

**BEFORE**

An Independent Commissioner  
appointed by Tasman District Council

**IN THE MATTER**

of the Resource Management Act 1991

**AND**

**IN THE MATTER**

of an application by CJ Industries Ltd  
for land use consent RM200488 for  
gravel extraction and associated site  
rehabilitation and amenity planting and  
for land use consent RM200489 to  
establish and use vehicle access on an  
unformed legal road and erect  
associated signage



**THIRD SUPPLEMENTARY EVIDENCE OF TIMOTHY GEORGE CORRIE-  
JOHNSTON  
FOR CJ INDUSTRIES LIMITED  
(CORPORATE AND OPERATIONS)**

**9 March 2023**

**1. INTRODUCTION**

1.1 My full name is Timothy George Corrie-Johnston.

1.2 I am Site Manager for CJ Industries' operations base at Hau Road and for all of CJ Industries' quarries (two at Riwaka, one at Marahau, and Douglas Road, Motueka). If this application is consented I will be site manager for the Peach Island Quarry. I am authorised to provide this evidence on behalf of the applicant, CJ Industries Ltd. I set out my qualifications in my brief of evidence dated 15 July 2022.

1.3 I live onsite at 134 Peach Island Road with my family. I purchased the property in 2019. I have a drinking water bore on my property.

1.4 In this statement, I provide supplementary evidence in response to Minute 6 on:

(a) Sources of clean fill

- (b) Locations for inspecting and testing clean fill
- (c) Clean fill handling facilities and procedures
- (d) Hau Road site – authorised activities

## 2. EVIDENCE

### Sources of clean fill

2.1 CJ Industries has a range of sources of clean fill available to it:

- (a) It owns, and holds resource consent (RM170876) authorising, a hard rock quarry at 142 Riwaka Valley Left Branch Road, Riwaka (Drummonds). Overburden produced from quarrying this site exceeds the volume needed for recontouring the site. A copy of RM170876 is **attached**.
- (b) CJ Industries has an agreement with the landowner, and resource consents have been issued (RM940151, NN940190 and NN940191), authorising a quarry at Moss Road, Riwaka. Overburden produced from quarrying this site exceeds the volume needed for recontouring the site. A copy of RM940151, NN940190 and NN940191 is **attached**.
- (c) CJ Industries owns a quarry at 44 Takaka Hill Highway that has existing use rights authorising quarrying. CJ Industries is in the process of obtaining a discharge consent for stormwater runoff at this site. Overburden produced from quarrying this site exceeds the volume needed for recontouring the site.
- (d) CJ Industries operates a civil construction business division. It is contracted to undertake bulk earthworks (including ground recontouring and installation of 3 waters and roading infrastructure) at large subdivision sites around the Tasman District. Its services include removal of surplus material generated by earthworks.
- (e) The applicant's civil works division also assists with roading maintenance, such as land reinstatement following slips. Its services include removal of surplus material from reinstatement sites.

2.2 The volume of clean fill available to CJ Industries is far more than the volume required at Peach Island.

### **Locations for inspecting and testing clean fill**

2.3 In my primary evidence, I stated that clean fill will be brought to Hau Road, where it will be inspected visually and additional testing as specified in the GMP carried out. I had in mind clean fill supplied by third parties and from uncontrolled sites (such as slips) where CJ Industries could not separately stockpile and secure the clean fill while testing is undertaken.

2.4 Where CJ Industries has full physical control of a clean fill source site, the material can be separately stockpiled, inspected and tested at the source site. The material would not need to be (and would not be) brought to Hau Road.

2.5 In addition, material from a CJ Industries' operated quarry would not need to be brought to Hau Road, tested there, then carted to Peach Island. Testing can occur at the quarry site itself.

2.6 Having given further thought to the different categories of clean fill source and the most efficient method and location for storing, inspecting, testing and transporting the clean fill, I have worked with Mr Nicol to produce a Standard Operating Procedure that provides additional details specifying how clean fill must be managed in those different source scenarios. The intention is that the Standard Operating Procedure will be attached to and form part of the Groundwater and Clean Fill Management Plan ("GCMP"). This will be shown in the revised draft GCMP that the applicant is due to file.

### **Clean fill handling facilities and procedures**

2.7 Minute 6 states that when the site visit was undertaken on 9 December 2022, the Commissioner was shown where clean fill screening, handling and stockpiling would be undertaken, and there was no facility in place at the time of the site visit.

2.8 The facility at Hau Road will be an area where clean fill is stored in stockpiles, separated by moveable concrete block barriers. Vehicles that are dropping off or collecting clean fill will be able to manoeuvre around the stock piles.

2.9 The facilities and procedures for each clean fill source will be further detailed in the revised GCMP to be filed by CJ Industries. I confirm that the revised procedures are understandable and able to be implemented from an operations perspective.

**Hau Road site – authorised activities**

2.10 CJ Industries has an existing facility at Hau Road. Operations at the Hau Road site include stockpiling and processing quarry products from all of CJ's quarries (aggregate and hard rock). There are existing truck movements associated with transporting those products to and from Hau Road.

2.11 Part of the Hau Road site is zoned Industrial, and part is zoned Rural 1. An entity related to CJ Industries – the MG and EM Corrie-Johnston Family Trust - holds a resource consent (RM070640) authorising industrial activities that are associated with its operations on the Industrially zoned part of the site. A copy of RM070640 is **attached**.

2.12 My understanding is that CJ Industries could store clean fill at Hau Road now, regardless of whether the applications for resource consent for the Peach Island quarry are granted.

Tim Corrie-Johnston

9 March 2023



## RESOURCE CONSENT RM170876

Pursuant to Section 104B and Section 127 of the Resource Management Act 1991 ("the Act"), the Tasman District Council ("the Council") has granted resource consent to:

### ***CJ Industries Ltd***

(hereinafter referred to as 'the Consent Holder')

Transferred from Owen Drummond and Hugh Drummond on 21 August 2019

**Activity authorised by this consent:** To operate a hard rock quarry, including the mechanical crushing and storage of material on site.

### **Location details:**

Address of property:	142 Riwaka Valley Left Branch Road, Riwaka
Legal description:	Lot 9 DP2149
Certificate of title:	NL3B/1319
Valuation number:	1933004200
Location co-ordinates:	Easting: 1592747 Northing: 5455181 (NZTM)

### **CONDITIONS**

- 1 The quarry operation shall be confined to the areas shown on the attached and labelled RM170876 Plans A and B dated 19 October 2017.
- 2 The native bush on the northern and southern sides of the quarry area within 5m of the banks of the respective creeks shall not be disturbed.
- 3 A belt of trees not less than 20 metres wide shall be maintained along the northern side of the quarry immediately below the working area.
- 4 Only surplus overburden material from the quarry may be spread on the stony paddock identified on the aerial photograph under Condition 1. Surplus overburden material may also be spread on quarry benches to aid possible future plantings.
- 5 The overburden site shall be banded to prevent discharge to run-off water contaminated by sediment to the Riwaka South Branch River and to prevent erosion of the dumped material by the river. Bunds shall be adequately compacted, covered with topsoil and appropriately vegetated. Overburden stockpiles shall be contoured and appropriately planted within 6 months and be no higher than the adjacent South Branch Road.

A buffer strip of not less than 5 metres shall be retained as a riparian strip between the Riwaka South Branch River and the bund and a buffer strip of not less than 5 metres retained between dumped material and other streams on the site.

- 6 That the operating hours of the quarry shall be limited to between 7.00 am and 6.00 pm Monday to Friday and 7.30 am to 1.00 pm Saturday. The quarry shall not be operated outside of these hours nor on Sundays and public holidays, nor within the period 24 December to 25 January inclusive.

Note: Contractors involved in carting material from the quarry should be informed of school bus times by the applicant and asked to avoid using the Riwaka Valley Road at these times.

- 7 All blasting shall be carried out only on a Tuesday and/or a Thursday between the hours of 2.00 pm and 4.00 pm and no blasting shall take place between the 24 December and 1 February in the following years inclusive.

- 8 A permanent warning sign and flag holders shall be erected at the first gate on Riwaka South Branch Road and shall read:

"500 METRES TO DRUMMOND QUARRY - RESTRICTED ACCESS BLASTING IS IN PROGRESS WHEN SIREN IS SOUNDED AND WHEN RED FLAG IS FLYING ON TUESDAYS OR THURSDAYS BETWEEN THE HOURS OF 2.00 PM AND 4.00 PM"

The size of the sign should be 1.2 metres square and should not be similar to any road traffic sign. In addition, the sign must either be removed from 24 December to 25 January inclusive or indicate that the quarry is closed during that period.

- 9 Any blasting is to be proceeded by a siren warning activated at 10 and 5 minutes before detonation. When blasting is to be carried out a red flag shall be flown from each of the flag holders mentioned in Condition 8 above.

- 10 The quarry access road to be upgraded by constructing competent water tables with culvert discharge at approximately 70m intervals. Culvert entries to have bagged headwells and discharge outlets are to be extended at least 2m clear on the downslope side. Some means of scour prevention at the outlets is to be provided and maintained.

- 11 The entrance to the quarry access road shall be opened up and maintained to improve intervisibility along Riwaka South Branch Road to the satisfaction of the District Transport Engineer.

- 12 The quarry access road shall have a gate fitted at the intersection with the South Branch Road and shall be recessed into the property for a distance sufficient to allow vehicles to pull off the South Branch Road. The gate shall be fitted with a suitable chain and padlock.

**Advice Note:**

Conditions that have been satisfied as part of the establishment of the quarry and do not require ongoing monitoring or compliance have been deleted from the condition set as part of this variation.



