



STAFF REPORT

TO: Environment & Planning Subcommittee

FROM: Mandy Bishop, Consent Planner

REFERENCE: RM070640

SUBJECT: **M G and E R CORRIE-JOHNSTON FAMILY TRUST - REPORT EP07/10/01 - Report Prepared for 1 October 2007 Hearing**

1. DESCRIPTION OF THE PROPOSED ACTIVITY

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

The proposed activities include the following:

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

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

1.1 Site Location

The property is located at 34 and 36 Hau Road, Motueka. See location and site maps (Appendix 1 and 2).

1.2 Legal Description

34 Hau Road is legally described as Lot 4 DP 301796 consisting of 9006 square metres held under the certificate of title 7334.

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

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

The land at 34 Hau Road is zoned Light Industrial and contains the current operation and 36 Hau Road is zoned Rural 1 under the Proposed Tasman Resource Management Plan. This zoning is considered to be operative (as there are no outstanding appeals of relevance to this proposal), so no analysis is given of the Transitional Plan provisions. Both 34 and 36 Hau Road are in Land Disturbance Area 1.

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

3. CONSULTATION, APPROVALS AND SUBMISSIONS

3.1 Consultation

The application stated that consultation occurred with immediately adjacent neighbours to the site and the residents along the road. The following written approvals were received by council on 22 June 2007:

Name	Legal Description
L A Kelly (leasee)	Lot 1 DP 1525
F and K McLean	Lot 1 DP 305592
P and K Guy	Lot 1 DP 301796
F R K and S Wilkins	Lot 2 DP 305592 Lot 1 DP 19934
Kildrummy Holdings Ltd	Lot 1 DP 13197
P and S Bourke and A Lummis	Lot 3 DP 301796

In accordance with Section 104(3)(b) of the Resource Management Act 1991 the Council cannot consider any adverse effects on persons that would normally considered to be potentially adversely affected by a proposed activity that have given written approval to the activity. See the site map for the location of these written approvals in Appendix 3 (W/A = written approval).

The applicant has also consulted with local iwi, Tiakina te Taiao who have requested a condition alerting the consent holder to their responsibilities should an archaeological site be discovered during any site disturbance works. The applicant volunteers this condition as requested by Tiakina te Taiao.

3.2 Submissions

The application was notified on Saturday 14 July 2007, six submissions were received four of which oppose the application, two supports the application with one supporting submission received from owners who had already provided their written approval for the proposal. See Appendix 3 for the location of submitters (OP = oppose, SU = support).

3.2.1 Summary of Submissions:

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

Submitter	Reasons	Decision
P and S Bourke and A and P Lummis Partnership	Supports the application, no reasons stated, also previously supplied written approval	Grant Did not indicate whether they wish to be heard at the hearing.

3.2.2 Comments on Submissions

The principal issues raised in submissions relate to traffic safety, amenity, out of zone activity as well as past performance grievances.

The amenity issues include adverse effects of noise and dust, adverse effects on rural and residential character and loss of general amenity through having an industrial activity in the neighbourhood. These issues are addressed in the Assessment of Environmental Effects in paragraph 6.1 below.

4. PRINCIPAL ISSUES

The principal issues that are in contention are:

- a) Is the proposed development consistent with the objectives and policies for the Rural 1 zone and is the scale of the development appropriate for the area?
- b) Will the proposal result in traffic safety issues that cannot be dealt with by way of conditions?
- c) Will the development result in adverse amenity effects that are more than minor?

5. STATUTORY PROVISIONS

The application is a discretionary activity in the Rural 1 Zone. As a discretionary activity the Council must consider the application pursuant to Section 104(B) of the Resource Management Act 1991.

The main matters for the Council to address in Section 104(B) are:

- Part II matters
- Objectives and Policies of the Proposed Tasman Resource Management Plan
- Actual and Potential Environmental Effects
- Other Matters

Section 104B of the Resource Management Act 1991 (as amended) provides:

After considering an application for a resource consent for a discretionary activity or non-complying activity, a consent authority—

- (a) *may grant or refuse the application; and*
- (b) *if it grants the application, may impose conditions under section 108.*

5.1 Resource Management Act Part II Matters

In considering an application for resource consent, Council must ensure that if granted, the proposal is consistent with the purpose and principles set out in Part II of the Act.

If consent is granted, the proposed activity must be deemed to represent the sustainable use and development of a physical resource and any adverse effects of the activity on the environment are avoided, remedied or mitigated. *The critical issue of this consent is whether the proposal represents sustainable use of the rural zoned land resource, whereby traffic, noise, amenity and cumulative adverse effects are no more than minor.*

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

5.2 Tasman Regional Policy Statement

The Regional Policy Statement seeks to achieve the sustainable management of land and coastal environment resources. Objectives and policies of the Policy Statement clearly articulate the importance of protecting land resources from inappropriate land use and development.

Because the Proposed Tasman Resource Management Plan was developed to be consistent with the Regional Policy Statement, it is considered that an assessment under the Proposed Plan will satisfy an assessment against Policy Statement principles.

5.3 Tasman Resource Management Plan

The most relevant Objectives and Policies are contained in: Chapter 5 "Site Amenity Effects", Chapter 7 "Rural Environment Effects" and Chapter 11 "Land Transport Effects". These chapters articulate Council's key objectives: To ensure land uses do not significantly adversely affect local character, to provide opportunities for a range of activities in rural areas and ensure land uses do not significantly adversely affect the safety and efficiency of the transport system.

The most relevant Rules which follow from these imperatives are contained in Chapter 17.4 "Rural 1 Zone Rules" and Chapter 16.2 "Transport (Access, Parking and Traffic)".

Details of the assessment of the proposed activity in terms of these matters are addressed through the assessment of actual and potential effects below and analysis and discussion on the relevant policies and objectives in paragraph 6.2 of this report.

6. ASSESSMENT

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

6.1 Actual and Potential Environmental Effects

6.1.1 Permitted Baseline

Section 104(2) gives a consent authority the ability to disregard adverse effects on the environment of activities that the Plan permits, if it so wishes. This is the “permitted baseline” and can provide a yardstick for the effects that otherwise might arise.

In the Rural 1 Zone industrial and rural industrial activities are not permitted unless they fall within the scope of a home occupation. This rural 1 site has the potential for a home occupation to be undertaken by anyone who resides on the subject site. The provisions for ‘home occupations’ in the Proposed Plan prescribe maximum building area of 75 m² and there are controls on the maximum number of workers living off-site as well as controls for signage, parking and noise.

