

## MINUTES

**TITLE:** Environment and Planning Subcommittee  
**DATE:** Monday 5 September 2011  
**TIME:** 10.00 am  
**VENUE:** Tasman Council Chamber, 189 Queen Street,  
Richmond.

**PRESENT:** Crs B W Ensor (Chair), G A Glover, T King

**IN ATTENDANCE:** Principal Resource Consents Advisor (J Butler), Minute  
Secretary (N Kidd)

### 1 APPLICATION NO RM110076 – NORTON FAMILY TRUST, PIGEON VALLEY WAKEFIELD

The application seeks to subdivide the land to create Lot 1 of 2.97 hectares containing the existing dwelling, Lot 2 of 1.38 hectares and Lot 3 of 1.36 hectares.

The land has a Rural 2 zoning according to the Tasman Resource Management Plan.

The application site is located at Pigeon Valley Wakefield, being legally described as Lot 1 DP 19413.

The Committee proceeded to hear the application, presentation of submissions and staff reports as detailed in the following report and decision.

The Committee reserved its decision.

### RESOLUTION TO EXCLUDE THE PUBLIC

**Moved Crs Glover / King**  
**EP11-09-04**

**THAT the public be excluded from the following parts of the proceedings of this meeting, namely:**

Norton Family Trust

**The general subject of the matter to be considered while the public is excluded, the reason for passing this resolution in relation to the matter, and the specific grounds under Section 48(1) of the Local Government Official Information and Meetings Act 1987 for passing this resolution are as follows:**

<b>General subject of each matter to be considered</b>	<b>Reason for passing this resolution in relation to each matter</b>	<b>Ground(s) under Section 48(1) for the passing of this resolution</b>
Norton Family Trust	Consideration of a planning application	A right of appeal lies to the Environment Court against the final decision of Council.

**CARRIED**

**Moved Crs Ensor / King  
EP11-09-06**

**THAT the open meeting be resumed and the business transacted during the time the public was excluded be adopted.**

**CARRIED**

**2. APPLICATION NO RM110076 - NORTON FAMILY TRUST, PIGEON VALLEY WAKEFIELD**

**Moved Crs King / Glover  
EP11-09-05**

**THAT pursuant to Section 104B of the Resource Management Act, the Committee GRANTS consent to Norton Family Trust as detailed in the following report and decision.**

**CARRIED**

**TASMAN DISTRICT COUNCIL**

**Report and Decision of the Tasman District Council through its Hearings Committee**

**Meeting held in the Tasman Room, Richmond on 5 September 2011  
Site visit undertaken on 5 September 2011  
Hearing closed on 8 September 2011**

A Hearings Committee ("the Committee") of the Tasman District Council ("the Council") was convened to hear the application lodged by **Norton Family Trust** ("the Applicant"), to subdivide land at Pigeon Valley Road. The application, made in accordance with the Resource Management Act 1991 ("the Act"), was lodged with the Council and referenced as RM110076.

- HEARING COMMITTEE:** Cr Brian Ensor, Chairperson  
Cr Glenys Glover  
Cr Tim King
- APPLICANT:** Ms Jackie McNae (Consultant Planner)  
Mr David Petrie (Traffic Engineer)
- CONSENT AUTHORITY:** **Tasman District Council**  
Mr Dugald Ley (Development Engineer)  
Mr Ross Shirley (Subdivision Officer)
- SUBMITTERS:** Ms Angela Burke (55 Pigeon Valley South Branch Road)  
Ms Sue Ketel (35 Pigeon Valley South Branch Road)  
Mr Graham Hall (60 Pigeon Valley South Branch Road)  
Ms Katherine Rieter (33 Pigeon Valley South Branch Road)

**IN ATTENDANCE:**

Mr Jeremy Butler (Principal Resource Consents Adviser) -  
Assisting the Committee  
Ms Nikki Kidd (Committee Secretary)

**1. SUMMARY**

The Committee has **GRANTED** a resource consent, subject to conditions, to subdivide land to create Lot 1 of 2.97 hectares containing the existing dwelling, Lot 2 of 1.38 hectares and Lot 3 of 1.36 hectares.

**2. DESCRIPTION OF THE PROPOSED ACTIVITY**

The legal description of the subject property is Lot 1 DP 19413 contained in CT NL13A/223 and containing 5.7114 hectares. The registered proprietors of the land are Craig Patrick Thomas Norton, Rochelle Jane Norton and Richmond Law Trustees No. 6 Ltd. There are no interests recorded on the title.

The subject title is the result of a two lot subdivision approved by the Council in 1998 that created Lots 1 and 2 DP 19413. Lot 2 DP 19413 was subsequently subject of a boundary adjustment that created Lot 2 DP 20124 of 1.2 hectares, which is located immediately to the north of the subject land.

The application site is located in Pigeon Valley approximately 3.5 kilometres from Wakefield and has frontage to both Pigeon Valley Road and Pigeon Valley South Branch Road. An existing dwelling and associated buildings are located towards the centre of the property, with access from Pigeon Valley Road.

The land is in pasture and is generally flat, with a series of terraces and lower-lying river flats. Most of the perimeter boundaries of the land are planted in amenity trees (Tasmanian Blackwoods).

Pigeon Valley is a relatively narrow valley with the road running down the centre. Lifestyle properties are typically located on the flatter land each side of the road, with commercial plantation forestry on the steeper land behind the lifestyle properties.

The proposal is to subdivide the land to create three allotments as shown on the plan attached as Appendix A, being:

- (a) Lot 1 of 2.97 hectares containing the existing dwelling;
- (b) Lot 2 of 1.5 hectares being a vacant rural residential site;
- (c) Lot 3 of 1.2 hectares being a vacant rural residential site.

