

Report No:	REP11-07-01
File No:	RM080459, RM100548
Report Date:	17 June 2011
Decision Required	

Report to: Commissioner Hearing

Meeting Date: 11 July 2011

Subject: G D and A J Wyllie and D G Beatson

Report Author: Wayne Horner, Subdivisions Officer

1. DESCRIPTION OF THE PROPOSED ACTIVITY

The current proposal is to create three new lots, where Lot 1 will contain 4.2 hectares, Lot 2 containing 12.0 hectares and Lot 3 containing 2.1 hectares. Lots 6 and 7 will vest as seabed as they are below MHWS and Lot 5 containing 9000 square metres is proposed to vest in Tasman District Council as esplanade reserve with a width of 10 metres.

Amalgamations of four existing titles are proposed that result in no increase in the total number of titles in this area. Two large titles, containing 182 hectares and 256 hectares of land that is currently in productive use, are proposed under this application.

Consent is also sought for construction of buildings within the Coastal Environment Area within Lots 1 -3.

It is considered that the stormwater disposal, wastewater disposal and earthworks could be carried out within permitted activity criteria of the TRMP.

A comprehensive mitigation package has been volunteered by the applicant to minimise the visual effects of the proposed new buildings and these have formed the basis of the recommended conditions, should consent be granted.

It is proposed to clear wilding pines in the area of the building locations on Lot 2 and Lot 3 and retain 50% of the existing canopy within the limited view shaft areas. No vegetation clearance is required within the building location area on Lot 1.

Recessive colour schemes are proposed with building heights limited to 5.0 metres in Lots 2 and 3 and 6.5 metres within Lot 3.

A new vehicle crossing and access track is required for Lot 3 with Lots 1 and 2 gaining access from an existing track that is proposed to be upgraded to a right of way. There is an existing rough access track to the building area within Lot 1.

The following report assesses application **RM080459** relating to the subdivision and land use aspects of the development and **RM100548** which assesses the construction of buildings within the Coastal Environment Area.

1.1 Subdivision Consent and Land Use Consent: RM080459

To subdivide a 74.52 hectare title to create the following:

- proposed Lot 1 comprising 4.2 hectares including a right of way;
- proposed Lot 2 comprising 12.0 hectares including a right of way, with no esplanade reserve or strip adjoining the foreshore;
- proposed Lot 3 comprising 2.1 hectares;
- proposed Lot 4 comprising 36 hectares to be amalgamated with the balance of CFR NL1A/711 and Section 4 Block II Pakawau Survey District (CFR NL32/168), with no esplanade reserve or strip adjoining the foreshore;
- proposed Lot 5 comprising 9000 square metres to vest in Council as esplanade reserve 10 metres wide adjoining proposed Lot 3;
- proposed Lot 6 comprising 1.4 hectares to vest as seabed;
- proposed Lot 7 comprising 1.0 hectare to vest as seabed;

and to amalgamate Section 3 Block II Pakawau Survey District (CFR NL123/154), Section 5 Block I Pakawau Survey District (CFR NL29/116) and Section 2 Block II Pakawau Survey District (CFR NL22/49) to create one title.

1.2 Land Use Consent (Application RM100548)

To erect a dwelling and undertake earthworks in the Coastal Environment Area on each of Lots 1 - 3 of the subdivision application described above (Application RM080459).

The subject land is zoned Rural 2 and part of the property is within the Coastal Environment Area according to the Tasman Resource Management Plan.

1.3 Site Location and Background

This site is located on the coastline of Whanganui Inlet approximately 8.0 km from Pakawau Township and 2.5 km from the intersection of Dry Road and Kaihoka Lakes Road.

The applicant submitted their original subdivision application on 26 May 2008 and Council subsequently requested an assessment of landscape effects.

A revised application was received by Council on 24 August 2010 that included an assessment of the visual effects prepared by Mr Rory Langbridge. This application was reviewed for Council by Mr Tom Carter and following a number of discussions between Mr Carter and Mr Langbridge the current form of this application and

associated plans, along with a revised mitigation package was submitted to Council on 15 December 2010.

Refer to **Plan A RM080459** for a Site Location Map.

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

The subject land is zoned Rural 2. It is partly within the Coastal Environment Area as defined by the Tasman Resource Management Plan and the Kaihoka Lakes Road is classified as an Access Road under the TRMP.

The application is considered to be a Discretionary Activity under subdivision rule 16.3.6.2 in that the proposal has allotment areas less than the Controlled Activity standard of 50.0 hectares. The proposed right-of-way will be able to meet the permitted access standards required by Figure 16.2A.

This application is a Restricted Discretionary Activity under rules 16.4.2.1 and 16.4.2.2 in relation to the creation of Esplanade Reserves.

This application is a Restricted Discretionary Activity under rules 18.11.3.2 in relation to the construction of buildings in the Coastal Environment Area.

The clearance of indigenous vegetation in the Coastal Environment Area has been considered as a Discretionary Activity due to non compliance with rule 17.6.5.5.

Overall this application is considered to be a Discretionary Activity.

3. SUBMISSIONS

The application was notified on 6 April 2010 and 16 submissions were received. Four submissions oppose the application and wish to be heard. Nine submitters seek the grant of this application with three of these submitters wishing to be heard.

There were two neutral submissions and one submission sought conditions should consent be granted and wishes to be heard.

3.1 Summary of Submissions

Submitter	Reasons	Decision
1. B C Collings	Supports the proposed subdivision as being appropriate in this location.	Grant Wishes to be heard
2. E D Wilson	Limited visual effects and therefore supports the proposal.	Grant Does not wish to be heard
3. C Wyllie	Limited effect on productivity, positive effects from provision of esplanade and improve a wasteland	Grant Does not wish to be heard
4. L M Henderson	No reason not to grant consent	Grant Does not wish to be heard
5. Department of	DOC is satisfied that the proposal is not likely to have	Neutral

Submitter	Reasons	Decision
Conservation	significant effect on the adjacent National Park and Wildlife Reserve. Seeks consideration of NZCPS 2010 and Marine and Coastal Area Act 2011 and the imposition of the volunteered conditions.	Does not wish to be heard
6. P J Miller	Will have limited effects on land productivity, or on the wider environment due to a lack of intensive development.	Grant Does not wish to be heard
7. W J & L M Wallace	Limited vegetation disturbance and visual impacts with amalgamated titles to improve productivity	Grant Wishes to be heard
8. K H & N M Hunter	Supports the proposed subdivision if the immediate neighbours approve and supports more lifestyle block development.	Grant Does not wish to be heard
9. J A Vaughn	Seeks specific conditions, should consent be granted, to minimise potential effects on the Whanganui Inlet and other conditions to enhance the existing vegetation and wildlife.	Decline Wishes to be Heard
10. NZ Fire Service Commission	The New Zealand Fire Service seeks a fire fighting sprinkler systems for each new dwelling that complies with the New Zealand Standard SNZ PAS 4509:2008 and NZS 4517:2010	Seeks Condition Wishes to be heard
11. A Vaughn	Seeks that the processing of this consent be delayed until Council has finalised a Plan change resulting from a landscape assessment of Golden Bay. Also considers that the subdivision is not consistent with NZCPS.	Decline Wishes to be Heard
12. D Philips & F Bassett	Does not believe the visual effects will be significant, with the consolidation of land in larger titles to have positive effects and supports the mitigation package proposed.	Grant Does not wish to be heard
13. The Royal Forrest and Bird Protection Society of New Zealand	Seeks to confirm that the amalgamations will be part of the subdivision consent process, restrict the keeping of cats and dogs (with some exceptions), requests an approved indigenous planting list be included in any conditions of consent.	Neutral Wishes to be heard
14. J & B Warren	Supports the application due to rationalising the land holding.	Grant Wishes to be heard
15. Friends of Golden Bay	Seeks delay of this application until the landscape planning currently underway by TDC is complete. There may be precedent effect, cumulative effects, servicing structures, wastewater effects and stormwater effects.	Decline Wishes to be Heard
16. J Bell	Seeks delay of this application until the landscape planning currently underway by TDC is complete. Suggests that the Crown should purchase this land and suggest alternative land uses apart from subdivision. Potential for road upgrading with more users.	Decline Wishes to be Heard

It can be seen from the summary of the submissions that there is concern over additional development within this area of high natural values, and the potential loss of natural and coastal character resulting from this proposal. However a number of other submitters find that this proposal represents acceptable development in this location.

The issues raised by these submissions relating to the loss of natural character and landscape effects have been considered within the Landscape Assessment Review prepared by Mr Tom Carter and attached as Appendix 1.

4. PRINCIPAL ISSUES

The principal issues associated with the applications are:

- a) Has the preservation of the natural and coastal character be achieved?
- b) Is the proposed development appropriate given the requirements of the New Zealand Coastal Policy Statement 2010, Section 6 of the RMA and the Tasman Resource Management Plan?
- c) Will public access to and along the coast be provided for?

5. 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));
- any other matter the Council considers relevant and reasonably necessary to determine the application (Section 104 (1)(c)).

5.1 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:

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

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 to an acceptable level.

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

5.2 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 Policy Statement principles.

5.3 Tasman Resource Management Plan

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

- Chapter 7 “Rural Environment Effects”;
- Chapter 8 “Margins of Rivers, Lakes, Wetlands and the Coast”
- Chapter 9 “Landscape”
- Chapter 11 “Land Transport Effects”;

These chapters articulate Council’s key objectives: To ensure land uses do not significantly adversely affect the natural and coastal character, affect the safety and efficiency of the transport system and provide for public access to the coast.

The most relevant Rules which follow from these imperatives are contained in:

- Chapter 16.3.6 Subdivision; Rural 2 Zone,
- Chapter 17.7.3 ‘Rural 2 Zone’,
- Chapter 18.11.3.2 Coastal Environment Area; Building Construction.

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 6.1 below and analysis and discussion on the relevant policies and objectives in paragraph 6.2 of this report.

6. ASSESSMENT

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

6.1 Actual and Potential Environmental Effects

6.1.1 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

In the Rural 2 Zone some buildings could potentially be constructed as permitted activities provided they meet the permitted activity criteria including being a maximum height of 7.5 metres, having setbacks of 10 metres from roads, 5.0 metres from internal boundaries, 30 metres from plantation forestry and horticultural plantings and are not located within the Coastal Environment Area.

The building areas on Lot 2 and Lot 3 are fully within the Coastal Environment Area and therefore dwellings cannot be constructed as a permitted activity and the applicant has applied for consent for these under this application. It should be noted that the proposed building area within Lot 1 is not fully within the Coastal Environment Area. Farm buildings could be constructed without further resource consent approval on the upper parts of the Building Location Area in Lot 1.

Vegetation Clearance

The clearance of woody indigenous vegetation within the Coastal Environment Area is not a permitted activity. Also some of the vegetation outside the Coastal Environment Area on CFR NL1A/711 would meet the definition of indigenous vegetation with very limited removal being allowed as a permitted activity. However the extent of the indigenous vegetation cover over this site has not been defined.

Land Use Activity

Only a narrow range of land use activities are permitted within the Rural 2 Zone, subject to compliance with other applicable permitted activity criteria. Permitted activities include rural activities and one residential activity per site subject to conditions. There is one existing dwelling on the land being subdivided and no dwellings on the land being amalgamated.

6.1.2 Coastal and Natural Character Values

Introduction

The assessment of the visual effects of this proposal is important due to this subdivision being located within the coastal environment and the cautious approach required under the New Zealand Coastal Policy Statement 2010. Also Section 6 of

the RMA refers to the preservation of the natural character of the coastal environment as a matter of national importance.

The applicant has provided a detailed assessment of the visual effects of this proposal prepared by a landscape architect Mr Rory Langbridge as part of further information provided. This report was dated 5 February 2010 and provided a detailed assessment of the:

- amenity values of the area;
 - existing natural character values;
 - visual sensitivity of this area;
 - visibility of the development;
 - cumulative visual effects;
 - ability of the environment to absorb the proposed development,
- and an;
- assessment against the New Zealand Coastal Policy Statement;
 - assessment in terms of Sections 6 and 7 of the RMA;
 - landscape assessment against Chapter 9 of the TRMP.

A further report was submitted by Mr Langbridge on 4 November 2010 that refined the proposed development by clarifying the location of the proposed building areas, view shaft location, building heights in relation to the canopy and specific identification of pine trees for removal, with methods.

A revised set of plans were submitted, attached to the latest Langbridge report and attached to this consent as Plans B - E. Also a revised list of volunteered mitigation measures was submitted on behalf of the applicant in a letter from Ms Jane Bailey dated 15 December 2010.

Mr Langbridge concluded in his 5 February 2010 report:

“Three BLA’s have been identified within a similar area of the wider landscape, one site is not visible and development on this site will not impact adversely on the characteristics of the wider landscape. The other two sites are located closer to the road and could be partially visible in the medium term. However any exposure they may have are local in nature and small in scale and recommendations have been made to mitigate these.

It is my opinion that the proposed subdivision and the scale of development that may follow if the recommendations are followed would result in development that has an impact that is not perceived in the wider landscape and locally would result in an impact that is less than minor in the medium term”.

The latest version of the plans add a view shaft with a 50% reduction of canopy cover to enable a view through the existing canopy rather than being fully cleared. Mr Langbridge expands on comments made in his initial assessment of the natural

character values of this landscape with the potential increased visibility of the proposed dwellings resulting from the creation of view shafts and concludes that are no more than minor.

This application has also been reviewed by Mr Tom Carter who has provided advice to Council to aid with the preparation of this report with regard to landscape issues.

A number of submissions raised the issue of visual effects within this high value coastal environment and preservation of natural character.

Mr Carter's detailed report is attached in full as Appendix 1 of this report and I do not include it within the body of this report apart from his conclusion, to avoid repetition.

Mr Carter has carried out a detailed assessment of this proposal covering the following issues:

- Landscape Character and Values;
- Natural Character;
- Outstanding Natural Features and Landscapes;
- New Zealand Coastal Policy Statement 2010;
- Tasman Resource Management Plan, Objectives and Policies relating to visual effects;
- Submissions in relation to Landscape;
- The Proposed Development with Mitigation;

The Conclusion of Mr Carter's report follows:

Conclusion

65. *The landscape sub unit at the north end of Whanganui Inlet is characterised by peninsulas, which enclose and shelter an interconnected system of tidal mud filled embayments. The area has strong aesthetic values attributed to transient patterns within the coastal setting such as tidal movements and drainage of the surrounding landforms. On the west side of the Inlet there are extensive farmed catchments, which extend to the Tasman Sea.*
66. *On a five-point scale from very low to very high, the natural character within the northwest Inlet is considered to be high and could possibly be considered outstanding under Policy 13(1)(a). However that assessment is reduced to some extent by the causeway, Kaihoka Lakes Road and farming on the west side of the Inlet.*
67. *In the context of the Tasman District and indeed the wider Nelson-Tasman area this landscape and its associated natural features are considered to be outstanding in terms of the provisions of Section 6 (b) of the RMA.*

68. *The vegetation, provided it is retained, significantly reduces the Application Site sensitivity to development.*
69. *Proposed development will ultimately protect significant areas and sequences of indigenous vegetation outside the proposed Building Location Areas and driveways. That vegetation will continue its natural successional development and provide for the restoration of the natural character of the coastal environment in that regard.*
70. *The proposed mitigation package will protect the natural character, open space and amenity values of the coastal environment and ensure that adverse visual effects are mitigated.*

Landscape Discussion

With this application the visual effects relate to the construction of new buildings, the visual effects in relation to earthworks for the new access and vegetation clearance for building areas and view shafts.

