



STAFF REPORT

TO: Environment & Planning Subcommittee

FROM: Laurie Davidson – Consents Planner, Golden Bay

REFERENCE: RM060827

SUBJECT: **A J and J E DIXON - MUSSEL INN OFF-LICENCE – REPORT EP07/03/03** - Report prepared for 26 March 2007 Hearing

LOCATION: State Highway 60, Onekaka, Golden Bay.

LAND DESCRIPTION: Lot 1 and Part Lot 2, Deposited Plan 1483, all land contained in Certificate of Title NL 5B/798

ZONING: Proposed Tasman Resource Management Plan - Rural Residential

RESOURCE CONSENT TYPE: Proposed Resource Management Plan - Discretionary Activity (pursuant to Section 127 of the Resource Management Act 1991)

- To change Condition 7 of Land Use Consent T2/92-26 to enable liquor produced on site to be sold through an Off-Licence.

NOTIFICATION: Council processed this application under the provisions of the Resource Management Act 1991 as a notified application, as Transit New Zealand declined to give their consent as an affected party. Council accepted Transit New Zealand is an affected party and as such, the proposal can only be processed as a notified application.

Written approval pursuant to Section 94 of the Act has been provided by;

S and M Bennett

1. INTRODUCTION

The application lodged by A J and J E Dixon requests Council to review Condition 7 of the land use consent that enables the Mussel Inn to operate as a licensed café for up to 50 persons. That condition restricts the sale of liquor to an On-Licence, meaning liquor cannot be sold for people to take away from the premises.

The brewing process that is undertaken at the Mussel Inn involves transferring beer from a bulk container to kegs and there is often a part keg left that the applicants would like to use to fill riggirs or similar containers that people can take away from the premises.

While there is an admission in the application that oof sales have taken place in the past without any adverse effects, the sale of liquor to take away is a breach of both the Sale of Liquor Act and the conditions of consent as granted. The applicants advise no off sales have taken place from the premises since September last year.

It is also clear from the application that the off-licence sales that are sought are restricted to liquor produced on the premises and there is no intention of re-selling products produced elsewhere or operating a stand alone bottle store.

2. SITE DESCRIPTION

The Mussel Inn is located at Onekaka on a title of 6227 square metres that is part of the Rural Residential Zone in this area. The property contains the Mussel Inn, a licensed café, a small brewery to serve this facility that was permitted as a home occupation and the applicants dwelling. There are two carparking areas that serve the cafe facility and these accommodate the 15 parks required by the existing land use consent. The park at the front of the property is approximately 325 square metres in area and can potentially accommodate 10 to 12 vehicles. In reality, there is usually less than this number in the park as it is informal with a metalled surface and no marked out spaces. Access and egress is provided from State Highway 60 in a manner that was agreed with Transit New Zealand when consent was obtained for the operation in 1992.

The café itself is of modest size with a gross floor area of approximately 120 square metres. This provides a range of seating for customers and sufficient space for entertainment to take place. A range of entertainment is provided at the Mussel Inn on a reasonably regular basis drawing crowds of varying sizes. The outdoor area at the front and side of the building has been developed over a period of time and is popular with patrons over the summer months. Seating in this area is provided for approximately 135 people with a variety of seats, tables and benches. The provision of seating for 135 people clearly indicates that the consent holders cater for more than the 50 people currently authorised by their existing land use consent.

The Mussel Inn has become one of Golden Bay's icons and remains popular with both the local community and visitors to Golden Bay. It provides a popular café menu and a range of alcoholic and non-alcoholic beverages, many of which are produced on site. The facility provides a relaxed "laid back" atmosphere for indoor and outdoor dining.

3. NOTIFICATION AND SUBMISSIONS

The application was notified on 2 December 2006, with submissions closing on 22 January 2007. Two submissions were received regarding the application to enable an Off-Licence to be obtained. One submission from Transit New Zealand opposes the application, primarily on traffic safety grounds and the other from CO Lee on behalf of the new Zealand Police is neutral, asking that consent is granted, but additional off street parking is provided.

