

Report No:	REP11-06-10
File No:	RM110277
Report Date:	16 June 2011
<b>Decision Required</b>	

**Report to:** Environment & Planning Subcommittee  
**Meeting Date:** Monday, 27 June 2011  
**Subject:** WAKATU INCORPORATION  
**Report Author:** Pauline Webby, Consent Planner - Subdivision

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## 1. SUMMARY OF PROPOSAL

The subdivision application RM110277 proposes dividing an existing 6.9 hectare title to create a 2.3 hectare allotment encompassing the existing dwelling and the coolstore (Lot 1), leaving a balance area of 4.6 hectares (Lot 2). Proposed Lot 2 has 66 kV Electricity Transmission Line bisecting the allotment.

The property is located at 278 Whakarewa Street with a vehicle crossing and separate access from Whakarewa Street formed to service the property in accordance with the requirements of RM090063 which includes the Environment Court Consent order requirements.

The balance of the property is planted and set up for Hop production and is currently under lease by Northwood Hops.

- 1.1** The application site is legally described as Lot 1 DP11124 and Lot 1 DP11632 (CFR NL7A/241)

## 2. STATUS OF APPLICATION

Zoning: Rural 1  
Areas: Land Disturbance 1, 66 kV Electricity Transmission Lines

The proposed activity is assessed as a Discretionary Activity under Rule 16.3.5.2 as both Lots 1 and 2 have areas that are less than the minimum size of 12 hectares specified in the controlled activity rules 16.3.5.1.

## 3. NOTIFICATION AND SUBMISSIONS

### 3.1 Written Approvals

Prior to notification no written approvals were received

### 3.2 Notification

The application was fully notified and submissions closed on 24 May 2011. Mr M Whittaker was granted a waiver to enable him to serve his submission up to six working days after the close of the notified submission period.

### 3.3 Submissions

Neutral submissions

Submitter	Reasons	Heard?
Transpower	Potential effects that may arise from further development on proposed Lot 2 in terms of their 66Kva Electricity Transmission Lines	Yes

Submissions in opposition

Submitter	Reasons	Heard?
Mr PLG Canton	Fragmentation loss of site amenity, and commercial reasons	Yes
Mr M Whittaker	Inappropriate subdivision in terms of Part II 6(f) of the RMA, in terms of the historic building on the adjoining property at 276 Whakarewa Street, with comments in support from NZ Historic Places Trust. Using RMA to improve land value Public safety in terms of access	Yes

Mr Canton does not have a property nearby; Mr Whittaker's property location is shown in Appendix A.

## 4. STATUTORY CONSIDERATIONS

### Section 104

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

- Part 2 (Sections 5, 6, 7 and 8)
- Effects on the environment (positive and negative)
- Objectives and Policies of the TRMP
- Other relevant matters: Council history of granting subdivision to provide for the commercial activities relating to packhouses and coolstores associated with horticultural processing.

### Section 106

There are no relevant matters for this proposal.

## 5. SECTIONS 6, 7 AND 8

The following matters are relevant to this application:

## Matters of national importance

- S.6(f) the protection of historic heritage from inappropriate subdivision, use, and development.

## Other matters

- S.7(b) the efficient use and development of natural and physical resources.
- S.7(c) the maintenance and enhancement of amenity values.

## Treaty of Waitangi

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).

## 6. KEY ISSUES

The key issues are:

- Rural Land Productive Values
- Rural amenity
- Heritage building on adjoining property
- Servicing
- Electricity Transmission Lines

### 6.1 Rural Land Productive Values

#### Objectives and Policies relating to Rural Land Productive Values

The underlined terms are defined below).