This area has been logged in the past and is regenerating with a variety of indigenous vegetation species. Lot 2 appears to contain the most significant areas of indigenous forest on the south eastern part. There are wilding pines within Lot 3 and on the lower parts of Lots 1 and 2. Lot 4 has been established in pasture on the northern parts with regenerating natives on the southern parts of Lot 4 as identified on **Plan F RM080459**.

While the amalgamated titles and balance areas could have a dwelling and other farm buildings constructed on them as of right, subject to a number of criteria including being located more than 200 metres from the coast, they would be constructed within large existing pastoral farming areas and away from the coast. Therefore in general terms the total number of dwellings would remain the same as the current level under this proposal. However the visual effect of locating the proposed dwellings being closer to the coast requires this detailed assessment.

Conclusions

The detailed landscape assessment prepared by Mr Langbridge has been extensively reviewed for Council by Mr Carter. There is a significant level of agreement between Mr Carter and Mr Langbridge over the level of landscape effects resulting from this proposal.

Mr Carters view is that the retention of the existing vegetation within the allotments and the proposed mitigation package will reduce the landscape effects to an acceptable level in the long term.

The natural character of this area is considered to be at the high end of the scale taking into account the existing causeway, Kaihoka Lakes Road and farming on the west side of the Inlet.

This landscape and its associated natural features are considered to be outstanding in terms of the provisions of Section 6 (b) of the RMA.

The proposed mitigation package will protect the natural character, open space and amenity values of this coastal environment to a reasonable degree.

6.1.3.1 Transport Effects

Council's Development Engineer Mr Dugald Ley has reviewed this application and provided a report on the transport effects which is attached as Appendix 2.

Following are extracts from his report:

The above subdivision is located some 2.5 km along from the start of Kaihoka Lakes Road. Kaihoka Lakes Road is a gravel access road approximately 3.5 m wide, winding low speed road and carries on average 20-30 vehicles per day. It serves a number of farms and is access to the Kaihoka Lakes which has day visitors...

...It is likely that due to the topography, limited size of the lots and the soil conditions that high productivity from the land could not be achieved. Therefore, the most likely use will be residential development (possibly holiday homes) or some form of tourist development (if applied for in the future).

Residential lots are proposed at this site and I concur with the applicant that low traffic volumes will arise from this proposal....

For rural and rural residential properties this will reduce to approximately five to six vehicles per day. As the property is in a remote part of the region, trips will be wisely planned. I would agree that new trip movements on the Kaihoka Lakes Road will be in the vicinity of four vehicles per day, per lot.

With the existing traffic movements of Kaihoka Lakes Road being in the order of 25 to 30, then in my opinion the increase in traffic movements will have a less than very minor effect on the existing roads.

...It is anticipated that also some areas (yet to be agreed upon) will vest as road to regularise the existing situation at the survey plan stage. Suitable conditions (if the application was to be approved) should be included along the lines of:

- *Areas of the existing title should vest as "road to vest" without compensation and the areas agreed to by Council's Transportation Manager prior to the issue of "223 Certificate".*
- *Vehicle access to the new lots shall be located in acceptable positions to gain the maximum sight visibility in both directions.*
- *The exact location of Lot 3 shall be confirmed on site once bank trimming has taken place at the bend.*
- *The access from the carriageway to Lot 3 and the combined access to Lots 1 and 2 shall be formed to the boundary with compacted base course and leading to the building site at a maximum grade of 1 in 6....*
- *Access crossing application to be applied for.*

Transport Discussion

The formation of Kaihoka Lake Road extends into part of Lot 3 and Mr Ley has recommended a minor adjustment to the scheme plan where an additional parcel of land should be shown as Road to Vest.

While there will be an increase in the number of vehicle movements resulting from this subdivision it should be noted that the amalgamation of four separate titles will offset this to some extent in the longer term as each of the amalgamated titles could contain a dwelling as they are clear pasture and outside the Coastal Environment Area.

The remaining issues raised by Mr Ley could be resolved through conditions of consent.

6.1.4 Public Access

Council's, Forward Planner, Reserves Ms Rosalind Squire has provided an assessment of this application in relation to public access issues and her full report is attached as Appendix 3. Following are some extracts from her report:

Background and Context

....The application includes the creation of three rural residential properties ranging in size from 2.1 to 36 hectares which are shown as proposed lots 2, 3 and 4 and a balance area all of which adjoin Whanganui Inlet. The Whanganui Inlet is a Wildlife Management Reserve which is managed under the Wildlife Act 1953 and administered by the Department of Conservation. The application also includes proposed lot 5 which is a 10 metre wide esplanade reserve and lots 6 and 7 which are proposed as seabed to vest (Section 237A(1)(b) of the Resource Management Act 1991 now requires that these areas be shown on the survey plan as part of the common marine and coastal area).

Rule 16.4.2.2 applies when Council considers whether or not it is appropriate to vest land as esplanade reserve or create an esplanade strip for proposed lot 2, 4 and the balance area as they are greater than 4 hectares in area:

The presumption that an esplanade reserve will be taken in Rule 16.4.2.1 reflects the matters of national importance contained in section 6 and the provisions in section 230 of the Act.

Section 6 of the Act requires that Council recognise and provide for the following matters of national importance:

- (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:*
- (b) The protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:*
- (c) The protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna: and*
- (d) The maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers:...*

The Whanganui Inlet is identified in Schedule 25.1F of the Tasman Resource Management Plan as:

A large (2,774 ha) estuary surrounded by a combination of forest and pasture. Notable for intact vegetation sequences from estuary to hill top. Low level of permanent human impact. Important breeding site for vulnerable banded rail, banded dotterel and Australasian bittern. Rare alluvial indigenous forest-type present adjacent to estuary. Excellent variety of estuarine habitats and species. Area protected as Wildlife Management Reserve and Marine Reserve

I consider that in this particular circumstance, due to the significant conservation values and to a lesser degree the public access values, it is appropriate to recommend the vesting of a 20 metre wide esplanade reserve adjoining the coastal marine area of proposed lots 3.

I also consider for the same reasons that it is appropriate to recommend the creation of a 20 metre wide esplanade strip adjoining proposed lots 2, 4 and adjoining the coastal margin of the balance area to the east of the legal road south west of Nguroa Road. There is discretion in Rule 16.4.2.2 to vest an esplanade reserve or create an esplanade strip on allotments greater than 4 hectares and one of the matters to consider when making the decision is compensation. Compensation is payable unless the applicant agrees otherwise. The applicant has advised that they will be seeking compensation.

The application as notified includes the vesting of a 10 metre wide esplanade reserve (lot 5) adjoining the coastal boundary of proposed lot 3. The application states the following:

It is proposed that this reserve be reduced from 20m to 10m due to the topography of the site, in particular along the southern side which is a cliff. The reduction is also being sought as physical access to the Inlet is obtained during mid to low tide when the mudflats are exposed for approximately 60% of the time. This has been the common form of access, and was in fact the old road formation prior to the construction of the causeway. It is therefore considered that the proposal will not hinder access to the coast.

These comments are acknowledged. However, if a reduced width of reserve or strip is taken it reduces the degree of protection of the significant indigenous forest-type present adjacent to estuary and estuarine habitats and species and reduces future options for providing for public access in a manner which minimises disturbance of sensitive coastal habitats and birds. Although it is acknowledged that Council has no plans to provide for public access at present it is not recommended that those future options are foreclosed.

Public Reserves Discussion

The coastal margins of the Whanganui Inlet and particularly within the Harvey Creek estuary area are considered to be areas with high conservation values, due to their unmodified and regenerating nature.

While there are no specific plans to develop public access along the coast in this area at present and the creation of an esplanade reserve and esplanade strip allow for the protection of conservation values in the short term and the provision of public access in the long term. Very careful design of any future walkways would be required to minimise adverse effects on this coastal environment.

6.1.5 Servicing Effects

Provision for Fire Fighting

The proposed dwellings on Lots 2 and 3 will be enclosed by vegetation and with a lack of nearby fire fighting capability consideration should be given to requiring a higher level of protection for the dwellings.

A minimum of 23,000 litre capacity storage tank with 100 millimetre female cam lock connection would meet the requirements of fire fighting water storage under the TRMP. However the Fire Service has requested in its submission that the applicants achieve compliance with the NZ Fire Service Code of Practice SNZ PAS 4509:2008 and Fire Sprinkler Systems for Houses NZS 4517:2010. If the Committee decides to approve the applications consideration should be given to requiring sprinklers as requested by the NZ Fire Service. The provision of sprinklers has been provided for within the proposed conditions.

Wastewater, Stormwater and Earthworks

Council's Coordinator Natural Resources Mr Leif Pigott has reviewed this application and provided a report on the wastewater, stormwater and earthworks effects of this proposal which is attached as Appendix 4.

Following are extracts from Mr Pigott's report relating to Wastewater:

I have visited the sites in question and it would be possible to construct on site wastewater systems on each property lot that would meet the Permitted Activity Rule 36.1.2.4...

Wastewater

The report by Land and River does not really provide enough detail to issue any discharge consents for the disposal of effluent to land. While composting toilets are a possible option as suggested in the application 6.29, however, these are not to everyone's taste and there is still the urine to dispose of to land along with the greywater.

I accept what the applicant states that in some locations the depth to groundwater is less than 0.5 metres. However there is nothing in the rules that does not let the applicant build up the area where the wastewater may be disposed. Mounding an area out of local materials or sand from other areas of the larger property would provide areas where the wastewater could be disposed of to land.

During the site visit I dug test pits and augured several soil samples from each of the sites at locations where I estimated the wastewater disposals area may be placed.

It is difficult to determine the detail of the wastewater disposal system until the house design is determined. The loading rate for wastewater is determined by the number of habitable rooms in the dwelling. Thus small 2 bedroom bach will need a much smaller wastewater system than a large 6 bedroom dwelling.

The Permitted Activity Rule separation distances to the coast are achievable and will be through significant humus and vegetation coverage. If the wastewater is discharged to ground it will not cause any significant adverse effects on the adjoining estuary.

Wastewater Discussion

It is recommended that the final design of the wastewater disposal system be carried out at the time of a building consent application. While there may be high ground water levels in winter, providing a mounded disposal bed may allow the system to meet the permitted activity criteria of the TRMP. There is a low risk of wastewater contaminating the Whanganui Inlet.

Stormwater

Following are extracts from Mr Pigott's report relating to Stormwater:

Stormwater runoff should not be significant from each of these developments. The water supplies will be gathered from the roofs. Each lot will retain lots of vegetation cover. The drive ways are quite small and are likely to be unsealed. It is very feasible to meet the Permitted Activity Stormwater Rule 36.4.2.1....

The stormwater design for the dwelling will be assessed as part of the building consent process. This will ensure it meets the Permitted Activity Rule, or require the applicant to obtain resource consent.

Overall the risks to the receiving waters of the estuary are very low from the stormwater from these proposed lots.

Stormwater Discussion

The permitted standards for stormwater disposal are likely to be met by this proposal resulting in a low risk to the Whanganui Inlet. Scour protection is required by conditions at the culvert discharge points.

Earthworks

Following are extracts from Mr Pigott's report relating to Earthworks:

It is unclear if an earthworks consent is required. It is recommended that the conditions of the subdivision RM100459 requires a sedimentation and erosion control plan be supplied as part of the engineering plans. This sedimentation and erosion control plan shall be approved by the Engineering Manager prior to undertaking the works. The subdivision consent will need to address the clearance (if any) of indigenous woody vegetation from each of the lots.

The highest risk of erosion and sedimentation is during the earthworks, given the small scale of the earthworks and the vegetative cover combined with the overland flow distances the risks from the earthworks are low....

Earthworks

As part of the subdivision the applicant will form the track leading to the building sites.

The currently proposed sites and tracking are more than 50 metres away from the coastal marine area.

It is unclear if the required access way formations will exceed the 1000 square metres within a 12 month period. To avoid the uncertainty in this matter it is recommend that the conditions of the subdivision RM100459 requires a sedimentation and erosion control plan be supplied as part of the engineering plans. This sedimentation and erosion control plan shall be approved by the Engineering Manager prior to undertaking the works.

Earthworks Discussion

The extent of the earthworks is limited to the construction of two accesses to the building location areas on Lots 2 and 3 which are up 50 metres in length with a formed carriageway width of 3.5 metres. This area is not in a known area of instability and for the majority will not be visible within the coastal environment area.

6.1.7 Other Matters - New Zealand Coastal Policy Statement 2010

The New Zealand Coastal Policy Statement 2010 is relevant when assessing this application as this subdivision is close to the coast.

The NZCPS encourages development to be within areas that have already compromised and discourages sprawling or sporadic subdivision in the coastal environment. Also the natural character of the coastal environment is required to be taken into account along with the mitigation of adverse effects. With regard to the requirements Mr Carter concludes:

45. *Although the proposed development pattern (two additional Lots) is not considered to be consolidation, Policy 6 enables consideration of where development resulting in a change in character would be acceptable. Policy 6(h) enables consideration of how adverse visual impacts can be avoided in areas sensitive to such effects such as headlands and prominent ridgelines. The proposed mitigation includes setting development back from the Coastal Marine Area, controlling the building footprint on Lots 2 and 3 and the vegetation disturbance associated with house and driveway development. I consider that those measures and the mitigation proposed overall including in relation to Policy 14(c)(ii) encouraging natural regeneration of native vegetation within Lot 4 and NL1A/711 & Sec 4 Blk II (CTNL32/168) will ensure that the potential effects are in accordance with the high standard of mitigation required in relation to natural character and landscape values under Policy 13 (a) and (b), and under Policy 15 (a).*

6.1.8 Cultural Heritage

There is a known archaeological site to the south of Lot 1 as well as a number of other sites on the edge of the Whanganui Inlet. As there may be further historic material discovered during any earthworks carried out on this site during the proposed earthworks and also during the actual building construction the applicant has volunteered to place a consent notice on the title of Lots 1-3 requiring the owners to contact the NZHPT and seek specific approval before proceeding with further earthworks.

Notice of this application was also served on the local iwi who made no specific submission on this application.

6.1.9 Summary of Assessment of Effects

With the controls on building location along with the mitigation measures proposed as part of this application is considered to be appropriate within this coastal environment.

A detailed assessment of the visual effects has been carried out by Mr Rory Langbridge with a review of the application being carried out for Council by Mr Tom Carter, both of whom are experienced landscape architects. Their assessments have been in terms of the Resource Management Act, the Tasman Resource Management Plan and the New Zealand Coastal Policy Statement due to this subdivision being close to the coast. When the mitigation package is taken into account the visual effects of this proposal are considered to be no more than minor, over time.

There will be limited effects from an increase in traffic, stormwater discharge and wastewater discharge.

