



STAFF REPORT

TO: Environment & Planning Committee

FROM: Paul Gibson, Consent Planner

REFERENCE: RM060520 (Land Use)

SUBJECT: **S and J Holland – REPORT EP07/03/01** - Report prepared for 5 March 2007 Hearing

1. INTRODUCTION

The following report is my assessment of:

- a land use application to construct a dwelling and undertake associated earthworks in the Land Disturbance Area 2; and
- an application to remove trees and other vegetation from Area “A” in Consent Notice 36017.48.

The subject property is Lot 45 DP 18158 at Wall Street, Kaiteriteri.

1.2 Land Use Application

The land use consent application is to construct a dwelling and undertake associated land disturbance on the subject property.

The proposed dwelling does not meet the building construction permitted activity criteria for building height, building setback from road boundaries, vehicle crossing width, and location of a vehicle crossing in relation to an intersection.

The proposed land disturbance is a controlled activity due to the excavation depth proposed.

1.3 Consent to remove trees or other vegetation from Area “A”

Consent Notice 36017.48 was imposed on the subject allotment as a condition of the subdivision consent that created the allotment. Among other matters, it specifies that *“the land owner is not permitted to remove trees or other vegetation from the area marked “A” on the land without first obtaining Tasman District Council Consent.”* Area “A” comprises the eastern portion of the property. A copy of the Consent Notice and a Map showing Area “A” is attached to this report as **Appendix A**.

The applicant seeks to remove some of this vegetation, and plant additional vegetation on the property in accordance with the Planting Plan entitled “Plants, Preparation and Maintenance for Required Landscaping Property of S and J Holland” prepared by A P Mead of Landscape Management Services.

1.4 Site Description

Location

The subject site is located between Riwaka-Kaiteriteri Road, Cederman Drive, and an access way used as a reserve. A Location Map is attached as **Appendix B** of this report.

Built form

The property is currently free from buildings and fencing.

Shape and Contour of Property

The shape of the site is unusual, with larger portions of land in the east and west, connected by a thin piece of land. The eastern area comprises approximately a third of the total and is higher than the larger western part of the section. The aspect of the section is primarily to the south through to west and provides views from along the Ruby Bay Bluffs across Nelson towards Peppin Island.

The property slopes down towards the west. Contours suggest the existence of a waterway in the south west portion of the property connecting with the current road culvert.

The site ground level is above Cederman Drive on top of the road escarpment.

Existing Vegetation

A significant portion of the property is covered with recolonising vegetation. Some larger specimens exist in the road reserve above, and on the top of the embankment in the front of the eastern part of the site. The majority of the larger trees are situated on the western part of the property.

Existing Servicing

Servicing including water, stormwater, electricity and telephone services are available to the property.

2. STATUS UNDER TRANSITIONAL AND PROPOSED PLANS

2.1 Proposed Tasman Resource Management Plan

Due to the advanced stage of the Proposed Tasman Resource Management Plan (PTRMP) through the planning process, pursuant to Section 19 of the Resource Management Act 1991, the Proposed Tasman Resource Management Plan is the dominant plan for these applications to be assessed under, and no weight needs to be given to the Transitional District Plan.

The property is zoned Residential under the Proposed Tasman Resource Management Plan (PTRMP). The site is within Land Use Disturbance Area 2. There are no archeological sites known to Council on the property.

The section of Riwaka-Kaiteriteri Road adjacent to the property is identified as a Distributor Road in the Proposed Plan Road Hierarchy while Cederman Drive is classed as an Access Place.

2.2 Activity Classification

The Land Use application is for the construction of a dwelling and associated land disturbance on the residential zoned property within Land Disturbance Area 2.

As the proposal does not meet the permitted activity criteria relating to building setback from the road boundaries, the building height, the vehicle crossing width and the minimum distance of the vehicle crossing to the intersection, a resource consent is required.

The average excavation depth necessary to form the access and dwelling is a controlled activity.

The original subdivision consent imposed a consent notice allowing vegetation in the eastern portion of the sited labeled Area "A" to be removed only with the Consent of Council. As some vegetation within this area will need to be removed to construct the dwelling, consent from the Council is sought.

Proposed Tasman Resource Management Plan ("PTRMP") Rules Affected

The activity does not comply with Rules 17.1.4(q); 17.1.4(r); 16.2.2(f); and 16.2.2(ha) of the PTRMP and the application is overall deemed to be a restricted discretionary activity in accordance with sections 17.1.5 and 16.2.6 of the Proposed Plan.

Background

The property is part of the Kaiteriteri Heights Subdivision, with Consent RM940623 granted in the early 1990s to Kaiteriteri Heights Limited.

November 1995: a variation (change of conditions) to the subdivision was granted. This decision created a reserve area, (Lot 44), and the subject site, Lot 45.

June 2003: The current owners and applicants purchased the property from Cathedral Trustees.

September 2005: Access Crossing Permit approved by the Engineering Department of Tasman District Council.

3. STATUTORY CONSIDERATIONS

3.1 Section 104 RMA

When considering applications for a resource consent, and any submissions, the following matters under Section 104(1) of the Resource Management Act must be had regard to, subject to Part 2 of the Act:

"a) any actual or potential effects on the environment of allowing the activity; and

- b) (iii) any relevant regional policy statement, and proposed regional policy statement; and
- b) (iv) any relevant provisions of a plan or proposed plan; and
- ...
- c) any other matters the consent authority considers relevant and reasonably necessary to determine the application.”

Having considered these matters the applications may be declined or granted consent, with conditions if necessary (Section 108).