Home occupations that occur in Rural areas include potteries, hand crafts production and sales, food manufacturing including boutique wineries (alcohol sales are not a permitted activity), apiaries and honey-houses, small engineering workshops and visitor accommodation (bed and breakfast) for up to six guests.

The proposed activity is considered to have significantly greater adverse effects than a home occupation due to the scale and nature (concrete manufacturing) of the business. The applicant does not reside on site, employs more than two full time staff and uses buildings larger than 75 m² in area.

A matter relevant to this application that may be compared to the permitted baseline is noise effects. As discussed below in the noise assessment the applicants are confident that the noise from the operations can be managed in an ongoing manner to meet the permitted activity standards. Working rural environments may use mobile horticultural and agricultural equipment, bird scarers and hail cannons albeit an intermittent or temporary activity.

In addition there is no permitted baseline for the number or type of vehicles associated with permitted industrial activities within the Industrial zones or permitted rural activities within the Rural zones. That is, there is no maximum number of vehicles associated with permitted activities. That being said, a comparison with other permitted activities within the appropriate zone needs to be based on activities that could realistically occur on-site.

Should all activities proposed for Lot 5 be located on Lot 4 no resource consent will be necessary (as long as buildings met the bulk and location requirements). This is obviously not practical or efficient for the applicant due to the size constraint of Lot 4. The spreading out of activities onto the adjoining rural zoned lot could potentially enable activities on the Light Industrial zoned land to intensify without the need for resource consent as long as industrial zone permitted standards are met.

6.1.2 Traffic Effects

Vehicle movements generated by current activities include:

- Concrete trucks at 24 one-way movements per day;

- Trucks at 50 one way vehicle movements per day;
- Landscape vehicles (trucks and car and trailers) at 60 one way vehicle movements per day.

Additional traffic movements resulting from workshop activities are proposed between 16 and 20 one-way truck movements. It is possible that by increasing the storage capacity on-site there could be fewer truck movements as they would not need to deliver materials as often when bringing in full loads instead of partial loads. It is also possible that increasing the storage capacity for raw materials on-site enables the intensification and increased production on the industrial zoned site that potentially increases the vehicle movements.

The applicant has stated the proposal is to make more practical and efficient use of the site and has volunteered some conditions of consent to ensure intensification does not occur. Other conditions regarding vehicle movements may also need to be volunteered to ensure inappropriate intensification of activities resulting from the spreading out of activities onto Lot 5, if granted, does not occur.

Traffic safety concerns relate to increased vehicle movements on a road not formed to a safe standard for the amount and type of vehicle and pedestrian use. Council's Development Engineer, Dugald Ley states that:

"Hau Road is a Rural Access road carrying some 280 vehicles per day. It has a formed length of some 470 meters of a required total length of 646 metres, ie 176 metres are unformed. Hau Road has recently been reconstructed to a 6.0 metre sealed rural road and does not meet the industrial road standard as per the Engineering Standards of 13 metres carriageway width. Hau Road has no defined stormwater drainage other than localised swales draining to soak pits. There is no footpath and with increasing use by heavy vehicles the existing resident's (approximately 16) safety may be compromised by traffic movements in the area." (See Appendix 4 for the full report dated 1 August 2007).

It is the Engineering Department's view that increasing the use of this "in essence" rural road with more industrial traffic will have adverse effects on the enjoyment and safety of the residents who reside in Hau Road. These adverse effects could only be mitigated by upgrading the road and as the Council has no plans to upgrade the road in the Long Term Council Community Plan (LTCCP), the applicant causing the increase in traffic movements will need to fund the upgrade. It is the report writer's opinion that any increase in vehicle movements associated with an activity not meeting permitted standards on an already substandard road should not occur until the road has been upgraded to an acceptable standard. As the required upgrading is extensive it could be considered that imposing conditions to meet upgrading requirements will be unreasonable and therefore consent may need to be declined (see the summary of the Coleman vs TDC decision number W67/97 in paragraph 6.3 Other Matters). The recommendation to extend the upgrading east past the access to the subject site would seem unnecessary in the report writer's view as this area of road only serves horticultural blocks and comes to a dead end.

6.1.3 Amenity Effects

"Amenity values" means those natural or physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes and "environment" means the social, economic, aesthetic, and cultural conditions which affect or which are affected by, amongst other things, ecosystems and their constituent parts, including people and communities, amenity values and all natural and physical resources. The proposal should not be to the detriment of the Environment & the amenity of the neighbourhood.

Noise

In the past, there have been 18 noise complaints received by the Council for current activities operated by the applicant. While noise from activities may be a nuisance for nearby residents, the activities are permitted in the industrial zone and the noise levels have been investigated and have been found to be within the permitted standards (see results of noise measurements taken in 2005 in Appendix 5). The scope of noise assessment needs to be confined to the activities described in the application that are proposed for Lot 5 only.

The proposed activities will be further away from the residential properties and are to comply with permitted noise standards for the Rural 1 zone. Workshop noise will be contained within a building, the activities are only to occur between the weekday hours of 7am and 5.30pm and proposed bunding and screening from other existing industrial activities will ensure the noise nuisance from this proposal is no more than minor.

Section 16 of the Resource Management Act 1991 imposes a duty on every occupier of land and every person carrying out an activity to adopt the best practicable option to ensure that the emission of noise does not exceed a reasonable level. Monitoring and a review condition can ensure any unforeseen adverse noise effect can be dealt with at a later time, if required.

Dust

The permitted activity standards for dust and odour (17.4.2 (c)) require that an activity shall not emit offensive and pervasive dust or odours that are discernible in a residential zone. While the subject location does not contain any nearby residential zoning, there are nearby properties that are residential in nature and dust was raised as an issue by submitters.

Again dust has been the topic of complaints received by the Council in the past. Problems for Monitoring and Enforcement officers were not being able to determine the source of the dust and wind changing between receiving and investigating the complaint. The scope of this application does not include current crushing operations as these are existing permitted activities and the Council has informed the applicant of their duty in terms of dust control.

In the past the applicant has agreed to ceasing crushing operations under certain wind directions and wetting areas including the road to mitigate dust being picked up by trucks travelling to or from the applicant's site. For this resource consent the applicant has stated they will appropriately control any dust potential on the yard site or any access roads into the new site.

The provision of a storage building will assist in limiting outside storage and landscaping supplies are contained within bunds. A condition of consent could ensure the applicant controls dust from their operations so that no pervasive dust affects nearby residential properties.

