg. Weeds) not indigenous to the Kina Peninsula eco-system. The likelihood of this occurring cannot be dismissed, however a condition requiring clean and screened fill material could alleviate some of these concerns should approval to the proposals be considered.

The applicants consultant engineers report prepared by Tonkin and Taylor entitled Geotechnical Feasibility Assessment and dated March 2010 has not commented upon the likely source of fill material to be imported.

e) The adverse effects on a known archaeological area

Ten submitters (Nos: 5, 16, 18, 22, 23, 27, 42, 69, 78, 85) are concerned at the potential for the earthworks to have a detrimental effect upon the known archaeological heritage of the Kina Peninsula.

The western part of the application site is identified in Council records as containing the Kina Cultural Heritage Precinct. The applicant has commissioned a partial Cultural Impact Assessment in conjunction with Tiakina Te Taiao and additionally acknowledges that a section 12 authorisation will also be required from the New Zealand Historic Places Trust should consent approval be granted.

The applicants have provided an Archaeological Assessment of Kina Peninsula Subdivision dated January 2010 and prepared by Deb Foster. Ms Foster concludes in her report that *"given the difficulties in assessing the precise nature of landscape changes affecting site visibility in this environment it is sensible to exercise a cautionary approach. In the first instance this will require applying to the Historic*

Places Trust for a section 12 HPA. This particular Authority allows for the possibility of encountering previously unknown sites during earthworks, and can be applied to the entire area of the subdivision. If granted, a likely condition of the Authority will be the preparation of a Management Plan in consultation with the Project Archaeologist. This will provide operational guidelines and procedures for day-to-day activities that might affect archaeological deposits encountered during earthworks. Primarily this will require that all earthworks are monitored by an archaeologist and /or iwi representative/s. This includes post holes for the proposed timber barriers, roading work, service trenches, building site preparation , as well as the inevitable ground disturbance involved in removal of the pine trees and stumps. The Management Plan will ensure that any cultural protocols advised by Tangata Whenua are acknowledged and provided for.”

All background archaeological investigation will require to be completed prior to the de-forestation works and earthworks proposed, and the applicant has stated that an iwi monitor shall be on-site during all earthworks operations. The adverse effects of the proposal upon the archaeological history of the site will therefore be remedied or mitigated.

I am not qualified to determine if the adverse effects of the activity in terms of cultural values will be minor. However it should be noted that the measures described above should allow iwi to reach that decision, and Tiakina Te Taiao have lodged a substantial submission (No 42 and wish to be heard at the Hearing).

f) The loss of public access during the earthworks

Seven submitters (Nos: 17, 25, 26, 40, 70, 71, 107) raise concern regarding the loss of public access to the domain during the weekdays, and that this is contrary to the spirit of the original Baigent domain intentions. Submitters advise that public use of the domain is frequent and daily over the summer months.

Should the proposal be approved, it is my opinion that public access will unavoidably be restricted for health and safety reasons. The risk from construction traffic will still be present at the weekends, as the applicants have stated they intend to continue earth-working the non-domain component of the application site, with resultant noise, dust, and heavy traffic movement issues.

Should the applications be approved, it is my opinion that to mitigate the loss of public access during the week, that no forestry works or earthworks should occur on the weekends, as well as public holidays.

g) The necessity for a new accessway in an archaeological precinct

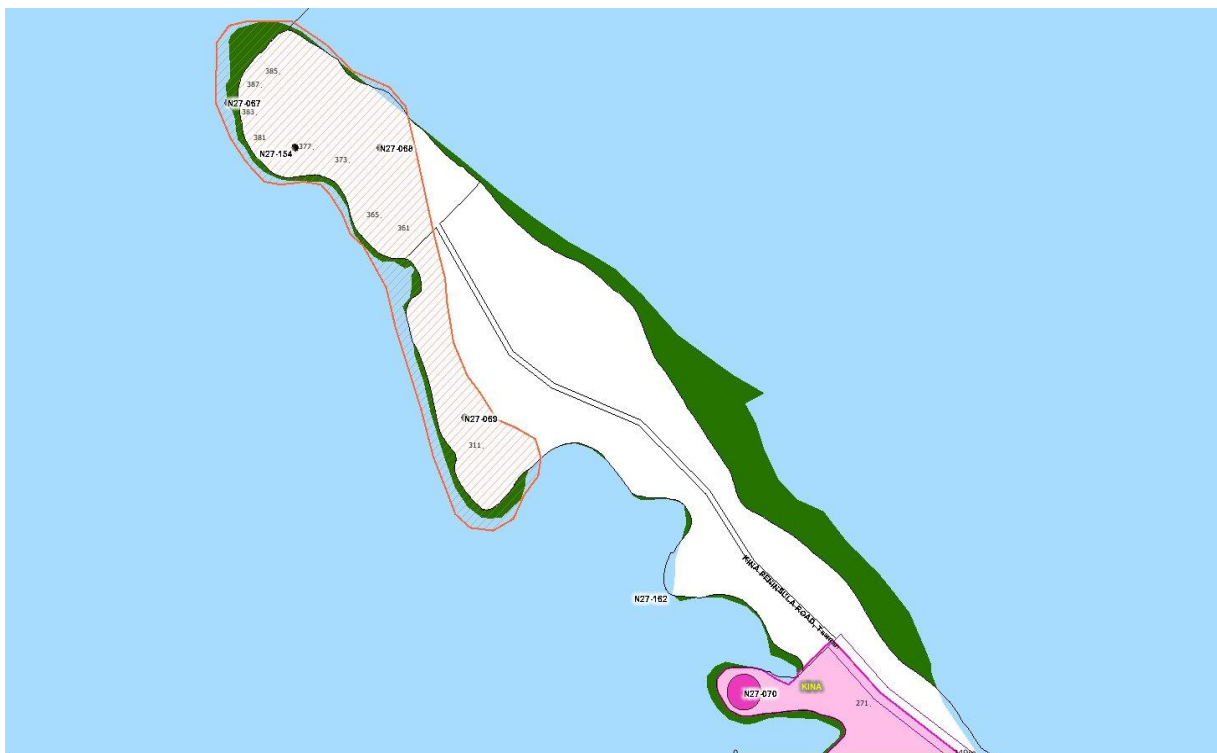
One submitter (the New Zealand Historic Places Trust) questions the level of earthworks required and in particular the necessity to create an entirely new accessway given the high potential for archaeological discovery and the importance of the area to Maori. The effects of the proposal on the heritage precinct have been considered above.