4. LIMITED NOTIFICATION

Pursuant to section 93 of the Resource Management Act 1991, the application was limited notified. Under section 93 (1)(b) the adverse effects of the activity on the environment are considered to be minor, and Mr and Mrs Smith, the owner/occupiers of Lot 52 DP 20350 located on the opposite side of Cederman Drive from the subject site, were considered to be potentially affected by the proposal. Mr and Mrs Smith refused to provide their written approval for the development. Consequently the Council served notice of the application on Mr and Mrs Smith, who are the only persons considered to be potentially affected by the activity, in accordance with section 94(1) of the Act. This limited notification attracted a submission in opposition from Mr Alister Ross Smith so a hearing was required.

4.1 Summary Of Submission

Submission 1: Mr Alister Ross Smith

Opposed to the proposal for the following reasons:

Setbacks and location of dwelling

- The building far exceeds the guidelines for the distance of buildings to boundaries. It is as close as 800 millimeters to Cederman Drive and 300 millimeters to Riwaka-Kaiteriteri Road.
- The natural site to build on this section is where the garage/bedrooms/library is located.
- The owners are trying to gain sea views by siting the living areas where they have.

Height

- The house will be too close and the living areas will look straight down onto our front courtyard and through all our living room windows.
- The building exceeds the height guidelines where the master bedroom is sited.

A Map showing the location of Mr and Mrs Smith’s property in relation to the subject property is attached to this report as **Appendix C**.

5. ASSESSMENT

5.1 Purpose and Principles of Resource Management Act 1991

Part II of the Resource Management Act states several matters to which regard must be had, or which must be recognized and provided for in order to achieve the sustainable management of resources.

Section 5 - Sustainable Management

This means managing the use, development and protection of natural and physical resources in a way, or at a rate, which enables communities to provide for their social, economic, and cultural well-being and for their health and safety.

Section 6 - Matters of National Importance

This section sets out matters of national importance.

Section 7 - Other Matters

Relevant matters to have particular regard to:

- (b) The efficient use and development of natural and physical resources;*
- (c) The maintenance and enhancement of amenity values;*
- (f) Maintenance and enhancement of the quality of the environment, and;*
- (g) Any finite characteristics of natural and physical resources.*

Section 8 - Treaty of Waitangi

This section of the Act requires the principles of the Treaty of Waitangi to be taken into account.

Section 5 comments

Although the Resource Management Act is generally enabling, and recognises that the needs of people and communities should be met with respect to their social, economic and cultural wellbeing, this should not be achieved at the expense of other matters set out in Section 5, which are the environmental parameters which must be observed. In particular, the ability of natural and physical resources to meet the needs of future generations must be sustained, and the adverse effects of activities must be avoided, remedied and mitigated.

Section 6 and 8 comments

With respect to the matters of national importance in section 6 and Treaty of Waitangi principles in section 8 and any other matters in Part II of the Act, none are considered to be particularly relevant to this application.

Section 7 comments

Section 7 (b), (c), (f) and (g) which are listed above are considered to be of relevance to this proposal.

The construction of a residential dwelling on a residentially zoned property can be an efficient use of resources, in that it is consolidating residential development rather

than expanding the urban area into productive rural land. It also utilizes existing infrastructure that is already established.

Amenity values and the quality of the environment is discussed as part of the assessment of effects in the following section.

Section 9

Section 9 of the Resource Management Act 1991 states that no person may use land in a manner that contravenes a rules in a district plan or proposed district plan unless the activity is expressly allows by a resource consent granted by the territorial authority responsible for the plan.

In this section, the word “use” in relation to any land means; any excavation, drilling, tunnelling or other disturbance of the land.

5.2 Plan Provisions and Actual and Potential Effects on the Environment

Under Section 104 of the Act, the actual or potential effects on the environment must be considered in the context of the requirement under Section 5, to avoid, remedy or mitigate adverse effects in the management of a natural or physical resource.

The “Permitted Baseline”

When forming an opinion as to whether an effect can be taken into account, section 104 (2) of the Act states that the Council may disregard an adverse effect of the activity if the Plan permits an activity with that effect.

Written approvals

Section 104(3)(b) specifies that a consent authority must not have regard to any effect on a person who has given written approval to the application. In this instance no persons have given their approval for the development.

The matters of discretion contained in section 17.1.5 of the Proposed Plan relate to the relevant environmental effects (amenity, character and privacy) relating to the height and setbacks of the building. Section 16.2.6 of the Proposed Plan contains the matters of discretion relating to the width and location of the vehicle crossing.

The key resource management matters for consideration are:

1. The amenity, character and privacy effects as a result of the building setbacks and height proposed.
2. The traffic effects arising from the width and location of the vehicle crossing.
3. The ecological, visual, and stability impacts from the removal of some vegetation on Area “A” of the section.
4. The land disturbance effects resulting from the proposed earthworks associated with the construction of the dwelling and access.

Amenity, Character, and Privacy Effects

A number of PTRMP objectives and policies set out what is sought to be achieved for urban development:

5.1.0 Objective (Mitigate Adverse effects)

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

Policies

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

5.2.0 Objective (Amenity Values)

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

Policies

5.2.1 *To maintain privacy in residential properties, and for rural dwelling sites.*

5.2.2 *To ensure adequate daylight and sunlight to residential properties and rural dwelling sites.*

5.2.4 *To promote amenity through vegetation, landscaping, street and park furniture and screening.*

5.2.7 *To enable a variety of housing types in residential areas.*

5.3.0 Objective (Character)

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

Policies

5.3.4 *To avoid, remedy or mitigate the adverse effects of activities on the character and sets of amenity values in specific urban locations.*

6.1.0 Objective (Urban Growth)

Urban growth that minimises the loss of land of high productive value and avoids or mitigates risks of extending on to land subject to natural hazards.

Objectives 5.1 to 5.3 of the PTRMP and their supporting policies aim to allow development which can avoid, remedy or mitigate adverse amenity effects on the surrounding area.

Objective 6.1 encourages urban growth that minimises the loss of land of high productive value and avoids extending onto land subject to natural hazards. This includes allowing residential development on Residential zoned sites as a means of minimising encroachment on the most versatile land in the District.