Rural and Residential Character

Currently the Hau Road environment is a mixture of uses including horticulture, light industry (engineering, pet foods and seafood research aside from the applicants' concrete operations and landscaping supplies), pastoral farming and urban style "ribbon" residential development. Lot 5 is currently pasture with some of the operations of Lot 4 already expanded into Lot 5. The predominant rural character in the area is horticulture so the loss of pasture land will not alter the rural character to a great degree.

The increase in industrial activities could potentially dominate the residential character of the area but as the activities for Lot 5 are not so much an increase of activities as a spreading out of existing activities (the number of employees remains the same), the activities are at the end of the road and are screened from residential properties by existing activities, the change in residential character can be considered to be no more than minor. The increase in industrial vehicles in Hau Road could happen as of right if the activities were within the Light Industrial zone and complied with permitted standards. Heavy vehicles could also use Hau Road to collect horticultural produce as of right. The character of vehicle use on Hau Road is also therefore considered to be consistent with the current mixed use of the area although as stated in 6.1.2 above, any non-permitted increase in vehicle movements should not occur until the road has been upgraded to mitigate traffic safety concerns.

Visual Amenity

There are no vehicles passing by the site, as it is located near the end of Hau Road, except for vehicles accessing the horticultural land where owners and leasees have not objected to this proposal. The proposed buildings will comply with setback, height and coverage standards of the Rural 1 zone with landscaped bunding being extended along the southern boundary. The proposed activities on Lot 5 will therefore largely be unseen from the residential properties and being new buildings will be of a better visual impact than some existing buildings in the area. By authorising the spreading out of existing activities the applicant has the space and opportunity to improve the overall visual impact of current operations.

Should Hau Road be upgraded to 8 metres wide with kerb and channelling and a footpath to mitigate traffic safety concerns, Hau Road will no longer appear to be a country lane. On balance however addressing traffic safety issues for the residents in Hau Road will outweigh any adverse visual change of the road.

6.1.4 Effects on the Rural Land Resource

Should the extension of current activities onto Rural 1 land be granted there will be no associated land productivity benefits and while the zoning will not change there will in effect be a loss of rural 1 zoned land by the amount of 2.4746 hectares. It is evident by the surrounding horticultural use that the subject land is potentially highly productive although immediately adjoining Light Industrial zoned land may present some limitations to the versatility of productive use. Dust emissions and pollutants for example could adversely affect sensitive horticultural crops.

The Council has considered rezoning Lot 5 to Light Industrial in the past and decided Hau Road was not an appropriate area to expand the Light Industrial zoning, preferring industrial zoning expansion in other areas. The activities proposed on Lot 5 however are unlikely to create any cross-boundary adverse effects and surrounding horticultural owners and leasees have either provided written approvals or have not made a submission. The proposal has potentially far less adverse effects than other permitted Light Industrial uses therefore provides an acceptable buffer between the light industrial activities and rural productive activities.

As the zoning remains Rural 1 the proposed activities cannot be intensified or change in nature without further resource consent. The resource consent process is a suitable method of ensuring developments that were not anticipated by zone rules are assessed on a case by case basis. In this case the use of the rural land resource for a non-soil based activity is considered appropriate given there is unlikely to be any adverse effects on existing rural based activities.

6.2 Relevant Objectives and Policies of the PTRMP

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

- Chapter 5: Site Amenity Effects
- Chapter 7: Rural Environment Effects
- Chapter 11: Land Transport Effects

6.2.1 Chapter 5: Site Amenity Effects

Issues:

- (a) Provision for appropriate protection, use and development of the District's resources so that activities at one site do not adversely affect the use and enjoyment of another site, or resource.
- (c) Amenity can be compromised in site development and site use.
- (e) Safety of people, property, and resources.

Objectives	Policies
5.1.0 Avoidance, remedying or mitigation of adverse effects from the use of land on the use and enjoyment of other land and on the qualities of natural and physical resources.	5.1.1 5.1.4 - 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;

Objectives	Policies
	(h) buildings and structures; (i) temporary activities; beyond the boundaries of the site generating the effect. 5.1.9A
5.2.0 Maintenance and enhancement of amenity values on-site and within communities, throughout the District	5.2.1 5.2.4 5.2.8 To avoid, remedy or mitigate the adverse effects of traffic on the amenity of residential, commercial and rural areas.
5.3.0 Maintenance and enhancement of the special visual and aesthetic character of localities	5.3.2 To maintain the open space value of rural areas. 5.3.4

The following extracts from the introduction, principal reasons and explanations for Chapter 5 are considered relevant:

“Land use frequently has effects which cross property boundaries. Those effects may add to or detract from the use and enjoyment of neighbouring properties. They may also affect natural resource values, such as air and water quality, or common goods such as views or local character.

Adverse cross-boundary effects are commonly noise, dust, vibration, odour, contamination, shading and electrical interference. Amenity values such as privacy, outlook, views, landscape, character and spaciousness may also be affected.

Within a site, amenity may stem from the versatility of the site; the proportions of buildings, open space, and vegetation; provision for vehicles; the benefits of daylight and sunlight both indoors and outside.

Comment

The above objectives and policies selected by the writer confirm the need to protect amenity values and whilst Chapter 5 policies and objectives cover all zones, it is clear that rural and rural/residential amenity values have to be safeguarded from adverse environmental effects.

The writer’s opinion is that rural and residential character and amenity will not change significantly (apart from traffic issues) provided that the activity is located as proposed away from the residential areas and is limited in hours, nature and scale. Resource consent is not being sought to change the zoning so any future expansion or change will need to go through the resource consent process also.

6.2.2 Chapter 7: Rural Environment Effects

Relevant Issues:

Tasman District’s land resource is largely rural. Rural character, amenity values, and the productive use of rural land underpins the social, economic and cultural well-being of the people of the District.

Industrial and commercial activities in rural areas remove land from soil-based production. To date, these activities have not affected the viability of soil-based production however their presence can affect rural character and amenity values.

Industrial, commercial and residential activities inevitably involve buildings and services development. This development brings with it effects which can detract from the environmental quality and rural character of the areas in which they are situated or through which they are serviced. The cumulative effects of such development can be the creeping “urbanisation” of rural areas.

An important aspect of managing rural environmental effects is recognising the qualities and character of rural areas, and the legitimacy of existing established activities and a range of potential future activities which involve the productive use of the land resource.