The provision of an esplanade strip and esplanade reserve would provide for the protection of conservation values in the short term while allowing for the possibility of public walking access in the future.

Care will be taken with the removal of indigenous vegetation over relatively small areas of the proposed lots.

Overall my assessment is that the adverse effects on the environment from this proposal are no more than minor.

Relevant Objectives and Policies of the TRMP

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

- Chapter 7 “Rural Environment Effects”
- Chapter 8 “Margins of Rivers, Lakes, Wetlands and the Coast”
- Chapter 9 “Landscape”
- Chapter 11 “Land Transport Effects”;

6.2.1 Chapter 7: Rural Environment Effects

Policies

7.1.3.1 To avoid remedy or mitigate the adverse effects of subdivision of rural land, particularly land of high productive value.

The soils within this site are Class F Soils and therefore there will be limited effects from the loss of productive land resulting from the creation of Lots 1, 2 and 3.

The proposed amalgamations will result in larger areas of cleared pasture being held together within the amalgamated titles resulting in a positive land productivity effect.

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

Objective

8.1.2 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.

At present there is public access to the Whanganui Inlet in places where the road reserve is adjacent to MHWS. There does not appear to be any informal launch areas along the coast in the area of Lot 3. The proposed conditions require an esplanade reserve and esplanade strip 20 metres wide adjacent to MHWS along the majority of the land being subdivided.

Policies

8.1.3.1 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.

8.1.3.4 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 for public access.

The provision of the esplanade reserve and esplanade strip will allow the possibility of public access in future.

6.2.3 Chapter 9: Landscape

This coastal landscape has not been formally recognised as an outstanding natural landscape within the TRMP. However the 2005 and 2010 Boffa Miskel reports have identified this area as being in an outstanding natural landscape.

Mr Carter has also specifically assessed the Objectives and Policies relevant to landscape within Chapters 5, 7, 8 and 9 of the TRMP in his report, attached as Appendix 1. Under the heading *Tasman Resource Management Plan*, Sections 46 - 53. Mr Carter concludes that while the proposal will not have significant adverse effects and in Section 51 taking into account the mitigation provided the effects would

be no less than minor but have more than minor effects in terms of Policy 8.2.3.4 and 8.2.3.7. These effects would become minor effects over time.

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.

The proposed earthworks will be limited to the creation of new access tracks to the building site within Lots 2 and 3 with an upgrade of the existing track within Lot 1. These earthworks will be not be readily visible within this coastal environment area and are small scale.

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.

The applicant has provided a detailed assessment of the visual effects of this proposal which considered the ability of the existing landscape to absorb this development in conjunction with a comprehensive mitigation package.

6.2.4 Chapter 11: Land Transport Effects

Policy

11.1.3.1 To promote the location and form of built development, particularly in the urban areas, that avoids, remedies or mitigates adverse effects of traffic generation

There will be limited additional traffic generation as a result of this application in the short term with these effects being mitigated to some extent by the proposed amalgamations which result in not additional titles being created in this area. Some physical works will be carried out to ensure a safe traffic environment.

6.2.5 Summary

Overall I consider that this application is not contrary to the relevant Objectives and Policies of Chapters 5, 7, 8, 9 and 11 of the TRMP.

7. SUMMARY AND CONCLUSIONS

- 7.1 While there will be an increase in the number of vehicle movements resulting from this subdivision it should be noted that the amalgamation of four separate titles will offset this to some extent in the longer term as each of the amalgamated titles could contain a dwelling as a permitted activity as they are clear pasture and outside the Coastal Environment Area.
- 7.2 While there are no specific plans to develop public access along the coast in this area at present the creation of an esplanade reserve and esplanade strip allow for the protection of conservation values in the short term and the provision of public access in the long term. Very careful design of any future walkways would be required to minimise adverse effects on this coastal environment.

- 7.3 There will be limited effects from an increase in traffic, stormwater discharge and wastewater discharge.
- 7.4 There will be limited removal of indigenous vegetation over relatively small areas of the proposed lots.
- 7.5 The soils within the area of this subdivision and amalgamation are classed as Class F soils and therefore the loss of productive opportunity from the creation of Lots 1-3 is limited and the proposed amalgamations will have a positive effect on land productivity overall.
- 7.6 A detailed assessment of the visual effects has been carried out by Mr Rory Langbridge with a review of the application being carried out for Council by Mr Tom Carter, both of whom are experienced landscape architects. Their assessments have been in terms of the Resource Management Act, the Tasman Resource Management Plan and the New Zealand Coastal Policy Statement due to this subdivision being close to the coast. When the mitigation package is taken into account and subject to the proposed conditions the visual effects of this proposal are considered to be no more than minor, over time.
- 7.7 There are no recorded Cultural Heritage sites within the proposed subdivision. However advice notes are recommended to be attached to Conditions and within the body of the Consent Notice.
- 7.8 This application is not considered to be contrary to the Objectives and Policies of the TRMP for this Rural 2 Zone. Also this application would meet the intentions of the NZCPS and Section 6 RMA in that this proposal, subject to conditions, is not considered to be inappropriate subdivision in this location.

8. RECOMMENDATION

- 8.1 That Subdivision and Land Use Consent (RM080459) and Land Use Consent (RM100548) for the construction of dwellings in Coastal Environment Area be granted subject to the following conditions:

9. CONDITIONS (RM080459)

9.1 Subdivision Consent and Land Use Consent RM080459

Subdivision Plan

1. The subdivision and development shall be carried out generally in accordance with the plans prepared by Rory Langbridge Landscape Architects and the plan prepared by Gowland Surveyors, titled *Proposed Subdivision of Part Section 40 Square 15*, and attached to this consent as **Plans A -E, RM080459** except as modified by Conditions 7, 8 and 9 below.

Easements

2. Easements are to be created over any services located outside the boundaries of the lots that they serve as easements-in-gross to the Tasman District Council for Council reticulated services or appurtenant to the appropriate allotment.

3. Easements shall be shown on the Land Transfer title plan and any documents shall be prepared by a Solicitor at the consent holder's expense. The Building Location Areas shown on **Plan B RM080459** and **Plan C RM080459** for Lots 1, 2 and 3 shall be shown on the Land Transfer title plan.
4. Reference to easements is to be included in the Council resolution on the title plan at the section 223 stage.

Amalgamations

5. That Lot 4 hereon and Part Section 40 Square 15 (balance CFR NL1A/711) and Section 4 Block II Pakawau Survey District (CFR NL32/168) be held in one Computer Register.
6. That Section 3 Block II Pakawau Survey District (CFR NL123/154), Section 5 Block I Pakawau Survey District (CFR NL29/116) and Section 2 Block II Pakawau Survey District (CFR NL22/49) be held in one Computer Register.

The LINZ consultation reference is to be advised.

Esplanade Strip

7. An instrument shall be registered over Lot 2 and Lot 4 and the balance of CFR NL1A/711 adjoining the coast between Kaihoka Lakes Road and the unformed legal road to the west of the peninsula. The instrument shall provide for the creation of an esplanade strip in favour of Tasman District Council in accordance with the following:
 - a) An esplanade strip 20 metres wide shall be created over Lot 2 and Lot 4 and the balance of CFR NL1A/711 between Kaihoka Lakes Road and the unformed legal road to the west of the peninsula. The purpose of this strip is to contribute to the protection of conservation values and enable public access to and along the coast and to enable public recreational use of the strip and the coast. All the prohibitions of Clause 2 of the Tenth Schedule apply to the strip; Clauses 3, 4 and 7 shall not apply, Clauses 5 and 6 shall apply.
 - b) No structures shall be erected within the esplanade strip without the written approval of Councils Reserves Manager. Approval may be granted subject to conditions.

Advice Notes:

The scheme plan submitted for 223 approval shall show a 20 metre wide strip on Lots 2 and 4.

Prior to 224 approval the Consent Holder shall provide documentation confirming the registration of the esplanade strip instrument adjoining the identified area of coastline on the balance title.

Esplanade Reserve

8. The Esplanade Reserve to vest shown as Lot 5 on **Plan A - RM080459** shall be 20.0 metres in width from MHWS and shall be shown on the scheme plan prior to section 223 approval.

Road to Vest

9. The areas where the formation of the Kaihoka Lakes Road formation extends into Part Section 40 Square 15 shall be shown as a separate allotment as Road to vest on the scheme plan prior to section 223 approval

Right-of-Way

10. The Right-of-Way shown on **Plan A - RM080459** shall be formed as follows:
 - i) A minimum lane width of 5.0 metres;
 - ii) A maximum gradient of 1:6;
 - iii) Two 1.0 metre side drains with concrete culverts;
 - vi) Two 500 mm wide metal shoulders;
 - v) Compacted basecourse surface;
 - vi) A concrete culvert with a minimum diameter of 375 mm at the Kaihoka Lakes Road crossing

Access to Building Location Areas

11. The access to the Building Location Areas within Lots 1, 2 and 3 as shown on **Plan A - RM080459** shall be formed as follows:
 - a) A maximum gradient of 1:5;
 - b) Compacted basecourse surface;
 - c) One side drain;
 - d) Concrete culverts;
 - e) Erosion protection at culvert outlets;
 - e) Total carriageway width of 3.5 metres.

The design and location of the accesses shall minimise the need for removal of mature trees forming part of the canopy as determined by a person with an appropriate horticulture qualification.

Wilding Pines

12. The wilding pine trees identified on **Plan C RM080459** shall be felled in stages so as to minimise damage to the existing indigenous vegetation. Where these pine trees are close to the building location areas they should be felled in stages into the Building Location Areas.
13. The remaining wilding pine trees within Lots 1 - 3 shall be poisoned.

View Shaft

14. The view shafts identified on **Plan C RM080459, Plan D RM080459 and Plan E RM080459** shall be established to retain 50% of the existing canopy, once the wilding pine trees have been removed in accordance with Condition 14, with the selection of trees to be removed identified on site prior to their removal by a registered landscape architect.

Advice Note: Clear felling within the view shafts identified on Plan C RM080459 is not permitted. Removal is to be limited to individual specimens only.

Vehicle Crossing Applications

15. Prior to any works being undertaken the applicant shall arrange to meet a representative of Councils Engineering Manager to carry out a site inspection to confirm the location of the access crossing for Lot 3 and to confirm the extent of bank cutting and or vegetation removal required to provide sight line visibility.

Engineering Plan

16. An engineering plan showing the location and heights of any bank cutting required within the Kaihoka Lakes Road reserve, the extent of vegetation removal required by Condition 15, the location of the accesses onto Kaihoka Lakes Road, scour protection at the outlet of the culverts, an erosion and sediment control plan and construction details for the right-of-way shall be submitted to Councils Engineering Manager for approval.

Engineering Works

17. All works shall be constructed in strict accordance with the Tasman District Council Engineering Standards and Policies 2008, or to the Tasman District Council Engineering Manager's satisfaction.

Engineering Certification

18. At the completion of works a suitably experienced chartered professional engineer or registered professional surveyor shall provide the Tasman District Council Engineering Manager with written certification that the works have been constructed in accordance with the approved engineering plans, drawings and specifications and any Council approved amendments.

Consent Notices

19. The following consent notices shall be registered on the certificate of title containing Lots 1 - 3 and the balance of CFR NL1A/711 pursuant to Section 221 of the Resource Management Act.

The consent notices shall be prepared by the applicant's solicitor and submitted to Council for approval and signing. All costs associated with approval and registration of the consent notices shall be paid by the consent holder.

Consent notices in accordance with conditions of this consent shall be placed on the allotments as they are created:

A. Building Location Restrictions

For Lots 1, 2 and 3 all buildings shall be located within Building Location Area identified on the Land Transfer Plan.

Water and effluent storage tanks shall be located within the approved Building Location Area identified on the Land Transfer Plan.

B. Building Area Restrictions

The total area of all buildings constructed on Lots 2 and 3 shall not exceed 200 square metres in area.

C. Building Height Restrictions

The maximum height of buildings on Lot 1 shall be 6.5 metres above ground level and for buildings on Lots 2 and 3 shall be 5.0 metres above ground level.

D. Building Foundations

The maximum depth of any cut and or fill to create a slab on ground foundation shall be 1.2 metres for Lots 2 and 3 with no earthworks taking place beyond the formed access and Building Location Area.

E. Engineering Conditions

Any recommendations listed within the engineering site certification required by Condition 22.

F. Native Vegetation Protection

The native vegetation on Lots 1 - 3 and the existing native vegetation on the balance area of CFR NL1A/711 (including Lot 4) and as identified on **Plan F RM080459** shall not be removed or cleared except as required for the construction of buildings, for the location of water storage tanks and the maintenance of driveways or rights-of-way. Clear felling within the view shafts identified on **Plan C RM080459** is not permitted.

G. Building Colour

The exterior of all new buildings (including water tanks) on Lots 1 - 3 shall be finished in colours that are recessive and which blend in with the immediate environment.

Buildings shall be finished in colours that meet the following standards:

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

* Based on BS5252:1976 (British Standard Framework for Colour Co-ordination for Building Purposes). Where a BS5252 descriptor code is not available, a sample colour chip equivalent to acceptable BS5252 colours is satisfactory.

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

The exterior surfaces of all buildings shall be non-reflective.

H. Plantings

All new plantings within Lots 1 -3 shall utilise local genetic stock naturally occurring within, and sourced from, this area.

I. Water Storage for Fire fighting

Any new dwelling constructed on Lots 1 - 3 shall be provided with a fire fighting water supply system that complies with SNZ PAS 4509:2003 - The NZFS Fire Fighting Water Supplies Code of Practice and Fire Sprinkler Systems for Houses NZS 4517:2010. This system shall be maintained.

J. Services

Elictricity and Telephone reticulation has not been provided as part of the subdivision created by RM080459. Any cabling installed for the provision of electricity and telecommunications services is required to be underground within Lots 1 -3, including those areas protected under Condition F of this consent notice.

K. Cultural Heritage

In the event of Maori archaeological sites (e.g. shell midden, hangi or ovens, garden soils, pit depressions, occupation evidence, burials, taonga) or koiwi (human remains) being uncovered, activities in the vicinity of the discovery should cease. The owner should then consult with the New Zealand Historic Places Trust's Central Regional Office and local iwi, and should not recommence works in the area of the discovery until the relevant Historic Places Trust approvals to damage, destroy or modify such sites have been obtained. It should also be noted that the discovery of any pre-1900 archaeological site (Maori or non-Maori) is subject to the provisions of the Historic Places Act and needs an application to the Historic Places Trust for an authority to damage, destroy or modify the site.

Engineering site certification

20. At the completion of works, a suitably experienced chartered professional engineer or registered professional surveyor shall provide the Tasman District Council Engineering Manager with written certification that the works have been constructed in accordance with the approved engineering plans, drawings and specifications and any approved amendments.
21. Prior to any approval under Section 224 of the Resource Management Act 1991, Council requires a statement confirming that those lots which have had earth fill placed on them both as part of this consent and from previous earthworks, and the retaining thereof, are suitable for residential development. The statement shall be made in terms of NZS 4431, Appendix 2. The statement shall include any retaining structures and be accompanied by compaction test results for the area of fill and be certified by geoprofessional.
22. Certification that a site has been identified on each new allotment suitable for the construction of a residential building shall be submitted from a geoprofessional. This certificate shall define on Lots 1 - 3 the area suitable for the construction of residential buildings and shall be in accordance with NZS 4404:2010 Schedule 2A. Any limitations identified in Schedule 2A shall be noted on the consent notice pursuant to Section 221 of the Resource Management Act 1991 prior to the issue of the Section 224(c) certificate, required by Condition 19. This consent notice shall be prepared by the Consent Holder's solicitor at the Consent Holder's expense and shall be complied with by the Consent Holder and subsequent owners on an ongoing basis.

