

Report No:	REP11-07-12
File No:	RM110007, RM110008, RM110010
Report Date:	13 July 2011
Decision Required	

Report to: Commissioner Hearing

Meeting Date: 26 July 2011

Subject: ATAMAI TRUST

Report Author: Pauline Webby, Consent Planner - Subdivision

1. SUMMARY OF PROPOSAL

The following report is my assessment of the applications RM110007, RM110008 and RM110010.

It should be noted that the existing suite of consents relating to the granted subdivision RM080626 and subsequent variations have approved Lots 5-8. These allotments also have approved land disturbance and stormwater discharge consents. Hence this report does not make any further assessment of the subdivision of Lots 5 to 8 or of their associated land disturbance and stormwater consents which remain in place.

RM110007 primarily addresses the proposed change in access from the Motueka Valley Highway, to use of the Mytton Heights private way (ROW) for Lots 5-8 (inclusive) and the subdivision assessment criteria for Lots 11 and 12 only.

Included in this report is the assessments associated with RM110008 (Land Disturbance) and RM110010 (Stormwater) relating to proposed Lots 11 and 12.

1.2 Site, Application and Background

The property is located in the Motueka Valley approximately six kilometres from the Motueka township. The property has frontages onto both the Motueka Valley Road and the Mytton Height ROW.

The site faces west with extensive views over the Motueka Valley and the surrounding area. The outlook is rural in its nature with productive and horticultural land uses evident on the river flats and to a lesser extent the hillsides. The ridgeline to the east and above the site has an earlier rural residential development with a cluster of houses along this ridge visible from both Motueka Valley and the Motueka township side.

The Mytton Heights ROW currently provides access for 18 allotments.

The west facing hillside is segmented into small catchments draining into small ephemeral streams that eventually feed to the Motueka River. The existing dam was upgraded during 2010 under the consent granted for RM080725 to allow for mitigation of stormwater discharges from the original subdivision granted (RM080626 and subsequent variations 1-5 and 7). Existing culverts drain water from the site under the right-of-way to small open water course and via existing culverts under the Motueka Valley Road to an ephemeral stream; these culverts also drain storm water runoff from the Mytton Heights right-of-way.

The first stage of site works and associated land disturbance has been undertaken and completed for early stages of RM080626V7 and RM100439. These are now well established and stable with no visible signs of any sedimentation outside the site. Earlier planting established across the property and within gullies is visible and well established.

1.1 Legal Description

The application site is legally described as Lot 12 Deposited Plan 428120 and Lot 1 Deposited Plan 421225, comprised in CFR 511851.

2. STATUS OF APPLICATION

Zoning: Rural residential (Pangatotara)
Areas: Land disturbance 2

Activity	Relevant permitted rule	Applicable rule	Status
Subdivision in rural residential (Pangatotara) zone	Nil	16.3.8.4	Discretionary
Transport	16.2.2.1	16.2.2.6	Restricted discretionary
Earthworks	18.5.2.1	18.5.3.3	Restricted discretionary
Discharge Stormwater	36.1.4	36.4.4	Discretionary

Overall the proposal is a Discretionary Activity.

Subdivision Consent (110007)

A subdivision application which creates Lots 5-8 (already approved by RM080626V7) and two new allotments Lot 11 (5035 m²) and Lot 12 (5250 m²).

To provide access from Lots 5-8 and 12 from proposed right-of-way (ROW) B1 to Mytton Heights right-of-way.

To provide access from Lot 11 from right-of-way (ROW) B2 and B3 to Mytton Heights right-of-way.

Land Use Consent (Application RM110008)

To undertake earthworks for Lots 11 and 12 for the construction of rights-of-way, private driveways, building platforms, to the extent not already covered by RM080636.

Discharge Permit (Application RM110010)

To discharge stormwater collected from buildings, roads and stormwater detention ponds associated with the subdivision described above RM110007 for Lots 11 and 12 to the extent not already covered by RM080639. This application covers stormwater discharges during both the construction period and also the post-construction period to an unnamed tributary of the Motueka River.

3. NOTIFICATION AND SUBMISSIONS

3.1 Written Approvals

Prior to notification no written approvals were received.

3.2 Notification

The application was limited notified to all known existing owners and occupiers using the Mytton Heights ROW:

- C V Lee, 128 Mytton Heights
- G D Lart, LP Soares, Mytton Heights
- R G and I J Thorn, 126 Mytton Heights
- J and W K Wells, 88 Mytton Heights
- T B Liebich and P H Brine, 86 Mytton Heights
- CAL and [N] Davidson, Mytton Heights
- P and G R Butterfield, Mytton Heights
- GDA and MRW Edwards, 66 Mytton Heights
- G J and R J Bodsworth, 90 Mytton Heights
- P G and J P Hansen, 98 Mytton Heights
- P I and H G Arthur, 58 Mytton heights
- K Heissner, 58A Mytton Heights
- J Heissner, Mytton Heights
- WHH Heinigen, Mytton Heights
- Medipsych, Mytton Heights

3.3 Submissions

Submissions in support

Submitter	Reasons	Heard?
J Heissner, (Regali Tedechi Trust)	Less impact on public and Mytton heights users, safer traffic solution, less impact on environment, neighbour hood and rural amenity.	Yes

Medipsych Ltd	Safer access, less environmental damage than current improved ROW B	Yes
ACHE Trust (WHH Heinigen)	Safer access, less environmental damage	Yes

Submissions in opposition

Submitter	Reasons	Heard?
P and GR Butterfield	Against the use of the Mytton Heights right-of-way by more users, does not respect their property rights, has adverse effects on their amenity. (see full submission)	Yes
TB Liebich and PH Brine	Against the use of the Mytton Heights right-of-way by more users, does not respect their property rights, has adverse effects on their amenity. (see full submission)	No
Mr Arthur	Against the use of the Mytton Heights right-of-way by more users, does not respect their property rights, has adverse effects on their amenity. (see full submission)	No
Note: the above is a brief summary the full submissions should be read to understand the submitter's position.		

The locations of the submitters in relation to the application are shown in Appendix A. Site A is Ms Leibich and Mr Brine, Site B is Mr and Mrs Butterfield, Site C is Mr Arthur.

3.4 Comments on Submissions

The submissions received in opposition all raised the issue of the legality of the applicant and whether it was a person for the purposes of the Act (RMA). This issue was addressed by Council's Resource Consent Manager Mr Phil Doole and an extract of his response to the following submitters (Mr Brine, Mr Butterfield, Mr Arthur) and the Mytton Heights users who raised this issue but did not provide any submission (Mr Wells, Mr and Mrs Davidson,) is quoted below.

"...confirmed by the records on the official register of Trusts, is that Atamai Village Council now named Atamai Trust is one and the same entity, with a name change. Regarding the three current applications, we accept that the new name Atamai Trust should have been used - by the consultant who prepared and lodged the application, and in the subsequent notification paperwork issued by Council. However, as I have said, Council is satisfied that the applicant is Atamai Trust (formerly named the Atamai Village Council) which is a legal entity with a certificate of incorporation."

Extracted from; Email correspondence from Mr Phil Doole to Mr P Brine and Mr G Butterfield, dated June 28, 2011.

There were also specific issues raised about the right-of-way easements granted over ownership strips and no build covenant areas.

The submission received from Mr and Mrs Butterfield requires some clarifications, these are as follows:

1. In their submission under Introduction section (b)(i)" it is stated: *"This submission relates to: the application to vary existing consents (RM080639) relating to access to Lots 5-8....."*

The correct number referred to should be RM080626 (now RM080626V7) rather than 080639. The current suite of applications RM110007, 110008 and 110010 are new applications rather than a section 127 change of conditions of RM080626(V7).

However if these applications are granted they would effectively replace the approved RM080626V7 in relation to Lots 5-8 only. A consequential variation to RM080626V7 would be then required to remove reference to Lots 5-8.

2. Section (b)(iii)states: *"the proposal to designate a building site on Lot 11, which intrudes into a covenanted no-build area."*

The Lot 11 building site does not intrude into the covenanted no build area, see attached Appendix B. The no build area covenant has been respected.

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
- Legal rights conferred by the easement

Section 105

For RM110010 there no stormwater discharges to water that will breach Section 15 of the RMA as a resource consent application for the stormwater discharge associated with Lots 11 and 12 has been applied for.

Section 106

The allotments (Lots 11 and 12) created by RM110007 are not subject to any known natural hazards and sufficient provision is being made for legal and physical access to each allotment to be created by this subdivision.

Section 107

For RM110010 there no stormwater discharges to water that will breach Section 15 of the RMA or contravene any criteria set out in section 107 of the Act.

5. SECTIONS 6, 7 AND 8

Other matters

- S.7(b) the efficient use and development of natural and physical resources.

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:

- Access onto Mytton Heights
- Stormwater discharge and servicing
- Land disturbance

6.1 Key Issue 1 - Access to and from the Mytton Heights right-of-way (Lots 5-8, 11 and 12).

This section addresses the effects that arise from six additional users having access to and from the Mytton Heights right-of-way.

Objective 11.1.2-A *safe and efficient transport system, where any adverse effects of the subdivision, use or development of land on the transport system are avoided, remedied or mitigated.*

Policy 11.1.3.4-*To avoid, remedy or mitigate adverse effects of traffic on amenity values.*

Subdivision Schedule matter 16.3A

(34) *The degree of compliance with provisions of the current Tasman District Council District Engineering Standards, or the ability to achieve acceptable standards by alternative means.*

(45) *Provision for the vesting of road reserves for the purpose of facilitating connections to future road extensions to serve surrounding land.*

6.1.1 Assessment of access

Right-of-way easement

The land encompassed within Lot 12 DP 428120 and Lot 1 (CFR 511851) has a right-of-way easement over the access strips that form Mytton Heights right-of-way as set out in Easement Certificate 343856.6.