As the application is for a Restricted Discretionary Activity, only the applicable matters of Council discretion in the Proposed Plan can be considered when making a decision on the application and imposing conditions.

The application does not meet the following permitted activity criteria relating to setbacks:

Permitted Activity Criteria 17.1.4(r) - Building Setback - buildings to be setback at least 4.5 metres from the road boundary.

The proposed dwelling will not meet the 4.5 metre building setback from the Riwaka-Kaiteriteri Road boundary and the Cederman Drive Boundary. The closest points of the exterior walls are proposed as follows:

- The reading room is 800 mm from the southern front boundary with Cederman Drive;
- The storeroom is 300 mm from the northern boundary with Riwaka-Kaiteriteri Road;
- The dwelling complies with the 4.5 m setback on the western boundary with Riwaka-Kaiteriteri Road;
- The dwelling complies with the 4.5 m setback on the eastern boundary with the reserve/walkway (classed as a road).

Proposed Plan Matters for Council discretion relating to setbacks

Matter of discretion 17.1.5 (8) The extent to which the intrusion towards the boundary is necessary to allow more efficient, practical and pleasant use of the remainder of the site.

Due to the unusual shape of this residential property and the necessity of providing not only a dwelling but also associated vehicle parking and access, an outdoor living area, and maintaining sufficient areas for landscaping, it is considered that it would be difficult to comply with the relevant setback criteria in addition to providing vehicle access, outdoor living and a dwelling with four bedrooms, a study, and two living areas as sought by the applicant.

Matter of discretion 17.1.5(9) The extent to which alternative practical locations are available for the building.

Although the site is zoned for Residential development it is a difficult site for accommodating a dwelling due to its unusual shape, contours, and as it is surrounded by road reserve, front setbacks of 4.5 metres are specified on every boundary which is very unusual. In order to comply with all applicable front setbacks

only a small dwelling would fit and would need to be sited either on the western end of the site or the extreme eastern end of the site. If sited on the western end, driver site visibility would be restricted around the site. In either case, additional earthworks than are proposed with this dwelling would be necessary.

17.1.5(10) The extent to which the proposed building detracts from the pleasantness, coherence, openness, and attractiveness of the site as viewed from the street and adjoining sites.

As the subject site is surrounded by legal roads (Riwaka-Kaiteriteri Road, Cederman Drive, and the reserve to the east of the property which is actually a legal road), the nearby residential properties are located some distance from the property.

The abundant road reserve on the eastern end of the northern boundary, (where the section is at its most narrow), is much wider than is normally required, being 15 metres deep at the widest point. Consequently, the narrow part of Lot 45 is well isolated from the road edge on the northern side by the large road reserve, and on the southern side by a large embankment. This extra road reserve area mitigates the small setbacks on the property itself.

The design proposed has an offset hallway three metres wide through the gap in this part of the section. This hallway connects the living area of the dwelling with the garage and main sleeping areas, maximizing the potential of the section. Although the setbacks are infringed as the design steps through this narrow stretch of the property there are substantial distances in some, and a large escarpment at other positions, between the actual road and the dwelling. Consequently the intention of the Proposed Plan is achieved, that of providing a suitable separation distance between the carriageway and the dwelling.

If the Committee considers that the consent should be granted a condition requiring vegetative screening will enhance the visual attractiveness and pleasantness of the site. Such a condition of consent would ensure that appropriate planting was maintained at all times, providing a high level of control so that not only the current owner but also any future owners of the property would have to comply with on an ongoing basis.

Matter of discretion 17.1.5(11) The adverse effects of the building intrusion on the outlook and privacy of people on adjoining sites, including loss of access to daylight on adjoining sites.

There are no residential properties to the west and north of the property. The dwelling will be visible from sites across Cederman Drive to the south of the subject site and across the small reserve to the east of the property.

The privacy and outlook of the property to the east will not be affected, as the first floor windows are over 5.5 metres from the eastern boundary and the first floor deck on the eastern side is located some 4.5 metres from the eastern boundary, and further separation is provided by the reserve. The view from either building is further obscured by significant planting in the reserve and on both properties. The proposed dwelling will be sufficiently distant from the dwelling to the east and tucked into the southern slope to ensure that there will be no daylight lost.

Mr and Mrs Smith's property, on the southern side of Cederman Drive is separated from the southern wall of the proposed dwelling by over 20 metres. This separation distance is comprised of:

- a 1.4 metre building setback for the proposed dwelling to the southern boundary with Cederman Drive at the point in the site opposite Mr and Mrs Smith's property; plus
- the Cederman Drive road reserve of 16 metres in width; plus
- approximately 3.5 metre setback from the Smith's legal front boundary with the edge of Cederman Drive to their dwelling.

The majority of residential properties have space in the front yard at the front of the house for residents to occupy the yard for outdoor living or at least garden and lawn maintenance, providing opportunities to view the property across the road. In this case, due to the small setback and planting proposed along the front boundary of the subject site with Cederman Drive, it will not be practical for residents of the new dwelling to occupy the outside of the section facing Mr and Mrs Smith's property. The area will instead be planted and too steep for outdoor living. This will reduce the options for their privacy to be invaded. The new dwelling, at 20 metres from Mr and Mrs Smith's residence, will not cause loss of daylight.

Matter of discretion 17.1.5(12) The ability for parking and maneuvering clear of the road.

The proposed design incorporates a double garage with a vehicle door over 7.0 metres from the Cederman Drive boundary. The design provides parking for two vehicles inside the garage, meeting the permitted standard for on-site parking for a dwelling. The provision of a turning bay permits each vehicle to enter and exit the site in a forward gear. Liaison has already taken place with Council's Engineering Department such that they have approved an Access Crossing Permit.