CONDITIONS (RM100548)

9.2 Land Use Consent (RM100548) for the Construction of Dwellings in the Coastal Environment Area

Commencement Date and Lapsing of Consent

1. The commencement date for this consent shall be the issue date of the certificate of title for Lots 1 - 3 created under subdivision consent RM080459. Lapsing of this consent, subject to Section 125 of the Act, will apply five years after that date.

Building Location Restrictions

- For Lots 1, 2 and 3 all buildings shall be located within Building Location Area identified on the Land Transfer Plan.
- Water and effluent storage tanks shall be located within the approved Building Location Area identified on the Land Transfer Plan.

Building Area Restrictions

- The total area of all buildings constructed on Lots 2 and 3 shall not exceed 200 square metres in area.

Building Height Restrictions

- The maximum height of buildings on Lot 1 shall be 6.5 metres above ground level and for buildings on Lots 2 and 3 shall be 5.0 metres above ground level.

Building Foundations

- The maximum depth of any cut and or fill to create a slab on ground foundation shall be 1.2 metres for Lots 2 and 3 with no earthworks taking place beyond the formed access and Building Location Area.

Native Vegetation Protection

- The native vegetation on Lots 1 - 3 shall not be removed or cleared except as required for the construction of buildings within the approved building location areas, for the location of water storage tanks and the maintenance of driveways or right-of-way. Clear felling within the view shafts identified on Plan C RM100548 is not permitted.

Building Colour

- The exterior of all new buildings (including water tanks) on Lots 1 - 3 shall be finished in colours that are recessive and which blend in with the immediate environment.

Buildings shall be finished in colours that meet the following standards:

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

* Based on BS5252:1976 (British Standard Framework for Colour Co-ordination for Building Purposes). Where a BS5252 descriptor code is not available, a sample colour chip equivalent to acceptable BS5252 colours is satisfactory.

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

The exterior surfaces of all buildings shall be non-reflective.

Plantings

9. All new plantings within Lot 1 -3 shall utilise local genetic stock naturally occurring within, and sourced from, this area.

Water Storage for Fire fighting

10. Any new dwelling constructed on Lots 1 - 3 shall be provided with a fire fighting water supply system that complies with SNZ PAS 4509:2003 - The NZFS Fire Fighting Water Supplies Code of Practice and Fire Sprinkler Systems for Houses NZS 4517:2010. This system shall be maintained.

Services

11. Any cabling installed for the provision of electricity and telecommunications services is required to be underground within Lots 1 -3, including those areas protected under Condition F of this consent notice.

Review of Consent

12. Council may, during the month of August each year, review the conditions of this consent pursuant to Section 128 of the Resource Management Act 1991, to:
 - (a) deal with any unexpected adverse effect on the environment which may arise from the exercise of the consent;
 - (b) to require compliance with operative rules in the Tasman Resource Management Plan or its successor plan; or
 - (c) when relevant national environmental standards have been made under Section 43 of the Resource Management Act 1991.

ADVICE NOTES

1. Each residential dwelling is required to be serviced by a wastewater treatment and disposal system with stormwater control.
2. The applicant shall meet the requirements of Council with respect to all Building Bylaws, Regulations and Acts.

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

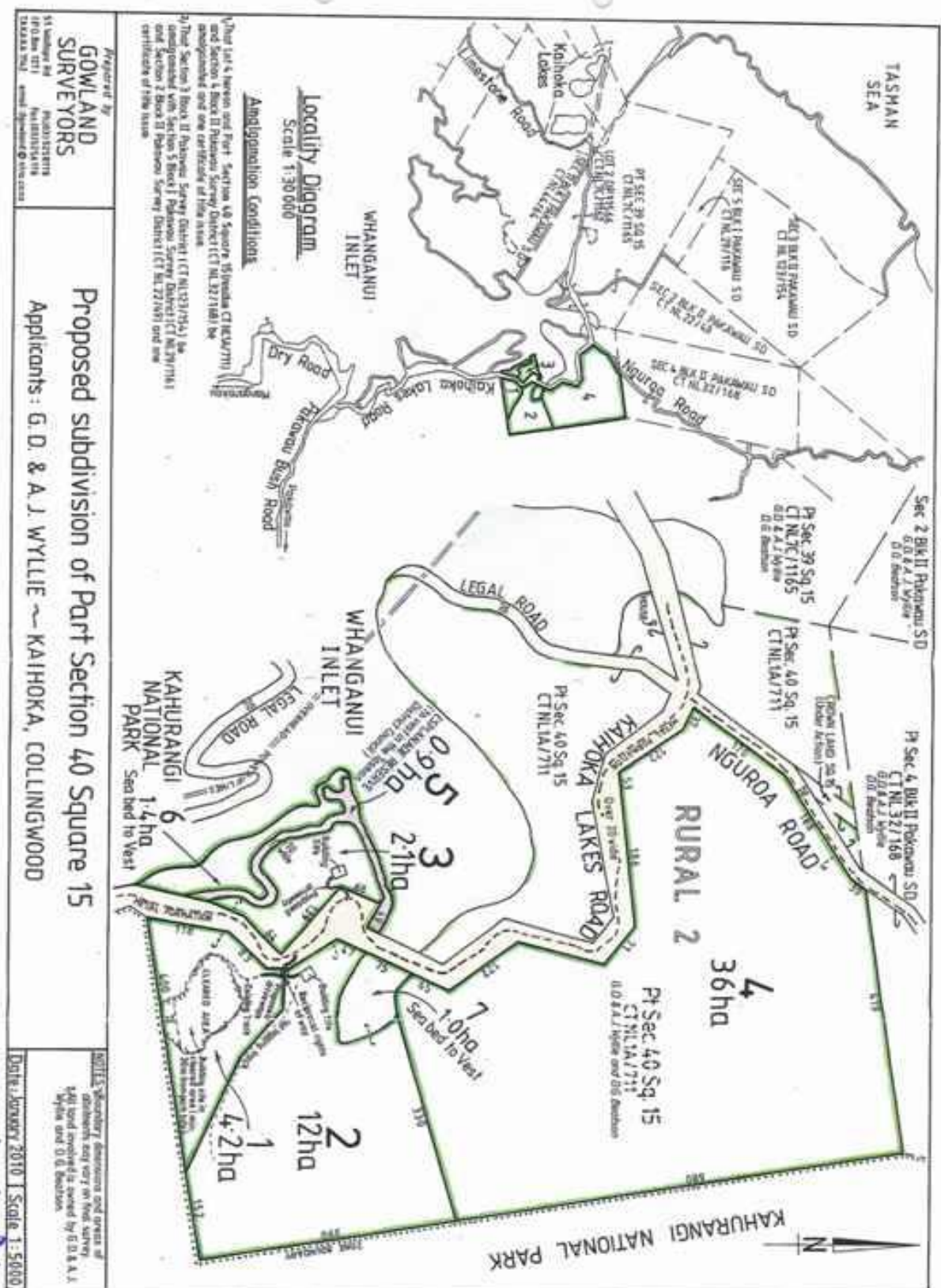
4. This consent is granted to the abovementioned Consent Holder but Section 134 of the Act states that such land use consents “attach to the land” and accordingly may be enjoyed by any subsequent owners and occupiers of the land. Therefore, any reference to “Consent Holder” in the conditions shall mean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

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

Council will not issue a Code Compliance Certificate until all development contributions have been paid in accordance with Council’s Development Contributions Policy under the Local Government Act 2002.

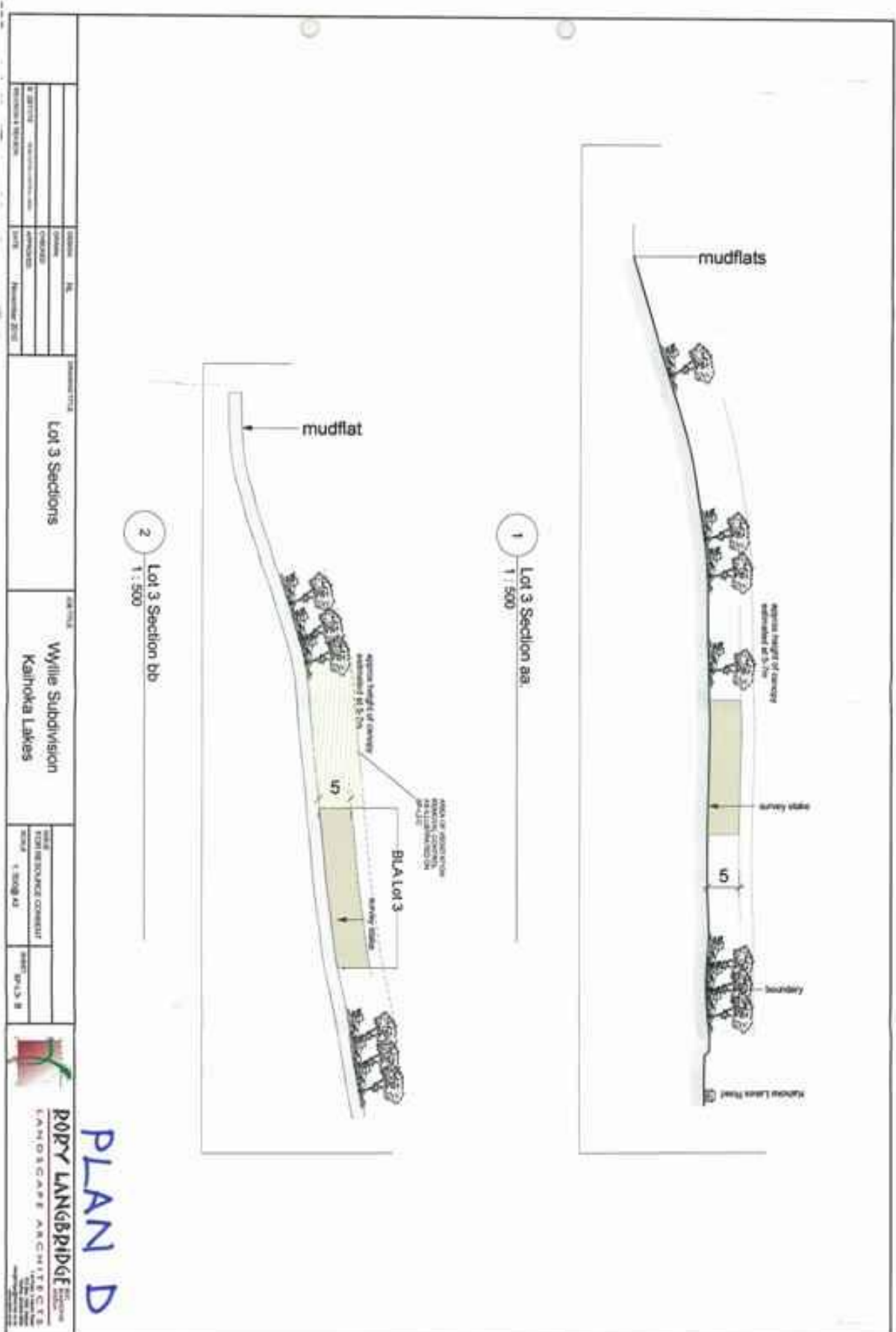
6. In the event of Maori archaeological sites (e.g. shell midden, hangi or ovens, garden soils, pit depressions, occupation evidence, burials, taonga) or koiwi (human remains) being uncovered, activities in the vicinity of the discovery should cease. The owner should then consult with the New Zealand Historic Places Trust’s Central Regional Office and local iwi, and should not recommence works in the area of the discovery until the relevant Historic Places Trust approvals to damage, destroy or modify such sites have been obtained. It should also be noted that the discovery of any pre-1900 archaeological site (Maori or non-Maori) is subject to the provisions of the Historic Places Act and needs an application to the Historic Places Trust for an authority to damage, destroy or modify the site.

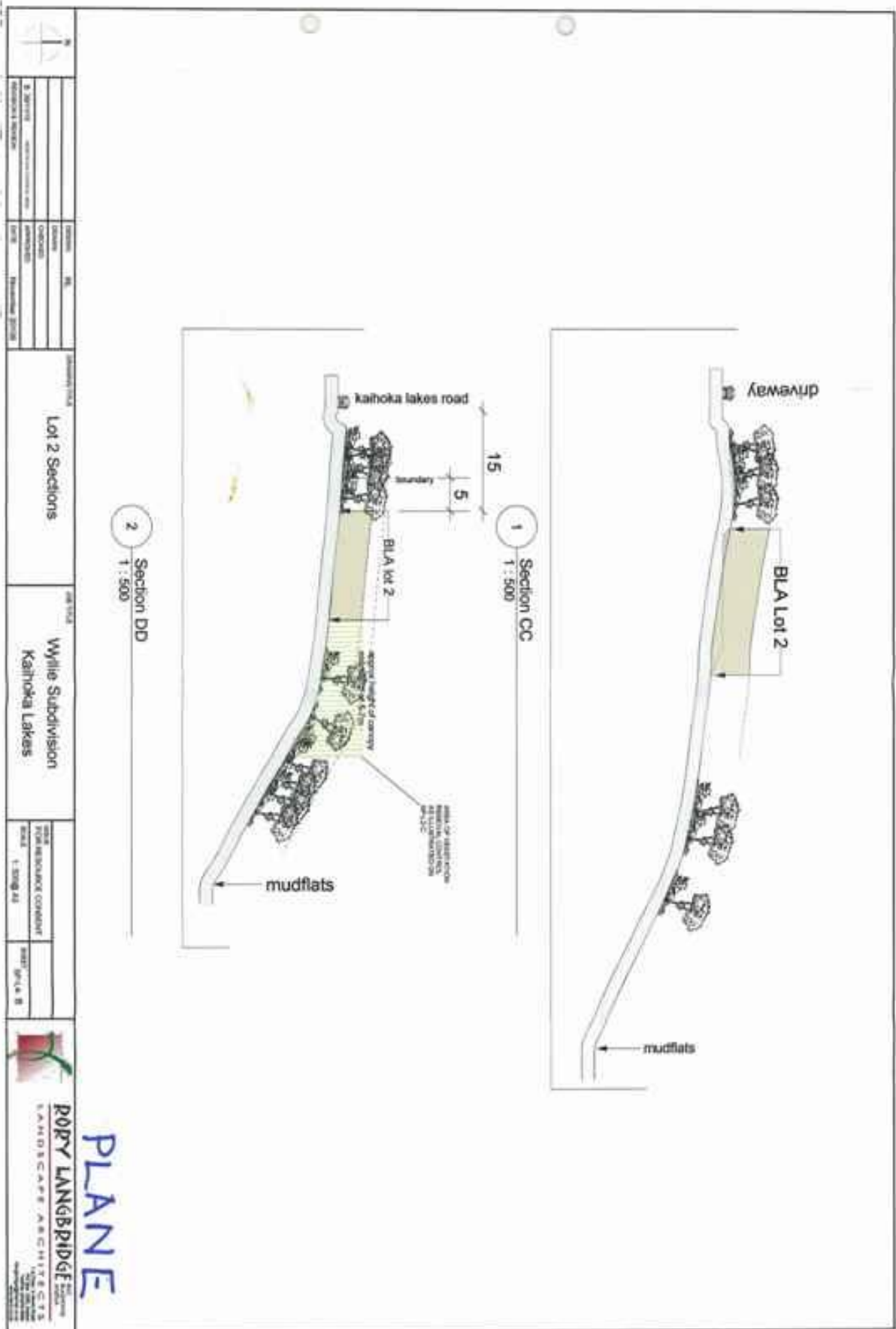
Wayne Horner
Consent Planner, Subdivision

