

Notice is given that an ordinary meeting of a Resource Consent Hearing will be held on:

**Date:** Monday 29 July 2019  
**Time:** 11.00am  
**Meeting Room:** Tasman Council Chamber  
**Venue:** 189 Queen Street  
Richmond

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## Commissioner (Resource Consent) Hearing

### AGENDA

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#### MEMBERSHIP

(Quorum members)

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## AGENDA

### 1 OPENING, WELCOME

### 2 REPORTS

2.1 WLC Trustee Limited – Section 357 Objection..... 5

#### **Objection to Conditions of Subdivision Consent RM181013**

The objection to subdivision consent RM181013 seeks to have the imposition of a Local Purpose (Walkway/Cycleway) Reserve removed by deletion of conditions 18-20.

The recommendations of this report are:

- 1) That the requirement for a Local Purpose (Walkway/Cycleway) Reserve be retained in subdivision consent RM181013.
- 2) That Condition 18 be amended to read:  
***A local Purpose (Walkway/Cycleway) Reserve along the northern boundary of Lot 2 to connect Thorp Bush Reserve with Thorp Street shall vest in the Tasman District Council as a separate allotment. The width of this reserve shall generally be 6 metres with a reduction in width where reasonably required to accommodate the existing building and pond on site (at the date this consent is granted), and reduced to 3 metres width on the northern leg-in strip from Thorpe Street adjacent to Lot 1. Compensation is payable by Council for the land in the reserve and recovery of reasonable survey costs associated with defining the reserve.***

**Advice Note:**

**The consent holder is not required to form the walkway/cycleway.**

- 3) That Condition 20 be amended to read:

***The land in the reserve strip required by Condition 18 shall be presented in the condition that it was on the date that this consent was granted, free of noxious weeds and rubbish.***

### 3 CONFIDENTIAL SESSION

Nil





## 2 REPORTS

### 2.1 WLC TRUSTEE LIMITED – SECTION 357 OBJECTION

Decision Required

<b>Report To:</b>	Commissioner (Resource Consent) Hearing
<b>Meeting Date:</b>	29 July 2019
<b>Report Author:</b>	Phil Doole, Resource Consents Manager
<b>Report Number:</b>	REPC19-07-1
<b>Attachments:</b>	<ol style="list-style-type: none"> <li>1. <a href="#">Attachment 1: Statement of Objection</a></li> <li>2. <a href="#">Attachment 2: Council Response to Objection</a></li> <li>3. Attachment 3: Subdivision Consent RM181013</li> <li>4. Attachment 4: Notification Decision for RM181013</li> <li>5. Attachment 5: Evidence Rosalind Squire</li> <li>6. Attachment 6: Plan Showing Walkway Cycleway Reserve</li> </ol>

#### 1 Purpose and Format of this Report

- 1.1 Pursuant to Section 42A of the Resource Management Act 1991 (the Act), this is a report on an Objection lodged per Section 357A of the Act regarding subdivision consent RM181013, granted to WLC Trustees Limited on 7 March 2019. The decision to grant consent was made by an officer of Tasman District Council under delegated authority of the Council.
- 1.2 The Objection dated 27 March 2019 is to part of the decision on RM181013, specifically to conditions of consent 18-20 that require a local purpose (walkway/cycleway) reserve to be provided as part of the subdivision [refer **Attachment 1**].
- 1.3 Council's preliminary consideration of the matters of objection per Section 357C(3) of the Act was conveyed to the consent holder on 2 May 2019 [refer **Attachment 2**]. The reasons stated in the Objection for removing conditions 18-20 were not accepted. It was acknowledged though, that condition 20 should be amended to clarify that the consent holder is not required to form the walkway/cycleway along the reserve.
- 1.4 This report addresses the provisions of the Act and the Tasman Resource Management Plan (TRMP) that I consider to be relevant to and provide for the imposition of Conditions 18-20, with reference to the consent decision [refer **Attachment 3**]. I also address the matter of potential impacts on neighbours, which has been raised in the evidence from Jane Hilson on behalf of the applicant. Most of the issues raised in the Statement of Objection and Ms Hilson's evidence concern reserves/walkways planning and the practicalities of forming a path along the identified route along the northern boundary of the land being subdivided. Those matters are addressed in evidence prepared for Council by Senior Planner, Rosalind Squire [refer **Attachment 5**].
- 1.5 Details of the subdivision authorised by consent RM181013, the land zoning and other TRMP provisions are generally contained in the Attachments referred above, and are not repeated in this report except where required for evaluating the issues raised in regard to Conditions 18-20.

- 1.6 I am generally conversant with the site, having visited it in 2013 in relation to another consenting manner, and more recently viewing it from the east and west boundaries before making the decision on consent RM181013.

## 2 Statutory Basis for Imposing Conditions 18-20

- 2.1 Condition 18 requires vesting of land as a reserve, for which the consent holder will be fully compensated in terms of fair land value and associated costs of defining and vesting the reserve. For that reason, the consent decision assesses the reserve requirement in terms of Section 108AA(1)(b)(ii), rather than as a financial contribution as provided for by Section 108(2)(a), (9) and (10).
- 2.2 The reasons for the decision (at page 10 of the consent) refer to the TRMP rules for subdivision in Rural 1 and Rural Residential zones, which refer to Schedule 16.3A Assessment Criteria for Subdivision, and specifically Criterion (43) therein. Ms Hilson's evidence (at paragraphs 4.13 and 4.14) appears to assert that consideration of Schedule 16.3A and Criterion only applies because in this case the subdivision is a non-complying activity. If that is her reasoning, I disagree, because consideration of Schedule 16.3A is also required for subdivisions that are discretionary activities.
- 2.3 The key point from Section 108AA(1)(b)(ii) is that conditions of consent are not limited to adverse effects of the proposed activity – in this case, a two lot subdivision, but can be imposed for reasons that are envisaged by the TRMP rules.
- 2.4 Schedule 16.3A is a major component of the TRMP rules for subdivision. It states:
- When considering an application for a subdivision consent, the Council will have regard to the following criteria: ... ..*
- (43) The provision, design and routes of cycleways, walkways and bridle paths, including linkages between any site and local retail areas, schools, reserves, bus routes and arterial roads.*
- This criterion (43) is not tied to the indicative walkway routes shown on the TRMP planning maps. In my view, it enables consideration of other desirable routes for walkways/cycleways on a case by case basis.
- 2.5 The Statement of Objection (at paragraph 14) implies that Council staff have given “primacy” to the walkway; and with regard to the consent decision, that “it would appear that the walkway/cycleway was the most important aspect arising out of the proposal.” The actual situation was that the interest in achieving a walkway connection was an obvious matter of contention between Council reserves section and the applicant (as per the response to Council's request for further information). Therefore, the consent decision provides a detailed reasoning as to why it was considered reasonable and justified to impose conditions 18-20.

## 3 Effects on Neighbours of Walkway/Cycleway

- 3.1 Issues regarding adverse effects on adjoining neighbours are raised in Ms Hilson's evidence (at her paragraph 4.15). The implications of imposing the walkway/cycleway reserve were specifically assessed as part of my notification decision [refer **Attachment 4**]. I stand by that

assessment, for the reasons stated in that decision deeming the neighbours to not be adversely affected persons.

- 3.2 For comparison, if the walkway reserve was acquired as a public work separately from subdivision, it would not require a land use resource consent for the activity, nor would it require a subdivision consent.
- 3.3 I am not aware of any other subdivision application where provision of a walkway has required adjoining landowner approval where that activity is permitted in the zone.

#### **4 Merits of Requiring the Walkway/Cycleway**

- 4.1 The issues raised in the Statement of Objection, and in Ms Hilson's evidence, are addressed in Ms Squire's evidence [refer **Attachment 5**, with Appendices].
- 4.2 The Objection raises several matters which could apply to most if not all public walkways in urban or peri-urban areas. Ms Squire expands on the reasons why this walkway route will provide benefits for the Motueka community, and why there appears to be no better route option to link Thorp Street with Thorp reserve. She also addresses the issues raised with regard to construction and functioning of the envisaged walkway/cycleway. I concur with her assessment of those matters.
- 4.3 In coming to the view that imposing the walkway/cycleway reserve on this consent is reasonable, I have not seen or heard any argument (other than those addressed by Ms Squire) that it will cause any significant detriment to the future use of the remainder of the property being subdivided.

#### **5 Proposed Amendments to Conditions 18-20**

- 5.1 I have reviewed Conditions 18-20 with Ms Squire and Council's reserves staff to consider whether any amendments can be offered.
- 5.2 As indicated in the preliminary response to the Objection [refer Attachment 2], there was no intention that the consent holder would be required to form the walkway/cycleway along the reserve. An amendment to Condition 20 was put forward to clarify that, and to avoid any unintended conflict with the 2013 Engineering Standards and Policies. Additionally, an advice note could be added under Condition 18 stating that the consent holder is not required to form the pathway.
- 5.3 The Commissioner has asked whether an easement in gross in favour of Council could achieve the same public access outcome, compared to a reserve. This option has been considered. There are walkways in the District that are secured by easements, however they tend to be in rural areas where they pass across larger blocks of land. In this case, it is considered that reserve status (vested in Council) is preferable so that landowner responsibilities and liabilities are clear, and there appears to be no compelling reason why the landowner would want to retain an interest in the walkway/cycleway area.
- 5.4 Possibly, the portion along the northern leg-in beside proposed Lot 1 could be a shared accessway with an easement in gross, if the consent holder is agreeable to that. Otherwise Council's reserves section can accept a minimum 3 metre wide reserve for that portion (with allowance for a passing bay, if required, on the adjoining private leg-in access, given that the

leg-in will be 90 metres in length). This is shown overlaid on a plan of the subdivision [refer **Attachment 6**].

- 5.5 It would also be appropriate to shift the “compensatory” provision in Condition 17 for the value of the reserve land, to Condition 18, or insert a cross link to Condition 17 into Condition 18, to avoid confusion as to the nature of the walkway reserve conditions.

## 6 Proposed Amendments to Conditions 18-20

6.1 Having considered the matters of Objection, I recommend the following:

- 1) that the requirement for a Local Purpose (Walkway/Cycleway) Reserve be retained in subdivision consent RM181013.

- 2) that Condition 18 be amended to read:

*A local Purpose (Walkway/Cycleway) Reserve along the northern boundary of Lot 2 to connect Thorp Bush Reserve with Thorp Street shall vest in the Tasman District Council as a separate allotment. The width of this reserve shall generally be 6 metres with a reduction in width where reasonably required to accommodate the existing building and pond on site (at the date this consent is granted), and reduced to 3 metres width on the northern leg-in strip from Thorpe Street adjacent to Lot 1. Compensation is payable by Council for the land in the reserve and recovery of reasonable survey costs associated with defining the reserve.*

Advice Note:

The consent holder is not required to form the walkway/cycleway.

- 3) that Condition 20 be amended to read:

*The land in the reserve strip required by Condition 18 shall be presented in the condition that it was on the date that this consent was granted, free of noxious weeds and rubbish.*

**WLC TRUSTEE LIMITED**  
**SECTION 357A OBJECTION**

**Consenting authority: Tasman District Council**  
**Date of decision: 7 March 2019**  
**Resource Consent RM181013**

**Objection filed by:**  
**Camilla CM Owen**  
**Barrister**  
**Telephone: 03 546 9995**  
**[Camilla@pllaw.co.nz](mailto:Camilla@pllaw.co.nz)**  
**PO Box 8042, Victory Square, Nelson 7046**

This objection is filed on behalf of the Applicant, WLC Trustee Limited, in respect of the Tasman District Council's decision on Resource Consent application RM181013 dated 7 March 2019, a copy of which is **attached** marked A.

The consent was granted under delegated authority by Mr Phil Doole. The portion of the consent which is objected to is conditions 18 - 20 which state:

***“Walkway/Cycleway Reserve***

*18 A local Purpose (Walkway/Cycleway) Reserve adjoining the northern boundary of Lot 1 to connect Thorp Bush Reserve with Thorp Road shall vest in the Tasman District Council as a separate allotment. The width of this reserve shall generally be 6 metres with a reduction in width where reasonably required to accommodate the existing building and pond on site (at the date this consent is granted) and vehicle access to Lot 2 via the northern leg-in strip from Thorpe [sic] Street.*

*19 The boundary of the reserve required by Condition 18 where the width is to be reduced and the final width, shall be approved by the Reserves & Facilities Manager prior to submitting the survey plan for approval under Section 223 of the Act.*

*20 The reserve required by Condition 18 shall be presented in accordance with Tasman District Council's Engineering Standards & Policies 2013.”*

**Background**

The land is located at 148A Thorp Street, Motueka. The Applicant sought to subdivide Lot 2 DP 515218 into two allotments of, respectively, 3000m<sup>2</sup> (Lot 1) and 3.265 ha (Lot 2) and to cancel consent notice 547894.4. The rear of Lot 2 adjoins Thorps Bush, a reserve owned by the Council.

Lot 1 is located in a Rural-Residential zone where the subdivision was a controlled activity and Lot 2 is located in the Rural zone where the subdivision was a non-complying activity. Thus the activity overall was non-complying. The application is really about Lot 1, the additional lot, which is in the Rural-Residential zone where 3000m<sup>2</sup> sections are provided for as controlled activities. Involvement of Rural 1 land as a balance title is coincidental.

The test for granting consent for a non-complying activity is set out in section 104D RMA and requires a consent authority to be satisfied that **either** the adverse effects of an activity on the environment will be minor **or** that the application is for an activity that will not be contrary to the relevant objectives and policies of the Plan.

The application was non-notified on the basis that the effects of the activity on the environment would be minor or less than minor. A copy of the Notification/Non-Notification Report is **attached marked B**.

The Applicant did not offer a cycleway/walkway connection as part of the subdivision layout, and in response to a section 92 request opposed the provision of such a reserve. The walkway/cycleway would be located along the northern boundary of the Applicant's

property, for a distance of 410m, and would adjoin the neighbouring properties at 144 and 136 Thorp Street.

#### Reasons for Objection

1. This subdivision creates one additional lot. It does not in and of itself generate the need for a reserve connection (as the decision acknowledges at the top of page 10), and nor does it represent a 'tipping point' beyond which a connection is required.
2. There is no indicative walkway/cycleway connection shown on the relevant TRMP planning maps. This lack does not align at all with the sudden identification in the decision of a significant community benefit from such a connection. Thorps Bush is not new – it has been a reserve for years. An indicative walkway could fairly be expected by the Applicant and the community to be shown on the Planning Maps if it were truly of significant benefit to the community. Further, if there is such a significant benefit the Council would appear to have excellent grounds to purchase the land rather than impose a significant burden on one person (the owner) via a condition on a resource consent.
3. The walkway/cycleway proposed by the conditions does not address a 'gap' in connectivity, as there is no such gap. There are sufficient pedestrian linkages to Thorps Bush and central Motueka already in place. For example, access to the centre of the Motueka CBD from the Thorp Street residential area can be obtained via Tudor Street, or via Avalon Court a pedestrian can directly access Thorps Bush itself, or access from the Motueka Recreation Centre and playing fields can be gained via the existing Woodlands Drain walkway.
4. Creation of the proposed walkway/cycleway will have an adverse effect on the amenity of the Applicant and/or future owners of both Lots 1 and 2. The Applicant has unfortunately already experienced theft of property, from persons entering his land via Thorps Bush Reserve. A walkway will extend the right of the public to pass adjacent to his land, to the point where the public will pass close by existing sheds.
5. There is no close passive surveillance of the walkway linkage by neighbours and thus the location of the walkway fails to meet CPTED design principles. As this land is a floodplain there is little possibility it will be rezoned for urban use and thus it is extremely unlikely there will ever be a sufficient degree of surveillance for a walkway/cycleway that urban residents are invited to use. This failure raises issues of public health and safety.
6. The location of the walkway on the northern boundary also results in the walkway being in close proximity to an existing pond, which immediately raises health and safety concerns. It will be the obligation of the owner of Lot 2 to meet these concerns. The applicant does not accept the 'reasoning' in the decision that this issue *'can be addressed through the design of the reserve, including fencing and planting [page 9 of the decision]'*. As the Applicant's agent pointed out in the section 92 response, the ability to fence the walkway is constrained due to the need to prevent obstruction or diversion of overland flows within the existing Thorp

Drain floodplain. In addition, the standard of fencing required for personal health and safety reasons may well directly conflict with considerations raised by CPTED principles.