Matter of discretion 17.1.5(13) The extent to which the proposed dwelling will be compatible with the appearance, layout, and scale of other buildings and sites in the surrounding area, including the setback of existing buildings in the vicinity from boundaries, it's external materials, and colours.

Inspection of the locality shows that the proposed design, external materials and colour are compatible in appearance, layout and scale to other buildings in the surrounding area. While the dwelling proposed is a larger than average floor area, this is prevalent in the Kaiteriteri area. The materials proposed of long run colour steel roofing, cedar, schist, and grey stucco will be more recessive than many other dwellings in the area. If the Committee decides to approve the application a condition of consent restricting the exterior building colours to the colours proposed or similar recessive colours would provide certainty that the building will display only recessive colours into the future.

Matter of Discretion 17.1.5(14) The ability to mitigate any adverse effects of the proposal on adjoining sites and the street scene including by planting and landscaping.

Appropriate landscaping and planting will soften the visual effect of the built form on the street scene. The planting plan proposed in the application is particular in its placement of planting to breakup the length of the dwelling and is considered to be appropriate. If consent is granted for the development it is recommended that a condition is imposed requiring ongoing compliance with the Planting Plan.

As the effect of the building will be minimised from Cederman Drive, the reserve to the east of the site, and Riwaka-Kaiteriteri Road, through the existing wide road berms, through existing vegetation to be maintained as well as proposed landscaping, dispensation for reduced setback is considered to be appropriate. It is considered that the intent of the Proposed Plan is met.

The application does not meet the following Permitted activity criteria regarding building height:

Permitted Activity Criteria 17.1.4(q)(iii) - Building Height: maximum building height of 7.5 metres on sites of more than 400 m² net site area

As the application is for a Restricted Discretionary Activity, only the applicable matters of Council discretion in the Proposed Plan can be considered when making a decision on the application and imposing conditions.

Matter of discretion 17.1.5(17) The extent to which there is a need for the increased height in order to undertake the proposed activities on the site.

Sites with uneven ground levels can be more difficult to comply with the Proposed Plan height level than flat sites. The site is undulating in terrain and this can make it more difficult to comply with height given that the specified height of 7.5 metres applies to each point on the natural ground level. As floor levels are flat, an undulating site can result in situations whether the majority of a building complies with the height, with the exception of a corner or small area of roof where the natural ground level drops down. This is the case here, with the majority of the dwelling following the contour of the site, easily complying with the 7.5 metre height, and a small portion of the south eastern edge of the roof exceeding the height by 500 millimeters, being 8.0 metres from natural ground level at the highest point. The unusually steep slope from the southern edge of the site down to Cederman Drive constructed at the time of subdivision results in a steep section of ground level making it difficult to comply in that portion of the property.

Matter of discretion 17.1.5 (18) The extent to which the character of the site and the surrounding area remains dominated by open space, rather than by buildings, with buildings at low heights and low densities of building coverage.

The high ground level of this property compared with properties to the south on the opposite side of Cederman Drive means that it is a highly visible piece of land. Currently it is not dominated by open space but by thick vegetation. The proposed dwelling, although high, complies with the permitted building coverage of 33 percent of the site, covering only approximately 28 percent of the property. The density easily complies, being three times less than permitted in the Residential zone. The property is 1350 m², where 450 m² is the minimum net area of land per dwelling.

Matter of discretion 17.1.5 (19) The extent to which the proposed building will not adversely affect the character of the local environment, including the scale of buildings in the surrounding area; and

Matter of discretion 17.1.5 (20) The effect on other sites, roads and public open space of the increased height, in terms of visual dominance, which is out of character with the local environment.

The Kaiteriteri area in general has consistently large houses. Many of the dwellings nearby the development are also large, with many two storeyed and split level houses in the area. Consequently the scale of the dwelling will not be out of character with the local area.

When forming an opinion as to whether an effect can be taken into account, section 104 (2) of the Act states that the Council may disregard an adverse effect of the activity if the Plan permits an activity with that effect. For example, on a residential zoned site such as this, a dwelling may be constructed to a height of 7.5 metres as a permitted activity, provided it also complies with all other applicable permitted activity criteria in the Proposed Plan. The Council may choose to disregard the effects of the portions of the building that comply with the 7.5 metre height, as the Proposed Plan allows and anticipates this height in the Residential zone. For this proposal, application of the permitted baseline of 7.5 metres building height leaves a small portion of roof in the south western corner to assess the effects of.

The design of the dwelling presents a multifaceted profile of stepped modular sections with mono-incline roofs, which reduce the overall visual impact compared to a long straight wall. Natural materials and colours have been employed to blend the home with the surrounding vegetated setting. Windows across the gallery will result in a see through effect, visually dividing the building into smaller parts. The retention of much of the mature vegetation will immediately give the new dwelling an established impression.

Matter of discretion 17.1.5 (21) The extent to which the proposed building will shade adjoining sites and result in reduced sunlight and daylight admission beyond that anticipated by the daylight admission angle requirements for the area.

See comments on Matter of discretion 17.1.5(11), above.

Matter of discretion 17.1.5 (22) The effect of the increased height on other sites in terms of loss of privacy through being overlooked from neighbouring buildings.

The large separation distance of over 20 metres between Mr and Mrs Smith's property and the upper floor windows of the proposed dwelling is a much further separation distance than is typical between residential properties that are not separated by a road.

It is relevant to note that a dwelling is permitted to have an upper floor balcony, with a floor level two metres high or higher, up to 4.0 metres from the common boundary with another dwelling. Here the upper floor balcony of the proposed dwelling will be over 17 metres from the boundary of the Smith property due to Cederman Drive providing separation. This is significantly larger than the permissible setback for a common side or rear boundary of 4.0 metres separation for a balcony. Further, the

4.0 metre separation is allowed, regardless of the contour of the sites and the relationship of the ground levels of each site.