Pete Keyanonda  
Consent Planner, Natural Resources

Plan A, RM170876 dated 19 October 2017

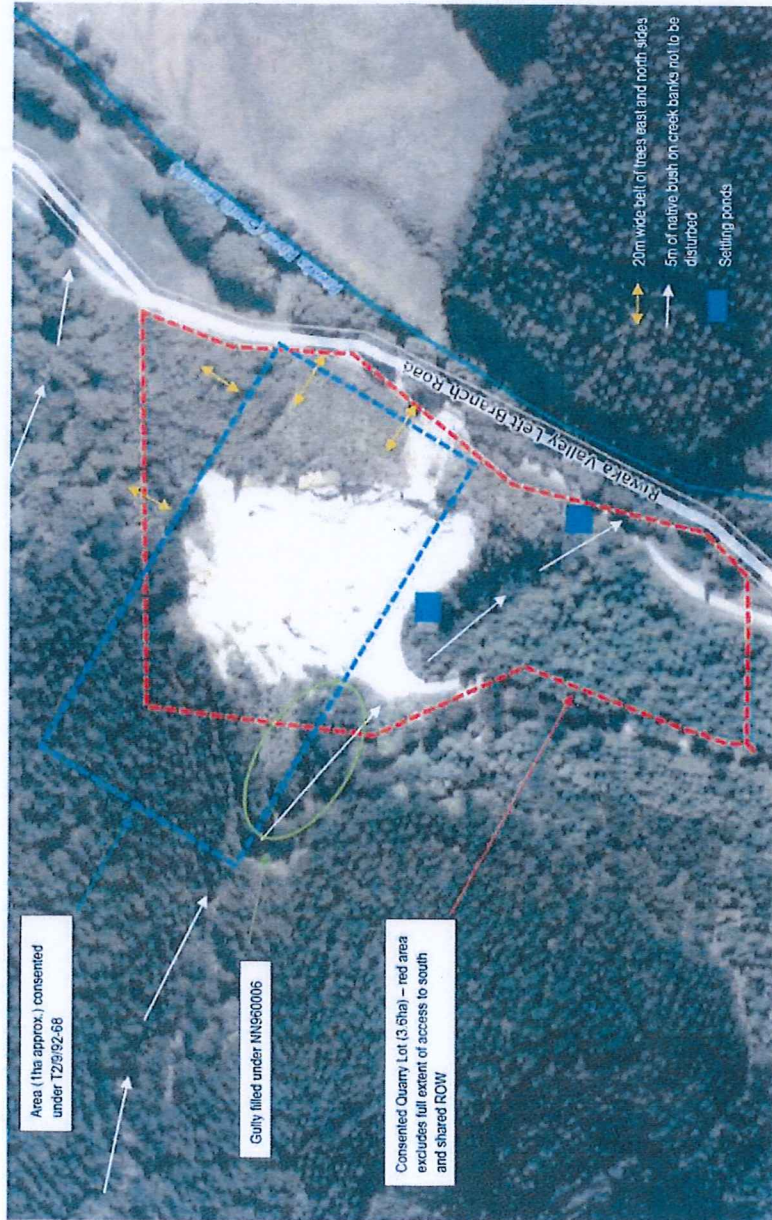
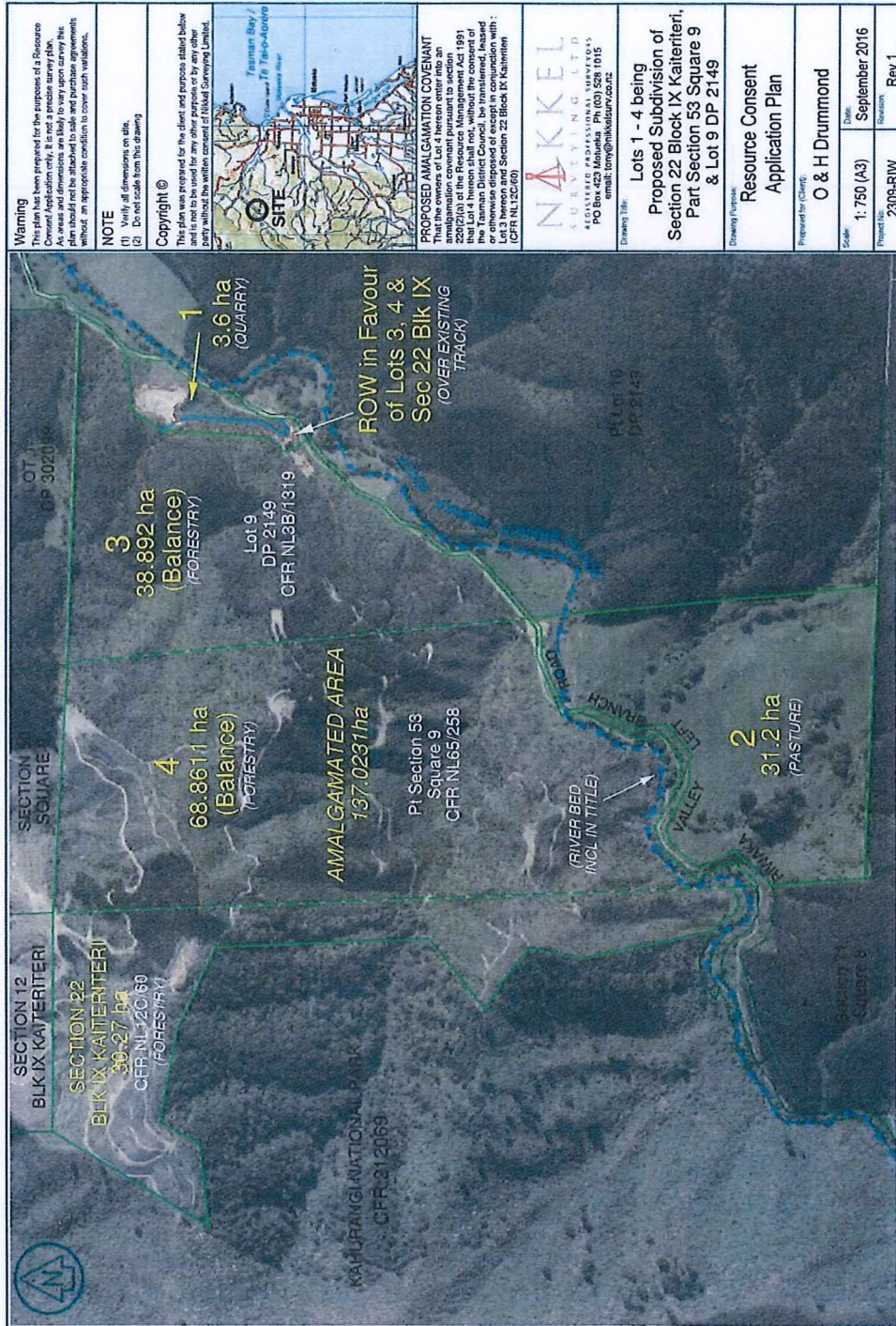


Figure 1: Application site and quarry



Plan B, RM170876 dated 19 October 2017

Annexure C



<p><b>Warning</b></p> <p>This plan has been prepared for the purposes of a Resource Consent Application only. It is not a precise survey plan. All areas and dimensions are likely to vary upon survey. This plan is not to be used for any other purpose without the appropriate conditions to cover such variations.</p>	<p><b>NOTE</b></p> <p>(1) Verify all dimensions on site. (2) Do not scale from this drawing.</p>	<p><b>Copyright ©</b></p> <p>This plan was prepared for the client and purpose stated below and is not to be used for any other purpose or by any other person without the prior written consent of the Surveying Limited.</p>	<p><b>PROPOSED AMALGAMATION COVENANT</b></p> <p>That the owners of Lot 4 hereon enter into an amalgamation covenant pursuant to section 223(1) of the Resource Management Act 1991 with the owners of Lot 3 hereon such that Lot 4 hereon shall not, without the consent of the Tasman District Council, be transferred, leased or otherwise disposed of except in conjunction with Lot 3 hereon (Section 22 Block IX Kaiteriteri) (CFR NL120/60)</p>	<p><b>NAKKEL SURVEYING LTD</b></p> <p>REGISTERED PROFESSIONAL SURVEYORS PO Box 423 Melbourne, Ph (03) 528 1015 email: tom@nakkelsurveyors.co.nz</p>	<p><b>Proposed Subdivision of Section 22 Block IX Kaiteriteri, Part Section 53 Square 9 &amp; Lot 9 DP 2149</b></p>	<p><b>Resource Consent Application Plan</b></p>	<p><b>Prepared for Client:</b> O &amp; H Drummond</p>	<p><b>Scale:</b> 1:750 (A3)</p>	<p><b>Date:</b> September 2016</p>	<p><b>Project No:</b> 2309-RIW</p>	<p><b>Revision:</b> Rev 1</p>
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## REASONS FOR RESOURCE CONSENT DECISION RM170876 CHANGE OF CONDITIONS

### Background

An application has been made pursuant to Section 127 of the Resource Management Act ("the Act") to change Conditions 1 and 3 of Planning Consent P920068, which authorises the establishment and construction of a hard rock quarry. The changes are made to reflect the actual boundaries of the quarry operation.

The applicant owns and operates an existing quarry at 142 Riwaka Valley Left Branch Road. The quarry was established by Planning Permit T2/9/920-68 or P920068. The permit was approved on 6 August 1992. The quarry is located in an isolated rural block which is surrounded on all sides by plantation forestry. There are no residences within 500m of the quarry. The quarry has a sound history of compliance with no records of any non-compliances or compliance action taken as part of the established activity.

The quarry has an associated consent for crushing quarried material on the site. RM950506 was granted on 9 May 1996 and was publicly notified. No changes are proposed to this consent and the proposed changes do not affect this consent or the crushing operation. The crushing activity also has a sound history of compliance. The applicant also held stormwater discharge consent NN020322 for the discharge of stormwater from the quarry floor and from settling ponds. This consent has since been cancelled as it has been deemed that the discharge is a Permitted Activity.

The applicant has recently been granted a boundary adjustment RM160865 to separate the quarry area from the plantation forestry.

As part of this, the applicant now proposes to amend Condition 1 of the original quarry consent in order to match the new boundaries of the site to the recent boundary adjustment as well as to show the actual boundaries of the quarrying operation.

The previous boundaries of the quarrying operation were shown on hand-drawn plans and did not accurately reflect the actual extents of the activity.

The applicant also proposes to amend Condition 3, which required a belt of trees not less than 20m wide to be maintained along the northern and eastern sides of the quarry immediately below the working area. Due to the steep topography of the site the applicant cannot feasibly maintain a 20m belt of trees along the eastern boundary. It is proposed to remove the requirement to maintain the belt on the eastern boundary. The applicant is able to maintain the belt of trees along the northern boundary and will continue to do so.

## Proposed Activity (Change of Conditions)

### First condition requested to be changed

- 1 ~~The quarry operation shall be confined to the areas shown on the plan 68122, C. T. 3B/ 1319 and aerial photograph number 117528 such area being no greater than approximately 1 hectare in total as amended to include the working of the rock face of the spur adjacent to the Riwaka South Branch Road. The overburden spreading site shall be within the area identified as "overburden site" on aerial photo number 117528, C. T. 65/258. shall be confined to the areas shown on the attached and labelled RM170876 Plans A - C dated 11 October 2017.~~

The change to this condition is considered administrative and for the purpose of aligning the actual boundaries of the quarry with the boundaries of the site.

### Second condition requested to be changed

- 3 A belt of trees not less than 20 metres wide shall be maintained along the northern ~~and eastern~~ sides of the quarry immediately below the working area.

The change in this condition is required as the applicant is unable to maintain the required belt of trees along the eastern side due to topographical and practical constraints.

### Other conditions changed

Conditions that have been satisfied as part of the establishment of the quarry and do not require on going monitoring or compliance have been deleted from the condition set as part of this variation.

The numbering of the conditions and the layout has been updated as part of this application in order to fit within a modern resource consent decision template.

### Principal Issues (Actual and Potential Effects on the Environment)

The principal issue(s) associated with the application to change the conditions of consent involve the actual and potential effects on the environment associated with the change. The Council considers that the adverse effects on the environment as a result of the changes will be no more than minor for the following reasons:

- (a) It is considered that the removal of the requirement to maintain the belt of trees along the eastern boundary will have no more than minor effects on the environment. Currently there is no effective visual screening of the quarry along this boundary and it is considered that visual screening of the quarry is not necessary due to its isolated location. The quarry is situated within a working rural environment. The removal of this requirement will not compromise any visual character in the area.
- (b) The proposed variation does not change the scope of the consented activity, but rather to realign the plans to match the actual extent of the operation.

Many of the previous conditions have been satisfied, including the conditions requiring the necessary upgrades to the access onto the site.

Overall, it is considered that the proposed changes have a no more than minor effect on the environment.

### Relevant Statutory Provisions

Section 127(3)(a) of the Act states that any application to change consent conditions is deemed to be a discretionary activity.

In considering this application, the Council has had regard to the matters outlined in Section 104 of the Act. In particular, the Council has had regard to the relevant provisions of the following planning documents:

- (a) the Tasman Regional Policy Statement (TRPS);
- (b) the Tasman Resource Management Plan (TRMP).

How the activity relates to the objectives and policies contained within the TRPS and TRMP were covered in the original decision. It is considered that the changes being sought by the Consent Holder do not change these considerations.

### Part II Matters

I have taken into account the relevant principles outlined in Sections 6, 7 and 8 of the Act and it is considered that granting these changes to the conditions achieves the purpose of the Act as presented in Section 5.

### Notification and Affected Parties

The Council's Resource Consents Manager has decided under delegated authority and pursuant to Section 95 of the Act that the application did not require public or limited notification (refer separate decision).

This change to conditions of consent is granted on 19 October 2017 under delegated authority from the Tasman District Council by:



Pete Keyanonda  
Consent Planner, Natural Resources

**IN THE MATTER OF** the Resource  
Management Act 1991

**AND**

**IN THE MATTER OF** applications by the  
Tasman District Council Business Unit to  
establish two quarries (Applications  
RM940151, NN940190, NN940191)

*Transferred to K M & E P Fry on 15/3/10*

**DECISION OF DAVID W COLLINS ACTING AS A HEARING COMMISSIONER  
APPOINTED PURSUANT TO SECTION 34 OF THE ACT**

**THE APPLICATIONS**

The applications relate to a proposal by the Tasman District Council Operations Business Unit to establish two quarries on a farm property at Moss Road, Sandy Bay, Riwaka.

Three consents have been sought:

RM940151 (land use consent (district) to carry out quarrying operations)  
NN940191 (discharge permit (regional) to discharge run-off water)  
NN940190 (land use consent (regional) earthworks associated with quarrying operations)

The quarries, to be sited approximately 1.5 kilometres apart on the same property, are to provide gravel and rock for roading and river protection works.

Information provided with the applications included sketches showing the areas to be quarried and descriptions and sketches of how the two quarries would be developed.