The formation of a single roadway along the legal title boundary of the Kina Development Company's land holding and over which CHH has a right-of-way, as opposed to continuing to use the existing (but informal) accesses is indeed

contentious, as arguably the proposed new dwellings and Kina Development Company could readily and practicably be served by upgrading the eastern portion of the existing loop, although new easements and rights-of-way would require to be created through the subdivision process. The western part of the loop could then serve the domain.

The applicants have explained that the formation of the road is a requirement of the Kina Development Company and also to ensure public access to the domain. They have not in my opinion however addressed the effects that imposing the arbitrary and historic legal title access will have upon the site, and the archaeological heritage of the peninsula.

Having said that it must be noted that as the diagram below shows, the legal title boundaries in question - affording legal access to the Kina Development Company's land is not in that part of the site identified as being the Heritage Precinct in Council's GIS database.



In my opinion therefore the same comments as at e) above apply, and that subject to proper investigation and on-site iwi / archaeologist monitoring during earthworks, the effects of constructing the new access roadway on the archaeological precinct can be remedied or mitigated.

h) The effects upon dynamic coastal dunes

Two submitters (Nos: 17, 88) has concerns regarding the earthworks proposals upon the dynamic coastal dunes. The importation and compaction of fill to create flood free building sites, and the creation of a new sealed access road will result in effects upon the existing dunes ability to shift over time (albeit currently constrained by existing vegetation cover).

The removal of the forestry from the land will loosen up/destabilise the dunes, so accelerated dune movement may occur in the undeveloped portions of the site unless replanting and landscaping is implemented swiftly to help mitigate against this possibility.

The applicants consultant engineers report prepared by Tonkin and Taylor entitled Geotechnical Feasibility Assessment and dated March 2010 in section 7.2 addresses issues regarding erosion of exposed ground/dunes/slopes and states that *“batter protection measures include top-soiling and vegetation. Vegetation may be more effectively initiated with the use of a biodegradable blanket over the topsoil.”*

This could be a mitigating condition of consent should overall approval be granted to the proposal.

i) The rock revetment works resulting in impacts elsewhere along the coast

One submitter (No. 88) opines that “building up parts of the coast and installing rock walls or another similar protection has the effect of increasing erosion at another point on the coast, particularly with end effect”.

The applicants consultant engineers report prepared by Tonkin and Taylor entitled Coastal Hazard Assessment and dated July 2010 considers the issue of enhanced rock revetment works and the coastal erosion threat to Kina Peninsula Road.

The applications submitted to date do not include any proposed access/upgrade/maintenance of Kina Peninsula Road. Mr Dugald Ley has addressed this issue in his report.

These upgrade works may involve further earthworks to raise the level of the road and/or further rock revetment works and for which application for resource consent has not yet been applied.

My colleague Mr Verstappen addresses the rock revetment issue in his report and is better qualified to comment on coastal processes resulting from revetment works.

I concur with Mr Verstappen’s comments.

5. NEW ZEALAND COASTAL POLICY STATEMENT, REGIONAL POLICY STATEMENT AND TASMAN RESOURCE MANAGEMENT PLAN

5.1 Objectives and Policies

New Zealand Coastal Policy Statement (NZCPS) 1994

The NZCPS provides national guidance to consent authorities in the management of the coastal environment.

The general policy direction of the NZCPS seeks:

- a) To set national priorities for the preservation of the natural character of the coastal environment.
- b) To protect characteristics of the coastal environment of special value to the tangata whenua, in accordance with tikanga Maori.

- c) That adverse effects of use or development in the coastal environment should as far as practicable be avoided. Where complete avoidance is not practicable, the adverse effects should be mitigated and provision made for remedying those effects, to the fullest extent practicable.

Policy 1.1.4 states that it is a national priority to preserve the natural character of the coastal environment to protect the integrity, functioning and resilience of the coastal environment in terms of several features, including the dynamic processes and features arising from the natural movements of sediments, water and air, and the intrinsic values of the ecosystem.

Policy 1.1.5 states that it is a national priority to restore and rehabilitate the natural character of the coastal environment where appropriate.