Transit New Zealand has indicated they wish to be heard and CO Lee does not wish to be heard.

3.1 Submissions Received:

3.1.1 Transit New Zealand

Transit New Zealand has lodged a submission opposing the application to enable an Off-Licence to be obtained for the Mussel Inn. Transit New Zealand has the responsibility to ensure the strategic function of the State Highway Network is not compromised by land use activities, particularly where they have direct access from the State Highway. Transit considers the sight distances for the entrance and exit for the Mussel Inn are significantly less than those prescribed by the Proposed Tasman Resource Management Plan (PTRMP) and Transit's Planning Policy Manual. They consider an extension of the operation to allow off sales to take place would exacerbate the traffic safety risks and be contrary to the objectives and policies of the PTRMP. They have asked that the application is declined in its entirety.

Comment:

Issues relating to traffic safety at Onekaka have been raised several times since the Mussel Inn commenced operation. A number of measures have been adopted since the premises opened, including a no stopping zone, no stopping road edge markings and a physical barrier on the road edge opposite the entrance to prevent parking. It is also accepted the overall parking arrangements for the Mussel Inn are less than satisfactory, particularly in peak holiday periods and when entertainment is provided.

There is no easy method to assess whether off sales would increase traffic flows in relation to the café, but it appears any effect would be very minor in this case.

Issues relating to potential effects are discussed further within this report and there is an independent engineering assessment provided by Mr D Ley that provides additional information.

3.1.2 C O Lee – Takaka Police

Mr Lee is a Police Officer stationed at the Takaka Police Station who has lodged a submission on behalf of the New Zealand Police relating to parking at the Mussel Inn. His submission is neutral and has indicated he supports consent being granted, with the proviso that additional parking is provided for patrons. He has visited the Onekaka area when there are significant numbers of people at the Mussel Inn and describes the parking of vehicles on the State Highway as "having the potential for a serious motor vehicle crash". He also believes the absence of street lighting in this area also increases the risk of accidents. Action has been taken by Police in the past where vehicles are incorrectly parked on the State Highway.

Comment:

The issue of parking has arisen a number of times in relation to the Mussel Inn. To date no action has been taken by Council to address this issue and it is apparent there can be problems with parking in this area at peak holiday times and when

functions are taking place. This matter is discussed further within this report in relation to the variation as lodged and in relation to parking generally.

4. ASSESSMENT

The application before the Committee is a variation to an existing land use consent (T2/9/92-26) that was issued by Council in 1992. The application is treated as a Discretionary Activity under the Resource Management Act and seeks to have Condition 7 of that consent amended to enable an application to be made for an Off-Licence. At the current time the consent specifically restricts the café operation to an On-Licence.

The Transitional District Plan (Golden Bay Section) has virtually no relevance to the application. Section 19 of the Resource Management Act 1991 (as amended by the RMAA in August 2003) makes it very clear that where the provisions of a Plan have passed the point where they are beyond further challenge, the rules become operative. While the Transitional Plan is still technically an operative Plan, the PTRMP has progressed through a major part of the Plan process and it is appropriate to now place the appropriate weighting on the PTRMP when considering this application.

At the time the 1992 consent was granted, the café was treated as a Discretionary Activity under the Transitional District Plan (Golden Bay Section), as the proposal conformed with the criteria for a Conditional Use.

The Committee may grant or decline an application for a variation to a resource consent in the same manner as an application for a Discretionary Activity and if consent is granted, conditions may be imposed pursuant to Section 108.

In making such a decision, the Committee is required to first consider the matters set out in Section 104(1) of the Act, in addition to the matters set out in Section 7. Primacy is given to Part II of the Act, "the purpose and principles of sustainable management of natural and physical resources.

The decision should therefore be based, subject to Part II of the Act, on:

- The actual and potential effects on the environment of allowing the activity;
- Any relevant provisions of national or regional policy statements;
- Relevant objectives, policies, rules or other provisions of a plan or proposed plan; and
- Any other matters the Committee considers relevant and reasonably necessary to determine the application.