It is intended that both sites will be worked on a multi-bench opencast system. Drilling and blasting will be required to loosen material and some on-site crushing is proposed. It is proposed to rehabilitate each level of excavation on completion. Quarried material is to be trucked via Moss Road and the Sandy Bay-Riwaka Road.

**SUBMISSIONS**

The applications drew three submissions. A submission from the Minister of Conservation expressed concern over the possible sedimentation of the stream which runs past the quarries and sought protection of the areas of native bush close by. Mr P R Richards and Mr B C Simkin (Ngarua Lime Ltd) lodged submissions opposing consent on the grounds that existing quarries could meet the applicant's needs and would be adversely affected economically by the proposed quarries.

**ASSESSMENT**

I have considered these applications in terms of Section 104 and Part II (Purpose and Principles) of the Resource Management Act.

As noted in Mr Burton's planning report, minerals are excluded from "natural and physical resources" which are to be sustainably managed in terms of Section 5(2)(a) of the Act. Extraction and use of minerals can however have effects in terms of the other considerations listed in Sections 5, 6 and 7. Of particular significance in the context of the present applications are the references to landscape values, protection of indigenous vegetation and the maintenance and enhancement of amenity values.

Section 104 directs me to a consideration of relevant objectives, policies and rules in the Transitional District Plan. The application site is in the Rural C Zone where quarrying has the status of a discretionary activity. Objectives for the zone include:

*"(ii) to encourage recognition of the environment so that unnecessary destruction of natural native bush (sic) and land contour does not occur."*

Specific guidance for assessing quarry applications is provided in the Waimea Section of the Plan:

#### ***"12.41 Establishment Guidelines***

- (i) The need for a new site must be stated. Close proximity to residential or other incompatible land use must be avoided where practicable. Access routes should avoid residential or heavily populated areas.*
- (ii) The quality of the material sought should be known.*

#### ***12.4.1 Operational Guidelines***

- (i) Good quarry management and practice must be maintained.*
- (ii) Working from as high a commencement point as possible should be achieved.*
- (iii) Fly-rock from blasting must be controlled.*
- (iv) Useful disposal of overburden should be achieved.*
- (v) Contamination of watercourses must be avoided and discharge rights obtained from the appropriate Catchment Authority if applicable.*
- (vi) Damage to County Roads must be prevented and if damage does occur the Council will seek repair and maintenance from the quarry operator.*
- (viii) Regard must be had for restoration and tidy up of quarry faces wherever practicable.*
- (viii) Operations must have regard for the residents and recreational uses of the immediate vicinity, ie, within 500 m radius of the quarry.*
- (ix) Particular regard shall be had for noise suppression and the standards set out in Ordinance 2208.2(v) for the Industrial G Zone should be achieved."*

The first "establishment guideline" that the need for a new site must be stated could be interpreted as suggesting that the plan intends that applications should be justified on the basis of a demonstrated shortage of materials to be quarried. That interpretation would not, in my view, be in

accordance with the general thrust of the Act and would possibly be in conflict with Section 104(8), which states:

*“(8) When considering an application for a resource consent, a consent authority shall not have regard to the effects of trade competition on trade competitors.”*

Trade competition appears to be the only ground for objection advanced by Mr Richards and Mr Simkin and in accordance with Section 104(8) I have not been able to take that effect into account.

After considering the application documents, the detailed planning report by the Council’s Land Management Officer, Mr Burton and the evidence given at the hearing, I have come to the view that these applications can satisfy the statutory criteria, provided they are conditioned so as to meet the “operational guidelines” in the District Plan and generally avoid and mitigate potential adverse effects. The quarry sites have limited value for other uses such as grazing or forestry. They are remote and the owner of the property has given consent. The nearest other residents are at the end of Moss Road, approximately 1.3 km from the lower quarry site. Neither site is visible from any public road, track or walkway. It was confirmed at the hearing that the areas intended to be quarried do not extend to the patches of remnant native bush in the area.

The main potential and unavoidable adverse effect of quarrying operations beyond the application site would be the additional traffic generated. An estimated number of 137 truck movements per working week was given in the application. No submissions expressing concern were lodged by the owners of the two occupied dwellings on Moss Road but it is appropriate to include conditions to minimise the adverse impacts of this additional traffic. I have included two conditions recommended by Mr Burton addressing this issue and the issue of potential damage to Moss Road. Although I have some doubt about the legal validity of the condition requiring road repairs, as this condition is apparently acceptable to the applicant, I have adopted the Planning Tribunal’s practice of accepting agreed conditions.

All quarries are a potential hazard to the public and I have adopted Mr Burton’s suggested conditions to minimise this risk.

Turning to the application to discharge run-off water, again I am satisfied that in the particular circumstances the discharge could be managed so as not to have significant adverse environmental effects provided these other conditions are adhered to.

I indicated at the hearing that I was persuaded by the evidence given by Mr Preece from the Department of Conservation that a condition additional to those suggested by Mr Burton was required to ensure monitoring of the potential impact on the ecology of Holyoake Stream which runs past the quarry sites. Following consultation between the applicant and the Department of Conservation I was advised that the condition I have included relating to a macro-invertebrate assessment was agreed.

I have also imposed a condition pursuant to Section 128 of the Act giving the consent authority the power to review all the conditions in the light of operational experience including the results of the macro-invertebrate surveys.

Turning finally to the application in terms of the Council’s regional functions to carry out earthworks, in my assessment the concerns outlined in the recently notified proposed Regional Plan (Land) can be addressed by the conditions being attached to the other two applications.

No particular duration for the consents was sought. Section 123 provides that unless otherwise specified in a consent, land use consents are unlimited in duration and other consents expire in five years. Five years is obviously a very short period for a quarry and from the evidence I see no reason not to grant the discharge permit and consents for earthworks for the maximum period possible under Section 123 - 35 years. It seems logical that the land use consent should also have a 35 year life:

## **DECISION ON APPLICATION RM940151 LAND USE CONSENT**

For the reasons given above consent is hereby granted subject to the following conditions:

### **Area of Excavation**

- 1 Quarry operations shall be confined to the areas shown on the plans filed as part of the application.

### **Bond**

- 2 The consent holder shall enter into a bond with the Tasman District Council for the amount of \$10,000, such bond to be prepared by the District Solicitor at a cost to the consent holder. The bond shall be used in the event that the consent holder fails to comply with the conditions of consent to the satisfaction of the Council's Environment & Planning Manager and any abatement or enforcement order that may be issued as a consequence of such failure to comply. The consent holder shall provide a guarantee from a trading bank of the performance of this obligation under the bond.

### **Work Programme and Plan**

- 3 No work or activities shall commence or continue to be undertaken unless specified in a work programme approved by the Tasman District Council's Environment & Planning Manager.
- 4 The consent holder shall, before commencing work and at intervals not exceeding twelve months thereafter, submit a plan and written work programme for approval by the Environment & Planning Manager.
- 5 No departure or variation from the approved work programme or plan shall occur without further approval from the Environment & Planning Manager.

### **Site Restoration**

- 6 Topsoil and subsoil from the quarry sites shall be stripped and stockpiled prior to rock extraction. This material shall be stockpiled if not used immediately for rehabilitation. Topsoil and subsoil shall not be screened or processed by any other means.
- 7 Stockpiles of topsoil and subsoil shall be situated on stable sites and away from watercourses and floodplains. Traffic movement over the stockpiles is prohibited.
- 8 Stockpiles shall be sown down with a ryegrass/white clover mix.
- 9 On the completion of extraction at each bench the final surface contour shall be instated using overburden and then the topsoil and subsoil spread evenly over this surface.

- 10 The restored surface shall be revegetated using an approved seed mix (predominantly ryegrass and white clover) and fertiliser as soon as weather conditions allow, to the satisfaction of the Tasman District Council's Environment & Planning Manager.
- 11 The stripping, cartage and respreading of the topsoil and subsoil shall only take place when the soil moisture conditions are below the plastic limit.

### **Watercourse Protection**

- 12 No material shall be placed in a watercourse or in a position where it may move into any watercourse.
- 13 Overburden and topsoil dumps shall not be positioned where they will restrict or concentrate flood flows.

### **Rubbish**

- 14 Rubbish and disused equipment shall not be dumped on site.

### **Noise**

- 15 At all times when quarrying and ancillary works are being carried out when permitted by the conditions of consent, the uncorrected noise levels measured for a period not less than ten minutes at the notional boundary of any affected rural dwelling shall not exceed the following:

Night-time     40 dBA L<sub>10</sub>  
Daytime        55 dBA L<sub>10</sub> where daytime is between the hours of 6.00 am and 6.00 pm

(Night-time is between the hours of 6.00 pm and 6.00 am.)

All terms, definitions and methods of measuring and assessment of environmental noise shall be in accordance with NZS 6801:1991 and NZS 6802:1991.

### **Traffic**

- 16 The consent holder shall promptly address any extraordinary damage to the surface of Moss Road arising from increased use by heavy traffic associated with this proposal, and keep the Council informed of such road repairs. Existing road conditions will be determined by the Council's Engineering Department on inspection with the consent holder.
- 17 All roads and hard surfaces used by machinery and trucks shall be treated by grading, watering or other methods necessary to suppress the emission of dust, when in the opinion of the Council's Environment & Planning Manager this is necessary to prevent dust becoming a nuisance to residents along Moss Road or the public in general.



## **Safety**

- 18 A permanent warning sign and flag holder shall be erected at the start of the access road to the quarry, reading:

“QUARRY - no unauthorised access.

No explosives, detonators, fuses or fuels stored on site.

Blasting is in progress when siren is sounded and if red flag is flying.”

- 19 Any blasting shall be preceded by a siren warning activated at fifteen and five minutes before detonation. When blasting is being carried out a red flag shall be flown from the flag holder.
- 20 No explosives, detonators, fuses or fuel shall be stored at the quarry sites.

## **Monitoring**

- 21 Monitoring by the Council shall occur initially on a once every three months basis. All necessary appraisals and tests shall be carried out to gauge compliance with the conditions of this consent. At the discretion of the Council’s Environment & Planning Manager the time interval between visits may be extended.
- 22 All reasonable costs involved in monitoring shall be paid in full by the consent holder.

## **Review**

- 23 Pursuant to Section 128 of the Act the Council may at any time during the first year of operation of the quarry and thereafter during the last 10 working days of March and September in any year, serve notice on the consent holder of the Council’s intention to review the conditions on this consent to deal with any adverse effect on the environment which may arise from the exercise of the consent.

## **Duration**

- 24 The duration of this consent shall be 35 years.

## **APPLICATION NN940191 DISCHARGE PERMIT**

Consent is hereby granted to the application to discharge surface run-off water subject to the following conditions:

### **Records to be Kept**

- 1 The grantee shall keep such records as may be reasonably required by the Council, and shall, if so requested, supply this information to the Council. If it is necessary to install measuring devices to enable satisfactory records to be kept, the grantee shall, at his/her own expense, install suitable devices.

### **Works and Maintenance Programme**

- 2 As and when required by the Council, the grantee shall provide sufficiently detailed plans, specifications and maintenance programmes of works relating to the operation of this

permit. Plans, specifications and maintenance programmes submitted shall be of a standard adequate to meet all conditions of this permit.

### **Receiving Water Quality**

- 3 The receiving water clarity shall not decrease by more than 30% as measured by the black disk method, where a measurement taken immediately upstream is compared with one taken 50 m below the discharge points.

### **Discharge Point**

- 4 Any inlets or outlets to settling ponds and discharge points to the river shall be constructed in such a manner as to prevent scour.

### **Contaminants**

- 5 No petrol, diesel, oil or other toxic substances shall be present in the discharge as measured at the point of discharge.

### **Monitoring**

- 6 Monitoring by the Council shall occur initially on a once every three months basis. All necessary appraisals and tests shall be carried out to gauge compliance with the conditions of this consent. At the discretion of the Council's Environment & Planning Manager, the time interval between visits may be extended.
- 7 A macro-invertebrate assessment shall be carried out six months after the granting of this consent to assess the impact of the operation on Holyoake Stream. Subject to the results of this assessment, the conditions of the consent may be reviewed.
- 8 All reasonable costs involved in monitoring shall be paid in full by the consent holder.

### **Review**

- 9 Pursuant to Section 128 of the Act the Council may at any time during the first year of operation of the quarry and thereafter during the last 10 working days of March and September in any year, serve notice on the consent holder of the Council's intention to review the conditions on this consent to deal with any adverse effect on the environment which may arise from the exercise of the consent.

