



## STAFF REPORT

**TO:** Environment & Planning Subcommittee - Commissioner Hearing

**FROM:** Ross Shirley, Subdivision Officer

**REFERENCE:** RM100613, RM100614

**SUBJECT:** **P A SHORTLEY AND N M BROWN - REPORT REP11-03-09**  
Report prepared for hearing of 28 March 2011

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### 1. INTRODUCTION

- 1.1 The report is my assessment of an application to subdivide a 5 hectare property located at Ngatimoti into five allotments, one of which is to vest in the Tasman District Council as reserve. The application also includes a proposal to construct a dwelling on the three vacant allotments.
- 1.2 The application that is subject of this assessment has been amended from the application that was originally lodged and publicly notified. The amendments relate to a change in the position of the access serving the subdivision and an increase in the area of the reserve to vest.

### 2. SITE DESCRIPTION

- 2.1 The legal description of the land is Pt Lot 6 DP 16565, contained in CT NL11C/390, with an area of 5.0080 hectares. The registered proprietors of the land are Patrick Adrian Shortley and Nicola Mary Brown, who are also the applicants and live on the property.
- 2.2 The existing site was created as a result of a subdivision approved by Council in 1991. The same subdivision also created four rural-residential sites and the original Ngatimoti Recreation Reserve. The reserve area was subsequently increased in 1995 as a result of a boundary adjustment with the subject land.
- 2.3 The land is zoned Rural 1 under the Tasman Resource Management Plan (TRMP).
- 2.4 The site is located at 1453 Motueka Valley Highway and contains a house and accessory buildings towards the front of the site. The balance of the property is in pasture, with a hectare of nut trees towards the rear of the site. A small stream in a broad, shallow channel bisects the property along the western boundary.

2.5 The site immediately adjoins the existing Ngatimoti Recreation Reserve, which in turn adjoins the Ngatimoti School. The reserve land contains the Ngatimoti Fire Station, car park, BMX track and open space. The site also adjoins a cluster of four existing rural-residential sites. Otherwise, the surrounding land has a mixture of land uses including lifestyle, pasture, cropping and grapes. The catchment area including the rural localities of Pangatotara, Pokororo and Orinoco.

### **3. THE PROPOSAL**

3.1 The proposal is to subdivide the land to create five lots as shown on plan attached as Appendix A, being:

- (a) Lot 1 of 0.97 hectares containing the existing dwelling and accessory buildings;
- (b) Lot 2 of 0.93 hectares being a vacant rural residential site;
- (c) Lot 3 of 1.1 hectares being a vacant rural residential site;
- (d) Lot 4 of 0.72 hectares being a vacant rural residential site;
- (d) Lot 5 of 1.1 hectares to vest in the Tasman District Council as part of the Ngatimoti Recreation Reserve.

3.2 The proposed access to the subdivision is via the existing access to the reserve, which also serves the fire station and thence via a right-of-way over the existing and proposed reserves and thence via a mutual right-of-way over the lots themselves.

3.3 The proposal also includes an application to construct a dwelling on each of Lots 2, 3 and 4.

### **4. STATUS OF THE APPLICATION**

4.1 The land is zoned Rural 1 under the TRMP. There are no area overlays affecting the land.

4.2 Subdivision in the Rural 1 Zone is a controlled activity if, inter alia, the minimum area of the allotment is 12 hectares - Rule 16.3.5.1. The proposed subdivision breaches the minimum area condition and is therefore a discretionary activity by virtue of Rule 16.3.5.2.

4.3 The construction of a dwelling in the Rural 1 Zone is a controlled activity if, inter alia, the site has a minimum area of 12 hectares - Rule 17.5.3.2. The proposed land use to construct a dwelling breaches that condition and therefore is a restricted discretionary activity by virtue of Rule 17.5.3.3.

### **5. NOTIFICATION AND SUBMISSIONS**

5.1 The application was fully notified, with submissions closing on 8 November 2010, at which time the applicant requested time to consider those submissions. Subsequently, an amended application plan was lodged, which is attached as Appendix A.

## 5.2 Table of Submissions

No.	Submitter	Support/ Oppose	Reasons	Heard
1.	NZ Fire Service Commission	Neutral	Requires water supply for firefighting purposes	Yes
2.	Donald John Sutherland	Neutral	Requires existing right-of-way easement to reserve to be surrendered	No
3.	Tiakina Te Taiao	Neutral	Requires conditions re cultural heritage / archaeological sites and sediment control	No
4.	Ross Stuart Hadley Joanne Rena Hadley	Support	Supports entire application	No
5.	Ngatimoti Community Reserve Committee, C/- Steve Anderson	Oppose	Proximity of dwelling to reserve, more land needed for reserve	Yes
6.	Russell Edwin Kiddle	Oppose	Subdivision of Rural 1 land	Yes
7.	John Kelly & Elizabeth Iannuzzi	Support	No reasons given	Yes
8.	Aiyanna & Robert Leenheer	Oppose	Requires conditions re dwellings, fencing, valuation, right-of-way, noise, vehicles	Yes
9.	Allen Leigh Brereton	Oppose	Access and culvert, reserve area	Yes
10.	Ngatimoti Rural Fire Service C/- Graham Durrant	Oppose	More land needed for reserve, proximity of dwellings	No
11.	Alan Bensemman	Oppose	More land needed for reserve, proximity of dwellings	Yes
12.	Ngatimoti Bowling Club C/- Madeline Rogers	Oppose	More land needed for reserve, proximity of dwellings	No
13.	John Anderson	Oppose	More land needed for reserve, proximity of dwellings	Yes
14.	Lesley Hadley	Oppose	More land needed for reserve, proximity of dwellings	No
15.	Wolfram Gessler for Osina Trust	Support	Increased population of area, improves access	No
16.	Edward Beaumont Stevens	Oppose	Cross-boundary effects	Yes

The location of the submitters' properties that are located in the vicinity of the application site is shown in Appendix B.

5.3 In summary, there are three submissions in support, 10 submissions in opposition and three neutral submissions. Most of the submissions in opposition are seeking a greater area of land to vest as reserve and express concerns regarding the proximity of dwellings to the reserve.

5.4 As noted above, the application has been amended to increase the area to vest as reserve from 0.9 hectares to 1.1 hectares. This amendment may satisfy some of the submitters, including the Ngatimoti Community Reserves Committee. Other matters raised in submissions will be addressed in later parts of this report.

## 6. STATUTORY CONSIDERATIONS

### 6.1 Section 104, Resource Management Act 1991 (RMA)

A decision on this application must be made under Section 104 of the Act. The matters for the Subcommittee to address are:

- (a) Part II (Sections 5, 6, 7 and 8);
- (b) effects on the environment (positive and negative);
- (c) objectives and policies of the TRMP;
- (d) other matters.

### 6.2 Section 6, RMA

There are no matters of national importance relevant to the proposal.

### 6.3 Section 7, RMA

The other matters that Council shall have particular regard to and are relevant to this proposal are:

- (a) the efficient use and development of natural and physical resources;
- (b) the maintenance and enhancement of amenity values;
- (c) maintenance and enhancement of the quality of the environment;
- (d) any finite characteristics of natural and physical resources;
- (e) the protection of the habitat of trout and salmon.

### 6.4 Section 8, RMA

There are no Treaty of Waitangi matters relevant to the application.

## 7. KEY ISSUES

### 7.1 Permitted Baseline

- (a) A permitted activity is allowed without a resource consent if provided for in a District Plan. There are no provisions in the TRMP for permitted activity subdivisions.
- (b) However, Section 11 of the RMA states:

***“Restrictions on Subdivision of Land***

*No person may subdivide land, within the meaning of Section 218 unless the subdivision is ... effected by any vesting in any local authority for the purposes*

*of the Conservation Act 1987 or any other Act specified in Schedule 1 to that Act.”*

- (c) the Reserves Act 1977 is specified in that Schedule.
- (d) Lot 5 on the application plan is to vest in the local authority (Tasman District Council) as a recreation reserve, which is subject to the Reserves Act 1977.
- (e) What this means is that Lot 5 can vest in the Tasman District Council without the need for a subdivision consent. That is to say, the vesting of Lot 5 as a reserve is a permitted activity.
- (f) This fact is particularly relevant in any assessment of the effects of land fragmentation on the productive values of the land.