7. Section 5 RMA clearly identifies health and safety as being a primary element of sustainable management. The failure of the TRMP to address questions of public safety requires recourse to Part 2 to 'fill the gap'. The safety issues raised by this walkway/cycleway have been brushed to one side and not adequately or properly considered.
8. The proposed walkway/cycleway location provides public access across low lying land, including Thorp Drain (and two of its adjacent tributaries) and a floodplain, which are identified by the Tasman District Council as an inundation risk. The title has a section 72 Building Act notice registered against it.
9. The walkway adversely affects the rural amenity and use of adjoining rurally zoned (and used) land. Lot 2 itself is zoned Rural 1.
10. The adjustment of financial contributions for this subdivision as a result of the creation of the walkway/cycleway does not adequately offset the loss of this land and the cost that the Applicant must bear in its creation. Refer to condition 17(a), which indicates that the reserve fund contribution will in any event only be reduced in respect of the land value of the walkway/cycleway, and does not in any way address creation/formation costs, which will be significant.
11. The section 104D test is an either/or gateway test. An applicant is not required to pass both. The decision (on page 11) clearly establishes that the effects of the proposed subdivision are no more than minor, and thus the section 104D test has been satisfied. There is therefore no requirement to impose conditions so as to ensure the Applicant passes the second limb of the test.
12. In any event, the Applicant disputes that the activity is contrary to Objective 14.1.2, Policy 14.1.3.1 and/or Policy 14.1.3.4, which are the relevant objectives and policies identified in the decision as inconsistent, but without proof of inconsistency.
13. The requirement for a walkway/cycleway as a result of this one lot subdivision has led to the imposition of conditions which are neither fair nor reasonable.
14. Although the conditions are said to be for a resource management purpose, in that one criterion (criterion 43) of Schedule 16.3A references the potential for walkway/cycleway connections to reserves, on the facts of the case this is not made out: on the Council's interpretation of this criterion and these policies/objective unless a subdivision provides for a connection it would appear to be 'inconsistent' with the rule. The correct interpretation is that the criterion is one of a considerable number of matters that should be considered, and should not achieve primacy simply because Council staff have suddenly decided they would like a walkway/cycleway linkage across this land. The wording of the relevant objective and policies are not mandatory or even definitive. The application must be considered in its entirety, and not in a vacuum, and when so considered the walkway/cycleway does not have primacy. Contrast this with the



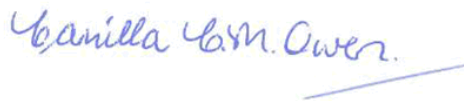
decision, where it would appear that the walkway/cycleway was the most important aspect arising out of the proposal.

15. This one lot subdivision application is not an appropriate opportunity to acquire public land.

**Relief sought**

- to have the imposition of a Local Purpose (Walkway/Cycleway) Reserve on this consent and the accompanying conditions 18-20 removed; and
- to have a Hearings Commissioner appointed to hear this objection.

Objection dated this 27<sup>th</sup> day of March 2019.



Camilla CM Owen

Barrister





phil.doole@tasman.govt.nz  
Phone 03 543 8487

2 May 2019

Camilla Owen  
Barrister  
PO Box 8042  
Victory Square  
Nelson 7046

Camilla@pllaw.co.nz

Dear Camilla

**RM181013 Subdivision Consent – WLC Trustee Limited - Objection**

I acknowledge the Objection to this subdivision consent that was received by Council on 27 March 2019. The Objection relates to conditions of consent 18 – 20, which require provision of a walkway/cycleway reserve strip as part of the subdivision.

Preliminary consideration has been given to the matters raised in the reasons for objection, in accordance with Section 357C(3) RMA, and I can advise Council's response as follows.

**Reason 10**

Firstly, with regard to Reason 10, it was not intended to require the consent holder to form the proposed walkway/cycleway or fence the new boundary, rather for a reserve strip to vest for that purpose (for which the landowner will be compensated in accordance with the usual compensation/valuation process for such land vesting, as stated in Condition 17(a)). We acknowledge that Condition 20 may be cause for confusion, and propose that it be amended to read:

- 20 The land in the reserve strip required by Condition 18 shall be presented in the condition that it was on the date that this consent was granted, free of noxious weeds and rubbish.

Council will fence the new boundary along the reserve strip at Council's cost, and will also provide planting along the reserve strip for amenity purposes.

**Reasons 1-3**

Incremental subdivision of the site and wider area is occurring and connectivity is a matter that Council is required to turn its mind to. This walkway reserve will provide a useful connection for Thorp Street and Motueka East residents to the southern end of the CBD and to Thorps Bush, which is the largest recreation reserve in Motueka township and would benefit from increased use and through flow. We accept that there are alternative routes, but to the north the alternative (Tudor Street) is 250 metres away and to the south the alternative is 1 kilometre away, in contrast to the good connectivity to Thorps Bush from other directions.

The landowner/consent applicant had indicated in his previous subdivision that he would open a conversation on this potential for a walkway link with this latest subdivision proposal. So this is

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not a “sudden identification” as claimed. Connectivity has been raised with previous applications for this site.

This is an area of Motueka that has not been subject to a plan review or a structure planning process, so there have not been any recent opportunities to identify indicative walkways in the TRMP. The area is partly Rural 1 and low lying, so it was not anticipated that much development would occur when the TRMP was proposed in 1996.

The conditions of consent require that Council compensate for the full value of the land via a credit against the RFC due plus additional compensation if the value of the land exceeds the RFC. The landowner will be compensated the same as if the land was being purchased separately (ie, not via subdivision), so there is no “significant burden” being placed on one landowner.

#### **Reasons 4-9**

An additional connection to the reserve is anticipated to reduce negative behaviours that might occur on properties adjoining Thorp Bush due to increased use and surveillance. Design of the walkway reserve (fencing and planting) will be in accordance with CPTED and it is anticipated that the use of the walkway will increase surveillance generally. Council staff advice is that a fence can be designed to accommodate the hazard issues on site.

#### **Reasons 11-15**

The reasons for imposing the walkway reserve on this subdivision are set out in both the notification decision and the Section 104/104D substantive decision. Nothing in the statement of Objection gives us cause to shift from those decisions. That Section 104D provides an “either, or” gateway test for a non-complying activity, does not mean that only the first of the two limbs applies to the substantive decision. In this case, the relevant objectives and policies of the TRMP are able to be implemented through the decision to grant consent.

#### **Conclusion**

In conclusion, I advise that Council’s position regarding Conditions 18-20 imposing a walkway reserve strip has not been changed by the reasons for the Objection – except to acknowledge that Condition 20 should be amended to clarify that the consent holder is not required to form the pathway or fence, or carry out any other works on the reserve strip to be vested with Council.

#### **Objection Process**

Please confirm whether your client accepts the solution proposed above, particularly with regard to Condition 20.

If this will not resolve the Objection, then a hearing will be required. Please confirm if that is the case and we will proceed to organise a hearing with an independent Commissioner.

Yours sincerely



Phil Doole  
Resource Consents Manager



## RESOURCE CONSENT DECISION

**Resource consent number:** RM181013

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

***WLC Trustee Limited***

(hereinafter referred to as "the Consent Holder")

**Activity authorised by this consent:** To subdivide Lot 2 DP 515218 into two allotments of 3000m<sup>2</sup> (Lot 1) and 3.265 hectares (Lot 2) and to cancel consent notice 5478794.4.

### Location details:

Address of property: 148A Thorp Street, Motueka  
Legal description: Lot 2 DP 515218  
Certificate of title: 800693  
Valuation number: 1955031908

Pursuant to Sections 108 & 220 of the Act, this consent is issued subject to the following conditions:

### CONDITIONS

#### General

- 1 The subdivision shall be undertaken in accordance with the information submitted with the application and in particular with the plan prepared by Planscapes titled *WLC Trust 148A Thorp Street Motueka Lots 1-2 Being Proposed Subdivision of Lot 2 DP 515218*, Job no. 0813, dated October 2018 and attached to this consent as Plan A. If there is conflict between the information submitted with the consent application and any conditions of this consent, then the conditions of this consent shall prevail.

#### Easements

- 2 Easements are to be created over any services (including secondary flowpaths) located outside the boundary of the allotment that they serve as easements in gross to the appropriate authority or appurtenant to the appropriate allotment. Reference to easements shall be included on the title plan and endorsed as a Memorandum of Easements.
- 3 Stormwater easements in gross in favour of Council shall be granted over all flowpaths which drain to Thorp Drain.

**Power and Telecommunications**

- 4 Underground power and telecommunications reticulation shall be provided to the boundaries of Lots 1 and 2. Written confirmation shall be provided from the supply providers that this has been installed prior to a completion certificate being issued pursuant to Section 224(c) of the Act.

**Vehicle Crossing**

- 5 A new vehicle crossing shall be constructed to Lot 1 from Thorp Street in accordance with Tasman District Council's Engineering Standards & Policies 2013.
- 6 The existing vehicle access to Lot 2 from Thorp Street shall be upgraded. The seal shall extend from the existing sealed road edge to a distance of 5 metres inside the boundary of Lot 2.
- 7 A Vehicle Access Crossing Permit shall be submitted to Council prior to construction works on the new and upgraded crossings. Only Council-approved contractors are permitted to construct the crossings once the crossing permit has been approved.

**Water**

- 8 Water connections shall be provided to the boundaries of Lots 1 and 2 and Tasman District Council-approved water meters shall be installed. The location and detail of the meters shall be recorded on the Tasman District Council's standard Water Meter Location form and submitted to the Council for approval.

**Sewer**

- 9 Sewer connections shall be provided to the boundaries of Lots 1 and 2.

**Servicing**

- 10 All services required by this consent shall be installed in accordance with Tasman District Council's Engineering Standards & Policies 2013, or to the satisfaction of Council's Engineering Services Manager.

**Engineering Plans**

- 11 Engineering plans detailing all privately owned and Council services are required to be submitted to the Tasman District Council Engineering Services Manager for approval prior to commencement of any works. All engineering details are to be in accordance with the Tasman District Council Engineering Standards & Policies 2013, or to the satisfaction of Council's Engineering Services Manager. All necessary fees for engineering plan approval shall be payable by the Consent Holder.

**Engineering Certification**

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

**As-built Plans**

- 13 As-built engineering plans shall be submitted to Council's Engineering Services Manager detailing connections to Council's services within the road reserve, including any services to be maintained by Council, and new manholes and connections.

**Finished Ground Level**

- 14 Prior to Section 224 certification, the finished ground level of the Lot 1 Building Location Area shall be raised to a minimum of 3.8m NZVD2016 using engineered clean fill material.

**Consent Notice Cancellation**

- 15 Pursuant to Section 221(3) of the Resource Management Act 1991, consent notice 5478794.4 shall be cancelled from the Computer Freehold Registers for Lots 1 and 2.

**Consent Notice for Lots 1 and 2**

- 16 Pursuant to Section 221 of the Resource Management Act 1991, the following consent notice shall be registered on the Computer Freehold Register for Lots 1 and 2:
- (a) Dwelling foundations shall be subject to specific investigation and design by a Chartered Professional Engineer.
  - (b) At the time of building consent for a new dwelling, a stormwater disposal system shall be provided which either complies with Chapter 36 of the Tasman Resource Management Plan, or a stormwater discharge consent is obtained.
  - (c) Surface water from roof areas of any building and other impervious surfaces on the site shall be collected and directed to a stormwater detention tank. Discharge shall be to Thorp Drain and the discharge rate shall be no greater than pre-development.
  - (d) The maximum height of any dwelling on Lot 1 shall be 7.5m, as measured from the existing ground level prior to filling.

**Financial Contributions**

- 17 The Consent Holder shall pay a financial contribution for reserves and community services in accordance with the following:
- (a) the amount of the contribution shall be 5.62 per cent of the total market value (at the time subdivision consent is granted) of 2500m<sup>2</sup> of Lot 1 less the value of the land vested in accordance with Condition 18. If the value of the land to be vested exceeds the amount due, the difference shall be paid by Council to the Consent Holder when vesting occurs;
  - (b) the Consent Holder shall request in writing to the Council's Consent Administration Officer (Subdivision) that the valuation be undertaken. Upon receipt of the written request the valuation shall be undertaken by the Council's valuation provider at the Council's cost;

- (c) if payment of the financial contribution is not made within 2 years of the granting of the resource consent, a new valuation shall be obtained in accordance with (b) above, with the exception that the cost of the new valuation shall be paid by the Consent Holder, and the 5.62 per cent contribution shall be recalculated on the current market valuation. Payment shall be made within 2 years of any new valuation.

#### **Walkway/Cycleway Reserve**

- 18 A local Purpose (Walkway/Cycleway) Reserve adjoining the northern boundary of Lot 1 to connect Thorp Bush Reserve with Thorp Road shall vest in the Tasman District Council as a separate allotment. The width of this reserve shall generally be 6 metres with a reduction in width where reasonably required to accommodate the existing building and pond on site (at the date this consent is granted) and vehicle access to Lot 2 via the northern leg-in strip from Thorpe Street.
- 19 The boundary of the reserve required by Condition 18 where the width is to be reduced and the final width, shall be approved by the Reserves & Facilities Manager prior to submitting the survey plan for approval under Section 223 of the Act.
- 20 The reserve required by Condition 18 shall be presented in accordance with Tasman District Council's Engineering Standards & Policies 2013.

#### **ADVICE NOTES**

##### **Council Regulations**

- 1 This is not a building consent and the Consent Holder shall meet the requirements of Council with regard to all Building and Health Bylaws, Regulations and Acts.

##### **Other Tasman Resource Management Plan Provisions**

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

##### **Consent Holder**

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

##### **Land Ownership**

- 4 This consent does not provide permission for works within land under separate ownership without the landowner's consent.



**Development Contributions**

- 5 Council will not issue a completion certificate pursuant to Section 224(c) of the Act in relation to this subdivision until all development contributions have been paid in accordance with Council's Development Contributions Policy under the Local Government Act 2002.

A Development Contribution Notice outlining the required contributions will follow this decision.

**Street Numbering**

- 6 Please contact Council's Engineering Services Manager for the allocation of street numbers.

**Accidental Discovery**

- 7 Should any archaeological material or sites be discovered during the course of work on the site, work in that area of the site shall stop immediately and the appropriate agencies, including Heritage New Zealand Pouhere Taonga and Tiakina Te Taiao shall be contacted immediately.

**REASONS FOR THE DECISION****Background to Proposed Activity**

The applicant proposes to subdivide a 3.5650 hectare site into two allotments of 3000m<sup>2</sup> (Lot 1) and 3.265 hectares (Lot 2).

The site is subject to a number of recent consents, as follows:

RM170650 – Two lot subdivision comprising Lot 1 of 3000m<sup>2</sup> (containing an existing house) and Lot 2 of 3.5649 hectares (with approved Building Location Area (BLA)). Of relevance to this current application is that the BLA that was approved on Lot 2 under RM170650 is in the same location as the proposed BLA on Lot 1 for this current application.