### **Duration**

- 10 The duration of this consent shall be 35 years.

### **APPLICATION NN940190**

For the reasons given above consent is hereby granted to the application for earthworks associated with the quarrying operations subject to all of the relevant conditions attached to the consents granted to applications RM940151 and NN940191.

David W Collins  
22 November 1994

**IN THE MATTER OF** the Resource  
Management Act 1991

**AND**

**IN THE MATTER OF** applications by the  
Tasman District Council Business Unit to  
establish two quarries (Applications  
RM940151, NN940190, NN940191)

*Transferred to K M & E P Fry on 15/3/10*

**DECISION OF DAVID W COLLINS ACTING AS A HEARING COMMISSIONER  
APPOINTED PURSUANT TO SECTION 34 OF THE ACT**

**THE APPLICATIONS**

The applications relate to a proposal by the Tasman District Council Operations Business Unit to establish two quarries on a farm property at Moss Road, Sandy Bay, Riwaka.

Three consents have been sought:

RM940151 (land use consent (district) to carry out quarrying operations)  
NN940191 (discharge permit (regional) to discharge run-off water)  
NN940190 (land use consent (regional) earthworks associated with quarrying operations)

The quarries, to be sited approximately 1.5 kilometres apart on the same property, are to provide gravel and rock for roading and river protection works.

Information provided with the applications included sketches showing the areas to be quarried and descriptions and sketches of how the two quarries would be developed.

It is intended that both sites will be worked on a multi-bench opencast system. Drilling and blasting will be required to loosen material and some on-site crushing is proposed. It is proposed to rehabilitate each level of excavation on completion. Quarried material is to be trucked via Moss Road and the Sandy Bay-Riwaka Road.

**SUBMISSIONS**

The applications drew three submissions. A submission from the Minister of Conservation expressed concern over the possible sedimentation of the stream which runs past the quarries and sought protection of the areas of native bush close by. Mr P R Richards and Mr B C Simkin (Ngarua Lime Ltd) lodged submissions opposing consent on the grounds that existing quarries could meet the applicant's needs and would be adversely affected economically by the proposed quarries.

**ASSESSMENT**

I have considered these applications in terms of Section 104 and Part II (Purpose and Principles) of the Resource Management Act.

As noted in Mr Burton’s planning report, minerals are excluded from “natural and physical resources” which are to be sustainably managed in terms of Section 5(2)(a) of the Act. Extraction and use of minerals can however have effects in terms of the other considerations listed in Sections 5, 6 and 7. Of particular significance in the context of the present applications are the references to landscape values, protection of indigenous vegetation and the maintenance and enhancement of amenity values.

Section 104 directs me to a consideration of relevant objectives, policies and rules in the Transitional District Plan. The application site is in the Rural C Zone where quarrying has the status of a discretionary activity. Objectives for the zone include:

*“(ii) to encourage recognition of the environment so that unnecessary destruction of natural native bush (sic) and land contour does not occur.”*

Specific guidance for assessing quarry applications is provided in the Waimea Section of the Plan:

***“12.41 Establishment Guidelines***

- (i) The need for a new site must be stated. Close proximity to residential or other incompatible land use must be avoided where practicable. Access routes should avoid residential or heavily populated areas.*
- (ii) The quality of the material sought should be known.*

***12.4.1 Operational Guidelines***

- (i) Good quarry management and practice must be maintained.*
- (ii) Working from as high a commencement point as possible should be achieved.*
- (iii) Fly-rock from blasting must be controlled.*
- (iv) Useful disposal of overburden should be achieved.*
- (v) Contamination of watercourses must be avoided and discharge rights obtained from the appropriate Catchment Authority if applicable.*
- (vi) Damage to County Roads must be prevented and if damage does occur the Council will seek repair and maintenance from the quarry operator.*
- (viii) Regard must be had for restoration and tidy up of quarry faces wherever practicable.*
- (viii) Operations must have regard for the residents and recreational uses of the immediate vicinity, ie, within 500 m radius of the quarry.*
- (ix) Particular regard shall be had for noise suppression and the standards set out in Ordinance 2208.2(v) for the Industrial G Zone should be achieved.”*

The first “establishment guideline” that the need for a new site must be stated could be interpreted as suggesting that the plan intends that applications should be justified on the basis of a demonstrated shortage of materials to be quarried. That interpretation would not, in my view, be in

accordance with the general thrust of the Act and would possibly be in conflict with Section 104(8), which states:

*“(8) When considering an application for a resource consent, a consent authority shall not have regard to the effects of trade competition on trade competitors.”*

Trade competition appears to be the only ground for objection advanced by Mr Richards and Mr Simkin and in accordance with Section 104(8) I have not been able to take that effect into account.

After considering the application documents, the detailed planning report by the Council’s Land Management Officer, Mr Burton and the evidence given at the hearing, I have come to the view that these applications can satisfy the statutory criteria, provided they are conditioned so as to meet the “operational guidelines” in the District Plan and generally avoid and mitigate potential adverse effects. The quarry sites have limited value for other uses such as grazing or forestry. They are remote and the owner of the property has given consent. The nearest other residents are at the end of Moss Road, approximately 1.3 km from the lower quarry site. Neither site is visible from any public road, track or walkway. It was confirmed at the hearing that the areas intended to be quarried do not extend to the patches of remnant native bush in the area.

The main potential and unavoidable adverse effect of quarrying operations beyond the application site would be the additional traffic generated. An estimated number of 137 truck movements per working week was given in the application. No submissions expressing concern were lodged by the owners of the two occupied dwellings on Moss Road but it is appropriate to include conditions to minimise the adverse impacts of this additional traffic. I have included two conditions recommended by Mr Burton addressing this issue and the issue of potential damage to Moss Road. Although I have some doubt about the legal validity of the condition requiring road repairs, as this condition is apparently acceptable to the applicant, I have adopted the Planning Tribunal’s practice of accepting agreed conditions.

All quarries are a potential hazard to the public and I have adopted Mr Burton’s suggested conditions to minimise this risk.

Turning to the application to discharge run-off water, again I am satisfied that in the particular circumstances the discharge could be managed so as not to have significant adverse environmental effects provided these other conditions are adhered to.

I indicated at the hearing that I was persuaded by the evidence given by Mr Preece from the Department of Conservation that a condition additional to those suggested by Mr Burton was required to ensure monitoring of the potential impact on the ecology of Holyoake Stream which runs past the quarry sites. Following consultation between the applicant and the Department of Conservation I was advised that the condition I have included relating to a macro-invertebrate assessment was agreed.

I have also imposed a condition pursuant to Section 128 of the Act giving the consent authority the power to review all the conditions in the light of operational experience including the results of the macro-invertebrate surveys.

Turning finally to the application in terms of the Council’s regional functions to carry out earthworks, in my assessment the concerns outlined in the recently notified proposed Regional Plan (Land) can be addressed by the conditions being attached to the other two applications.

No particular duration for the consents was sought. Section 123 provides that unless otherwise specified in a consent, land use consents are unlimited in duration and other consents expire in five years. Five years is obviously a very short period for a quarry and from the evidence I see no reason not to grant the discharge permit and consents for earthworks for the maximum period possible under Section 123 - 35 years. It seems logical that the land use consent should also have a 35 year life:

## **DECISION ON APPLICATION RM940151 LAND USE CONSENT**

For the reasons given above consent is hereby granted subject to the following conditions:

### **Area of Excavation**

- 1 Quarry operations shall be confined to the areas shown on the plans filed as part of the application.

### **Bond**

- 2 The consent holder shall enter into a bond with the Tasman District Council for the amount of \$10,000, such bond to be prepared by the District Solicitor at a cost to the consent holder. The bond shall be used in the event that the consent holder fails to comply with the conditions of consent to the satisfaction of the Council's Environment & Planning Manager and any abatement or enforcement order that may be issued as a consequence of such failure to comply. The consent holder shall provide a guarantee from a trading bank of the performance of this obligation under the bond.

### **Work Programme and Plan**

- 3 No work or activities shall commence or continue to be undertaken unless specified in a work programme approved by the Tasman District Council's Environment & Planning Manager.
- 4 The consent holder shall, before commencing work and at intervals not exceeding twelve months thereafter, submit a plan and written work programme for approval by the Environment & Planning Manager.
- 5 No departure or variation from the approved work programme or plan shall occur without further approval from the Environment & Planning Manager.

### **Site Restoration**

- 6 Topsoil and subsoil from the quarry sites shall be stripped and stockpiled prior to rock extraction. This material shall be stockpiled if not used immediately for rehabilitation. Topsoil and subsoil shall not be screened or processed by any other means.
- 7 Stockpiles of topsoil and subsoil shall be situated on stable sites and away from watercourses and floodplains. Traffic movement over the stockpiles is prohibited.
- 8 Stockpiles shall be sown down with a ryegrass/white clover mix.
- 9 On the completion of extraction at each bench the final surface contour shall be instated using overburden and then the topsoil and subsoil spread evenly over this surface.

- 10 The restored surface shall be revegetated using an approved seed mix (predominantly ryegrass and white clover) and fertiliser as soon as weather conditions allow, to the satisfaction of the Tasman District Council's Environment & Planning Manager.
- 11 The stripping, cartage and respreading of the topsoil and subsoil shall only take place when the soil moisture conditions are below the plastic limit.

### **Watercourse Protection**

- 12 No material shall be placed in a watercourse or in a position where it may move into any watercourse.
- 13 Overburden and topsoil dumps shall not be positioned where they will restrict or concentrate flood flows.

### **Rubbish**

- 14 Rubbish and disused equipment shall not be dumped on site.

### **Noise**

- 15 At all times when quarrying and ancillary works are being carried out when permitted by the conditions of consent, the uncorrected noise levels measured for a period not less than ten minutes at the notional boundary of any affected rural dwelling shall not exceed the following:

Night-time     40 dBA L<sub>10</sub>  
Daytime        55 dBA L<sub>10</sub> where daytime is between the hours of 6.00 am and 6.00 pm

(Night-time is between the hours of 6.00 pm and 6.00 am.)

All terms, definitions and methods of measuring and assessment of environmental noise shall be in accordance with NZS 6801:1991 and NZS 6802:1991.

### **Traffic**

- 16 The consent holder shall promptly address any extraordinary damage to the surface of Moss Road arising from increased use by heavy traffic associated with this proposal, and keep the Council informed of such road repairs. Existing road conditions will be determined by the Council's Engineering Department on inspection with the consent holder.
- 17 All roads and hard surfaces used by machinery and trucks shall be treated by grading, watering or other methods necessary to suppress the emission of dust, when in the opinion of the Council's Environment & Planning Manager this is necessary to prevent dust becoming a nuisance to residents along Moss Road or the public in general.

## **Safety**

- 18 A permanent warning sign and flag holder shall be erected at the start of the access road to the quarry, reading:

“QUARRY - no unauthorised access.

No explosives, detonators, fuses or fuels stored on site.

Blasting is in progress when siren is sounded and if red flag is flying.”

- 19 Any blasting shall be preceded by a siren warning activated at fifteen and five minutes before detonation. When blasting is being carried out a red flag shall be flown from the flag holder.
- 20 No explosives, detonators, fuses or fuel shall be stored at the quarry sites.

## **Monitoring**

- 21 Monitoring by the Council shall occur initially on a once every three months basis. All necessary appraisals and tests shall be carried out to gauge compliance with the conditions of this consent. At the discretion of the Council’s Environment & Planning Manager the time interval between visits may be extended.
- 22 All reasonable costs involved in monitoring shall be paid in full by the consent holder.

## **Review**

- 23 Pursuant to Section 128 of the Act the Council may at any time during the first year of operation of the quarry and thereafter during the last 10 working days of March and September in any year, serve notice on the consent holder of the Council’s intention to review the conditions on this consent to deal with any adverse effect on the environment which may arise from the exercise of the consent.

## **Duration**

- 24 The duration of this consent shall be 35 years.

## **APPLICATION NN940191 DISCHARGE PERMIT**

Consent is hereby granted to the application to discharge surface run-off water subject to the following conditions:

### **Records to be Kept**

- 1 The grantee shall keep such records as may be reasonably required by the Council, and shall, if so requested, supply this information to the Council. If it is necessary to install measuring devices to enable satisfactory records to be kept, the grantee shall, at his/her own expense, install suitable devices.