“High Productive Value” is defined in Chapter 2 of the Tasman Resource Management Plan (TRMP) as:

*“in relation to land, means land which has the following features:*

- (a) flat to gently rolling topography;*
- (b) free-draining, moderately deep to deep soils;*
- (c) moderate to good inherent soil fertility and structure;*
- (d) a climate with sufficient ground temperate, sunshine, available moisture, and calmness to make the land favourable for producing a wide range of types of plants.”*

**Objective 7.1.2** *“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.”*

#### Policies

**7.1.3.1** *To avoid, remedy or mitigate the adverse effects of subdivision of rural land, particularly land of high productive value.*

**7.1.3.2** *To avoid, remedy or mitigate the effects of activities which reduce the area of land available for soil-based production purposes in rural areas.*

**7.1.3.3** *To avoid, remedy or mitigate adverse actual, potential, and cumulative effects on the rural land resource.*

**Objective 7.2.2** *“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.”*

### **Policies**

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

- (a) the productive and versatile values of the land;*
- (d) cross-boundary effects, including any actual and potential adverse effects of existing activities on such future activities;*
- (e) servicing availability;*
- (h) potential for cumulative adverse effects from further land fragmentation;*
- (j) efficient use of the rural land resource;*

**Objective 7.4.2** *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.*

### **Policies**

**7.4.3.1** *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.*

**7.4.3.6** *To ensure that adequate physical or spatial buffers or other techniques are applied when allowing new allotments or buildings primarily or exclusively for residential purposes in rural areas, so that productive land use opportunities are not compromised.*

**Subdivision Schedule matter 16.3.A (1)** *The productive value of the land in Rural 1, Rural 2 and Rural 3 zones, and the extent to which the proposed subdivision will adversely affect it and its potential availability.*

## **6.1.1 Rural Land productive Values assessment**

This section should be read in conjunction with Council’s Resource Scientist-Land’s report attached as Appendix B.

The Tasman Resource Management Plan identifies the land as having Productive Soils Classification of A. This is described more specifically in Council’s Resource Scientist-Land’s report attached as Appendix B.

The creation of an additional allotment with the potential for application to be made some time in the future for a residential activity and dwelling to be built on the new allotment is considered to be fragmentation of highly productive land.

It is acknowledged that the current use as set out in the application is a productive land use and they have no current plans to change that.

The application seeks to separate the coolstore onto its own allotment allowing it to be operated as a stand alone entity. This Coolstore has been in operation since December 1983 and has recently been granted resource consent RM090063 to increase the site coverage over that permitted by the TRMP Rural 1 zone rules for a canopy extension.

The proposed Lot 1 allotment boundaries have not been designed in a manner that solely limits the area being subdivided to the access, dwelling and coolstore area and includes an area currently being utilised for hop production.

Historically, Council has approved a number of subdivisions allowing packhouses/coolstores on Rural 1 land to be separated onto their own certificate of title.

Justification of this has been on the basis that they are ancillary to the productive use and therefore are an integral component of the horticultural industry, and that it was not viable commercially for a number of reasons to operate as part of the orchard itself. Policy 7.2.3.2 would appear to be supportive of this approach.

Generally these consents also included a condition on the Certificate of Title containing the coolstore/packhouse, prohibiting the land from being utilised for any future residential activities.

As new residential activity and or associated dwellings are considered to reduce land available for productive uses and give rise to potential reverse sensitivity issues, a "*no residential activity condition*" was utilised as one mechanism for mitigating that adverse effect.

A list of these historical consents is attached as Appendix D.

Simply stated this could be the only justification for approving the subdivision of this property, otherwise the application represents a fragmentation of highly productive land which the TRMP objectives and policies seek to avoid.

I have had some verbal discussion with Mr Thomas on the potential for the existing dwelling to be retained with Lot 2, albeit this would also require land use consents for setbacks that would not be achieved, some additional easements to ensure RM090063 conditions were maintained and for a "*no residential activity*" restriction to be applied to Lot 1. This conversation was not advanced any further.