RM180181 and RM180190 – Land use consent to construct a dwelling, including associated earthworks, on what is proposed Lot 2 of this current subdivision.

The site fronts Thorp Street, which is characteristic of a rural-residential environment. The front of the site, adjacent to Thorp Street, is zoned Rural-Residential and the remainder of the site is zoned Rural 1. The site comprises low-lying land and contains Thorp Drain, which runs north to south through the site. Two smaller open drains run along the northern and southern boundaries of the site and drain into the larger Thorp Drain. Thorp Bush, a reserve owned by Council, adjoins the rear of the site.

Lot 1 is located in the Rural-Residential Zone and fronts Thorp Street. A BLA is identified on this lot, the location of which was approved as part of subdivision consent RM170650. As part of certification of the BLA, recommendations were made by the applicant's engineers, CGW Consulting, relating to foundations and servicing. The applicant has volunteered these recommendations as consent notices to be registered on the new CFR for Lot 1. A new vehicle crossing will be constructed off Thorp Street, along the southern boundary of the lot. The lot is able to connect to Council's reticulated water and sewer systems, with stormwater detained and ultimately discharged to Thorp Drain.

Lot 2 is zoned Rural 1 and will be accessed via an existing accessway off Thorp Street that was constructed as part of subdivision consent RM170650. A land use consent was granted on 31 May 2018 (RM180181) to construct a new dwelling on this lot. Construction has yet to commence on the new dwelling however the land use consent remains in place. The land use consent contains conditions requiring the vehicle crossing to be upgraded. This condition has also been imposed on the subdivision consent. Stormwater discharge will be to Thorp Drain and sewer and water services will be provided from reticulation in Thorp Street.

Lot 2 contains another leg-in strip along the northern boundary. This is not proposed to be formed as an accessway; however the application advises it may be formed in the future if further subdivision of the site was to occur. Any further subdivision of the site would require consent and any application would be assessed on its own merits. The granting of this subdivision does not signal approval for future subdivision or use as a right of way.

There are two consent notices registered on the CFR relating to minimum floor levels for future dwellings. Consent is sought to cancel one of these consent notices (the older and less restrictive of the two) and retain the consent notice requiring a minimum floor level of 4.2. AMSL, Reference NVD55, for future dwellings.

#### **Tasman Resource Management Plan (“TRMP”) Zoning, Area, and Rules Affected**

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

Zoning: Rural-Residential Zone, Rural 1 Zone  
Area(s): Land Disturbance – Zone 1

No person may subdivide land within Tasman District as a permitted activity according to the TRMP. The activity authorised by this resource consent is deemed to be a non-complying activity in accordance with Rule 16.3.5.5A of the TRMP.

Consent is also sought to cancel a consent notice pursuant to Section 221(3) of the RMA.

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

The principal issues associated with the proposed activity involve the actual and potential effects on the environment. For this application these are:

- (a) inundation hazard;
- (b) access;
- (c) servicing;
- (d) rural amenity and character;
- (e) rural productive values;
- (f) walkway/cycleway connection.

I consider that the adverse effects of the activity on the environment will be no more than minor for the following reasons:

- (a) The site has a Section 72 notice registered on it under the Building Act 2004. This recognises inundation risk as a result of the low-lying Thorp Drain area. In this regard, the applicant has liaised with Council’s Resource Scientist - Rivers & Coast. They have advised that filling should be undertaken on Lot 1 in order that the finished

ground level of the site is 3.8m NZVD2016 within the BLA. This also allows for some freeboard, as is standard practice. The finished ground level for the building site shall consist of engineered fill. These works will allow for the Section 72 notice to be removed from Lot 1 and Council's Resource Scientist - Rivers & Coast would therefore consider that the flood risk at the site has been mitigated. The applicant agrees to the finished ground level and filling that has been recommended and has confirmed that all building foundations will be undertaken by a Chartered Professional Engineer experienced in foundation design. An existing consent notice, requiring a minimum floor level of 4.2m, will draw down to the new CFR. Overall, based on the advice of Council's Resource Scientist - Rivers & Coast, it is considered that any inundation effects are able to be appropriately avoided, remedied or mitigated.

- (b) Both lots are able to be provided with legal and physical access. Conditions have been imposed requiring the creation of a vehicle crossing to Lot 1 and the upgrading of an existing crossing to Lot 2.
- (c) Both lots are able to be adequately serviced. Both lots are able to connect to the reticulated water and sewer in Thorp Street. Stormwater discharge on the lots will be addressed at building consent stage for new dwellings. Stormwater is proposed to be detained with controlled release to Thorp Drain. This volunteered condition has been imposed as a consent notice on the CFRs.
- (d) Any adverse effects on the amenity and character of the surrounding environment will be less than minor. Lot 1 complies with the minimum allotment size for sites in the Rural-Residential Zone with reticulated sewage disposal. The size of the lot maintains the rural-residential pattern of development fronting Thorp Street. A condition is volunteered by the applicant that any new dwelling on Lot 1 shall have a maximum height of 7.5m, as measured from existing ground level and not filled level.

With regard to Lot 2, the area of land zoned Rural 1 will not decrease as part of the subdivision as the new subdivision boundary goes through the Rural-Residential portion of the site. Furthermore, a new dwelling has already been granted consent for Lot 2 and the subdivision will not result in any further physical changes to the site.

- (e) As the area of Rural 1 zoned land will remain unchanged, there are not considered to be any adverse effects with regard to the rural productive values of the land. Further, as part of the land use consent granted for a new dwelling on Lot 2, Council's Resource Scientist - Land considered that the site was of limited productive value.
- (f) **Walkway/Cycleway**

The issue of providing a public walkway/cycleway connection between Thorp Bush Reserve to Thorp Road was raised during the consideration of the previous subdivision of this site RM170650. The reasons for that decision note that Council's reserves officers had expressed an interest in a walkway connection between Thorp Bush Reserve and Thorp Street and that the applicant had indicated that he would open a conversation on this potential with the second application.

Council's Reserve and Facilities staff have again identified a significant community benefit by having a walk/cycle connection between Thorp Bush Reserve and Thorp Street. The Further Information request asked for consideration of the provision of a connection. A number of reasons for not supporting a connection were raised by the applicant in response. Reserves staff consider that the reserve management matters raised can be addressed through the design of the reserve, including fencing and planting.

It is acknowledged that the two-lot subdivision in itself will not generate demand for a walkway. However, Section 108AA of the RMA enables conditions to be imposed if they are directly connected to an applicable rule. The relevant Rural 1 and Rural Residential rules refer to Schedule 16.3A (Assessment Criteria for Subdivision) for the matters to be considered. The non-complying activity Rule 16.3.5.5A that this application is being considered under also states that consent may be refused or conditions imposed. In considering the applications and determining conditions, Council will have regard to the criteria set out in Schedule 16.3A as well as any other provisions of the Plan or Act. Schedule 16.3A includes criteria (43): *The provision, design and routes of cycleways, walkways and bridle-paths, including linkages between any site and local retail areas, schools, reserves, bus routes and arterial roads* (emphases added).

The provision of a local purpose reserve to provide a walk/cycle connection is consistent with the objectives and policies in the TRMP (as cited below), it will complement the existing reserve and enhance recreation, access and amenity values. It will provide a connection that is convenient and accessible for the Motueka community.

It is further noted that public walkways/cycleways are permitted activities in Rural 1 and Rural Residential zones, and the permitted baseline has been applied with regard to potential effects on neighbouring properties.

Having regard to both the concerns raised by the applicant, the relevant Objectives and Policies in the TRMP and the community benefit of providing a walkway/cycleway in this locality, it is considered reasonable in the circumstances to impose the provision of land as a reserve for this facility as a condition of consent.

#### Relevant Statutory Provisions

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

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

Most of the objectives and policies contained within the TRPS are mirrored in the TRMP. The activity is considered to be consistent with the relevant objectives and policies contained in Chapters 5 (Site Amenity Effects), 7 (Rural Environmental Effects), 11 (Land Transport Effects), 12 (Land Disturbance Effects) and 13 (Natural Hazards); but not with 14 (Reserves & Open Space) unless the walkway/cycleway is provided (as discussed above).

Objective 14.1.2 of the TRMP is to provide adequate area and distribution of a wide range of reserves and open spaces to maintain and enhance recreation, conservation, access and amenity values.

Policy 14.1.3.1 is to provide at least 4 hectares of Council land per 1000 residents for recreation and amenity space which is in addition to Crown and private land.

Policy 14.1.3.4 is to provide for new open space areas that are convenient and accessible for users, including the provision of walking and cycling linkages in and around townships, between townships and between reserves.

Policy 14.1.3.6 is to adjust financial contributions for reserves and community services in lieu of the vesting of land for walkway/cycleway, open space and recreation reserve purposes, unless agreed otherwise.

The reasons state that an adequate amount and equitable distribution of open space across the District is necessary to ensure all residents have easy access to open space. A standard of provision helps ensure adequate distribution. The Council will acquire new reserves primarily at the time of subdivision. Easy access to reserves is particularly important in urban areas where there is a higher density of population and individual recreation needs cannot be met on small urban allotments. It is also especially necessary for the younger and older residents of the District, who are less mobile. A range of reserves is needed to cater for the different activities favoured by the varying age groups in the population: for example, play areas, sports fields, walkways and nature areas. A Council survey has shown that walking is the most popular recreational activity.

Section 104D places particular restrictions on non-complying activities and directs that a consent authority may grant a resource consent for a non-complying activity only if it is satisfied that either the adverse effects of the activity on the environment will be minor, or that the application is for an activity that will not be contrary to the relevant objectives and policies.

The above assessments conclude that both of these tests will be met and therefore the application is able to be granted.

#### 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 this resource consent achieves the purpose of the Act as presented in Section 5.

#### Notification and Affected Parties

The adverse environmental effects of the activity are considered to be no more than minor. The Council's Resource Consents Manager has, under the authority delegated to him, decided pursuant to Section 95 of the Act that the application did not require public or limited notification.

This consent is granted on 7 March 2019 under delegated authority from the Tasman District Council by:



Phil Doole  
Resource Consents Manager

Plan A - RM181013



The plan has been prepared for the purpose of a resource consent application. It is not to be used for any other purpose and no liability is accepted for any loss or damage arising from its use. It is not to be used as a basis for any other application or as a basis for any other action.

<p>WLC Trust 148A Thorp Street Motueka</p>	<p>Lot 1-2 Being Proposed Subdivision of Lot 2 DP 515218</p>	<p>Scale: 1:1000 @ A3 Date: 28/07/19 Author: [Name] Check: [Name] Drawn: [Name] Project: [Name]</p>
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*[Handwritten Signature]*







## Notification / Non-Notification Decision Report

For applications lodged from 18 October 2017 onwards

**Applicant:** WLC Trustee Limited  
**Application Number:** RM181013  
**Description of Activity:** To subdivide Lot 2 DP 515218 into two allotments of 3000m<sup>2</sup> (Lot 1) and 3.265 hectares (Lot 2) and to cancel consent notice 5478794.4.

### 1 COMPLETE 8-STEP NOTIFICATION DECISION MAKING PROCESS

Fill out flow chart in Appendix A.

### 2 ACTIVITY STATUS

Controlled     Restricted Discretionary     Discretionary     Non-complying

List relevant TRMP rules, national environmental standards and/or s95A-B provisions:

The site has split zoning. Lot 1 is located in the Rural Residential Zone and Lot 2 is located in the Rural 1 Zone.

#### Rural-Residential Zone

The subdivision is a controlled activity as the portion of the subdivision in the Rural-Residential Zone complies with all conditions of Rule 16.3.8.1 Controlled Subdivision (Rural Residential Zone).

#### Rural 1 Zone

The subdivision is a non-complying activity under Rule 16.3.5.5A as it does not comply with all conditions of Rule 16.3.5.4A Discretionary Subdivision (Rural 1 Zone). The subdivision does not comply with condition (a) as Lot 2 is less than 12 hectares and condition (b) as the subdivision is not of a title that existed before 30 January 2016. The title to be subdivided was issued in September 2017.

Overall, the proposed subdivision is to be assessed as a non-complying activity.

### 3 EFFECTS ON THE ENVIRONMENT

Assessment must be made in accordance with Section 95D:

- Must disregard any effects on persons who i) are owners or occupiers of the land in, on or over which the activity will occur, or ii) any land adjacent to that land;
- May disregard an adverse effect of the activity if a rule or NES permits an activity with that effect;
- In the case of a restricted discretionary activity, must disregard an adverse effect of the activity that does not relate to a matter for which a rule or NES restricts discretion;
- Must disregard trade competition and the effects of trade competition;
- Must disregard any effect on a person who has given written approval to the application.

Minor or less than minor     More than minor

Reasons why this assessment has been made:

#### Background

The site is subject to a number of recent consents, as follows:

RM181013, Section 95-95E Notification Decision Report

1

RM170650 – Two lot subdivision comprising Lot 1 of 3000m<sup>2</sup> (containing existing house) and Lot 2 of 3.5649 hectares (with approved Building Location Area). Of relevance to this current application is that the BLA that was approved on Lot 2 under RM170650 is in the same location as the proposed BLA on Lot 1 for this current application.

RM180181 and RM180190 – Land use consent to construct a dwelling, including associated earthworks, on what is proposed Lot 2 of this current subdivision.

#### Site Description

The site fronts Thorp Street which is characteristic of a rural-residential environment. The front of the site, adjacent to Thorp Street, is zoned Rural-Residential and the remainder of the site is zoned Rural 1.

The site comprises low-lying land and contains Thorp Drain which runs north to south though the site and is covered by an easement in gross. Two smaller open drains run along the northern and southern boundaries of the site and drain into the larger Thorp Drain.

Proposed Lot 2 adjoins Thorp Bush to the rear of the site. This is a reserve owned by the Council. A large pond is located near the northern boundary of Lot 2.

#### Proposal

The applicant proposes to subdivide a 3.265 hectare site into two allotments of 3000m<sup>2</sup> (Lot 1) and 3.265 hectares (Lot 2).

Lot 1 is located in the Rural-Residential Zone and fronts Thorp Street. A BLA is identified on this lot, the location of which was approved as part of subdivision consent RM170650. As part of certification of the BLA, a range of recommendations were made by the applicant's engineers, CGW Consulting, relating to foundations and servicing. The applicant has volunteered these recommendations as consent notices to be registered on the new CFR for Lot 1. A new vehicle crossing will be constructed off Thorp Street, along the southern boundary of the lot. The lot is able to connect to Council's reticulated water and sewer systems, with stormwater detained and ultimately directed to Thorp Drain.

Lot 2 is zoned Rural 1 and will be accessed via an existing accessway off Thorp Street which was constructed as part of subdivision consent RM170650. A Land Use consent was granted on 31 May 2018 (RM180181) to construct a new dwelling on this lot. Construction has yet to commence on the new dwelling however the land use consent remains in place. The land use consent contains conditions requiring the vehicle crossing to be upgraded. If consent is granted, this condition can also be imposed on the subdivision consent. Stormwater discharge will be to Thorp Drain and sewer and water services will be addressed at time of building consent for a new dwelling.

Lot 2 contains another leg-in strip along the northern boundary. This is not proposed to be formed as an accessway; however the application advises it may be formed in the future if further subdivision of the site was to occur. I note that any further subdivision of the site would require consent and any application would be assessed on its own merits. If the current proposed subdivision is granted with this leg-in, this does not signal approval for future subdivision or use as a right-of-way.

There are two consent notices registered on the CFR relating to minimum floor levels for future dwellings. Consent is sought to cancel one of these consent notices (the older and less restrictive of the two) and retain the consent notice requiring a minimum floor level of 4.2. AMSL, Reference NVD55, for future dwellings.