A main issue Council has to consider is how to provide for non-soil-based production uses in rural areas without diminishing the availability of the productive land resource and how to maintain an appropriate level of protection of rural character, ecosystems and amenity values. This proposal takes land out of potential production although being located adjacent to a Light Industrial zoning may limit the land’s versatility anyhow.

Objectives	Policies
<p>7.1.0 Avoid the loss of potential for all land of existing and potential productive value to meet the needs of future generations, particularly land of high productive value.</p>	<p>7.1.2 To avoid, remedy or mitigate the effects of activities which reduce the area of land available for soil-based production purposes in rural areas. 7.1.2A To avoid, remedy or mitigate adverse actual, potential and cumulative effects on the rural land resource.</p>
<p>7.2.0 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.</p>	<p>7.2.1 7.2.4 To ensure that activities which are not involved or associated with soil-based production do not locate where they may adversely affect or be adversely affected by such activities.</p>
<p>7.3.0 Avoidance, remedying or mitigation of the adverse effects of a wide range of existing and potential future activities, including effects on rural character and amenity values.</p>	<p>7.3.1 To ensure that there is sufficient flexibility for a wide range of productive rural activities to take place, while avoiding, remedying or mitigating adverse effects. 7.3.3 7.3.4 To exclude from rural areas, uses or activities (including rural-residential) which would have adverse effects on rural activities, health or amenity values, where those effects cannot be avoided, remedied or mitigated.</p>

The following extracts from the introduction, principal reasons and explanations for Chapter 7 are considered relevant:

“People and communities value rural locations for purposes other than soil-based production, and where these purposes can be achieved without compromising productive values, rural character and amenity values, provision can be made for them. This objective, and associated policies, establishes a framework within which Plan provisions such as rules and zones are developed, and consent applications can be evaluated. The policy is supported by methods to encourage responsible management by resource users”.

“Rural areas are working and living environments. They also provide much of the amenity value and character of the District as a whole.

If rural character is to be protected, it is essential that productive rural activities are not overly constrained by standards and conditions based on amenity value that are set at a much higher level than biophysical necessity. Nevertheless, activities in rural areas should not involve effects that significantly adversely impact on rural character and amenity values. This set of objectives and policies aims to provide a balanced approach.

Inevitably some activities, by their scale, intensity or other effect, have the potential, individually or cumulatively, to adversely affect the environmental qualities and other aspects of the environment that this section protects. Such potential effects can be identified on the basis of activity types, and the effects of individual proposals can be evaluated through the application process”.

“The District’s diverse rural landscape, including the working rural landscape, requires careful consideration in terms of this objective whenever an activity or development is proposed that requires consent”.

Comment

Council has acknowledged the pressures and diverse usages of rural land. The Council has to constantly maintain the balance between these uses and promoting the sustainable management of natural and physical resources.

The proposed activity does not meet policy 7.2.1-*To enable activities which are not dependent on soil productivity to be located on land which is not of high productive value* but the land is not currently used for horticulture and as stated in the assessment of effects above there will be no adverse cross-boundary effects with existing horticultural activities and the existing mixed character of the area is retained.

Where a non-soil-based activity is proposed its acceptance with residential occupiers would depend on the effects of the activity. In this application the only potential constraint is the traffic safety effects.

6.2.3 Chapter 11: Land Transport Effects

Relevant Issues

The adverse effects on the safe and efficient provision and operation of the land transport system, from the location and form of development and carrying out of land use activities.

Increases in traffic volumes from adjacent land use activities that generate vehicle trips may put pressure on particular routes. Urban subdivision and development as well as rural development may increase the demand for upgrading routes, including attention to travel time and hazardous roading situations.

Policies in this section are not only about providing a safe driving environment, but also about ensuring safety for people in the environment through which vehicles are driven. Amenity in that environment is also a relevant issue.

Objectives	Policies
<p>11.1.0 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.</p>	<p>11.1.1 To promote the location and form of built development, particularly in urban areas, that: (a) avoids, remedies or mitigates adverse effects of traffic generation; (c) avoids an increase in traffic safety risk; (f) segregates roads and land uses sensitive to the effects of traffic.</p> <p>11.1.2 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.</p> <p>11.1.2B 11.1.3 11.1.4</p>
<p>11.2.0 The avoidance, remedying, or mitigation of adverse effects on the environment from the location, construction and operation of the land transport system including effects on: (aa) the health and safety of people and communities; (a) the amenity of residential areas; (f) the productivity and use of land.</p>	<p>11.2.2 To regulate the effects of traffic generation and traffic speed on the safety and amenity of places of significant pedestrian activity. 11.2.3</p>

The following extracts from the principal reasons and explanations for Chapter 11 are considered relevant:

“Intensive traffic-generating activities such as commercial and industrial activities need convenient access to major routes.

“Traffic is a potential hazard to people’s safety. Reduced amenity in the vicinity of roads results from increased road size and traffic volumes and speeds.”

Comment

The above objectives and policies identify the need to avoid conflicts with traffic having particular regard to issues of traffic safety and efficiency, including the effects on existing roading.

The writer’s opinion in regards to the proposed activities is that the overall activity will generate more heavy traffic on an already substandard road. Granting the proposal will assist in providing more on-site space for parking, loading and manoeuvring but will also add to existing traffic safety and amenity problems. Upgrading of the road is therefore required before additional non-permitted activities can commence to ensure these transport objectives and policies are met.

6.2.4 Permitted Rules

Permitted Activity Rules in the Tasman Resource Management Plan that need to be considered are those relating to transport, building construction, earthworks, hours of operation, noise and discharges, such rules being mostly operative.

In addition to the Plan Rules Financial Contributions and Development Contributions are applicable to development under the terms of the Long Term Community Council Plan (LTCCP). These are payable through the building consent process or invoiced upon issue of any resource consent should a building consent not be required for the activity.

The writer has checked the matters relevant to those rules and the proposal will meet the permitted activity criteria for building construction, earthworks, hours of operation, noise and discharges (wastewater and stormwater).

Transport issues have the potential to comply following an upgrade of Hau Road.

6.3 Other Matters

6.3.1 Precedent / Cumulative Effects

The granting of resource consent does not necessarily create a precedent by itself but all resource consents must follow consistency in the application of legal principles. Whilst no two resource consents are ever identical it can be considered that granting of one consent may well have an influence on how another application should be dealt with. If a resource consent has aspects that can clearly distinguish it from the general such that its situation and or circumstances are unique or rare then precedent is unlikely to be able to be applied.