## 6.2 Rural amenity

**Objective 5.1.3** *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.*

**Policy 5.1.3.1** *To ensure that any adverse effects of subdivision and development on site amenity, natural and built heritage and landscape values, and contamination and natural hazard risks are avoided, remedied, or mitigated.*

**Objective 5.2.2** *Maintenance and enhancement of amenity values on site and within communities throughout the District.*

### **Policies**

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

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

**Objective 5.3.2** *Maintenance and enhancement of the special visual and aesthetic character of localities.*

**Policy 5.3.3.2** *To maintain the open space value of rural areas.*

**Objective 7.4.2** *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.*

**Policy 7.4.3.4** *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.*

**Subdivision Schedule matter 16.3.A (2)** *The potential effects of the subdivision on the amenity values and natural and physical character of the area.*

### **6.2.1 Rural amenity assessment**

This application in itself does not change the existing amenity and character values on the allotment. But creating the additional allotment with the potential future development of another residential dwelling in this location would. The Rural 1 zone minimum allotment size of 12 hectares does not anticipate a density of dwellings that this proposal would eventually allow.

The development of a residential dwelling also has implications in terms of the potential reverse sensitivity issues limiting rural land use for the surrounding Rural 1 land.

The existing commercial activity on proposed Lot 1 has been in operation since 1983 and has current consent (RM090063) for exceeding coverage rules. The application affirms that the current consent and conditions relating to its operation are not changed by this application.

Any further expansion of the Coolstore on Lot 1 is not considered at this time and would require further resource consent application.

This application in its current form, with the potential for additional residential activity, is considered to have adverse effects in terms of rural amenity and character values for this locality.

### **6.3 Heritage Building (Greenwood House on adjacent property))**

**Objective 10.2.2** *Protection, enhancement and, where appropriate, the management of historic heritage sites, including cultural heritage sites; heritage buildings and structures; and protected trees, for their contribution to the character, identity, wairua, and visual amenity of the District.*

**Policy 10.2.3.1** *To recognise and protect those buildings, objects and places situated in the District that are of historic, architectural or landmark value to the community, assessed according to the criteria in Schedule 10A.*

#### **10.3.30 Principal Reasons and Explanation**

*The value and appreciation of a heritage item can be affected by the spaciousness of its surroundings. When considering proposals for development and subdivision in the vicinity of a listed heritage building, special attention will be given to the need to protect its setting and where appropriate, to prevent the subdivision of its surrounding grounds, especially where there are Category I buildings and/or heritage trees on the site. The subdivision process is seen as an opportunity for securing through covenanting or some similar device, the protection of significant heritage items, for example, natural features.*

#### **6.3.1 Heritage Building Assessment**

The Greenwood heritage homestead (1668 – HPT registration number) is located on the land to the northeast of the application site at 276 Whakarewa Street – refer to plan in Appendix B

It is a Heritage II building identified within Chapter 16 of the TRMP. Mr Whittaker, the current owner has made a submission supported by the Historic Places Trust (HPT), in respect of the potential adverse effects on this property that may arise as a consequence of this application.

The consent for extension of a coolstore canopy was appealed to the environment court and the consent order requirements (Environment Court Consent Order 21/12/10) resulting from that process have been included in RM090063.

One of these requirements was to form a separate access to Whakarewa Street - that has been completed. Both Mr Whittaker and HPT raise concerns that other conditions are not being adhered to. Those concerns are not considered further here as they should be directed to Council's compliance team as a monitoring matter.

The heritage values of the Greenwood house was the justification for the subdivision of this house onto a small allotment (6690m<sup>2</sup>), separating it from the farm in 1976.

That subdivision was granted in 21 October 1976 (T2/9/1/278 - Specified Departure).

Section 4 of the Town Planning report for the Specified Departure Hearing on 27 August 1976 which subsequently approved the subdivision application stated:

*“The proposed area of land around the house is considered necessary to preserve the character and individuality which this dwelling commands.”*

*And in Section 10*

*“In other respects the subdivision is an existing entity within itself and does not affect the surrounding farm land in any way.”*

Part II section 6(f) of the RMA contemplates protection of heritage building from inappropriate subdivision. This endeavours to ensure that the context and setting for a heritage building is appropriate and unless there are wider landscape issues that are integral to the heritage building, the context is considered to be the heritage building's curtilage boundary.

For this property (Greenwood house) the Historic Places Trust and the Council in 1976 considered that the 6690m<sup>2</sup> site provided the appropriate contextual setting for the Greenwood heritage dwelling and ensured the inclusion of trees that were quintessential to the context and worthy of protection themselves.