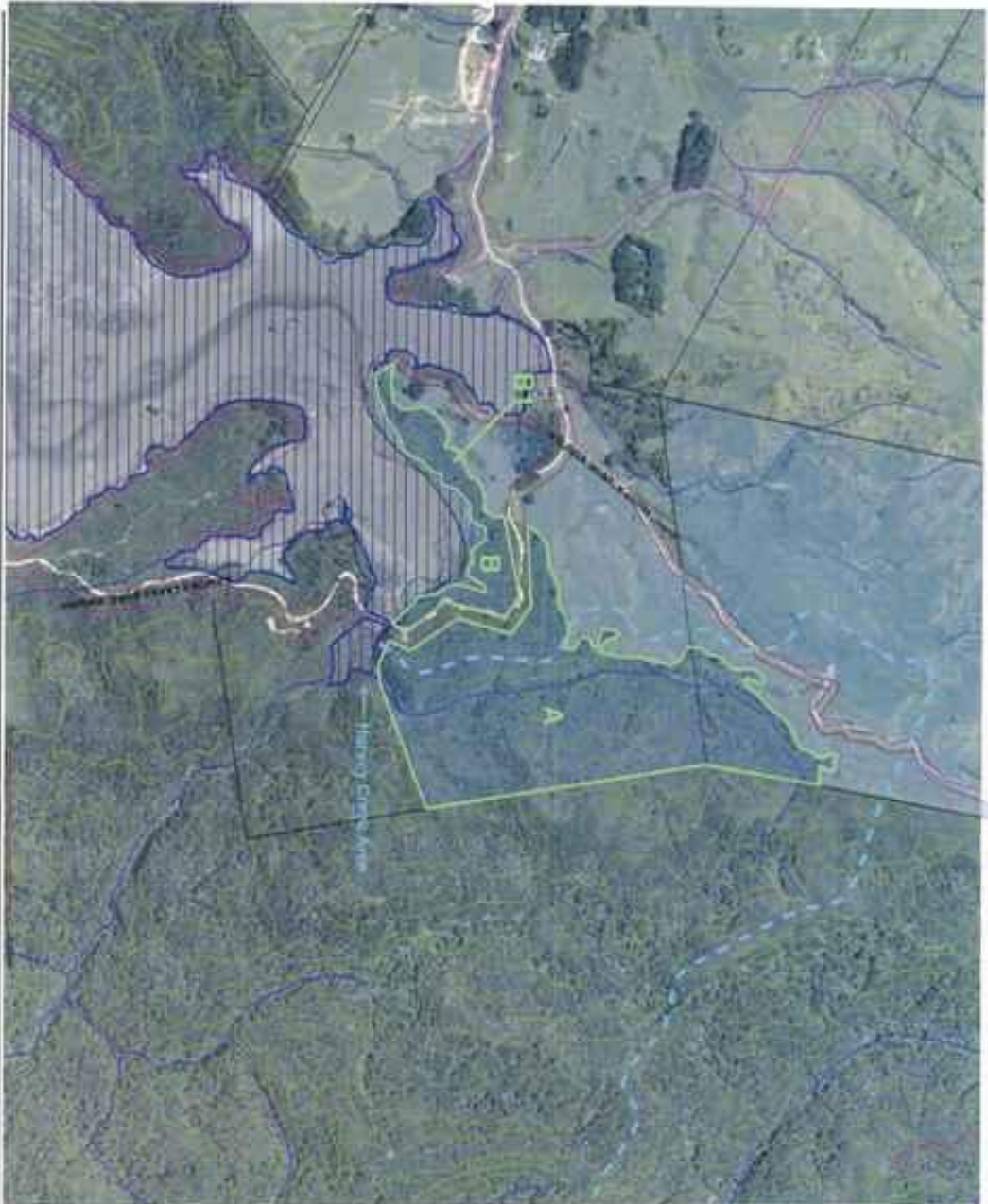












GD & AJ Wyllie and DG Beatson

- Legend
- A, B & B1** General area subject to Consent Notice
 - Approx. Catchment Boundary

Annexure B Sheet 2

16 June 2011

Scale as Shown

PLAN F



Background

1. My full name is Thomas Firth Carter. I am a Landscape Architect and Principal of Tasman Carter Limited, a landscape planning and design practice established in Nelson for over ten years.
2. I hold the qualification of Bachelor of Landscape Architecture (Hons) from Lincoln University. I am a Registered Landscape Architect. I specialise in assessing the landscape and visual effects of development within coastal, urban, rural and natural environments throughout Marlborough, Nelson Lakes, Tasman District, West Coast, Kaikoura, and Canterbury. I have assessed the landscape and rural character impacts of a range of subdivision activities within respective Rural Zones.
3. I confirm that I have read and understood the Code of Conduct for Expert Witnesses contained in the Environment Court Consolidated Practice Notes (2006). I have complied with the Practice Note when preparing this evidence. I confirm I have not omitted to consider any material facts known to me that might alter or detract from the opinions expressed in this brief of evidence.

Proposed Development

4. G D and A J Wyllie and D G Beatson (the Applicant) have applied for land use and subdivision consent applications to subdivide Pt Sec 40 Sq 15 into three rural residential parcels and Esplanade Reserve to vest as follows:
 - Lot 1, being 4.2 hectares
 - Lot 2, being 12 hectares
 - Lot 3, being 2.1 hectares
 - Lot 5, being 0.9 hectares (Esplanade Reserve to vest)
 - Lot 6, being 1.4 hectares (Seabed to vest)
 - Lot 7, being 1.0 hectares (Seabed to vest)
 - A balance parcel, Lot 4 being 36 hectares, to be held with the balance of NL1A/711 & Sec 4 Blk II (CTNL32/168).
5. Land use Consent is sought to erect a dwelling and undertake earthworks within the Coastal Environment Area on Lots 1-3.
6. I reviewed the landscape assessment prepared for the Applicant by Rory Langbridge Landscape Architects Limited and accompanied by Council Officer's Mr. Horner and Mr. Piggott and the Applicant Mr. Wyllie I made a site visit on 3 September 2010. The Applicant provided further information on the 16 November and a revised set of Conditions on 15 December 2010.

7. I have reviewed the reporting officer's draft conditions.

Subdivision Design

8. During the site visit it was evident that there were aspects of the proposed subdivision, which could potentially create adverse landscape and visual effects. That situation arose from:

- The location of the building area on the proposed Lot 1 which coincided with an open, prominent ridgeline;
- The Building Location Area on proposed Lot 2 within a deep gully and close to a catchment with high natural character;
- The Building Location Area on proposed Lot 3 in dense sub canopy and close to the edge of an escarpment crest overlooking the Inlet.

9. Through the further information request, detail was added to the subdivision design and controls volunteered by the Applicant. The additional information adequately describes the proposed activity, the potential landscape and visual effects that may arise and the likely effect of the mitigation.

Summary findings

10. In landscape terms a grant of consent will result in effects that are no more than minor. The proposed mitigation package will ensure that large areas of the subject site will be set aside and protected from disturbance in the long term. That is considered to be a positive outcome and is preferable to (although I know of no proposal to do so) the area being utilised for farming. Having said that, given the natural character of Harvey Creek and the wider landscape values of the area and the protection of those values required under Section 6(a) of the Act and the under the New Zealand Coastal policy Statement, certain native vegetation within Lot 4 and the balance of NL1A/711 & Sec 4 Blk II (CTNL32/168) should be protected.

11. New buildings will be located discretely within the subject site; the footprint on Lot 2 and 3 will be controlled to the extent that there will be development in appropriate places and forms, and within appropriate limits. Although signs of development will be evident at each driveway entry and potentially within certain confined view shafts development will not be highly visible or dominate from any location.

12. The submissions raise several issues including a suggested condition prohibiting the keeping of cats and dogs on proposed Lots 1, 2 & 3, which I support.

Landscape character and values

13. The sandstone and pebbly sandstone landforms surrounding the northeast side of Wanganui Inlet were deposited in a variety of near shore terrestrial environments as the sea flooded an ancient coastal floodplain and coastal valleys to form an interconnected system of tidal embayments¹. The pebbles embedded in the sandstone have since eroded out of the bedrock and now line the remote Inlet beaches.

¹ Geology of the Nelson Area. Johnson et al 1998.

“Whanganui Inlet is an ancient drowned graben, lying near the north-west tip of the South Island of New Zealand. It is 13 km long and up to 3 km wide and at low tide broad, intertidal sediment flats are exposed with only two channels, emanating from the centrally located estuary mouth, remaining entirely subtidal.

The inlet’s catchment is steep, rising to an elevation of 506m, with numerous streams draining the 216 km² of hinterland, dominated by temperate beech (Nothofagus) and kahikatea (Dacrycarpus dacrydoides).

Selective logging occurred within the catchment during the early to mid-20th century.

The catchment is steep, with multiple streams of similar sizes draining directly into the inlet along its entire coast. Fluvial processes dominate during periods of high precipitation; however, there is little distinction between these sediments and those of the intertidal flats. The estuary could therefore be considered a low-energy tide-dominated system. Sedimentation within Whanganui Inlet was rapid during the early to mid Holocene, with the most of the available accommodation space being occupied soon after sea level stabilized.

Since reaching modern elevations, the intertidal flats have remained relatively stable with minor reworking occurring in the uppermost parts through migration of small tidal channels.²

14. The Whanganui Inlet is identified in Schedule 25.1F of the Tasman Resource Management Plan as:

A large (2,774 ha) estuary surrounded by a combination of forest and pasture. Notable for intact vegetation sequences from estuary to hill top. Low level of permanent human impact. Important breeding site for vulnerable banded rail, banded dotterel and Australasian bittern. Rare alluvial indigenous forest-type present adjacent to estuary. Excellent variety of estuarine habitats and species. Area protected as Wildlife Management Reserve and Marine Reserve.

15. On the west side of the Inlet extensive farmed catchments extend to the Tasman Sea (Refer Photo 4). The rural area away from the Tasman Sea coast is characterized by

- Old Macrocarpa trees planted for shelter;
- Nested small and significant (e.g. the Kaihoka Lakes) fresh water lakes and wetlands; and
- Sparse homestead and working shed curtilage areas.

16. The catchments and short peninsulas, which extend out into the Inlet on the east side, are more natural. The peninsulas enclose and shelter an interconnected system of tidal mud filled embayments. The area has strong aesthetic values due to coastal setting including tidal movements and drainage of the surrounding landforms, which create intricate drainage patterns in the mud (Refer Photo 8). The aesthetic values are enhanced by the natural patterns including pebbled beaches, the natural

² Infill of a structurally controlled estuary: An example from southern Whanganui Inlet, New Zealand
David M. Kennedy, Ryan Paulik* and Michael Millart† School of Geography, Environment and Earth Sciences, Victoria University of Wellington, Wellington, New Zealand

sequence of marine / terrestrial vegetation and the interdependence between the terrestrial and marine areas.

17. Harvey Creek (named in the submissions) is the largest catchment at the north end of the Inlet. It extends west up to the ridgeline separating the Whanganui Inlet from Golden Bay. The catchment is completely forested and mostly contained within the Kahurangi National Park.
18. Within the Application Site, the lower reaches of the Harvey Creek catchment contain a significant wetland (Refer Photo 2). The natural successional vegetation patterns are evident from Kaihoka Lakes Road. The Kaihoka Lakes Road causeway is approximately 90 metres long, extends across the mouth of the catchment and modifies to some extent the natural flow of fresh water from the upper catchment and sea water from the estuary and the inter tidal plant communities seen from the Road and coastline.
19. On the north east side of Harvey Creek estuary within Lot 4 and NL1A/711 & Sec 4 Blk II (CTNL32/168) the catchment contains natural native vegetation sequences that extend up to the ridgeline with the farmed area further west. The native vegetation at various successional stages (including gorse and wilding pines) extends around the head of the Whanganui Inlet within Lot 4 and NL1A/711. Those vegetated areas (particularly the native vegetation) contribute to the natural character and aesthetic landscape values within the Harvey Creek and north Whanganui Inlet areas. The above-described features are mapped on Sheet 1 & 2 within Annexure B.
20. On the south side of the Harvey Creek estuary, within the Application Site there is a steep escarpment, which extends approximately up to 40 metres. Towards the Inlet the escarpment reduces in height and extends around the tip of what is a broad topped ridgeline. The ridgeline extends a short distance out into the Inlet to form a minor peninsula. The proposed Lot 3 Building Location Area is located here at the northern end of the ridgeline 55 metres from MHWS. Lot 2 is located above the Harvey Creek wetland just over 100 metres from MHWS. The proposed Lot 1 Building Location Area is Lot 1 is furthest from the coast, approximately 120 metres from MHWS.
21. Kaihoka Lakes Road climbs up onto the ridge crest adjacent the building site on Lot 2. Here there is a disused (over grown) vehicle access into the Harvey Creek catchment. The road runs down the crest of the ridge before dropping down to the causeway. There are significant views from the causeway into the Harvey Creek Estuary and to the Inlet on the west side, which contribute to the identity and visual and aesthetic character of the locality (Refer Photo 5).
22. The Harvey Creek Estuary and the shoreline around the end and along the base of the ridge display a natural transition across the terrestrial / marine interface both in terms of the landform and vegetation patterns (Refer Photo 6). These areas typically provide habitat for Banded Rail. Whanganui Inlet is the only site on the West Coast of the South Island where the threatened Banded Rail finds a home³. There is little sign of human activity except for the farming on the opposite side of the Inlet. The diversity of coastal landforms in the area includes at the southwest end of the ridge - a narrow peninsula (Refer Photo 7).

³ Westhaven Inlet Marine Reserve and Wildlife Management Reserve, DOC.

23. The vegetation on the Application Site and elsewhere displays the recovery of native vegetation patterns from past clearances and forestry activity. There remain a significant number of wilding pines. The vegetation is in transition from Kanuka 6 - 8 metres high to secondary broadleaf vegetation and dense fern under growth (Refer Photo 1). The vegetation, provided it is retained, significantly reduces the Application Site sensitivity to development. Within proposed Lot 1 in the area of the Building Site recent vegetation clearances have remained in sedge land reflecting the Pakihi like soil profile (Refer Photo 3).
24. Overall the coastline and Inlet display a high level of aesthetic coherence, natural character and interdependence between the surrounding peninsula and catchment landforms.