In the subject case the writer considers that there are some unique or rare circumstances that would tend to distinguish this application from one that may follow after to establish another industrial activity on an adjoining or nearby site. These unique circumstances include the rural land is adjacent to a Light Industrial zone, is not currently being used for intensive production, will not have any adverse effects on adjoining rural uses, the proposed activities maintain a sense of openness, have no visual impact on residential properties and provides a buffer between existing industrial and rural activities. There are other areas of rural land that adjoins industrial zonings so there is potential for similar applications requesting a spreading out of current industrial uses but as long as the adverse environmental and amenity effects can be mitigated so they are no more than minor, having this type of buffer between activities may be considered to be an efficient use of the rural land resource.

Other cases where the Council has supported use of rural land for commercial/industrial activity have involved two key supporting factors:

1. Either the activity was intrinsically linked to the productivity of the land as in the case of coolstores and packhouses; or
2. Where the activity has not been linked to the productivity of the land, the land has already been modified by the development of yard areas and significant building infrastructures (e.g. redundant packhouses or existing industrial/commercial buildings).

In those cases it has been considered that there would be no change to the productive capacity of the land and conditions have been agreed by the applicants that include the use being limited both in terms of preventing transfer in use to a successor in title, by limiting the duration of the activity and ensuring the effects of the activities are either contained in the building or onsite so do not detract from the existing surrounding environment.

In this case the proposed activity is not intrinsically linked to the productivity of the land. It is acknowledged that the limited productive potential of the title (2.4746 hectares) on its own would inhibit most permitted productive uses however there are surrounding rural productive uses that could amalgamate the subject land into their titles. Perhaps this has not been done to date because the land adjoins the Light Industrial zone and perceived cross-boundary effects would make this land undesirable to horticulturists.

Submissions have raised concerns regarding the incremental loss of rural character however as assessed the main rural character in the area is horticulture and this proposal does not cause the loss of land in current horticultural activities. In addition the granting of this consent will not alter the zoning of the land and will only grant activities specified in the application. Any change in the nature or scale of activities proposed on Lot 5 will require resource consent or a change of consent conditions if the activities do not comply with permitted standards for the Rural 1 zone.

Shifting the entire operation to a larger Light Industrial zoned site is not practical given the limited availability of Industrial zoned land and the prohibitive cost of doing so. Given that this application and any future similar applications will be considered on a case by case basis assessing any actual or potential environmental effects, it is considered the precedent or cumulative effects are no more than minor.

6.3.2 S M Coleman vs Tasman District Council

This Environment Court case (decision number W67/97) declined a two lot subdivision proposal on a number of grounds one being road access. The Court found the road was unsuitable for any increased traffic flow and "financial contributions that could be imposed on the applicant to achieve adequate road upgrading would be so expensive as to be unreasonable. There are no reasonable legal means to cover costs of upgrading from users of the road. There are no means of avoiding, remedying or mitigating the adverse effect, other than to decline the application."

This decision was appealed to the High Court and the High Court upheld the Environment Court decision.

7. SUMMARY

7.1 Principal Issues

- a) *Is the proposed development consistent with the objectives and policies for the Rural 1 zone?*

Provided activities on Lots 4 and 5 are limited in hours, nature and scale the development will not significantly alter the rural character of the area, will not produce cross-boundary adverse effects and will only result in a small loss of productive land that may have existing limitations due to it adjoining the Light Industrial zone.

Is the scale of the development appropriate for the area?

An effects based assessment for Lot 5 would indicate the scale is appropriate for the area subject to Hau Road being upgraded and other conditions of consent. A holistic approach could have the outcome that once activities exceed the boundary of the Light Industrial zone then the whole activity has outgrown the spot zone and would be more appropriately located on a larger industrial zoned site amongst other industrial activities. There is a shortage of these sites in Motueka however and the cost of relocating an established business is likely to be prohibitive.

b) *Can the traffic safety issues be dealt with by way of conditions?*

The traffic safety concerns can be addressed by conditions of consent requiring the upgrade of Hau Road. Hau Road is a substandard road whereby any non-permitted increase in vehicle movements should not occur until the road is upgraded. The required upgrading will be a significant cost to the applicant so they need to volunteer to do the works. Conditions of consent cannot be unreasonable so if the applicant does not volunteer to do the required upgrading then either there is to be no increase in current vehicle movements or the application needs to be declined.

c) *Will the adverse amenity effects be more than minor?*

The proposed activities are visually screened from residential properties and conditions of consent can ensure the spreading out of existing activities do not lead to an intensification of the overall activities that have been subject to many complaints in the past. Conditions and advice notes alert the consent holder to their obligations regarding dust and noise and a review condition will enable these and other matters to be more appropriately addressed in the future should this be required.

7.2 Statutory Provisions

The application is a discretionary activity in the Rural 1 Zone. As a discretionary activity the Council must consider the application pursuant to Section 104(B) of the Resource Management Act 1991.

- **Part II matters** - The efficient use and development of a natural and physical resource depends on the extent of adverse effects arising from the proposal. In this case the adverse effects of the proposal on amenity and the rural land resource can be considered to be no more than minor. The traffic safety effects can only be mitigated by the upgrade of Hau Road or ensuring there are no increases in vehicle movements.

- **Objectives and Policies of the Proposed Tasman Resource Management Plan** - The industrial use of rural land with residentially used properties nearby is considered appropriate in this case as long as Hau Road is upgraded and the current activities are not intensified. In theory activities that outgrow their spot zoning should relocate to larger industrial sites and areas but this is not practical given the lack of available sites and relocation cost. The proposed activities on the rural land are only to spread out existing activities to make the business more efficient and practical.

The non-soil based activity does remove 2.4746 hectares of potentially highly productive land from the rural land resource but on balance the proposal provides a buffer between existing horticultural and industrial activities with no cross-boundary adverse effects. Other adverse effects can be mitigated so they are no more than minor subject to conditions of consent and as long as Hau Road is upgraded. Transport objectives and policies do not support development sited on substandard roads.

- **Actual and Potential Environmental Effects** – The proposal has been assessed as having adverse effects of noise, dust, rural and residential character and visual amenity that are no more than minor, subject to consent conditions. Traffic safety can be enhanced through the upgrading of Hau Road as any increase in the number of vehicle movements for any non-permitted activity should not occur until the road is sufficiently upgraded.
- **Other Matters** – Any potential cumulative effects from the granting of this consent are considered to be no more than minor as like circumstances will create a buffer between potentially conflicting activities and ensure there are no cross-boundary adverse effects. The granting of this consent does not change the zoning so any change in nature or scale of the activity or any additional like activities will be required to go through the robust resource consent process and assessment. Applications should be declined however if consent conditions required to achieve adequate road upgrading would be so expensive as to be unreasonable.