## **7.2 Land Fragmentation and Productivity**

- (a) Chapter 7 of the TRMP discusses the effects of land fragmentation on the productive values of land. Objective 7.1.2 is about avoiding of the loss of potential of all land of existing and potential productive value and is supported by a number of policies that seek to avoid the adverse effects of subdivision of rural land and the loss of soil-based activities and to require land parcels upon subdivision to be of a size and shape that retains the land’s productive potential.
- (b) The subject land is zoned Rural 1, with Class A soils.
- (c) The land productivity report prepared by Andrew Burton is attached as Appendix C. Andrew’s conclusion is:

*“The productive potential of the existing property is already compromised due to the small size of the available land (3 hectares) and its irregular shape. These already influence strongly the likely use of the block. Effectively, it is currently a ‘lifestyle block’, with very limited potential for intensive productive use.”*

- (d) Further to Andrew’s report, of the 3 hectares of potentially productive land, 1.1 hectares is to vest as reserve and, as noted above, this could happen without a subdivision consent. This means that in reality less than 2 hectares is potentially productive and the shape factor is further compromised.
- (e) In summary, the land is zoned Rural 1 and the TRMP has very strong policies that seek to avoid the subdivision of Rural 1 land. However, in the particular circumstances of this application, my conclusion is that it does not offend the policies and objectives of the TRMP and that the adverse effects on the productive value of land are no more than minor.

## **7.3 Rural Character and Amenity**

- (a) Chapters 5 and 7 of TRMP discuss the effects of activities on rural character and amenity values.

- (b) Objective 5.1.20 is about the avoidance, remediation or mitigation of adverse effects of the use of land on the use and enjoyment of other land. That objective is supported by a number of policies:

Policy 5.1.3.1 is a general policy that addresses the management of effects of change in land use.

Policy 5.1.3.9 is intended to contain nuisance effects.

Policy 5.1.3.13 limits urban development and other activities which are likely to be incompatible with rural activities.

Policy 5.1.3.14 acknowledges that rural activities are associated with a wide range of effects on amenities and that these effects must be provided for on a flexible basis, including making allowance for some changes in effects in both the short-and-long-term.

- (c) Objective 7.4.2 is about avoidance, remediation or mitigation of the adverse effects of activities on the rural character and amenity values and is supported by a number of policies:

Policy 7.4.3.2 makes provision for a range of rural activities in rural areas.

Policy 7.4.3.3 provides for the maintenance and enhancement of local rural character.

Policy 7.4.3.4 is intended to exclude uses or activities that would have adverse effect on amenity values.

- (d) The application site is part of a mixed land use environment and rural community close to and centred on the Ngatimoti School and Reserve. The subdivision will tend to consolidate that community and rural-residential land use in a location directly adjoining a similar and existing pattern of settlement.
- (e) The subdivision will not be visible from the Motueka Valley Highway and is screened with existing plantings along the western boundary. The stream also provides a natural boundary.
- (f) Conditions can be imposed on the subdivision to ensure a high standard of amenity and on the land use to mitigate the adverse effects of new dwellings.
- (g) The effects on rural character and amenity values beyond those provided for by the TRMP rules, need to be assessed on a case by case basis. The local context in this instance is the Ngatimoti School and Reserve and the existing cluster of rural-residential development as well as the wider community.
- (h) Overall, the proposal will result in a degree of change to the character and amenity values as a result of the increased residential use and development. However, my conclusion is that subject to appropriate conditions the local environment can absorb the subdivision and development with no more than minor effect on the rural character and amenity.

#### **7.4 The Proposed Reserve**

- (a) Chapter 14 of the TRMP discusses reserves and open spaces and describes the adequacy of provision of reserves and open spaces for a growing population as a principal issue. The provision for people's recreational interest is an essential part of sustainably managing the natural and physical reserves of the district.
- (b) Objective 14.4.2 is about the avoidance of significant adverse effects to ensure the open space character of reserves is maintained and also to ensure that reserves do not give rise to unreasonable adverse effects on neighbouring properties.
- (c) The proposal is that Lot 5 of 1.1 hectare be added to the existing Ngatimoti Reserve to make a total reserve area of 2.3 hectares. Lot 5 will provide for the future needs of the Ngatimoti community and is important for their recreational, social and cultural well-being.
- (d) Lot 5 is completely surrounded by the subject land and the existing reserve so any adverse effects on other properties is likely to be minor. Conditions can be imposed on the subdivision and new dwellings to ensure that their effect on the reserve is also minor.
- (e) Overall, I consider the vesting of Lot 5 to be in accordance with the outcomes sought by the policies and objectives of the TRMP and is a positive effect of the subdivision.
- (f) For a background report on the reserve, refer to Ros Squire's report attached as Appendix D.

#### **7.5 Cross-Boundary and Reverse Sensitivity Effects**

- (a) Chapter 7 of the TRMP discusses the management of cross-boundary and reverse sensitivity effects in rural areas. The concern is that the occurrence of residential activities in rural areas may create pressure to constrain the practicality or viability of genuine rural activities.
- (b) Lots 2-4 will adjoin rural productive land to the west and the south which is currently used for a mixture of crops, horticulture and deer farming. (The house on Lot 1 is an existing situation so there are no changed circumstances that need to be considered as part of this assessment.)
- (c) The proposed dwelling area on Lot 2 is set back 50 metres from the adjoining rural property, with the existing vegetation and stream terrace providing additional screening.
- (d) The proposed dwelling area on Lot 3 is 18 metres from the western boundary but is screened by a conifer hedge. The existence of the stream provides an additional buffer from the asparagus crop. The proposed dwelling area is set back 45 metres from the southern boundary.

- (e) The proposed dwelling area on Lot 4 is set back 25 metres from the southern boundary. This setback should be increased to 30 metres so that it complies with the minimum setback rules in the TRMP - Rule 17.5.3.2(e)(i) and 17.5.4.1(e)(i).
- (f) Rural emanations easements can also be imposed so that the owners or occupiers from time to time of the rural-residential sites shall allow authorised farming activities to be carried out on the adjoining lands without interference or restraint.
- (g) The proposed dwelling area on Lot 2 is set back 5 metres from the right-of-way boundary, which in turn is set back 6.5 metres from the reserve boundary. That is to say the proposed dwelling area is set back 11.5 metres from the reserve boundary whereas Rule 17.5.3.1(ii) of the TRMP requires buildings to be set back 20 metres from reserves for the building to be a permitted activity. The options are to increase the set back to 20 metres but this may severely restrict the area available for a dwelling, or to allow a reduction in the setback distance. The grounds for a reduction may have regard to the fact that the dwelling is limited to a maximum height of 5.5 metres, the right-of-way is to be sealed, the boundary is to be fenced and the increased area of the reserve allows for screen planting. Either way, a decision on the setback distance will need to be made before or at the hearing.
- (h) With the proposed spatial separation and screening and other proposed conditions I consider the potential for cross-boundary and reverse sensitivity effects can be effectively mitigated.

## 7.6 Traffic and Access

- (a) Chapter 11 of the TRMP discusses land transport effects. The purpose of the rules in that chapter is to provide a safe and efficient land transport system.
- (b) The adjoining Motueka Valley Highway is an arterial road in the Council roading hierarchy. It has a two-lane sealed carriageway and is capable of handling the extra traffic generated by this subdivision.
- (c) The vehicle crossing that serves the existing dwelling on proposed Lot 1 is to remain. Whereas it is an existing situation, the sight distances do not comply with the TRMP standards and remedial work to improve sight distances, particularly to the east, is required.
- (d) Lots 2-4 are to obtain their vehicle access via the existing vehicle crossing that serves the reserve and fire station. That vehicle crossing was constructed in accordance with approved engineering plans, a copy of which is attached as Appendix E. That vehicle crossing has good sight distances both ways.
- (e) Access to Lots 2-4 is thence over a right-of-way over the existing and proposed reserve and the lots themselves. Access over the existing reserve will require alterations to the car park. The balance of the right-of-way can be constructed to a high standard.