The large solid wall at the front of Mr and Mrs Smith's property reduces the amount of their dwelling which is visible from the subject property.

Matter of discretion 17.1.5 (23) The extent to which the increased building height will result in decreased opportunities for views from properties in the vicinity, or from roads or public open space in the surrounding area.

The tree-covered escarpment on the northern side of Riwaka-Kaiteriteri Road prohibits views to the north. The predominant view for properties in the immediate vicinity of the proposed development site is to the south and east. The proposed dwelling will not obscure the views enjoyed by the residents of any other property.

Matter of discretion 17.1.5 (24) The ability to mitigate any adverse effects of increased height or penetration of the daylight admission angle, through increased separation distances between the building and adjoining sites, or the provision of screening.

Retention of mature vegetation and the landscape report by Mr T. Carter of Tasman Carter Ltd, submitted as part of the application, confirm the expected blending of this dwelling with its environment.

Traffic Effects

The following Proposed Plan objective sets out the outcome sought for transport.

Objective 11.1.0 (Land Transport Effects)

A safe and efficient transport system, where any adverse effects of the subdivision, use or development of land on the transport system are avoided, remedied, or mitigated.

Council's Engineering Department has assessed the location and design of the vehicle crossing and has already granted an Access Crossing Permit.

The proposal meets all relevant Permitted Activity criteria relating to vehicle crossings, access, and parking with the exception of:

- Permitted Activity Criteria 16.2.2(f) – vehicle crossing width: the vehicle crossing width at the property boundary is between 3.5 metres and 6.0 metres wide for a crossing serving one property in the Residential zone; and
- Permitted Activity Criteria 16.2.2(ha) – proximity of vehicle crossing to intersection: For a corner site with a vehicle crossing onto a road with a speed limit of 50 kilometers per hour or less, the vehicle crossing abuts the site boundary furthest from the intersection on the road ranked lower in the road hierarchy if one of the roads is an arterial road or distributor road. Measurement is from the boundary tangent points as if they were extended, and no vehicle crossing is closer than 12 metres to an intersection.

A vehicle crossing width of 15.0 metres is proposed measured at the Cederman Drive boundary of the site (3.5m – 6.0m width is specified in the Proposed Plan). The crossing then funnels down to 5.0 metres in width where it meets the kerb and channel of Cederman Drive.

Also, the property is a corner site with frontage to an Arterial Road (Riwaka-Kaiteriteri Road) and an Access Place (Cederman Drive). In accordance with the permitted activity criteria, the vehicle crossing is proposed off the lesser of the roads, Cederman Drive. However, the proposed vehicle crossing does not abut the site boundary furthest from the intersection, rather it is located part way along the southern boundary.

As the application is for a Restricted Discretionary Activity, only the applicable matters of Council discretion in the Proposed Plan can be considered when making a decision on the application and imposing conditions.

Matter of discretion 16.2.6(1) the location and design of on-site access and vehicle crossings, including dimensions, gradient, surface standard, and any effect on the safety and efficiency of traffic on the adjoining road.

The reason for controlling the location of a vehicle crossing in relation to an intersection is to ensure that vehicle crossings are not located too close to intersections in order to reduce traffic conflicts and to allow safe movement through the access at the normal operating speed of the road.

The width of a vehicle crossing is controlled to ensure that vehicles cannot enter and exit a site with excessive speed.

An Access Crossing Permit is needed from the Engineering Department before a new crossing can be constructed. Council's Engineering staff carefully assess the impact new crossings will have on the functioning of the public road. Generally applicants apply for resource consent first and if that is approved then apply for an Access Crossing Permit from the Engineering Department. However, in this case the applicants have sought, and already obtained Access Crossing Permit No. Out6890 from Council's Engineering Department on 20 September 2006. Consent for the location and width of crossing was granted subject to a number of conditions, all of which are met in the proposed design and location shown on the application site plan. Mr John Karaitiana of the Engineering Department has considered the proposal and confirms that the Engineering Department has approved matters relating to the vehicle access provided it is constructed in accordance with the Permit already issued. A copy of Mr Karaitiana's comments are attached as **Appendix D** of this report.

The Access Crossing Permit conditions that relate to the Proposed Resource Management Plan matters of crossing width and distance to intersection are noted below, with comments:

"The western edge of the access shall be no closer than 15m to the eastern kerb line or edge of seal of the Riwaka Kaiteriteri Road."

The application site plan shows the distance as 15 metres. The permitted activity criteria says that for corner sites the vehicle crossing should abut the property

boundary furthest from the intersection. As the property is elongated this would result in the crossing being over 60 metres from the intersection (the distance from the Riwaka-Kaiteriteri Road/Cederman Drive intersection to the eastern boundary of the site. This would result in an extremely unusual situation as there are very few properties 60 metres wide in a Residential zone, most are around 18 metres in width. Council's Engineering Department confirm that the crossing does not need to be this far from the intersection and have approved the proposed siting.

"An area of road reserve may be used for maneuvering provided a corridor 1.9m in width from the existing kerb is left for a future footpath and service berm."

The 1.9 metre distance is shown on the site plan. The vehicle crossing is 15.0 metres wide at the actual legal boundary where the maximum permitted activity width in the Residential zone for a single user is 6.0 metres. However, Council's Engineering Department staff have already carefully considered the proposed width and have issued the Access Crossing Permit. As the additional width will provide valuable vehicle turning space it will improve the efficiency and safety of the access arrangement.

As the crossing width reduces to only 5.0 metres where it meets the Cederman Drive kerb and channel the intent of the crossing width criteria is met, any vehicle will have to slow to enter or exit the property.

Other aspects relating to the traffic effects of this development are also considered to be appropriate. Two parking spaces can be achieved for the dwelling. On-site manoeuvring is not required under the permitted activity standards for a single dwelling obtaining access from a road classified as an access place such as the case here. However, the approved crossing incorporates a turning area which will allow vehicles to enter and exit the Cederman Drive carriageway in a forward gear.