The proposal also includes an application to construct a right-of-way to provide access to Lots 2 and 3 from Pigeon Valley South Branch Road. Lot 1 is to utilise the existing access to Pigeon Valley Road.

**3. TASMAN RESOURCE MANAGEMENT PLAN ("TRMP") ZONING, AREAS AND RULE(S) AFFECTED**

According to the TRMP the following apply to the subject property:

Zoning: Rural 2

Area(s): Land Disturbance Area 1

Subdivision in the Rural 2 Zone is a controlled activity if (*inter alia*) the minimum area of the allotments is 50 hectares - Rule 16.3.6.1(b). The proposed subdivision breaches this rule and is therefore a discretionary activity by virtue of Rule 16.3.6.2.

The proposed right-of-way is a permitted activity if it complies with the conditions of Rule 16.2.2.1 - Vehicle Access Considerations. Otherwise it is a restricted discretionary activity by virtue of Rule 16.2.2.6.

Overall, it is common ground to all interested parties that the consent is to be considered as a discretionary activity.

#### 4. NOTIFICATION AND SUBMISSIONS RECEIVED

The applicant provided written approvals from the following parties with the application:

- (a) M G Barker, 369 Pigeon Valley Road;
- (b) D J White, 336 Pigeon Valley Road;
- (c) K L and J D Smith, 347 Pigeon Valley Road;
- (d) R J and J E Duncan, 65 Pigeon Valley South Branch Road;
- (e) E F Gwynne, 19 Pigeon Valley South Branch Road; and
- (f) KEM Rieter, 33 Pigeon Valley South Branch Road (conditional approval only).

Pursuant to Section 104(3)(a)(ii) of the Act we cannot have any regard to any effect on those parties. However, we find that Ms Rieter's written approval is invalid due to its conditionality, and also by virtue of the fact that she appeared at the hearing with concerns. We are satisfied that we can have regard to effects on her.

The application was limited notified on 18 February 2011 pursuant to Section 95 of the Act. A total of 5 submissions were received. As a result of the submissions the applicant reviewed and amended the application by moving the proposed access location to the easternmost corner of the subject property. As a result of this change VB and KEM Rieter lodged a comment that was given status as a submission.

Therefore, the following is a summary of the written submissions received and the main issues raised:

P A Warhurst, 20 Pigeon Valley South Branch Road	This submission was conditional on a location of building platform and wastewater disposal area. These matters have now been resolved and the submission has subsequently been withdrawn.	Support
G A and W C Hall, 60 Pigeon Valley South Branch Road	Traffic safety	Neutral
V J and A J Burke, 55 Pigeon Valley South Branch Road	Traffic safety	Oppose

S C and R S Ketel, Trustees of the Ketel Family Trust, 35 Pigeon Valley South Branch	Traffic safety	Oppose
KEM Rieter, 33 Pigeon Valley South Branch Road	Traffic safety	Neutral

## 5. PROCEDURAL MATTERS

Mr Hall, a neutral submitter who had indicated in his submission that he did not want to be heard, sought to reverse that and be heard in the hearing in support of his submission.

Section 40 of the Act states that “... *every person who has made a submission and stated that they wished to be heard at the hearing, may speak ...*”. It is not clear whether, once their right to speak has been waived, the submitter can change their mind.

We asked if the applicant had any objection to Mr Hall speaking and they did not, therefore the request was allowed.

## 6. EVIDENCE HEARD

We heard evidence from the applicant, expert witnesses, submitters, and the Council’s reporting officer. The following is a summary of the evidence heard at the hearing.

### 6.1 Applicant’s Evidence

#### Ms Jackie McNae (Consultant Planner)

Ms McNae said that the subdivision has been designed around the topography of the land allowing house sites to look out over terraces and extensive river flats. She considered that the topography lent itself to two additional lots.

Ms McNae said that the proposed access from Pigeon Valley South Branch Road had been moved from a more central position along the road frontage of the site to a location at the extreme east of the frontage. This was done to improve the sight distances and safety of the entrance.

Ms McNae clarified that with the relocation of the proposed building sites to the south on Lot 3 Ms Patricia Warhurst does not have any opposition to the application.

Regarding the key evaluation issues, Ms McNae said that the land is Class D and of small size. She said that the size and shape of the new lots will be appropriate and will mean that the reduction in grazing area will not be significant. She emphasised Objective 7.2.2 of the TRMP which allowed for uses other than productive uses where appropriate.

In terms of rural character and amenity she considered that the proposed lifestyle blocks will not be inappropriate in Pigeon Valley. She considered there to be no issues of adverse amenity effects on neighbours and she said that the development can be absorbed into this locality and will reinforce the existing pattern of development.

Ms McNae found traffic safety to be the only matter of significance in assessing this proposal. Based on the evidence of Mr Petrie she was satisfied that the relocated access position provides for adequate sight visibility. Regarding the speed limit (raised in submissions) she said that while we have no power to provide for a lower speed limit (80 kph) as part of this decision it is nevertheless supported by the applicant.

Ms McNae said that where a property has frontage onto two roads the TRMP contemplates and directs that site access is obtained from the lower ranked road. No exemption from the relevant rule has been sought. She acknowledged that Pigeon Valley Road is an acceptable alternative from a visibility and safety perspective but that it would fragment Lot 3 and may affect the privacy and amenity of the owners of Section 178 Waimea South District immediately to the east.

Ms McNae summarised by saying that she considered the concerns with the original access point to be valid and professional advice has been sought to address traffic safety. The relocated access to proposed Lots 2 and 3 means that the adverse effects for the traffic environment will be no more than minor.