- (f) Further comment on traffic and access is contained in Dugald Ley's report, a copy of which is attached as Appendix F.
- (g) I understand both the Tasman District Council and the Reserves Committee have, subject to conditions, agreed to the right-of-way over the reserve land.
- (h) Overall, I believe that any traffic and access effects can be avoided or mitigated with appropriate conditions.

## 7.7 Servicing

- (a) The application includes a detailed report for on-site effluent disposal. The conclusion of that report is that domestic wastewater can be, subject to appropriate conditions, discharged on-site as a permitted activity.
- (b) Discharge of stormwater and provision of on-site water storage can appropriately be dealt with at building consent stage in accordance with the relevant rules in the TRMP.
- (c) There are no servicing matters that cannot be appropriately dealt with by conditions to ensure a high standard of servicing and no adverse effects on the environment.

## 7.8 Precedent

- (a) Decision-makers are bound to consistently administer the District Plan so that like cases are treated alike. In this instance special circumstances need to be established so that this application is set apart from other applications to prevent the creeping subdivision and urbanisation of rural land.
- (b) The subject land forms part of an enclave that is the Ngatimoti community. It is bounded to the north by the Motueka Valley Highway, to the east by Greenhill Road and to the south and west by rural land. There is a stream that runs generally along the western boundary. I consider this block of land to be the extent of rural-residential development for the locality.
- (c) The existing dwelling is located towards the north-west corner of the site so the proposed rural-residential sites are more akin to infill development rather than creeping or ribbon development.
- (d) The vesting of reserve land would distinguish this subdivision from most other applications.
- (e) Overall, I consider there are sufficient special circumstances relating to this application that set it apart to the extent that there is little risk of setting a precedent for out of zone Rural 1 subdivisions.

## 7.9 Proposed Mitigation Measures

- (a) The following is a summary of special mitigation measures, some of which have been volunteered by the applicant and all of which can be imposed as conditions of consent to mitigate or avoid adverse effects on the environment. Other standard conditions can also apply.
- (i) Proposed building areas fixed to comply with the minimum setback distances in the TRMP, subject to paragraph 7.5(g) of this report.
  - (ii) Maximum height of dwellings to be fixed at 5.5 metres to avoid any dominance that the dwellings may have on the reserve and other neighbouring properties.
  - (iii) Dwellings to be finished in recessive colours to match the existing environment.
  - (iv) A restriction on building coverage.
  - (v) Rural emanations easement to prevent reverse sensitivity effects at the rural-residential interface.
  - (vi) Covenants on rural-residential sites that allow activities to be undertaken on the reserve without interference or restraint from rural-residential owners.
  - (vii) The existing overhead power lines to be removed to enhance visual amenity.
  - (viii) The proposed right-of-way to be sealed for its full length to avoid dust and noise nuisance and to provide a high standard of amenity.
  - (ix) Road to vest to provide for future road widening.

## 8. SUMMARY

- 8.1 At first glance, any application for a rural-residential subdivision in the Rural 1 Zone would seem to be contrary to the policies and objectives of the TRMP and have adverse effects that would be fatal to the application. However, in this instance having regard to the productivity and fragmentation of the land, the character and amenity of the local environment, the vesting of reserves and the proposed mitigation measures, my conclusion is that in the particular circumstances of this application it does not offend the policies and objectives of the TRMP and conditions can be imposed to mitigate or avoid adverse effects on the environment.

## 9. RECOMMENDATION

- 9.1 After weighing up all the relevant considerations in terms of Part II of the Act, I consider that a grant of consent would promote the sustainable management of natural and physical resources and on balance I recommend the applications be granted subject to conditions.

## **10. CONDITIONS**

### **A SUBDIVISION (RM100613)**

#### **1. Amalgamation**

That Lot 5 hereon be transferred to the owner of Lot 5 DP 16565 and Lot 1 DP 17558 (CT NL11C/389) and that one computer register be issued to include all parcels.

Land Information New Zealand reference: . . .

#### **2. Road to Vest**

That the survey plan show road to vest over that area of land at the north-west corner of Lot 1 to provide a smooth roadside boundary.

#### **3. Proposed Dwelling Areas**

That the survey plan show the proposed dwelling areas on Lots 2, 3 and 4 as per the resource consent application plan, with the exception that the proposed dwelling area on Lot 4 be shown set back 30 metres from the southern boundary.

#### **4. Right-of-way Easement B**

That the survey plan show right-of-way B as being included in Lot 5 with the appropriate easements being granted to Lots 2, 3 and 4.

#### **5. Rural Emanations Easements**

That rural emanations easements be duly granted or reserved over Lot 4 hereon for the benefit of the land in CT 5C/830 (Stevens & Beatson) and Lot 3 hereon for the benefit of the land in CT 5C/830 (Stevens & Beatson) and the land in CT 3B/1240 (Brereton) and over Lot 2 hereon for the benefit of the land in CT 3B/1240 and CT 1D/916 (Brereton).

The purpose of the easement is to allow authorised farming activities to be undertaken on the dominant land without interference or restraint from the owners or occupiers of the servient land.

#### **6. Easements General**

That any services located outside the boundaries of the lots that they serve be protected by an appropriate easement referenced in Council's Section 223 recital.

The easements are to include, but not be limited to, the rights of way and the dry 150 mm water supply pipe.

#### **7. Access to Lot 1**

(a) That the existing vehicle crossing servicing Lot 1 be upgraded by sealing for a distance of 10 metres from the edge of the carriageway seal.

- (b) That the sight lines to the east be improved by the removal of vegetation and cutting back of the bank.
- (c) Prior to undertaking any works engineering plans prepared in accordance with Council's Engineering Standards & Policies 2008 be submitted to Council for approval. All works are to be completed in accordance with the approved plans.

#### 8. **Access to Lots 2, 3 and 4**

- (a) That right-of-way A, including the existing vehicle crossing, be upgraded to improve and delineate the access to the reserve, car park and fire station and to the rural-residential lots. The works are to include realignment of the existing curve, drainage, landscaping, sealing and ground marking.
- (b) That rights of way B, C and D be designed and constructed to the following standards:
  - (i) legal width right-of-way B and C: 6.5 metres;
  - (ii) traffic lane width rights of way B and C: 4.5 metres, sealed surface;
  - (iii) legal width right-of-way D: 5 metres;
  - (iv) traffic lane width right-of-way D: 3.5 metres, sealed surface;
  - (v) seal widening at corners and passing bay;
  - (vi) shoulders 2 x 500 mm metalled;
  - (vii) provision for drainage;
  - (viii) turnouts to be constructed to each allotment.
- (c) Prior to undertaking any works engineering plans prepared in accordance with Council's Engineering Standards & Policies 2008 be submitted to Council for approval. All works are to be completed in accordance with the approved plans.

#### 9. **Fencing**

That the Lot 5 boundary adjacent to Lots 2, 3 and 4 be fenced with a standard post and wire fence.

#### 10. **Existing Overhead Power Lines**

That the existing overhead power lines over the subject land be removed.

#### 11. **Electricity and Telephone**

That Lots 2, 3, 4 and 5 be provided with live underground electricity and telephone connections to the main body of the lot. Written confirmation that the connections have been satisfactorily provided is required from the network authorities.

## 12. Financial and Development Contributions

That a financial contribution be paid as provided by Chapter 16.5 assessed as follows:

- (a) one-third of 5.62% of the total market value (at the date of this consent) of notional building site of 2500 square metres contained within each of Lots 2, 3 and 4.