Application to remove some Vegetation

The applicant is also applying for consent to remove vegetation of Area "A" shown on Consent Notice 368017.48 in accordance with the Planting Plan entitled "Plants, Preparation and Maintenance for Required Landscaping Property of S and J Holland," prepared by A P Mead of Landscape Management Services.

A copy of Consent Notice 368017.48 is attached to this report as **Appendix A**. This Consent Notice requires the applicant to obtain Council Consent prior to the removal of vegetation in Area "A", which comprises the eastern portion of the property. The consent notice does not record the reason for the vegetation to be retained on Area "A". The key matters typically associated with the retention of vegetation are ecological value, visual amenity, and stability. Each of these items will be discussed in turn.

Ecological Value of the vegetation to be removed

A Vegetation Report has been compiled by Ms Sandra Carson-Mead of Landscape Management Services. Her report assesses the value of the vegetation on the part of Area "A" which is sought to be cleared to allow for the construction of the dwelling.

The following species are present in the portion of Area "A" sought to be cleared:

- Kanuka of approximately three-four years old
- Tufted sedge
- Coposma
- Mingimingi
- Dianella
- Five Finger
- Ponga

Only the ponga/tree ferns are identified as being of value.

Area "B" of the site is also covered in regenerating vegetation, none of which is required to be protected under the Consent Notice. However, the Vegetation Report identified species as follows:

Valuable specimens in Area "B":

- Kanuka situated in the western corner of the site

Species of little value in Area "B":

- Young Kanuka
- tufted sedge

Regarding the ecological value of the vegetation to be removed, Ms Carson-Mead concludes that the proposed siting of the dwelling will not necessitate the removal of any trees of value, but only young scrub of no amenity value or rarity. She goes on to note that the only valuable species located in the portion of Area "A" sought to be cleared (ponga/tree ferns) could be transplanted elsewhere on the site. These tree ferns will be protected as the proposed Planting Plan includes the transplanting of the tree ferns in Area "A" as a requirement.

Visual Effects of the vegetation to be removed

The applicant has provided a Landscape Report from Mr Tom Carter of Tasman Carter Ltd, Landscape Architects. This report considers the visual effect of the development including the proposed removal of some vegetation.

Mr Carter assesses the visual profile of the developed site from each direction, summarised as follows:

View from the west (from Riwaka-Kaiteriteri Road): Provided the smaller unbuilt pockets of vegetation are preserved, enhanced and maintained there is opportunity to create an appropriate buffer of riparian vegetation between Riwaka-Kaiteriteri Road and the proposed dwelling. There is sufficient space to maintain a buffer of existing vegetation around the bedroom and garage wing of the building.

View from the east (from the reserve/access way adjoining the property on the east): there is potential to maintain a planted buffer 4.0 to 6.0 metres deep. This elevation will be further screened by planting on the Council reserve.

View from the south (from Cederman Drive): There is less opportunity here to provide a planted buffer due to the small setback of the building however Mr Carter considers this is not at odds with existing residential development in the area. By preserving existing planting and adding additional planting a band of vegetation could be established that provides some integration with the residential pattern given the house design.

View from the north (from Riwaka-Kaiteriteri Road): There is the opportunity to retain existing established planting which will buffer the dwelling such that the view effectively of a single storey structure located within native riparian vegetation patterns.

Mr Carter offers the following recommendations:

1. A Construction Management Plan relating to Area "A" should be made a condition of consent. It should cover the following points, construction timing, site access point(s), vegetation removal and "no go zones", and planned building periphery egress.
2. A Planting Plan should be a condition of consent.

Provided the abovementioned recommendations are fulfilled Mr Carter concludes that, "vegetation can be removed within Area "A" and the proposed dwelling erected without significant adverse effect."

It is recommended that should consent be granted, a Construction Management Plan be required as a condition of consent, as noted in the Recommendation of this report. The application includes an appropriate Planting Plan from Landscape Management Services which is consistent with Mr Carter's approach. The Planting Plan is recommended as a condition of consent.

Stability

The Engineering Report prepared by Tonkin and Taylor Ltd provided as part of the original subdivision also recommends retention of vegetation, particularly on steeper areas elsewhere in the subdivision. Lot 45 is primarily gently sloping, the steep area being the Cederman Drive escarpment. The Planting Plan proposed for the property will retain as much of the current vegetation as possible and add additional vegetation.

In addition, conditions of consent are recommended to ensure the stability of the site. Mr Colin Michie, Council's Consent Planner – Natural Resources has assessed the proposal in terms of land disturbance, and provided a list of conditions to mitigate the proposed vegetation removal and earthworks. The recommended conditions relate to the monitoring of earthworks, the placement of spoil, the use of a Chartered Professional Engineer with experience in dealing with Separation Point granites to monitor and supervise all earthworks, and construction areas being serviced with sedimentation mitigation or control measures.

Compliance with the proposed Planting Plan and the conditions of consent relating to stability will ensure that the visual character of the site, the ecological values on the property, and the stability of the landform will be maintained.

Land Disturbance

The following Proposed Plan objective and policies sets out the outcome sought for land disturbance.

Relevant Objectives and Policies

Objective 12.1.0

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

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

Policies

Policy 12.1.1

To promote land use practices that avoid, remedy, or mitigate the adverse effects of land disturbance on the environment.

Policy 12.1.2

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

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

Policy 12.1.3

To investigate and monitor the actual and potential adverse effects of soil erosion, or other soil damage, sedimentation and damage to riverbeds, subsurface water bodies, aquatic and other natural habitats, arising from land disturbance.

As excavations with an average vertical depth of between 0.5 metres and 2.0 metres are proposed, the land disturbance is classed as a controlled activity in accordance with criteria 18.6.9 of the Proposed Plan.