Policy 3.2.4 states that provision should be made that the cumulative effects of activities, collectively, in the coastal environment are not adverse to a significant degree.

Policy 3.2.5 states that subdivision, use and development in the coastal environment should be conditional on the provision of adequate services (particularly the disposal of wastes), and the adverse effects of providing those services should be taken into account when preparing policy statements and plans and when considering applications for resource consents.

Policy 3.4.3 states that the ability of natural features such as beaches, sand dunes, mangroves, wetlands and barrier islands, to protect subdivision, use, or development should be recognised and maintained, and where appropriate, steps should be required to enhance that ability.

Policy 3.4.5 states that new subdivision, use and development should be so located and designed that the need for hazard protection works is avoided.

Policy 3.4.6 states that where existing subdivision, use or development is threatened by a coastal hazard, coastal protection works should be permitted only where they are the best practicable option for the future. The abandonment or relocation of existing structures should be considered among the options. Where coastal protection works are the best practicable options, they should be located and designed so as to avoid adverse environmental effects to the extent practicable.

New Zealand Coastal Policy Statement (NZCPS) 2010 - Operative 3 December 2010

The 2010 NZCPS re-writes the 1994 outdated version to take into consideration changes in the past two decades that have resulted in increased or new pressures upon the Coastal environment of New Zealand. Of relevance to this particular application:

- the natural and recreational attributes of the coast and its attraction as a place to live and visit combine with an increasingly affluent and mobile society to place growing pressure on coastal space and other resources;
- activities inland can have a major impact on coastal water quality;
- activities in the coastal environment are susceptible to the effects of natural hazards such as coastal erosion and tsunamis, and those associated with climate change;
- there is continuing and growing demand for coastal space and resources for commercial activities as diverse as aquaculture and sand mining; and
- the coast has particular importance to tangata whenua, including as kaitiaki.

The coastal environment is facing the following key issues:

- the ability to manage activities in the coastal environment is hindered by a lack of understanding about some coastal processes and the effects of activities on them;

- loss of natural character, landscape values and wild or scenic areas along extensive areas of the coast, particularly in areas closer to population centres or accessible for rural residential development;
- continuing decline in species, habitats and ecosystems in the coastal environment under pressures from subdivision and use, vegetation clearance, loss of intertidal areas, plant and animal pests, poor water quality, and sedimentation in estuaries and the coastal marine area;
- loss of natural, built and cultural heritage from subdivision, use and development;
- compromising of the open space and recreational values of the coastal environment, including the potential for permanent and physically accessible walking public access to and along the coastal marine area;
- continuing coastal erosion and other natural hazards that will be exacerbated by climate change and which will increasingly threaten existing infrastructure, public access and other coastal values as well as private property;

A consent authority, when considering an application for a resource consent and any submissions received, must, subject to Part 2 of the Act, have regard to, amongst other things, any relevant provisions of this NZCPS (section 104(1)(b)(iv) refers)

Objective 2

To preserve the natural character of the coastal environment and 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 4

To maintain and enhance the public open space qualities and recreation opportunities of the coastal environment by:

- recognising that the coastal marine area is an extensive area of public space for the public to use and enjoy;
- maintaining and enhancing public walking access to and along the coastal marine area without charge, and where there are exceptional reasons that mean this is not practicable providing alternative linking access close to the coastal marine area; and
- recognising the potential for coastal processes, including those likely to be affected by climate change, to restrict access to the coastal environment and the need to ensure that public access is maintained even when the coastal marine area advances inland.

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 4 Integration

Provide for the integrated management of natural and physical resources in the coastal environment, and activities that affect the coastal environment. This requires:

- (c) particular consideration of situations where:
 - (i) subdivision, use or development and its effects above or below the line of mean high water springs will require, or is likely to result in, associated use or development that crosses the line of mean high water springs ; or
 - (ii) public use and enjoyment of public space in the coastal environment is affected, or is likely to be affected; or
 - (iii) development or land management practices may be affected by physical changes to the coastal environment or potential inundation from coastal hazards, including as a result of climate change;

Policy 6 Activities in the coastal environment

- (1) In relation to the coastal environment:
 - (b) consider the rate at which built development and the associated public infrastructure should be enabled to provide for the reasonably foreseeable

needs of population growth without compromising the other values of the coastal environment;

- (c) encourage the consolidation of existing coastal settlements and urban areas where this will contribute to the avoidance or mitigation of sprawling or sporadic patterns of settlement and urban growth;
- (f) consider where development that maintains the character of the existing built environment should be encouraged, and where development resulting in a change in character would be acceptable;
- (h) consider how adverse visual impacts of development can be avoided in areas sensitive to such effects, such as headlands and prominent ridgelines, and as far as practicable and reasonable apply controls or conditions to avoid those effects;
- (i) set back development from the coastal marine area and other water bodies, where practicable and reasonable, to protect the natural character, open space, public access and amenity values of the coastal environment;
- (j) where appropriate, buffer areas and sites of significant indigenous biological diversity, or historic heritage value.

(2) Additionally, in relation to the coastal marine area:

- (b) recognise the need to maintain and enhance the public open space and recreation qualities and values of the coastal marine area;

Policy 10 Reclamation and de-reclamation

(1) Avoid reclamation of land in the coastal marine area, unless:

- (a) land outside the coastal marine area is not available for the proposed activity;
- (b) the activity which requires reclamation can only occur in or adjacent to the coastal marine area;
- (c) there are no practicable alternative methods of providing the activity; and
- (d) the reclamation will provide significant regional or national benefit.