Section 104B of the Resource Management Act 1991 (as amended) provides:

After considering an application for a resource consent for a discretionary activity or non-complying activity, a consent authority—

- (a) may grant or refuse the application; and*
- (b) if it grants the application, may impose conditions under section 108.*

8. RECOMMENDATION

The proposal to expand an existing concrete production operation and outdoor materials storage depot at 36 Hau Road, Motueka be **DECLINED**.

Should the Committee decide to grant the application or grant in part (declining the workshop activities) or should the applicant volunteer to meet the costs of upgrading Hau Road to Council's Engineering Department's satisfaction or should the applicant withdraw the workshop aspect of the application, I recommend the consent be granted subject to the following conditions:

Note: The applicant will need to volunteer all conditions relating to activities on Lot 4 DP 301796 (the Light Industrial zoned site) as these conditions are more restrictive than permitted standards.

General

1. The expansion and operation of the concrete production operation and outdoor materials storage depot at 36 Hau Road, Motueka shall be undertaken in accordance with the documentation submitted with the application and with the plan attached to this consent labelled RM070640 Plan 3A/4 and dated 07/07. Where there are any discrepancies or apparent conflict between the information provided with the application and any conditions of this consent, the conditions shall prevail.
2. A legal instrument shall be placed on Certificate of Titles 7334 and 7335 to encumber the titles so that one shall not be disposed of independently of the other, within three months from the date this consent is granted (or within three months from the date of an Environment Court decision if applicable), with all costs to be met by the Consent Holder.

Dust

3. The Consent Holder shall implement all necessary mitigation measures to ensure that, in the opinion of an Enforcement Officer of the Council, there is no offensive or objectionable dust discernable at or beyond the property boundary of both Lots 4 and 5 DP 301796 (excluding the internal boundary between Lot 4 and 5) as a result of the authorised activities.

Work Practices for Lots 4 and 5 DP 301796

4. No more than a total of fifteen full-time equivalent persons shall be employed.
5. The hours of operation shall only be between 7.00 am to 5.30 pm Monday to Friday (inclusive). No work shall be carried out on weekends or Public Holidays.

Advice Note:

This condition does not prevent management from engaging in office duties outside these times.

Vehicle Movements

5. Vehicle movements resulting from activities on Lot 4 and Lot 5 DP 301796 shall not exceed:
 - 24 one-way concrete truck movements per day;
 - 50 one-way truck movements per day;
 - 60 one-way landscape vehicles (trucks and car and trailers) movements per day; and
 - 20 one-way movements associated with the workshop per day (to be deleted if the workshop is withdrawn or declined).

Amenity

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

Access

7. The on-site access to Lot 5 DP 301796 shall be sealed from the edge of the road seal to at least 10 metres inside the property boundary within three months from the date this consent is granted (or within three months from the date of an Environment Court decision if applicable), with all costs to be met by the Consent Holder.

Hau Road Upgrade (to be deleted should the workshop activities be withdrawn or declined)

8. The following works are required to be undertaken by the consent holder and at the consent holder's expense prior to the workshop activities commencing:
 - a) Hau Road (existing formed section) be widened by a further 2.0 metres (resultant seal width 8.0 metre carriageway provides 2 moving lanes and 1 parking lane);
 - b) The unformed section of Hau Road (eastern end) be formed up to an 8.0 metre carriageway width together with a formed industrial turning head at the eastern end (this may require an area of the applicant's land to vest as road);
 - c) Kerb and channel and sumps together with appropriate stormwater disposal shall be installed along the south side of Hau Road as well as the widening mentioned above;
 - d) A 1.4 metre concrete footpath be formed along the complete length of Hau Road and located away from the proposed kerb and channel on the southern side of the road;
 - e) Appropriate individual access crossings shall be formed up to all of the existing crossings along the south side of Hau Road;
 - f) All works to comply with the TDC Engineering Standards 2004;
 - g) Engineering plans shall be submitted for approval prior to the workshop activities taking place on the Rural 1 land. Appropriate as built plans are required on completion of the works; and
 - h) The applicant shall vest land as road along the frontage of the property. The normal road reserve width would be 19 metres, however the existing Hau Road road reserve width is approximately 15 metres and therefore the width of vesting is approximately 2.5 metres subject to survey.

(Advice Note:

The applicant has volunteered this condition).

Review

9. That pursuant to Section 128(1)(a) and 128(1)(c) of the Resource Management Act 1991, the Consent Authority may review any conditions of the consent within twelve months from the date of issue and annually thereafter for any of the following purposes:
 - a) to deal with any adverse effect on the environment which may arise from the exercise of the consent and which it is appropriate to deal with at a later stage; or
 - b) to deal with inaccuracies contained in the consent application that materially influenced the decision made on the application and are such that it is necessary to apply more appropriate conditions; or
 - c) to assess the appropriateness of imposed conditions and to alter these accordingly.

Cultural Heritage

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

Advice Note:

The applicant has volunteered this condition.