Mr Colin Michie of Council's Environment and Planning Department has assessed the application in terms of the earthworks and recommends a number of conditions to mitigate any effects. These are included in the recommendation contained in section 7.2 of this report. Mr Michie's comments are attached as **Appendix E** to this report.

6. SUMMARY

The land use application is to construct a dwelling and undertake associated land disturbance at Wall Street, Kaiteriteri.

The site is zoned Residential under the Proposed Plan. The land use application is a restricted discretionary activity as it involves the construction of a dwelling that does not meet the permitted standards for building setbacks from the road boundary, building height, location and width of vehicle crossing. All other applicable permitted activity standards are met. Earthworks constituting a controlled activity are also sought.

The owners/occupiers of one property were considered to be potentially affected by the development. They would not give their written approval for the proposal so the application was limited notified. The affected persons lodged a submission opposing the proposal.

The application also seeks consent to remove some vegetation in Area "A" controlled by a consent notice registered on the Certificate of Title of the property when it was subdivided. All vegetation of value will be transplanted elsewhere on the site, and additional planting will be provided, in accordance with a new Planting Plan.

The proposal was assessed in accordance with the applicable matters in the Resource Management Act 1991. It is considered that the proposed development is not contrary to Part II of the Resource Management Act which seeks to promote the sustainable management of natural and physical resources.

The proposed development is an appropriate form of residential development and use of resources in the context of the objectives and policies, and matters of discretion of the Proposed Plan.

Overall, it is considered that the proposed development will have not more than a minor effect on the environment and the land use application to construct the dwelling should be approved, and consent to remove vegetation in Area "A" be given.

7. RECOMMENDATIONS

7.1 Recommendation 1: to remove some vegetation of Area "A" shown on Consent Notice 368017.48

That the Committee grant consent to remove some vegetation in Area "A" shown on Consent Notice 368017.48 in accordance with the Planting Plan entitled "Plants, Preparation and Maintenance for Required Landscaping Property of S and J Holland," prepared by A P Mead of Landscape Management Services and attached to this recommendation as **Report A**.

7.2 Recommendation 2: Land Use consent to construct a dwelling and undertake associated earthworks.

That pursuant to Section 104C of the Resource Management Act 1991, the Council grants consent to construct a dwelling on Lot 45 DP 18158.

The consent is granted subject to the following conditions:

Development

1. The development shall be undertaken in general accordance with the documentation submitted with the application and with **Plan A** dated 1 July 2006, and **Plan B** dated 1 September 2005, attached to this consent. Notwithstanding the above, if there is any apparent conflict between the information submitted with the application and any conditions of this consent, the conditions shall prevail.

Building Setbacks

2. The building shall be set back from the road boundaries as shown on **Plan A** dated 1 July 2006, attached to this consent.

Height

3. The maximum building height shall not exceed the height shown on **Plan B** dated 1 September 2005, attached to this consent.

Vehicle Crossing

4. The vehicle crossing shall be a maximum width of 15.0 metres at the property boundary with Cederman Drive and shall be 5.0 metres in width where the vehicle crossing meets the Cederman Drive kerb and channel.
5. The vehicle crossing shall be located in relation to the Riwaka-Kaiteriteri Road/Cederman Drive intersection as shown on **Plan A** dated 1 July 2006, attached to this consent.

Planting and Construction Management

6. The planting as detailed on the Planting Plan entitled "Plants, Preparation and Maintenance for Required Landscaping Property of S and J Holland" prepared

by A P Mead of Landscape Management Services and attached as **Report A**, shall be implemented within the first planting season following the completion of the works on the site. The landscaping shall be maintained and irrigated thereafter in general accordance with the maintenance programme submitted with the approved Planting Plan.

7. A Construction Management Plan relating to Area "A" shall be provided to the Senior Planner – Land Use prior to the issue of a Building Consent for the proposed dwelling. The Plan shall:
 - (a) specify the start and planned completion date of construction works; and
 - (b) show on a scaled plan the location of the site access point(s) during construction; and
 - (c) show all areas of vegetation that will not be disturbed.

Building Colour

8. The exterior walls and window frames of the dwelling shall be finished in the following colours:

Part of Building	Colour
Walls	Schist, grey stucco, and cedar
Window Frames	Silver

The consent holder may use alternative colours provided the prior written approval of the Council has been obtained. The Council will give its approval to alternative colours provided they are recessive colours which blend in with the immediate environment. In the event that alternative colours are to be used, the consent holder shall submit to the Council for approval the following details of the colours proposed to be used on the walls and roof of the building:

- (a) the material to be used (e.g. paint, colour steel);
 - (b) the name and manufacturer of the product or paint;
 - (c) the reflectance value of the colour;
 - (d) the proposed finish (e.g. matt, low-gloss, gloss); and
 - (e) Either the BS5252:1976 (British Standard Framework for Colour Co-ordination for Building Purposes) descriptor code, or if this is not available, a sample colour chip.
9. The roof of the building shall be finished in colours that are recessive and which blend in with the immediate environment. The consent holder shall submit to the Council for approval prior to applying for building consent the following details of the colours proposed to be used on the walls and roof of the building:
 - (a) the material to be used (e.g. paint, colour steel);
 - (b) the name and manufacturer of the product or paint;

- (c) the reflectance value of the colour;
- (d) the proposed finish (e.g. matt, low-gloss, gloss); and
- (e) Either the BS5252:1976 (British Standard Framework for Colour Co-ordination for Building Purposes) descriptor code, or if this is not available, a sample colour chip.

The building shall be finished in colours that have been approved by the Council. This condition is required as the application does not specify the proposed colour of the roof.

Advice Note:

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

Notification of Monitoring

- 10. The resource consent holder shall, in order to allow for the monitoring of consent conditions, provide a minimum of three working days written notice to Council's Manager, Environmental Information or his agent before the commencement of any activity authorised by this consent, including earthworks.