(2) Where a reclamation is considered to be a suitable use of the coastal marine area, in considering its form and design have particular regard to:

- (a) the potential effects on the site of climate change, including sea level rise, over no less than 100 years;
- (b) the shape of the reclamation, and where appropriate, whether the materials used are visually and aesthetically compatible with the adjoining coast;

- (c) the use of materials in the reclamation, including avoiding the use of contaminated materials that could significantly adversely affect water quality, aquatic ecosystems and indigenous biodiversity in the coastal marine area;
- (d) providing public access, including providing access to and along the coastal marine area at high tide where practicable, unless a restriction on public access is appropriate as provided for in policy 19;
- (e) the ability to remedy or mitigate adverse effects on the coastal environment;
- (f) whether the proposed activity will affect cultural landscapes and sites of significance to tangata whenua; and
- (g) the ability to avoid consequential erosion and accretion, and other natural hazards.

Policy 13 Preservation of natural character

- (1) To preserve the natural character of the coastal environment and 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;

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;

Policy 17 Historic heritage identification and protection

Protect historic heritage⁹ in the coastal environment from inappropriate subdivision, use, and Development

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

Policy 24 Identification of coastal hazards

- (1) Identify areas in the coastal environment that are potentially affected by coastal hazards (including tsunami), giving priority to the identification of areas at high risk of being affected. Hazard risks, over at least 100 years, are to be assessed having regard to:
 - (a) physical drivers and processes that cause coastal change including sea level rise;
 - (b) short term and long term natural dynamic fluctuations of erosion and accretion;
 - (c) geomorphological character;
 - (d) the potential for inundation of the coastal environment, taking into account potential sources, inundation pathways and overland extent;
 - (e) cumulative effects of sea level rise, storm surge and wave height under storm conditions;
 - (f) influences that humans have had or are having on the coast;
 - (g) the extent and permanence of built development; and
 - (h) the effects of climate change on:
 - (i) matters (a) to (g) above;
 - (ii) storm frequency, intensity and surges; and
 - (iii) coastal sediment dynamics;
 - (iv) taking into account national guidance and the best available information on the likely effects of climate change on the region or district.

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 risk¹⁰ 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.

Tasman Regional Policy Statement (RPS)

The general objectives in the Council's RPS reflect those in the NZCPS and include the need to protect and enhance significant natural, heritage and cultural values of resources.

The Objectives and Policies in Sections 9 and 12 include the following:

Objective 9.5 - Preservation of the natural character of the coastal environment, including the functioning of natural processes;

Objective 9.6 - Coastal land use and development that avoids, remedies or where appropriate mitigates adverse effects on:

- (i) *Natural character, including natural processes, outstanding natural features and landscapes, and areas of significant indigenous vegetation and significant habitats of indigenous fauna; and*
- (ii) *Public access to and along the coast; and*
- (iii) *Amenity values; and*
- (iv) *Heritage values; and*
- (v) *Maori traditional associations with any coastal lands, waters, sites, wahi tapu, and other taonga; and*
- (vi) *The natural qualities of coastal waters*

Policy 9.7 states that the Council will avoid, remedy or where appropriate, mitigate adverse effects of the subdivision, use or development of coastal land on:

- (a) *coastal habitats, including wetlands, estuaries and dunes;*
- (b) *coastal ecosystems, especially those including rare or endangered species or communities, and indigenous or migratory species;*
- (c) *natural coastal features and landscapes, including headlands, beaches, spits;*
- (d) *sites of coastal processes;*
- (e) *public access to and along the coastal marine area;*

- (f) *water and air quality;*
- (g) *traditional associations of Maori with ancestral coastal lands, waters, sites, wahi tapu, turanga waka, mahinga mataitai, taonga raranga and other taonga;*

having regard to the:

- (h) *rarity or representativeness;*
- (i) *coherence and intactness;*
- (j) *vulnerability or resilience;*
- (k) *interdependence; and*
- (l) *scientific, cultural, historic or amenity values;*

of such habitats, ecosystems, features, landscapes, sites, values or taonga

Tasman Resource Management Plan (TRMP)

The thrust of the Objectives and Policies in the NZCPS and RPS are mirrored in the TRMP. Chapters 8, 10 and 12 are considered to be most relevant to this application RM100178 which relates to the earthworks applied for. Mr Morris will cover Chapter 13 issues in his report, as they relate more to Section 106 RMA determinations.

Chapter 8 outlines Council's Objectives and Policies with respect to the margins of rivers, lakes, wetlands and the coast. When considering applications for subdivision and land use consents in areas adjacent to lakes, rivers, wetlands or the coast, Council is required to have regard to the Matters of National Importance identified in Section 6 of the Act.

Objective 8.1.2 requires the maintenance and enhancement of public access to and along the margins of lakes, rivers, wetlands and the coast, which are of recreational value to the public.

Policy 8.1.3.1 seeks to maintain and enhance public access to and along the margins of water bodies and the coast while avoiding, remedying or mitigating adverse effects on other resources or values, including: indigenous vegetation and habitat; public health, safety, security and infrastructure; cultural values; and use of adjoining private land.