There are no limits on how this existing right-of-way can be utilised except those specified under Schedule 5 of the Property Law Act 2007, with no specific measures limiting how Mytton Heights private way could be utilised (such as limits in vehicle movements or private use) included in the easement documents apart from a clause requiring easement holders to relinquish their easements should Council wish to vest Mytton Heights private way as public road.

Vesting of areas as road reserve

The scheme plan has indicated the reserving of land that may be required to be vested in the future for the upgrade of the Motueka Valley Road and intersection with Mytton Heights ROW which is consistent with the outcomes anticipated in schedule 16.3. Council's Development Engineer has confirmed acceptance of this and advises that Council would require vesting rather than other mechanisms.

ROW B1 formation

The right-of-way access road has been designed to meet the required standards specified in the Tasman Resource Management Plan. Council's Development Engineer has confirmed that he has no issues with the design or the formation parameters. Further checks will be undertaken at the time Engineering Plans are submitted.

Evidence of the Council's Transportation Manager

The assessment of the effects that may arise from the addition of a further six users on Mytton Heights right-of-way is covered within the Council's Transportation Manager evidence which is attached as Appendix C.

The Mytton Heights right-of-way history is as follows:

- Initially subdivision consent 93-0189, right-of-way was formed.
- RM940202 subdivision increased the users on the right-of-way to 10 and road was upgraded to road standards via approved engineering plans (TDC 4534).
- RM950537 subdivision increased the users on the right-of-way to 11.
- Pangatotara Rural residential zone created, decision 224.1, dated 10/10/1998.
- RM000414 subdivision additional 5 Lots, increased the users on the right-of-way to 16. Council sought to have ROW vested as road, users asked that the ROW remain with increased users
- RM100439 additional 2 users on the right-of-way.

6.2 Key Issue 2 - Stormwater discharge and servicing for Lots 11 and 12 only

Objective 33.3.2 - Stormwater discharges that avoid, remedy or mitigate the actual and potential adverse effects of downstream stormwater inundation, erosion and water contamination.

Policy 33.3.3.4-To avoid, remedy or mitigate the potential for flooding, erosion and sedimentation arising from stormwater run-off.

Policy 33.3.3.9-To require the use of low impact design in the management of stormwater discharges in any new development, where practicable.

Policy 33.3.3.11-To take into account the long-term management of stormwater drainage in consideration of land development, including subdivision and land-use changes

Subdivision Schedule matter 16.3A

- (8) 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.
- (43) The effect of roads and private vehicular access on waterways, ecosystems, drainage patterns or the amenities of adjoining properties.
- (27) The actual and potential adverse effects of the subdivision in terms of existing catchment drainage characteristics, stormwater flow, erosion and sedimentation, and stormwater quality, including the following:
 - (i) The extent to which all stormwater drainage features that form part of the stormwater drainage network are physically and legally protected from future development that may adversely affect the efficient functioning of the network.
 - (ii) The extent to which the subdivision design has taken into account changes in land cover; and the proposed measures to avoid, remedy or mitigate the effects of those changes on stormwater flows and water quality.
 - (iii) The degree to which the subdivision has used Low Impact Design solutions in the management of stormwater.
 - (iv) The degree of maintenance or enhancement of natural drainage characteristics in the overall subdivision design and allotment layout.
 - (v) The regard for existing and reasonably expected future land-use changes within the catchment of the subdivision.
 - (vii) The degree to which water conservation principles, such as rainwater collection and stormwater detention, have been applied to the subdivision design.

(viii) *The methods proposed to avoid damage to downstream properties from altered stormwater flows and effectiveness of those methods.*

6.2.1 Assessment of services and stormwater discharge

Water Supply Potable and Fire-fighting (Lots 11 and 12 only)

The applicants have volunteered water storage of 46 000 litres for each dwelling that exceeds the TRMP standards.

Wastewater (Lots 11 and 12 only)

Engineer design has confirmed that the wastewater systems and associated discharge to land will be able to meet the TRMP permitted standards for each allotment.

Stormwater Discharge (Lots 11 and 12 only)

The report by Engineering Sustainable Solutions (ESS) Ltd confirms that the stormwater proposal aims to achieve no increase in the discharge to the tributary of the Motueka River that flows under the Mytton Heights private way and the Motueka Valley road via a 900 mm culvert. Each dwelling is required to have 46,000 litres rainwater storage and includes a detention volume (9000 litres) and rain gardens to further mitigate stormwater runoff, ensuring there is no increase in stormwater runoff over and above the existing situation. The further landscape plantings will also further decrease the runoff coefficient over time.

Council's Resource Scientist has provided the following commentary:

"I have reviewed the applications and associated reports relating to Lots 5-8 and proposed Lots 11 and 12. I am satisfied that the measures outlined in the ESS Ltd report relating to earthworks and stormwater management continue to appropriately and satisfactorily address the potential adverse effects of the development of additional Lots 11 and 12."

Power and Telephone Assessment

The Application does not propose connection to the national grid power supply, instead proposes consent notices requiring each dwelling to have roof mounted photo voltaic panels. The applicants are not providing telephone connections to the boundary but have now redesigned to accommodate the telecommunications alternatively allowing other available options to be utilised. If purchasers of the allotments wish to have a service from Chorus's existing Motueka Valley service they can do so at their own cost. Consent notices have been volunteered alerting future owners that provision of telephone is their responsibility

Provided there are adequate legal instruments, such as Easements and consent notices which are recommended as conditions of consent if granted, the adverse effects of servicing are considered to be minor.

6.3 Key Issue 3 - Land disturbance effects for Lots 11 and 12 only

Objectives and Policies relating to Access

Objective 12.1.2-*The avoidance, remedying, or mitigation of adverse effects of land disturbance, including:*

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

Policy 12.1.3.1-*To promote land use practices that avoid, remedy, or mitigate the adverse effects of land disturbance on the environment, including avoidance of sediment movement through sinkholes into karst systems.*

Subdivision Schedule matters 16.3A

- (33) The adequacy of provisions for management of construction and site works, including an environmental management plan, to avoid or mitigate any adverse effects from noise, dust, stormwater and silt run-off, and the clearance and disposal of vegetation and other waste.*
- (23) The extent to which any earth cut or fill will remove existing vegetation, alter existing landforms, affect water quality, or affect existing natural features, such as water courses.*
- (24) The extent to which any cut or fill can be restored or treated to resemble natural landforms.*
- (25) The extent to which the earthworks will have an adverse visual effect on the surrounding area.*

6.3.1 Assessment (Lots 11 and 12 only)

The report by Engineering Sustainable Solutions (ESS) Ltd provided significant controls and volunteered conditions in relation to the matters which Council has control over in terms of the land disturbance works associated with the subdivision development for Lots 11 and 12.

These matters include: Location, timing of construction and design of earthworks, control of sediment generation during and post works, visual impact, dust, instability, hours of operation, disposal of waste material and re-establishment of bare earth. Engineering Plans will be required and this control further ensures the engineering design ensures any adverse effects managed and mitigated on site.

Further each building platform and associated works will be undertaken at the time of building construction rather than simultaneously with the subdivisional works. There are conditions volunteered which require the Subdivision engineer and contractors to undertake this work to further provide consistency of the quality of the work and to mitigate potential adverse effects.

The land disturbance works have a stringent of level control remaining with Council and the engineers ensuring that management of the works is undertaken and any effects mitigated to a degree that is less than minor, this coupled with the staged approach further limiting this potential for adverse impact on other parties.

Construction works in themselves are of a temporary and limited duration with landscaping already well underway and more proposed it is anticipated with time that the grazed pasture and cutover pine hillside will have a changed and improved vegetation cover.

Council's Resource Scientist has provided the following commentary:

"I have reviewed the applications and associated reports relating to Lots 5-8 and proposed Lots 11 and 12. I am satisfied that the measures outlined in the ESS Ltd report relating to earthworks and stormwater management continue to appropriately and satisfactorily address the potential adverse effects of the development of additional Lots 11 and 12."

6.4 Key issue 4 - Amenity

Objectives and Policies relating to amenity

Objective 5.1.2 - 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.

Policy 5.1.3.5-To ensure that the characteristics, including size, soil type and topography of each lot of any proposed subdivision or built development are suitable for sustainable on-site treatment of domestic waste in unreticulated areas, particularly in areas where higher risks of adverse effects from on-site disposal of domestic wastewater exist.

6.3.1 Assessment (Lots 11 and 12 only)

Lots 11 and 12 both have areas exceeding the controlled standard of 5000 m² for this zone. While the shape of the Lot 11 allotment is irregular it makes good use of a building platform that overlooks the reformed pond area providing a building site with

good amenity values. Both allotments have practical access and identified building sites that are consistent with the zone anticipated outcomes.

The report by Engineering Sustainable Solutions (ESS) Ltd confirms that stormwater and wastewater disposal can be managed within each allotments boundary.

7. SUMMARY OF KEY ISSUES

The subdivisional, land disturbance and stormwater discharge issues are not revisited for Lots 5-8.

For proposed Lots 11 and 12 it is considered that the outcomes are consistent with those anticipated by the Rural Residential (Pangatotara) zoning.

Council's Resource Scientist has confirmed that the land disturbance management and stormwater discharge mitigation is appropriate for Lots 11 and 12.

Considering the impact of access onto the Mytton Heights right-of-way for six additional users is the main focus of this application, refer to the evidence from Council's Transportation Manager for the reasoning in support of this.

8. SECTION 5 AND RECOMMENDATION

As a planner weighing up all of the relevant considerations in terms of Section 5 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** that the application(s) be **GRANTED**, subject to conditions.