It is considered that there are other valid reasons why the subdivision may not be viable in terms of the Resource Management Act and the TRMP but the presence of this heritage building is not considered to be one of them. The specific reasons for this is that the property on which the house is located was considered to provide the appropriate context for a building with these heritage values and the proposed Lot 2 is buffered from 276 Whakarewa Street by the existing consented Coolstore which is located on proposed Lot 1. It is not considered that the heritage values of the Greenwood dwelling are affected to any large degree by this application for subdivision.

It is acknowledged that an increase in residential density can change the character of the locality.

## **6.4 Servicing**

### **Objectives and Policies relating to servicing**

**Objective 7.4.2** *“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.”*

**Policy 7.4.3.9** *“To avoid, remedy or mitigate servicing effects of rural subdivision and development, including road access, water availability and wastewater disposal*

### **Subdivision Schedule matters 16.3A relating to servicing.**

8A) *“For water supply, the extent of compliance with the “Drinking Water Standards for New Zealand 1995” or any subsequent replacement of this standard.”*



(10) *“Where wastewater disposal will occur within the net area of the allotment, the extent to which the site and soil assessment, design and construction of the system complies with the AS/NZS 1547; 2000, taking into account the requirements of rules in Chapter 36 regulating the discharge of wastewater.”*

(11) *“The adequate provision of potable water and water for fire fighting.”*

#### **6.4.1 Servicing assessment**

The existing dwelling and the coolstore facility on Lot 1 have existing water supplies, stormwater and wastewater services encompassed within their allotment boundaries.

Telephone and power reticulation exist for the existing buildings on Lot 1.

No provision of services for Lot 2 has been proposed.

Council’s Development Engineer has not raised any issues relating to traffic and access onto Whakarewa Street (Access Road in the TRMP hierarchy). There are good sightlines in both directions and any new access if required would need a new vehicle crossing application at which time formation standards set out in the Engineering standards 2008 and Figure 16.2A TRMP would be required.

### **6.5 Electricity Transmission Lines**

#### **Subdivision Schedule matter 16.3.A**

- (21) (i) *The ability of any earthworks and the construction of any subsequent buildings and structures to comply with the New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP:34 2001). A copy of this document may be obtained from Transpower New Zealand Ltd.*
- (ii) *The ability of any vegetation planted to maintain a minimum 4 metres clearance distance from any transmission line conductors, taking into account the mature height of the vegetation.*

#### **6.5.1 Electricity Transmission Lines Assessment**

The Transpower submission is concerned that potential future building development on the proposed Lot 2 could interfere with their 66Kv Electricity Transmission Lines that bisect Lot 2 and recommend conditions to alleviate this concern.

I agree with the content of the Transpower submission and if the committee should choose to recommend grant then the conditions recommended by Transpower have been included in the conditions of consent within section 9.

### **7. SUMMARY OF KEY ISSUES**

The key issue for the committee to consider is whether a subdivision is justifiable on the basis that a coolstore is an activity which is ancillary to the productive land use and is appropriately located within those productive activities; but for a variety of reasons including commercial rationale requires separation on to its own allotment.

If that is considered justifiable, then should a “no residential activity “condition be applied as a method of mitigation to limit the loss of highly productive land and minimize issues arising from reverse sensitivity effects on adjoining productive land uses.

Other than this rationale this subdivision proposal represents a fragmentation effect that has a detrimental and cumulative impact on loss of the district’s highly productive land.

## **8. SECTION 5 AND RECOMMENDATION**

No recommendation.

As a planner weighing up all of the relevant considerations in terms of Section 5 of the Act, I consider that the considerations are finely balanced.

## **9. CONDITIONS, ADVICE NOTES, PLANS**

### **General**

1. The subdivision shall be undertaken in accordance with the information submitted with the application and in particular with the plan titled, “*Ngatahi Horticulture Coolstore Subdivision* and attached to this consent as Plan A. If there is conflict between the information submitted with the consent application and any conditions of this consent, then the conditions of this consent shall prevail.