Objective 8.2.2 requires the maintenance and enhancement of the natural character of the margins of 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.

Policy 8.2.3.1 seeks to maintain and enhance riparian vegetation, particularly indigenous vegetation, as an element of the natural character and functioning of the coast and its margin.

Policy 8.2.3.6 seeks the adoption of 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.

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

Policy 8.2.3.18 seeks 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.

Policy 8.2.3.21 seeks to protect historic and cultural sites in riparian margins and the coastal environment.

Chapter 10 outlines Councils Objectives and Policies with respect to Significant Natural Values and Historic Heritage in the District

Objective 10.2.2 requires the protection, enhancement and, where appropriate, the management of historic heritage sites, including cultural heritage sites; heritage buildings and structures; and protected trees, for their contribution to the character, identity, wairua, and visual amenity of the District.

Policy 10.2.3.2 aims to reduce the risk of modification, damage or destruction of cultural heritage sites arising from any co-location of subdivision and development activities and such sites.

Policy 10.2.3.3 aims to ensure that where an activity may modify, damage or destroy a cultural heritage site that is an archaeological site, an authority to do this has been obtained under the Historic Places Act 1993.

Policy 10.2.3.4 aims to ensure that where an activity that requires a resource consent may have an adverse effect on the wairua or other cultural or spiritual values associated with a wāhi tapu, that activity has been approved by manawhenua iwi as an affected party.

Policy 10.2.3.5 aims to encourage alternative use of heritage buildings and structures where that will assist their preservation and maintenance.

Policy 10.2.3.6 aims to foster community responsibility for the cultural heritage values of the District.

Policy 10.2.3.8 requires Council to be responsive and collaborative in the generation, sharing and management of information about cultural heritage sites that have archaeological significance or other cultural heritage value, and accordingly to work with manawhenua iwi, the NZ Historic Places Trust, the New Zealand Archaeological Association and landowners in managing cultural heritage site information.

Policy 10.2.3.9 seeks that Council work with manawhenua iwi in the sharing and management of information about cultural heritage sites that are of Maori origin, including wāhi tapu.

Policy 10.2.3.10 requires that Council take into account uncertainties associated with the accuracy and quality of information, in the verification, storage, listing and map representation of cultural heritage sites, and the appropriate use of that information in the management and protection of those sites.

Policy 10.2.3.11 aims that Council designs and implements appropriate processes, tools and methods for the verification, storage, listing and map representation of cultural heritage sites that are responsive to the discovery of new cultural heritage sites and new information about already known sites.

Policy 10.2.3.12 aims to ensure that information about known cultural heritage sites is publicly accessible (including amendments to existing information), is transparent, and is communicated publicly.

Policy 10.2.3.13 aims to raise community awareness about the values associated with cultural heritage sites and the obligations of landowners to avoid, remedy or mitigate the effects of activities that might result in the modification, damage or destruction of such sites.

Policy 10.2.3.14 aims to exercise Council's statutory responsibilities by facilitating effective communication between landowners, manawhenua iwi, the New Zealand Historic Places Trust and the New Zealand Archaeological Association, over the management of activities that have the potential to have an adverse effect on cultural heritage sites, for the purpose of protecting, enhancing and, where appropriate, managing the management and protection of cultural heritage values.

Policy 10.2.3.15 requires that Council account for the values of manawhenua iwi by acknowledging the manawhenua iwi as kaitiaki in relation to cultural heritage sites of significance to Maori in the District.

Chapter 12 outlines Councils Objectives and Policies with respect to Land Disturbance activities in the District

Objective 12.1.2 aims to avoid, remedy, or mitigate the adverse effects of land disturbance, including:

The avoidance, remedying, or mitigation of adverse effects of land disturbance, including:

- (a) damage to soil;
- (b) acceleration of the loss of soil;
- (c) sediment contamination of water and deposition of debris into rivers, streams, lakes, wetlands, karst systems, and the coast;
- (d) damage to river beds, karst features, land, fisheries or wildlife habitats, or structures through deposition, erosion or inundation;
- (e) adverse visual effects;
- (f) damage or destruction of indigenous animal, plant, and trout and salmon habitats, including cave habitats, or of sites or areas of cultural heritage significance;
- (g) adverse effects on indigenous biodiversity or other intrinsic values of ecosystems.

Policy 12.1.3.1 aims to promote land use practices that avoid, remedy, or mitigate the adverse effects of land disturbance on the environment.

Policy 12.1.3.2 To avoid, remedy, or mitigate the actual or potential soil erosion or damage, sedimentation, and other adverse effects of land disturbance activities consistent with their risks on different terrains in the District, including consideration of:

- (a) natural erosion risk, and erosion risk upon disturbance;
- (b) scale, type, and likelihood of land disturbance;
- (c) sensitivity and significance of water bodies and other natural features in relation to sedimentation or movement of debris.

5.2 Assessment of activity against the Objectives and Policies in the NZCPS, RPS and TRMP

As an overall Discretionary Activity the applicant has chosen not to provide an assessment of the proposal against the above Objectives and Policies. Were the proposal a non-complying activity such an assessment would have been required.

Given the nature of the proposals, and the number of submissions generated, it is considered that a general overview should be undertaken as to whether or not the proposals are in accord with the thrust of the above Objectives and Policies.