ADVICE NOTES

Council Regulations

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

Proposed Tasman Resource Management Plan

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

Development Contributions

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

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

Monitoring

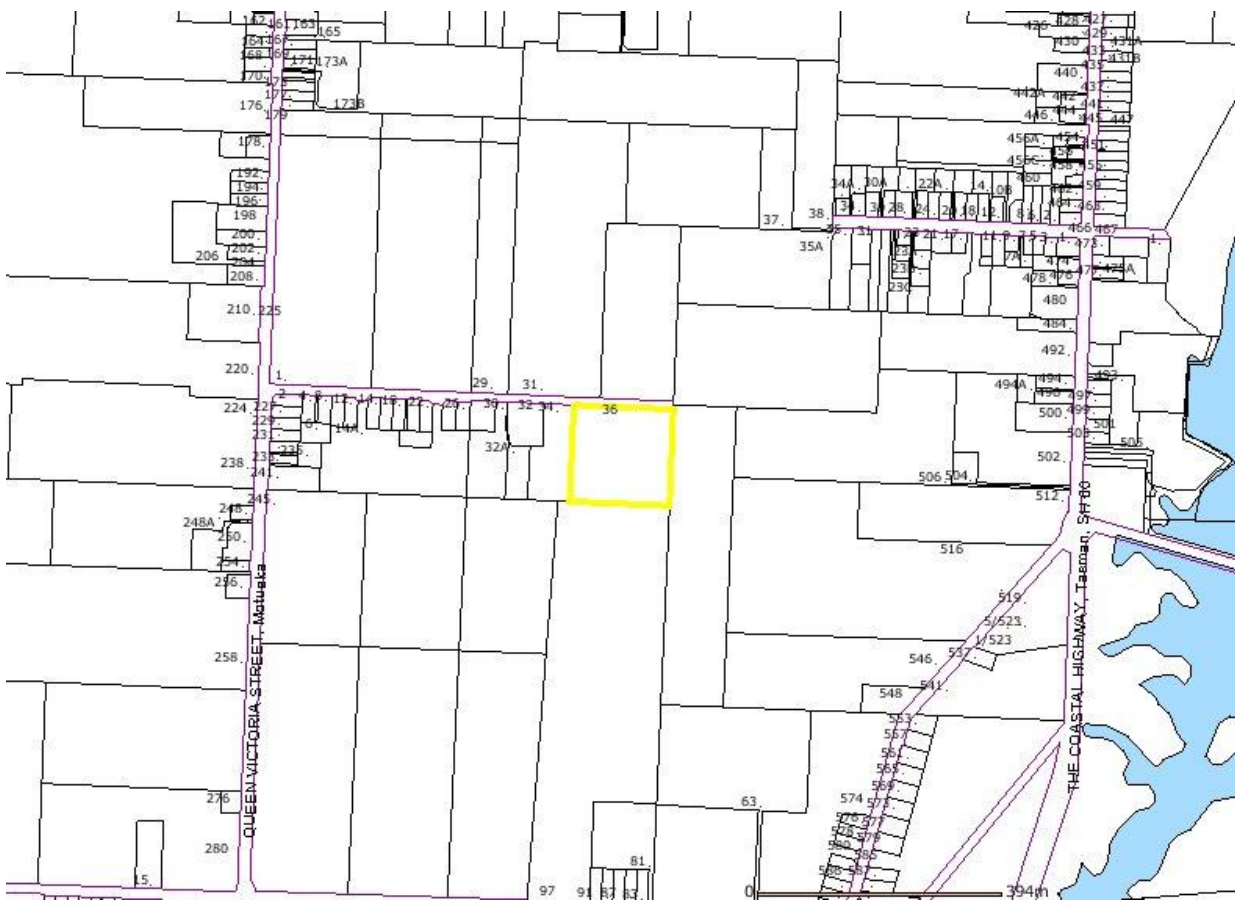
4. Monitoring of the consent is required under Section 35 of the Resource Management Act 1991 and a deposit fee is payable at this time. Should monitoring costs exceed this initial fee, Council will recover this additional amount from the resource consent holder. Costs are able to be minimised by consistently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

Interests Registered on Property Title

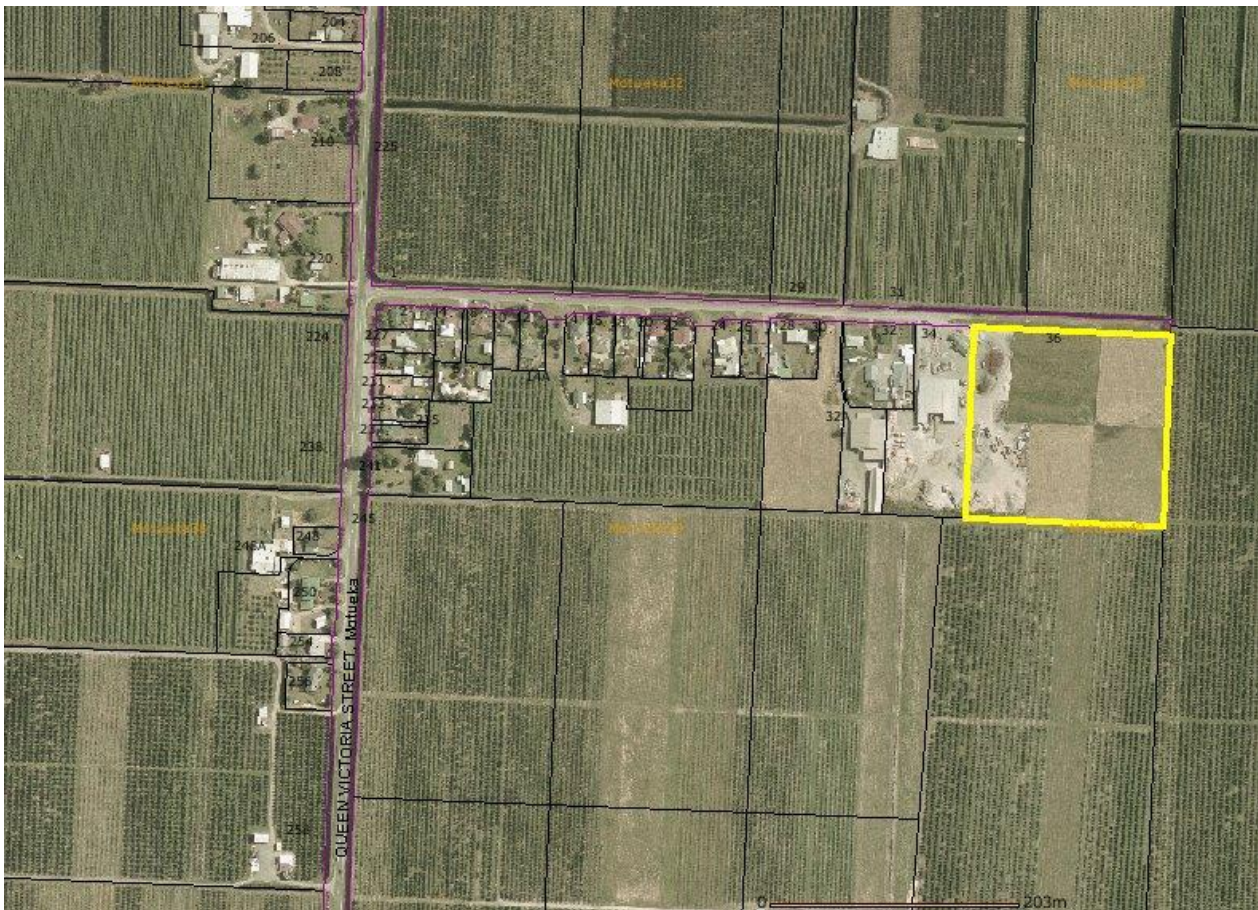
5. The Consent Holder should note that this resource consent does not override any registered interest on the property title.