9. CONDITIONS, ADVICE NOTES, PLANS

RM110007 - Subdivision

1. The subdivision shall be undertaken in general accordance with the information submitted with the application for consent and the following plans and reports entitled:
 - (a) Plan prepared by Davis Ogilvie titled "*Proposed Subdivision of Lot 1 DP4212250*", Project Number 25225 dated 1 December 2010, attached as Plan A;
 - (b) Report by Geologic Ltd, titled: "*Geotechnical Investigation Proposed 6 Lot Subdivision Atamai Village, Motueka Valley Highway*" dated November 2010;
 - (c) Report by Engineering Sustainable Solutions (ESS) Ltd, titled: "*Proposed Subdivision of Lot 1 DP4212250 for Atamai Land Trust at Motueka Valley - Engineering Report*" dated November 2010;
 - (d) Further information report for stormwater by Engineering Sustainable Solutions (ESS) Ltd, titled: "*Additional Stormwater calculations*" dated October 2008;

- (e) Further information report for stormwater by Engineering Sustainable Solutions (ESS) Ltd, titled: "*Stormwater report and calculations*" dated August 2008.

If there is any conflict between the information submitted with the consent application and any conditions of this consent, then the conditions of this consent shall prevail.

Staging

2. To stage the subdivision consent RM110007 as follows:
 - (a) Stage 1A: ROW B1
 - (b) Stage 1B: Lots 5 and 6
 - (c) Stage 1C: Lots 7 and 8
 - (d) Stage 1D: Lots 11 and 12

Advice Note:

The order of commencement and completion of Stages 1A, 1B, 1C and 1D is interchangeable, so long as legal and practical vehicular access within ROWs B1-B3 is provided for the respective allotments within each stage.

Building Location Areas

3. The Consent Holder shall, prior to Section 223 approval, centre peg the building platform areas shown on Lots 5 to 8, Lots 11 and 12, on the scheme plan. These building location areas shall each have a diameter of 30 metres.

Easements

4. Easements are to be created over any services located outside the boundary of the allotment that they serve. Reference to easements is to be included in the Council resolution on the title plan and endorsed as a Memorandum of Easements.
5. Easements shall be created over any rights-of-way and shall be shown in a Schedule of Easements on the survey plan submitted for the purposes of Section 223 of the Act. Easements shall be shown on the land transfer title plan and any documents shall be prepared by a solicitor at the Consent Holder's expense.
6. Reference to easements shall be included in the Council resolution on the Section 223 certificate and shown in a memorandum of easements on the survey plan required by Section 223 of the Act.

Rights-of-way and Access Formation

7. All earthworks for the formation of rights-of-way shall be carried out in accordance with the conditions of RM110008 (land disturbance consent).

8. Right-of-way B1 shall be sealed from the edge of the seal to Mytton Heights right-of-way, with the seal being a minimum 6.0 metres width for a distance of 15 metres from the road edge, thereafter a minimum 3.5 metres lane plus gravel shoulders on each side together with side drains draining to an approved system, and with suitable passing bays provided in accordance with figure 16.2A of the Tasman Resource Management Plan.
9. The right-of-way B1 shall be formed so that it extends to, and smoothly adjoins the existing carriageway to Mytton Heights ROW, including as it must be more or less level for a distance of 10 metres from the edge of the seal.
10. The right-of-way B1 shall be constructed in accordance with the information contained within reports by Report by Geologic Ltd, titled: "*Geotechnical Investigation Proposed 6 Lot Subdivision Atamai Village, Motueka Valley Highway*" dated November 2010 and by Engineering Sustainable Solutions (ESS) Ltd, titled: "*Proposed Subdivision of Lot 1 DP421225 for Atamai Land Trust at Motueka Valley - Engineering Report*" dated November 2010;
11. Stormwater from the ROW B1 shall be directed to discharge points that are authorised by discharge consents RM080639 and RM110010 and in accordance with report by Engineering Sustainable Solutions (ESS) Ltd, titled: "*Proposed Subdivision of Lot 1 DP4212250 for Atamai Land Trust at Motueka Valley - Engineering Report*" dated November 2010.
12. Culverts as required under the rights-of-way, together with secondary flow paths, shall be appropriately designed to Council's Engineering Standards & Policies 2008, or as otherwise approved by Council's Engineering Manager.
13. ROW B1 shall be formed at a maximum grade of 1-in-6 with an all-weather surface and access to the boundary of each of Lots 5-8, 11 and 12 prior to section 224 approval.

Water Supply

14. Water storage for Lots 5-8, 11 and 12 shall be in accordance with the report by Engineering Sustainable Solutions (ESS) Ltd, titled: "*Water supply and onsite wastewater systems, for proposed Subdivision of Lots 2, 3, 4 and 12 DP 428120 for Atamai Land Trust at Motueka Valley - Engineering Report*" dated September 2010.

Advice Note:

Consent notices requiring each lot to have access to 46 000 litres of water are required by Condition 25.

Commencement of Works and Inspection

15. No works shall begin on-site until the engineering plans have been approved pursuant to Condition 17

16. The Council's Engineering Department shall be contacted at least five working days prior to the commencement of any engineering works. In addition, five working days notice shall be given to the Council's Engineering Department when soil density testing, pressure testing, beam testing or any other major testing is undertaken.

Advice Note:

Prior to the commencement of work the Consent Holder and its representatives may be invited to meet with Council staff to discuss the work to be undertaken including (but not limited to) roles and responsibilities, timing of the works and reporting.

Engineering Works and Plans

17. Engineering plans detailing all works and services for each respective stage shall be submitted to the Council's Engineering Manager and approved prior to the commencement of any works on each of Stages 1A to 1D of the subdivision. All plans shall be in accordance with either the Council's Engineering Standards & Policies 2008 or else to the satisfaction of the Council's Engineering Manager. The plans shall include (but not necessarily be limited to):

- (a) all roading and associated works as set out in Conditions 7 to 13;
- (b) stormwater culverts.

Advice Note:

For the avoidance of doubt, with regards to engineering plans to Council, engineering plans can be submitted separately as they relate to each stage. Council's engineers have advised that stormwater should relate to each discrete stage.

18. Engineering plans shall not be approved until the Management Plan required by consent RM110008 and RM080636V1 (Land Disturbance Consents) has been submitted and approved.
19. All works shall be done in accordance with the approved engineering plans.

Engineering Certification

20. At the completion of works, a suitably experienced chartered professional engineer or registered professional surveyor shall provide the Council's Engineering Manager with written certification that all works, including culverts, have been constructed in accordance with the approved engineering plans and the conditions of this consent.
21. Where fill material is, as part of developing this subdivision, placed on any part of Lots 5-8, 11 and 12 a suitably experienced chartered professional engineer shall certify that the filling has been placed and compacted in accordance with NZS 4431:1989 Code of Practice for Earth Fill for Residential Development. The certification shall, as a minimum, be in accordance with Appendix A of that standard.

22. "As-built" plans of all engineering works (all services, roading, etc) shall be provided to and approved by the Council's Engineering Manager prior to the lodgement of a Section 223 survey plan so that easement areas can be accurately determined.

Stormwater

23. New culverts shall be provided under the Motueka Valley Road if required to increase the flow capacity to serve the altered rainfall run-off for the catchments affected by this subdivision. This requirement will be confirmed by Council's Engineering Manager at the engineering plan stage of the subdivision.

Financial Contributions

24. 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 (at the time subdivision consent is granted) of a notional 2500 square metre building site within each of Lots 5-8, 11 and 12.
 - (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 Notes:

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

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.

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.

Consent Notices (Volunteered)

25. The following consent notices shall be registered on the certificate of title for Lots 5 to 8, 11 and 12 pursuant to Section 221 of the Resource Management Act. The consent notices shall be prepared by the Consent Holder's solicitor and submitted to Council for approval and signing. All costs associated with approval and registration of the consent notices shall be paid by the Consent Holder.
- (a) The location of any new dwelling or habitable building (including sleepouts) on the property shall be within the Building Location Area shown on Title Plan DPXXX.
 - (b) On completion of the earthworks for construction on building platforms on each allotment, and prior to building consent application being submitted to Council, certification from a chartered professional engineer or geotechnical engineer experienced in the field of soils engineering (and more particularly land slope and foundation stability) confirming that the building platform is suitable for the erection of residential buildings shall be submitted to the Council's Engineering Manager. The certificate shall define on each lot within the building location area that is suitable for the erection of residential buildings and shall be in accordance with Schedule 2A of NZS 4404:2004 Land Development and Subdivision Engineering.

Advice Note:

Any limitations identified in Schedule 2A may, at the discretion of the Council, be the subject of a consent notice pursuant to Section 221 of the Resource Management Act 1991 prior to the issue of the Section 224(c) certificate. This consent notice 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.

This consent notice acknowledges that the Consent Holder has engaged geotechnical engineer advice in selection of the building location areas on the scheme plan, but that their earthworks will not occur as part of the subdivisional construction works and therefore certification of the building platforms prior to Section 224 approval to the subdivision is inappropriate. Each building platform and associated earthworks will be undertaken by the allotment's owner prior to building consent application,

- (c) The owner shall for any earthworks involved in forming a building site, property access and terracing/recontouring comply with the conditions of RM110008 (Land Disturbance Consent), including the Construction, Erosion and Sediment Management Plan prepared under that consent.
- (d) Any recommendations or recommended conditions resulting from the engineering certification required under Conditions 17-19 above shall be identified as consent notices pursuant to Section 221 of the Act.

- (e) The wastewater treatment system shall be in accordance with the report by Engineering Sustainable Solutions (ESS) Ltd, titled: *“Proposed subdivision of Lot 1 DP 421225 for Atamai Village Council”* at Motueka valley” dated November 2010. The onsite wastewater treatment and disposal system shall be designed by, and its construction supervised and certified by a suitable qualified and experienced person.
- (f) The owner shall comply with all conditions of the applicable stormwater discharge consents.