#### Assessment of Environmental Effects

As a non-complying activity, Council's consideration of effects is not restricted. For this subdivision the effects to consider relate to the following:

- Inundation hazard



- Access
- Servicing
- Walkway/Cycleway connection
- Rural Amenity and Character
- Rural Productive Value

#### Inundation Hazard

The site has a Section 72 notice registered on it under the Building Act 2004. This recognises inundation risk as a result of the low-lying Thorp Drain area. In this regard, the applicant has liaised with Council's Resource Scientist – Rivers and Coast. They have advised that filling should be undertaken on Lot 1 in order that the finished ground level of the site is 3.8m NZVD2016. This also allows for some freeboard, as is stand practice. The finished ground level for the building site shall consist of engineered fill and the remainder of the site may consist of non-structural fill. These works will allow for the Section 72 notice to be removed from Lot 1 and Council's Resource Scientist – Rivers and Coast would therefore consider that the flood risk at the site has been mitigated. The applicant agrees to the finished ground level and filling that has been recommended and has confirmed that all building foundations will be undertaken by a Chartered Professional Engineer experienced in foundation design. An existing consent notice, requiring a minimum floor level of 4.2m, will draw down to the new CFR.

Overall, based on the advice of Council's Resource Scientist – Rivers and Coast, I am satisfied that any inundation effects are able to be appropriately avoided, remedied or mitigated.

#### Access

Both lots are able to be provided with legal and physical access.

#### Servicing

Both lots are able to be adequately serviced. Lot 1 will connect to the reticulated water and sewer in Thorp Street and discharge stormwater to Thorp Drain. Lot 2 will also discharge stormwater to the drain and can either connect to water and sewer in Thorp Street, or be provided with onsite services.

#### Walkway/Cycleway Connection

The rear of Lot 2 adjoins Thorps Bush, a reserve owned by the Council. Council's Reserves and Facilities staff have recommended that a walkway/cycleway connection is created between Thorp Bush and Thorp Street, through Lot 2 of the subdivision (along the northern boundary). The reason for this is that the walkway will provide significant community benefit and increase pedestrian connectivity in the area.

The applicant has responded to this recommendation by stating that they do not support a public walkway for a number of reasons, these being:

- The subdivision itself does not generate a need for a walkway;
- The TRMP does not show an indicative walkway on the planning maps;
- There is sufficient alternative pedestrian connections via existing roads and walkways in the area;
- The walkway raises security issues for the applicant as it would run past existing sheds and there is no passive surveillance from adjoining neighbours; and
- The walkway would need to be fenced due to passing by an existing pond on Lot 2.

There are no rules in the TRMP (or an indicative walkway on the Planning Areas Map) which specifically require a walkway in this locality. However there are relevant matters in both Rule 16.3.8.1 and in Schedule 16.3A (for the Rural 1 zone) relating to pedestrian connections, which are applicable to this proposal. They state:

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

As the applicant is not agreeable to amending their proposal to include a walkway, the other mechanism to require the walkway would be as a condition of consent. Section 108AA(1) of the Act states that

*A consent authority must not include a condition in a resource consent unless –*

- (a) The applicant for the resource consent agrees to the condition; or*  
*(b) The condition is directly connected to 1 or both of the following:*
- (i) an adverse effect of the activity on the environment*
  - (ii) an applicable district or regional rule, or a national environmental standard.*

The walkway/cycleway proposed by Council's Reserves staff can be considered in terms of s108AA(1)(b)(ii), because it is a relevant matter to be addressed in the applicable rules for both zones.

The walkway would benefit the community and increase pedestrian connections. It was raised with the applicant during consideration of the previous subdivision consent RM170650. It is considered that the concerns raised by the applicant can be addressed and do not outweigh the benefit of providing the walkway/cycleway. A condition requiring a walkway along the northern boundary of proposed Lot 2 will be imposed on the consent, with the reasons explained in more detail in the decision on the application. Provision for a walkway/cycleway connection also avoids the need for public notification.

#### Rural Amenity and Character

Any adverse effects on the amenity and character of the surrounding environment are considered to be less than minor. Lot 1 complies with the minimum allotment size for sites in the Rural-Residential Zone with reticulated sewage disposal. The size of the lot maintains the rural-residential pattern of development fronting Thorp Street. A condition is volunteered by the applicant that any new dwelling on Lot 1 shall have a maximum height of 7.5m, as measured from ground level and not filled level.

With regard to Lot 2, the area of land zoned Rural 1 will not decrease as part of the subdivision as the new subdivision boundary goes through the Rural-Residential portion of the site. Furthermore, a new dwelling has already been granted consent for Lot 2 and the subdivision will not result in any further physical changes to the site.

#### Rural Productive Value

As the area of Rural 1 zoned land will remain unchanged, there are not considered to be any adverse effects with regard to the rural productive values of the land. Furthermore, as part of the land use consent granted for a new dwelling on Lot 2, Council's Resource Scientist – Land considered that site was of limited productive value.

#### Conclusion

Overall I consider any actual or potential environmental effects to be less than minor.

#### 4 SPECIAL CIRCUMSTANCES FOR PUBLIC NOTICE

Notes:

- 'Special circumstances' are generally those that are unusual, although they may also include objectives and policies of plans or national environmental standards that give clear indications of expected environmental outcomes relevant to the proposed activity.
- If what is proposed is specifically envisaged by the Plan, it cannot be described as being out of the ordinary.
- The fact that some persons have concerns about a proposal does not of itself give rise to 'special circumstances, but it may be a contributing factor.

No special circumstances identified       Special circumstances apply → *list reasons below.*

*Special circumstances to publicly notify this application are:*

**5 AFFECTED PERSONS**

Assessment must be made in accordance with Section 95E:

- May disregard an adverse effect of the activity on a person if a rule or NES permits an activity with that effect;
- Must, if the activity is a controlled or restricted discretionary activity, disregard an adverse effect of the activity that does not relate to a matter for which a rule or NES restricts control/discretion;
- Must disregard any effect on a person who has given written approval to the application.

No affected persons → give reasons if applicable  Affected persons → list in table if applicable

*If applicable, give reasons why persons are not considered to be affected by the activity:*

The application was circulated to Tiakina Te Taiao for comments. They have stated that the subdivision is within 5km of Raumanuka, which was a fishing village, and within 1km of archaeological finds. Given these distances, and the past uses of the site, iwi are not considered to be affected parties. An accidental discovery advice note will be included in the consent.

Public walkways/cycleways are permitted activities in Rural 1 and Rural Residential zones, and therefore it is considered reasonable to apply this permitted baseline with regard to potential effects on neighbouring properties from imposing the requirement for a walkway/cycleway along the northern boundary of the site.

I have concluded that the adverse effects of the subdivision are less than minor and therefore no persons are affected. The subdivision of the Rural-Residential zoned part of the site is a controlled activity. While the Rural 1 zoned part of the subdivision is non-complying, the area of land located in the Rural 1 Zone will remain unchanged.

Affected person	How are they affected?	Written approval provided? (Y/N)

**5.1 SPECIAL CIRCUMSTANCES FOR LIMITED NOTIFICATION – complete only if applicable**

Refer to notes on special circumstances at Section 4.

No special circumstances identified  Special circumstances apply → list reasons below.

Affected person	Special circumstance that affects this person?	Written approval provided? (Y/N)

**6 SECTION 95 DECISION**

That this application be processed on a **non-notified** basis for the reasons identified in this report.

This decision is made under delegated authority of the Tasman District Council by:

(Sign): Phil Doole Date: 6/03/2019  
 Phil Doole  
 Resource Consents Manager



## Appendix A – 8 Step Notification Decision Process

Complete Steps 1-8. If public or limited notification is required record full reasons in the relevant sections of your report.

### Public notification decision making flowchart

<b>Step 1:</b> Mandatory public notification	<ul style="list-style-type: none"> <li>Has the applicant requested public notification?</li> <li>Has the applicant failed/refused to provide further information (s95C)?</li> <li>Is the application made jointly with an application to exchange recreation reserve land under s15AA of the Reserves Act?</li> </ul>	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes → public notification is required
<b>Step 2:</b> Public notification precluded in certain circumstances	<ul style="list-style-type: none"> <li>Does a relevant Plan or NES rule preclude public notification?</li> <li>Is the application for:                     <ul style="list-style-type: none"> <li>a controlled activity?</li> <li>a 'residential activity' that is a restricted discretionary or discretionary activity?</li> <li>a subdivision that is a restricted discretionary or discretionary activity?</li> <li>a 'boundary activity' that is a restricted discretionary, discretionary or non-complying activity?</li> <li>an activity prescribed by regulations made under ss360H(1)(a)(i) precluding public notification?</li> </ul> </li> </ul>	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes → go to Step 4: Special Circumstances (Step 3 does not apply)
<b>Step 3:</b> Public notification required in certain circumstances	<ul style="list-style-type: none"> <li>Will the activity have, or be likely to have, adverse effects on the environment that are more than minor?</li> <li>Does a relevant Plan or NES rule require public notification?</li> </ul>	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes → public notification is required
<b>Step 4:</b> Public notification required in special circumstances	<ul style="list-style-type: none"> <li>Do special circumstances exist that warrant public notification?</li> </ul>	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes → public notification required

### Limited notification decision making flowchart

<b>Step 5:</b> Mandatory limited notification to certain groups and persons	<ul style="list-style-type: none"> <li>Are there affected protected customary rights groups?</li> <li>Are there affected customary marine title groups (for applications for an 'accommodated activity')?</li> <li>Is the activity on, adjacent to, or may affect land that is the subject of a statutory acknowledgement made in accordance with an Act specified in Schedule 11 of the Act; and the person to whom the statutory acknowledgement is made is affected under s95E?</li> </ul>	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes → limited notification is required
<b>Step 6:</b> Limited notification precluded in certain circumstances	<ul style="list-style-type: none"> <li>Does a relevant Plan or NES rule preclude limited notification?</li> <li>Is the application for:                     <ul style="list-style-type: none"> <li>a controlled activity that requires consent under a district plan (other than a subdivision)?</li> <li>an activity prescribed by regulations made under ss360H(1)(a)(i) precluding limited notification?</li> </ul> </li> </ul>	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes → go to Step 4: Special Circumstances (Step 3 does not apply)
<b>Step 7:</b> Limited notification required to certain other affected persons	<ul style="list-style-type: none"> <li>Are any of the following eligible persons 'affected' under s95E?                     <ul style="list-style-type: none"> <li>For boundary activities – an owner of an allotment with an infringed boundary?</li> <li>A person prescribed in regulations made under s360H(1)(b) (if any) in respect of the proposed activity?</li> </ul> </li> <li>For other activities, will there be minor or more than minor adverse effects on any 'affected persons'?</li> </ul>	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes → limited notification is required
<b>Step 8:</b> Limited notification required in special circumstances	<ul style="list-style-type: none"> <li>Do special circumstances exist that warrant notification to any persons not already determined to be eligible for limited notification? (excludes persons assessed under s95E as not being affected)</li> </ul>	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes → limited notification is required

RM181013, Section 95-95E Notification Decision Report

**BEFORE THE TASMAN DISTRICT COUNCIL**

**WLC TRUSTEE LTD**

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

**AND**

**IN THE MATTER** of an Objection to Conditions in Resource Consent  
RM181013 for Subdivision of 148A Thorp Street,  
Motueka

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**Statement of Evidence of Rosalind Diana Squire on behalf of the Tasman  
District Council**

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**Introduction**

1. My full name is Rosalind Diana Squire. I hold a Bachelor of Science degree with Honours in Earth Science from Victoria University of Wellington and a Master of Applied Science in Resource Management from Lincoln University. I have worked in the resource management and planning field both as a staff member and consultant planner for the Tasman District Council since 1993. During this time I have worked at a policy level in plan preparation and as a planner involved with processing land use, subdivision, water, land disturbance and coastal consents/permits. I was the sole charge Planner in Motueka for a period of two years. I am currently employed by the Tasman District Council as a Senior Consent Planner (part time) and as a consultant planner by the Community Development Department to carry out forward reserves planning work and to represent the Department in processing resource consent applications.
2. I appear on behalf of the Community Development Department of Council. My role within the Department is to assist in reviewing subdivision applications lodged with Council and, in consultation with the Council's Community Facilities Manager and Senior Reserves Officer, assess the provision of walkways, cycleways and reserves, including the provision of esplanade reserves and strips.
3. I have prepared evidence and appeared for Council as an expert witness at Council and Environment Court Hearings and have prepared affidavits for High Court hearings.
4. I confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2014 and that I agree to comply with it. I confirm that I have considered all the material facts that I am aware of that might alter or detract from the opinions that I express, and that this evidence is within my area of expertise, except where I state that I am relying on the evidence of another person.

**Scope of Evidence**

5. WLC Ltd have provided a Statement of Evidence from Jane Hilson. My evidence responds to the matters relating to reserves planning and provision raised in her Evidence. The paragraph numbers used in Ms Hilson's evidence are referenced.  
Paragraph 4.2
6. I respond to the statement that "... *It was never agreed that the second application would provide for the walkway connection ...*"

7. In January 2011 the landowner approached Council wanting to subdivide his land and discuss walking access to Thorp Bush and some extra land to add to the bush – Appended as “A”. The Reserves Manager and I visited the site with the landowner. The landowner sent an email in March 2011 following the site visit – Appended as “B”.
8. The provision of a walkway was raised in July 2013 when an application to subdivide the land owned by WLC Trustees Ltd was lodged – Appended as “C”. This application was returned due to insufficient information and was subsequently withdrawn in December 2016.
9. A subsequent application to subdivide the land was lodged in 2017. The assessment against the criteria in Schedule 16.3A stated “The subdivision is not accompanied by public open space or esplanade areas as neither are required or desirable in this location, ... ” – Appended as “D”.
10. The further information request included a number of matters and the following request “*Council reserves staff have requested the opportunity to explore a walkway connection through the application site from Thorp’s Bush to Thorp Street. They are not interested in discussions outside the subdivision application as suggested by Mr Hume (telephone conversation). They are open to options being presented to them.*” Appended as “E”.
11. In July 2017 the applicant emailed Council to confirm that he wished to scale back the subdivision to two lots. The email stated “*Most of the RFI is now superfluous with the deletion of Lot 3 and it’s BLA. The only outstanding matter is that is the walkway link, and our client is not willing to entertain this as part his subdivision particularly given now that there is only the one additional allotment.*” Appended as “F”.
12. The notification decision for this application states “*Council’s reserve officers have expressed an interest in a walkway connection between Thorp Bush and Thorp Street. This was not raised in the application. Subsequently in response to a Further Information request, the applicant has indicated that he would [be] open [to] a conversation on this potential with the second application. Council reserves staff have accepted that will be an appropriate time to do this.*” – Appended as “G”. I have no specific recollection of a conversation but from the summary in the Section 95 report, I assume a conversation was had between the applicant and the processing officer which was reflected in the notification decision. The application was granted on 4 August 2017. Appended as “H”.

13. Ms Hilson's evidence states "... *neither did Council Staff seek to openly explore that possibility with the Applicant at any time before the second application which is subject of the current hearing.*" As far as I can recall, reserves staff were unaware that a second application was being prepared and were not given the opportunity to be involved in any pre-application discussion.
14. RM181013 was lodged in November 2018, further information was requested in November 2018 – Appended as "I". Further information was provided in January 2019 – Appended as "J" and the consent was granted in March 2019.  
  
Paragraph 4.4
15. Ms Hilson acknowledges that there is undoubtedly a community benefit in having a walkway/cycleway link, but questions the cost/benefit of it.  
  