### **Easements**

2. Easements shall be created over any services located outside the boundaries of the allotments that they serve as easements in gross to the appropriate authority or appurtenant to the appropriate allotment. The survey plan which is submitted for the purposes of Section 223 of the Act shall include reference to easements.

### **Rural Emanations Easement**

3. A reciprocal rural emanations easement in favour of Lots 1 and 2 DP XXX shall be registered on the title of proposed Lots 1 and 2 DP XXX and the memorandum granting the easement is to be generally in the form attached as Appendix C.

### **Financial Contributions**

4. The Consent Holder shall pay a financial contribution for reserves and community services in accordance with following:
  - (a) the amount of the contribution shall be 5.62 per cent of the total market value of 2,500 square metres (rural)(at the time subdivision consent is granted) of Lot 2;
  - (b) the Consent Holder shall request in writing to the Council’s Consent Administration Officer (Subdivision) that the valuation be undertaken. Upon receipt of the written request the valuation shall be undertaken by the Council’s valuation provider at the Council’s cost;

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

**Advice Note:**

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

**Advice Note:**

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

### **Electricity Transmission Lines**

5. The survey plan which is submitted for the purposes of Section 223 of the Act shall be in accordance with the plan of proposed subdivision submitted with the application except that the survey plan must define and label a consent notice area(s) A comprising a corridor within Lot 2 DPXXX parallel to the Stoke – Upper Takaka A transmission line.
- (a) The limits of this corridor shall be:
- (i) Either, 20 metres measured both sides of the centreline of the transmission line;  
Where option 1(a)(ii) is elected by the subdivider, the assessment must be undertaken by a suitably qualified electrical engineer experienced in high voltage transmission lines, and it must be provided to Transpower for its review and comment at least one month before it is submitted to the Council.
- (ii) Or, the maximum distance of the conductor swing as determined under worst case conditions with an additional safety margin of 3.0 metres lateral distance included, or 12 metres whichever is the greater distance.

### **Consent Notices**

6. The following consent notices shall be registered on the certificate of title for Lot 2 DPXXX pursuant to Section 221 of the Resource Management Act.
- (a) No building or structure shall be constructed within that part of Lot 2 shown as consent notice label A to be inserted Lot 2 DPXXX.
- (b) All land use activities, including the construction of new buildings/structures, earthworks (filling and excavations), the operation of mobile plant and/or the construction of fences on Lot 2 must comply with the New Zealand Code of Practice for Electrical Safe Distances (NZECP 34:2001).

- (c) All trees/vegetation planted or established in the vicinity of any transmission line are limited to those which at a mature height will not encroach upon the relevant growth limit zone [or notice zone] for the line, as defined in the Electricity (Hazards from Trees) Regulations 2003.

**Advice Notes:**

1. As far as Condition 6 above is concerned the following are the most relevant considerations:
  - (a) A minimum clearance of 4 metres is required between mobile plant and overhead transmission lines (Clause 5.2.1 of NZECP 34:2001) <sup>1</sup>;
  - (b) A minimum clearance of 6.5 metres is required between the ground and the conductors on the Stoke – Upper Takaka A transmission line at all times (Table 4 in NZECP 34:2001);
  - (d) Clause 2.2.1 of NZECP 34:2001 outlines restrictions on excavations within 5 metres of a pole or associated stay wire; and,
  - (e) Clause 2.3 of NZECP 34:2001 outlines restrictions on erection of conductive fences on, or within, 5 metres of a pole.
2. Transpower NZ has a right of access to its existing assets situated on Lot 2 under s23 Electricity Act 1992. Any development on Lot 2 must not preclude or obstruct this right of access. It is an offence under s163(f) Electricity Act to intentionally obstruct any person in the performance of any duty or in doing any work that the person has the lawful authority to do under s23 of the Electricity Act 1992.

**Advice Note**

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

**Vehicle Crossing to Lot 2**

7. A vehicle crossing permit for a new vehicle crossing to Lot 2 shall be required from Council's Engineering Department with all conditions of this permit to be completed before the signing of the Section 224 certificate.