Advice Note:

The stormwater discharge consent is held in the name of Atamai Trust and includes discharge from individual allotments and the common land holdings.

- (g) Each lot shall be provided with a lower rainwater detention tank and water storage of 23,000 litres and an upper rainwater detention tank and water storage of 23,000 litres to be located in accordance with the report by Engineering Sustainable Solutions (ESS) Ltd, titled: *“Proposed subdivision of Lot 1 DP 421225 for Atamai Village Council”* at Motueka Valley” dated November 2010. Water storage tanks shall as far as is practicable be buried within the ground for the purposes of minimising their visual effects.
- (h) Roof-mounted photovoltaic panels are required as no national power grid supply is provided.
- (i) A level hard stand area shall be provided and kept clear at each dwelling site for use by firefighting vehicles.
- (j) Installation of fireplaces or burners in dwellings shall be restricted to low emission models only.
- (k) It is the responsibility of the registered proprietor of Lots 5-8, 11 and 12 DP XXX to provide telephone servicing which has not been provided at the time of subdivision.

Hours of Construction and Works Activity

- 26. Works and construction activity associated with this consent shall be limited to between 7.30 am and 6.00 pm daily, excluding Saturdays, Sundays and public holidays.

Council Regulations

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

Other Tasman Resource Management Plan Provisions

- 2. Any activity not covered in this consent shall either comply with:

- (a) the provisions of a relevant permitted activity rule in the Tasman Resource Management Plan; or
 - (b) the conditions of separate resource consent for such an activity.
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.
 4. Access by the Council’s officers or its agents to the property is reserved pursuant to Section 332 of the Resource Management Act 1991.
 5. Pursuant to Section 127 of the Resource Management Act 1991, the Consent Holder may apply to the Consent Authority for the change or cancellation of any condition of this consent.
 6. The Council draws your attention to the provisions of the Historic Places Act 1993. In the event of discovering an archaeological find during the earthworks (eg, shell, midden, hangi or ovens, garden soils, pit depressions, occupation evidence, burials, taonga, etc) you are required under the Historic Places Act, 1993 to cease the works immediately until, or unless, authority is obtained from the New Zealand Historic Places Trust under Section 14 of the Historic Places Act 1993.

RM110008 - Land Disturbance Conditions

Activity authorised by this consent:

To undertake earthworks for Lots 11 and 12 for the construction of rights-of-way, private driveways, building platforms, to the extent not already covered by RM080636V1.

1. The earthworks shall be undertaken in accordance with the documentation submitted with the application and consent conditions listed in this resource consent document. Where consent conditions conflict with information submitted with the application, the consent conditions shall prevail.
2. The earthworks shall be carried out in general accordance with the application and plans submitted by Planscapes (NZ) Ltd on behalf of Atamai Village, including reports and plans by:
 - (a) Plan prepared by Davis Ogilvie titled “*Proposed Subdivision of Lot 1 DP4212250*”, Project Number 25225 dated 1 December 2010, attached as Plan A;

- (b) Report by Geologic Ltd, titled: *“Geotechnical Investigation Proposed 6 Lot Subdivision Atamai Village, Motueka Valley Highway”* dated November 2010;
- (c) Report by Engineering Sustainable Solutions (ESS) Ltd, titled: *“Proposed Subdivision of Lot 1 DP4212250 for Atamai Land Trust at Motueka Valley - Engineering Report”* dated November 2010;
- (d) Further information report for stormwater by Engineering Sustainable Solutions (ESS) Ltd, titled: *“Additional Stormwater calculations”* dated October 2008;
- (e) Further information report for stormwater by Engineering Sustainable Solutions (ESS) Ltd, titled: *“Stormwater report and calculations”* dated August 2008.

unless inconsistent with the conditions of this consent, in which case these conditions shall prevail.

- 3. A copy of this resource consent shall be available to contractors undertaking the works, and shall be produced without unreasonable delay upon request from a servant or agent of the Council.
- 4. The Consent Holder shall appoint a representative(s) prior to the exercise of this resource consent, who shall be the Council’s principal contact person(s) in regard to matters relating to this resource consent. At least 10 days prior to beginning the works authorised by this consent, the Consent Holder shall inform the Council’s Co-ordinator of Compliance Monitoring of the representative’s name and how they can be contacted within the works period. Should that person(s) change during the term of this resource consent, the Consent Holder shall immediately inform the Co-ordinator and shall also give written notice to the Co-ordinator of the new representative’s name and how they can be contacted.

Council’s Co-ordinator Compliance Monitoring shall also contact engineering staff at the same time to ensure any works commencement is done in conjunction with the approved engineering plans associated with RM110007.

- 5. The Consent Holder shall carry out operations in accordance with the provisions of the approved Construction, Erosion and Sediment Management Plan (Condition 33).
- 6. If excavations reveal adverse ground conditions, such as the presence of soft and/or water-saturated ground or layers of plastic clay, a chartered professional engineer practising in geotechnical engineering or an experienced engineering geologist must be engaged to evaluate ground conditions.
- 7. All the works shall be supervised by a Chartered Professional Engineer.
- 8. Contractors and staff carrying out the work shall be experienced and trained in erosion and sediment control.

Advice Note:

Contractors and staff should be familiar with guidelines of the Technical Publication No. 90 "Erosion and Sediment Control" (Auckland Regional Council) or other similar guidelines.

Contaminant Management

9. The Consent Holder shall undertake all practicable steps to minimise the effect of any contaminant discharges to the receiving environment.
10. The Consent Holder shall ensure that any discharge of contaminants onto or into land or water from any activity is avoided, remedied or mitigated to ensure no contaminants are present at a concentration that is, or is likely to have, a more than minor effect on the environment.
11. No petrochemical or synthetic contaminants (including but not limited to oil, petrol, diesel, hydraulic fluid) shall be released into water from equipment being used for the activity and no machinery shall be cleaned, stored, or refuelled within 5 metres of any watercourse.
12. Only fuels, oils and hydraulic fluids associated with the operation, and in the volumes required, may be stored on-site. Such substances shall be stored in a secure and contained manner in order to prevent the contamination of adjacent land and/or waterbodies.
13. The Consent Holder shall notify the Council as soon as is practicable, and as a minimum requirement within 12 hours, of the Consent Holder becoming aware of a spill of hazardous materials, fuel, oil, hydraulic fluid or other similar contaminants. The Consent Holder shall, within seven days of the incident occurring, provide a written report to the Council, identifying the causes, steps undertaken to remedy the effects of the incident and any additional measures that will be undertaken to avoid future spills.
14. Should the Consent Holder cease or abandon work on-site, it shall first take adequate preventative and remedial measures to control sediment discharge, and shall thereafter maintain these measures for so long as necessary to prevent sediment discharge from the site. All such measures shall be of a type, and to a standard, which are to the satisfaction of Council's Co-ordinator Compliance Monitoring.
15. Prior to bulk earthworks commencing for each construction phase within the subdivision, the Consent Holder shall submit to the Council's Co-ordinator Compliance Monitoring, a certificate signed by an appropriately qualified and experienced engineer to certify that the appropriate erosion and sediment control measures have been constructed in accordance with the Construction, Erosion and Sediment Control Plan (Condition 33) and the conditions of this consent. The certified controls shall include, where relevant, diversion channels, sediment fences, decanting earth bunds and sediment retention ponds. The certification for these measures for each construction phase shall be supplied to the Council's Co-ordinator Compliance Monitoring.

16. All disturbed vegetation, soil or debris shall be handled so that it does not result in diversion or damming of any river or stream. All stockpiled material shall be banded to protect against stormwater erosion.
17. All disturbed vegetation, soil or debris shall be disposed of off-site or stabilised to minimise the risk of erosion. All other waste materials shall be disposed of off-site at premises licensed to receive such materials.
18. All practical measures shall be taken to ensure that any dust created by operations at the site and vehicle manoeuvring (in accessing the site and driving within it) shall not, in the opinion of Council's Co-ordinator Regulatory Services, become a nuisance to the public or adjacent property owners or occupiers. The measures employed shall include, but are not limited to, the watering of unsealed traffic movement areas, roadways and stockpiles as may be required.
19. Topsoil and subsoil shall be stripped and stockpiled separately. This shall then be re-spread at completion of the works.
20. The Consent Holder shall take all practical measures to limit the discharge of sediment with stormwater run-off to water or land where it may enter water during and after the earthworks.

Advice Note:

In particular, the key earthworks should be carried out during fine weather periods when the likelihood of erosion and sedimentation will be least.

21. The discharge of stormwater shall not cause in the receiving water any of the following:
 - (a) the production of any visible oil or grease films, scums or foams, or conspicuous floatable or suspended material;
 - (b) any emission of objectionable odour;
 - (c) the rendering of freshwater unsuitable for bathing;
 - (d) the rendering of freshwater unsuitable for consumption by farm animals; and
 - (e) any adverse effect on aquatic life.
22. The Consent Holder shall monitor weather patterns during the construction phase and works shall be discontinued and appropriate protection and mitigation measures put in place prior to heavy rainfalls and floods reaching the site works.
23. The Consent Holder shall stop construction in heavy rain when the activity shows sedimentation that is more than minor in the view of the Council's Compliance Officer.

24. Sediment controls shall be implemented and maintained in effective operational order at all times.

Advice Note:

Appropriate sediment control equipment including erosion protection matting and batter covers should be kept on site for use in minimising potential sedimentation problems from areas of exposed soil.