Paragraph 4.5
16. The Plan attached to Ms Hilson's evidence as Attachment B correctly identifies existing public access opportunities from Motueka East and Motueka South East to the town centre and states that "*the proposed walkway is not strategically well placed for pedestrian and cycleway between Motueka East and the town centre in terms of a) offering an alternative route shorter than or not already provided via the road and b) optimising its benefit to the south east Motueka community*" and that "*Thorp Bush is already well connected to its surrounding residential communities via Woodland Avenue, Woodland Drain to and from Goodman Park and the Recreation Centre, and Avalon Court, and its presence on the western edge of the Thorp and Woodland drainage area does not of itself justify the proposed walkway.*" However, the proposed walkway would provide the shortest route between Thorp Street and Thorp Bush. It would also significantly increase the connectivity of Thorp Bush and provide an off road connection for the wider community to the east to Thorp Bush and nearby retail opportunities, including the supermarket.
17. Council's Open Space Strategy was adopted by Council in July 2014 (<https://www.tasman.govt.nz/my-council/key-documents/more/environment-reserves-and-open-space/open-space-strategy/>). The Strategy assists Council in amongst other matters, reviewing levels of services, zoning or acquiring land. Prior to drafting the Strategy Consultation was undertaken with open space providers and key stakeholders including the Department of Conservation, Ministry of Education and iwi. A community survey was also undertaken, over 240 people contributed information on their use of open spaces within the District, the value of open spaces to them, and how the Council can better manage and provide for those values.



Additionally, a number of agencies and individuals gave feedback on the draft Strategy that were helpful in facilitating the final document.

Section 7.1 of the Strategy states *“the level of accessibility of open space is indicated by the survey results to be quite acceptable – although more provision of assets including cycleways and walkways were identified as desirable”*. It states that *“The cost of acquiring land in existing areas of development is often very high, and Council could consider alternative ways of ensuring residents have ready access to quality open spaces. For example: Providing better urban pedestrian and cycle access will increase the level of accessibility to all existing areas of urban open space, and is likely to provide greater benefits to more people than the addition of isolated pockets of urban reserve”*. Figure 5 in Appendix 1 of the Strategy - appended as “M” - shows that walkways and cycleways were the most frequently visited setting with 44% of respondents using them once a week or more. Figure 4 appended as “N”, shows that providing for off-road transport options, such as cycleways and walkways, providing natural areas for play and relaxation, and conserving native plants and animals in their natural habitats were considered the three most important factors for providing open spaces in Tasman.

Paragraph 4.9

18. The obstacles to the formation of the walkway raised by Ms Hilson have previously been considered, the Council’s Senior Reserves Officer has advised that the formation of the walkway in this location is well within the parameters encountered in other walkways in the District. In fact there are many walkways located on significantly more challenging terrain. Some examples of design responses in similar circumstances are appended as “K”. Although it is not necessarily the preferred option, the stormwater drainage to the east of Thorp Drain can be accommodated within a pipe if required. The location of stormwater drains within the site, the neighbouring property to the north, Woodlands Canal Walkway and Thorp Bush are appended as “L”.
19. The current Engineering Standards state *“The primary purposes of Walk/cycle way Reserves are to provide walking and cycling linkages for urban transportation and recreation, assist in the creation of urban and rural loop walkways and cycleways or provide linkages between roads, the coast, rivers, public facilities or features. The minimum legal width of a walk/cycle way reserve shall be six metres unless otherwise agreed by Council. The width may vary depending on the topography, location and the expected level and type of use.”* Six metres provides sufficient space to form a shared path and incorporate other structures such as fences and bridges and planting to provide privacy for adjoining landowners. A plan showing

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indicative widths and areas of each section of the walkway is appended to Mr Doole's report as Attachment 6. The plan confirms the 6 metre width, except for a reduced width in the vicinity of the shed and over the leg in strip. If an easement in gross is a viable option Council is open to agreement over the width of an easement and boundary treatment.

20. Rather than determine the best design response prior to vesting, Council's preference is to work with adjoining landowners to develop reserves and walkways so the privacy of the adjoining landowner is achieved and a safe environment is provided for users. The design response depends on both these considerations. A combination of planting and/or a number of fence design options would be considered to best achieve both outcomes. The current Engineering Standards require that Council locate and design reserves and walkways taking into account the principles of Crime Prevention Through Environmental Design (CPTED – Refer [www.justice.govt.nz](http://www.justice.govt.nz)). The formation, surface and structures on all walkways should comply with NZ SHB 8630:2004 (Tracks and outdoor visitor structures) unless there is a practicable alternative which achieves a similar outcome.
21. It is acknowledged that during larger flood events walkways are periodically inundated and this is likely to be the case here. In fact many walkways in the District serve as secondary flow paths for storm water and this is likely to increase with climate change. The issue of fencing and planting has been discussed with Council's Senior Resource Scientist – Hazards, his advice was that fencing and planting will not interfere in areas that provide detention in storm events, which is the case for the majority of the site. However, in the immediate vicinity of the watercourse flood flows are in the order of ½ m/sec and he is confident that design solutions such as slatted wood or other fencing can accommodate anticipated flows.
22. With respect to the statement "*Leaving aside the opportunity that the subdivision process allows for Council to require reserve at minimal cost to the community, if the Council wish to acquire and form a walkway and cycleway link between the south east or eastern residential areas of Motueka and the town centre across the Thorp and Woodland drainage area, from Thorp Street to Woodlands Drain and then via Thorp Bush to the town centre, there are much more suitable and practical locations for this south of the application site.*" It is noted that the reserve will not be at minimal cost to the community, the landowner will be compensated for the value of the land and there will be costs associated with forming the walkway. As stated in paragraph 16 above, the walkway route across the WLC site provides the shortest and most direct off road link between Thorp Street and Thorp Bush Reserve and

provides off road walking access to a supermarket, High Street and other retail opportunities in the vicinity.

Paragraph 4.10 and 11

23. The walkway will be constructed and designed in accordance with CPTED principles and taking into account adjoining landowner's privacy. The Council's Senior Reserves Officer has advised that CPTED principles are considered during the formation of all new Council walkways. There is a wide network of walkways located adjacent to and within urban areas within the Tasman District. Many of the walkways are unlit (or only lit at entrance ways), are not overlooked, vary in the degree of planting from open grassed reserves to forested, confined walkways. Walkway are generally well used, even during winter evenings by cyclists, walkers and dog walkers.

24. The walkway is the shortest practicable off road route between Thorp Street and Thorp Bush. The other connections to Thorp Bush are longer (Woodlands Canal Walkway - 950m long) and more enclosed (fenced connection from Avalon Court – 1.5 m wide). The Woodlands Canal Walkway and other connections to Thorp Bush are all well used and the community are able to move about freely and safely. Although it is not Council staff's preference, the Council's Senior Reserves Officer has advised that if there are issues with objectionable behaviour on walkways, they are able to be closed at night. This has not been necessary with the other walkway connections to Thorp Bush. Policy 4.2.2.2 of the Reserves General Policy Document is:

*"To close reserves (including esplanade areas and other areas of public access), or portions of reserves, to public access and use only when required for reserve development, maintenance or public safety and the protection of Māori cultural and biodiversity values."*

Paragraph 4.13 and 4.14

25. All subdivision applications are assessed in the context of the relevant plan rules and the Assessment Criteria for Subdivision. It is acknowledged that there is no TRMP rule specific to this property, it is unusual to have rules that only apply to a specific property. There are also no indicative reserves or walkways shown on any planning maps for settlements, except in defined locations that have been subject to plan changes in the last 10 years or so. These have generally been in greenfield locations to provide for new growth. The site is not within a greenfield area, subdivision opportunity in the area is generally limited to those areas zoned Rural Residential.

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Paragraph 4.16

26. Council has completed two plan changes within the Motueka Township within the last 10 years, this property lies outside both areas. I accept what Ms Hilson states regarding omnibus plan changes. However, I have sought advice from Council's Team Leader - Urban & Rural Development and she has confirmed that Omnibus Plan Changes are limited to corrections, updates and points of clarification and do not introduce new requirements or change any activity status.

Paragraph 4.17 – 4.20

27. I have discussed the issue raised in paragraph 4.17 – 4.20 with the Council's Policy Advisor responsible for drafting the Motueka Ward Reserve Management Plan (MWRMP). She confirmed that she was unaware of the proposed subdivision when the review was being undertaken. She stated that there was support for a connection from Thorp Bush to Thorp Street at the Community Board level during drafting workshops and that a new link from Thorp Street to Woodlands Avenue was supported in response to a survey. She also stated that the list of walkways was not intended to be exhaustive, rather highlight two high profile walkways due to the high level of interest at those two sites – both in support and against.

Paragraph 4.21 and 4.22

28. Council has worked hard to ensure that new development and infill subdivision provide and enhance public access between roads and roads and reserves towards community facilities and retail areas. In my opinion the provision of a walkway is supported by Objective 14.1.2 which aims to provide an adequate area and distribution of a wide range of reserves and open spaces to maintain and enhance recreation, conservation, access and amenity values. It is also supported by Policy 14.1.3.4 which is to provide for new open space areas that are convenient and accessible for users, including the provision of walking and cycling linkages in and around townships, between townships and between reserves.
29. I am happy to answer any questions.



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Rosalind Diana Squire  
15 July 2019

“A”

**Rosalind Squire**

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**From:** Rosalind Squire  
**Sent:** Tuesday, 18 January 2011 4:24 PM  
**To:** Beryl Wilkes; Pauline Webby  
**Subject:** RE: site visit 148 Thorp St

No problem – I'll go straight from Upper Moutere and see you at the 148 Thorp Street at 9am.

Rosalind Squire  
**Consent Planner, Coastal**  
**Forward Planner, Reserves**  
**TASMAN DISTRICT COUNCIL**  
Private Bag 4  
Richmond 7050  
Email:rosalind.squire@tasman.govt.nz  
**DD (03) 543 8395**  
**Fax 03 543 9524**

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**From:** Beryl Wilkes  
**Sent:** Tuesday, January 18, 2011 4:22 PM  
**To:** Pauline Webby; Rosalind Squire  
**Subject:** site visit 148 Thorp St

<< File: ExploreTasman\_tsrvims-93808212811350.jpg >>

Hi

Russell Humes who is wanting to subdivide 148 Thorp St would like a site visit with me to discuss walking access to Thorp Bush and some extra land to add to the bush.

We have set a time of 9am Thursday 27<sup>th</sup> as I have to be in Motueka for a 10am meeting anyway.

I said that we need to have the subdivision planner with us and Ros it would be good if you could make it as well.

He wanted just me but I said that we need a planner there as then everyone knows what is said so he said ok.

Can you both make this, I will make my way there from home. (meet at 148 Thorp St at the house).

Cheers Beryl

“B”

**Rosalind Squire**

---

**Subject:** FW: Walkway

----- Original Message -----

From: "Russell Hume" <rhume3@gmail.com>  
To: <beryl.wilkes@tasman.govt.nz>  
Cc: <trevor.norriss@tasman.govt.nz>; <jack.inglis@tasman.govt.nz>; <d.ogilvies@xtra.co.nz>;  
<ros.squire@tasman.govt.nz>  
Sent: Tuesday, March 29, 2011 3:11 PM  
Subject: Walkway

Hello Beryl

I met with both you and Ros at 148 Thorp Street Motueka and we discussed the walkway from Thorp St to Thorp Bush plus as to whether the council would be interested in acquiring an extra acre of land for Thorp Bush. I was planning to subdivide my all rural residential land but have decided to only subdivide 1 section of 1500 metres. If the council are interested in proceeding with the above can you please put a proposal to me and if not can you advise me so.  
Thank you  
Russell Hume

The Tasman District Council Draft Annual Plan 2011/2012 is now open for public consultation. Go to [www.tasman.govt.nz/link/draft-annual-plan](http://www.tasman.govt.nz/link/draft-annual-plan) for further information or to make a submission. Submissions close Thursday 21 April 2011.

This e-mail message and any attached files may contain confidential information, and may be subject to legal professional privilege. If you are not the intended recipient, please delete. Any views expressed in this message are not necessarily the official view of Tasman District Council. For more information about Tasman District Council, please visit our new website at <http://www.tasman.govt.nz>

“C”

**Rosalind Squire**

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**From:** Rosalind Squire  
**Sent:** Thursday, 25 July 2013 3:17 PM  
**To:** Pauline Webby  
**Subject:** RE: New subdivision RM130516 Hume 148 Thorp Street

Hi Pauline

Can we have a discussion about this application (happy to have the others subdivision officers or Phil involved)?

It would be very beneficial if a walkway link could be provided from Thorp Bush to Thorp Street.

We raised this issue with the landowner when he wanted to discuss the previous pre-application.

The subdivision is discretionary, the Council has reserved its control in the controlled activity conditions to the following matter:

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

The discretionary rule is limited and the matters to considered include:

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

I have just realised that they say exactly the same thing ☺

So I think we have the discretion to require this ... but would really appreciate a discussion ...

Rosalind Squire  
 Consent Planner | Coastal  
 Planner | Reserves  
 Tasman District Council  
 189 Queen Street, Private Bag 4, Richmond, Nelson 7050  
 DD: 03 543 8395  
 E Mail: [Rosalind.squire@tasman.govt.nz](mailto:Rosalind.squire@tasman.govt.nz)  
 Website: [www.tasman.govt.nz](http://www.tasman.govt.nz)

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**From:** Jill Wallace  
**Sent:** Tuesday, July 23, 2013 1:50 PM  
**To:** Beryl Wilkes; Dinah Grew; Dugald Ley; Eric Verstappen; Leif Pigott; Lindsay Vaughan; Mark Morris; Paul Sheldon; Rosalind Squire  
**Subject:** New subdivision RM130516 Hume 148 Thorp Street

Try this one  
<P:\temp\Subdivision Applications\RM130516 Hume 148 Thorp Street.pdf>  
 Jill Wallace | Tasman District Council  
 Resource Consent Administration Officer  
 DDI | (03) 543 8447 | Email [jill.wallace.tasman.govt.nz](mailto:jill.wallace.tasman.govt.nz)



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“E”

File: RM170650, RM170651  
Silent One ID:  
pauline.webby@tasman.govt.nz  
Phone 543 8421

14 July 2017

WLC Trustee Limited  
C/- Jane Hilson  
Planscapes (NZ) Ltd  
PO Box 99  
Nelson 7040

Dear Jane

**Further Information Request for Resource Consent Application No. RM170650, RM170651 – WLC Trustee Limited, 148 Thorp Street, Motueka**

I refer to your application for resource consent described above. An initial assessment of the application has been made and, pursuant to Section 92(1) of the Resource Management Act 1991 (“the Act”), further information is now being requested in relation to the application as follows:

- 1 Council Reserve Staff have requested the opportunity to explore a walkway connection through the application site from Thorp’s Bush to Thorp Street. They are not interested in discussions outside the subdivision application as suggested by Mr Hume (telephone conversation). They are open to options being presented to them.
- 2 Iwi have expressed an interest in the application, a copy has been forwarded to them, when we receive the feedback this will be forwarded to you.
- 3 Floodplain across the application site. The CGW report accompanying the application discusses the potential for a Building Location Area (BLA) within Lot 3 on land with a ground level at 2 metres AMSL. Mitigation proposed is a FFL of 4.2 metres AMSL and controls over the earthworks in this location to control the risk of flooding to the dwelling with the Lot 3 BLA. Council’s Resource Scientist - Rivers & Coast has provided a commentary that indicates that the report does not assess the present and future potential flood hazards on the site, also taking into account the effects of projected climate change and sea level rise, and diversion of floodwaters across the plain as a result of proposed and potential land development on the site sufficiently to assure Council that a dwelling in this location is viable long term (a minimum of 50-100 years) and does not increase the flooding of the properties to the east that are also low-lying.
- 4 CGW report notes at 8.31 for Lot 2 (in the centre of the Rural 1 lot) that “TDC may require a full flood assessment for any proposed structures”. The information required by the Council to enable a dwelling to be placed within the Lot 3 BLA is as follows:

That the dwelling and a residential curtilage should also be located on ground that is secure from flooding (this means raised ground levels in addition to the raised floor levels.