**GENERAL ADVICE NOTES**

Council Regulations

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

## Other Tasman Resource Management Plan Provisions

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

## Consent Holder

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

## Development Contributions

4. The Development Contributions Policy is found in the Long Term Council Community Plan (LTCCP) and the amount to be paid will be in accordance with the requirements that are current at the time the relevant development contribution is paid in full. This consent will attract a development contribution on one allotment in respect of roading.



Pauline Webby

**Consent Planner - Subdivision**

Plan A



SCALE 1:1500



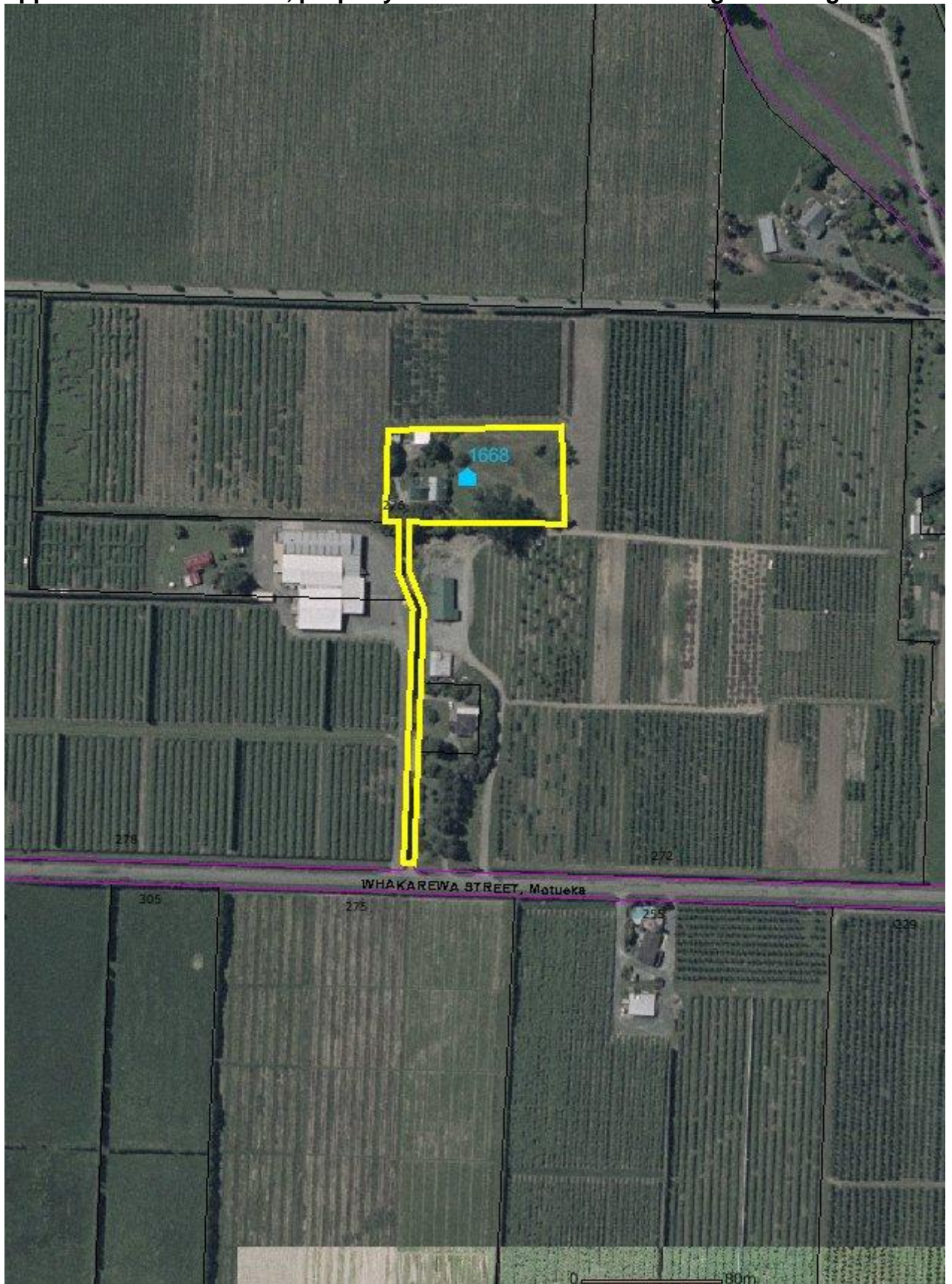
Ngatahi Horticulture Coolstore Subdivision  
**PROPOSED BOUNDARIES**