The Locality

25. For the purpose of assessment under TRMP rule 18.11.3.1(1) the locality (Landscape sub unit) is described by a line extending from the tip of the peninsula adjoining the Application Site on the south side, along the east side of that landform to Kaihoka Lakes Road. From there encompassing the land west of a line extending north east up over the ridge behind the clearing on Lot 1 and into Harvey Creek, encompassing most of the wetland and side slopes above it. Then, the farmland and Inlet area south of Kaihoka Lakes Road extending as far inland as the farm sheds on the Applicant's land. The identification of that locality reflects the areas from which the Application site can be both seen and from where the site extends some influence in terms of the existing and proposed activities and landscape elements.
26. I will return to Rule 18.11.3.1(1) later in my evidence,

Resource Management Act Provisions

Natural Character

27. Section 6(a) of the Act requires "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" as a matter of national importance.

"Natural Character⁴ is an intrinsic attribute of all coastal environments. The degree of naturalness depends on the extent of modifications to the ecosystem and the landscape / seascape. The greatest naturalness occurs where there is least modification. Natural character occurs irrespective of people's perceptions and ability to experience it."

28. Potential landscape and visual effects on natural character need to be considered in terms of the locality and natural features, having regard to the existing and permitted baseline development.
29. In relation to the matters contained in NZCPS Policy 13(2) a-h, on a seven-point scale from very low to very high, the natural character within the northwest Inlet is considered to be high (near natural) and could possibly be considered outstanding under NZCPS Policy 13(1)(a). However that assessment is reduced to some extent

⁴ Ministry for the Environment Natural Character Environmental Performance Indicator Study.

by the effect of the causeway, Kaihoka Lakes Road and farming on the west side of the Inlet on natural processes.

30. I will return to issue of natural character in relation to NZCPS 2010 Policies 13 and 14 later in my evidence.

Outstanding Natural Features and Landscapes

31. Under the Golden Bay Outstanding Landscapes Project, Council is identifying Outstanding natural features and landscapes within Golden Bay. That process identified the following:

“The Northwest Coast including Farewell Spit and the northwestern Golden Bay coastal strip north of the Ruataniwha Inlet display significant and particularly distinctive natural characteristics which incorporate a range of conservation, scientific, amenity, rural and historic values. In the context of the Tasman District and indeed the wider Nelson-Tasman area this landscape and its associated natural features are considered to be outstanding in terms of the provisions of Section 6 (b) of the RMA.”⁵

32. In terms of community involvement In the process:

“Council has worked with stakeholders, interest groups and the community to identify special landscapes in order to assist and inform the ONLF identification process.”⁶

33. The assessment underlying the Golden Bay Outstanding Landscapes Project utilises the amended Pigeon Bay factors listed in Policy 15(c) of the NZCPS. In relation to this application I see no particular reason to dispute that assessment finding.

34. Section (6)b requires the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development. The proposed mitigation measures will ensure that in relation to Section 6(b) of the Act and Chapter 9 of the TRMP (referred to below) development is appropriate.

New Zealand Coastal Policy Statement 2010

35. The over arching outcomes to be achieved are provided by Objective 1 and 2:

To safeguard the integrity, form, functioning and resilience of the coastal environment and sustain its ecosystems, including marine and intertidal areas, estuaries, dunes and land, by:

- *maintaining or enhancing natural biological and physical processes in the coastal environment and recognising their dynamic, complex and interdependent nature;*
- *protecting representative or significant natural ecosystems and sites of biological importance and maintaining the diversity of New Zealand’s indigenous coastal flora and fauna; ...*

⁵ Draft Golden Bay Outstanding Natural Landscapes and Features. Boffa Miskell Ltd, February 2011 (Para 3.1).

⁶ Draft Golden Bay Outstanding Natural Landscapes and Features. Boffa Miskell Ltd, February 2011 (Para 4.1).

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.*

36. Policy 1 defines the extent and characteristics of the coastal environment as:

- (a) the coastal marine area;*
- (c) areas where coastal processes, influences or qualities are significant, including coastal lakes, lagoons, tidal estuaries, saltmarshes, coastal wetlands, and the margins of these;*
- (e) coastal vegetation and the habitat of indigenous coastal species including migratory birds;*
- (f) elements and features that contribute to the natural character, landscape, visual qualities or amenity values⁷;*
- (h) inter-related coastal marine and terrestrial systems, including the intertidal zone; and (Emphasis added)*
- (i) physical resources and built facilities, including infrastructure, that have modified the coastal environment.*

37. Policy 6 states that in relation to activities in the coastal environment decision makers shall have regard for the following matters:

- (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 ... 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;*

⁷ "Amenity" under TRMP rule 18.11.3.1(1) is considered in terms of landscape and seascape values and, significant natural values.

Amenity under the Resource Management Act:

"Means those natural or physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes"

- (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;*
38. The proposed development pattern is not to be consolidation; rather it is new development above the permitted baseline. Policy 6 requires consideration of where development resulting in a change in character would be acceptable. Proposed development is located on a headland and ridgeline; landforms which can be sensitive to adverse visual impacts. Consideration as to how controls or conditions, as far as practicable and reasonable, can be applied to avoid adverse visual effects of development is required. Setting development back from the coastal marine area so as to provide buffer areas is identified as a possible approach to achieving that policy outcome. The proposed mitigation package will protect the natural character, open space and amenity values of the coastal environment and ensure that adverse visual effects are mitigated.
39. Policy 13 requires under (a) identification of areas with outstanding natural character at a district scale and identification of those areas within the Plan.
- (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.*
40. Those areas are not yet mapped in the Plan. Notwithstanding, adverse effects in those areas shall be avoided. Under 13(b) in all other areas of the coastal environment significant adverse effects shall be avoided and other adverse effects shall be avoided, remedied or mitigated i.e.
41. The matters to be considered when assessing natural character are contained in Policy 13(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.*

42. Under Policy 14 restoration or rehabilitation of the natural character of the coastal environment shall be promoted including by:
- (c) *Where practicable, imposing or reviewing restoration or rehabilitation conditions on resource consents and designations, including for the continuation of activities; and recognising that where degraded areas of the coastal environment require restoration or rehabilitation, possible approaches include:*
 - (i) *restoring indigenous habitats and ecosystems, using local genetic stock where practicable; or*
 - (ii) *encouraging natural regeneration of indigenous species, recognising the need for effective weed and animal pest management; or*
 - (iii) *...enhancing habitat for indigenous species; ...*
43. Proposed development will ultimately protect significant areas and sequences of indigenous vegetation outside the proposed Building Location Areas and driveways. That vegetation will continue its natural successional development and provide for the restoration of the natural character of the coastal environment in that regard. Under 14(c)(i) planting mitigation that is carried out should utilize local genetic stock where practicable and recognize the need for effective weed and animal pest management. The outcome will enhance habitat for indigenous species.
44. Policy 15 provisions provide the broad management framework in respect of natural features and natural landscapes. Council is currently assessing Golden Bay landscapes. Preliminary assessment indicates that Whanganui Inlet and the Application Site may be identified as an Outstanding Natural Landscape. Therefore adverse effects of activities need to be avoided. 15(c) provides a list of factors to be considered when identifying and assessing the natural features and natural landscapes of the coastal environment.

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;*
- (ix) *historical and heritage associations; and*
- (x) *wild or scenic values;*

45. Although the proposed development pattern (two additional Lots) is not considered to be consolidation, Policy 6 enables consideration of where development resulting in a change in character would be acceptable. Policy 6(h) enables consideration of how adverse visual impacts can be avoided in areas sensitive to such effects such as headlands and prominent ridgelines. The proposed mitigation includes setting development back from the Coastal Marine Area, controlling the building footprint on Lots 2 and 3 and the vegetation disturbance associated with house and driveway development. I consider that those measures and the mitigation proposed overall including in relation to Policy 14(c)(ii) encouraging natural regeneration of native vegetation within Lot 4 and NL1A/711 & Sec 4 Blk II (CTNL32/168) will ensure that the potential effects are in accordance with the high standard of mitigation required in relation to natural character and landscape values under Policy 13 (a) and (b), and under Policy 15 (a).

Tasman Resource Management Plan

46. The Application site is zoned Rural 2. Subdivision below 50 hectares is a discretionary activity. The following policies and objectives are considered relevant to the Application.

5.1.2 Objective (Site Amenity Effects)

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.

- 5.1.3.1 *To ensure that any adverse effects of subdivision and development on site amenity, natural and ... landscape values, ...are avoided, remedied, or mitigated.*
- 5.1.3.9 *To avoid, remedy, or mitigate effects of: (h) buildings and structures;*
- 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; 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.

47. Chapter 5 requires that adverse effects from the use of land on the use and enjoyment of other land and on the qualities of natural and physical resources are avoided, remedied or mitigated. That outcome in terms of subdivision and development, including buildings and structures is to be achieved by controlling adverse effects on site amenity, natural and landscape values. The natural character of the coastline including natural features such as headlands, the margins of estuaries and potentially much larger areas (landscape scale) are to be protected from the potential adverse effects of subdivision. Consideration in that regard is to be had in terms of a landscape features rarity, sensitivity to development, and aesthetic coherence of the area, level of interdependence and particular amenity value. Objective 5.3.2 identifies at a local level the maintenance and enhancement of the special visual and aesthetic character. That outcome is to be achieved by maintaining the open space, uncluttered quality of the rural area. In areas with significant natural or scenic amenity value the need to avoid, remedy or mitigate the adverse effects of the location, design and appearance of buildings. Features, which contribute to the identity and visual and aesthetic character of localities including vegetation; significant landmarks and views, shall be maintained and enhanced.

5.2.2 Objective

Maintenance and enhancement of amenity values on site and within communities throughout the District.

- 5.2.3.2 *To ensure adequate daylight and sunlight to residential properties, and rural dwelling sites.*
- 5.2.3.6 *To maintain and enhance natural ... features on individual sites.*

48. Objective 5.2.2 requires that on site amenity values are maintained and enhanced through the maintenance of natural features on individual sites and that the egress of sunlight is provided for.

5.3.2 Objective

Maintenance and enhancement of the special visual and aesthetic character of localities.

- 5.3.3.2 *To maintain the open space value of rural areas.*
- 5.3.3.3 *To avoid, remedy or mitigate the adverse effects of the location, design and appearance of buildings, ... in areas of significant natural or scenic, cultural, historic or other special amenity value.*
- 5.3.3.5 *To maintain and enhance features which contribute to the identity and visual and aesthetic character of localities, including:*

(b) vegetation;

(c) significant landmarks and views.

7.2.2 Objective (Rural Environment Effects)

Provision of opportunities to use rural land for activities other than soil-based production, including ...rural industrial activities..., while avoiding the loss of land of high productive value.

7.2.3.2 To enable sites in specific locations to be used primarily for ... rural residential purposes with any farming or other rural activity being ancillary, having regard to:

(c) outstanding natural features and landscapes, and the coastal environment;

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

significant natural values, including natural character, features, landscape, habitats and ecosystems;

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

8.2.2 Objective (Margins of Rivers, Lakes, Wetlands and the Coast)

Maintenance and enhancement of the natural character of the margins of wetlands 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.

8.2.3.1 To maintain and enhance riparian vegetation, particularly indigenous vegetation, as an element of the natural character and functioning of ... the coast and [it's] margins.

8.2.3.2 To control the destruction or removal of indigenous vegetation on the margins of ... the coast.

8.2.3.4 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 ... the coast.

8.2.3.7 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...

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

8.2.3.15 To limit the potential for the spread of fire in or to areas of natural character in the coastal environment and on the margins of lakes, rivers and wetlands.

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.*

49. The natural character of the margins of wetlands and the coast is to be maintained, enhanced and protected from the adverse effects of the subdivision, use, development including effects on landscape character and natural processes. That outcome is to be achieved by the maintenance and enhancement of riparian vegetation, particularly indigenous vegetation and the control of its removal. The adverse effects of buildings and the cumulative effects of subdivision and development is managed in a way that avoids where practicable, and otherwise remedies or mitigates any adverse effects on natural character, landscape character and amenity values of the coastal environment. The natural character of the coastal environment is to be preserved by avoiding sprawling or sporadic subdivision and development.
50. Policy 8.2.3.16 takes a broader strategic view of management of the location and design of future buildings in the coastal environment to ensure they do not adversely affect coastal landscapes or seascapes.

9.1.2 Objective (Landscape)

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.

9.1.3.3 *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).*

9.2.3.3 *To retain the rural characteristics of the landscape within 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.*

51. Outstanding landscapes and features are to be protected from the adverse effects of subdivision, use or development of land. Other land is to be managed so as to mitigate adverse visual effects, especially in the rural area and along the coast. In that regard skylines, ridgelines and shorelines; the unity of those landforms, their vegetation cover and the views of them shall not be adversely affected by structures. Subdivision and development, which would significantly alter the visual character of land in outstanding landscapes and adjoining Kahurangi National Park, should be discouraged. Rural characteristics are to be retained. Cumulative adverse effects of development on landscape values within rural areas are to be avoided, remedied or mitigated.

52. Under Policy 9.1.3.3(a) the proposed Lot 1 building site is relocated - away from a potential skyline location. Overall, proposed Condition 6.2(i) will ensure that Policy 9.1.3.3 (b) is achieved in the long term. I do not consider that individually, the new lots proposed within the Application contravene Policies 9.1.3.4 and 9.1.3.6 in any significant way. There will be some impact in terms of the 9.1.3.7 provisions that is likely to be minor or slightly more than minor, however those effects will diminish with time so as to be minor. The further information supplied satisfies 9.2.3.4. In respect of Policy 9.2.3.5, the Matters of National of Importance including Section 6a and 6b, the threshold requirement to avoid adverse effects under Policy 13(a) of the Coastal Policy Statement - the cumulative effects may be more than minor. However, in my opinion they will be mitigated so as to be no less than minor by the mitigation package including the very large area(s) within Lot 1, 2, 3 and within Lot 4 and NL1A/711 & Sec 4 Blk II (CTNL32/168) that will not be developed and where the native vegetation will be enhanced with pine tree removal and protected from disturbance in the long term.
53. Under Policy 8.2.3.4 and 8.2.3.7 the affects are likely to be more than minor. However within the subject area these effects will be localised and will diminish over time as buildings are absorbed into the bush.
54. Within Rural 2 Zone the discretionary activity status for building construction within the Coastal Environment Area requires assessment in terms of;
- The effects of the location, design and appearance of the building, including its scale, height, materials, landscaping and colour, on the amenity and natural character of the locality, having regard to effects on:*
- (a) *natural features;*
 - (b) *landscape and seascape values;*
 - (c) *significant natural values;*
 - (d) *the nature of any existing development;*
55. Specific aspects of the proposed building development need to be assessed in terms of their effects on the amenity and natural character of the locality. I described the extent of the locality earlier in my evidence.