5. RESOURCE MANAGEMENT ACT

The purpose and principle of the Act is to promote the sustainable management of natural and physical resources. Sustainable management means:

“Managing the use, development and protection of natural and physical resources in a way, or at a rate, which enables people, and communities to provide for their social, economic and cultural well-being and for their health and safety while:

- a) Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations;
- b) Safeguarding the life-supporting capacity of air, water, soil and ecosystems;
- c) Avoiding, remedying, or mitigating any adverse effects of activities on the environment”.

5.1 Matters of National Importance – Section 6 of RMA

The matters of National Importance are set out in Section 6 of the Resource Management Act. In this case there do not appear to be any matters of National Importance that are relevant to this application.

5.2 Other Matters – Section 7 of RMA

Section 7 of the Resource Management Act sets out the other matters that any person exercising powers or functions must have regard to in relation to managing the use, development and protection of natural and physical resources. Matters that are relevant to this application are as follows;

- 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:
- g) Any finite characteristics of natural and physical resources:

These other matters have more direct relevance and in particular those relating to amenity values and the quality of the environment. These are reflected in the policies and objectives in the Tasman Resource Management Plan and other planning instruments.

6. STATUTORY PLANNING DOCUMENTS

6.1 Tasman Regional Policy Statement

The Tasman District Council has prepared a Regional Policy Statement in accordance with the provisions of the Resource Management Act and this became fully operative in July 2001. The Statement takes national policies and refines and reflects them through to the local area, making them appropriate to the Tasman District. Council is required to have regard to the Regional Policy Statement as an overview of resource management issues.

The policies that are considered relevant to this application are set out in Appendix A to this report.

6.2 The Proposed Tasman Resource Management Plan

The Proposed Tasman Resource Management Plan (PTRMP) has progressed to the point that it is close to being operational. There are still some outstanding matters to be resolved but generally much of the Plan is effectively operational.

The land use must be deemed to be in accordance with relevant objectives and policies pursuant to Section 104(1)(b)(iv) of the Act. The most relevant Plan is considered to be the PTRMP and this is used in the assessment. Because this was developed to be consistent with the Regional Policy Statement, the assessment would also be considered to satisfy an assessment under the Regional Policy Statement.

It is difficult to evaluate how the limited sale of liquor through off sales will relate to the policies and objectives of the PTRMP. The Plan sets out a range of policies and objectives that are pertinent to sustainable development and those that relate to site amenity and traffic have some bearing on the application that has been made. These matters are considered for the application as lodged, given the submissions that have been received.

The following table summarises the most relevant plan matters and provides a brief assessment commentary. The objectives and policies that are particularly relevant to this application relate to site amenity and land transport.

Summary of Objectives and Policies – Proposed Tasman Resource Management Plan

<i>Chapter 5 – Site Amenity Effects</i>	Council must ensure that the rural character and amenity values of a site and the surrounding environment are protected, and any actual or potential effects of the proposed land use must be avoided remedied or mitigated so they are minor.
<i>Objectives 5.1 and 5.2 Policies: 5.1.1, 5.1.4 and 5.2.8</i>	Management of the effects of the proposed use must protect the use and enjoyment of other land in the area, including the effects of traffic and parking.
<i>Chapter 7 – Rural Environment Effects</i>	The use of the rural environment for activities other than productive land use can occur in certain locations, but it should be undertaken in a manner that does not compromise the rural character or amenity values.
<i>Objective: 7.2 Policies 7.1.2, 7.1.2A</i>	Allow for activities other than soil based activities to locate in rural areas on land that is not of high productive value. Any proposal is required to preserve the amenity and rural character values of an area.
<i>Chapter 11 – Land Transport Effects</i>	The provision of a safe and efficient transport system is a matter that is pertinent to Golden Bay where there are significant traffic flows, particularly at holiday periods.