Legend	
	Title NL7A/241
	Road Boundaries
	Parcel

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Appendix A Mr Whittaker, property location /Greenwood heritage dwelling



**APPENDIX B**

**Soil and Land Productivity Report, Ngatahi Horticulture, RM110277**

The application is to subdivide an existing title of 6.93 hectares situated on the Motueka Plains at Whakarewa Street into two titles.

The land is currently used for horticultural activities and comprises of soils that have high productive value. The soils are mapped<sup>1</sup> as Riwaka silt loams and sandy loams. These soils are recognised as being some of the most productive in the region. The climate in the Motueka area is favourable for a large range of crops. The application area has current water permits for irrigation purposes.

The application proposal is to subdivide the block of land into two. Proposed Lot 1 consists of a coolstore complex that covers approximately 0.7 hectares, horticultural crop of 1.4 hectares and dwelling and associated curtilage covering 0.2 hectares. Proposed Lot 2 consists of approximately 4.6 hectares of horticultural crop. The proposal does lead to fragmentation of the land. The area in horticultural crop has been divided into 2 distinct areas of 4.6 and 1.4 hectares. These two are likely to end up in separate ownership and management in the future. The effect of this is that the economies of scale or primary production based activities would be reduced for both blocks. It is noted that the current block size, of 6.93 hectares, is already small by horticultural "unit" size and its viability is probably dependant on it being managed as part of a bigger enterprise.

Fragmentation of land not only leads to the potential reduction in the economies of scale and opportunities associated with that but also can lead to the subsequent loss of land from production by the coverage of areas with additional buildings, access ways and dwellings. It is possible to control this process by restricting building area through consent conditions. This may be sensible with regard to restricting residential activity on proposed Lot two. However it may not be desirable to restrict future buildings essential for horticultural or other land production based activities such as tractor and implement sheds and processing plants on either block in order to try to maintain their usability. Ultimately additional land will be lost from production for this purpose if subdivision was to occur.

Another effect of reducing the block size relates to their market value. As rural blocks become smaller their market value becomes more strongly influenced by lifestyle values rather than land based production values. Most often the lifestyle value of small blocks is higher than land based production value. Consequently the resulting increase in value usually ends up with a per hectare price beyond levels that would encourage investment for production purposes or at the least making it more financially demanding to produce.

Subdivision of land can have benefits where they rationalize size or shape to enable a greater range of, or potential for, soil –based production activities and these types of subdivision are encouraged through the appropriate policy outlined in the TRMP. The proposal does not demonstrate any benefits in this regard. On the contrary, a small, very productive block will have its economies of scale jeopardised even further by this subdivision and it is more than likely that some, currently, productive land will become unavailable for future productive use due to additional building requirements.

Andrew Burton  
Resource Scientist (Land)  
15 June 2011



**Right to Emit Noise from Hail Cannons and Other Farming Activities/Equipment, Odour from Farming Activities, and Drift from Agricultural and Horticultural Sprays**

**1. Definition**

In this easement the term “authorised farming activities” means all rural activities, including farming and horticultural crop production (and in particular, odour and noise from farming activities, the spraying for weeds and horticultural pests and diseases and the use of hail cannons to protect against hail damage to fruit crops) together with any other activity permitted under the relevant District Resource Management Plan for the time being in force and any existing uses and any activity permitted by any resource consent(s). The term “authorised farming activities” shall also include any other activity ancillary to the activities already defined or necessary therefore.

**2. Rights and Powers**

The owners or occupiers from time to time of the Dominant Tenement shall have the full, free, uninterrupted and unrestricted right, liberty and privilege for themselves and their respective servants, tenants, agents, licensees and grantees from time to time to emit noise from hail cannons and other farming practices and equipment, odour from farming activities, and drift from agricultural and horticultural sprays and to allow such emanations to escape, pass over or settle on the Servient Tenement in the course of the use of the Dominant Tenement for rural purposes with the intent that such aforementioned rights shall run with the Servient Tenement and be forever appurtenant to the Dominant Tenement.