### **Works and Maintenance Programme**

- 2 As and when required by the Council, the grantee shall provide sufficiently detailed plans, specifications and maintenance programmes of works relating to the operation of this



permit. Plans, specifications and maintenance programmes submitted shall be of a standard adequate to meet all conditions of this permit.

### **Receiving Water Quality**

- 3 The receiving water clarity shall not decrease by more than 30% as measured by the black disk method, where a measurement taken immediately upstream is compared with one taken 50 m below the discharge points.

### **Discharge Point**

- 4 Any inlets or outlets to settling ponds and discharge points to the river shall be constructed in such a manner as to prevent scour.

### **Contaminants**

- 5 No petrol, diesel, oil or other toxic substances shall be present in the discharge as measured at the point of discharge.

### **Monitoring**

- 6 Monitoring by the Council shall occur initially on a once every three months basis. All necessary appraisals and tests shall be carried out to gauge compliance with the conditions of this consent. At the discretion of the Council's Environment & Planning Manager, the time interval between visits may be extended.
- 7 A macro-invertebrate assessment shall be carried out six months after the granting of this consent to assess the impact of the operation on Holyoake Stream. Subject to the results of this assessment, the conditions of the consent may be reviewed.
- 8 All reasonable costs involved in monitoring shall be paid in full by the consent holder.

### **Review**

- 9 Pursuant to Section 128 of the Act the Council may at any time during the first year of operation of the quarry and thereafter during the last 10 working days of March and September in any year, serve notice on the consent holder of the Council's intention to review the conditions on this consent to deal with any adverse effect on the environment which may arise from the exercise of the consent.

### **Duration**

- 10 The duration of this consent shall be 35 years.

### **APPLICATION NN940190**

For the reasons given above consent is hereby granted to the application for earthworks associated with the quarrying operations subject to all of the relevant conditions attached to the consents granted to applications RM940151 and NN940191.

David W Collins  
22 November 1994

**IN THE MATTER OF** the Resource Management Act 1991

**AND**

**IN THE MATTER OF** applications by the Tasman District Council Business Unit to establish two quarries (Applications RM940151, NN940190, NN940191)

*Transferred to K M & E P Fry on 15/3/10*

**DECISION OF DAVID W COLLINS ACTING AS A HEARING COMMISSIONER  
APPOINTED PURSUANT TO SECTION 34 OF THE ACT**

**THE APPLICATIONS**

The applications relate to a proposal by the Tasman District Council Operations Business Unit to establish two quarries on a farm property at Moss Road, Sandy Bay, Riwaka.

Three consents have been sought:

RM940151 (land use consent (district) to carry out quarrying operations)  
NN940191 (discharge permit (regional) to discharge run-off water)  
NN940190 (land use consent (regional) earthworks associated with quarrying operations)

The quarries, to be sited approximately 1.5 kilometres apart on the same property, are to provide gravel and rock for roading and river protection works.

Information provided with the applications included sketches showing the areas to be quarried and descriptions and sketches of how the two quarries would be developed.

It is intended that both sites will be worked on a multi-bench opencast system. Drilling and blasting will be required to loosen material and some on-site crushing is proposed. It is proposed to rehabilitate each level of excavation on completion. Quarried material is to be trucked via Moss Road and the Sandy Bay-Riwaka Road.

**SUBMISSIONS**

The applications drew three submissions. A submission from the Minister of Conservation expressed concern over the possible sedimentation of the stream which runs past the quarries and sought protection of the areas of native bush close by. Mr P R Richards and Mr B C Simkin (Ngarua Lime Ltd) lodged submissions opposing consent on the grounds that existing quarries could meet the applicant's needs and would be adversely affected economically by the proposed quarries.

**ASSESSMENT**

I have considered these applications in terms of Section 104 and Part II (Purpose and Principles) of the Resource Management Act.

As noted in Mr Burton’s planning report, minerals are excluded from “natural and physical resources” which are to be sustainably managed in terms of Section 5(2)(a) of the Act. Extraction and use of minerals can however have effects in terms of the other considerations listed in Sections 5, 6 and 7. Of particular significance in the context of the present applications are the references to landscape values, protection of indigenous vegetation and the maintenance and enhancement of amenity values.

Section 104 directs me to a consideration of relevant objectives, policies and rules in the Transitional District Plan. The application site is in the Rural C Zone where quarrying has the status of a discretionary activity. Objectives for the zone include:

*“(ii) to encourage recognition of the environment so that unnecessary destruction of natural native bush (sic) and land contour does not occur.”*

Specific guidance for assessing quarry applications is provided in the Waimea Section of the Plan:

#### **“12.41 Establishment Guidelines**

- (i) The need for a new site must be stated. Close proximity to residential or other incompatible land use must be avoided where practicable. Access routes should avoid residential or heavily populated areas.*
- (ii) The quality of the material sought should be known.*

#### **12.4.1 Operational Guidelines**

- (i) Good quarry management and practice must be maintained.*
- (ii) Working from as high a commencement point as possible should be achieved.*
- (iii) Fly-rock from blasting must be controlled.*
- (iv) Useful disposal of overburden should be achieved.*
- (v) Contamination of watercourses must be avoided and discharge rights obtained from the appropriate Catchment Authority if applicable.*
- (vi) Damage to County Roads must be prevented and if damage does occur the Council will seek repair and maintenance from the quarry operator.*
- (viii) Regard must be had for restoration and tidy up of quarry faces wherever practicable.*
- (viii) Operations must have regard for the residents and recreational uses of the immediate vicinity, ie, within 500 m radius of the quarry.*
- (ix) Particular regard shall be had for noise suppression and the standards set out in Ordinance 2208.2(v) for the Industrial G Zone should be achieved.”*

The first “establishment guideline” that the need for a new site must be stated could be interpreted as suggesting that the plan intends that applications should be justified on the basis of a demonstrated shortage of materials to be quarried. That interpretation would not, in my view, be in

accordance with the general thrust of the Act and would possibly be in conflict with Section 104(8), which states:

*“(8) When considering an application for a resource consent, a consent authority shall not have regard to the effects of trade competition on trade competitors.”*

Trade competition appears to be the only ground for objection advanced by Mr Richards and Mr Simkin and in accordance with Section 104(8) I have not been able to take that effect into account.

After considering the application documents, the detailed planning report by the Council’s Land Management Officer, Mr Burton and the evidence given at the hearing, I have come to the view that these applications can satisfy the statutory criteria, provided they are conditioned so as to meet the “operational guidelines” in the District Plan and generally avoid and mitigate potential adverse effects. The quarry sites have limited value for other uses such as grazing or forestry. They are remote and the owner of the property has given consent. The nearest other residents are at the end of Moss Road, approximately 1.3 km from the lower quarry site. Neither site is visible from any public road, track or walkway. It was confirmed at the hearing that the areas intended to be quarried do not extend to the patches of remnant native bush in the area.

The main potential and unavoidable adverse effect of quarrying operations beyond the application site would be the additional traffic generated. An estimated number of 137 truck movements per working week was given in the application. No submissions expressing concern were lodged by the owners of the two occupied dwellings on Moss Road but it is appropriate to include conditions to minimise the adverse impacts of this additional traffic. I have included two conditions recommended by Mr Burton addressing this issue and the issue of potential damage to Moss Road. Although I have some doubt about the legal validity of the condition requiring road repairs, as this condition is apparently acceptable to the applicant, I have adopted the Planning Tribunal’s practice of accepting agreed conditions.

All quarries are a potential hazard to the public and I have adopted Mr Burton’s suggested conditions to minimise this risk.

Turning to the application to discharge run-off water, again I am satisfied that in the particular circumstances the discharge could be managed so as not to have significant adverse environmental effects provided these other conditions are adhered to.

I indicated at the hearing that I was persuaded by the evidence given by Mr Preece from the Department of Conservation that a condition additional to those suggested by Mr Burton was required to ensure monitoring of the potential impact on the ecology of Holyoake Stream which runs past the quarry sites. Following consultation between the applicant and the Department of Conservation I was advised that the condition I have included relating to a macro-invertebrate assessment was agreed.

I have also imposed a condition pursuant to Section 128 of the Act giving the consent authority the power to review all the conditions in the light of operational experience including the results of the macro-invertebrate surveys.

Turning finally to the application in terms of the Council’s regional functions to carry out earthworks, in my assessment the concerns outlined in the recently notified proposed Regional Plan (Land) can be addressed by the conditions being attached to the other two applications.

No particular duration for the consents was sought. Section 123 provides that unless otherwise specified in a consent, land use consents are unlimited in duration and other consents expire in five years. Five years is obviously a very short period for a quarry and from the evidence I see no reason not to grant the discharge permit and consents for earthworks for the maximum period possible under Section 123 - 35 years. It seems logical that the land use consent should also have a 35 year life:

## **DECISION ON APPLICATION RM940151 LAND USE CONSENT**

For the reasons given above consent is hereby granted subject to the following conditions:

### **Area of Excavation**

- 1 Quarry operations shall be confined to the areas shown on the plans filed as part of the application.

### **Bond**

- 2 The consent holder shall enter into a bond with the Tasman District Council for the amount of \$10,000, such bond to be prepared by the District Solicitor at a cost to the consent holder. The bond shall be used in the event that the consent holder fails to comply with the conditions of consent to the satisfaction of the Council's Environment & Planning Manager and any abatement or enforcement order that may be issued as a consequence of such failure to comply. The consent holder shall provide a guarantee from a trading bank of the performance of this obligation under the bond.

### **Work Programme and Plan**

- 3 No work or activities shall commence or continue to be undertaken unless specified in a work programme approved by the Tasman District Council's Environment & Planning Manager.
- 4 The consent holder shall, before commencing work and at intervals not exceeding twelve months thereafter, submit a plan and written work programme for approval by the Environment & Planning Manager.
- 5 No departure or variation from the approved work programme or plan shall occur without further approval from the Environment & Planning Manager.

### **Site Restoration**

- 6 Topsoil and subsoil from the quarry sites shall be stripped and stockpiled prior to rock extraction. This material shall be stockpiled if not used immediately for rehabilitation. Topsoil and subsoil shall not be screened or processed by any other means.
- 7 Stockpiles of topsoil and subsoil shall be situated on stable sites and away from watercourses and floodplains. Traffic movement over the stockpiles is prohibited.
- 8 Stockpiles shall be sown down with a ryegrass/white clover mix.
- 9 On the completion of extraction at each bench the final surface contour shall be instated using overburden and then the topsoil and subsoil spread evenly over this surface.

- 10 The restored surface shall be revegetated using an approved seed mix (predominantly ryegrass and white clover) and fertiliser as soon as weather conditions allow, to the satisfaction of the Tasman District Council's Environment & Planning Manager.
- 11 The stripping, cartage and respreading of the topsoil and subsoil shall only take place when the soil moisture conditions are below the plastic limit.

### **Watercourse Protection**

- 12 No material shall be placed in a watercourse or in a position where it may move into any watercourse.
- 13 Overburden and topsoil dumps shall not be positioned where they will restrict or concentrate flood flows.

### **Rubbish**

- 14 Rubbish and disused equipment shall not be dumped on site.

### **Noise**

- 15 At all times when quarrying and ancillary works are being carried out when permitted by the conditions of consent, the uncorrected noise levels measured for a period not less than ten minutes at the notional boundary of any affected rural dwelling shall not exceed the following:

Night-time     40 dBA L<sub>10</sub>  
Daytime        55 dBA L<sub>10</sub> where daytime is between the hours of 6.00 am and 6.00 pm

(Night-time is between the hours of 6.00 pm and 6.00 am.)

All terms, definitions and methods of measuring and assessment of environmental noise shall be in accordance with NZS 6801:1991 and NZS 6802:1991.

### **Traffic**

- 16 The consent holder shall promptly address any extraordinary damage to the surface of Moss Road arising from increased use by heavy traffic associated with this proposal, and keep the Council informed of such road repairs. Existing road conditions will be determined by the Council's Engineering Department on inspection with the consent holder.
- 17 All roads and hard surfaces used by machinery and trucks shall be treated by grading, watering or other methods necessary to suppress the emission of dust, when in the opinion of the Council's Environment & Planning Manager this is necessary to prevent dust becoming a nuisance to residents along Moss Road or the public in general.

## **Safety**

- 18 A permanent warning sign and flag holder shall be erected at the start of the access road to the quarry, reading:

“QUARRY - no unauthorised access.