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Consistent with the approaches taken for Bensemam and Puketutu subdivisions. Sufficient detail is required to ensure the diversion of floodwaters arising from the raised area of land does not impact on adjoining sites (especially 150 and 156 Thorp Street) or increase inundation over and above what occurs now. Any assessment of the risks and effects needs to be assessed over the lifespan of the building, as a minimum the next 50 years, in light of the recent climate change expectations.

Jane, in your e-mail you have made a suggestion for a BLA for Lot 3 located immediately behind Lots 1 and 2 that may be more appropriate. Council's Resource Scientist agrees, responding as follows: "a BLA "rectangle" with the longest boundary abutting the west boundary of proposed Lots 1 and 2 would be preferred to the present BLA proposed for Lot 3, particularly if land infilling is required (as for Lot 2)".

Proposed Lot 2 is accepted as being able to be supported with the proposed mitigation.

Mr Verstappen comments as follows are in relation to the proposed BA on Lot 3:

*"For this region, rainfall intensity is expected to increase, resulting in greater peak stormwater run-off from the Motueka urban area. This will increase both potential flooding severity and flooding frequency in the lower-lying areas of the property either side of Thorp drain.*

*A second projected effect of climate change is sea level rise. This will have effects on the property and in particular, the proposed BLA on Lot 3. Increasing SLR will also result in an increase in groundwater levels. Low-lying land in the Thorp drain area is already subject to spring activity and high water tables in winter, particularly when coinciding with protracted elevated river levels that directly recharge the aquifer below the Motueka Plain. Increasing sea levels will also impede drainage from the Thorp and Woodland drain systems due to increasing backwater effects. This in turn will increase frequency and severity of stormwater flooding in low-lying areas adjacent to the drains during rainfall events, particularly if coinciding with high tide.*

*As I noted below, much of the land adjacent to the Thorp drain and within the property lies at around 2m amsl or less, which is equivalent to present day MHWS. But for the presence of the Old Wharf Rd and Wharf Rd causeways and tide gates (which are not always functioning to exclude the tide), low-lying parts of the property would be subject to seawater inundation during high spring tides and during more severe storm-tide events. Backwater effects due to tidal infilling of the compartment between Wharf Rd and Old Wharf Rd affects stormwater drainage from Thorp and Woodlands drains and affect the flooding hazard potential on the subject property and the proposed BLA on Lot 3.*

*Minimum ground levels have already been set on land subdivided in the lower Thorp Drain area, to mitigate present and future sea level rise inundation risk. Ultimately, with sufficient sea level rise and no mitigation works that raise the levels of causeways and coastal margin land, causeways will be overtopped during storm-tide events and flood the Thorp drain lowlands.*

*There is a well identified flood hazard in the Thorp drain area generally. The land east (and west) of the Thorp drain within this property has been subject to flood flows and stormwater ponding during prolonged and/or intense rainfall in the past. The proposed BLA for proposed Lot 3 lies in a very low-lying area at around 2m and almost certainly lies on an overland flow path on the eastern side of the Thorp drain. Flooding hazard to a proposed dwelling on this BLA is well mitigated by imposition of a minimum FFL, as proposed in the CGW report. However I do not consider the proposed BLA to be located*

*in an area that a general homeowner would consider has reasonable functionality as a house site, due to its exposure to flooding hazard.*

*Reducing flood hazard exposure in the land area of the BLA on proposed Lot 3 entails raising the level of the site. This would result in floodwater flows from the Thorp drain being diverted around this elevated area and would very likely adversely affect the property at 150 Thorp St to more than a minor degree, and potentially other properties to the south and west as well. We have records of stormwater ponding on the property east of Thorp drain in the 2013 rainfall event. Aerial photographs and LiDAR strongly indicates the presence of an overland flow path over the land east of Thorp drain across the property and well towards Thorp St, where land contour begins to rise.*

Section 92A(1) of the Act requires you to respond to the Council by 3 August 2017 (being 15 working days from the date of this request), in one of three ways. You must either:

- 1 provide the information requested to the Council; or
- 2 advise the Council in writing that you agree to provide the information (you may wish to choose this option if you are unable to provide all the information by the date specified above); or
- 3 advise the Council in writing that you refuse to provide the information.

Should you choose Option 2, then the Act requires the Council to set a reasonable time within which the information must be provided. Therefore, in the event that you choose Option 2, I propose that the information be provided by 3 August 2017. If you are unable to provide the information by this date, please contact me as soon as possible so that we can discuss the reasons and set an appropriate alternative date.

Please note that the Council may decline your application pursuant to Section 104(6) of the Act if it considers that insufficient information is available to enable a decision to be made on your application. This may occur if you either:

- (a) choose Option 3 above (ie, refuse to provide the information);
- (b) do not provide the requested information within the period specified in the paragraph above (or the agreed alternative date); or
- (c) do not respond at all to this information request.

In accordance with Section 88B and 88C of the Act the processing of your application will be placed "on hold" from the date of this letter to the date of receipt of the information requested or, if you refuse to provide the information, the date the advice of refusal is received by the Council.

Once the Council has received the requested information, it will be assessed to determine its adequacy and the Council will then make a decision on whether your application requires public notification, limited notification, or, whether it is able to be processed on a non-notified basis. Council reserves the right to notify your application should the further information requested above indicate that the effects on the environment are more than minor.

Also, you need to be aware that Section 95C of the Act requires your application has to be publicly notified if you do not provide the further information by the deadline stated above or an agreed alternative date, or if you refuse to supply the further information. If either of these situations applies, Council will require you to pay the notified application deposit fee before taking any further action.

**Please note that the requirements of the Act outlined above are binding on you being the applicant, as well as on Council. Your opportunity to clarify or question the reasonableness of this request occurs now (within the next 15 days), not at some later date.**

Please feel free to contact me if you have any questions regarding this request or any other part of this letter. My contact details are listed at the top of this letter.

Yours sincerely



Pauline Webby  
Consent Planner, Subdivision

“F”

**Pauline Webby**

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**From:** Jane Hilson <jane@planscapes.co.nz>  
**Sent:** Friday, 28 July 2017 8:41 a.m.  
**To:** Pauline Webby  
**Cc:** Russell Hume  
**Subject:** Hume, 146 Thorpe St  
**Attachments:** Scheme 27 July 17 col.pdf; Scheme 27 July 17.pdf

Hi Pauline

Further to our discussions over the past few days, our client Russell Hume wishes to scale back his subdivision to two lots - Lot 1 containing the existing hose and Lot 2 the balance area with nominated BLA. We enclose scheme plans showing this.

We understand that Council Officers are in support of the proposed BLA on Lot 2 so this is not subject of the Sec 92 RFI received last week. Most of the RFI is now superfluous with the deletion of Lot 3 and its BLA. The only outstanding matter is that is the walkway link, and our client is not willing to entertain this as part his subdivision particularly given now that there is only the one additional allotment.

As the amended plan reduces the scope of the application, we trust that the application and AEE that you already have is fit for purpose. We look forward to your decision.

Regards  
Jane

JANE HILSON  
Resource Management Consultant

Planscapes (NZ) Ltd  
94 Selwyn Place : PO Box 99 : Nelson  
T 03 539 0281 : M 027 233 0280 : E jane@planscapes.co.nz

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“G”

### Notification/Non-Notification Decision Report

**Applicant(s):** WLC Trustee Limited  
**Application Number(s):** RM170650  
**Description of Activity:** Subdivision of land with split Rural Residential and Rural 1 Zoning. Cancellation of Consent Notice condition relating to floor levels.

**QUESTION 1 Classification of Activity**

What type of consent application is being made?

- Controlled     Restricted Discretionary     Discretionary     Non-complying

List relevant rules and/or national environmental standards:

**RM170650**  
 16.3.8.5 Rural residential zone creates a single 3000m<sup>2</sup> allotment and a balance area with a split zoning of rural 1 and rural residential serviced. Is assessed as a Discretionary Activity as the balance area is less than 12 hectares.  
 Rule 16.2.2.6 On site leg-in access to Lot 2 is not formed to the standards set out in Figure 16.2A of the TRMP and can be addressed as part of the subdivision consent.  
 A new boundary is created along the leg-in access to the rear of Lot 2 which is within 5 metre of a building on proposed Lot 1, which does not meet the setback requirement in Rule 17.8.3.2 for the rural residential zone. The cancellation of consent notice 5478794.4 per section 221(3) of the RMA is required because it specifies a finished floor level on Lot 2 which is no longer relevant.

**QUESTION 2 Requirement or Restriction, or Request for Public Notification**

**Question 2(a)**

Has the applicant requested public notification?

- No → Go to Question 2(b)     Yes → Go to Step 6(a) (Recommendation to Publicly Notify)

**Question 2(b)**

Does a rule or a national environmental standard require public notification?

- No → Go to Question 2(c)     Yes → Go to Step 6(a) (Recommendation to Publicly Notify)

**Question 2(c)**

Does a rule or a national environmental standard preclude notification?

- No → Go to Question 3     Yes → Go to Question 4(b) (Are there special circumstances?)

**QUESTION 3 Effects on the Environment**

Will the activity have, or is it likely to have adverse effects on the environment that are more than minor?

- Notes:**
- 1) Disregard effects on persons who are owners or occupiers of the land in or over which the activity will occur, or of any adjacent land, but consider whether there are other adverse effects on the environment.
  - 2) An adverse effect of the activity may be disregarded if a rule or national environmental standard permits an activity with that effect.
  - 3) In the case of a controlled or restricted discretionary activity, disregard any adverse effect that does not relate to a matter for which a rule or national environmental standard reserves control or restricts discretion.
  - 4) Disregard trade competition and the effects of trade competition.
  - 5) Disregard any effect on a person who has given written approval to the application.

- Yes → State reasons in box below, and then go to Step 6(a) (Recommendation to Publicly Notify)

No → State reasons in box below then go to Question 4(a)

Reasons why this assessment has been made are:

**Background**

This is a 3.8647 ha property with a split zoning of Rural 1 and Rural residential zoned land. The site has frontage to Thorp Street. The subdivision has been amended after a request for further information to deal with diversion of flood waters on a flood plain relating to a third BLA for what was proposed Lot 3. The

amended application now seeks a complying rural residential site (3000m<sup>2</sup>) around the existing dwelling (Lot 1) leaving a balance area of 3.5649ha (Lot 2) with a new BLA area that has had some existing filling to raise the level of the land. This proposed BLA area is to the north of the existing dwelling with frontage directly to Thorp Street. Both allotments have existing formed vehicle access crossings and servicing.

**Amenity and character values**

The proposed subdivision of Lot 1 is consistent with the expectations for the rural residential zone. The balance area of Lot 2 remains with a split zoning. The Rural 1 zoned area of the site is unchanged in size and the rural residential area is well in excess of 3000m<sup>2</sup>.

**Productive land**

The Rural 1 area remains unchanged, therefore there is no loss of productive land to residential activity.

**Access/ services**

Accesses to Lot 1 and the balance area (Lot 2) are formed and no changes are proposed. There are no changes to services as both Lot 1 is fully serviced and balance area already has power connections. Sewer if required is accessible from the Thorp Street frontage for Lot 2. Stormwater to Thorp drain is considered appropriate for any hardstand and building discharge for a dwelling on Lot 2.

**Flooding and geotechnical suitability of proposed BLA on balance allotment.**

Council's resource scientist has confirmed that the BLA on Lot 2, situated close to Thorp Street, is situated in an area that is out of the flood plain on an area of land that has been previously built up. This area provides mitigation for any effects of inundation for a proposed BLA and does not create a diversion of floodwater across the floodplain area.

The CGW report clarifies that the identified BLA is a geotechnical feasible site suitable for a residential dwelling within the proposed BLA. Currently access is accepted from the existing crossing but it is acknowledged that should a direct connection to building area be required a new vehicle crossing permit would be required. Telephone connections are available on the Thorp Street frontage but there is no proposal for the balance area to connect at this time as there are suitable mobile connections. There are volunteered new building finished floor levels for the BLA on the balance area which will replace the existing consent notice which is to be replaced as it contains floor levels that are no longer current.

**Other**

The applicant has deleted part of the original application (what was proposed Lot 3). The applicant has advised that a new application will be lodged after this application to resolve the issues raised for the original application; addressing the flooding issue for Lot 3 where the BLA was sited in the floodplain and did not offer a BLA with ground levels high enough to mitigate flooding. It was also located within a floodplain and potentially could divert floodwaters affecting other properties. With the removal of the Lot 3 BLA and separate allotment, the flooding issue no longer applies to the amended proposal.

**Reserves**

Council's reserve officers have expressed an interest in a walkway connection between Thorp bush reserve and Thorp Street. This was not raised in the application. Subsequently in response to a Further Information request, the applicant has indicated that he would open a conversation on this potential with the second application. Council reserve staff have accepted that will be an appropriate time to do this.

Overall, I consider the effects of this subdivision proposal to be less than minor.

**QUESTION 4 Overall Discretion or Special Circumstances**

**Question 4(a)**

Are there other reasons why the application should be publicly notified?

**Note:** There is discretion to decide to publicly notify an application per Section 95A(1), unless Section 95A(3) applies.

- Yes → State reasons in box below, and then go to Step 6(a) (Recommendation to Publicly Notify)
- No → Go to Question 5

**Question 4(b)**

Are there special circumstances relating to the application that justify over-riding the preclusion of public notification in a rule or national environmental standard?



Note: "Special Circumstances" are generally those that are unusual, although they may also include objectives and policies of plans or provisions of national environmental standards that give clear indications of expected environmental outcomes relevant to the proposed activity. If what is proposed is specifically envisaged by the Plan, it cannot be described as being out of the ordinary. Also, the fact that some persons have concerns about a proposal does not of itself give rise to "special circumstances" but it may be a contributing factor.

- Yes → State reasons in box below, and then go to Step 6(a) (Recommendation to Publicly Notify)
- No → Go to Question 5

Other Reasons (4(a)) or Special Circumstances (4(b)) to publicly notify are:

**QUESTION 5 Limited Notification**

Does a rule or environmental standard preclude limited notification of the application?

- No → Go to Question 6(a)     Yes → Go to Question 6(b)

**QUESTION 6 Affected Persons**

**Question 6(a)**

Will the adverse effects of the activity on any person be minor or more than minor (but not less than minor)?

- Notes:
- 1) An adverse effect of the activity may be disregarded if a rule or national environmental standard permits an activity with that effect.
  - 2) In the case of a controlled or restricted discretionary activity, disregard any adverse effect that does not relate to a matter for which a rule or national environmental standard reserves control or restricts discretion.
  - 3) Have regard to relevant statutory acknowledgements.
  - 4) If it is unreasonable in the circumstances to seek a person's written approval, that person is not an affected person (S95E(3)(b)).
  - 5) For changes or cancellations of resource consent conditions, consider whether any person who made a submission on the original application may be affected by the change or cancellation (Section 127(4)).
  - 6) Consideration of adversely affected persons may result in a mix of "yes" and "no" assessments. When relevant, reasons should be stated as to why persons are not considered to be potentially adversely affected.
  - 7) The RMA regulations require service of notified applications on persons deemed affected per S95E.