#### **Mr David Petrie (Traffic Engineer)**

Mr Petrie said that both Pigeon Valley South Branch Road and Pigeon Valley Road are 100 kph roads at the current time. He said that traffic count data obtained on behalf of the applicant showed an average of 204 vehicles per day which is relatively low for the characteristics of the road formation. He also reported the 85<sup>th</sup> percentile speed to be 83 kph and 79 kph for westbound and eastbound traffic, respectively.

He said that there have been no reported crashes in the last 10 years on Pigeon Valley South Branch Road. He concluded that there is no demonstrated safety issue in the vicinity of the site.

Mr Petrie reported his investigations of the best location for a new access and he considered that the new proposed location is the best access point and happens to coincide with an existing gated farm access.

Mr Petrie presented the site distances that apply to both the access location as originally lodged and for the new proposed access at the southeast corner boundary. He stated that the site distances met the relevant standards in the TRMP and the Austroads document.

Mr Petrie considered that the new location may well alleviate the concerns raised by submitters as it is superior to the previous location.

## 6.2 Submitters' Evidence

### **Ms Angela Burke (55 Pigeon Valley South Branch Road)**

Ms Burke said that she and her husband are not opposed to the subdivision but object to the traffic and unsafe access proposed.

She said that despite the change in access location it is still on a cresting curve and mail and paper deliveries will still involve crossing the centre of the road. In addition, she said that Pigeon Valley South Branch Road is the main school bus route and the bus stops or starts four times near the proposed access. She reported near misses and saw no need to make yet another poor access to escalate this problem. She tabled a letter from the school bus driver.

She said that while logging trucks travel within the speed limit they are heavily laden and difficult to stop quickly.

Ms Burke emphasised that there is much more than just vehicular traffic on the Pigeon Valley South Branch Road. She said that there are a large number of horses, walkers, runners, cyclists, dog walkers and pushchair walkers. She referred to the requirement to pass cyclists with 1.5 metres gap. She said that the proposed access will only add possible problems. She said that the verges are narrow and poor which all combines to push traffic towards the centre of the carriageway.

She suggested that a layby opposite the proposed entrance should be considered to allow right turning traffic to pull off.

Ms Burke then suggested that Pigeon Valley Road would be a better option and creating a ROW to the north would not be as onerous as described by the applicant.

### **Ms Sue Ketel (35 Pigeon Valley South Branch Road)**

Ms Ketel also emphasised the variety of types of traffic and uses that the Pigeon Valley South Branch Road can experience.

She said that the proposed access is in a location that will increase the traffic on an already dangerous stretch of road. She raised winter ice as being of significant concern on the corner in question.

Ms Ketel included a statement from the Rural Post Contractor. The statement emphasised the near misses and hazards in the area of the proposed access location. The Contractor also advocated a reduction in the speed limit.

Ms Ketel volunteered a donation of 2 to 3 metres of her land to enable the road to be widened.

She concluded that the speed limit should be reduced to 80 kph, appropriate signage be installed and the corner at 33/35 Pigeon Valley South Branch Road be widened.

Ms Ketel was asked if her offer of land was on the table for consideration irrespective of whether the speed limit was reduced. Ms Ketel said no, the land would only be donated if the speed limit was also reduced.

### **Mr Graham Hall (60 Pigeon Valley South Branch Road)**

Mr Hall also emphasised his concerns with the safety of the road and opposed the proposed access location. He emphasised that in the traffic survey undertaken by the applicant there had been 12 vehicles travelling at over 100 kph.

Councillor King asked if Mr Hall would consider it preferable that the access to Lot 3 come from Pigeon Valley Road. Mr Hall did, but also thought that it did not make sense to construct two accessways. He thought both accesses should come off Pigeon Valley Road.

### **Ms Katherine Rieter (33 Pigeon Valley South Branch Road)**

Ms Rieter said she does not have a concern with the proposed subdivision, but she considered that the access will be a nightmare. She emphasised the prevalence of horse riders, bikes, and cars over the centreline.

Ms Rieter said that she would donate 2 to 3 metres of her land to allow the road to be widened as she anticipated that this would have positive safety outcomes for other road users.

## **6.3 Council's Reporting Officer's Report and Evidence**

### **Mr Dugald Ley (Development Engineer)**

Mr Ley said that Pigeon Valley South Branch Road was typical of many roads in the district. He did not consider it to be particularly or exceptionally hazardous.

Mr Ley agreed with Mr Petrie that the Austroads document is appropriate for assessing the safety environment and for designing the new access. However, he also said that he would look favourably at more access to Pigeon Valley Road as that road has excellent visibility.

Mr Ley addressed submitters' concerns about the speed limit. He said that speed warrants are considered by the Council and that the best approach is for residents to gather information about the road environment and to approach the Council and request a change. He said the process would typically take four to six months.

Mr Ley commented on the properties at 33 and 35 Pigeon Valley South Branch Road. He said that accessways on the inside of a bed are much more difficult and hazardous than accesses on the outside of the bed, such as that proposed by the applicant.

Overall, he considered that the proposed access location is the best available onto Pigeon Valley South Branch Road with additional works such as the trimming back of the macrocarpa trees to the east and correct design of the accessway.

Councillor King asked Mr Ley about the process for assessing an application. Mr Ley said that a rule in the TRMP does direct people to take access off the lower rated road as the applicant has done here. He said that an applicant could apply to depart from that rule but that the applicant in this case has not chosen to do so.