No explosives, detonators, fuses or fuels stored on site.

Blasting is in progress when siren is sounded and if red flag is flying.”

- 19 Any blasting shall be preceded by a siren warning activated at fifteen and five minutes before detonation. When blasting is being carried out a red flag shall be flown from the flag holder.

- 20 No explosives, detonators, fuses or fuel shall be stored at the quarry sites.

## **Monitoring**

- 21 Monitoring by the Council shall occur initially on a once every three months basis. All necessary appraisals and tests shall be carried out to gauge compliance with the conditions of this consent. At the discretion of the Council’s Environment & Planning Manager the time interval between visits may be extended.

- 22 All reasonable costs involved in monitoring shall be paid in full by the consent holder.

## **Review**

- 23 Pursuant to Section 128 of the Act the Council may at any time during the first year of operation of the quarry and thereafter during the last 10 working days of March and September in any year, serve notice on the consent holder of the Council’s intention to review the conditions on this consent to deal with any adverse effect on the environment which may arise from the exercise of the consent.

## **Duration**

- 24 The duration of this consent shall be 35 years.

## **APPLICATION NN940191 DISCHARGE PERMIT**

Consent is hereby granted to the application to discharge surface run-off water subject to the following conditions:

### **Records to be Kept**

- 1 The grantee shall keep such records as may be reasonably required by the Council, and shall, if so requested, supply this information to the Council. If it is necessary to install measuring devices to enable satisfactory records to be kept, the grantee shall, at his/her own expense, install suitable devices.

### **Works and Maintenance Programme**

- 2 As and when required by the Council, the grantee shall provide sufficiently detailed plans, specifications and maintenance programmes of works relating to the operation of this

permit. Plans, specifications and maintenance programmes submitted shall be of a standard adequate to meet all conditions of this permit.

### **Receiving Water Quality**

- 3 The receiving water clarity shall not decrease by more than 30% as measured by the black disk method, where a measurement taken immediately upstream is compared with one taken 50 m below the discharge points.

### **Discharge Point**

- 4 Any inlets or outlets to settling ponds and discharge points to the river shall be constructed in such a manner as to prevent scour.

### **Contaminants**

- 5 No petrol, diesel, oil or other toxic substances shall be present in the discharge as measured at the point of discharge.

### **Monitoring**

- 6 Monitoring by the Council shall occur initially on a once every three months basis. All necessary appraisals and tests shall be carried out to gauge compliance with the conditions of this consent. At the discretion of the Council's Environment & Planning Manager, the time interval between visits may be extended.
- 7 A macro-invertebrate assessment shall be carried out six months after the granting of this consent to assess the impact of the operation on Holyoake Stream. Subject to the results of this assessment, the conditions of the consent may be reviewed.
- 8 All reasonable costs involved in monitoring shall be paid in full by the consent holder.

### **Review**

- 9 Pursuant to Section 128 of the Act the Council may at any time during the first year of operation of the quarry and thereafter during the last 10 working days of March and September in any year, serve notice on the consent holder of the Council's intention to review the conditions on this consent to deal with any adverse effect on the environment which may arise from the exercise of the consent.

### **Duration**

- 10 The duration of this consent shall be 35 years.

### **APPLICATION NN940190**

For the reasons given above consent is hereby granted to the application for earthworks associated with the quarrying operations subject to all of the relevant conditions attached to the consents granted to applications RM940151 and NN940191.

David W Collins  
22 November 1994





**TASMAN DISTRICT COUNCIL**

**Report and Decision of the Tasman District Council through its Hearings Committee**

**Meeting held in the Council Service Centre Meeting Room, Motueka**

**on Monday, 1 October 2007, commencing at 9.30 am**

A Hearings Committee ("the Committee") of the Tasman District Council was convened to hear the application lodged by M G and E R Corrie-Johnston Family Trust relating to expand existing industrial activities onto adjoining Rural 1 zoned land. The application, made in accordance with the Resource Management Act 1991 ("the Act"), was lodged with the Tasman District Council and referenced as RM070640.

**PRESENT:**

**Hearings Committee**

Cr Cr E M O'Regan, Chairperson

Cr S J Borlase

Cr E J Wilkins

**APPLICANT:**

Mr MG Corrie-Johnston representing the applicant

Mr G Thomas, Planning Consultant for the Applicant

**CONSENT AUTHORITY:**

**Tasman District Council**

Ms M Bishop, Consent Planner Land

Mr D Ley Development Engineer

Mr R Ashworth Transportation Manager

**SUBMITTERS:**

Mr R Riddell

Mr T W and Mrs B L Watson

**IN ATTENDANCE:**

Mr R Askew, Principal Consents Adviser – Assisting the Committee

Mr B Moore – Administration Officer

## 1. DESCRIPTION OF THE PROPOSED ACTIVITY

To expand an existing industrial/rural-industrial activity, namely a concrete production operation and outdoor materials storage depot.

The proposed activities include the following:

- Storage of landscaping supplies;
- Gravel storage;
- Extending an existing 3 metre high bund wall and planting on the southern boundary adjoining Lot 1 DP 13197;
- Provision of a staff car park;
- Storage of vehicles;
- A new storage building; and
- A new workshop.

The workshop will service the company and contract vehicles only and there will be no increase in staff numbers. The hours of operation for all activities are between 7.00 am and 5.30 pm Monday to Friday (excluding public holidays). An additional 16 to 20 one-way vehicle movements per day are anticipated to be generated by the proposed workshop activities.

The property is located at 36 Hau Road, Motueka (Rural 1 Zone land) and adjoins the applicant's existing industrial activity at 34 Hau Road (Industrial (Light) Zone).

The subject of the application, 36 Hau Road is described as Lot 5 DP 301796 consisting of 2.4746 hectares held under the certificate of title 7335.

## 2. PROPOSED TASMAN RESOURCE MANAGEMENT PLAN ("PTRMP") ZONING, AREAS AND RULE(S) AFFECTED

According to the PTRMP the following apply to the subject property:

Zoning: Rural 1  
Area(s): Land Disturbance Area 1

The application is considered to be a Discretionary Activity under rule 17.4.3 of the Proposed Tasman Resource Management Plan in that the proposal is an industrial activity, which is excluded from the Permitted Land Use activities in rule 17.4.2(b)(i) of the Rural 1 Zone.

The proposed activity does not comply with Permitted Activity Rule 17.4.2 of the Proposed Tasman Resource Management Plan and is deemed to be a discretionary activity in accordance with Rule 17.4.3 of the Plan.

## 3. NOTIFICATION AND SUBMISSIONS RECEIVED

The application(s) was notified on Saturday 14 July 2007, pursuant to Section 93 of the Act. A total of six submissions were received. The following is a summary of the written submissions received and the main issues raised:

Submitter	Reasons	Decision
Rex Riddell	Disagreed with some statements made in the application including that the current noise levels below permitted standards took residents 7 or 8 years of hard graft to achieve, Lot 5 is underutilised possibly because it has not yet had all the underlying gravel extracted and despite the road having been widened the drainage problem is far worse and considerable work needs to be done to improve the situation. He does not agree that the proposal will produce only minor effects as this proposal doubles the landmass for a business to use it for industrial purposes. Mr Riddell would like Hau Road widened with channel and kerbing and a footpath installed before any further expansion of industrial zoning (use) at the end of the road is allowed.	Decline  <b>Does not wish to be heard at the hearing.</b>
Christine Woollett	Objects to noise, pollution and increase in traffic and would like to see the hours stay at 7-5pm not to 5.30pm. Hau Road is also a residential area with lots of young children on bikes.	Decline  <b>Did not indicate whether she wishes to be heard at the hearing.</b>
Ada Maureen Crosbie	Opposes the application due to increased traffic on a sub-standard road with no pedestrian footpaths and there is water lying on the side of the road since the upgrade. Going on past performance the extension of industrial use will uncontrolled usage as in the case of Lot 4.	Decline  <b>Does not wish to be heard at the hearing.</b>
T W and B L Watson	Oppose the application due to previous non-compliance with hours of work (7am-5pm), increased industrial use will encroach into what is left of their rural atmosphere, they believe the workshop will be used to service vehicles other than just CJ Industries resulting in more traffic problems, dust is already a problem on the work area and road area, safety issues with the width of Hau Road and as the grass verge is uneven it is easier to walk on the sealed area, the turning area cannot be used because of the "Conpavers" locked gates, trucks and trailers shed gravel along the road especially at the junction of Hau Road and Queen Victoria Street and there's a danger to traffic in general. They believe this proposal will have many unfilled promises similar to when the abattoir closed.	Decline  <b>Do not wish to be heard at the hearing.</b>
Robert Kevin Reid	Supports the application, no reasons stated	Grant  <b>Did not indicate whether he wishes to be heard at the hearing.</b>
P and S Bourke and A and P Lummis Partnership	Supports the application, no reasons stated, also previously supplied written approval	Grant  <b>Did not indicate whether they wish to be heard at the hearing.</b>

#### **4. PROCEDURAL MATTERS**

No formal procedural matters were raised at the hearing. The chairperson did ask the submitters attending if they wished to be heard even though they had indicated otherwise and they advised they would be happy to answer any questions the Committee may have.

#### **5. EVIDENCE HEARD**

The Committee heard evidence from the applicant, expert witnesses, submitters, and the Council's reporting officer. The following is a summary of the evidence heard at the hearing.

##### **5.1 Applicant's Evidence**

Mr G Thomas, a resource management consultant, tabled and read a statement of evidence. Mr Thomas displayed and explained aerial photographs, endorsed with the zones, site layout and proposed uses. Mr Thomas explained that the application would allow the applicant to formalise the use of land for light industrial purposes at the end of Hau Road, as some of the outdoor yard operation had already expanded into the adjacent part of the overall site that is zoned Rural.

Mr Thomas said that the subject land is under one ownership and no subdivision of this land is proposed. Mr Thomas stressed that the existing concrete batching operation was not part of this application and will remain on the Industrial zoned land. Mr Thomas said that the proposed activities will not generate significant amounts of industrial traffic beyond what would be generated by permitted activities in the Industrial zone, or from permitted activities in the Rural zone.

The submission said that Council upgraded Hau Road to a standard that does not meet the rural road standard, let alone the industrial road standard that the applicant is now being asked to totally fund. The evidence referred to the four submissions in opposition that Mr Thomas said is based mainly on the state of Hau Road and traffic and the fact that there is an industrial zone in close proximity to the submitters' properties.

Mr Thomas repeated that the operations of the gravel crusher and the concrete batching plant are not part of this application and that they are complying in terms of the Proposed Tasman Resource Management Plan.

Mr Thomas addressed the actual or potential effects on the environment, particularly the matters of permitted baseline, traffic effects, noise, dust, and rural and residential character and amenities.

Mr Thomas tabled and read a legal opinion dated 26 September 2007 from Mr W J Heal, barrister. This legal opinion referred to the suggested conditions of consent from the Council engineers regarding upgrading of Hau Road. The Council engineers had suggested that the existing road formation be increased by 2 metres to provide an 8 metre wide road. That the part of Hau Road that is presently unformed must be formed up to an 8 metre carriageway, together with a formed industrial turning head at the eastern end.

It was also recommended that kerb, channel and sumps, together with stormwater disposal be installed along the southern side of Hau Road in addition to recommended widening. That a 1.4 metre concrete footpath to be formed along the completed length of Hau Road. Individual crossings are to be formed for all existing crossings along the south side of Hau Road. That the applicant be required to vest land as road, along the frontage of his property of 2.5 metres. Mr Heal in his written opinion stated that this is presumably all at the cost of the applicant.

Mr Heal referred to the Newbury tests being the pre-requisites for conditions and that the Engineer's proposals are plainly illegal and unfair in that the applicant plans to increase traffic movement, according to Ms Bishop between 6% and 7%. Mr Heal said that the Council Engineers also failed to note that Hau Road is more of a rural road at present. It services a lawfully established industrial site and appears to do so satisfactorily. Mr Heal said that there is no evidence that increased traffic will necessarily create problems, given the short nature of the road and its recently upgraded condition.

In his legal opinion, Mr Heal explained why the Council should disregard the comments in the planner's report regarding the Coleman vs Tasman District Council case and the permitted baseline test particularly in regard to the number of traffic movements created by the proposed activity.

Mr Thomas provided comments on the proposed conditions of consent suggested by Council officers. He said there will be no requirement for increased capacity and neither will Council need to incur expenditure.