25. All erosion and sediment control measures shall be inspected after any major rainfall event and any problems shall be rectified within 24 hours required.
26. All exposed ground shall be revegetated within 12 months of completion of the works so that erosion/downhill movement of soil is limited as much as is practical. This shall include supplemental planting of appropriate vegetation that enhances the stability and minimises surface erosion.

Culverts

27. All culverts within drains shall be armoured at the outlet to protect against erosion.
28. No significant erosion, scour or deposition shall result from the placement of culverts.
29. The Consent Holder shall ensure that for the duration of this consent any debris build-up is removed and ensure scour protection measures are installed and maintained at the inlet and outlet of all culverts.
30. Any culverts within watercourses shall be constructed to allow fish passage both up and down stream.

Roading and Access Tracks

31. The water table, cut-offs and culverts shall be constructed and installed to prevent scour, gullyng or other erosion for the formed or constructed surface.
32. All batters shall be constructed to avoid batter failure.

Construction, Erosion and Sediment Management Plan

33. Prior to undertaking any activities authorised by these consents, the Consent Holder shall prepare a Construction, Erosion and Sediment Management Plan. Works shall not commence before these plans have been approved by the Council's Co-ordinator Compliance Monitoring.

Advice Note:

The Consent Holder for the subdivision earthworks intends to prepare a Construction, Erosion and Sediment Management Plan that will serve both the subdivision and residential earthworks processes. The residential earthworks compliance with the Construction, Erosion and Sediment Management Plan is required within RM110007 (Subdivision Consent) Condition 25, by Consent Notice (c).

34. The Construction, Erosion and Sediment Management Plan required by Condition 33 shall comply with the relevant conditions of the resource consents RM110008 and RM080636V1.

The Construction, Erosion and Sediment Management Plan may be amended as the Consent Holder considers appropriate during the period of these consents. Any changes to the Construction, Erosion and Sediment Management Plan shall be made in accordance with the methodology and approved procedures set out in Condition 37 and shall be confirmed in writing by the Consent Holder following consultation with the Council's Co-ordinator Compliance Monitoring.

Changes to the management plan shall not be implemented until authorised by the Co-ordinator Compliance Monitoring.

35. The consents (RM110008 and RM080636V1) shall be exercised in accordance with the Construction, Erosion and Sediment Management Plan prepared by the applicant in accordance with these conditions.
36. At any time during the period of these consents, a copy of the latest version of the management plan shall be on site and available to all relevant staff.
37. The Construction, Erosion and Sediment Management Plan required by Condition 33 shall set out the practices and procedures to be adopted in order that compliance with the conditions of the consent can be achieved, and in order that the effects of the activity are minimised to the greatest extent practical. This plan shall, as a minimum, address the following matters:
- (a) description of the works;
 - (b) engineering design details;
 - (c) silt and dust control during earthwork stages;
 - (d) temporary activities and equipment storage in specified areas;
 - (e) construction programme including timetable, sequence of events and duration; including any landscaping;
 - (f) construction methods and equipment to be used;
 - (g) dust sources and potential impact during construction;
 - (h) methods used for dust suppression during construction activities;
 - (i) location, design operation and maintenance of stormwater run-off controls and sediment control facilities;
 - (j) detailed specifications of the diversion of any water bodies including channel configurations and rehabilitation measures;
 - (k) detailed specifications of the spoil storage and stabilisation;

- (l) construction method for watercourse crossings;
- (m) staff and contractor training;
- (n) traffic management and property access management;
- (o) contingency plans (eg, mechanical failures, oil/fuel spills, flooding, landslips);
- (p) public access, community information and liaison procedures;
- (q) complaints and reporting procedures;
- (r) cultural and archaeological protocols (including discovery protocols);
- (s) assessment and monitoring procedures;
- (t) methodology and approval procedures for making changes to the Construction, Erosion and Sediment Management Plan.

Advice Note:

The following are the general principles that should be adhered to when writing and implementing the Construction, Erosion and Sediment Management Plan:

- (a) minimise the disturbance to land;
- (b) stage construction;
- (c) protect steep slopes;
- (d) protect watercourses;
- (e) stabilise exposed areas as soon as possible;
- (f) minimise the run-off velocities;
- (g) revegetate as soon as possible;
- (h) install perimeter controls and protect disturbed areas from run-off sourced above site;
- (i) employ detention devices;
- (j) take the season and weather forecast into account;
- (k) use trained and experienced contractors and staff;
- (l) update the plan as the project evolves;
- (m) assess and monitor;

- (n) keep on-site run-off velocities low by the use of the following: contour drains, retention of natural vegetation, provision of buffer strips of vegetation, low gradients and short slopes, control anticipated erosion and prevent sediment from leaving the site.

Monitoring

- 38. The Consent Holder shall contact Council's Co-ordinator Compliance Monitoring at least 24 hours prior to commencing works for monitoring purposes.
- 39. The Consent Holder shall ensure that the site is left in a neat and tidy condition following the completion of the works.

Hours of Construction and Works Activity

- 40. Works and construction activity associated with this consent shall be limited to between 7.30 am and 6.00 pm daily, excluding Saturdays, Sundays and public holidays.

Review Conditions

- 41. The Council may review any or all of the conditions of the consent pursuant to Section 128 of the Resource Management Act 1991 for all or any of the following purposes:
 - (a) to deal with any adverse effect on the environment which may arise from the exercise of the consent that was not foreseen at the time of granting of the consent, and which is therefore more appropriate to deal with at a later stage; and/or
 - (b) to review the contaminant limits, loading rates and/or discharge volumes and flow rates of this consent if it is appropriate to do so; and/or
 - (c) to review the frequency of sampling and/or number of determinands analysed if the results indicate that this is required and/or appropriate;
 - (d) to require consistency with any relevant Regional Plan, District Plan, National Environmental Standard or Act of Parliament.

Expiry

- 42. The residential (Lots 11 and 12) earthworks component of this consent will apply to each of the individual titles for Lots 11 and 12, therefore for each certificate of title the land disturbance consent will expire three years from the issue of each of the respective titles for Lots 11 and 12.

ADVICE NOTES

- 1. Officers of the Council may also carry out site visits to monitor compliance with resource consent conditions.

2. The Consent Holder should meet the requirements of the Council with regard to all Building and Health Bylaws, Regulations and Acts. Building consent will be required for these works.
3. Access by the Council or its officers or agents to the property is reserved pursuant to Section 332 of the Resource Management Act.
4. All reporting required by this consent should be made in the first instance to the Council's Co-ordinator Compliance Monitoring.
5. 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:
 - (a) comply with all the criteria of a relevant permitted activity rule in the Tasman Resource Management Plan (TRMP);
 - (b) be allowed by the Resource Management Act; or
 - (c) be authorised by a separate resource consent.
6. Plans attached to this consent are (reduced) copies and therefore will not be to scale and may be difficult to read. Originals of the plans referred to are available for viewing at the Richmond office of the Council. Copies of the Council Standards and documents referred to in this consent are available for viewing at the Richmond office of the Council.
7. Monitoring of this resource consent will be undertaken by the Council as provided for by Section 35 of the Act and a one-off fee has already been charged for this monitoring. Should the monitoring costs exceed this fee, the Council reserves the right to recover these additional costs from the Consent Holder. Costs can be minimised by consistently complying with conditions, thereby reducing the necessity and/or frequency of Council staff visits.

RM110010 Conditions

Activity authorised by this consent

To discharge stormwater collected from buildings, roads and stormwater detention ponds associated with the subdivision described above RM110007 for Lots 11 and 12 to the extent not already covered by RM080639V1. This application covers stormwater discharges during both the construction period and also the post-construction period to an unnamed tributary of the Motueka River.

1. The Consent Holder shall ensure that all works are carried out in general accordance with the application and plans submitted by Planscapes (NZ) Ltd on behalf of Atamai Village, including reports and plans by:
 - (a) Plan prepared by Davis Ogilvie titled "*Proposed Subdivision of Lot 1 DP4212250*", Project Number 25225 dated 1 December 2010, attached as Plan A;

- (b) Report by Geologic Ltd, titled: *“Geotechnical Investigation Proposed 6 Lot Subdivision Atamai Village, Motueka Valley Highway”* dated November 2010;
- (c) Report by Engineering Sustainable Solutions (ESS) Ltd, titled: *“Proposed Subdivision of Lot 1 DP42 12250 for Atamai Land Trust at Motueka Valley - Engineering Report”* dated November 2010;
- (d) Further information report for stormwater by Engineering Sustainable Solutions (ESS) Ltd, titled: *“Additional Stormwater calculations”* dated October 2008;
- (e) Further information report for stormwater by Engineering Sustainable Solutions (ESS) Ltd, titled: *“Stormwater report and calculations”* dated August 2008.

unless inconsistent with the conditions of this consent, in which case these conditions shall prevail.

2. The stormwater disposal system will be designed in accordance with Council’s Engineering Standards & Policies 2008 (or the most recent version). If the Consent Holder chooses to install a system that does not comply with Council’s Engineering Standards & Policies 2008 (or the most recent version) then written approval to do so must be obtained from the Council before the design is submitted for approval. Detailed design of the stormwater for each allotment shall be supplied with any building consent application.
3. The stormwater disposal system shall not cause any damming or diversion of floodwaters that may affect adjoining properties. To achieve this, the Consent Holder shall ensure adequate on-site disposal of roof and surface waters is provided through an appropriate stormwater drainage system.
4. The Consent Holder shall install two rainwater storage tanks each with minimum capacity of 23,000 litres each. Stormwater from the roof area shall be piped to the stormwater tanks and the outfalls shall discharge to adjacent gullies or the right-of-way drain. These discharge points shall be constructed to avoid any erosion.
5. A stormwater cut-off drain shall be provided 3 metres upslope of the top of the cut slope for the building platform to prevent stormwater from upslope flowing over the cut slopes. These drains shall drain towards the right-of-way drain and proposed culverts. No stormwater shall be allowed to discharge over fill material.
6. The discharge shall not cause the production of conspicuous oil or grease films, scums or foams, or floatable or suspended material in any receiving water.
7. The discharge or diversion shall not cause or contribute to erosion of land, including the bed of any stream or drain.
8. The discharge shall not cause or contribute to any damage caused by flooding.