Following a question from Councillor Glover, Mr Ley considered that access on to Pigeon Valley Road may well be preferable, but that the proposed access onto Pigeon Valley South Branch Road was nevertheless appropriate and safe. Although he did find that the issue of lights on the driveway to and from the dwelling Lot 2 may cause confusion to users of Pigeon Valley South Branch Road and should be further considered.

**Mr Ross Shirley (Subdivision Officer)**

With the aid of an aerial photograph, Mr Shirley described the rural residential environment within which the subject property exists. He suggested that the proposed subdivision will be consistent with the existing character.

He considered the only issue in contention to be traffic and the safety of the access.

With regard to the role of Council in assessing an application as it is received versus advocating for the best option, Mr Shirley found that his duty was to consider the merits of the application as proposed and that his powers to redesign or change an application towards the best option from the Council's point of view were very restricted.

In summary, Mr Shirley recommended that the application be granted.

#### **6.4 Applicant's Right of Reply**

Ms McNae said that the issue of vehicle lights on the driveway within Lot 2 could be addressed by an appropriate condition and advice note.

Ms McNae addressed the concerns and issues raised by submitters about Pigeon Valley South Branch Road and other accesses onto the road. She said that it is not the applicant's responsibility to correct existing safety issues with the road. She said that the location of the proposed access has been moved to address safety issues and the expert evidence from Mr Petrie is that the new location will be safe, will meet the appropriate visibility standards set in the TRMP and in the Austroads document. (We note that Ms McNae's and Mr Petrie's assertion that the proposed accessway is entirely consistent with the TRMP is not correct. The sightline distance for westbound vehicles turning right into the access is 115 metres in the TRMP and according to Mr Petrie's figures only 110 metres is available. Mr Petrie justifies this by stating that Austroads recommends a 2 second reaction time whereas the TRMP, for an 80kph speed environment, is based on a 2.5 second reaction time. We accept Mr Petrie's argument that the TRMP specifications may be a bit out of date, but we make the point that the site distances achieved are not entirely consistent with the TRMP.)

Ms McNae acknowledged that Pigeon Valley Road is an option open to the applicant, but that there are other considerations. She said that the emphasis should be on whether or not the design requirements are met, not necessarily which is the better option.

Ms McNae said that the applicant was not entirely opposed to access off Pigeon Valley Road for Lot 3 but identified a jurisdictional issue in terms of the application that had been notified. In particular, Mrs Warhurst at 20 Pigeon Valley South Branch Road chose not to speak on the basis of access to Pigeon Valley South Branch Road

rather than Pigeon Valley Road. Ms McNae left this jurisdictional matter with us (the Committee) for our consideration.

Mr Petrie suggested that it would be helpful for a pull-off area to be provided as part of the new accessway. He said that this would allow the school bus and postal contractor to get right off the road. This was volunteered by the applicant. Mr Petrie also addressed the idea of a pull-off area on the other side of the road from the proposed access. He said it is undesirable as it will speed traffic up by allowing vehicles to pass and it will also decrease visibility by pulling vehicles closer to the edge of the road on the inside of the bend. He considered the widening of the proposed accessway would be far more valuable.

Ms McNae summarised the key issue as being that the proposed accessway does meet the Council's standards and will not be dangerous.

## 7. PRINCIPAL ISSUES AND OUR MAIN FINDINGS

The principal issues that were in contention and our main findings on these issues are:

### a) **To what extent will the proposed subdivision decrease road safety on Pigeon Valley South Branch Road?**

The existing and future (should this application be granted) levels of safety of Pigeon Valley South Branch Road were the pivotal issues at the hearing and, we find, remain so for us in making our decision.

From the evidence presented we face a fundamental disagreement between, on one hand, Mr Petrie for the applicant and, on the other, the submitters who spoke about the wide variety of road hazard risks as they saw them.

Mr Petrie appeared before us as an expert witness and thereby subject to the Environment Court's code of conduct for expert witnesses, and with an "overriding duty to assist [us] impartially on relevant matters within [his] expertise"<sup>1</sup>. As such we "must take into account any expert opinion presented" and we "must give very good reasons for rejecting expert evidence that is central to the case"<sup>2</sup>. We record that Mr Petrie presented entirely acceptable evidence and we have no reason whatsoever to doubt its veracity. Therefore we must give his evidence the full weight deserving of an independent expert.

All four submitters who appeared expressed strong views about the hazards of the road. They introduced a range of considerations that had not previously been explicitly considered such as cyclists, the postie, school buses, horse riders, sunstrike etcetera. Such intimate knowledge can only be so gained from experience and living in such a location and we commend the submitters on excellent arguments to make us aware of the real nature of the road and its use.

Our task is to give appropriate weight to this differing evidence. Generally, residents have a subjective view of the safety (or otherwise) of their local road. The majority of people who live on local roads in Tasman may feel that their

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<sup>1</sup> P139, Making Good Decisions -A Training, Assessment and Certification Programme for Resource Management Act Decision-Makers

<sup>2</sup> P137, ibid

road is dangerous because it is narrow, has poor visibility in places and because it has conflicting users (logging trucks, cyclists, school buses, local “hoons”). These problems are not unique to Pigeon Valley South Branch Road, however this does not diminish the fact that there are hazards on this road and that we need to consider them carefully.

Mr Petrie’s traffic engineering evidence was uncontested and largely supported by Mr Ley for the Council. Despite the hazards pointed out by submitters the proposed access location meets the sightline distances specified in the TRMP and in the Austroads document and we must give that considerable weight.