Mandy Bishop
Consent Planner, Land

APPENDIX 1
Hau Road Location



APPENDIX 2
Site Location



APPENDIX 3

W/A = written approvals provided

OP = submitted in opposition

SU = submitted in support



TO: Environment & Planning Hearings Committee
FROM: Dugald Ley, Development Engineer
DATE: 1 August 2007
REFERENCE: RM070640
SUBJECT: **EXPAND AN INDUSTRIAL ZONED ACTIVITY INTO A RURAL 1 ZONING – 36 HAU ROAD, MOTUEKA, CORRIE-JOHNSTON FAMILY**

1. INTRODUCTION

The above application is to expand an industrial activity located on industrial zoned land into a Rural 1 zoned land.

The applicant wishes to “regularise” the existing operation on Rural 1 land and also expand the activity.

2. BACKGROUND

It is difficult to quantify the effects in increased traffic movements as they are already occurring. However in addition to the vehicle movements from the illegal use of Rural 1 land will be an extra 16-20 vehicles per day from the new vehicle servicing proposal, ie clause 2.6 applicants’ proposal “8-10 loads per day”.

Hau Road is a Rural Access road carrying some 280 vehicles per day. It has a formed length of some 470 meters of a required total length of 646 metres, ie 176 metres are unformed.

Hau Road has recently been reconstructed to a 6.0 metre sealed rural road and does not meet the industrial road standard as per the Engineering Standards of 13 metres carriageway width. Hau Road has no defined stormwater drainage other than localised swales draining to soak pits. There is no footpath and with increasing use by heavy vehicles the existing resident’s (approximately 16) safety may be compromised by traffic movements in the area. It is Engineering’s view that increasing the use of this “in essence” rural road with more industrial traffic will have effects on the enjoyment and safety of the residents who reside in Hau Road.

3. RECOMMENDATION

As there are no items in the LTCCP for upgrading this road it is Engineering’s opinion that the effects of the increased use can be mitigated by the upgrading of Hau Road. These upgrades will need to be funded by the applicant causing the effect. This application is similar to Coleman vs TDC AP224/97 where that consent was declined due to an inadequate road leading to the development.

However if the committee, after hearing all the evidence chooses to grant consent then it would be Engineering’s recommendation to include the following conditions as part of the resource consent:

1. Hau Road (existing formed section) be widened by a further 2.0 metres (resultant seal width 8.0 metre carriageway provides 2 moving lanes and 1 parking lane)
2. The unformed section of Hau Road (eastern end) be formed up to an 8.0 metre carriageway width together with a formed industrial turning head at the eastern end (this may require an area of the applicant's land to vest as road).
3. Kerb and channel and sumps together with appropriate stormwater disposal shall be installed along the south side of Hau Road as well as the widening mentioned above.
4. A 1.4 metre concrete footpath be formed along the complete length of Hau Road and located away from the proposed kerb and channel on the southern side of the road.
5. Appropriate individual access crossings shall be formed up to all of the existing crossings along the south side of Hau Road.
6. All works to comply with the TDC Engineering Standards 2004.
7. Engineering plans shall be submitted for approval prior to the rezoning or any land use taking place on the Rural 1 land. Appropriate as built plans are required on completion of the works.
8. The applicant shall vest land as road along the frontage of the property. The normal road reserve width would be 19 metres, however the existing Hau Road road reserve width is approximately 15 metres and therefore the width of vesting is approximately 2.5 metres subject to survey.

Dugald Ley
Development Engineer

FILE →

1928015400



Memorandum

Environment and Planning Department

TO: Carl Cheeseman
FROM: David Lewis
DATE: 29 March 2005
FILE NO: 1928015400
RE: NOISE MEASUREMENTS - C J INDUSTRIES, HAU ROAD, MOTUEKA

RECEIVED
 07 SEP 2005
 T.D.C. MOTUEKA

Following complaints from residents in Hau Road, noise measurements of the operation of CJ Industries were taken on 16 March 2005. The weather was fine, with a cloud cover of 2/10 and a temperature of 23°C. A slight north-east breeze was blowing at the time that strengthened to approximately 2.5 m/s at the end of the readings.

Measurements were made adjacent to the crushers/screeners, near the north-west corner of the property and adjacent to T Watson property (on the Light Industrial zoned land to ensure no reflection of sound from fences etc). The measurement positions are shown on the attached site plan.

The following are the tabulated results of the noise measurements in A weighted decibels (dBA).

Site	Comment	Leq	Lmax	Lmin	L10	L95
Site 1	Primary and secondary crushers and screens	79	87	75	80	77
	Primary and secondary crushers	77	84	72	78	75
	Primary crusher only	72	86	66	74	67
Site 2		69	79	64	71	66
Site 3		48	56	47	50	45

Interpretation of the results at Site 1 showed that, close to the on-site machinery, the noise levels recorded were of such a level that workers in the vicinity would require hearing protection. The screener noise (high pitch and relatively constant) was the predominant noise, with thuds from the primary crusher being obvious and of a low frequency.

At the site adjacent to the boundary of the property (Site 2) the predominant noises were from a concrete vibrator in an adjoining factory, the screener, a distant point and loader and thuds from the primary crusher. The L_{10} noise level of 64 dBA measured was in compliance with the L_{10} 65 dBA level as required in Rule 17.3.2(j) for between sites in the Light Industrial Zone.

2.

29 March 2005

MEMO TO: Carl Cheeseman

The L_{10} measurement of 50 dBA at Site 3 complied with the required L_{10} 55 dBA for other zones outside the Light Industrial Zone.

At the time of the measurements at Site 3 I was approached by a resident who claimed that not all machinery was operating, as the noise was a lot quieter than normal, particularly the primary crusher. He was informed that all machinery was in operation but recent repairs to the loading hopper of the primary crusher had included repairing a loose iron plate that had been clanking during operation and had resulted in a considerably quieter operation. He also maintained that as a sea breeze was blowing (north-easterly) then it was taking the noise away. From my own local knowledge, the three predominant winds in this area are the north-easterly, south-westerly and north-westerly – all of which are at a direction away from the housing in Hau Road.

In my opinion, the operations of C J Industries at Hau Road were complying with the Tasman Resource Management Plan noise rules at the time of measurement and the level of operations on this site at the time were what would normally be expected. It was indicated to the residents that further noise measurements would be carried out if it was considered that the present noise climate deteriorated.

Yours faithfully



D R Lewis
Environmental Health Officer

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