The Consent Holder shall request the valuation to be undertaken by contacting Council's Administration Officer (Subdivision). The valuation will be undertaken by Council's valuation provider at Council's cost.

If payment of the financial contribution is not made within 2 years of the date of this consent and a revised valuation is required as provided by Rule 16.5.2.4(c) of the TRMP, the cost of the revised valuation shall be paid by the Consent Holder.

### **Advice Note:**

A copy of the valuation together with an assessment of the financial contribution to be paid will be provided to the Consent Holder within 1 calendar month of Council receiving the request to undertake the valuation.

The financial contribution otherwise payable has been reduced by two-thirds in accordance with an agreement with the Tasman District Council in recognition of Lot 5 vesting as a reserve.

### **Development Contributions Advice Note**

Council will not issue the Section 224(c) certificate in relation to this subdivision until all relevant development contributions have been paid in accordance with the Council's Development Contributions Policy under the Local Government Act 2002. The power to withhold a Section 224(c) certificate is provided under Section 208 of the Local Government Act 2002.

The Development Contributions Policy is found in the Long Term Council Community Plan and the amount to be paid will be in accordance with the requirements which are current at the time the relevant development contribution is paid in full. This consent will attract a development contribution in respect of roading for three lots.

## 13. Consent Notices - Lots 2, 3 and 4

The following conditions are to be complied with on a continuing basis by the subdividing owner and subsequent owners and are therefore to be subject to consent notices in accordance with Section 221 of the Act, such notices to be prepared by the Consent Holder.

- (a) That any dwellings be located within the proposed dwelling area shown on the survey plan.
- (b) That there is no more than one dwelling on each allotment.

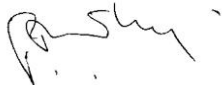
- (c) That the maximum height of any dwelling or accessory building be 5.5 metres above ground level.
- (d) That all dwellings and accessory buildings be finished in recessive colours.
- (e) That the total area of all buildings on an allotment is not be greater than 500 square metres.
- (f) That each dwelling is provided with on-site water storage area of not less than 23,000 litres and whether the storage is provided by an above-ground or an underground tank, the tank is fitted with an accessible 50 mm female thread coupling to enable connection with firefighting equipment and that the water source be supplied from a rainwater supply or a surface water source or a groundwater source that is both reliable and potable.
- (g) That the effluent treatment and disposal system for each dwelling have regard to the On-site Effluent Disposal Report attached to this document and otherwise to comply with the conditions for a permitted activity for the discharge of domestic wastewater under Rule 36.1.4 of the TRMP. Design and certification of the treatment and disposal system is to be undertaken by an appropriately competent person.
- (h) That the stormwater from buildings and hard surfaces be managed and disposed of on-site so that the stormwater discharge complies with the conditions for a permitted activity for the discharge or diversion of stormwater or drainage water under Rule 36.4.2 of the TRMP. Design and certification of the discharge of stormwater is to be undertaken by an appropriately competent person.
- (i) That the foundations of all dwellings be designed and certified by an appropriately competent person.
- (j) That the owners of Lots 2, 3 and 4 shall acknowledge that their properties adjoin a recreation reserve and that certain activities may, from time to time, be undertaken on the reserve land that may adversely impact on their own properties. The owners shall further acknowledge that they shall allow any activity authorised by the Reserves Management Plan to be undertaken on the reserve without interference or restraint.

## **B LAND USE (RM100614)**

For the avoidance of doubt, the land use consent commences on the date of deposit of the survey plan of subdivision.

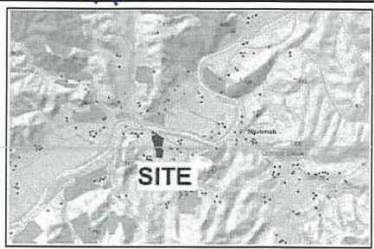
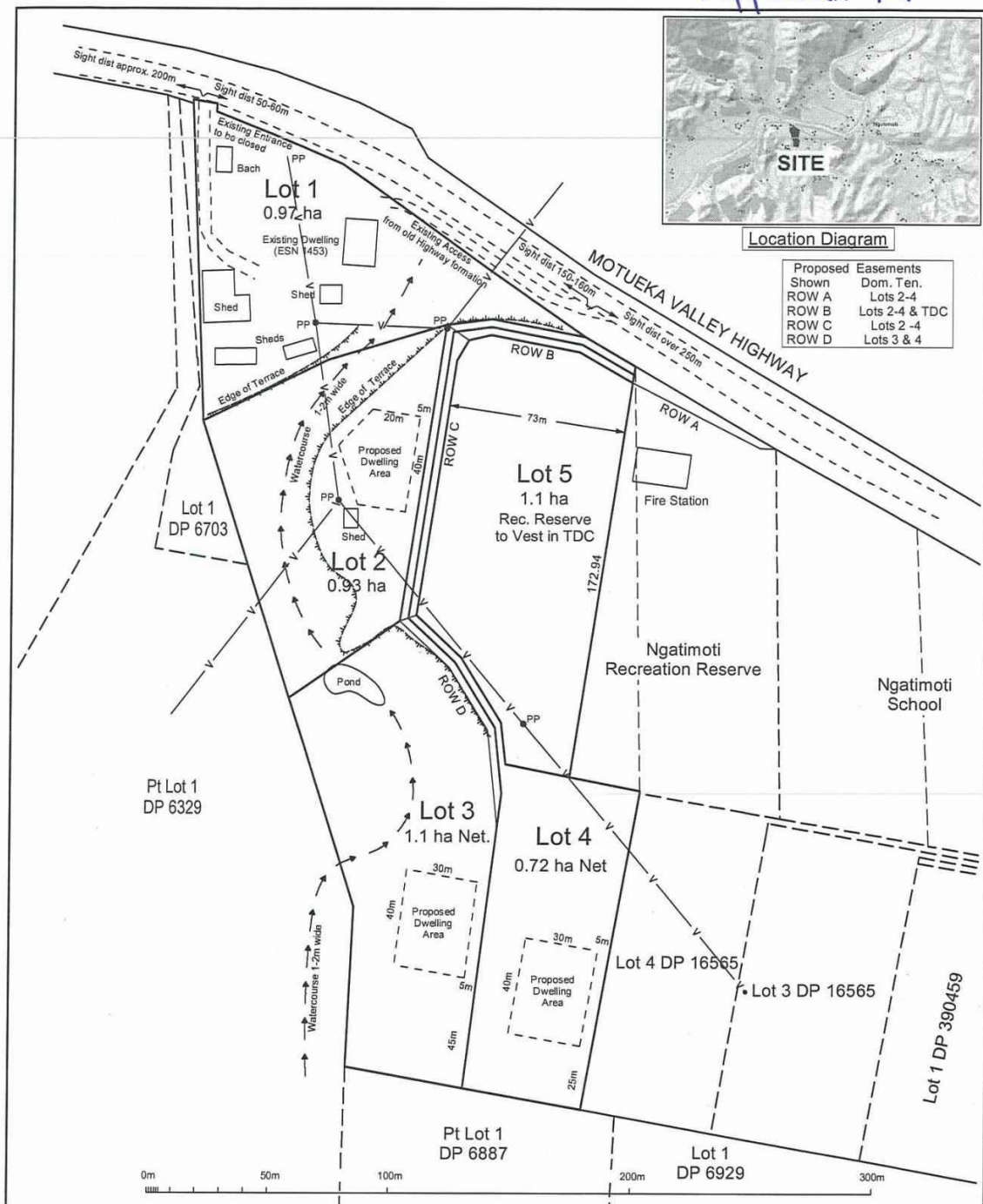
1. That any dwellings be located within the proposed dwelling area shown on the survey plan.
2. That there is no more than one dwelling on each allotment.
3. That the maximum height of any dwelling or accessory building be 5.5 metres above ground level.