<p><i>Objective 11.1</i></p> <p><i>Policies 11.1.1, 11.1.2, 11.1.2B, 11.1.3 and 11.1.4</i></p>	<p>The effects of traffic and parking can have an effect on the efficiency and safety of the State Highway and activities that can increase those effects are expected to provide appropriate measures to mitigate them to the extent that the functioning of the roading network is not compromised.</p>
--	---

The policies that are considered relevant to this application that are summarised above are set out fully in Appendix B to this report. The objectives and policies that relate to site amenity, traffic and the rural environment are deemed to be relevant to this application.

In particular Objective 5.2, supported by Policy 5.2.8 seeks to protect the amenity of the area and to avoid, remedy or mitigate the adverse effects of traffic. .

Chapter 11 of the TRMP provides the policy framework for land transport effects and Objective 11.1, supported by Policies 11.1.2 and 11.1.4 are particularly relevant to the functioning of the State Highway, access and egress to properties and parking requirements

7. ACTUAL AND POTENTIAL EFFECTS OF ALLOWING THE ACTIVITY

The application lodged by A J and J E Dixon seeks consent to allow off sales of liquor produced on the site to cater for an identified demand and to avoid wastage of product where part filled kegs occur. The activity would appear to be a very benign extension to the existing consented activity and the only issues that have been raised through the submission process relate to traffic and parking.

It is also appropriate to remember this application is for a variation to an existing consent and the café operation is an activity that can produce effects that are significantly greater than any that might be produced through limited off sales.

The issues associated with this application are now discussed in more detail as actual and potential effects.

7.1 Rules of the PTRMP

The land is zoned Rural Residential and the Proposed Tasman Resource Management Plan and the operation of a café can be considered as a commercial activity that has an existing consent.

While the Rural 1, 2 and 3 Zones clearly exclude the sale of liquor as a Permitted Activity, the Rural Residential rules make no such mention of excluding the sale of liquor. This does not mean liquor can be sold as of right, as such sales are still a commercial activity and would require resource consent. It is also clear from the existing consent, the sale of liquor is restricted to an On-Licence. This is the reason for the application for a variation to that consent.

7.2 The existing conditions of consent for the Mussel Inn.

The existing café operation at the Mussel Inn is a successful and popular operation that attracts both local residents and visitors to Golden Bay. The existing consent limits the operation to a café catering for up to 50 people and while that limitation has been exceeded at times and there is insufficient parking for the additional patrons, the applicants have no wish to alter the number of people authorised by the current resource consent, which they agree are exceeded on some occasions. While the existing parking arrangements comply with the condition requiring 15 on site parks, that number is inadequate during times when more than 50 people are present. An assessment under the PTRMP would require considerably more than 15 parks.

It would also appear the access to the premises does not fully conform with condition 4 of the existing consent, which indicated the access should be moved some 55 metres to the west with only one access point, I understand the dual access has been agreed with Transit New Zealand.

Issues relating to access and parking that may not comply with the existing consent are a compliance matter that the applicants are aware of. Those matters have been discussed with them in an attempt to explore options to improve access and provide more parking spaces. They contend the operation of the café complies with the current conditions of consent for the majority of the time they are operating and the occasions when numbers may exceed 50 are very limited.

The correct pathway for the applicants to follow if they wish to cater for more than 50 persons, even on a very limited basis, is for them to apply to vary their existing consent to allow for a greater number of people. Such a variation is an option open to them, pursuant to Section 127 of the Act.

Should they apply for such a variation, the Council would expect that additional parking would be provided to accommodate the additional patrons at a ratio of 3 parks per 10 patrons (the same ratio as currently required by consent) In addition the design of the access may need to be improved to accommodate the additional traffic movements. However, these matters are outside the scope of the current application.

While the numbers are limited to 50 people, the effects of parking, access and day to day operation are kept to a scale and intensity that can be judged as minor and in compliance with the current consent. In that case the extended activity of providing off sales would be of very little consequence. The increase in numbers well above 50 people raises serious concerns about compliance with the existing conditions of consent and that situation is obviously catered for by the consent holders when some 135 outdoor seats are provided for patrons.

While this application is not the correct method to address those other matters relating to parking and access, the Committee is in a position to have these areas of concern investigated by referring the matters of non-compliance to Council's Compliance Section.