Submissions

56. Landscape related issues raised in the submissions include:
- Visibility of the site in the context of the Kahurangi National Park and the coastal setting;
 - Potential adverse effects on important habitat for rare and endangered plant and animal species;
 - The landscape (and other) values associated with “two areas that are administered by the Department of Conservation, these being Kahurangi National Park (managed under the National Parks Act 1980) and Westhaven

(Wanganui Inlet) Wildlife Management Reserve (managed under the Wildlife Act 1953).⁸

- NZCPS provisions relating to Section (6)a and (6)b of the Resource Management Act.
- NZCPS provisions relating to consolidation of existing coastal settlements and sprawling or sporadic settlement patterns (Policy 6(1)(c)) and the consideration of those provisions against Policy 6(1)(f) “...where development resulting in a change in character would be acceptable.” And (Objective 6 Bullet Point 1) “the protection of the values of the coastal environment does not preclude use and development in appropriate places and forms, and within appropriate limits;”.
- The implications of the 2005 and 2010 Boffa reports and the Council’s Golden Bay Landscape Project on the identification of landscape value within the wider Kaihoka / Rakopi Coastal Area and the Landscape Sub Unit at the north end of Inlet, which includes the Application Site.

57. I support a condition prohibiting the keeping of cats and dogs on proposed Lots 1, 2 and 3.

Proposed Development with Mitigation

Proposed Lot 1

58. The Building Location Area is located to avoid a prominent ridgeline. It is unlikely, with the ridge excluded from development and the use of recessive roof and cladding colours volunteered under condition 6.2(d), that a structure will be visible from Kaihoka Lakes Road when travelling southeast.

59. Volunteered condition 6.2(i) will ensure that the ridgeline and its immediate flanks (east side) will regenerate to low-growing kanuka vegetation observed during the site visit within the adjoining Kahurangi National Park. The building location area beyond 100 metres of MHWS is large, allowing scope for the location of a Controlled Activity dwelling or several structures up to 6.5 metres in height - perhaps providing tourist accommodation.

Proposed Lot 2

60. Lot 2 encompasses 12 hectares of the north-eastern most catchment (Harvey Creek) adjoining the Whanganui Inlet. The Building Location Area is part of a gently sloping, vegetated spur crest transitioning abruptly to a steep coastal escarpment on the northeast side and a gully on the east side. Kaihoka Lakes Road passes close to the Building Location Area on the southwest side (15 metres) and is over 100 metres away from a causeway on the north side - leading to Kaihoka. The proposed Building Location Area is now located in relation to actual landforms on site. This indicates that the Building Location Area is set back between 15 - 20 metres from the escarpment crest and is located at the top of a steep, east-facing gully. Two pines will be felled northwards into the Building Location Area. There is a large area approximately 500m² within which, “...controls on vegetation removal apply. Clear

⁸ Submission of the Department of Conservation (RM080459 & RM100548)

felling in this area is prohibited, and removal is to be limited to individual specimens only with 50% of existing canopy to be retained."

61. The location and wording of the control on vegetation will limit visibility of the building from the lower reaches of the inlet including the Kaihoka Lakes Road causeway and provide views from the building site further up into the catchment. Volunteered conditions including a building height limit of five metres above existing ground level, recessive colours and a maximum built footprint of 200m² will provide recessive development on proposed Lot 2.

Proposed Lot 3

62. Lot 3 encompasses 2.1 hectares of the end of the landform spur adjoining the Whanganui Inlet. The area is a gently sloping, vegetated spur crest transitioning abruptly to a moderately steep coastal escarpment on the northwest side. Kaihoka Lakes Road passes close to the Building Location Area on the east side (20 metres) and is between 400 and 800 metres away from several southern vistas available from Kaihoka Lakes Road. The proposed Building Location Area is located in relation to actual landforms on site. This indicates that the Building Location Area is set back between 5 - 10 metres from the escarpment crest. Two pines will be felled southwards and one pine tree will be felled westwards into the Building Location Area. Three more pine trees (including one located within the Road Reserve) will be felled towards and along the driveway alignment. There is a large area - approximately 450m² within which the same controls on vegetation removal as Lot 2 apply. The location and wording of the control on vegetation should limit visibility of the building from the Inlet and more distant Kaihoka Lakes Road and permit views outwards. Further volunteered conditions including a building height limit of five metres above existing ground level, recessive colours and a maximum built footprint of 200m² will provide recessive development on proposed Lot 3.
63. There will be temporary effects following the pine tree removal. On Lot 3 this will open the vegetation canopy significantly. However, the bush subject to volunteered condition 6.2 (i), will regenerate to current height and density levels within approximately 5 - 10 years.

Lot 4 and the balance of NL1A/711 & Sec 4 Blk II (CTNL32/168)

64. The Harvey Creek catchment and side slopes above the Whanganui Inlet contain natural native vegetation sequences that extend up to the ridgeline with the farmed area further west. The native vegetation - at various successional stages (including gorse and wilding pines) extends around the head of the Whanganui Inlet within Lot 4 and NL1A/711. Those vegetated areas (particularly the native vegetation) contribute to the natural character and aesthetic landscape values within the Harvey Creek and north Whanganui Inlet areas. I have generally mapped on Sheet 2 the areas of vegetation that should be protected. That mapping should be verified, on the ground prior to finalizing the extent and locations of areas to be protected. The intention of the proposed protection of that vegetation is to protect and enhance the natural character within the Harvey Creek catchment, particularly the sequence of vegetation leading down to and within the wetland but also around the north end of Wanganui Inlet within the Application Site. Verification is required because some of the areas are affected by weed infestation (Refer Area B1 -Sheet 2) including gorse. Consideration by the Applicant and the Consent Authority needs to be given to that situation in relation to the Consent Notice and the on going farming activity.

Conclusion

65. The landscape sub unit at the north end of Whanganui Inlet is characterised by peninsulas, which enclose and shelter an interconnected system of tidal mud filled embayments. The area has strong aesthetic values attributed to transient patterns within the coastal setting such as tidal movements and drainage of the surrounding landforms. On the west side of the Inlet there are extensive farmed catchments, which extend to the Tasman Sea.
66. On a five-point scale from very low to very high, the natural character within the northwest Inlet is considered to be high and could possibly be considered outstanding under Policy 13(1)(a). However that assessment is reduced to some extent by the causeway, Kaihoka Lakes Road and farming on the west side of the Inlet.
67. In the context of the Tasman District and indeed the wider Nelson-Tasman area this landscape and its associated natural features are considered to be outstanding in terms of the provisions of Section 6 (b) of the RMA.⁹
68. The vegetation, provided it is retained, significantly reduces the Application Site sensitivity to development.
69. Proposed development will ultimately protect significant areas and sequences of indigenous vegetation outside the proposed Building Location Areas and driveways. That vegetation will continue its natural successional development and provide for the restoration of the natural character of the coastal environment in that regard.
70. The proposed mitigation package will protect the natural character, open space and amenity values of the coastal environment and ensure that adverse visual effects are mitigated.

Tasman Carter Ltd

Tom Carter

Registered Landscape Architect

⁹ Ibid



GD & AJ Wyllie and DG Beatson
Photo Points Plan





GD & AJ Wyllie and DG Beatson

Photo taken by Tom Carter 3.9.2010 (50mm lens)

Photo 1



GD & AJ Wyllie and DG Beatson
Photo taken by Tom Carter 3.9.2010 (50mm lens)

Photo 2



G.D. & A.J. Wyllie and D.G. Beatson

Photo taken by Tom Carter 3.9.2010 (50mm lens)

REP11-07-01

Photo 3



GD & AJ Wyllie and DG Beatson

Photo taken by Tom Carter 3.9.2010 (50mm lens)

REP/1077

Photo 4



G.D. & A.J. Wyllie and D.G. Beatson

Photo taken by Tom Carter 3.9.2010 (50mm lens)

Ref: 0100

Photo 5



G.D. & A.J. Wyllie and D.G. Beatson

Photo taken by Tom Carter 3.9.2010 (50mm lens)

Photo 6



G.D. & A.J. Wyllie and D.G. Beatson

Photo taken by Tom Carler 3.9.2010 (50mm lens)

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Photo 7



G.D. & A.J. Wyllie and D.G. Beatson

Photo taken by Tam Carter 3.9.2010 (50mm lens)

10/10/11

Photo 8



Balance parcel, Lot 4 being
36 hectares, to be held with the
balance of HL 1A/711 & Sec 4 Bk
II (CTML32/158)

Annexure B Sheet 1

16 June 2011
Scale as Shown



G D & A J Wyllie and D G Beatson

- Legend**
- A, B & B1** General areas subject to Consent Notice
 - Approx. Catchment Boundary

Annexure B Sheet 2

16 June 2011
Scale as Shown

TO: Wayne Horner
FROM: Dugald Ley, Development Engineer
DATE: 20 May 2011
FILE NO: RM080459
RE: **Subdivision Kaihoka Lakes Road - Three New Lots and Balance Title**

The above subdivision is located some 2.5 km along from the start of Kaihoka Lakes Road. Kaihoka Lakes Road is a gravel access road approximately 3.5 m wide, winding low speed road and carries on average 20-30 vehicles per day. It serves a number of farms and is access to the Kaihoka Lakes which has day visitors.

Kaihoka Lakes Road starts at the intersection with Dry Road and Pakawau Bush Road which leads back to Pakawau and Golden Bay. The last 1 km (approximately) of Pakawau Bush Road is unsealed to the above intersection.

Council supplies no other engineering infrastructure services other than the roading network into this area. It is likely that due to the topography, limited size of the lots and the soil conditions that high productivity from the land could not be achieved. Therefore, the most likely use will be residential development (possibly holiday homes) or some form of tourist development (if applied for in the future).

Residential lots are proposed at this site and I concur with the applicant that low traffic volumes will arise from this proposal. It is assumed that for a normal residential property in an urban area, ten vehicles movements on the adjoining roads will be generated per lot i.e. the house occupant, postal, services vehicles and the like.

For rural and rural residential properties this will reduce to approximately five to six vehicles per day. As the property is in a remote part of the region, trips will be wisely planned. I would agree that new trip movements on the Kaihoka Lakes Road will be in the vicinity of four vehicles per day, per lot.

With the existing traffic movements of Kaihoka Lakes rd being in the order of 25 to 30, then in my opinion the increase in traffic movements will have a less than very minor effect on the existing roads.

It is noted that parts of the existing road formation traverse off the legal reserve area. The applicant via their plans has shown various areas to vest as seabed and esplanade reserve. It is anticipated that also some areas (yet to be agreed upon) will vest as road to regularise the existing situation at the survey plan stage. Suitable conditions (if the application was to be approved) should be included along the lines of:

- Areas of the existing title should vest as “road to vest” without compensation and the areas agreed to by Council’s Transportation Manager prior to the issue of “223 Certificate”.

- Vehicle access to the new lots shall be located in acceptable positions to gain the maximum sight visibility in both directions.
- The exact location of Lot 3 shall be confirmed on site once bank trimming has taken place at the bend.
- The access from the carriageway to Lot 3 and the combined access to Lots 1 and 2 shall be formed to the boundary with compacted base course and leading to the building site at a maximum grade of 1 in 6.
- Power and Telephone to each lot.
- Access crossing application to be applied for
- DCs for Rooding for the extra lots.

Dugald Ley
Development Engineer

TO: Wayne Horner
FROM: Rosalind Squire, Planner, Community Services Department
DATE: 15 June 2011
FILE NO: RM080459
RE: Subdivision - GD & AJ Wyllie and DG Beatson - Kaihoka Lakes Road, Whanganui Inlet, Golden Bay

Background and Context

This memorandum summarises the issues with respect to the provision of esplanade reserves and strips in association with this subdivision proposal (See Figure 1). I am familiar with the application site, considered it in the wider context and make the following recommendations. The recommendations are made without prejudice, subject to Council approving the application.

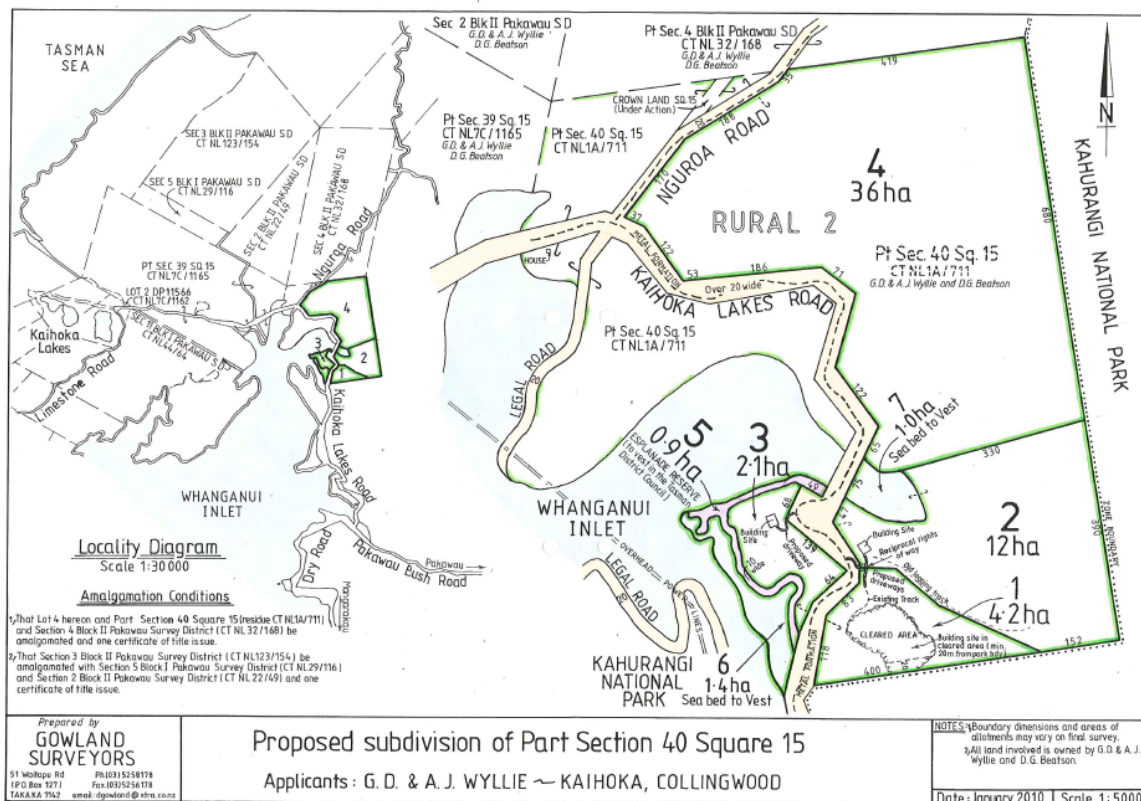


Figure 1: Subdivision Plan

The application includes the creation of three rural residential properties ranging in size from 2.1 to 36 hectares which are shown as proposed lots 2, 3 and 4 and a balance area all of which adjoin Whanganui Inlet. The Whanganui Inlet is a Wildlife Management Reserve which is managed under the Wildlife Act 1953 and administered by the Department of Conservation. The application also includes proposed lot 5 which is a 10 metre wide esplanade reserve and Lots 6 and 7 which are proposed as seabed to vest (Section 237A(1)(b) of the Resource Management Act 1991 now requires that these areas be shown on the survey plan as part of the common marine and coastal area).