4. That all dwellings and accessory buildings be finished in recessive colours that blend in with the local environment.
5. That the total area of all buildings on an allotment is not be greater than 5% of the area of the allotment.
6. That each dwelling is provided with on-site water storage area of not less than 23,000 litres and whether the storage is provided by an above-ground or an underground tank, the tank is fitted with an accessible 50 mm female thread coupling to enable connection with firefighting equipment and that the water source be supplied from a rainwater supply or a surface water source or a groundwater source that is both reliable and potable.
7. That the effluent treatment and disposal system for each dwelling have regard to the On-site Effluent Disposal Report attached to this document and otherwise to comply with the conditions for a Permitted Activity for the Discharge of Domestic Wastewater under Rule 36.1.4 of the TRMP. Design and certification of the treatment and disposal system is to be undertaken by an appropriately competent person.
8. That the stormwater from buildings and hard surfaces be managed and disposed of on-site so that the stormwater discharge complies with the conditions for a Permitted Activity for the Discharge or Diversion of Stormwater or Drainage Water under Rule 36.4.2 of the TRMP. Design and certification of the discharge of stormwater is to be undertaken by an appropriately competent person.
9. That the foundations of all dwellings be designed and certified by an appropriately competent person.



Ross Shirley  
**Subdivision Officer**

Appendix 'A'



**Location Diagram**

Proposed Easements Shown	Dom. Ten.
ROW A	Lots 2-4
ROW B	Lots 2-4 & TDC
ROW C	Lots 2-4
ROW D	Lots 3 & 4

Prepared by Nikkel Surveying  
 PO Box 423 Motueka  
 Ph (03) 528 1015  
 Project No: 1789-SHO


**Proposed Subdivision of  
 Pt Lot 6 DP 16565**

Date: February 2010    Scale: 1: 1500 (A3)    Sheet: 1 of 1

**TDC RM - 100613**

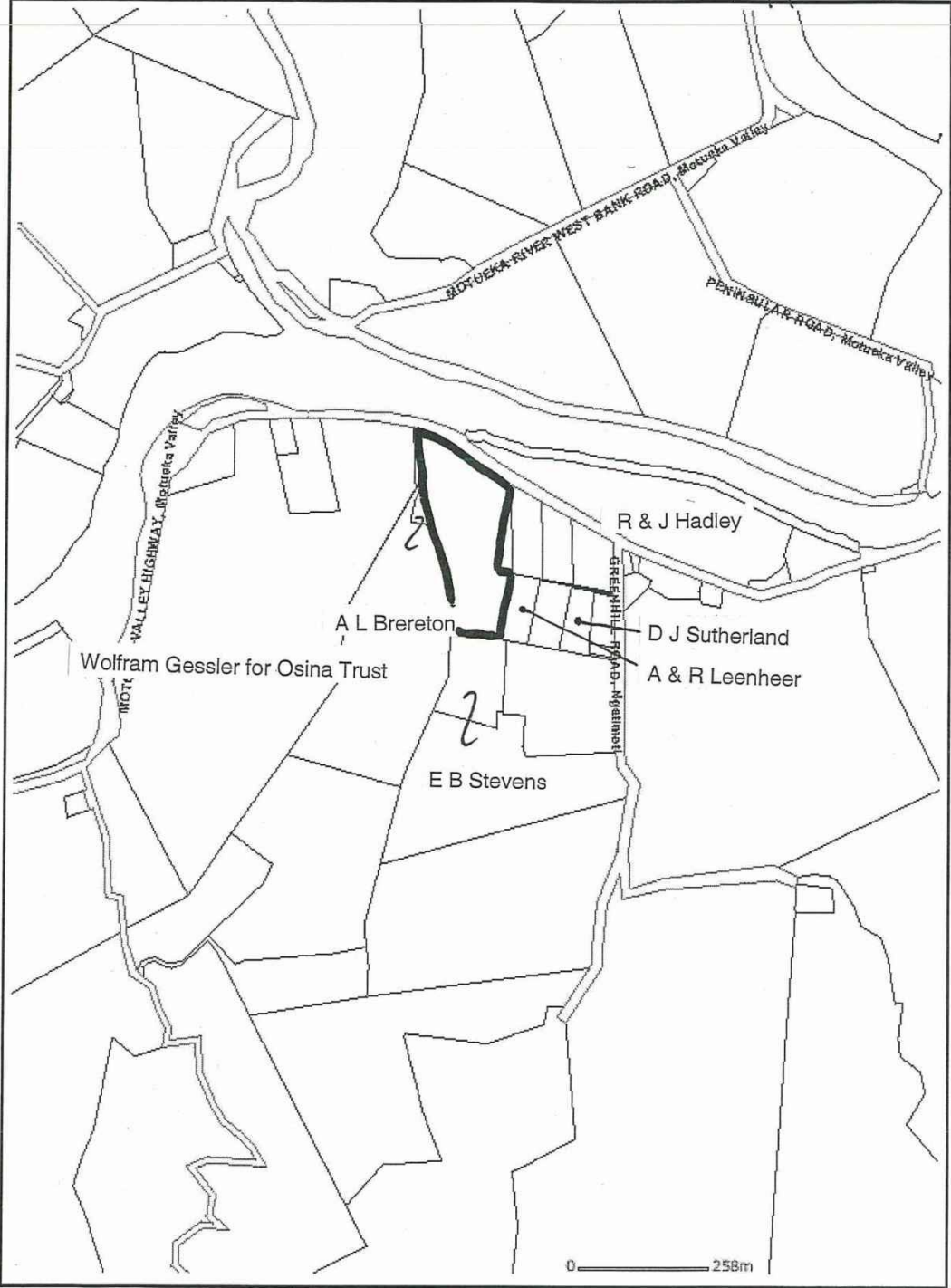
**NOTE:**  
 (1) This plan has been prepared for the purposes of a Resource Consent Application only. It is not a precise survey plan. As areas and dimensions are likely to vary upon survey this plan should not be attached to sale and purchase agreements without an appropriate condition to cover such variations.  
 (2) Verify all dimensions on site.  
 (3) Do not scale from this drawing.

Applicant:  
**P.A. Shortley & N.M. Brown**

No. 1	Amendment Increase Reserve to Vest Lot 1 access	Date Dec 2010
No. 2		Date Dec 2010
		Design
		Drawn
		Checked
		Approved
		Date



Appendix 'B'



Submitters

## Memorandum

**TO:** Ross Shirley  
**FROM:** Andrew Burton  
**DATE:** 23 February 2011  
**FILE NO:** RM100613, RM100614  
**RE:** **P A SHORTLEY & N M BROWN, SUBDIVISION AND LAND USE –  
LAND AND PRODUCTIVITY REPORT**

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The application area comprises of a 5 hectare property of generally flat land situated at Ngatimoti in the Motueka Valley.

Two distinct landscape features exist on the property that strongly influence its productive potential. Alluvial flats exist at the northern and southern end of the property. The soils present on these areas are generally Sherry silt loams. These soils are used in the Motueka Valley and plains area for a variety of intensive land-based uses including horticulture. The northern section (0.7 ha) is covered with a dwelling, bach and numerous sheds and structures. Due to this coverage its productive potential is negligible. The southern section (3 ha) is the only part of the application area that has the potential for intensive productive use. This area has been used for a variety of crops in the past including tobacco, export flowers, hazelnuts, orchard and pasture. The area is small in relation to a typical horticultural block size and as shown in the attached diagram is of irregular shape. These factors would significantly reduce the likelihood of the land being developed and maintained for intensive productive uses although the soils could sustain a variety of intensive uses and would have a class A ranking (*Agriculture New Zealand Classification of Productive Land in the Tasman District*).

These alluvial flats are dissected by a gully system that runs approximately north-south through the property. The potential productive uses of the gully are limited to pastoral or forestry due to topography. The existence of the stream that runs through the gully and its riparian management requirements would limit the area available for these uses. This gully area would have a class E ranking (*Agriculture New Zealand Classification of Productive Land in the Tasman District*).