Clearing of forestry and de-stumping of land

As already discussed above, the removal of the existing pine trees, and subsequent de-stumping of the proposed allotments has been overlooked by the applicant's consultants (barring one brief mention in Ms Foster's Archaeological Report). These works will have a profound effect upon the aspect of the Kina Peninsula from both the sea, and from the land, and could be said therefore to be not in accordance with:

| | |
|------------|--|
| NZCPS 1994 | Policies, 1.1.4 , 1.1.5, and 3.2.4 |
| NZCPS 2010 | Objectives 2 and 4, Policies 13, 15, and 18 |
| RPS | Policy 9.7 |
| TRMP | Objective 8.2.2 and Policies 8.2.3.1 and 8.2.3.18. |

Given that the pine trees are non-native species it is questionable whether or not they contribute to the "natural character" of the Kina Peninsula, what is not up for debate is their contribution to the character and amenity of the area.

Earthworks required to create flood free building platforms, create accesses, and to form a new access road

The earthworks required for building platform creation, access formation, and new access road construction will involve substantial earthworks and removal of unsuitable material and importation of fill material, denying access to the coastal area for at least 6 months of the year, and possibly longer. These works could be said to be not in accordance with:

| | |
|------------|---|
| NZCPS 1994 | Policies 1.1.5, 3.2.5, 3.4.3, 3.4.5, 3.4.6 |
| NZCPS 2010 | Objective 5 , Policies 3, 4, 10, 13, 15, 17, and 24 |
| RPS | Objectives 9.5 and 9.6, Policy 9.7 |
| TRMP | Objective 8.1.2, Policy 8.1.3.1 Objective 8.2.2, Policies 8.2.3.1, 8.2.3.6, 8.2.3.17, 8.2.3.21 Objective 12.1.2 , Policy 12.1.3.1 |

Earthworks effects upon the Cultural Heritage Precinct /Archaeological Values of the Kina Peninsula

The applicants are aware of the archaeological heritage in the area, and have been pro-active to date in ensuring that these will be taken into consideration should the works proceed. To this end they could be said to be in accord with the heritage provision above of the NZCPS 1994 and 2010, RPS, and TRMP.

Possible Rock Revetment Upgrade

It is acknowledged that the existing rock revetment has mitigated coastal hazards on the Kina Peninsula Road accessing the site for a significant period of time. It is also acknowledged that the repair, ongoing maintenance and future upgrading of the rock revetment may be able to provide for the long term protection of the proposed development from coastal hazards as required under Section 106 of the Resource Management Act 1991 and Policy 3.2.5 of the NZCPS 1994 and Objective 5 of NZCPS 2010. However, it is considered that the repair and future upgrading required to mitigate the effects of sea level rise will result in a visually much more dominant structure which will have a greater impact on the natural character and amenity of the coastal environment and is likely to have adverse effects on the immediate hydrodynamic environment.

Although it is acknowledged that the effects of the existing revetment on the amenity of the coastal environment have been mitigated to a degree by the weathering of the existing rock armouring and the existing vegetation growing through the structure, the likely proposed works will require the partial or complete removal of this vegetation and the placement of additional imported rock. The effects of this will not facilitate the restoration or rehabilitation of the natural character of the coastal environment as required by:

| | |
|------------|--|
| NZCPS 1994 | Policy 1.1.5 |
| NZCPS 2010 | Objectives 2 and 5, and Policies 3, 4, 6, 10, and 15 |
| TRMP | Policy 8.2.3.17. |

6. CONCLUSION

As a consequence of the bundling principle the proposed land disturbance activities are required to be considered as Discretionary Activities under section 104 (B) as the principle land use and subdivision applications are Discretionary Activities.

Having considered each component of the land disturbance activity I consider that the adverse effects resulting from the formation of the building platforms and access ways and works on a heritage site are able to be avoided, remedied or mitigated by conditions of consent should the overall proposal be recommended for approval. I have attached suggested conditions accordingly.

I note however that Mr Morris is strongly recommending that the bundled applications be declined, for the reasons in his report, and I concur with Mr Morris views.

7. RECOMMENDATION

If pursuant to Pursuant to Section 104 (B) of the Resource Management Act 1991 Council determines to approve RM100173 and RM100174, I recommend the following:

- Council **APPROVES** under RM100178 the earthworks to provide for building platforms, access ways, and the formation of a new road ;

- Council **APPROVES** under RM100178 works on a cultural heritage site.

Mike Mackiggan

Consent Planer - Natural Resource Consents

Earthworks to provide for building platforms, access ways and a new road

1. The Consent Holder shall ensure that all works are carried out in general accordance with the information received on 26 July 2010 in support of the application for resource consent RM100178. If there are any inconsistencies between this information and the conditions of consent, the conditions of consent shall prevail.
2. The Consent Holder shall inform Council's Co-ordinator Compliance Monitoring at least five working days prior to commencing the works and five working days following their completion so monitoring of conditions can be programmed.
3. The Consent Holder shall be responsible for all contracted operations relating to the exercise of this resource consent, and shall ensure that all personnel working on the site are made aware of the conditions of this resource consent and with the Management Plans required by Condition 27 of this consent, and shall ensure compliance with consent conditions.
4. A copy of this resource consent shall be available to the contractors undertaking the works, and shall be produced without unreasonable delay upon request from a servant or agent of the Council.
5. The Consent Holder shall carry out operations in accordance with the provisions of the approved Earthworks Management Plan.