7.3 Effects of an Off-Licence operation

The application for a variation of the consent the Mussel Inn currently operates under to enable the sale of liquor produced on site to be taken away is regarded as a relatively minor matter that will only have a minimal effect on the day to day operation of the café. Conditions can be included to control advertising and the range of liquor sold to minimise effects. It is clear this is not an application to establish a bottle store at Onekaka.

The sale of liquor by Off-Licence is an activity that is unlikely to produce adverse effects as they are really no different to a customer having a drink at the café and leaving again. There is no evidence provided in the application or submissions that indicates traffic effects will increase if the premises held an Off-Licence.

7.4 Current road safety measures at Onekaka

The traffic issues associated with the Mussel Inn surfaced soon after the café operation commenced at Onekaka. It would appear a number of measures available to Transit New Zealand have been implemented in this case with a no stopping zone being imposed, a restrictive sight rail installed on the northern side of the highway and yellow no stopping markings in some areas.

The road reserve to the north west of the Mussel Inn is reasonably wide and vehicles parked beyond the no stopping zone are able to get well clear of the carriageway. Parking to the south east of the entrance is virtually impossible as the road edges are steep faces through a cut hillside. There are occasions when the carpark is full and patrons have no other option but to park on the road reserve. Most vehicles are parked responsibly, but as in all cases there will be a proportion that park in dangerous positions where the risk of accidents is increased. This is difficult for the applicants to control, particularly when they have a busy night.

There are periods in Golden Bay when all facilities are severely over patronised and the situation that occurs at Onekaka is repeated in many other locations. While the legal speed limit at this part of the State Highway is 100 KPH, in reality, vehicles do slow down when vehicles are obvious on the side of the road. Enforcement action can also be taken when any dangerous situation arises in relation to vehicles parked on the roadside.

From the enquiries made, there is no record of injury accidents at this part of Onekaka since the Mussel Inn commenced operation.

8. CONCLUSION

The application lodged by A J and J E Dixon seeks to change or cancel condition 7 of Consent T2/9/92 – 26 to enable liquor produced on site to be sold as Off-Licence sales. The variation of that condition is treated as a Discretionary Activity under the Resource Management Act.

The Transitional Plan now has no real relevance to the application and the Proposed Tasman Resource Management Plan is the correct document to evaluate this application.

The application has been processed as a notified application and attracted two submissions. Of these, the submission by C O Lee was neutral and supported consent being granted, subject to additional off street parking being provided for patrons. The other submission from Transit New Zealand opposes the application and has asked that the application is declined. Transit's submission is purely on road safety grounds and relates to the sight distances from the entry/exit from the premises. It would appear the current access to the Mussel Inn has previously been agreed with Transit New Zealand and it is difficult to see how limited off sales of liquor produced on the site will have an adverse effect on the access arrangements.

The applicants have admitted there are occasions when there are more than 50 people present at the Mussel Inn, but contend that is no different to any other venue holding a special function or event. That is not a reason to exceed the numbers authorised by the existing consent, which was for a small scale country café and if greater numbers are desired there is a correct procedure to increase them, along with the appropriate parking and other infrastructure for an enlarged operation. The provision of some 135 seats in the outdoor area indicates the Mussel Inn is catering for number well in excess of the 50 persons authorised.

If the current situation continues to cause adverse effects, action can be initiated by Council's Compliance Section, but it is a matter that should be treated in a separate context to the current application.

The policies and objectives of the Proposed Tasman Resource Management Plan provide a framework to assess the application. As such it is important to weigh the issues appropriately to determine how the proposal fits with the Plan. The policies and objectives that relate to amenity have some relevance to this application and there is support for the provision of tourist activities in Tasman District. The policy framework that relates to land transport effects is also relevant to the current application, but only to the extent that is generated by allowing off sales to take place. Those effects are judged to be quite minor in this case.

Overall, the limited sale of liquor that is confined to that produced on site is unlikely to produce adverse effects in relation to site amenity and land transport. Conditions can be imposed if consent is granted to limit the scale of off sales, preserving the amenity of the local area.