The application is for the proposed subdivision of the property into 5 blocks ranging from 0.7 ha to 1.1 ha. This would effectively reduce the amount of land available for productive use due to the coverage of land with dwellings, driveways and gardens. This would be a loss of 0.5 hectares of land. The productive potential of the existing property is already compromised due to the small size of the available land (3 ha) and its irregular shape. These already influence strongly the likely uses of the block. Effectively it is currently a "lifestyle block" with very limited potential for intensive productive use.

Andrew Burton  
**Resource Scientist, Land**



## Memorandum

**TO:** Ross Shirley  
**FROM:** Rosalind Squire  
**DATE:** 14 March 2011  
**FILE NO:** RM100613, RM100614  
**RE:** P A SHORTLEY & N M BROWN, PROVISION OF RESERVES

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### 1 INTRODUCTION

- 1.1 The purpose of this report is to provide some background with regard to the consultation and discussions Council reserves staff have had with the Ngatimoti Community Reserve Committee<sup>1</sup> and the applicant and to respond to the issues raised in submissions. The overall merits of the subdivision are not considered.
- 1.2 I have visited and am familiar with the site and surrounding area and have considered the application in the context of existing formed and unformed legal roads and reserves in the vicinity of the site.
- 1.3 The site of the subdivision adjoins the Ngatimoti Recreation Reserve, which is 1.22 hectares in area and contains the Ngatimoti Fire Station, associated parking and turning areas and a mountain bike jump and pump park. The eastern boundary of the Reserve adjoins Ngatimoti School. The principal access to the reserve is located at the north-eastern corner of the property off the Motueka Valley Highway. The reserve also has the benefit of a right of way located at the south-eastern corner of the property off Greenhill Road.
- 1.4 The Resource Consent for the Ngatimoti Fire Station was granted in 2002 and the Code of Compliance was issued in 2006.
- 1.5 The specific policies for the Ngatimoti Recreation Reserve are contained in the Moutere-Waimea Ward Reserves Management Plan (See Attachment 1). The policies allow for "...the development of bowling greens, **providing there is sufficient remaining space on the reserve for the development of playing fields and for the provision for opportunities for informal recreation**".
- 1.6 There is a network of road and esplanade reserves adjoining the Motueka River in the immediate vicinity of the site (see Figure 1). The Peninsula Bridge Recreation Reserve is located approximately 1 kilometre to the east of the site on the left bank of the Motueka River over Peninsula Bridge. The Ngatimoti Bowling Club is located on private land adjoining the Peninsula Bridge Recreation Reserve and Ngatimoti Hall is located at the intersection of Waiwhero Road and the Motueka Valley Highway approximately 1.3 kilometres east of the site.



Figure 1 – Existing Reserves in the immediate vicinity of the site

## **2 THE APPLICATION**

- 2.1 The application as lodged and notified included proposed Lot 5 with an area of 0.9 hectares, which was proposed to be vested as Recreation Reserve in the Tasman District Council (see Figure 2). The vesting of the land was supported by Community Services Staff. It was recognised that the relevant Management Plan allowed for the development of the reserve for a range of uses, but that the range of potential uses was constrained by the size of the existing reserve.

## **3 SUBMISSIONS**

- 3.1 The following is a discussion of the issues raised in submissions, which concern the vesting of reserve and its future use.
- 3.2 **Vesting of Proposed Lot 2 as Recreation Reserve**

A number of submitters (including the Ngatimoti Community Reserve Committee<sup>1</sup>, Ngatimoti Rural Fire Force, Ngatimoti Bowling Club, Allen Brereton, L, R & J Hadley, J Anderson & A Bensemann) submitted that proposed Lot 2 should be (and would be better used if it was) vested as Recreation Reserve in addition to Lot 5.

The reasons stated in support of this were as follows:

- (a) the subdivision provides an opportunity to create an appropriately sized reserve for the community;

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<sup>1</sup> - Ngatimoti Community Reserve Committee Members are Pauline Webby (Chairperson), Pam Coleman (Treasurer), Steve Anderson (Secretary), Madeline Rogers, Allen Brereton, Sally Gorill, Sara Bradshaw, Sally Heron and Anna Melchoirs.

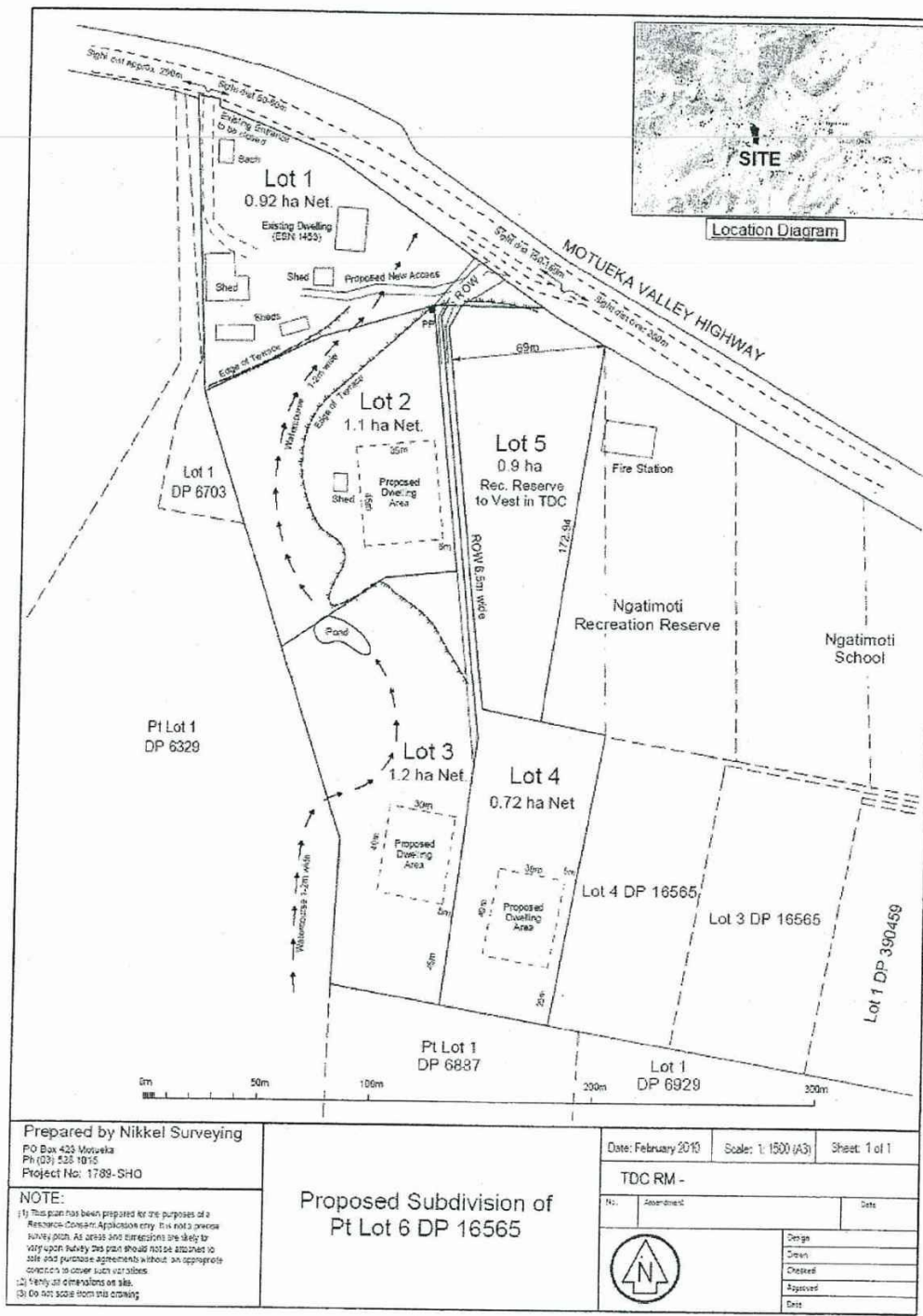


Figure 2 – Subdivision Application Plan as Lodged and Notified

- (b) the existing reserve is very well used as a recreation area by the current population;
- (c) the proximity of the dwelling on proposed Lot 2 will create cross-boundary conflicts; and
- (d) the vesting of additional land would “future proof” the reserve for the growing community.