Advice Note:

Refer to Condition 28 for Earthworks Management Plan provisions.

6. Any changes to the Earthworks Management Plan shall be made in accordance with the methodology and approved procedures in that plan and shall be confirmed in writing by the Consent Holder following consultation with Council's Compliance Officer. Changes to the Earthworks Management Plan shall not be implemented until authorised by the Council's Co-ordinator Compliance Monitoring.
7. Should the Consent Holder cease or abandon work on-site, it shall first take adequate preventative and remedial measures to control sediment discharge, and shall thereafter maintain these measures for so long as necessary to prevent sediment discharge from the site. All such measures shall be of a type, and to a standard, which are to the satisfaction of the Council Environment & Planning Manager.
8. Prior to bulk earthworks commencing, the Consent Holder shall submit to the Council's Co-ordinator Compliance Monitoring, a certificate signed by an appropriately qualified and experienced engineer to certify that the appropriate erosion and sediment control measures have been constructed in accordance with the Earthworks Plan and the conditions of this consent. The certified controls shall include, where relevant, diversion channels, sediment fences, decanting earth bunds and sediment retention ponds. The certification for these measures for each construction phase shall be supplied to the Council Co-ordinator Compliance Monitoring.

9. The work shall be carried out during normal work hours (i.e., 07.30 to 17.30) to limit the nuisance of noise and access of vehicles.

Earthworks

10. The Consent Holder shall undertake all practicable steps to minimise the effect of any contaminant discharges to the receiving environment.
11. The Consent Holder shall ensure that any discharge of contaminants onto or into land or water from any activity is avoided, remedied or mitigated to ensure no contaminants are present at a concentration that is, or is likely to have, a more than minor effect on the environment.
12. No petrochemical or synthetic contaminants (including but not limited to oil, petrol, diesel, hydraulic fluid) shall be released into water from equipment being used for the activity and no machinery shall be cleaned, stored, or refuelled within 5 metres of any watercourse.
13. Fuels, oils and hydraulic fluids associated with the operation shall be stored in a secure and contained manner in order to prevent the contamination of adjacent land and/or water bodies.
14. The Consent Holder shall notify the Council's Co-ordinator Compliance Monitoring as soon as is practicable, and as a minimum requirement within 12 hours, of the Consent Holder becoming aware of a spill of hazardous materials, fuel, oil, hydraulic fluid or other similar contaminants. The Consent Holder shall, within seven days of the incident occurring, provide a written report to the Council, identifying the causes, steps undertaken to remedy the effects of the incident and any additional measures that will be undertaken to avoid future spills.
15. All practical measures shall be taken to ensure that any dust created by operations at the site and vehicle manoeuvring (in accessing the site and driving within it) shall not, in the opinion of Council's Co-ordinator Compliance Monitoring, become a nuisance to the public or adjacent property owners or occupiers. The measures employed shall include, but are not limited to, the watering of unsealed traffic movement areas, roadways and stockpiles as may be required.
16. All disturbed vegetation, excess soil or debris shall be disposed of off-site or stabilised to minimise the risk of erosion.
17. Topsoil and subsoil shall be stripped and stockpiled separately. On completion of the works topsoil shall spread over the subsoil.

Stormwater

18. All stockpiled material shall be protected from stormwater by appropriate measures, eg, bunding.
19. The Consent Holder shall take all practical measures to limit the discharge of sediment with stormwater run-off to water or land where it may enter water during and after the earthworks.

20. The discharge of stormwater shall not cause in the receiving water any of the following:
 - (a) the production of any visible oil or grease films, scums or foams, or conspicuous floatable or suspended material;
 - (b) any emission of objectionable odour;
 - (c) the rendering of freshwater unsuitable for bathing;
 - (d) the rendering of freshwater unsuitable for consumption by farm animals; and
 - (e) any adverse effect on aquatic life.
21. The Consent Holder shall monitor weather patterns during the construction phase and works shall be discontinued and appropriate protection and mitigation measures put in place prior to forecast heavy rainfalls and where resulting floods reaching the site works.
22. The Consent Holder shall stop construction in heavy rain when the activity shows sedimentation in run-off that may enter water that is more than minor in the opinion of the Council's Compliance Officer.
23. Sediment and erosion controls shall be implemented and maintained in effective operational order at all times.

Advice Note:

Appropriate sediment control equipment including matting and batter covers should be kept on-site for use in minimising potential sedimentation problems from areas of exposed soil.

24. All erosion and sediment control measures shall be inspected after any major rainfall event and any problems shall be rectified within 24 hours required.