Mr Thomas said that the industrial site is currently connected to sewerage reticulation but has its own water supply. It is not altering its existing operation with regards stormwater management. The only contentious area was traffic, although it is considered that the legal opinion has clarified that. He said that the requirements for development contributions are not applicable to this application.

Mr Thomas reminded the hearing panel that this application is for a landuse consent as a Discretionary Activity for the right to expand a portion of the light industrial activity into the Rural 1 zoned land. He said the Council planner has assessed that there are no adverse effects, apart from the state of Hau Road being created by this proposal. Mr Thomas said that the tabled legal opinion from Mr W J Heal, resolves the Hau Road traffic issue.

## 5.2 Submitters' Evidence

Mr R Riddell said that Council needs to expand the road reserve together with the footpath. He said that stormwater drainage from the road goes into his property. He claimed that Lot 5 is to become industrial zoning so anything industrial can happen. Mr Riddell said the road needs to be kept to full width. He claimed that the resource consent process had been a waste of time. Mr Riddell said that Hau Road is a little bit better now since it has been widened for trucks. He said a footpath is needed on the southern side.

Mr T Watson said that a big dust problem exists and this comes from the crusher and vehicles carrying gravel. He said that dust is conveyed down the road and affects houses. He said hours of work should be restricted to between 7.30 am and 5.00 pm. He said early truck use such as at 4.00 am is very disturbing as trucks are allowed to be run for 30 minutes when stationary in the yard.

Mr Watson said the hours of work were agreed to when the business was established as C J Industries. Mr Watson said that he noted the increased in the proposed storage yards and that Hau Road's surface will not stand up to heavier traffic due to its poor base formation. He said the driveways to the houses are affected by the road formation.

### 5.3 Council's Reporting Officer's Report and Evidence

Mr D Ley, Development Engineer, spoke to his report contained within the agenda and confirmed that the suggested conditions of consent within his report were confirmed by him as those that should become part of the resource consent conditions.

Mr R Ashworth, Transportation Manager, said that Hau Road is already substandard for its current use and said that Council recently provided a 2 metre seal widening. He said the proposal for improvements to the road for safety reasons would cost \$200,000 including the footpath on the southern side. He said intersection upgrading is to be included as this is also within the Council's Transport Strategy.

Ms M Bishop, Consent Planner-Land, referred to her report EP07/10/01 contained within the agenda. She referred to the actual and potential environmental effects. She referred to Section 104(2) of the Resource Management Act and the use of this as a permitted baseline for determining and assessing effects. Ms Bishop referred to proposed conditions of consent listed within her report and explained the limitations on persons to be employed and the restriction on the hours of operation as being related to the applicant not wanting to expand or increase the business. She said that the applicant would have to volunteer all conditions relating to Lot 4. Ms Bishop quoted the Proposed Tasman Resource Management Plan Rule 16.2.3(b) concerning parking on an adjacent site as justification for having titles for Lots 4 and 5 DP 301796 held together.

## 6. PRINCIPAL ISSUES

The principal issues that were in contention were:

- a) Is the proposed development consistent with the objectives and policies for the Rural 1 zone?
- b) Can the concerns regarding traffic safety issues be dealt with?
- c) Will the adverse amenity effects be more than minor?
- d) Is the development appropriate for the area?

## **7. MAIN FINDINGS OF FACT**

The Committee considers that the following are the main facts relating to this application:

- a) The land adjoining the subject property has been zoned industrial for a long period and was originally to provide for the operation of an abattoir on the site.
- b) The current adjoining industrial land use by the applicant has been operating for several years.
- c) Use of the adjoining Rural 1 zoned land for parking and depositing of some landscape materials is already occurring and this is a permitted activity in that zone.
- d) The erection of buildings is a permitted activity in the Rural 1 zone provided the coverage of the site does not exceed 5% of the area of the site.
- e) Hau Road and the part of Queen Victoria Street adjoining Hau Road does not meet the required standard to service industrial zoned land.
- f) Existing residential properties within the Rural 1 Zone are located along the southern side of Hau Road and owners of these properties have complained about some of the industrial activities occurring within the Industrial zoned land in Hau Road.
- g) The stormwater disposal and pedestrian access for residential properties along Hau Road is a problem for some residents.
- h) The activity would have the effect of increasing traffic on Hau Road, such increase is unlikely to exceed the 6% or 7% estimated in the planner's report.

## **8. RELEVANT STATUTORY PROVISIONS**

### **8.1 Policy Statements and Plan Provisions**

In considering this application, the Committee has had regard to the matters outlined in Section 104 of the Act. In particular, the Committee has had regard to the relevant provisions of the following planning documents:

- a) Tasman Regional Policy Statement (TRPS);
- b) The Transitional Regional Plan (TRP);
- e) The Proposed Tasman Resource Management Plan (PTRMP);

### **8.2 Part II Matters**

In considering this application, the Committee has taken into account the relevant principles outlined in Sections 6, 7 and 8 of the Act, as well as the overall purpose of the Act as presented in Section 5.

## 9. DECISION

Pursuant to Section 104B of the Act, the Committee **GRANTS** consent subject to conditions.

## 10. REASONS FOR THE DECISION

The application is to expand and relocate some activities currently operating on the applicant's property at 34 Hau Road being Lot 4 DP 301796 which is zoned Industrial (Light) onto adjoining Rural 1 zoned land at 36 Hau Road being Lot 5 DP 301796.

Rural 1 zoned land can be used as of right for some of the proposed activities which include storage of non-hazardous substance materials and parking of vehicles.

Erection of buildings is also permitted in the zone and the proposed building footprint areas presented with the application would come within the maximum permitted coverage for the zone of 5% of the site area.

The proposed workshop is not a new activity but a relocation of an existing activity from the adjoining Industrial zoned land.

The storage building will also be used for activities associated with the applicants company CJ Industries Ltd.

The overall change in effects is considered to be no more than minor however the Committee notes that residents in Hau Road have complained about effects from industrial activity since the abattoir was closed and the alternative industrial uses established.

The Committee has been able to impose conditions volunteered by the applicant to ensure that the use of the Rural 1 land is tied to the current use of the adjoining Industrial land and also that the consent is tied to the owner of the land and activity of the CJ Industries company.

Further encumbrances on the title of Lot 5 DP 301796 in regards to car parking provision should ensure that the two lots be used by the applicants company as an integrated land use and that there is no opportunity for Lot 5 to become a separate industrial activity on its own.

The Committee has noted the concerns expressed by submitters and has noted the issues of stormwater and pedestrian access during a site visit when it was raining. Conditions have been imposed to provide an appropriate rural footpath (gravel) and to improve stormwater drainage which were some of the more significant issues raised by some submitters.

The Committee considered the matters raised and recommended by Council Engineering staff but did not consider that those requirements were reasonable given the overall change in off-site effects, particularly traffic movements.



The Committee also noted the legal opinion provided by the applicant's planning consultant which distinguished the facts between this proposal and the Environment Court Ruling in the case of S M Coleman vs Tasman District Council where appeal to Council's decision declining approval of subdivision was declined on grounds which included a requirement to upgrade the road servicing the subdivision.

The legal opinion also considered that application of the "Newbury Test" in this case would consider that the conditions regarding road upgrading recommended by Council's Engineering staff would be unreasonable and "well beyond anything required by the increase of traffic".

The condition requiring a footpath and provision of a turning area outside the applicant's property at 34 Hau Road were considered appropriate to address matters of safety and convenience relating to the changes that this proposal would likely generate.

## **11. COMMENTARY ON CONDITIONS OF CONSENT**

### **Limitations to Transfer and Car Parking Easement**

The Council Planner recommended a condition to encumber the titles of Lots 4 and 5 DP 301796 so that they could not be disposed of independently of one another.

Following volunteered conditions at the hearing by the applicant, two conditions have been applied that should achieve the outcome sought without imposing any unreasonable restraint on the titles.

### **Work Practices for Lot 5 DP 301796**

A condition has been imposed to limit the use of the workshop to those activities as advised during the hearing by the applicant, namely the servicing and maintenance of their own fleet of vehicles used in connection with the business activities of C J Industries Ltd.

### **Roading**

Conditions have been applied to improve pedestrian safety along Hau Road by the construction of a footpath. In addition improvements to the road drainage and provision of turning area at the entranceway to CJ Industries (34 Hau Road) will make a significant improvement to the safety and convenience of residents and road users.

Issued this 4<sup>th</sup> day of October 2007

E M O'Regan  
**Chair of Hearings Committee**



## RESOURCE CONSENT

**RESOURCE CONSENT NUMBER:** RM070640

Pursuant to Section 104B of the Resource Management Act 1991 ("the Act"), the Tasman District Council ("the Council") hereby grants resource consent to:

**M G and E M Corrie-Johnston Family Trust**  
(hereinafter referred to as "the Consent Holder")

**ACTIVITY AUTHORISED BY THIS CONSENT:** expand and relocate some existing industrial and rural industrial activities onto

### LOCATION DETAILS:

Address of property: 36 Hau Road, Motueka  
Legal description: Lot 5 DP 301796  
Certificate of title: 7335  
Valuation number: 19280154

Pursuant to Section 108 of the Act, this consent is issued subject to the following conditions:

### CONDITIONS

#### Limitations of Transfer of Consent

1. This consent shall be personal to CJ Industries Ltd which has been advised at the hearing to be the applicants' company and this consent expires and the activity must cease if none of the following Directors of CJ Industries Ltd are actively involved in managing the activity:
  - Desmond Michael Corrie-Johnston
  - Elaine Ruth Corrie-Johnston; or
  - Michael George Corrie-Johnston

#### Advice Note:

Section 134 of the Act states that land use consents attach to the land and may be enjoyed by the owners and occupiers of the site, unless a consent expressly provides otherwise. This condition overrides Section 134 and this consent may only be exercised by the party stated in the condition.

All or any of the directors listed in this Condition must be actively involved in managing the business, otherwise the activity must cease. Active involvement means being involved in the day-to-day running of the business and being a silent or sleeping partner in the business does not constitute active management.

The applicant volunteered a condition at the hearing that the consent be personal to CJ Industries Ltd. The reference to the current Directors of the Company in the condition is to ensure that the condition is legally robust and will be able to be applied in the spirit in which it was offered by the applicant.

## General

2. The establishment and operation of the activity shall, unless otherwise provided for in the conditions of the consent, be undertaken in accordance with the documentation submitted with the application.

The activities authorised by this consent are limited to the expansion and/or relocation and operation of the following specified activities from Industrial (Light) zoned land at 34 Hau Road Motueka being Lot 4 DP 301796 onto adjoining Rural 1 zoned land at 36 Hau Road being Lot 5 DP 301796, Motueka:

- a) relocating the landscape supplies (which are already located on Lot 5 DP 301796) further eastwards to an area measuring 45 metres long by 25 metres wide;
- b) relocating the gravel storage activity that exists on Lot 4 DP 301796 south eastwards onto Lot 5 DP 301796;
- c) to provide a carpark area 40 metres long by 20 metres wide on Lot 5 DP 301796;
- c) to erect a building having a footprint measuring 24.0 metres by 24.0 metres for use of storage of materials associated with CJ Industries' activities on the adjoining land;
- d) to erect a building having a footprint measuring 24.0 metres by 24.0 metres for use to replace and enlarge the building currently used on Lot 4 DP 301796 for routine maintenance and servicing of CJ Industries vehicle fleet.

The activities shall be undertaken in accordance with the documentation submitted with the application and with the plan attached to this consent as Appendix A and labelled RM070640 Plan 3A/4 and dated 07/07. Where there are any discrepancies or apparent conflict between the information provided with the application and any conditions of this consent, the conditions shall prevail.

### Advice Note:

The permitted maximum area for building coverage in the Rural 1 Zone is not greater than five percent of the net site area (but not greater than 2,000 square metres). This means that the maximum building coverage of Lot 5 DP 301796 is 1,237.3 square metres as a permitted activity. The proposed building area for Lot 5 DP 301796 in this consent is 1,152 square metres.