Hours of Construction and Works Activity

9. See RM110008 (Land Disturbance Consent).

Expiry

10. This consent expires 35 years from the date that it is granted (per Section 123(d) of the Resource Management Act 1991).

Advice Note:

This is the maximum duration allowed under Section 123 of the Resource Management Act 1991.

Review

11. Council may, for the duration of this consent and within three months following the anniversary of its granting each year, review the conditions of the consent pursuant to Section 128 of the Resource Management Act 1991 to:
 - (a) deal with any adverse effect on the environment which may arise from the exercise of this consent that were not foreseen at the time of granting of the consent, and which it is therefore more appropriate to deal with at a later stage; and/or
 - (b) require the Consent Holder to adopt the best practical option to remove or reduce any adverse effects on the environment resulting from the discharge; and/or
 - (c) require compliance with operative rules in the Tasman Resource Management Plan or its successor; or
 - (d) require consistency with any relevant Regional Plan, District Plan, National Environmental Standard or Act of Parliament.

ADVICE NOTES

1. Officers of the Council may also carry out site visits to monitor compliance with resource consent conditions.
2. This consent must be read in conjunction with RM110008.
3. The Consent Holder should meet the requirements of the Council with regard to all Building and Health Bylaws, Regulations and Acts.
4. Access by the Council or its officers or agents to the property is reserved pursuant to Section 332 of the Resource Management Act.
5. All reporting required by these consents should be made in the first instance to the Council's Co-ordinator Compliance Monitoring.

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

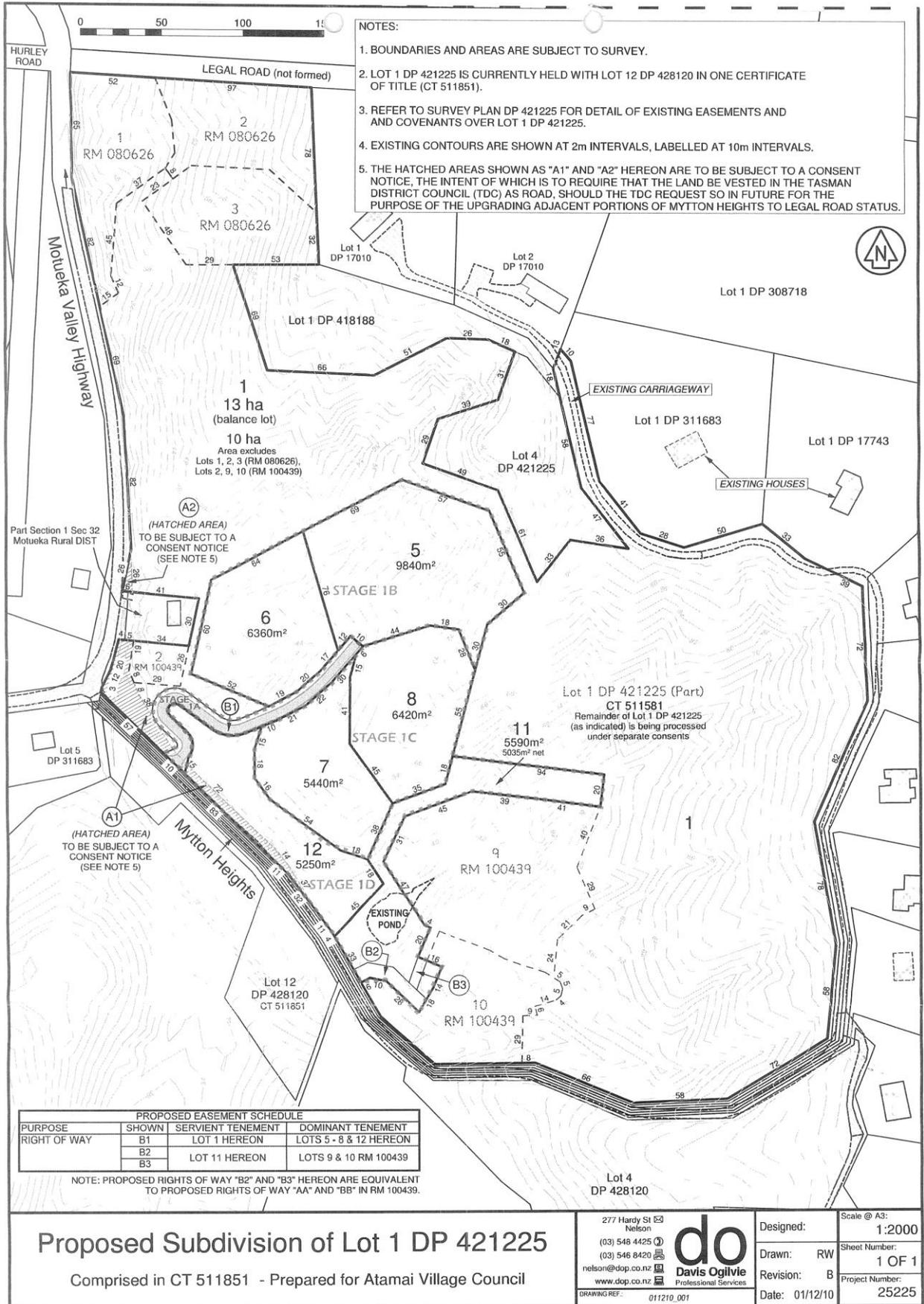
7. These resource consents only authorise the activity described above. Any matters or activities not referred to in these consents or covered by the conditions must either:
 - (a) comply with all the criteria of a relevant permitted activity rule in the Tasman Resource Management Plan (TRMP);
 - (b) be allowed by the Resource Management Act; or
 - (c) be authorised by a separate resource consent.

A handwritten signature in black ink, reading "P. J. Webby." The signature is written in a cursive style with a period at the end.

Pauline Webby

Consent Planner - Subdivision

PLAN A



Submitter location.



ExploreTasmanMap

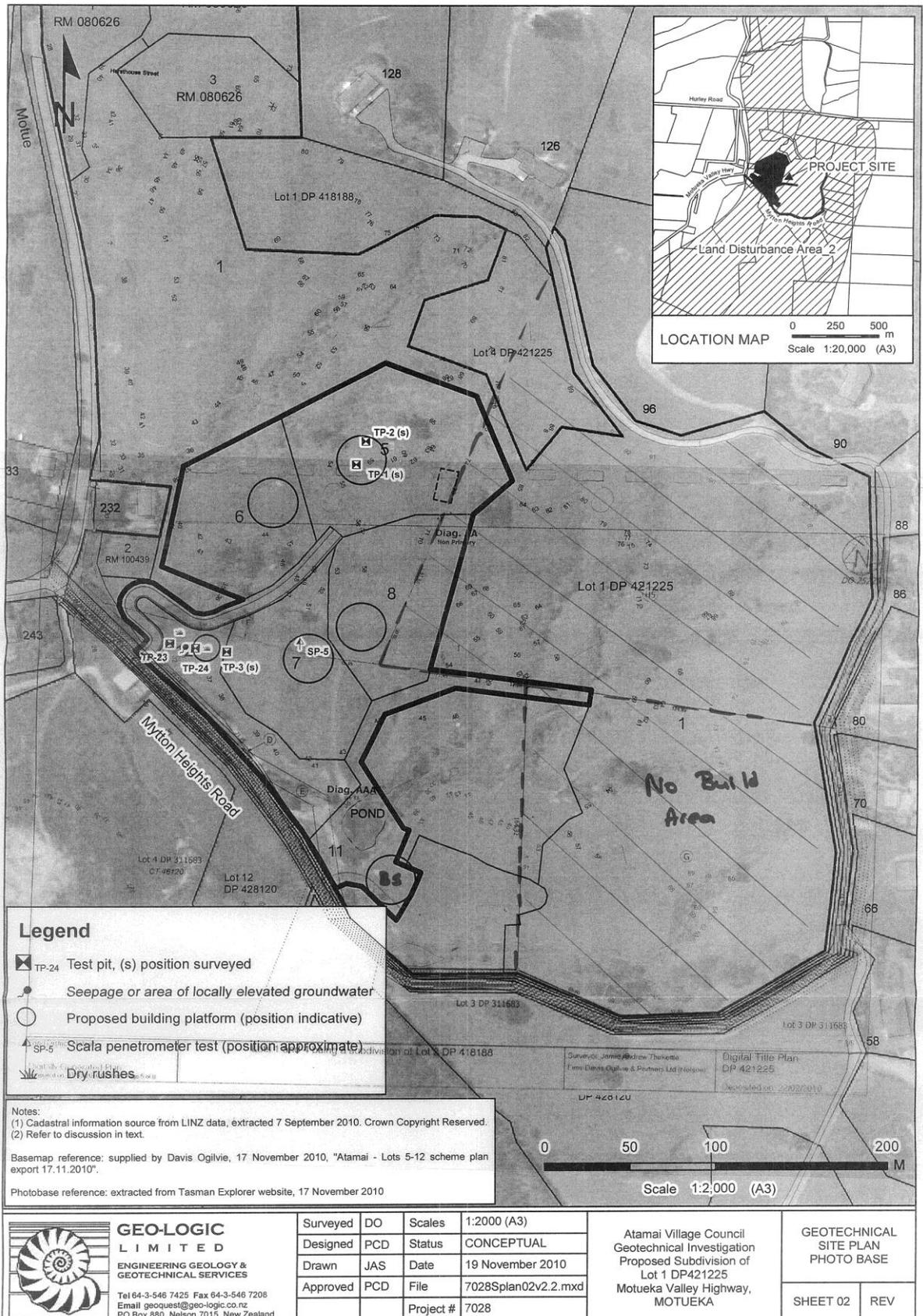
13/7/2011 **DISCLAIMER:**

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APPENDIX B No Build Covenant Areas