We accept Mr Petrie’s reasoning as to why a pull-off bay on the opposite side of the road from the proposed access is not desirable. Mr Petrie said it will result in vehicles taking longer to turn into the accessway, and will also increase the temptation for other west-bound vehicles to under-take on the left and maintain a higher speed. Finally, we consider that the amended design proposed by Mr Petrie in the applicant’s reply appropriately addresses the school bus pull-off issue.

There are many cases where there are often opportunities for compromises or various alternatives, but in this case we only have two real options: to grant or to decline consent to the access as proposed. We feel we must place reliance on the expert evidence presented to us and on the sightline specifications provided in the TRMP. It is difficult to see how we could decline consent when there is expert evidence telling us that the access will not be inherently dangerous and it will meet the relevant sight distances.

Ms Reiter and Ms Ketel both volunteered to donate 2 to 3 metres of their land to the road formation to improve visibility, but strictly conditional upon a reduction in the speed limit to 80 kph. As we have no ability to influence the speed limit through this resource consent hearing we are unable to pursue this option. Nevertheless, we encourage these landowners and others to continue to investigate opportunities for having the speed limit reduced and to enter discussions for the utilisation of their land to improve road safety outcomes. The granting of this consent may actually help the case for reducing the speed limit by increasing the residential density.

**b) Would access to Pigeon Valley Road by one or both of the proposed new lots be preferable? Do we (the Committee) have the jurisdiction to require the repositioning of the access?**

Despite the TRMP requiring access onto the lesser ranked road when dual frontage is available, we have no doubt that an access formed onto Pigeon Valley Road would be preferable from a road safety point of view, particularly if the two proposed lots were accessed via the existing access to the existing dwelling on the property. This certainly seemed to be agreed between Mr Petrie, Mr Ley and the submitters. We questioned Mr Shirley about the extent to which this option was pursued and he (quite rightly) stated that it is not the Council’s job to design subdivisions, but to audit and assess what is applied for by applicants.

We believe that it would be possible and more desirable than the current proposal to construct a joint right-of-way access that would serve both proposed Lots 2 and 3. The distances would not be overlong and would not look out of place in this rural residential environment, particularly when planted with trees and vegetation.

We considered whether we have the jurisdiction to require, as a condition of consent, the access to the new lots to be gained from Pigeon Valley Road. We found that we do not have the jurisdiction to consider this opportunity as potential submitters would be prejudiced by making such a decision without renotifying an amended application to affected parties and to the public. The possible adverse effects of relocating the access to Pigeon Valley Road relate to increases in traffic flow on that road, the visual impact on the owners of Section 178 Waimea SD and Lot 1 DP 316619 and the significantly longer length of right-of-way. We do not suggest that these effects would necessarily be any more than minor, just that by granting such a different design possible submitters will be denied the opportunity to state their case and this is a right enshrined by the Act.

To pursue an alternative access onto Pigeon Valley Road, our only option would be to decline this application with a strong indication that only a subdivision with access from Pigeon Valley Road to the north would succeed.

## **8. RELEVANT STATUTORY PROVISIONS**

### **8.1 Policy Statements and Plan Provisions**

In considering this application, we have had regard to the matters outlined in Section 104 of the Act. In particular, we have had regard to the relevant provisions of the following planning documents:

- a) Tasman Regional Policy Statement (TRPS); and
- b) the Tasman Resource Management Plan (TRMP).

### **8.2 Part 2 Matters**

In considering this application, we have taken into account the relevant principles outlined in Sections 6, 7 and 8 of the Act, as well as the overall purpose of the Act as presented in Section 5.

## **9. DECISION**

Pursuant to Section 104B of the Act, we **GRANT** consent, subject to conditions.

## **10. REASONS FOR THE DECISION**

### **Effects on the Environment**

We are satisfied that the proposed new access will only have less than minor adverse effects on road safety. We accept that any new entrance onto a country road can increase hazards to some extent and that this may seem unacceptable to some. But the Act is an enabling statute. Our decision must look at all of the effects, positive and negative, as well as the relevant statutory documents (see below).

We do not doubt that there are safety concerns along Pigeon Valley South Branch Road, and even on the bend that is the subject of this application, but we are not convinced that these hazards are any more severe than most other provincial roads in the District. From the evidence of Mr Petrie and Mr Ley the greatest hazard arises from the driveways on the inside of the bend. We agree with Ms McNae that it is not our role, nor the responsibility of the applicant, to address existing safety or access issues.

Of course, we must have regard to cumulative effects, but there is no evidence to suggest that the new access will exacerbate the risks that already exist. It may be that there are ways of improving the safety of the road through utilisation of land volunteered by submitters and through a reduction in the speed limit. These opportunities must be progressed through different avenues.

It almost goes without saying that the two proposed house sites will be very attractive places to live. Pigeon Valley seems to form a high quality rural residential environment and, given the limitations of the site, use for high-quality house sites is a positive effect.

The rural character and amenity of the area will not be adversely affected. We agree that the area has an established rural residential character and that this will be reinforced by this decision. However, we do not see this as necessarily adverse; there is a demand for such living environments and concentrating them in a recognised area is preferable to *ad hoc* or sprawling rural residential development in otherwise productive rural areas.

We accept that the land is not highly productive and in fact has considerable limitations. The small size of the title contributes to this. In conjunction with the rural residential character of the area we are not concerned about the loss of productive land.

### **Objectives and Policies of the TRMP**

Mr Shirley and Ms McNae both presented a brief assessment of the provisions of the TRMP that relate to land productivity. We find that we agree with, and adopt, their assessment of these relevant provisions.

Mr Shirley then presented<sup>3</sup> an assessment of the relevant provisions as they relate to rural character and amenity. Again, we agree with this assessment and, pursuant to Section 113(3), adopt it.