**Comment:**

*The vesting of additional land was supported in principle by Community Services staff - see Section 4 below.*

**3.3 Setback of Residential Dwellings from Reserve**

A number of submitters requested a minimum setback from the reserve boundary but did not specify what an appropriate setback would be.

**Comment:**

*The Tasman Resource Management Plan requires a 20 metre setback for buildings from Recreation and Open Space Zones. For proposed Lots 3 and 4 it would be appropriate to require a minimum 20 metre setback for buildings from boundaries with the reserve (which will be zoned Recreation once the land is vested and the planning maps are updated to reflect this). However, this may create some difficulties for Lot 2, which currently shows a 11.5 metre setback from the proposed dwelling area from the reserve boundary. It is accepted that this setback may need to be less than 20 metres in this particular circumstance as the constraint has been created by the vesting of additional land for reserve.*

**3.4 Preservation of “Quiet Rural Living”**

Mr and Mrs Leenheer’s submission states that they object to the proposed subdivision unless a number of conditions are met, these include:

- (a) the building of a permanent boundary fence along the entire boundary between the reserve and their property (see Figure 3 below);
- (b) the erection of a sign saying “no radios, please” on the reserve;
- (c) a commitment from Tasman District Council that noise issues will be taken into consideration with the planning and realisation of future activities and development of the reserve; and
- (d) that all motorised vehicles are to stay off the reserve (apart from the car park).

**Comment:**

*Council has previously constructed a gate and fence along the easternmost 20 metres of the boundary between the submitters’ property and the reserve in response to the submitters’ concerns. The submitters’ concerns are noted and Council staff will continue to work with the landowner to respond to their concerns with regard to the ongoing use of the reserve. However, I do not consider that the hearing of this subdivision application is the appropriate forum or mechanism to deal with the submitters’ concerns. The reserve will continue to be utilised for a range of activities, the proposed subdivision will not materially change what is or will occur on the reserve in the short term. In the longer term a range of uses is anticipated by the Management Plan, one or more of which are likely to occur near the submitters’ property regardless of the vesting of additional reserve land.*



Figure 3 – Location of Submitter's Property Boundary to the Reserve

### 3.5 Consent Notice on New Residential Titles

A number of submitters requested the imposition of a consent notice on the new titles "...alerting owners to the reserve and its uses and a no complaints clause included".

**Comment:**

*The applicant has volunteered a restrictive legal instrument on all the new titles with respect to complaints about noise arising from activities which are provided for in the Reserves Management Plan.*

### 3.6 Relinquishing the Existing Right of way in Favour of the Tasman District Council (Easement 335738.3)

Mr Sutherland and Mr & Mrs Leenheer request that the right of way in favour of the Tasman District Council be relinquished.

**Comment:**

*Staff are reluctant to relinquish the use of this right of way for two reasons:*

- (a) *it provides heavy vehicle access to the reserve, which may otherwise compromise the seal on the existing access and parking area (on the few occasions when heavy vehicle access is required); and*
- (b) *although it may not be commonly used at present the right of way provides pedestrian access to the reserve off Greenhill Road for this and the future community.*

3.7 Most of the submitters requested that the application be declined unless it was modified to include additional reserve land and addressed the other issues raised above.

## 4 ADDITIONAL RESERVE LAND

4.1 In response to the submissions requesting that additional land be vested as reserve the Community Services Manager and Reserves Planner met with the applicant to consider the matter. Both the applicant and staff agreed that there would be significant benefits for the



community from some additional land being vested. The location of the proposed access, including the submissions that expressed concern over traffic safety issues, was also raised and the Community Services Manager suggested that, subject to Reserve Committee approval, consideration could be given to an alternative access via a right of way over the reserve.

- 4.2 At that meeting it was agreed that Council staff would indicate how much additional land would be needed in order to accommodate anticipated future activities. A plan was sent to the applicant that included an additional 2000 square metre of land to vest (see Figure 4 below). The applicant agreed to increase the area of land to vest as reserve subject to retaining a smaller proposed Lot 2 in order to ensure the viability of the subdivision.
- 4.3 The applicant then amended the original plan submitted with the application, which had been notified to reflect the additional land to vest (see Figure 5). This plan included an amended access point off the Motueka Valley Highway, which had been suggested in order to reduce the severity of the traffic conflict at the previously proposed access. The plan also included a right of way adjoining the northern boundary of the existing and proposed new reserve areas.
- 4.4 The amended plan was submitted to the Ngatimoti Community Reserve Committee for feedback and a meeting with the Committee, the Community Services Manager and Reserves Planner was arranged. A wide range of issues was discussed at the meeting and the Committee members raised a few issues that needed to be addressed. These included discussion about future parking areas, the removal and reconstruction of some of the landscaping partly within the road reserve and parking and turning area of the reserve, the sealing of the first section of the right of way, the fencing of the reserve/right of way boundary along the western boundary of the extended reserve, possible complaints from new residents adjoining the reserve and the protection (via easement) of an old 150 mm water supply pipe.
- 4.5 The Secretary responded to Council by confirming that the Reserve Committee agreed to the amended proposal in principal subject to a "complaints clause" (This has been addressed in Mr Shirley's report as a recommended consent notice on the title.) They also wanted to retain their ability to be heard at the hearing of the application.
- 4.6 The Community Services Manager, Reserves Planner and Development Engineer then had a final meeting with the applicant to reach agreement on the issues raised by submitters, the Reserve Committee and Council.

Subject to any conditions imposed, if Council is of a mind to grant consent, the applicant and staff agreed in principle to the following:

- (a) that the applicant volunteers a condition requiring the creation of easements protecting the old water supply pipe and with respect to complaints about noise from activities within the reserve, which are provided for in the Reserves Management Plan;



Figure 4 – Amended Plan submitted to applicant for consideration



PDF created with pdfFactory trial version [www.pdffactory.com](http://www.pdffactory.com)

Figure 5 – Amended Plan Showing Additional Reserve Area and alternative ROW

- (b) the Council agrees to allow access to Lots 2-4 across the reserve at its northern boundary;

- (b) the access to Lots 2-4 shall be formed by the applicant and at the applicant's expense with approved plans over the existing and proposed reserve area and sealed at its junction with the existing car park;
- (c) any required alterations to car park and landscaping at the northern boundary shall be undertaken by the applicant and at the applicant's expense to enable direct access to new driveway along the northern boundary (work to include seal, kerbing, drainage, restoration of landscaping, seal marking, etc);
- (d) the applicant shall fence the boundary between the reserve and right of way to Lots 2-4 created by the subdivision;
- (e) the existing access to Lot 1 to be retained and further investigation of remedial work be undertaken to improve sight lines to the east to be undertaken in accordance with engineering report recommendations;
- (f) Lot 5 (1.1 hectares) to be vested in Tasman District Council and gazetted as a Recreation Reserve; and
- (g) in exchange for Lot 5 land Council agrees to grant a right of way for Lots 2-4 across reserve and to waive reserve levies equivalent to 66% of total due for Lots 2-4 (or two out of three new Lots 2-4).

I am happy to answer any questions.

Rosalind Squire  
**Forward Planner, Reserves**

**Ngatimoti Recreation Reserve**

*(listed as "Greenhill Road Reserve" in Guidelines document)*

*Map N2*

Location: .....Motueka Valley Highway, Ngatimoti

Classification: .....Recreation Reserve

Legal Description: .....Lot 1, D.P.17558, & Lot 5, D.P.16565, Block IX,  
Motueka S.D.