TRAFFIC ASSESSMENT FOR RM110007 – ATAMAI VILLAGE SUBDIVISION – MYTTON HEIGHTS

Qualifications and Experience

1. My name is Gary Paul Clark. I have a New Zealand Certificate in Engineering (Civil) and I am a Chartered Professional Engineer (Civil). I have passed the qualification standards for the Registered Engineers Associate Board requirements. I have post-graduate passes in Entr 602 Accident Prevention and Reduction, Entr 601 Traffic Engineering and Entr 606 Advanced Traffic Engineering. I am a Member of the Institute of Professional Engineers as well as a member of the IPENZ Transportation Group. In addition, I have completed the Making Good Decisions Course, operated by the Ministry for the Environment for Resource Management Act Decision Makers.
2. I am the Transportation Manager for Tasman District Council. As part of this role I am responsible for road, traffic and safety matters relating to the road network in this area. I have previously worked for Ministry of Works and Development, Wellington City Council, Traffic Design Group, Opus International Consultants, Duffill Watts and Tse, and most recently have been the Managing Director of Traffic Concepts Limited since 2002.
3. I have worked in the road and traffic industry since 1982. The knowledge and experience gained over 28 years includes most road and traffic matters and in particular elements relating to planning, design and safety matters. This work has also included the preparation of strategy documents for various transportation areas, as well as providing technical advice on design elements for roading projects. I have developed roadside hazard ranking systems to identify and prioritise potential safety hazards. I have provided specialist skills in intersection design, modelling and funding evaluation for projects, town centre projects and urban design relating to the road environment. I have also carried out design work for intersections and in particular roundabouts.
4. Other expertise I have gained over the last 28 years includes car park design, preparing impact reports for small and large developments, and providing expert evidence to Consent Hearings and the Environment Court.

Code of Conduct

5. I have read the Code of Conduct for Expert Witnesses (section 5 of the Environment Court Consolidated Practice Note 2006). I agree to comply with this Code of Conduct. This evidence is within my area of expertise, except where I state I am relying on what I have been told by another person. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

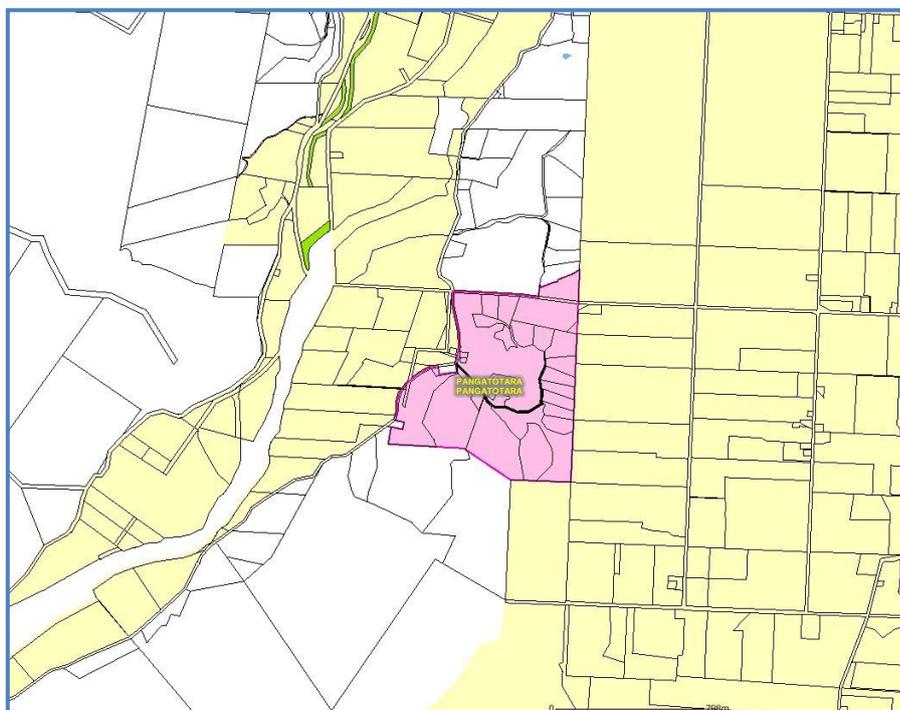
Introduction

6. In my role as the Transportation Manager I have been asked to provide expert evidence on the proposed access provisions for Lots 5 – 8 and 11 and 12 onto Mytton Heights.

7. My evidence will concentrate on the main issues which are set out below:
 - Site location within the road network, and
 - Access.
8. I am able to answer any questions on the traffic matters relating to the application if this would assist the Commissioners.

Site Description and within the Road Network

9. The site is located on the northern side of Mytton Heights roadway in the area set aside for rural residential development.
10. Mytton Heights has access from Motueka Valley Highway and is listed as an Arterial Road in the Tasman Resource Management Plan.
11. Mytton Heights roadway provides access to private property and is around 5.5 to 6 metres wide. The right of way traverses up a gully and is located approximately in the centre of the rural residential zoning. The first section of Mytton Heights has been designed to a higher standard with a six metre carriageway being provided. This carriageway width is consistent with the provision for a vested public road.
12. There is no footpath along Mytton Heights
13. This rural residential area is known as Pangatotara in Tasman Resource Management Plan. There is conflicting history with regard to the purpose of Mytton Heights roadway and who it relates to the development of the rural residential area. The figure below shows the location of the rural residential area and Mytton Heights roadway is shown as a thick black line in the middle of the zone area.



14. Council's Reporting Planner will provide more details on the history of this zoning and roadway. However some of the matters raised in the submissions highlight the intention of Mytton Heights to serve the rural residential area of Pangatotara.

Crash History

15. The Mytton Heights intersection is located on a sharp bend of the Motueka Valley Highway. This bend has had in the past crashes as a result of it's out of context bend. Some signage improvements have been implemented at the sharp curve which has, in part, addressed some of the issues.
16. The layout of the intersection is currently able to provide relatively safety for its users. The exiting sight distances are sufficient for motorists leaving Mytton Heights to access the road network safely. The figure below shows the intersection.



17. There is a current issue with available forward sight distance for motorists entering Mytton Heights from the south (Tapawera end) with the existing curve limiting the motorist's view of approaching traffic.

Right of Way Status

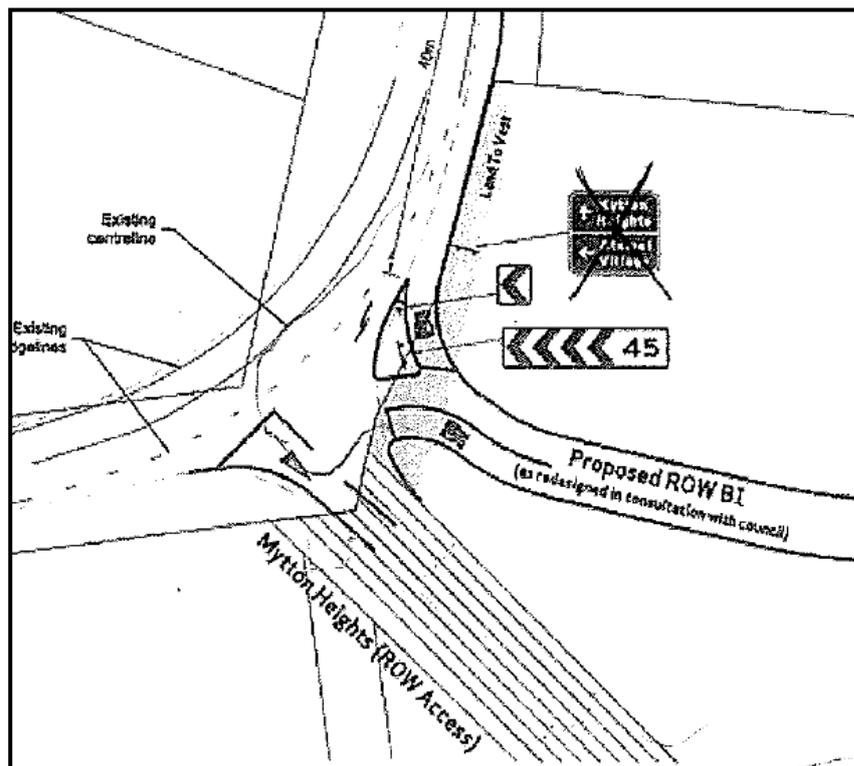
18. There has been much discussion and debate over the Mytton Heights, why it was formed and its purpose over time. I can confirm that it is right of way with a number of properties owning and having rights to use portions of the legal formation. There are also other rights given to other properties that don't own sections of the legal formation but have been given easements by way of subsequent subdivision.
19. I am not aware of any disputes relating to the passing of rights of way to new sections when the parent block had ownership in the right of way.
20. I also note that there are no limitations on the certificates of title or easements with regard to traffic movements or number of lots that Mytton Heights can serve.
21. There are however limitations within the Tasman Resource Management Plan in terms of the permitted standards (limit of six users) to the number of lots having access over a right of way. However this restriction relates to the construction standards of the right of way and whether the formation should be a public road.