- Yes → If considered relevant, state why any persons are not considered to be affected in the box below, then go to Question 6(b)
- No → State all relevant reasons why persons are not considered to be affected in the box below, then go to Question 6(b)

Reasons why persons are not considered to be affected by the activity:  
 There are not considered to be any affected parties as the subdivision is complying with the Controlled Activity rules for a rural residential site and the balance area of Rural 1 remains unchanged. No access points are changing.  
 The site is not within a Statutory Acknowledgment area.

**Question 6(b)**

Are there any persons who are affected order holders?

- Notes:
- 1) To be an affected order holder (a) the person must be the holder of a customary rights order, and (b) the proposed activity may have adverse effects on a recognised customary activity carried out under the order; and (c) the person has not given written approval to the activity (or has not withdrawn their approval).
  - 2) Limited notification must be given to any affected order holder even if a rule or national environmental standard precludes public or limited notification of the application.

- Yes → Go to Question 6(c)     No → If the answer in 6(a) is yes, go to Step 6(c), OR  
 If the answer in 6(a) is no, go to Step 7, OR  
 If the answer in 5 is yes, go to Step 7

**Step 6(c)**

Complete the table below, listing the persons who are considered to be affected by this activity (per Questions 6(a) and 6(b)), then go to Step 7.

Name of Affected Person	How are they Affected?	Written Approval Provided? (Y/N)



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**Note:** It is important that only those persons who will be adversely affected by the proposed activity to a minor or more than minor extent, and affected order holders are listed in this table. It should be noted that some applicants submit written approval from persons who will not be adversely affected by the activity. In addition to a completed approval form, the affected person should have also signed any relevant plan.

**STEP 7 Recommendation**

It is recommended that this application be:

- Publicly notified.
- Processed on a limited notification basis.
- Processed on a **non-notified** basis because any adverse effects will be no more than minor and there are no affected persons.

Processing Officer (Sign): *Pauline Webby* Date: 3/08/2017  
 Name: Pauline Webby

Position: Subdivision Planner (Seconded)

**STEP 8 Section 95 Decision**

Recommendation accepted under delegated authority of the Tasman District Council by:

(Sign): *Phil Doole* Date: 3/08/2017  
 Phil Doole  
 Resource Consents Manager

"H"

File: RM170650  
Silent One ID:  
pauline.webby@tasman.govt.nz  
Phone 543 8421

4 August 2017

WLC Trustee Limited  
C/- Jane Hilson  
Planscapes (NZ) Ltd  
PO Box 99  
Nelson 7040

Dear Russell

**Decision on Non-Notified Resource Consent Application No. RM170650 –  
WLC Trustee Limited, 148 Thorp Street, Motueka**

Your application for resource consent has been granted. A copy of the Council's decision is attached. Please carefully read the conditions that have been attached to the consent and feel free to contact me if you have any questions about your consent or its conditions. My contact details are listed at the top of this letter.

Here are some matters that I need to highlight for you.

Section 357A of the Resource Management Act 1991 ("the Act") provides you with the right to lodge an objection with the Council against this decision including any of the conditions. Objections must be made in writing setting out the reasons for the objection together with a deposit fee of \$300.00 (GST inclusive), and must be lodged here within 15 working days of receiving this letter.

The final cost of processing your application has not been calculated yet. If the final cost exceeds the deposit already paid, then as we previously advised, you will be invoiced separately for the additional cost. If the final cost is 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 about the final costs of processing your application.

Under Section 125 of the Act, your consent will lapse in 5 years unless you have given effect to it before then. In the case of subdivisions, the consent is given effect to when you have submitted a survey plan to the Council for the subdivision under Section 223 of the Act. Once the survey plan has been approved by the Council under that Section of the Act, the consent lapses 3 years thereafter unless it has been deposited with the District Land Registrar as outlined in Section 224 of the Act.

Yours sincerely



Pauline Webby  
Consent Planner, Subdivision

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## RESOURCE CONSENT DECISION

**Resource consent number:** RM170650

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

***WLC Trustee Limited***

(hereinafter referred to as "the Consent Holder")

**Activity authorised by this consent:** To subdivide Lot 2 DP 312698 creating two allotments as follows:

- (a) Lot 1 having a net area of 3000m<sup>2</sup> and containing the existing dwelling;
- (b) Lot 2 having a net area of 3.5649 hectares, sheds and a Building Location Area (BLA).

**Location details:**

Address of property: 148 Thorp Street, Motueka  
Legal description: Lot 2 DP 312698  
Certificate of title: 49932  
Valuation number: 1955031718

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

**CONDITIONS**

1 The subdivision shall be undertaken in accordance with the information submitted with the application and in particular with the plan prepared by Planscapes (NZ) Ltd titled, "*Lots 1 and 2 being proposed Subdivision of Lot 2 DP 312698*", dated July 2017 and attached to this consent as Plan A. If there is conflict between the information submitted with the consent application and any conditions of this consent, then the conditions of this consent shall prevail.

**Easements**

2 Easements shall be created over any services located outside the boundaries of the allotments that they serve as easements in gross to the appropriate authority or appurtenant to the appropriate allotment.

3 The survey plan which is submitted for the purposes of Section 223 of the Act shall include reference to easements.

### **Financial Contributions**

4 The Consent Holder shall pay a financial contribution for reserves and community services in accordance with following:

(a) the amount of the contribution shall be 5.62 per cent of the total market value of 2500 square metres at the time subdivision consent is granted) of Lot 2;

(b) the Consent Holder shall request in writing to the Council's Consent Administration Officer (Subdivision) that the valuation be undertaken. Upon receipt of the written request the valuation shall be undertaken by the Council's valuation provider at the Council's cost;

(c) if payment of the financial contribution is not made within 2 years of the granting of the resource consent, a new valuation shall be obtained in accordance with (b) above, with the exception that the cost of the new valuation shall be paid by the Consent Holder, and the 5.62 per cent contribution shall be recalculated on the current market valuation. Payment shall be made within 2 years of any new valuation.

#### **Advice Note:**

A copy of the valuation together with an assessment of the financial contribution will be provided by the Council to the Consent Holder.

### **Consent Notices**

5 The following consent notice shall be registered on the certificate of title for Lot 2 pursuant to Section 221 of the Resource Management Act.

(a) Finished floor level for a dwelling on Lot 2 shall be no less than 4.2 metres above mean sea level (AMSL). Reference NVD55.

#### **Advice Note:**

These consent notices shall be prepared by the Consent Holder's solicitor at the Consent Holder's expense and shall be complied with by the Consent Holder and subsequent owners on an ongoing basis. All costs associated with approval and registration of the consent notice shall be paid by the Consent Holder.

### **ADVICE NOTES**

#### **Council Regulations**

1 This is not a building consent and the Consent Holder shall meet the requirements of Council with regard to all Building and Health Bylaws, Regulations and Acts.

#### **Other Tasman Resource Management Plan Provisions**

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

#### **Consent Holder**

3 This consent is granted to the abovementioned Consent Holder but Section 134 of the Act states that such land use consents "attach to the land" and accordingly may be

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enjoyed by any subsequent owners and occupiers of the land. Therefore, any reference to "Consent Holder" in the conditions shall mean the current owners and occupiers of the subject land. Any new owners or occupiers should therefore familiarise themselves with the conditions of this consent, as there may be conditions that are required to be complied with on an ongoing basis.

## **REASONS FOR THE DECISION**

### **Background to Proposed Activity**

This is a 3.8647ha property with a split zoning of Rural 1 and Rural Residential zoned land. The site has frontage to Thorp Street. The subdivision has been amended after a request for further information to deal with diversion of flood waters on a flood plain with the third BLA for Lot 3.

The amended application now seeks a complying rural residential site (3000m<sup>2</sup>) around the existing dwelling (Lot 1) leaving a balance area with an area of 3.5649ha (Lot 2) with a new BLA that has had some existing infilling to raise the level of the land. The BLA is to the north of the existing dwelling with frontage directly to Thorp Street. Both allotments have existing formed vehicle access crossings and servicing.

Also to be included within the subdivision is an accounting of the following non-compliances of land use rules and the cancellation of a consent notice under Section 221(3) of the RMA. The reduced setback is created by the subdivision RM170650 which locates a new lot boundary around the existing dwelling and shed on Lot 1 and some minor non-compliances with the standards required for access formation (no side drain or passing bay).

### **Tasman Resource Management Plan ("TRMP") Zoning, Area, and Rules Affected**

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

Zoning: Rural Residential (Thorp Street), and Rural 1  
Area: Land Disturbance 1

No person may subdivide land within Tasman District as a permitted activity according to the TRMP. The activity authorised by this resource consent is deemed to be a Discretionary Activity in accordance with Rule 16.3.8.5 (rural residential) and Rule 16.3.5.4 (Rural 1 less than 12 hectare); setbacks for the shed under Rule 17.8.3.2, no side drain or passing bay under Rule 16.2.2.1; Section 221(3) cancellation of the consent notice of the TRMP.

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

The principal issues associated with the proposed activity involve the actual and potential effects on the environment. For this application these were:

- (a) amenity and character values;
- (b) productive land;
- (c) access/services;
- (d) flooding and geotechnical suitability of proposed BLA on balance allotment;

- (e) other;
- (f) reserves;
- (g) financial and development contributions.

I consider that the adverse effects of the activity on the environment will be no more than minor for the following reasons:

***Amenity and Character Values***

(a) The proposed subdivision of Lot 1 is consistent with the expectations for the Rural Residential Zone. The balance area of Lot 2 remains with a split zoning. The Rural 1 zoned area of the site is unchanged in size and the rural residential area is well in excess of 3000m<sup>2</sup>. The setback reduction of the small shed on the south boundary with the leg-in access to Lot 2 is internal to the subdivision proposal RM170650 and does not detract with the values anticipated for this zone.

***Productive Land Values***

(b) The Rural 1 area remains unchanged, therefore there is no loss of productive land to residential activity.

***Access/Services***

(c) Accesses to Lot 1 and the balance area (Lot 2) area are formed and no changes are proposed. There are no changes to services as both Lot 1 is fully serviced and balance area already has power connections. Sewer (if required) is accessible from the Thorp Street frontage for Lot 2. Stormwater to Thorp Drain is considered appropriate for any hardstand and building discharge for a dwelling on Lot 2. At the time of building consent on Lot 2, if access is required directly from Thorp Street, then a new vehicle crossing permit will be required. However, this access is not required in this location. The small deviation from the formation width standards is not considered to contribute to access issues as there is a direct line of sight for the short length of the leg-in access for Lot 2.

***Flooding and Geotechnical Suitability of Proposed BLA on Balance Allotment***

(d) Council's Resource Scientist – Rivers & Coast has confirmed that the BLA on Lot 2, situated close to Thorp Street, is situated in an area that is out of the flood plain on an area of land that has been previously built up. This area provides mitigation for any effects of inundation for a proposed BLA and does not create a diversion of floodwater across the floodplain area.

The CGW report clarifies that the identified BLA is a geotechnical feasible site suitable for a residential dwelling within the proposed BLA. Currently access is accepted from the existing crossing but is acknowledged that should a direct connection to building area be required a new vehicle crossing permit would be required. Telephone connections are available on the Thorp Street frontage but there is no proposal for the balance area to connect at this time as there are suitable mobile connections. There are volunteered new building finished floor levels for the BLA on the balance area which will replace the existing consent notice which is to be replaced as it contains floor levels that are no longer current. The consent notice is not relevant as it specifies an out of date minimum floor level for Lot 2 and is to be cancelled. A new consent notice will require appropriate finished floor and ground levels for the BLA on Lot 2.

***Other***

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(e) The applicant has removed part of the original application (Lot 3). The applicant has advised that a new application will be lodged after this application to resolve the issues raised in the original Section 92 information request; addressing the flooding issue for Lot 3 where the BLA was to be located in the floodplain and did not offer a BLA with ground levels high enough to mitigate flooding. It was also located within a floodplain and potentially could divert floodwaters affecting other properties. With the removal of the Lot 3 BLA and separate allotment the flooding issue is no longer present.

#### **Reserves**

(f) Council's reserve officers have expressed an interest in a walkway connection between Thorp Bush reserve and Thorp Street; this was not raised in the application, subsequently in response to the Section 92 request the applicant has indicated that he would open a conversation on this potential with the second application. Council reserve staff have indicated that this will be an appropriate time to do this.

#### **Financial and Development Contributions**

(g) These are payable on Lot 2.

#### **Relevant Statutory Provisions**

In considering this application, I had regard to the matters outlined in Section 104 of the Act. In particular, I 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).

Most of the objectives and policies contained within the TRPS are mirrored in the TRMP. The activity is considered to be consistent with the relevant objectives and policies contained in Chapters 5, 7 and 11 of the TRMP.

#### **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 this resource consent achieves the purpose of the Act as presented in Section 5.

#### **Notification and Affected Parties**

The adverse environmental effects of the activity are considered to be no more than minor. The Council's Resource Consents Manager has, under the authority delegated to him, decided pursuant to Section 95 of the Act that the application did not require public or limited notification.

This consent is granted on 4 August 2017 under delegated authority from the Tasman District Council by:



Pauline Webby  
Consent



Planner,

Subdivision







"1"

File: RM181013

ella.mowat@tasman.govt.nz  
Phone 543 8420

26 November 2018

WLC Trustee Limited  
C/- Planscapes (NZ) Ltd  
PO Box 99  
Nelson 7040

Dear WLC Trustee Limited

**Further Information Request for Resource Consent Application No. RM181013 –Two Lot Subdivision - 148a Thorp Street, Motueka**

I refer to your application for resource consent described above. An initial assessment of the application has been made and, pursuant to Section 92(1) of the Resource Management Act 1991 ("the Act"), further information is now being requested in relation to the application as follows:

1 Council's Reserve and Facilities Staff have identified significant community benefit from a walkway connection between Thorp Bush Reserve and Thorp Street. In order to achieve the objective of the plan a walkway connection between Thorp Bush and Thorp Road is recommended. This will increase pedestrian connectivity in the area and enhance access to Thorp Bush. Council has previously identified the benefits of this connection in conjunction with previous applications, but those applications only proceeded on a limited basis.

Schedule 16.3A (Assessment Criteria for Subdivision) includes an assessment of the adequacy of provision for public open space, esplanade reserves and esplanade strips and the provision, design and routes of cycleways, walkways and bridle paths, including linkages between any site and local retail areas, schools, reserves, bus routes and arterial roads.

Please provide an assessment against the Objectives and Policies of following:

Objective 14.1.2;

Policy 14.1.3.4; and

Policy 14.1.3.6.

In accordance with the rules for Reserves Financial Contributions, a credit against the contributions due would be provided for the value of the land vested for a walkway connection in association with the application.

2 MfE guidance is that long-term sea level rise is 1m or more above high tide. There may be a significant flood risk to the new lot from inundation that is both coastal and overland flooding from Motueka River (Council's Resource Scientist - Rivers & Coast).

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Please assess Section 106 of the Resource Management Act by a suitably qualified person.

3 Please provide a scheme plan showing the proposed service connections into the existing Council reticulated services.

4 Servicing and stormwater details needs to be addressed at subdivision stage. Please provide further details of stormwater detention type, and provide information in relation to Rule 16.3.8.1(g)(i) and (ii) and how this meets as a Controlled Activity.

Section 92A(1) of the Act requires you to respond to the Council by 17 December 2018 (being 15 working days from the date of this request), in one of three ways. You must either:

1 provide the information requested to the Council; or

2 advise the Council in writing that you agree to provide the information (you may wish to choose this option if you are unable to provide all the information by the date specified above); or

3 advise the Council in writing that you refuse to provide the information.