Size: .....1.2207 ha.

Management Category.....Rural Recreation and Esplanade Reserves

**Description:**

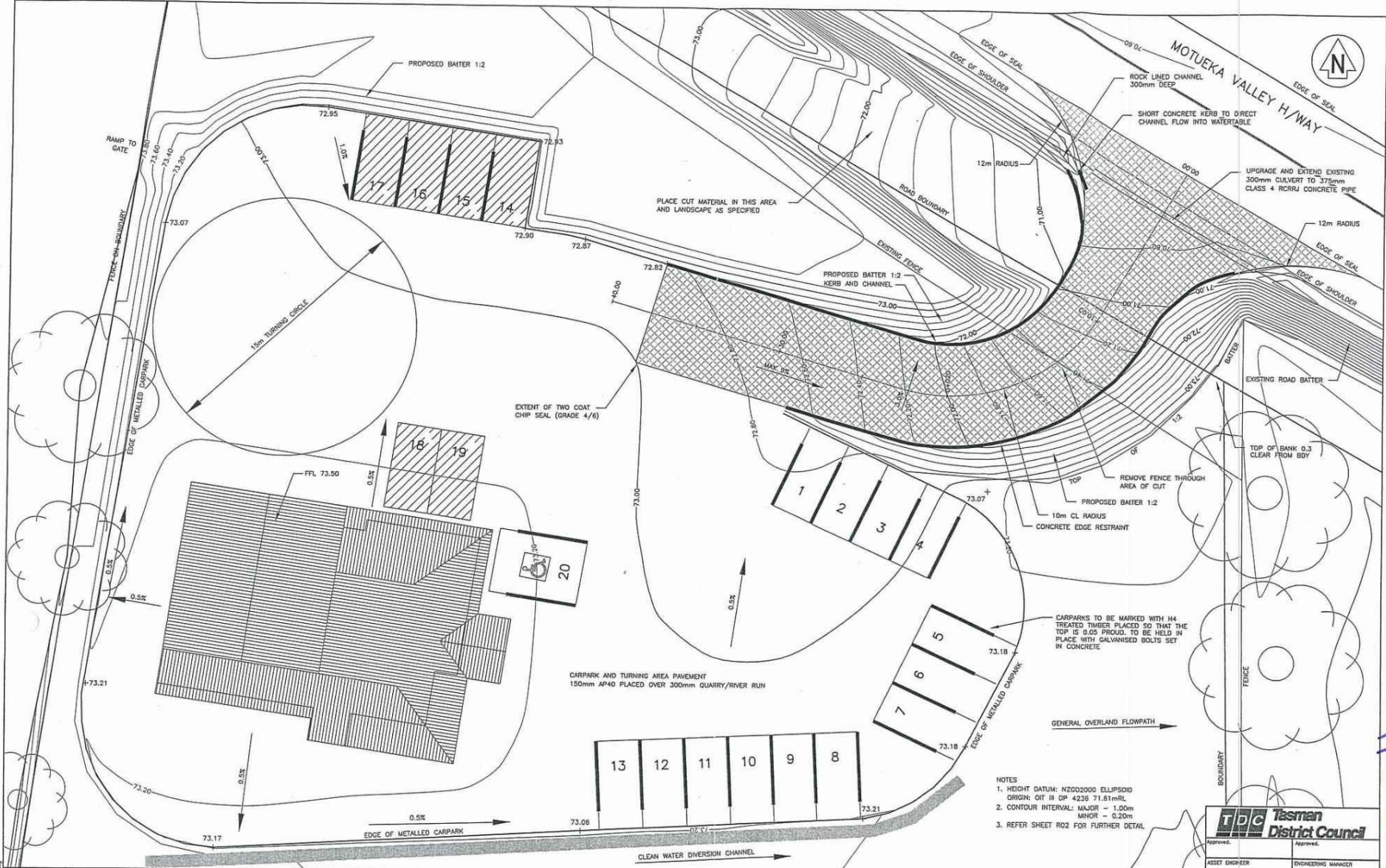
Ngatimoti Recreation Reserve is located on the Motueka Valley Highway adjacent to the Ngatimoti School. The reserve comprises an area of open pasture, with some amenity plantings at the highway entrance to the reserve.

The reserve provides a potentially important area of open space at Ngatimoti, and could accommodate a range of recreational activities. Possible uses of the reserve include the development of playing fields or bowling greens.

**Policies:**

1. Maintain as open space for informal recreation and community use;
2. Allow the development of playing fields;
3. Allow the development of bowling greens, providing there is sufficient remaining space on the reserve for the development of playing fields and for the provision of opportunities for informal recreation;
4. Allow horses on the reserve, but restrict this activity if plants and soil are damaged, or public safety is compromised.

*(Also see General Policies and policies for Rural Recreation and Esplanade Reserves)*



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 Contractor shall verify all dimensions prior to work commencing.  
 This drawing shall be read in conjunction with all relevant documents

Surveyed	PSH	
Designed	GWM	2/2005
Drawn	GWM	4/2005
Checked		
Approved		
Date		

Client:  
**Tasman District Council**

**NEWTON & ASSOCIATES LTD**  
 REGISTERED SURVEYORS

Drawing Title:  
**NEW ACCESS AND CARPARK  
 ENGINEERING PLAN - RM010794  
 COMMUNITY ROOMS AND FRIE STATION**

Project:  
**NGATIMOTI**

Scale (A1): 1 : 100  
 Scale (A3): 1 : 200  
 Issued For: **APPROVAL**

Approved:	Approved:
ASSET ENGINEER	ENGINEERING MANAGER
Date:	Date:
001	Specify carpark marking requirements
No. Revisions:	Date
Project No. <b>N112</b>	Revision: <b>001</b>
Drawing No. <b>R01</b>	

- NOTES
1. HEIGHT DATUM: NZGD2000 ELLIPSOID  
 ORIGIN: OT III DP 4236 71.61mRL
  2. CONTOUR INTERVAL: MAJOR - 1.00m  
 MINOR - 0.20m
  3. REFER SHEET R02 FOR FURTHER DETAIL

Appendix 'E'

## Memorandum

**TO:** Ross Shirley  
**FROM:** Dugald Ley  
**DATE:** 23 February 2011  
**FILE NO:** RM100613, RM100614  
**RE:** **P A SHORTLEY & N M BROWN SUBDIVISION AND LAND USE**

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Here is a short memorandum in regard to engineering comments regarding this subdivision.

Motueka Valley Highway (ie, old State Highway) carries approximately 600 VPD and has a travelling approximate speed environment of 70 km/hr. It has reasonable good road sealed carriageway width however there are a few corners that need to be treated with respect.

The applicant's property is not in an ideal position along the highway where the existing house is located but it has been there for some time and is located next to another access crossing.

The proposed access to the new lots will be via an existing access and crossing to the reserve area and to the fire station complex. That access is formed but in my view needs some slight upgrade to cope with two-way traffic movement at the entrance area and part way up for passing.

Parts of the existing kerb and channel will need to be removed to allow a "straight" through vehicle movement and may compromise some existing car parks.

Right of way B should ideally be sealed to at least 3.5 m in width for approximately 10 m from the end of right of way A. The balance of rights of way B, C and D can be formed to a 3.5 m compacted gravel surface.

The above and below will need to be shown on engineering plans to be approved by Tasman District Council Engineering.

Rather than have a new access on to Lot 1 (the existing house), it is preferred to maintain the existing crossing so that there is no increase in crossings along the highway. I understand that there is an existing convex mirror to aid entry on to the highway and it is reconfirmed that it remains. This entrance should also be sealed at least 10 m onto the site from the existing sealed carriageway.

Stormwater disposal shall be drained from the right of way so that no adverse effects are felt outside the subdivision. Otherwise, normal conditions of consent apply as with a rural residential subdivision in this locality.

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Dugald Ley  
**Development Engineer**