### **Covenants and Easements**

3. Prior to the activity commencing, the consent holder shall enter into a formal agreement (in the form of an easement or covenant registered against the Certificates of Title) with the owner(s) of Lot 4 DP 301796 confirming that parking, manoeuvring, and access for vehicles to minimum dimensions as shown as "Staff Car Park" on the plan attached to this consent labelled RM070640 Plan 3A/4 and dated 07/07 are available on Lot 5 DP 301796 for the use of the consent holder exclusively. Such covenant or easement shall be prepared by the consent holder at their expense and submitted to the Manager Resource Consents, Tasman District Council for approval prior to registration. Any costs in relation to Council granting their approval shall be met by the consent holder.

Should the covenant or easement expire, this resource consent shall cease immediately unless alternative car parking arrangements are made to the satisfaction of the Tasman District Council.

**Advice Note:**

The above condition was volunteered by the applicant at the hearing.

### **Dust**

4. The consent holder shall implement all necessary mitigation measures to ensure that, in the opinion of an Enforcement Officer of the Council, there is no offensive or objectionable dust discernable at or beyond the property boundary as a result of the authorised activities on Lot 5 DP 301796.

**Advice Note:**

Control of dust for the adjoining Industrial (Light) zoned site (Lot 4 DP 301796) is provided for by a permitted activity rule having the same effect as the above condition.

### **Work Practices for Lot 5 DP 301796**

5. Activities carried out within the proposed buildings to be erected on Lot 5 DP 301796, that is the storage building and the workshop building shall be limited to activities undertaken by CJ Industries Ltd and are either ancillary to the permitted activities on Lot 4 DP 301796 or are ancillary to permitted activities in the Rural 1 Zone.

**Advice Note:**

Some submitters noted that vehicle movements along Hau Road had occurred in the early hours of the morning. The Committee acknowledges that there are no provisions in the Proposed Tasman Resource Management Plan relating to hours of operation and that vehicle movements will be generated principally by activities on the Industrial zoned land. The assessment of effects report, included with the application, however stated in 2.3 "The applicant would now like to operate between 7.00 am and 5.30 pm weekdays only – not weekends". The Committee noted that the submitters present were not opposed to Mr Corrie-Johnston personally and therefore the Committee expects that the consent holder will endeavour to minimise any adverse effects from the activities that are not otherwise controlled, in other words be 'a good neighbour'.

## **Amenity**

6. The existing 3 metre high landscaped bund along the southern boundary adjoining Lot 1 DP 13197 shall be extended to the easternmost boundary on Lot 5 DP 301796 by 30 November 2008 and thereafter maintained.

## **Access and Manoeuvring**

7. The on-site access to Lot 5 DP 301796 shall be sealed from the edge of the road seal to at least 10 metres inside the property boundary. The sealed area shall include an area that shall be permanently accessible from the road so as to provide a sealed area that, together with the road seal, has a diameter of sixteen metres to enable vehicle turning at the consent holder's entranceway when the premises are not open for business and the gates are closed.

This work to be completed before 31 January 2008, with all costs to be met by the consent holder.

## **Hau Road Improvements**

8. The following works are required to be undertaken by the consent holder and at the consent holder's expense prior to the workshop activities commencing:
  - a) A 1.4 metre gravel footpath shall be formed along the southern side of Hau Road from the entrance to the application site to the intersection of Hau Road with Queen Victoria Street. The footpath shall be located away from the existing stormwater swale on the southern side of the Hau Road;
  - b) The footpath construction shall include improvements to the drainage swale so that water shed from the southern side of the road seal is effectively and efficiently carried away to the existing soakage pits along the swale.
  - c) All works to be carried out shall be shown on engineering plans which shall be submitted for approval to the Tasman District Council's Engineering Manager prior to the commencement of any works within the legal road reserve.

### **Advice Note:**

The applicant volunteered to form the gravel footpath at the hearing. The applicant also volunteered to widen the road seal along the length of Hau Road by 1.0 metre on the northern side of the road but this volunteered condition was not accepted. The improvements to the side drains together with the footpath construction are considered to better provide for mitigation of adverse effects relating to vehicle transfer of dirt off the site onto Hau Road and improve road safety for pedestrians.

## **Review**

9. That pursuant to Section 128(1)(a) and 128(1)(c) of the Resource Management Act 1991, the Consent Authority may review any conditions of the consent within twelve months from the date of issue and annually thereafter for any of the following purposes:

- a) to deal with any adverse effect on the environment which may arise from the exercise of the consent and which it is appropriate to deal with at a later stage; or
- b) to deal with inaccuracies contained in the consent application that materially influenced the decision made on the application and are such that it is necessary to apply more appropriate conditions; or
- c) to assess the appropriateness of imposed conditions and to alter these accordingly.

### **Cultural Heritage**

10. Whilst there are no known archaeological sites on the site, the subject property is near a known archaeological site. If during any site disturbance works, any material is found that may have any archaeological significance, all work shall stop immediately and the consent holder shall contact Tiakina te Taiao, the Tasman District Council and the New Zealand Historic Places Trust, who shall be consulted so that appropriate action pursuant to the Historic Places Act 1991 is undertaken.

### **Advice Note:**

The applicant has volunteered this condition.

### **GENERAL ADVICE NOTES**

#### **Council Regulations**

1. The consent holder shall meet the requirements of Council with regard to all Building and Health Bylaws, Regulations and Acts.

#### **Proposed Tasman Resource Management Plan**

2. Any activity not referred to in this resource consent must comply with either: 1) a relevant permitted activity rule in the Proposed Tasman Resource Management Plan (PTRMP); 2) the Resource Management Act 1991; or 3) the conditions of a separate resource consent which authorises that activity.

#### **Development Contributions**

3. The consent holder may be 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 or certificate of acceptance until all development contributions have been paid in accordance with Council's Development Contributions Policy under the Local Government Act 2002.

### **Monitoring**

4. Monitoring of the consent is required under Section 35 of the Resource Management Act 1991 and a deposit fee is payable at this time. Should monitoring costs exceed this initial fee, Council will recover this additional amount from the resource consent holder. Costs are able to be minimised by consistently complying with conditions and thereby reducing the frequency of Council visits.

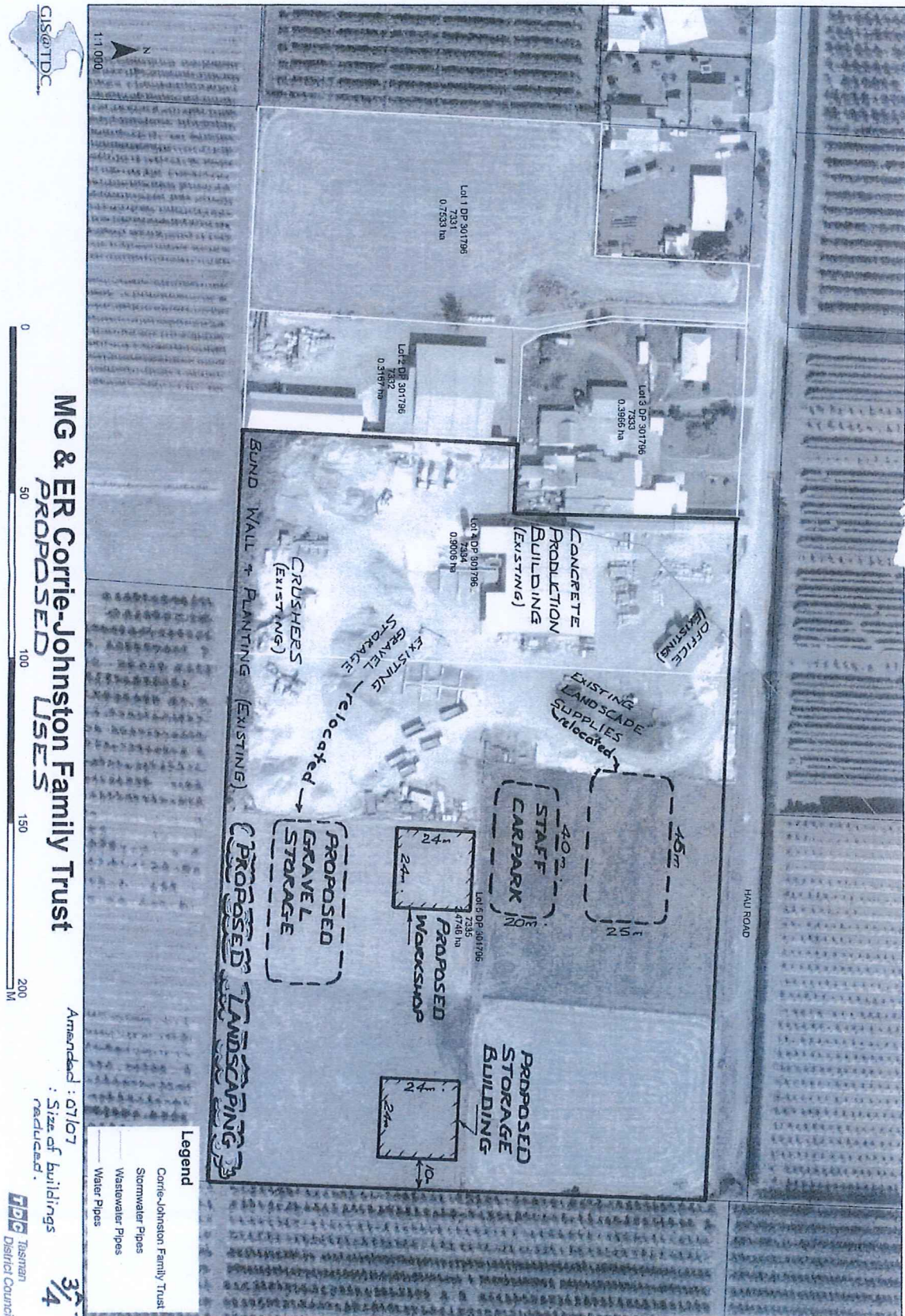
### **Interests Registered on Property Title**

5. The consent holder should note that this resource consent does not override any registered interest on the property title.

Issued this 4<sup>th</sup> day of October 2007

E M O'Regan  
**Chair of Hearings Committee**

Appendix A





RM070640  
Writer's Direct Dial No. (03) 5438 789  
Writer's Email: bob.askew@tdc.govt.nz

4 October 2007

M G and E R Corrie-Johnston Family Trust  
C/- Graham Thomas Resource Management Consultants Ltd  
PO Box 3314  
**RICHMOND 7050**

Dear Madam / Sir

**DECISION NOTIFIED RESOURCE CONSENT APPLICATION NO. RM070640:  
CORRIE-JOHNSTON FAMILY TRUST**

Pursuant to Section 114 of the Resource Management Act 1991 ("the Act"), please find enclosed a copy of the Council's decision on your application for resource consent referred to above.

Section 120 of the Act provides you with the right to lodge an appeal with the Environment Court in respect of this decision and/or any associated conditions. Section 121 of the Act requires that any such appeal must be made in the prescribed form and must state the reasons for the appeal and the relief sought and must be lodged with both the Environment Court (PO Box 2069, Christchurch; Phone (03) 962 4170 or Fax (03) 962 4171) and the Council within 15 working days of receiving this letter. A copy of your appeal must also be served on all persons who made a submission on the consent application within five working days of your appeal being lodged with the Environment Court.

If you receive a copy of an appeal from another party and you wish to be involved in the appeal process (ie, be a "*party to the proceedings*"), then you need to advise the Environment Court of this within 30 working days. Section 274 of the Act outlines the process to become a party to the appeal proceedings.

At this stage the Council has not calculated the final costs of processing your application. Should the final costs exceed the deposit already paid, then as previously advised, you will be invoiced separately for these costs. Should the final costs be less than the deposit already paid, then you will receive a refund. Where the costs are equal to the deposit already paid, no further action is required. You will receive a letter shortly regarding the final costs of processing your application.

Please also note that this resource consent attracts a monitoring fee for which you will be invoiced separately. In addition, officers of the Council may also carry out site visits to monitor compliance with resource consent conditions.

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File: RM070640

Decision letter to M G and E R Corrie-Johnston Family Trust

You may commence your activity at the end of the appeal period unless the decision is appealed. However, it is important that you check the conditions of your consent carefully as some of them may require you to provide information and/or plans to the Council before you may commence your activity. In addition, in some cases you may also require other permits or building consents for your activity and these must be obtained before you can commence your activity.

Please feel free to contact Bob Askew (Principal Resource Consents Advisor) on (03) 5438 789 if you have any questions regarding any aspect of your consent or its conditions.

Yours faithfully

Bob Askew  
**Principal Resource Consents Advisor**