Placement of Spoil

- 11. No spoil shall be placed in any natural or formed watercourse, or placed where it may move or wash into any watercourse or onto any adjoining property.
- 12. No spoil shall be stockpiled on-site or spread over areas of the property unless:
 - (a) identified in plans approved by Council and appended to this consent; or
 - (b) is permitted as of right by the permitted activity criteria in the Tasman Resource Management Plan.

Engineering Approval and Supervision

- 13. The consent holder shall employ a Chartered Professional Engineer with experience dealing with Separation Point granites to monitor and supervise all earthworks carried out pursuant to this consent.
- 14. On completion of earthworks Council may require that the consent holder provides a signed statement from the Chartered Professional Engineer stating that all earthworks have been carried out in accordance with good engineering practice and comply with all relevant resource consent conditions.

Advice Note:

This will only be required if monitoring inspections by Council indicate that an adverse environmental effect has or is likely to occur.

Sediment Discharges

15. All construction areas shall be serviced with sedimentation mitigation and/or control measures capable of ensuring that no stormwater discharges off the site have a suspended sediment level exceeding 100 grams per cubic metre of water.
16. All sedimentation mitigation or control measures shall be maintained by the consent holder for as long as there is potential for sediment movement (resulting from earthworks) to affect any other property or natural water.

Control of Dust

17. All construction works approved pursuant to this consent shall be maintained so that dust will not adversely affect any public area or adjoining property.

ADVICE NOTES

Tasman Resource Management Plan

1. Any matters not referred to in this application for resource consent or are otherwise covered in the consent conditions must comply with the relevant provisions of the Proposed Tasman Resource Management Plan and the Resource Management Act 1991.

Other Council Requirements

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

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 which are required to be complied with on an ongoing basis.

Archaeological Matters

4. Council draws attention to the provisions of the Historic Places Act 1993 that require that in the event of discovering an archaeological find (eg shell, midden, hangi or ovens, garden soils, pit depressions, occupation evidence, burials, taonga) to cease works immediately, and tangata whenua, the Tasman District Council and the New Zealand Historic Places Trust shall be notified within 24 hours. Works may recommence with the written approval of the Council's Environment and Planning Manager, and the New Zealand Historic Places Trust.

Access Crossing Permit

5. An Access Crossing Permit has already been obtained from the Council's Engineering Department to authorize the new crossing within the road reserve.

Paul Gibson
Consent Planner

RM060520 LAND DISTURBANCE

THE PROPOSAL

The land use consent application is to construct a dwelling and undertake associated land disturbance on the subject property.

The proposed dwelling does not meet the building construction permitted activity criteria for building height, building setback from road boundaries, vehicle crossing width, and location of a vehicle crossing in relation to an intersection.

The proposed land disturbance is a controlled activity due to the proposed excavation depth.

STATUTORY CONSIDERATIONS

Resource Management Act 1991

Section 9 of the Resource Management Act 1991 states that no person may use land in a manner that contravenes a rule in a district plan or proposed district plan unless the activity is expressly allowed by a resource consent granted by the territorial authority responsible for the plan.

In this section, the word “use” in relation to any land means; any excavation, drilling, tunnelling or other disturbance of the land.

Proposed Tasman Resource Management Plan (TRMP)

The TRMP contains rules for land disturbance under Chapter 18. There are two primary land disturbance areas in the Tasman district; LD Area 1 and LD Area 2.

The subject property is located under LD Area 2, which comprises the Separation Point granites in the Kaiteriteri area.

As the average vertical depth of cut is to be between 0.5 metres and 2.0 metres, resource consent is required for a controlled activity under Rule 18.6.9 for the proposed land disturbance associated with this application.

All earthworks should be undertaken in accordance with engineering standards and practices, and supervised by a Chartered Professional Engineer experienced in working with Separation Point granites.

Conclusion

In conclusion, it is the writer’s opinion that provided the earthworks are undertaken in accordance with the conditions recommended, the environmental effects will be no more than minor.

Should the committee wish to grant consent, the following conditions are recommended:

Recommended Conditions

Notification of Monitoring

1. The resource consent holder shall, in order to allow for the monitoring of consent conditions, provide a minimum of three working days written notice to Council's Manager, Environmental Information or his agent before the commencement of any activity authorised by this consent, including earthworks.

Placement of Spoil

2. No spoil shall be placed in any natural or formed watercourse, or placed where it may move or wash into any watercourse or onto any adjoining property.
3. No spoil shall be stockpiled on-site or spread over areas of the property unless:
 - (a) identified in plans approved by Council and appended to this consent; or
 - (b) is permitted as of right by the permitted activity criteria in the Tasman Resource Management Plan.

Engineering Approval and Supervision

4. The consent holder shall employ a Chartered Professional Engineer with experience dealing with Separation Point granites to monitor and supervise all earthworks carried out pursuant to this consent.
5. On completion of earthworks Council may require that the consent holder provides a signed statement from the Chartered Professional Engineer stating that all earthworks have been carried out in accordance with good engineering practice and comply with all relevant resource consent conditions.

Advice Note:

This will only be required if monitoring inspections by Council indicate that an adverse environmental effect has or is likely to occur.

Sediment Discharges

6. All construction areas shall be serviced with sedimentation mitigation and/or control measures capable of ensuring that no stormwater discharges off the site have a suspended sediment level exceeding 100 grams per cubic metre of water.
7. All sedimentation mitigation or control measures shall be maintained by the consent holder for as long as there is potential for sediment movement (resulting from earthworks) to affect any other property or natural water.

Control of Dust

8. All construction works approved pursuant to this consent shall be maintained so that dust will not adversely affect any public area or adjoining property.

This report on Land Use (Earthworks) was prepared by Colin Michie, Consent Planner.