Accordingly, I consider consent can be granted to amend Condition 7 of Consent T2/9/92-26, subject to appropriate conditions.

9. RECOMMENDATION – LAND USE

Pursuant to Section 104(B) of the Resource Management Act 1991, I recommend the application by AJ and JE Dixon to amend Condition 7 of Resource Consent T2/9/92–26 to enable off sales to take place at the Mussel Inn, Onekaka, on land described as Lot 1 and Part Lot 2, DP 1683, comprised in Certificate of Title NL 5B/798, is granted. If the Committee choose to grant consent, I recommend Condition 7 is deleted and replaced with the following condition;

The sale of liquor at the Mussel Inn is consented by way of and On and Off Licences under the Sale Of Liquor Act 1998, subject to the following conditions;

- i) Off sales shall be limited to liquor produced on the premises and sold within the café building.
- ii) No advertising of off sales shall be permitted, other than within the café building.
- iii) Hours of operation for the off sales shall be limited to the hours currently authorised by the On-Licence.

Further Recommendation

I believe it is appropriate for the Committee to express concern about the current operation of the café where it is failing to comply with the conditions of consent. The situation where there is seating provided for well over 50 people, has the potential to generate adverse effects in relation to parking and access and is a matter that should be followed up by Council's Compliance Section.

Notations to be included

1. This consent is issued pursuant to the Resource Management Act 1991 and the Proposed Tasman Resource Management Plan. It does not constitute consent under any other legislation and the consent holder has the duty to comply with any other requirements that may apply under any building, health, sale of liquor or fire safety legislation.
2. This resource consent only authorises the activities 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.



Laurie Davidson
Consents Planner (Land)
Golden Bay

REGIONAL POLICY STATEMENT

Policies and objectives appropriate to this application are as follows:

General Objectives

- GO 1 Maintenance and enhancement of the quality of the Tasman District Environment.
- GO 3 Avoidance, remedying or mitigation of the adverse effects on the environment and the community from the use, development or protection of resources.
- GO 4 Efficient use and development of resources.
- GO 5 Maintenance of economic and social opportunities to use, and develop resources in a sustainable manner.
- GO 8 Open, responsive, fair and efficient processes for all Resource Management decision-making.
- GO 9 Resolution of conflicts of interest in resource management between people in the community and within Council.

Transport Objectives

- Obj 12.4 Maintenance and enhancement of safe and efficient land, maritime, and air transport systems, while avoiding, remedying or mitigating the adverse effects on human health, public amenity and water, soil, air and ecosystems.
- Pol 12.5 The Council will ensure that the land transport system efficiently and safely provides for the movement of goods, services and people, including a reasonable level of access, while avoiding, remedying or mitigating adverse effects on the environment including communities.

PROPOSED TASMAN RESOURCE MANAGEMENT PLAN

Policies and objectives appropriate to this application are as follows:

Site Amenity

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. *(Objective 5.1.0)*

To ensure that any 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. *(Policy 5.1.1)*

To avoid, remedy, or mitigate effects of:

- (a) noise and vibration;
- (b) dust and other particulate emissions;
- (c) contaminant discharges;
- (d) odour and fumes;
- (e) glare;
- (f) electrical interference;
- (g) vehicles;

- (h) buildings and structures;
- (i) temporary activities;

beyond the boundaries of the site generating the effect. *(Policy 5.1.4)*

To avoid remedy or mitigate the adverse effects of traffic on the amenity of residential, commercial and rural areas. *(Policy 5.2.8)*

Rural Environment Effects

Provision of opportunities to use rural land for activities other than soil-based production, including papakainga, tourist services, rural residential and rural industrial activities in restricted locations, while avoiding the loss of land of high productive value. *(Objective 7.2.0)*

To enable activities which are not dependent on soil productivity to be located on land which is not of high productive or versatile value. *(Policy 7.2.1)*

To enable sites in specific locations to be used primarily for rural industrial, tourist services or rural residential purposes (including communal living and papakainga) with any farming or other rural activity being ancillary, having regard to:

- a) the productive and versatile values of the land;
- b) natural hazards;