Revegetation

25. All exposed ground shall be revegetated as soon as practical and shall be within six months of completion of the works so that erosion both from wind and rain is minimised.
26. All works shall be undertaken as required by the Archaeological Authority

Earthworks Management Plan

27. Prior to undertaking any activities authorised by this consent, the Consent Holder shall prepare an Earthworks Management Plan.
28. The Earthworks Management Plan required by Condition 27 shall set out the practices and procedures to be adopted in order that compliance with the conditions of this consent can be achieved, and in order that the effects of the activity are minimised to the greatest extent practical. This plan shall, as a minimum, address the following matters:
 - (a) description of the works;
 - (b) engineering design details;

- (c) silt and dust control during earthwork stages;
- (d) temporary activities and equipment storage in specified areas;
- (e) pine tree felling and de-stumping programme;
- (f) construction programme including timetable, sequence of events and duration including any landscaping;
- (g) construction methods and equipment to be used;
- (h) dust sources and potential impact during construction;
- (i) methods used for dust suppression during construction activities;
- (j) location, design, operation and maintenance of stormwater run-off controls and sediment control facilities;
- (k) detailed specifications of the diversion of any water bodies including channel configurations and rehabilitation measures;
- (l) detailed specifications of the spoil storage and stabilisation;
- (m) staff and contractor training;
- (n) traffic management and property access management;
- (o) contingency plans (eg, mechanical failures, oil/fuel spills, flooding, landslips);
- (p) public access, community information and liaison procedures;
- (q) cultural and archaeological protocols (including discovery protocols);
- (r) assessment and monitoring procedures;
- (s) methodology and approval procedures for making changes to the Construction, Erosion and Sediment Management Plan.

Advice Note:

The following are the general principles that should be adhered to when writing and implementing the Construction, Erosion and Sediment Control Plan:

- (a) minimise the disturbance to land;
- (b) stage construction;
- (c) protect steep slopes;
- (d) stabilise exposed areas as soon as possible;
- (e) minimise the run-off velocities;
- (f) revegetate as soon as possible;
- (g) install perimeter controls and protect disturbed areas from run-off sourced above site;
- (h) employ detention devices;
- (i) take the season and weather forecast into account;
- (j) use trained and experienced contractors and staff;
- (k) update the plan as the project evolves;
- (l) assess and monitor.

Keep on-site run-off velocities low by the use of the following: contour drains, retention of natural vegetation, provision of buffer strips of vegetation, low gradients and short slopes, control anticipated erosion and prevent sediment from leaving the site.

The Consent Holder is directed to the following documents for more detail on earthworks and sediment control: eg, Auckland Regional Council's Technical publication TP90, Erosion & Sediment Control Guidelines for Land Disturbing Activities in the Auckland Region.

29. Council may, for the duration of this consent, review the conditions of the consent pursuant to Section 128 of the Resource Management Act 1991 to:
 - (a) deal with any adverse effect on the environment that may arise from the exercise of the consent and which it is appropriate to deal with at a later stage; or
 - (b) to require compliance with operative rules in the Tasman Resource Management Plan or its successor; or
 - (c) when relevant national environmental standards have been made under Section 43 of the Resource Management Act 1991.
30. This consent will lapse after five years from the date of issue.
31. This resource consent expires one year from the time that this consent is given effect to.

Advice Note:

The consent is given effect to once any earthworks commence

Works on a cultural heritage site

32. The Consent Holder shall ensure that all works are carried out in general accordance with the application submitted on 26th December 2010 in support of the application for resource consent RM100178. If there are any inconsistencies between this information and the conditions of consent, the conditions of consent shall prevail.
33. The Consent Holder shall have a valid Archaeological Authority issued from the New Zealand Historic Places Trust before undertaking any works.
34. All works shall be undertaken in accordance with the Archaeological Authority.

Advice Note:

Unlike resource consents, an Authority cannot be transferred with the sale of a property. Authorities can be used only by the Authority Holder named on the decision. If the property is sold, but the archaeological work is not completed, a new application can be made by writing to the New Zealand Historic Places Trust explaining the situation.

35. The Consent Holder shall inform Council's Co-ordinator Compliance Monitoring at least five working days prior to commencing the works and five working days following their completion so monitoring of conditions can be programmed.
36. The Consent Holder shall provide a copy of this resource consent and associated plans to all persons involved in the activities authorised by this consent.
37. The Consent Holder shall engage the services of a representative of Tiakina Te Taiao to be present during any earthworks. The Consent Holder shall contact Tiakina Te Taiao, c/o PO Box 13, Nelson (telephone (03) 546 7842) at least 10 working days prior to commencing any earthworks and advise it of the commencement date of the earthworks.

Advice Note:

It is noted that an Authority Pursuant to Section 12, Historic Places Act 1993 has been not yet issued.

38. Council may, for the duration of this consent, review the conditions of the consent pursuant to Section 128 of the Resource Management Act 1991 to:
 - (a) deal with any adverse effect on the environment that may arise from the exercise of the consent and which it is appropriate to deal with at a later stage; or
 - (b) to require compliance with operative rules in the Tasman Resource Management Plan or its successor; or
 - (c) when relevant national environmental standards have been made under Section 43 of the Resource Management Act 1991.
39. This resource consent expires when Section 224 is granted for the subdivision authorised by RM100173.

Advice Notes:

1. The Consent Holder shall pay to the Council an annual fee plus administrative and monitoring charges fixed by the Council from time to time in accordance with the Act, for the purposes authorised by this consent.

The obligation to pay the annual fee as defined in the Annual Plan commences on the date this consent commences. Initial payment is due within 30 days of that date, and subsequent payments are due on 1 July each year. The initial payment will be calculated on a pro rata basis to the next 1 July.

2. All reporting required by this consent shall be made in the first instance to the Tasman District Council's Co-ordinator Compliance Monitoring.
3. The Consent Holder shall meet the requirements of the Council with regard to all Building and Health Bylaws, Regulations and Acts.