Objective 11.1.2 of the TRMP seeks a safe and efficient transport system, where any adverse effects of the subdivision ... of land on the transport system are avoided, remedied or mitigated. A range of policies in Section 11.1.3 support this objective, as do the minimum sight distances specified in Figure 16.2B. We are satisfied that any adverse effects on the safe and efficient transport system have been avoided by this application, and that the proposal is not inconsistent with the supporting policies.

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<sup>3</sup> Section 7.2 Staff Report

## **Purpose and Principles of the Act**

There are no Section 6 matters of national importance relevant to this case.

We have had particular regard to the other matters listed below:

- Section 7(b) the efficient use and development of natural and physical resources;
- Section 7(c) the maintenance and enhancement of amenity values;
- Section 7(f) maintenance and enhancement of the quality of the environment; and
- Section 7(g) any finite characteristics of natural and physical resources.

We do not find that the proposal offends any of these matters. Adopting a broad overall judgement approach to the purpose of the Act, we are satisfied that the proposal is consistent with Part 2 and achieves sustainable management of natural and physical resources as set out in Section 5 of the Act.

## **11. COMMENTARY ON CONDITIONS OF CONSENT**


A requirement has been included in the consent to locate the driveway serving Lot 2 away from the Pigeon Valley South Branch Road, or else heavily screen the southern side of the driveway with vegetation. This is to avoid car lights at night confusing drivers on Pigeon Valley South Branch Road.

## **12. LAPSING OF CONSENT(S)**

Pursuant to Section 125(1) of the Act, resource consents, by default, lapse in five years unless they are given effect to it before then.

Section 125(2) of the Act makes particular provision for the lapsing of subdivision consents. In the case of the subdivision consent this consent is given effect to when a Survey Plan is submitted to the Council for the subdivision under Section 223 of the Act. Once the Survey Plan has been approved by the Council under Section 223 of the Act, the consent lapses three years thereafter unless it has been deposited with the District Land Registrar as outlined in Section 224 of the Act.

Issued this 29<sup>th</sup> day of September 2011



Councillor Brian Ensor  
**Chair of Hearings Committee**



## RESOURCE CONSENT

**RESOURCE CONSENT NUMBER:** RM110076

Pursuant to Section 104B of the Resource Management Act 1991 ("the Act"), the Tasman District Council ("the Council") hereby grants resource consent to:

**Norton Family Trust**  
(hereinafter referred to as "the Consent Holder")

**ACTIVITY AUTHORISED BY THIS CONSENT:** To subdivide land into three allotments

### LOCATION DETAILS:

Address of property: 359 Pigeon Valley Road  
Legal description: Lot 1 DP 19413  
Certificate of title: NL13A/223  
Valuation number: 1937004100  
Easting and Northing: 2511966E 5980695N

Pursuant to Section 108 of the Act, this consent is issued subject to the following conditions:

### CONDITIONS

#### 1. Right-of-way and Vehicle Crossing - Lots 2 and 3

- (a) That the right-of-way shown "A" on the application plan be duly granted or reserved by reference in Council's Section 223 recital.
- (b) That the right-of-way and vehicle crossing servicing Lots 2 and 3 be constructed generally in accordance with the diagram entitled Norton Access Design (Job number 10836, dated 8 September 2011) and attached as Appendix B.
- (c) That prior to undertaking any construction works engineering plans, prepared in accordance with Council's Engineering Standards 2008, be submitted to Council for approval. The engineering plans are to include detail of areas to be sealed, drainage and vegetation clearance.
- (d) That all works be undertaken in accordance with the approved plans.
- (e) At the completion of works, a suitably experienced chartered professional engineer or registered professional surveyor shall provide the Tasman District Council Engineering Manager with written certification that the works have been

constructed in accordance with the approved engineering plans, drawings and specifications and any approved amendments.

## **2. Electricity and Telephone**

- (a) That Lots 2 and 3 be provided with live underground electricity and telephone connections to the boundary of Lot 2 and to the north-west boundary of the right-of-way for Lot 3.
- (b) That written confirmation be provided from the relevant authorities confirming that connections have been satisfactorily installed.

## **3. Easements - General**

That any services located outside of the boundary of the lot be protected by an appropriate easement referenced in Council's Section 223 recital.

## **4. Road to Vest**

That the survey plan show road to vest along the Pigeon Valley South Branch Road frontage of Lots 2 and 3 for any road formation or road berms that are outside the legal road reserve. The land is to vest in the Council at no cost to the Council.

## **5. Survey Plan**

That the building platform shown on the resource consent application plan be shown on the survey plan of subdivision submitted to Council for Section 223 approval.

## **6. Engineering Certification**

That the building platform shown on the survey plan be certified by a chartered professional engineer as being suitable for the construction of a residential building. The certificate shall define the area suitable for the construction of a residential building and shall be in accordance with NZS 4404:2010 Schedule 2A.

## **7. Consent Notice - Building Platforms**

That any dwelling to be located on Lots 2 and 3 be located within the identified building platforms shown on the survey plan of subdivision.

### **Advice Note:**

The above condition is to be complied with on a continuing basis by the subdividing owner and subsequent owners and therefore shall be subject of a consent notice issued under Section 221 of the Act, such notice to be prepared by the applicant and forwarded to Council for approval.

## **8. Consent Notice - Lot 2 Driveway**

That any driveway across Lot 2 between right-of-way A and the building site shall be:

- (a) separated by not less than 15 metres from the edge of the legal road; and/or



- (b) be heavily vegetated on the southern side of the driveway so that car lights on the driveway are not visible from Pigeon Valley South Branch Road.