- c) outstanding natural features and landscapes and the coastal environment;
- d) cross boundary effects, including any actual and potential adverse effects of existing activities on future activities;
- e) servicing availability;
- f) the availability of specific productive natural resources such as aggregates or other mineral resources;
- g) transport, access and effects;
- h) potential for cumulative adverse effects from further land fragmentation;
- i) maintaining a variety of lot size;
- j) efficient use of rural land resource;
- k) cultural relationship of Maori to their land. (*Policy 7.2.1A*)

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. (*Objective 11.1.0*)

To promote the location and form of built development, particularly in urban areas, that:

- a) avoids, remedies or mitigates adverse effects of traffic generation;
- b) provides direct and short travel routes by vehicle, cycling and pedestrian modes between living, working, service, and recreational areas;
- c) avoids an increase in traffic safety risk;
- d) allows opportunities for viable passenger transport services to be realised;
- e) provides a clear and distinctive transition between the urban and rural environments;
- f) segregates roads and land uses sensitive to effects of traffic. (*Policy 11.1.1*)

To ensure that land uses generating significant traffic volume:

- (a) are located so that the traffic has access to classes of roads that are able to receive the increase in traffic volume without reducing safety or efficiency;
- (b) are designed so that traffic access and egress points avoid or mitigate adverse effects on the safety and efficiency of the road network. (*Policy 11.1.2*)

To avoid, remedy or mitigate adverse effects of traffic on amenity values. (*Policy 11.1.2B*)

To control the design, number, location and use of vehicle accesses to roads; including their proximity to intersections and any need for reversing to or from roads; so that the safety and efficiency of the road network is not adversely affected. (*Policy 11.1.3*)

To ensure that adequate and efficient parking and loading spaces are provided, either on individual sites or collectively, to avoid or mitigate adverse effects on the safety and efficiency of the road network. (*Policy 11.1.4*)

Engineering Services

MEMORANDUM

TO: Laurie Davidson, Consent Planner, Takaka Service Centre
FROM: Dugald Ley, Development Engineer
DATE: 12 March 2007
REFERENCE: RM060827
SUBJECT: MUSSEL INN OFF-LICENCE

INTRODUCTION

The applicant has applied for an off-licence to sell product and *inter alia* it is assumed this will be product produced on site and amounts are yet unknown but unlimited.

BACKGROUND

The existing Mussel Inn was granted consent in 1992. This licensed café was to cater for up to 50 people and required 15 car parks to be formed. From the aerial photos it can be seen that all complying car parking has been formed at the rear of the site with some overflow car parking on road reserve at the front of the site (State Highway). There is, in essence, two entrances to the café with a grassed bund separating them. It is obvious considerably more cars/patrons frequent the site from that envisaged at the start of the application in 1992.

Access is located on the curve in the state highway both in vertical and horizontal alignments (see photos) which in engineering terms is not ideal. This part of the state highway carries approximately 1600 vehicles per day. I understand that sight distances cannot be met in regard to Transit NZ requirements and even though no accidents have been notified to the police, the area has required no stopping restrictions imposed along each side of the road. I also understand from the submission of the police that they have also witnessed illegal parking in the area.

There is, in this instance, potential for accidents in this area and any consent which will increase this potential should be resisted. I understand that the entrance, close to the Mussel Inn was required to be closed off as part of the original consent and this has not been done.

It is the opinion of this officer that if an access was relocated to the north (to obtain the required safe stopping sight distance for the 100 kmh highway) and this would need the consent of the adjoining neighbours, ie right-of-way, or meet Transits NZ requirements in some other form, then Council's officers would be favourable to this application. i.e closing the southern entrance would go part way to mitigating some effects.

RECOMMENDATION

Engineering would not support the application in its present form and THAT the application be declined.

We cannot recommend any condition, if the committee were of an opinion to grant consent, as any condition would require the consent of an adjoining neighbour to relocate the entrance to the north plus closing of the southern entrance or require Transit NZ consent as operator of the road and this would be ultra vires as to the Council.

Dugald Ley
Development Engineer