22. This limitation is up to six lots that can be served by a right of way as a permitted activity. This is an interesting point as the original boundary adjustment subdivision which leads to the formation of a right of way which eventually became Mytton Heights and provided access for around 3 Lots and was then increased to 10 through the subdivision RM940202. It should also be noted that the carriageway formation of Mytton Heights and particularly at the lower end is to a very high standard and is consistent to the requirements for an Access Road.
23. Another interesting matter is the notation on each of the certificates of title for Mytton Heights. This has been described in some detail in submissions from residents of Mytton Heights. In summary, it provided a mechanism to have the road taken by Council to be used for its intended purpose which is to provide a public road to serve the designated rural residential zone.
24. Unfortunately, as correctly noted by submissions from the Butterfields and Mr Arthur, the surrender clause is not complete with regard to legal instruments on the certificates of title.
25. While the instruments to take the land and vested as road are not complete, the intent is clear that Mytton Heights was to be used for future access. This is for the following reasons:
 - The right of way formation has been designed to a Access Road standard;
 - The certificates of title signal a future intent to pass the land to Council even if all the instruments to do this were not included in the documentation;
 - The only feasible location of an access to serve the rural residential zone is Mytton Heights, and
 - The original consent already had the number of lots serviced off Mytton Heights exceeded the Tasman Resource Management Plan for a right of way
26. The above provides some useful information with regards to the reasons for the high standard of right of way that has been implemented for Mytton Heights.
27. Nevertheless, Mytton Heights is currently still a right of way with various properties having rights to use the formation for access.
28. The properties that do have rights to use the right of way includes the northern block which is application heard today.
29. The block of land shown in the application drawings has access rights to use Mytton Heights. These access rights are also passed down to the new lots that form the subdivision. Accordingly Lots 5 – 8 and lots 11 and 12 have the ability to use Mytton Heights for access.

Previous Consented Subdivision

30. While not important for this application, it is necessary to discuss the granted subdivision for the northern block as it has been raised in submissions and does potentially form part of the existing environment if the new intersection/access was created.

31. The consent granted in 2009 allowed for Lots 5 - 8 to be formed with access directly off Motueka Valley Highway via a new intersection adjacent to the existing Mytton Heights junction.
32. Rightly or wrongly the decision to form a new access point onto Motueka Valley Highway was driven by the existing land owners desire to retain absolute control over Mytton Heights. The applicant at that time considered the easiest way to have the subdivision approved was to avoid accessing Mytton Heights even though they did have legal rights to use the formation.
33. This granted consent lead to an intersection design that is not good practice and could lead to crashes in the future upon completion of the development. The granted intersection design is shown in the figure below.



34. As shown the layout is complex and requires motorists approaching from several different directions to be very aware of individual movements of drivers using the intersections. This layout does not meet best practice.
35. One of the areas of concerns is the potential for motorists to misunderstand the intentions of other drivers using the junction. For example a motorist waiting to turn right out of the proposed right of way could misunderstand the intentions of a driver turning left into the new intersection or Mytton Heights. This plus other variations of the movements will confuse motorists and lead to uncertainty.
36. Long vehicles such as trucks coming out of the proposed ROW B1 could block the entrance to Mytton Heights due to the alignment and lack of stacking length.
37. The other of concern is the right turn into the new intersection and is location relative to the existing Mytton Heights junction. The forward sight distance for the right turning vehicle is limited and the position of the vehicle making this turn in a potentially unsafe location.

Assessment of the Application

38. The application primary seeks to use Mytton Heights as the access for the subdivision. This would negate the need for the approved access point to be constructed.
39. This would allow a much safer intersection layout to be provided by removing at least Mytton Heights as the access point rather than Motueka Valley Highway. This view is also noted in Section 3 of the applicants traffic assessment prepared by Traffic Design Group dated 15 December 2010.
40. The traffic generation typically from household units ranges between 5 and 10 per dwelling. The range is a result of the different travel patterns of residents and services that they require depending on how close they are to urban areas. Trip generation rates of less than five can be recorded in city centres where residents have the opportunity to walk or catch public transport to work.
41. My experience has shown that for rural residential type of developments the trip generation rates tend to be lower and multi trips to activities and facilities seems to be more prevalent. I have also observed that in the Tasman District there can be a high number of holiday homes. This seems to be the case for residents in the Mytton Heights area.
42. The Traffic Design Group assessment has used seven trips per household for its calculations. I considered this rate to be appropriate and possibly on the high side for movements out of this rural residential area. Nevertheless it provides a sufficiently robust value for assessment purposes.
43. I have for consistency reasons also used seven trips per household in my assessments. Therefore the additional traffic arising from the proposed subdivision is expected to be around 42 movements for the proposed six lots. It should be noted that four lots already have consent, accordingly the number of new trips using the intersection will be 14 per day (2 lots by 7 trips).
44. The total number of new movements using the lower end of Mytton Heights and the existing intersection during the each peak hour would be around four or one every 15 minutes.
45. An increase of flows of this magnitude is easily accommodated within the existing formation width of Mytton Heights with no discernible effect on other road users. This is also the case at the existing intersection of Mytton Heights and Motueka Valley Highway.

Applicants Traffic Assessment

46. I have reviewed the applicant's traffic assessment and generally agree with the conclusions that have been drawn.
47. The assessment provides a robust and realistic consideration of the potential impacts of the development. The assessment notes that the use of Mytton Heights rather than the consented ROW B1 is "superior" in terms of traffic safety. I concur with this view as I have noted above.

48. Section 11 paragraph 2 notes that the trip generation could be “nine vehicles in any peak hour”. In reviewing the assessment and my calculation I would expected this number to be closer to four movements per peak hour based on 10% of the flow and 42 new movements.
49. Nevertheless in terms of the assessment and assuming this higher value would simply lead to a more conservative analysis. Fundamentally the effects are still less than minor.
50. The traffic assessment provides details of the various components of the Tasman Resource Management Plan. An analysis against the rules and provisions has been undertaken.
51. This analysis is correct but more importantly it is noted both in the traffic assessment and my review of the application that the existing formation of Mytton Heights exceeds the right of way provisions and has largely been constructed to a road standard.
52. In general I agree with the conclusion of this report on page 6.

Submissions

53. Six submissions have been received with three in support and three in opposition. It should be noted that a total of 15 parties were notified as part of the notification process. The parties notified are users of Mytton Heights with more than half choosing not to submit on the application.
54. The submissions in support feel that the proposed arrangements are safer than the proposed right of way B1 and new intersection being built close to the existing Mytton Heights junction.
55. Of the remaining three submissions, only two relate to traffic matters. Submissions from Mr and Mrs Butterfield and Mr Arthur are exactly the same even though they have been prepared by separate legal teams out of different offices with one from Nelson and one from Christchurch. I find this somewhat interesting.
56. I will treat these submissions together as they are same in their content.
57. The submissions go into great detail about the legal status of the right of ways and how the increase in its use results in more than minor effects.
58. I agree in general with the comments relating to the future transfer of ownership being irrelevant to this applicant. However the submissions have discussed this matter in some detail which requires some comment.
59. As noted above, in my assessment and which both the Butterfields and Arthur submissions discuss is the matter relating to the surrender clause in Section 6 first bullet point. This section correctly states the surrender clause being in place and the necessary instruments for that clause to take effect not being included. Nevertheless the intent of Mytton Heights to be used as the public road to access the rural residential zone is there. This matter will be dealt with this under a separate process.
60. Putting that matter side, it is important to assess the effects of the increase movements on Mytton Heights both in terms of efficiency and safety. My assessment above along with the applicants traffic report on this matter clearly

show that there are positive effects arising from allowing the new lots to access directly onto Mytton Heights. There are no adverse effects.

61. Section 6 second bullet point suggests that this application will set a precedent for more users to use the right of way. The northern block which is going to use Mytton Heights as an access has legal right to this formation. The formation has been designed to a road standard and can accommodate the additional traffic with no adverse effects on Mytton Heights.
62. Each application will have to be treated on its merits and the potential effects that it may create. At some point there will need to be an upgrade of the Mytton Heights intersection with Motueka Valley Highway to address matters raise above. This will be development driven.
63. The matter in the third bullet point relating to signage is not an issue that needs any serious consideration as firstly consent would be required if the sign was over a certain size. Secondly Atamai Village could install a suitable sign within its property at the entrance and the matter which concerns the submitters could be done without any approval.
64. The last bullet point discusses matters relating to the increased maintenance costs of the right of way from increased use. Typically sealed formations are built to take truck loadings. In reality the design of Mytton Heights is such that the level of maintenance is very low and this is clearly evident by the lack of maintenance required to date.
65. The real issue with Mytton Heights is the age of the seal. The formation is moving on in years and the seal will soon become brittle due to age and not traffic loadings. This will require a complete new reseal to return the formation to its design integrity.
66. The payment of such work would normally fall on all the land owners who have the right of way for access. This is a civil matter and not a consent matter unless a condition of consent was placed on this application to enable consideration of payment for the up keep of the right of way.
67. Finally there are a number of statements and accusations in the submission have not justification or merit. Suggestions that we are helping the developer "Atamai" and comments such as incompetencies are unfounded and should be ignored.

Conclusion

68. The proposed subdivision will provide a safe and efficient method of access to the northern block adjoining Mytton Heights. This is due to the following key matters:
 - (a) The northern block has legal right to use Mytton Heights as access;
 - (b) Mytton Heights was formed and still is constructed to an Access Road standard which is above the requirements for a right of way;
 - (c) The number of traffic movements arising from the increased use of Mytton Heights equates to four during the peak hours or one every 15 minutes. This is a very low traffic flow.
 - (d) The proposal provides a much safer treatment of the intersection of Mytton Heights and Motueka Valley Road.

69. In all, I consider that the proposed development can easily be accommodated within the surrounding road environment with no adverse effects on other road users.

Gary Clark
Transportation Manager