Rules 16.4.2.1 and 16.4.2.2 of the Tasman Resource Management Plan are both relevant to this application as the proposal involves the creation of allotments adjoining the coastal marine area.

Rule 16.4.2.1 applies when Council considers whether or not it is appropriate to vest land as esplanade reserve or create an esplanade strip for proposed lot 3 as it is less than 4 hectares in area:

A resource consent is required. *Consent may be refused, or conditions imposed, only in respect of the following matters to which the Council has restricted its discretion:*

(1) *A 20 metre wide esplanade reserve will be taken for any of the purposes in Section 229 of the Act of:*

- *protecting conservation values;*
- *enabling public access*
- *enabling public recreation;*

unless the Council determines otherwise after consideration of:

(a) *Where, having regard to Section 229 and Part II of the Act, it would not be appropriate to set aside an esplanade reserve because:*

- (i) *in any working port area, there is a risk to security for activities that are permitted or authorised to operate in any part of the area that would otherwise be an esplanade reserve;*
- (ii) *in any working port area, there is a risk to public safety in any part of the area that would otherwise be an esplanade reserve;*
- (iii) *the land has little or no value in terms of the purposes of Section 229 of the Act;*
- (iv) *there is already adequate protection in place for any value the land may have for purposes in Section 229 of the Act.*

(b) *Whether a reserve of greater than 20 metres width is required for purposes in Section 229 of the Act, and the compensation payable for that additional land.*

(c) *Whether the subdivision is a minor boundary adjustment or relocation.*

(d) *Whether the subdivision is for public utility or infrastructure purposes.*

(e) *Whether an esplanade strip will achieve the purposes in Section 229 of the Act and is preferable because the location is one where there is a high likelihood of movement of the margin through erosion, inundation or land movement.*

- (f) *Whether any existing structure on land in the reserve entitlement affects the purposes in Section 229 of the Act, including consideration of the form and width of any reserve, access to and along it, and the use of it.*
- (2) *Whether, in setting aside or creating a reserve or strip, there is any need to restrict public access in order to:*
- *protect areas of significant indigenous vegetation and/or significant habitats of indigenous fauna;*
 - *protect Māori cultural values;*
 - *protect public health and safety;*
 - *ensure a level of security consistent with the purpose of a resource consent (or permitted activity); or*
 - *in other exceptional circumstances sufficient to justify the restriction notwithstanding the national importance of maintaining that access.*
- (3) *The assessment criteria set out in Schedule 16.3A.*
- (4) *The duration of the consent (Section 123 of the Act).*
- (5) *The purpose and timing of any review of consent conditions (Section 128).*
- (6) *Financial contributions, bonds and covenants in respect of the performance of conditions, and administrative charges (Sections 36 and 108).*

Rule 16.4.2.2 applies when Council considers whether or not it is appropriate to vest land as esplanade reserve or create an esplanade strip for proposed lot 2, 4 and the balance area as they are greater than 4 hectares in area:

A resource consent is required. *Consent may be refused, or conditions imposed, only in respect of the following matters to which the Council has restricted its discretion:*

- (1) *Whether any land is to be set aside as an esplanade reserve or esplanade strip for any of the purposes in Section 229 of the Act of:*
- *protecting conservation values;*
 - *enabling public access;*
 - *enabling public recreation;*
- and any compensation is to be paid for that land.*
- (2) *Whether, if a reserve or strip is to be set aside or created, there is any need to restrict public access in order to:*
- *protect areas of significant indigenous vegetation and/or significant habitats of indigenous fauna;*
 - *protect Maori cultural values;*
 - *protect public health and safety;*
 - *ensure a level of security consistent with the purpose of a resource consent (or permitted activity); or*

- *in other exceptional circumstances sufficient to justify the restriction notwithstanding the national importance of maintaining that access.*
- (3) *The assessment criteria set out in Schedule 16.3A.*
 - (4) *The duration of the consent (Section 123 of the Act).*
 - (5) *The purpose and timing of any review of consent conditions (Section 128).*
 - (6) *Financial contributions, bonds and covenants in respect of the performance of conditions, and administrative charges (Sections 36 and 108).*

The presumption that an esplanade reserve will be taken in Rule 16.4.2.1 reflects the matters of national importance contained in section 6 and the provisions in section 230 of the Act.

Section 6 of the Act requires that Council recognise and provide for the following matters of national importance:

- (e) *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:*
- (f) *The protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:*
- (g) *The protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna: and*
- (h) *The maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers:*

Rule 16.4.2.1 then specifies the exceptions which need to be considered where it would be inappropriate to vest a reserve. I don't consider subsections (a) (i), (iii), (iv) (c), (c), (d), (e) or (f) to be relevant to this application, however subsection (a) (iii) is.

The Whanganui Inlet is identified in Schedule 25.1F of the Tasman Resource Management Plan as:

A large (2,774 ha) estuary surrounded by a combination of forest and pasture. Notable for intact vegetation sequences from estuary to hill top. Low level of permanent human impact. Important breeding site for vulnerable banded rail, banded dotterel and Australasian bittern. Rare alluvial indigenous forest-type present adjacent to estuary. Excellent variety of estuarine habitats and species. Area protected as Wildlife Management Reserve and Marine Reserve

I consider that in this particular circumstance, due to the significant conservation values and to a lesser degree the public access values, it is appropriate to recommend the vesting of a 20 metre wide esplanade reserve adjoining the coastal marine area of proposed lots 3.

I also consider for the same reasons that it is appropriate to recommend the creation of a 20 metre wide esplanade strip adjoining proposed lots 2, 4 and adjoining the coastal margin of the balance area to the east of the legal road south west of Nguroa Road. There is discretion in Rule 16.4.2.2 to vest an esplanade reserve or create an esplanade strip on allotments greater than 4 hectares and one of the matters to consider when making the decision is compensation. Compensation is payable unless the applicant agrees otherwise. The applicant has advised that they will be seeking compensation.

The application as notified includes the vesting of a 10 metre wide esplanade reserve (lot 5) adjoining the coastal boundary of proposed lot 3. The application states the following:

It is proposed that this reserve be reduced from 20m to 10m due to the topography of the site, in particular along the southern side which is a cliff. The reduction is also being sought as physical access to the Inlet is obtained during mid to low tide when the mudflats are exposed for approximately 60% of the time. This has been the common form of access, and was in fact the old road formation prior to the construction of the causeway. It is therefore considered that the proposal will not hinder access to the coast.

These comments are acknowledged. However, if a reduced width of reserve or strip is taken it reduces the degree of protection of the significant indigenous forest-type present adjacent to estuary and estuarine habitats and species and reduces future options for providing for public access in a manner which minimises disturbance of sensitive coastal habitats and birds. Although it is acknowledged that Council has no plans to provide for public access at present it is not recommended that those future options are foreclosed.

Recommendation

If Council is of a mind to approve the application the following conditions are recommended:

Esplanade Reserve

The Esplanade Reserve to vest shown as Lot 5 on **Plan A - RM080459** shall be 20.0 metres in width from MHWS and shall be shown on the scheme plan prior to section 223 approval.

Esplanade Strip

An instrument shall be registered over Lot 2 and Lot 4 and the balance of CFR NL1A/711 adjoining the coast between Kaihoka Lakes Road and the unformed legal road to the west of the peninsula. The instrument shall provide for the creation of an esplanade strip in favour of Tasman District Council in accordance with the following:

- a) An esplanade strip 20 metres wide shall be created over Lot 2 and Lot 4 and the balance of CFR NL1A/711 between Kaihoka Lakes Road and the unformed legal road to the west of the peninsula. The purpose of this strip is to contribute to the protection of conservation values and enable public access to and along the coast and to enable public recreational use of the strip and the coast. All the prohibitions of

Clause 2 of the Tenth Schedule apply to the strip; Clauses 3, 4 and 7 shall not apply, Clauses 5 and 6 shall apply.

- b) No structures shall be erected within the esplanade strip without the written approval of Councils Reserves Manager. Approval may be granted subject to conditions.

Advice Note:

1. The scheme plan submitted for 223 approval shall show a 20 metre wide strip on lots 2 and 4.
2. Prior to 224 approval the Consent Holder shall provide documentation confirming the registration of the esplanade strip instrument adjoining the identified area of coastline on the balance title.

Rosalind Squire
Forward Planner, Reserves

Wastewater, stormwater and earthworks assessment for Wyllie Subdivision: RM080459

This report is a short analysis of the wastewater, stormwater and earthworks proposed as part of the subdivision RM080459. Details can be found in Wayne Horner's staff report for consent RM080459.

Summary

I have visited the sites in question and it would be possible to construct on site wastewater systems on each property lot that would meet the Permitted Activity Rule 36.1.2.4.

Stormwater runoff should not be significant from each of these developments. The water supplies will be gathered from the roofs. Each lot will retain lots of vegetation cover. The drive ways are quite small and are likely to be unsealed. It is very feasible to meet the Permitted Activity Stormwater Rule 36.4.2.1.

It is unclear if an earthworks consent is required. It is recommended that the conditions of the subdivision RM100459 requires a sedimentation and erosion control plan be supplied as part of the engineering plans. This sedimentation and erosion control plan shall be approved by the Engineering Manager prior to undertaking the works. The subdivision consent will need to address the clearance (if any) of indigenous woody vegetation from each of the lots.

Site Visit

On the 3 September 2010 I undertook a site visit with Wayne and Tom Carter. We walked over the general area and I dug test pits and augured several soil samples from each of the sites at locations where I thought the wastewater disposals area may be placed.

The details of the soils can be found in the following wastewater section in Table 1

Wastewater

The report by Land and River does not really provide enough detail to issue any discharge consents for the disposal of effluent to land. While composting toilets are a possible option as suggested in the application 6.29, however, these are not to everyones taste and there is still the urine to dispose of to land along with the greywater.

I accept what the applicant states that in some locations the depth to groundwater is less than 0.5 metres. However there is nothing in the rules that does not let the applicant build up the area where the wastewater may be disposed. Mounding an area out of local materials or sand from other areas of the larger property would provide areas where the wastewater could be disposed of to land.

During the site visit I dug test pits and augured several soil samples from each of the sites at locations where I estimated the wastewater disposals area may be placed.

It is difficult to determine the detail of the wastewater disposal system until the house design is determined. The loading rate for wastewater is determined by the number of habitable rooms in the dwelling. Thus small 2 bedroom bach will need a much smaller wastewater system than a large 6 bedroom dwelling.

The Permitted Activity Rule separation distances to the coast are achievable and will be through significant humus and vegetation coverage. If the wastewater is discharged to ground it will not cause any significant adverse effects on the adjoining estuary.

Table 1: Site and soil assessment for each of the proposed lots.

	Site	Soil	Design implications
Lot 1	<p>Large lot with gentle slope around the building area</p> <p>Plants were characteristic of those found in wetlands suggesting very little drainage</p>	<p>Light brown soil to 30 cm Sandy clay 30-50 cm with mottling Dark yellow hard pan at 50 cm Hard ring sound when dug.</p> <p>I was unable to dig through the confining layer Discussions with the Soil Scientist Andrew Burton at TDC suggests that this was the sandstone bedrock.</p> <p>Soils were wet to the surface</p>	<p>It will require specific design.</p> <p>The design will relate to the loading, until the design loading can be determined the sizing of the system is impossible</p> <p>It is likely that a mounded wastewater system will meet the Permitted Activity Rule 36.1.2.4 for the disposal of wastewater to land.</p>
Lot 2	<p>Build area flat, with a steep slope towards the inlet</p> <p>Coastal scrub</p>	<p>Brown top soil depth 0 to 30 cm looks like some earthworks had occurred previously on site</p> <p>Yellow sandy clay >30cm No mottling present Damp soil profile Road cutting suggest the clay layer is quite deep.</p> <p>Vegetation does not suggest a confining layer as found in Lot 1</p>	<p>Less challenging site than lot 1.</p> <p>Several potential wastewater systems will meet the Permitted Activity Rule 36.1.2.4 for the disposal of wastewater to land.</p>
Lot 3	<p>Gentle sloping headland with, a step down towards the coast. A second coastal flat was below the site before coming to the intertidal area.</p> <p>Regenerated coastal forest with several large pine trees</p>	<p>30-40 cm dark soil - Cat 3 Clay Yellow brown - Cat 4 or 5 no mottling present No groundwater present to 1 metre Soil profile quite dry</p>	<p>Simplest of the three lots. Likely that a basic septic tank will work on this site assuming the house is not too large (ie less than 5 bedrooms)</p>

See relevant photographs on the next page.

In summary I have visited the sites in question and it would be possible to construct on site wastewater systems that would meet the permitted activity rule 36.1.2.4. Subject to design at building consent stage. The potential adverse effect from the discharge of wastewater to land will be no more than minor. The effect of the discharge on the coastal waters will be less than minor.

Lot 1 wetland plants



Road cutting close to lot 2



Test pit on lot 3, good soil for waste disposal



Stormwater

The land is zoned Rural 2 where the Permitted Activity Rule 36.4.2.1 permits the discharge of stormwater subject to conditions.

Key site details:

- All the sites are vegetated.
- The proposal limits the hard stand areas on each of the lots
- The stormwater from all the sites will flow down into the estuary through undisturbed dense vegetation
- Water from the roofs will be collected for drinking via water tank(s)
- There is unlikely to be any significant sources of contamination of stormwater on the sites.

The highest risk of erosion and sedimentation is during the earthworks, given the small scale of the earthworks and the vegetative cover combined with the overland flow distances the risks from the earthworks are low.

Nothing in the application suggests that the future owners will not be able to meet the Permitted Activity Rule 36.4. 2.1.

The stormwater design for the dwelling will be assessed as part of the building consent process. This will ensure it meets the Permitted Activity Rule, or require the applicant to obtain resource consent.

Overall the risks to the receiving waters of the estuary are very low from the stormwater from these proposed lots.

Earthworks.

As part of the subdivision the applicant will form the track leading to the building sites.

The relevant permitted activity rule is 18.5.2.1. The most restrictive conditions are the following:

- No earthworks are proposed with 50 metres of the coastal marine area adjacent to the Whanganui Inlet.
- No earthworks are undertaken within 200 metres of the coastal marine area, that is: more than 1000 square metres in any 12 month period; and in a location adjoining any area with national or internationally important natural ecosystem values listed in Schedule 25.1F

The currently proposed sites and tracking are more than 50 metres away from the coastal marine area.

It is unclear if the required access way formations will exceed the 1000 square metres within a 12 month period. To avoid the uncertainty in this matter it is recommend that the conditions of the subdivision RM100459 requires a sedimentation and erosion control plan

be supplied as part of the engineering plans. This sedimentation and erosion control plan shall be approved by the Engineering Manager prior to undertaking the works.

It is unclear how much if any indigenous woody vegetation may be cleared as part of the formation of the driveways or building sites. The Destruction or Removal of Indigenous Vegetation (Permitted Activity Rule 17.6.5.1) does not permit the removal of woody indigenous vegetation in the Coastal Environment Area. The clearance of the vegetation is a Restricted Discretionary Activity (Rule 17.6.5.5). It is my understanding that this is being addressed as part of the subdivision consent RM100459.

Leif Pigott

Coordinator- Natural Resource Consents