**Advice Note:**

The above condition is to be complied with on a continuing basis by the subdividing owner and subsequent owners and therefore shall be subject of a consent notice issued under Section 221 of the Act, such notice to be prepared by the applicant and forwarded to Council for approval.

**9. Financial Contributions**

That a financial contribution be paid as provided by Chapter 16.5 of the Tasman Resource Management Plan assessed as follows:

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

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

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

**Advice Note:**

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

**Advice Note: Development Contributions**

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

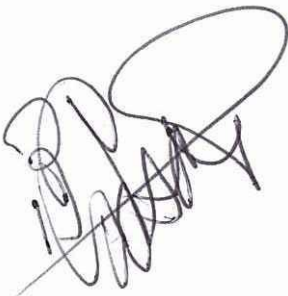
The Development Contributions Policy is found in the Long Term Council Community Plan and the amount to be paid will be in accordance with the requirements which are current at the time the relevant development contribution is paid in full. This consent will attract a development contribution in respect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

**GENERAL ADVICE NOTES**

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.
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.
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. Council draws your attention to the provisions of the Historic Places Act 1993. In the event of discovering an archaeological find during the earthworks (e.g. 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.

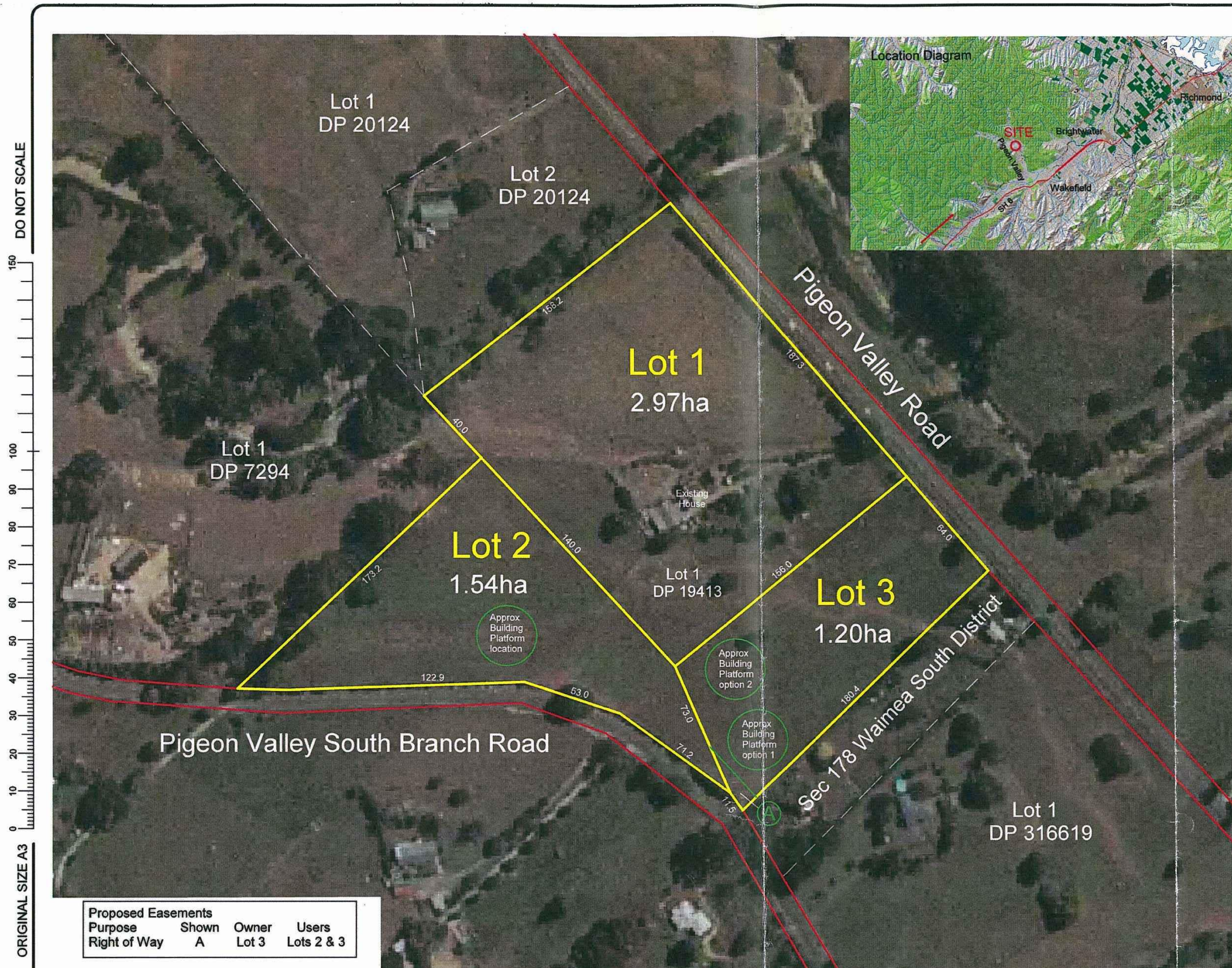
Issued this 29<sup>th</sup> day of September 2011



Councillor Brian Ensor  
**Chair of Hearings Committee**



Appendix A - Scheme Plan



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Notes

**Warning**

This plan has been prepared for the purpose of a Resource Consent Application only. It is not a precise survey plan. As areas and dimensions are likely to vary upon survey it should not be attached to sales and purchase agreements without an appropriate condition to cover such variations.

Note : The scale of the aerial photograph is approximate only.