Should you choose Option 2, then the Act requires the Council to set a reasonable time within which the information must be provided. Therefore, in the event that you choose Option 2, I propose that the information be provided by 13 March 2019. If you are unable to provide the information by this date, please contact me as soon as possible so that we can discuss the reasons and set an appropriate alternative date.

Please note that the Council may decline your application pursuant to Section 104(6) of the Act if it considers that insufficient information is available to enable a decision to be made on your application. This may occur if you either:

(a) choose Option 3 above (ie, refuse to provide the information);

(b) do not provide the requested information within the period specified in the paragraph above (or the agreed alternative date); or

(c) do not respond at all to this information request.

In accordance with Section 88B and 88C of the Act the processing of your application will be placed "on hold" from the date of this letter to the date of receipt of the information requested or, if you refuse to provide the information, the date the advice of refusal is received by the Council.

Once the Council has received the requested information, it will be assessed to determine its adequacy and the Council will then make a decision on whether your application requires public notification, limited notification, or, whether it is able to be processed on a non-notified basis. Council reserves the right to notify your application should the further information requested above indicate that the effects on the environment are more than minor.

Also, you need to be aware that Section 95C of the Act requires your application has to be publicly notified if you do not provide the further information by the deadline stated above or an agreed alternative date, or if you refuse to supply the further information. If either of these situations applies, Council will require you to pay the notified application deposit fee before taking any further action.

Please note that the requirements of the Act outlined above are binding on you being the applicant, as well as on Council. Your opportunity to clarify or question the reasonableness of this request occurs now (within the next 15 days), not at some later date.

Please feel free to contact me if you have any questions regarding this request or any other part of this letter. My contact details are listed at the top of this letter.

Yours sincerely



Ella Mowat  
Consent Planner - Subdivision

“J”

Ref 0813

10 January 2019

Tasman District Council  
Private Bag 4  
RICHMOND 7050

Attn: Ella Mowat

Dear Ella

**RE: WLC TRUSTEE LTD RM181013**

We respond to your sec92 RFI of 26 November 2018, in order of matters as they appear in your letter:

1. The Applicant does not support a public walkway through his property in conjunction with this subdivision application, for the following reasons:
  - The subdivision creates one additional lot, giving effect to the development opportunities for this land under its Rural Residential zoning. The subdivision itself does not generate the need for or justify the walkway, and neither does it have some “compensatory” benefit for the subdivision itself.
  - The TRMP does not show an “indicative” walkway” in the planning maps, the transparency of which would be expected if this was a future link of some significant community benefit.
  - There is sufficient alternative pedestrian linkage via existing roads and walkways in the area, including access to the centre of Motueka CBD via Tudor Street (and via Avalon Court to Thorp Bush) 230m north of the application site, and access between Thorp Bush and the Motueka Recreation Centre and playing fields via the Woodlands Drain walkway.
  - The Applicant has already experienced theft of property from persons entering his land from Thorp Bush Reserve. A walkway through the property and past sheds and, given the fact there will be no close passive surveillance of the walkway by neighbours, raises security issues both for the adjoining landowners and walkway users.
  - The walkway would pass a pond on the Applicant's land. This presents a health and safety issue for the general public which the Applicant cannot be expected to address. The ability to satisfactorily fence the walkway for security and safety purposes is constrained due to the need to prevent obstruction or diversion of overland flows within the existing flood Thorp Drain floodplain.
  - The alternative leg-in strip from Thorp Street to Lot 2 does not foreclose creation of a walkway at some stage in the future.

In terms of Objective 14.1.2 and Policies 14.1.3.4 and 14.1.3.6, these must not be considered as “absolutes” but in context of any adverse effects on the environment and Part 2 of the Act. We consider that there is adequate and safe walkway linkages already available for public use between the various public open spaces and recreational reserves in the areas and between the Thorp Street residential area and the Motueka town centre. The convenience of further linkage should not be at the expense of the safety of users (where inappropriately placed, poorly lit or fenced) or the rural amenity and use of adjoining land. The proposed walkway would be inviting public access across a drain and floodplain that are subject to inundation risk, and alongside a private pond.

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The adjustment of financial contributions in lieu of “the value of land vested for a walkway” – quoted from your letter – does not take into account the significant costs of survey, legal fees etc, or the potential loss of privacy, security and therefore the impact of property values for the Applicant and other adjoining property owners, that will result with vesting of the walkway.

2. We have followed this up with Eric Verstappen, and attach email correspondence on the matter. Mr Verstappen has recommended engineered fill for the BLA on Lot 1 to a FGL of 3.8m NZVD 2016. This would allow the sec72 notice to also be removed from that allotment, and with that Mr Verstappen has advised that he does not require any further assessment of flood risk.

The Applicant has queried whether a FGL of 3.8m is necessary on account of the recently approved FGL of 3.3m for the house on Lot 2. Our understanding is that Mr Verstappen has allowed for some conservatism given that the wider flooding modelling for Motueka has yet to be completed.

Whatever the imposed FGL for Lot 1, we ask that the building platform and associated foundation for the house be designed by a registered engineer experienced in foundation design. This may be compacted structural fill with driven piles as it is for Tasman Consulting Engineer’s current design for the house on the balance title, rather than structural fill certified for a concrete slab foundation. Beyond the building platform we agree with Mr Verstappen that there is no need for engineered fill.

3. Please find attached an amended scheme plan showing connection to reticulated services where available.
4. Stormwater management for the new lots has already been addressed in the application as follows:

*“Rule 16.3.8.1(g) refers to stormwater disposal, and allows either discharge to a Council maintained stormwater drainage network that has capacity to receive the additional stormwater or that stormwater discharge from every lot complies with section 36.4 of the TRMP. Council has an easement in gross over Thorp Drain but is doubtful that they maintain it. Rather, Rule 36.4.2.1(f) permits the discharge or diversion of stormwater within any Rural Residential or Rural 1 Zone as a permitted activity, subject to compliance with conditions in that rule:*

- (a) *CGW recommend that discharge from stormwater detention tanks on any new lots be directed to Thorp Drain in a controlled manner. This may occur either using existing drainage swales within the application site or piped, and this will avoid any erosion of land. An appropriately engineered outlet point will avoid scour or erosion on the banks of the drain.*
- (b-c) *The discharge will be from water collected from roof and any paved areas on the lots, and the site is not used for the storage or disposal of hazardous substances that may enter Thorp Drain via this discharge.*
- (d) *The detention tanks will mitigate the effect of increased runoff, with a storage discharge rate that is no greater than the undeveloped runoff rate for the roof area. The detention tanks are also to be located where not to obstruct flood flows, located as close as practicable to the east or west boundaries of the application site.*
- (e) *As the discharge is to a man-made drain that passes through farmland, it does not have any significant habitat or natural values that may be impacted by this proposal.*
- (f) *As the discharge will be from water collected from roof and paved residential curtilage areas, it is not anticipated to have an oil or grease films, scum or foams, and will either be piped or pass over grassed swales in a controlled manner that will prevent sedimentation of the drain.*
- (g) *The discharge is not to coastal waters or a sinkhole.*
- (h) *The discharge is within the same catchment as the residences from which it will arise.*
- (i - j) *All stormwater control measures and any outlet structures or pipes will be maintained in sound operational condition, and will not obstruct the passage of any fish in Thorp Drain.*
- (k) *The intention to discharge stormwater as proposed by CGW will be made known to Council at the time of building consent and as part of the house design for the new lots.*
- (m) *CGW advise against disposal to ground as it is impractical on this site.*



- (n) *The discharge will be from sites connected to the Motueka urban sewerage system, and from land not used for intensive farming practices. No concentration of E.coli is anticipated in receiving waters within Thorp Drain as a result of this proposal.*
- (o) *There is no diversion of water, or drainage or infilling of wetlands, under this proposal.*  
*The discharge of stormwater from the proposed lots is a permitted activity and does not require resource consent under the TRMP. This was the accepted position under RM170650.*

The stormwater detention type is tank(s), and a proposed stormwater easement between Lot 1 and Thorp Drain is shown on the scheme plan. The easement anticipates use of the existing open swale to direct overflow from the detention tank(s) to the drain.

Detention tanks work by temporarily storing the stormwater runoff during a rainfall event and then slowly releasing the water through a controlled small diameter orifice. This storage and slow release of the rainwater reduces the peak stormwater flows during up to a 1% AEP rainfall event. On-site detention tanks are now used routinely in a number of subdivisions, including infill development around urban Motueka.

We are not aware that the Council requires specifics of the tank(s) to be designed at the time of subdivision consent as this cannot be determined until there is a development proposal for the new lot, and for that reason this is subject of a consent notice to be addressed at the time of building consent.

The consent notice will ensure that stormwater is appropriately managed in accordance with the permitted activity rules in Chapter 36.4 of the TRMP which is one of the alternatives to Rule 16.3.8.1(g)(ii), and the location of those tank(s) on Lot 1 and the proposed stormwater drainage easement between Lot 1 and Thorp Drain (over which Council has an easement in gross) will provide physical and legal protection to these stormwater management features as required under Rule 16.3.8.1(g)(ii).

We trust that you now have sufficient information to continue your processing of the application. Please do not hesitate to contact the writer if you wish to discuss matters.

Yours sincerely  
PLANSAPES (NZ) LTD

Jane Hilson  
Resource Management Consultant  
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[jane@planscapes.co.nz](mailto:jane@planscapes.co.nz)

sec92 RFI Response to TDC WLC Trustee RM181013

“K”

















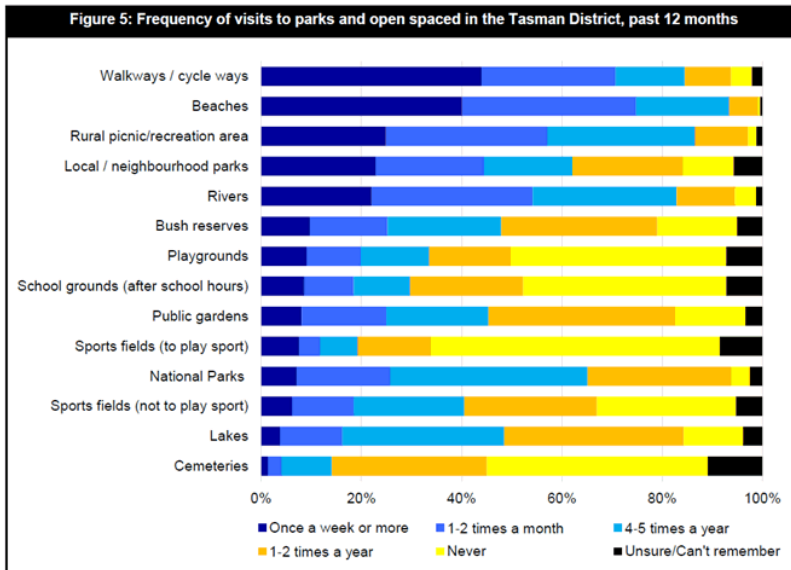
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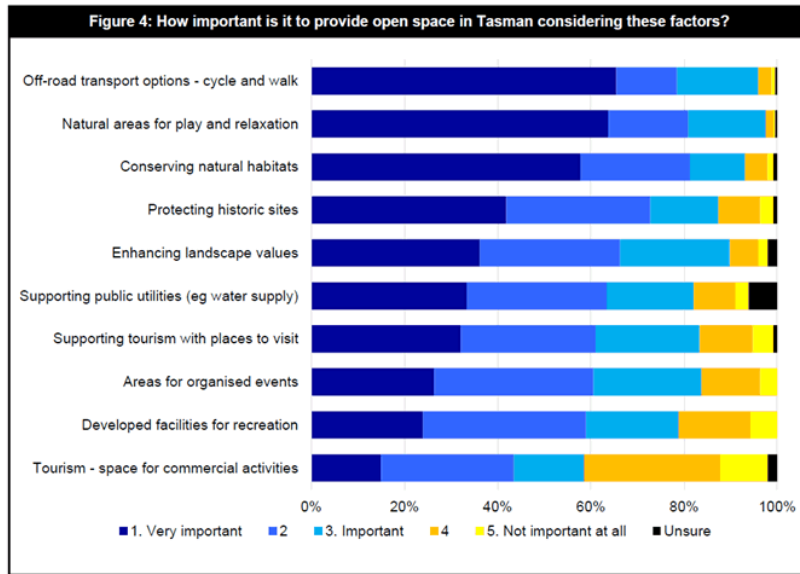




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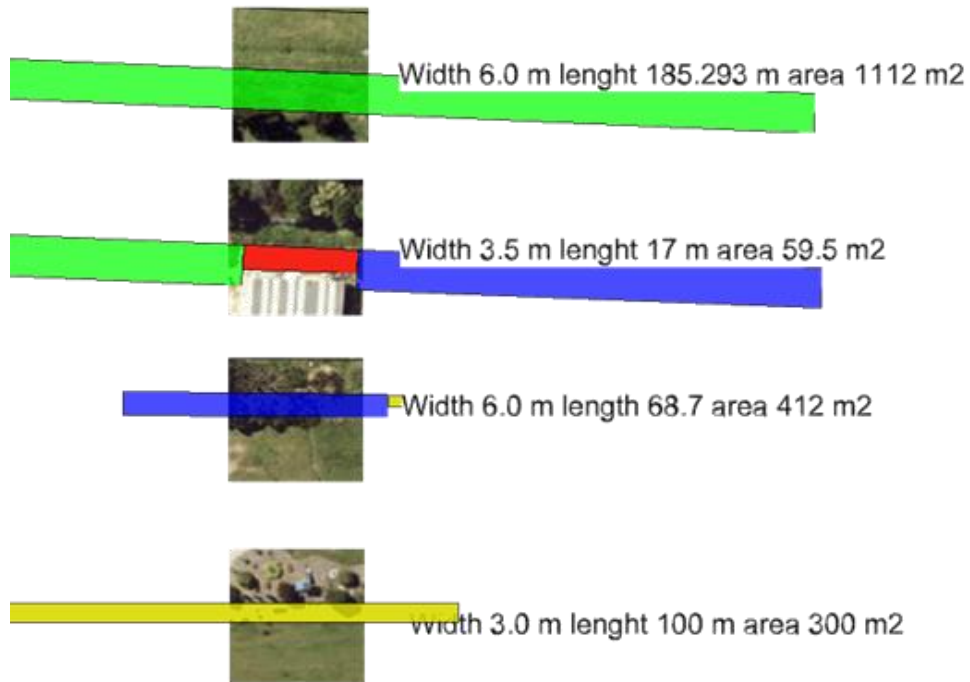


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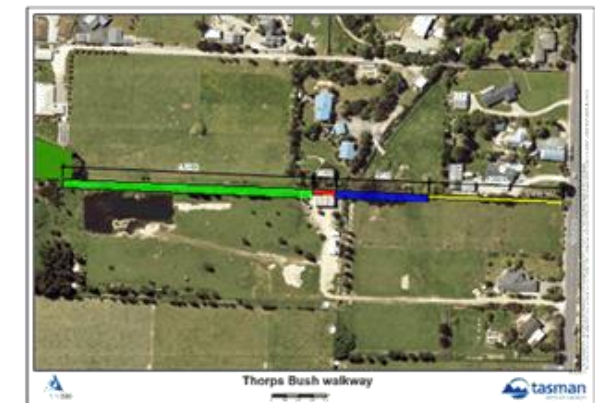


Total land area  
approximately 1883.5 m<sup>2</sup>  
Subject to Final site survey

*For Discussion*

Date: 15/7/2019  
Scale 1:1000 @A3  
Drawn: Stephen Richards  
Sheet 1 of 1  
Dimensions in millimetres  
Thorp ww wvx.

Site plan -not to scale



Thorp Bush to Thorp Street  
Walkway Link