**3. Terms, Conditions, Covenants, or Restrictions in Respect of the Above Easement**

- (a) The owners or occupiers from time to time of the Servient Tenement shall allow authorised farming activities to be carried out on the Dominant Tenement without interference or restraint.
- (b) All noise emitted from hail cannons, and farming practices and equipment shall not exceed the maximum level permitted in any relevant District Resource Management Planning document.

The owners or occupiers from time to time of the Servient Tenement shall not:

- (i) make or lodge; nor
- (ii) be party to; nor
- (iii) finance nor contribute to the cost of;

any submission, application, proceeding or appeal (either pursuant to the Resource Management Act 1991 or otherwise) designed or intended to limit, prohibit or restrict the continuation or recommencement of the authorised farming activities by the owners or occupiers from time to time of the Dominant Tenement.

- (c) The owners or occupiers from time to time of the Dominant Tenement shall at all times use sprays in accordance with usual agricultural and horticultural practices in the District.

**APPENDIX D**  
**Historic Packhouse/Coolstore subdivisions**

RM970537	Tyrella Orchards	<b>Condition</b> No buildings on the site are to be used for residential purposes.	To subdivide Pt Section III Moutere District to create a separate allotment of 6310 square metres to contain an existing packhouse and proposed coolstore, leaving a balance area of 9.49 hectares.	Non complying Public notification Coolstore and Packhouse
RM970498	A Moss	<b>Condition</b> No buildings on the site are to be used for residential purposes.	To subdivide Lot 1 DP 17956 to create a separate allotment of 5755 square metres to contain an existing commercial packhouse and proposed coolstore, leaving a balance area of 9.96 hectares.	Non complying Public notification Coolstore and Packhouse
RM970368	Hoddy	<b>NOTATION only</b> Consent for subdivision has been given on the assumption that the Proposed Lot 1 is to be used solely for a coolstore and packhouse operation and not for residential use.	To subdivide Pt Lots 1 and 2 DP 6776 to create a 1.46 hectare separate title to contain a commercial packhouse and coolstore leaving a balance area of 8.68 hectares on CT 4A/7 and 10.04 hectares on CT 4C/1252. To carry out a minor boundary adjustment with a neighbouring title (4C/1252) leaving new allotments of 8.6811 hectares and 10.0397 hectares (being the balance titles) in orchard use and a packhouse property of 1.529 hectares.	Non complying Delegated authority
RM970194	Hansen	None	To undertake a boundary relocation to subdivide off the commercial packhouse and coolstore on to a 1.04 hectare title prepared Lot 1 and leaving a balance of 15.26 hectares.	Boundary adjustment
RM970314	Johnstone		To subdivide from an 11.2165 hectare property, a 1.35 hectare allotment (proposed Lot 1) containing an existing No building shall be used for residential purposes on the site. The existing bach nearest to the existing packing shed shall only be used as an office/tearoom.	This one is not being used for commercial purpose.
RM980078	Horrell	<b>Condition</b> That no buildings on Lot 2 shall be used for residential purposes.”	To subdivide Lot 1 DP 10863 and Lots 2 and 3 DP 2472 to four allotments being Lot 1 of 1900 m <sup>2</sup> containing an existing dwelling, Lot 2 of 7000 m <sup>2</sup> containing an existing commercial packhouse, Lot 3 of 1920 m <sup>2</sup> , leaving a balance allotment of 16.32 hectares in existing orchard.	Non complying Public notification Coolstore and Packhouse
RM980249	Strong	<b>NOTATION:</b> Consent for subdivision has been given on the assumption that the Proposed Lot 1 is to be used solely for a coolstore and packhouse operation and not for residential use.	To subdivide Lot 7 DP 820 to create a 9100 m <sup>2</sup> separate title to contain a commercial packhouse and coolstore leaving a balance area of 14.5 hectares.	Delegated authority Discretionary