Comprised in: CT NL11B/433  
 Applicant: Norton Family Trust

Job Title  
**Norton Family Trust  
 Pigeon Valley Road  
 Wakefield**

Drawing Title  
**Resource Consent  
 Application Plan**

Plan Information

Job No: <b>10836</b>	Scale: <b>1:2000 at A3</b>	
Issue: <b>1</b>	Design: <b>J. McNae</b>	Sheet: <b>Sheet 1 of 1</b>
Rev.	Drawn: <b>S. Alderson</b>	Issue Date: <b>2 May 2011</b>
No	Amendment	Date

Concept Developed by

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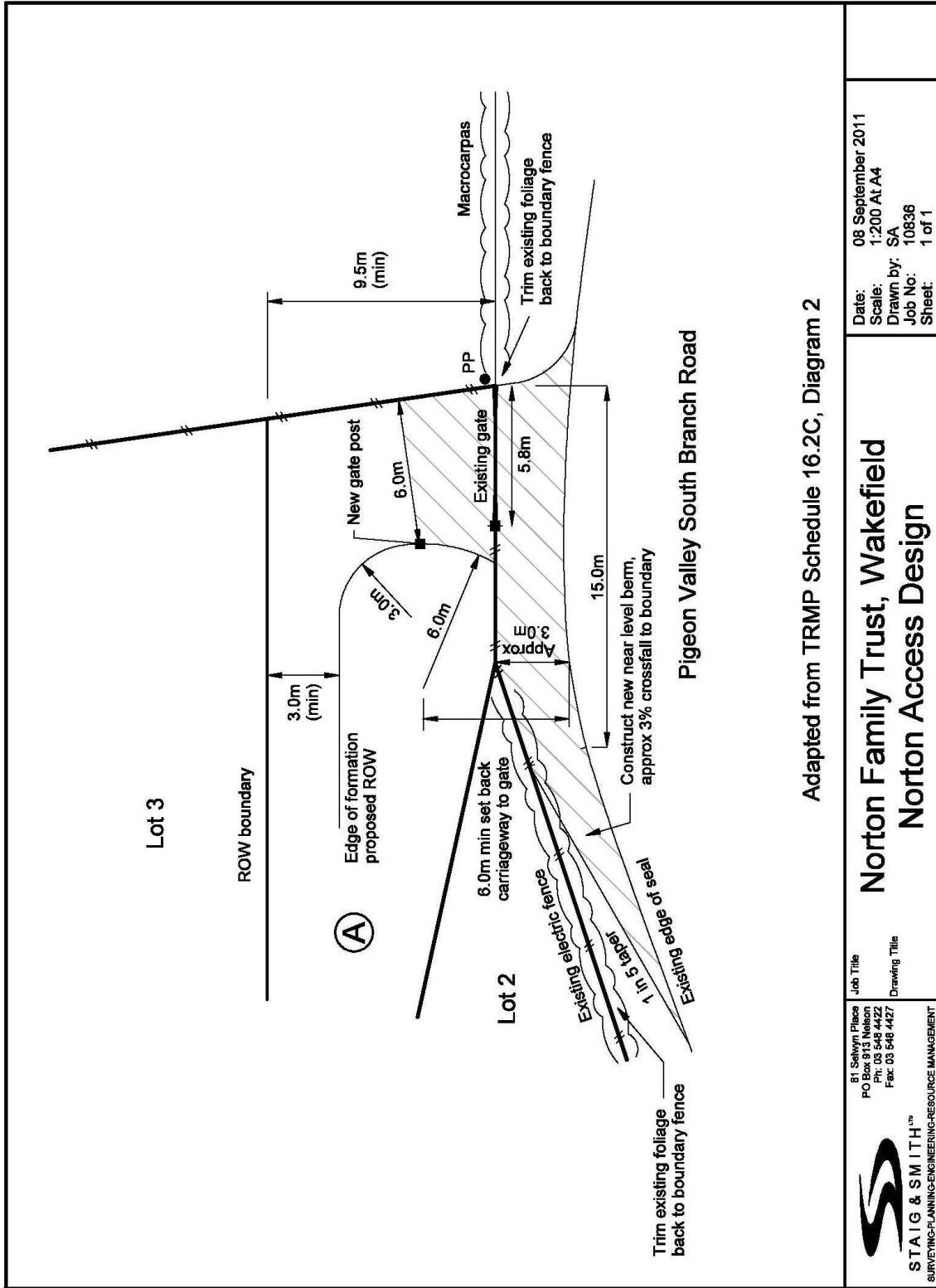
SURVEYING-PLANNING-ENGINEERING-RESOURCE MANAGEMENT

Proposed Easements Purpose	Shown	Owner	Users
Right of Way	A	Lot 3	Lots 2 & 3

**Proposed Subdivision of Lot 1 DP 19413**

Y:\jobs\108001\10836 Norton, Rochelle & Craig\CAD\10836 Norton Scheme





Adapted from TRMP Schedule 16.2C, Diagram 2

<p>Date: 08 September 2011          Scale: 1:200 A1/A4          Drawn by: SA          Job No.: 10836          Sheet: 1 of 1</p>	<p><b>Norton Family Trust, Wakefield</b>  <b>Norton Access Design</b></p>	<p>Job Title          Drawing Title          81 Selwyn Place          P.O. Box 5713 Nelson          Ph: 03 548 4422          Fax: 03 548 4427  <b>STAIG &amp; SMITH™</b>          SURVEYING-PLANNING-ENGINEERING-RESOURCE MANAGEMENT          Y:\cbav10820\10836 Norton, Rochelle &amp; Craig\CAD\10836 Norton Scheme</p>
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Date Confirmed:

Chair: