



STAFF REPORT

TO: Environment & Planning Subcommittee

FROM: Ross Shirley

REFERENCE: RM070582, RM070583, RM070584, RM070585, RM070586, RM070587, RM0701007

SUBJECT: **SEBASTIEN VINEYARD LTD – REPORT EP08/02/04** – Report prepared for 1 February 2008 hearing

1. INTRODUCTION

The following report is my assessment of a resource consent application lodged by Sebastien Vineyard Ltd for a comprehensive and fully integrated Rural 3 proposal in Tasman.

My report specifically covers RM070583 (subdivision and right-of-way) but also refers to aspects of the development that require various other resource consents. A detailed assessment of those consents is attached as appendices to this report.

2. SITE DESCRIPTION

The site is a 46.42 hectare block of rural land located on the Coastal Highway between Horton and Williams Road. The site was formerly an orchard property, farmed for many years by Brent and Sue Wood.

Topography of the land is flat alluvial plains adjacent to the State Highway rising gently in three leading spurs to the rear of the property. The flat areas have been extensively drained with the exception of an area at the southern end of Horton Road where the drainage remains poor.

Vegetation of the land is now predominantly grass land. However approximately 8 hectare of apple trees have been retained, with an area around the existing buildings in mature specimen trees. A substantial shelter belt runs along the State Highway frontage.

A cottage and a house are located on the land. A third dwelling, which is the homestead of the previous owners is located on a separate title towards the centre of the land but does not form part of the current application.

Other built features include a substantial packhouse and cool store, two irrigation dams and a camping area for seasonal workers fronting Williams Road.

Current access to the site is via two driveways off the Coastal Highway. An attractive tree lined drive services the three dwellings with a separate farm access servicing the packhouse and cool store.

The predominant use on adjoining land is rural residential and rural lifestyle. The exception is a long standing orchard and berry garden to the west of Williams Road.

3. LEGAL DESCRIPTION

The land is contained in five separate certificates of title as summarised below:

Title Reference	Legal Description	Area (ha)	Description	Owner
204612	Lot 2 DP 349997	19.4240	Cottage block	Sebastien Vineyard Ltd
115584	Lot 3 DP 304381 & Lot 1 DP 328328	13.7494	Williams block	Sebastien Vineyard Ltd
204611	Lot 1 DP 349997	8.6480	Wetland block	Sebastien Vineyard Ltd
NL13A/507	Lot 1 DP 19518	2.5817	Packhouse block	B A & V S Wood & N A McFadden
NL9C/1224	Lot 2 DP 15342	2.0233	House block	Y N Grant
Total		46.4264		

The owners listed are correct as at 15 January 2008. Whereas the majority of the land is owned by the applicant, Sebastien Vineyard Ltd, the two smaller titles are owned by different parties. The applicant should provide a written agreement from the other parties that confirms their agreement to the subdivision. The written agreement is necessary as the application assumes that all the land is owned by Sebastien Vineyards Ltd and therefore those other parties may have not been served notice of the application.

As stated previously an additional title is located towards the centre of the land being subdivided. This title is owned by B A & V S Wood and N A McFadden, the previous owners of the orchard land. The title is not part of the land being subdivided but is an integral part of the total development particularly in regard to the shared access and amenity provided by the established specimen trees.

The five existing certificates of title have all been lawfully created as results of resource consents approved by Council. The resource consents were in terms of the subdivision rules current at that time in relation to retirement homes, packhouses, minimum areas and boundary adjustments.

4. ZONING AND AREA OVERLAYS

The application site is zoned as follows:

- (a) Rural 1 under the Operative (Transitional) Tasman District Plan Waimea Section.
- (b) Rural 3 under the Proposed Tasman Resource Management Plan (TRMP).

Rural 3 zoning was introduced by Variation 32 which was publicly notified in December 2003. Variation 32 also introduced Rural 3A and the subject land was in fact subject to the Rural 3A zone from date of notification until August 2005 at which time the zoning was changed to Rural 3.

It is interesting to note that the philosophy behind the Rural 3A zone was to allow a specific number of small lots when larger lots were created and permanently protected from further subdivision to ensure the long term protection of productive land. It seems to me that the design philosophy of the current application is very close to the philosophy of Rural 3A although of course no regard can be given to that as Rural 3A was deleted as a result of a Council decision on subdivisions.

The Rural 3 zoning of the subject land is fully effective from the date of the public notification and totally replaces any previous zoning under the operative or Proposed District Plans.

The land is in the Wastewater Management Area Overlay which means that the discharge of domestic wastewater is subject to a high level of design and management to mitigate the effects of the higher density of residential development in a sensitive receiving environment.

The land is also in the Land Disturbance Area 1 but the proposed soil disturbance and earthworks are minor and are a permitted activity in Land Disturbance Area 1.

5. CONSENTS SOUGHT

To undertake the following activities associated with a comprehensive and fully integrated Rural 3 development:

Subdivision Consent and Land Use Consent (Application RM070583)

To subdivide five existing titles comprising 46.4264 hectares into the following:

- Proposed Lots 1-9, being rural-residential allotments ranging between 3,155 and 4,845 square metres in area;
- Proposed Lot 10 of 1.91 hectares containing an existing packhouse and proposal to include a rural-residential building site;
- Proposed Lot 11 of 39.49 hectares to be used as a productive vineyard; and
- Proposed Lot 12 of 1.52 hectares containing an existing campground.

A land use consent is also sought to construct an under width and over length right-of-way which will serve nine users.

Land Use Consent (Application RM070584)

To construct a dwelling on each of proposed Lots 1-11 of the subdivision application described above (Application RM070583), with a 20 metre setback between the dwellings and the vineyard and potential productive activities on NL103/81.

Discharge Permit (Application RM070582)

To discharge up to 21.4 cubic metres of tertiary treated domestic wastewater per day by way surface and/or subsurface irrigation. The wastewater to be treated and discharged would be that generated from the dwellings, farm sheds associated with the subdivision application described above (Application RM070583), and campground.

Discharge Permit (Application RM070586)

To discharge contaminants (primarily odour) to air associated with the proposed wastewater treatment and disposal system servicing the subdivision application described above (Application RM070583).

Discharge Permit (Application RM070585)

To discharge stormwater to land and to unnamed tributaries of the Moutere Inlet from proposed dwellings and hard surfaces associated with the subdivision application described above (Application RM070583).

Water Permit (Application RM070587)

To take up to 146.4 cubic metres of groundwater per day from an existing bore for irrigation, filling of existing dams, and to provide potable water (up to 36 cubic metres per day) for the homestead, subdivision application described above (Application RM070583) and an adjacent school, church, and residential dwelling.

Land Use Consent (Application RM071007)

To undertake works in the bed of an unnamed tributary of the Moutere Inlet to enhance a wetland.

6. SUBDIVISION PROPOSAL

To subdivide the land to create 12 lots as follows:

- Lot 1 of 3645 m² containing the existing cottage.
- Lot 2 of 4845 m² being a vacant residential lot.
- Lot 3 of 4810 m² being a vacant residential lot.
- Lot 4 of 4510 m² containing the existing house.
- Lot 5 of 4370 m² being a vacant residential lot.
- Lot 6 of 3195 m² being a vacant residential lot.
- Lot 7 of 3155 m² being a vacant residential lot.
- Lot 8 of 3195 m² being a vacant residential lot.
- Lot 9 of 3290 m² being a vacant residential lot.
- Lot 10 of 1.9 ha containing the existing packhouse.
- Lot 11 of 39.49 ha being a proposed vineyard.
- Lot 12 of 1.52 ha containing the existing camping ground.

A land use consent is also sought to construct a dwelling on each of the new lots with the exception of the camping ground site, Lot 12.

Access to Lots 1-7 is via an extension of the existing right-of-way that services the existing dwellings off the State Highway.

Access to Lots 8 and 9 is via a new right-of-way off Williams Road.

Access to Lot 10 and rural access to Lot 11 is via the existing access to the packhouse. Residential access to Lot 11 is via a new vehicle crossing to be constructed off Williams Road.

Access to Lot 12 is via the existing vehicle crossings to the camping ground.

A building location area has been identified on each of the 12 allotments except for Lot 12, the camping ground. The building location areas are set back 20 metres (rather than 30 metres) from the proposed vineyard plantings within the development site but otherwise comply with the permitted activity rules in the TRMP. The application anticipates that the camping ground may be upgraded in the future which would require a consent for the construction of a manager's/owner's dwelling.

It is proposed that the wastewater from all dwellings be piped to a single treatment plant and disposed of via the irrigation system servicing the vineyard.

Potable water, irrigation water and water for fire fighting purposes will be sourced from the existing bore and dams on the property. It is proposed to formalise the existing supply to the Tasman Christian School and Tasman Community Church that is sourced from the subject land.

The subdivision proposal includes a commitment to develop a wetland within a low lying area adjacent to Horton Road. However the applicant specifically opposes the creation of a public walkway over the land.

The subdivision layout was developed from a comprehensive analysis of the site as required for any Rural 3 proposal. Of particular relevance to this site is the fact that the soils are Class B and therefore protection of those soils for their long term productive values must be the overriding factor in any subdivision design and assessment.

The site is also an integral part of the rural landscape that characterises the area between Ruby Bay and Tasman and therefore a careful analysis of the effects of any subdivision development on that rural character and amenity is also required.

The purpose of the subdivision is stated as provision of additional land to expand an existing vineyard.

7. STATUS OF THE SUBDIVISION PROPOSAL

Under the Transitional District Plan Waimea Section the subdivision proposal is a non-complying activity as the allotment areas do not meet the minimum 15 hectares needed to be a controlled activity for the zone (Rule 406.1).

However, Variation 32 of the Proposed Plan introduced Rural 3 and was prepared under the framework of the Resource Management Act 1991 after extensive consultation with the community. Therefore, the Proposed Plan must bear greater

weight than the Transitional Plan to the extent that it is not worth canvassing matters that would have been relevant under the Transitional Plan. This position is consistent with the position adopted by the Committee in previous Rural 3 decisions.

Under the Proposed Tasman Resource Management Plan the subdivision proposal is a restricted discretionary activity.

Under the Proposed Tasman Resource Management Plan the construction of the right-of-way is a discretionary activity (Rule 16.2.6) as the proposed right-of-way does not comply with the standards for onsite access under Figure 16.2A with respect to number of users, minimum width or maximum length. This is because the allotment areas do not meet the minimum 50 hectares needed to be a controlled activity for the zone (Rule 16.3.96(b)) and every allotment in which a building is intended to be located has a building location area shown on the plan (Rule 16.3.9D(a)).

8. RELEVANT STATUTORY PROVISIONS

The subdivision is a restricted discretionary activity. For such restricted discretionary activities Council may only consider those matters specified in the District Plan to which it has restricted its discretion. Council may then grant or refuse the application. If Council grants the application it may impose conditions under Section 108 only for those matters specified in the District Plan over which it has restricted the exercise of its discretion (Section 104C).

The matters over which Council has restricted its discretion are listed in Chapter 16.3.9D TRMP. In summary, they are:

- (i) protection of the land's productive values;
- (ii) relationship between the subdivision and subsequent building development;
- (iii) effects on rural landscape and amenity values;
- (iv) consistency with the design guide for the area;
- (ivA) interim provision of water supply;
- (ivB) provision of suitable onsite wastewater treatment and disposal;
- (v) provision for a protection of areas of ecological value, landscape value, indigenous vegetation, trees and cultural heritage sites;
- (vA) long term legal and physical protection of open space from subdivision and development;
- (vi) management of natural hazards;
- (vii) ability of the wider landscape to absorb the extent of development without significant loss of rural character;
- (viii) contamination by pesticides;

- (ix) actual and potential cumulative adverse effects;
- (ixA) compliance with Chapter 16.2 Transport Rules, Chapter 18.10 Road Area Rules and Tasman District Council Engineering Standards;
- (ixB) relationship of new roads with existing roads, adjoining land and future roading requirements;
- (x) bonds, covenants and financial contributions in addition to those specified in standards and all matters referred to in Section 220 of the Act;
- (xi) any other relevant criteria in Schedule 16.3A;
- (xii) cross boundary effects;
- (xiii) noise exposure to the road network.

It is emphasised that, in determining the subdivision proposal, Council is limited to considering the matters listed above. In general, other matters derived from Part II of the Act, the Tasman Regional Policy Statement, the District Plan or elsewhere are irrelevant. However, given the wide ranging matters of discretion, which include consistency with the design guide, cumulative adverse effects and all the relevant criteria in Schedule 16.3A, it is unlikely that any application would offend the Part II matters or policies and objectives of District Plans without also offending the matters of discretion.

9. FURTHER INFORMATION AND NOTIFICATION

The original application was formally received by Council on 18 June 2007. Following a preliminary assessment by Council staff, further information on a range of matters was requested on 23 July 2007. Subsequently a fresh application was lodged on 4 October 2007 which was publicly notified on 27 October 2007 with submissions closing on 23 November 2007.

10. SUBMISSIONS

A total of five submissions were received, all of which were neutral or conditionally supported the application.

A summary of the submissions follow:

10.1 Nelson/Tasman Branch, Royal Forest & Bird Protection Society

- neither supports or opposes the application;
- supports the development of the wetland;
- suggests use of eco sourced plants and long term formal protection of the wetland.

10.2 Peter and Gillian Russell, owners of Lot 3 DP 306098 being adjoining land south of subject land

- supports the application in so far as there is no walkway over the site, particularly over the wetland;
- supports creation of the wetland;
- seeks formal ongoing maintenance and protection of the wetland.

10.3 Christopher Allen Freyberg & Douglas John Beagle, owners of Lot 4 DP 307275 being land opposite side of Coastal Highway

- supports the application;
- seeks a condition banning the use of audible bird scarers;
- seeks a condition banning the use of vineyard machinery between hours of 10.00 pm and 6.00 am including the use of helicopters for frost control;
- seeks assurance that the vineyard will be developed quickly and remain in the long term.

10.4 Tasman Bay Church / Stewards Trust of NZ Inc, owner of property corner of Williams Road and Coastal Highway

- supports the application;
- ideal use of land;
- positive impact overall on Tasman.

10.5 Dalem Hills Ltd (Doug & Marita Hattersley), owners of Lot 3 DP 385890 located off Horton Road, south of the subject land

- supports the application;
- seeks condition requiring consultation with DOC re wetland;
- seeks condition requiring management plan with performance targets for wetland;
- seeks performance targets be met before issue of Section 224 Certificate.

In addition to the submissions noted above, the applicant has provided the results of consultation undertaken with various neighbours and statutory bodies. The consultation with neighbours has been extensive with the results of that consultation being provided in the form of written approval forms. However, as a decision was made by Council to publicly notify the application I have not checked the written approval forms for completeness or accuracy. However it would be fair to say the application is largely supported by the local community and not opposed by the public at large.

11. ASSESSMENT, EVALUATION AND PRINCIPAL ISSUES

As stated previously, the subdivision proposal is a restricted discretionary activity which means that Council in assessing and evaluating the proposal, may only consider the matters listed in Chapter 16.3.9D TRMP. However, rather than assess and evaluate the matters in the order listed in the plan I will assess and evaluate them in the order that logically relates to this particular application.

11.1 Productive Land Values

The application includes a detailed assessment of productive land values prepared by Dick Bennison of Duke & Cooke Ltd. That report identifies the

land as Class B. Class B land is slightly less flexible than Class A land but is still considered to be land of high productive value and suitable for semi-intensive horticulture.

The discretionary matters, assessment criteria and design guides in the TRMP seek to retain such productive land for productive purposes.

The land classification system that identified the various classes of land was a broad brush exercise and Mr Bennison's report identifies a considerable variation in the soils across the property. In particular the elevated ridges have very shallow top soils with impeded drainage in the gullies between the ridges. Lots 7-9 are located on those ridges which is not land of high productive value.

Lots 1-5 are largely an infill cluster development around the existing dwellings, buildings and mature trees with only a minor loss of productive land.

Mr Bennison reports that the trend in surrounding land uses has been a steady decline in orcharding with the land now primarily in pasture with the properties predominately used for lifestyle purposes with high value houses. The majority of rural properties that have come on the market in the past 10 years have been sold for non productive purposes because the demand for lifestyle properties has pushed the value of land in this locality beyond the level of sustainability for productive purposes.

The subject land is in five separate certificates of title and if sold separately, based on current trends, could reasonably expected to be developed as five separate lifestyle properties or hobby farms. Rather the current proposal is for an unfragmented productive unit of 39.49 hectares with covenants and planning instruments in place to preserve the lands long term productive potential.

I believe an assessment and evaluation of the lands productive value is best summed up in Mr Bennison's concluding paragraph:

This layout seeks to provide nine lifestyle allotments in positions on the property that will have the least impact on its overall productivity, while releasing sufficient capital from the land to make development of the vineyard viable and sustainable. Each of the house sites chosen is in an area where productivity is compromised either by the limitations of the soil or proximity to existing dwellings and amenities. In that respect it strikes a balance between the productive qualities of the majority of the site and the need to release capital from the land to enable the development to proceed in a manner that will maximise the long term advantage to the environment. The alternative is that the property would most likely be sold in its separate titles and district trends would indicate that under that scenario there will be little if any productive development with the land most likely to be used for low intensity grazing.

11.2 Rural Character and Amenity Values

The application includes a detailed landscape report prepared by Rory Langbridge Landscape Architects.

The site is an integral part of the rural landscape that characterises the area between Ruby Bay and Tasman. However it is not particularly visible due to the topography of the site and the screening role of the shelter belt along the Coastal Highway frontage and an extensive area of mature trees that form a dense cluster around the existing dwellings. Nevertheless the site has significant rural character due to the open space apparently void of residential development and the rural productivity of the land.

There currently exists a cluster of three dwellings, farm buildings and two irrigation dams towards the centre of the site. This existing built development is complimented by the cluster of mature trees. The three additional lots can readily be absorbed into this cluster without threatening the existing rural character and amenity values.

In addition to the above it is proposed a further cluster of four lots be developed on the upper reaches of the site on land that has been identified as having low productive value. It is proposed to extensively plant these lots and the associated gullies in trees to mitigate any adverse effect on rural character and amenity values.

In addition to the landscape controls for the lots it is proposed that architectural controls will be imposed on every new building.

Whereas the residential lots and building locations have been located with the productivity of rural land being paramount I believe overall that the proposal will result in an integrated rural and residential development with no more than minor adverse effects on the rural character and amenity values. The proposal is also consistent with the location specific guidelines for landscape (landscape Unit 5). For a full assessment of land use matters relating to building and landscape refer to staff report on RM070584 (land use) attached as Appendix A.

11.3 Access

The application includes a detailed traffic assessment prepared by Traffic Design Group.

The adjoining State Highway has a limited access status which means that for the purpose of subdivision it is not a legal road unless a Section 93 Notice is issued by Transit NZ. Transit NZ did not lodge a submission so have presumably relied on the volunteered upgrading works on the State Highway being brought forward as a condition of consent. The upgrading works involve the construction of Crossing Points 11 and 13 that are the vehicle crossing points of the two proposed rights-of-way, to a Diagram D standard as per Transits Planning Policy Manual.

It is also noted that following the construction of the proposed Ruby Bay Bypass the State Highway will revert to a local road with traffic volumes reducing from 6000 vpd to an estimated 1500 vpd.

The two adjoining local roads, Horton Road and Williams Road provide a good standard of two-way seal roads although I note they are both programmed for an upgrade within the 10 year period of the LTCCP.

The proposed eastern right-of-way will serve eight residential sites. Under Figure 16.2A TRMP which specifies standards for onsite access such a right-of-way should be limited to six users, have a minimum width of 4.5 metres and a maximum length of 300 metres. The proposed width in parts is 3.5 metres and proposed length is 700 metres.

The reduction in width is necessary to preserve the amenity of the tree lined driveway. The section of reduced width is also relatively short, straight and flat and with the construction of three passing bays will provide for a safe and attractive driveway.

The number of users and length of the right-of-way could be reduced by the construction of a new road or an additional right-of-way of Horton Road. Neither of those options are desirable in terms of protecting productive or amenity values.

The western right-of-way off the State Highway, the new right-of-way off Williams Road and the vehicle crossing to the identified house site on Lot 11 of Williams Road can all be constructed to comply with the standards under Figure 16.2A TRMP.

11.4 Wastewater

The application includes a wastewater management report prepared by Cameron Gibson Wells.

It is proposed that a decentralised system be employed for management of wastewater from the dwellings and campground within the subdivision. Wastewater will be collected in an interceptor tank at each dwelling and at the campground, where solids will be removed by settling. The wastewater will then discharge either by gravity or pump as necessary through an outlet filter into a small bore polyethylene pipe collection system. A treatment plant will be located in the vicinity of the existing farm sheds. The application states the treatment will comply or better the requirements of Chapter 36.1.14A (New Discharges in the Wastewater Management Area).

The treated wastewater will be discharged to land through the vineyard irrigation system with reserve application areas within the landscape plantings.

For a full assessment of the proposed wastewater system, treatment and disposal refer to staff reports on RM070582 (Discharge Permit Wastewater) and RM070586 (Discharge Permit Contaminants to Air) attached as Appendix B.

11.5 Stormwater

The application includes comment on stormwater matters from Cameron Gibson Wells Ltd. Their conclusion is that with the layout of the subdivision in conjunction with the existing irrigation dams, the proposed wetland area and

landscape plantings and roadside ditches and swales there is little need for hard solutions to stormwater management.

For a full assessment of stormwater matters refer to staff report on RM070585 (Discharge Permit Stormwater) attached as Appendix C.

11.6 Water Supply

The application includes comment of water supply matters from Cameron Gibson Wells Ltd.

It is proposed that the existing bore be used as an interim potable water supply for all existing and proposed dwellings, farm sheds, camping ground and the adjacent dwelling on Lot 1 DP 304381 (Williams Road), the Tasman Bay Christian School and the Tasman Community Church. The water will be pumped into storage tanks and then reticulated through the subdivision with pressure maintained through the use of a pressure tank at the pump station. Initial analysis of the bore water indicates that treatment is unlikely to be required but a condition can be imposed to ensure compliance with Drinking Water Standards for NZ 2005.

Similarly a condition can be imposed to ensure compliance with the NZ Fire Service Fire Fighting Water Supplies Code of Practice SNZ PAS 4509:2003.

For a full assessment of the change of use to be existing water permit refer to staff report on RM070587 (Water Permit Groundwater take) attached as Appendix D.

11.7 Earthworks

The construction of the rights-of-way will involve some earthworks. The right-of-way to lots 6 and 7 follows a spur so the earthworks will be minor. The earthworks on the right-of-way to Lots 8 and 9 will be more significant but do not require a resource consent. In any case the rights-of-way will be constructed in accordance with approved engineering plans.

Some earthworks will be undertaken to rectify the shape of the building site on Lot 2 but otherwise the construction of building platforms will be left to the individual house owner.

11.8 Contaminated Soils

It is acknowledged that part of the site is pre 1970's orchard land and may contain contaminated soils. A condition can be imposed to undertake the appropriate soil testing and if necessary remedial works, where any contaminated soils are contained within the residential sites.

11.9 Wetland

It is proposed that a wetland be developed on the south east corner of the property on low lying land centred on a small watercourse. Historically the site has been severely modified with the destruction of the original vegetation and

straightening and deepening of the watercourse to the extent that it no longer functions as a wetland.

However a preliminary report prepared by M J Conway concludes that with control of the exotic plants, earth grading and replanting with indigenous plants the wetland can once again have important values for soil and water, nature conservation and the landscape. Appropriate conditions including the provision of a detailed management plan can be brought forward as conditions of consent.

A staff report on RM071007 (Land Use, Works in Watercourse) is attached as Appendix E.

11.10 Walkway

The matter of a public walkway over the subject land linking Horton and Williams Road has been the subject of numerous discussion and debate between the applicant and Council staff.

The applicants position is that the opportunity to provide a walkway is constrained by the fact that there are no natural drainage corridors or other topographical features between the two roads. This means that any walkway would need to cut through the vineyard or be located between the back of the vineyard and proposed Lots 6, 8 and 9.

The applicants further state that any walkway cutting through or alongside a productive vineyard has the potential to cause a conflict with the day to day vineyard operations and would generate a public health risk. To avoid that public health risk would require the vineyard to be reduced in area and thus reduce the productive potential of the land.

The Council staff position is that the south west boundary of the land is an appropriate position for a walkway. A site inspection has confirmed that the topography along the boundary is sufficiently gentle to enable the construction of a 1.5 metre wide gravel walkway within a 5 metre wide easement.

The south west boundary of the land is considered suitable for the following reasons:

- The boundary is centrally located between the existing state highway and the proposed future Ruby Bay bypass. As such it would provide a well placed, off road link between Horton and Williams Road which will fit into a large picture of walkways/cycleways, formed and legal roads within the larger Rural 3 zone.
- The boundary is located to the rear of the future dwellings minimising any effects on their privacy.
- For much of its length the walkway would be located on the steeper less versatile land reducing the impact of a walkway on the flatter more versatile and productive areas of the property.

- For much of its length the walkway would be separated from the proposed vineyard, this would minimise any cross boundary effects and again reduce the amount of productive land lost as a result of the creation of a walkway.
- This location would provide the walkway with the highest level of amenity as it is elevated for much of its length and provides views over the surrounding rural areas and is located well away from busy arterial roads.
- The walkway would not cross the proposed right-of-way, access roads or wetland.

The relevant statutory provision for assessment of the application in terms of walkways is provided by Section 3.7 of the Design Guide for Subdivision and Development in the Coastal Tasman Area and Schedule 16.3A TRMP both being matters over which Council has reserved its discretion when assessing Rural 3 subdivisions. In particular Section 3.7(b) of the Design Guide states:

Provide for alternative public accessways – such as cycle paths, walkways and bridle paths – to connect dwellings and link them to each other, to public amenities and to other community services.

And C1 32 of Schedule 16.3A states:

The provision, design and routes of cycleways, walkways and bridle paths, including linkages between any site and local retail areas, schools, reserves, bus routes and arterial roads.

Both of the above matters are supported by Chapter 7.2A of the TRMP which deals with issues in the Coastal Tasman Area. In particular policy 7.2A.14 states:

To progressively develop a network of interconnected pedestrian, cycle and equestrian routes, and reserves within the Coastal Tasman Area, including to and along the coast

A network of walk/cycle ways is progressively being achieved throughout the Rural 3 zone as sites are developed. The walk/cycleway within the proposed development will form one link within a developing network throughout the Rural 3 zone and is considered to be consistent with the public access objectives in the Coastal Tasman Area.

An additional staff report on the matter of the walkway is attached as Appendix F.

11.11 Design Guide

The design guide has been developed to guide subdivision and development to minimise adverse environmental effects on rural land in the Rural 3 zone. It serves as a method to implement the objectives and policies of the TRMP rather than impose additional ones.

In particular it assists the evaluation of productive land, rural character and landscape, access and servicing, conservation and recreation, building location areas and design.

I have assessed all these matters in the preceding paragraphs and subject to the provision of a walkway my conclusion is that the proposal is consistent with the Design Guide.

12. SUMMARY AND CONCLUSION

The proposal is for a comprehensive Rural 3 development creating 11 residential sites alongside a productive vineyard development. The effects of the development have been minimised with careful attention paid to the productive and landscape features of the property. In particular the residential development provides an opportunity to retain high productive land in one large, long term, unfragmented holding.

I have considered the matters over which Council has restricted the exercise of its discretion and conclude that, subject to the provisions of a walkway, the subdivision proposal does not offend any of those matters to the extent that consent should be refused.

13. RECOMMENDATION

That pursuant to Section 104C of the Act the Committee grants consent to the subdivision proposal by Sebastien Vineyards Ltd, subject to the following conditions.

CONDITIONS

1 State Highway Upgrade

That Crossing Point 11 and Crossing Point 13 be upgraded to a "Diagram D" standard as per Transits Planning Policy Manual.

Advice Notes

- (i) It is recorded that the applicant has volunteered this condition.
- (ii) It is likely that Transit NZ will require a Section 51 consent to be issued prior to any physical works being undertaken on the State Highway road reserve.
- (iii) Confirmation from Transit NZ (or their network consultant) that the works have been satisfactory completed is a means of compliance with the condition.

2 Rights-of-Way A-I and Vehicle Crossings

- (i) That right-of-way A be designed to the following standards:
 - (a) minimum carriageway width 3.5 metres;
 - (b) concrete edge restraints x2;
 - (c) passing bays x3;

- (d) provision for collection and discharge of stormwater;
 - (e) sealed for 10 metres from edge of State Highway seal;
 - (f) balance finished with a permanent weather proof, dust free surface;
 - (g) turn outs to building location areas to extend 5 metres within property boundary.
- (ii) That rights-of-way B-I be designed and constructed to the following standards:
- (a) minimum carriageway width 4.5 metres;
 - (b) shoulders 2x500 millimetres;
 - (c) maximum gradient 1:5;
 - (d) provision for collection and discharge of stormwater;
 - (e) sealed for 10 metres from edge of State Highway seal for right-of-way J and 10 metres from edge of Williams Road seal for right-of-way H;
 - (f) balance finished with a permanent weather proof, dust free surface;
 - (g) turn outs to building location areas to extend 5 metres within property boundary.
- (iii) That the vehicle crossing to the building location area on Lot 11 be designed and constructed to the following standards:
- (a) minimum carriageway width 3.5 metres;
 - (b) extended to 5 metres within property boundary;
 - (c) provision for collection and discharge of stormwater;
 - (d) sealed for 5 metres from edge of Williams Road seal
 - (e) balance finished with a permanent weather proof dust free surface.
- (iv) That prior to the rights-of-way and vehicle crossings being constructed engineering plans, prepared in accordance with Council's Engineering Standards 2004, be submitted to Council for approval. All works to be undertaken in accordance with the approved plans.

3 Wastewater

- (a) That the wastewater reticulation, treatment plant and effluent disposal be designed and constructed generally in accordance with Cameron Gibson Wells report submitted with application and otherwise to comply with conditions of resource consent RM070582.
- (b) That as-built plans be submitted to Council.

4 Water Supply

- (a) That each residential site plus the camping ground site be serviced with a reticulated potable water supply generally in accordance with Cameron Gibson Wells report submitted with the application.
- (b) That the water supply be certified for compliance with Drinking Water Standards for NZ 2005.
- (c) That two 23000 litre water tanks be installed on the camping ground site.
- (d) That as built plans and a producer statement be submitted to Council.

5 Electricity and Telephone

That each residential site and camping ground site be serviced with underground electricity and telephone connections to the satisfaction of the relevant authorities.

6 Site Works and Stormwater

That prior to undertaking any works the following reports be prepared and submitted to Council for approval:

(a) Site Works

A report on the 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.

(b) Stormwater

A report on the provisions for stormwater collection and disposal, including calculations of existing and proposed discharges, secondary flowpaths and the effect or impact on drainage ditch sizes, road culvert crossing and water tables.

7 Easements

(a) General

That any services located outside the boundaries of the lots that they serve, including but not limited to rights-of-way, wastewater, water supply, electricity and telephone, be protected by an appropriate easement referenced in Council's Section 223 recital.

(b) Rural Emanations

That a rural emanations easement to be granted over Lots 1-10 and 12 for the benefit of Lot 11. The purpose of the easement is to allow authorised farming activities to be undertaken on Lot 11 without interference or restraint from the owners of Lots 1-10 and 12.

(c) Walkway/Cycleway

That a walkway/cycleway easement be granted as an easement in gross to the Tasman District Council. The easement is to be located adjoining the south western boundary of proposed Lots 6, 7, 8, 9 and 11.

The walkway/cycleway shall have a formation width of 1.5 metres with a 5 metre wide public access easement (except for a small area to the south east of proposed Lot 7 where the easement width will need to be widened slightly to accommodate a walkway which will comply with the NZ Standard). The formation of the walk/cycleway shall be undertaken in accordance with the TDC Engineering Standards and the New Zealand Walkway Standard SNZ HB 8630:2004 as part of the development works. The costs of formation may be

credited against the reserve fund contributions (subject to a quote acceptable to Council).

8 Contaminated Soils

- (a) That prior to Section 223 approval a contaminated soil sampling and assessment be undertaken on Lots 1-10 in accordance with the established protocol.
- (b) That prior to Section 224 approval any required remedial works be completed.

9 Wetland

- (a) That the proposed wetland be established in accordance with the conditions of resource consent RM071007.
- (b) That the works described in the management plan required by that consent be completed before issue of the Section 224 certificate.
- (c) That certification of the completed works be provided by a wetland specialist.

10 Financial Contributions

That a financial contribution be paid as provided by Chapter 16.5.5 assessed as follows:

5.5% of the total market value (at the date of this consent) of a notional building site of 2,500 square metres contained within each of Lots 1-7.

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 provide by Rule 16.5.5(d) of the Proposed Tasman Resource Management Plan, the cost of the revised valuation shall be paid by the Consent Holder.

Advice Note 1

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 2

Whereas there are 12 allotments being created by the subdivision there are five existing certificates of title pertaining to the land. Therefore in accordance with chapter 16.5.2(a) TRMP financial contribution are payable on seven lots.

Advice Note 3 – Development Contributions

Council will not issue the Section 224(c) certificate in relation to this subdivision until all development contributions have been paid in accordance with Council's Development Contribution 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 (LTCCP) 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 and water for seven allotments.

11 Building Location Plan

That a building location plan for each of the allotments 1-11 shall be prepared by a registered professional surveyor and submitted to Council for approval prior to issue of Section 223 approval. The building location areas shall be in accordance with Staig & Smith Plan 10199 dated 15 August 2007.

12 Residents Association & Management Plan

(a) That the consent holder shall form a Residents Association to which the transferee or its successors shall be members. The purpose of the Residents Association is to:

- manage and maintain communal assets and utilities (wastewater reticulation including any reserve disposal area, water supply, treatment and reticulation);
- manage plant and animal pests on land under the control of the Residents Association;
- manage and maintain all framework plantings shown on the Landscape Planting Plan and located within areas of rights-of-way;
- ensure a copy of the Management Plan is provided with every sale and purchase agreement for each of the allotments.

(b) That prior to the issue of the Section 223 certificate, a Management Plan setting out the purpose, responsibilities, accountabilities and procedural policies of the Residents Association shall be submitted for the approval of Council.

- (c) That the Management Plan shall also make provision for the Consent Authority to require work to be undertaken by or on behalf of the Residents Association in the event that the Management Company/Residents Association fails to meet its obligations to the standards identified as appropriate for such purposes, such that a breach of the conditions has occurred or seems likely to occur, and should the work not be undertaken the Consent Authority has the power to undertake the work itself and recover the full cost of the work from the Residents Association and its members.

13 Landscape Plan

- (a) A Landscape Planting Plan shall be prepared by a qualified Landscape Architect at the cost of the consent holder for the approval of the Council prior to issue of Section 223 certificate. This Landscape Planting Plan shall be prepared only for those areas identified on Rory Langbridge Plan submitted with application (Appendix I). The Landscape Planting Plan shall detail the following information:
 - (i) Planting plan specifying the type, number and size of the plants.
 - (ii) Establishment works required to implement the Planting plan.
 - (iii) Staging of planting.
 - (iv) The plantings shall be in accordance with the Landscape Report dated May 2007 and the species listed in that report.
 - (v) Pest plant and animal controls and ongoing maintenance schedules.
 - (vi) Replacement planting.
 - (vii) Ongoing maintenance of planted areas (developer and future owners).
 - (viii) Landscaping areas to be subject to land covenants to ensure their ongoing existence.
- (b) That the planting required by the Landscape Planting Plan shall be completed prior to the approval of the Section 224(c) certificate. A written statement shall be provided from a suitably qualified landscaping professional that the plantings have been fully completed in accordance with the above Landscape Planting Plan.
- (c) That the consent holder shall be responsible for maintenance, pest control, replacement and management of the planting required by the Landscape Planting Plan within the development for a minimum of three (3) years following the completion of this planting. The responsibilities thereafter shall devolve to the owner of the allotments.

14 Consent Notices

(a) Building Location Areas

That the construction of buildings on Lots 1 to 11 inclusive shall be restricted to the Building Location Area shown on the Building Location Plan and all new buildings shall be fully contained within each Building Location Area, except that this condition does not apply to any buildings solely associated with utilities within the subdivision which will need to meet the relevant zone building setbacks or be authorised by separate resource consent.

(b) **Building Height**

That buildings shall not exceed the following building height above natural ground level:

- Buildings on Lots 1, 4, 6, 8, 9, 11 – 5 metres maximum height.
- Buildings on Lots 3, 5, 10 – 7.5 metres maximum height.
- Buildings on Lots 2 – no building may extend above the 25 metres (MSL) contour.
- Buildings on Lot 7 – no building may extend above the 49 metres (MSL) contour.

(c) **Building Colour**

That the exterior of all buildings (including water tanks) in this development shall be finished in colours that are recessive and which blend in with the immediate environment.

The finished colours shall meet the following standards:

Colour Group*	Walls	Roofs
Group A	A05 to A14 and reflectance value $\leq 50\%$	That the roof colour is complementary with the rest of the building/s and is no greater a percentage than 25 per cent reflectance value.
Group B	B19 to B29 and reflectance value $\leq 50\%$	
Group C	C35 to C40, reflectance value $\leq 50\%$, and the hue range 06-12	
Group D	D43 to D45, reflectance value $\leq 50\%$ and hue range 06-12	
Group E	Excluded	
Finish	Matt or low-gloss	Matt or low-gloss

* Based on BS5252:1976 (British Standard Framework for Colour Co-ordination for Building Purposes). Where a BS5252 descriptor code is not available, a sample colour chip equivalent to acceptable BS5252 colours is satisfactory.

(d) **Building Exterior Surfaces**

That the exterior surfaces of all buildings shall be non reflective.

(e) **Water Tanks**

That all water tanks be incorporated into the structure of the buildings or partially buried and/or screened sufficiently within each lot so as not to be visible from beyond the site.

(f) **Landscaping**

That at the time of development of new dwellings on each of individual allotments, a landscape plan shall be developed by an appropriately qualified person that demonstrates:

- (i) How the proposed buildings would be integrated within the site. The landscape proposal needs to recognise and respond to the natural form of the land, the form of the buildings and the new framework plantings. The planting proposed needs to specifically respond to and build on this framework.
- (ii) Issues of privacy and views need to be specifically identified on the plan and shown how these will be addressed and/or protected. Views enjoyed from adjacent properties need to be specifically considered when planning the development of an adjacent site.
- (iii) Any landscape proposal must be accompanied by an implementation programme and/or management plan to show how the bulk of the proposal will be implemented in the first five years following the commencement of the house construction.
- (v) The land owner shall comply on an ongoing basis with the landscape plan.

(g) **Batters**

That all unsupported batters, including the use of rock stacking, created on the allotments shall not exceed a height of 2.5 metres or a gradient of 1:3, and must be fully planted so that no bare earth remains visible after two growing seasons.

(h) **Retaining Walls**

That all retaining walls, not directly associated with the formation of the house are to be restricted to a maximum height of 1.5 metres above adjacent ground level. All visible retaining walls in excess of 1.2 metres in height, shall be integrated with the design of the house and be constructed such that planting is possible in front of the wall and shall have planting that screens 80% of the façade of the wall within two years following construction.

(i) **Horticultural Planting**

That no horticultural planting shall be located in Lot 11 within 20 metres of the identified building location areas on Lots 1-11.

(j) **Stability**

That the site location of any building shall be investigated, evaluated and reported upon by a Chartered Professional Engineer to ensure the site is suitable for residential building, particularly in relation to any cuts, fills or batters and foundation design.

The engineering report shall also address stormwater run-off on each building platform, with any recommended conditions to ensure that the run-off does not adversely affect stability or cause instability onsite or cause adverse effects offsite.

(k) **Rainwater Collection**

That every dwelling has a rainwater collection system for domestic use.

(l) **Fire Fighting**

That prior to issue of any building consent for a dwelling the building site be certified for compliance with NZFS Fire Fighting Water Supplies Code of Practice SNZ PAS 4509:2003.

(m) That the residential sites on Lots 1-11 shall provide at least two parking spaces formed to a permanent weather proof dust free surface.

(n) **Wetland – Lot 11**

That the owners of Lot 11 maintain the wetland in accordance with the Management Plan for the wetland

(o) **Camping Ground – Lot 12**

That the use of the camping ground be restricted to seasonal orchard/vineyard workers.

(p) **Future Subdivision**

No further subdivision of any of the allotments in the subdivision will be allowed, except that this consent notice does not apply to subdivision constituting a boundary adjustment where it does not result in the creation of additional Certificates of Title or is for the provision of a utility site. Boundary adjustments and new allotments for utilities will be assessed under the provisions of the applicable Resource Management Plan.

(q) **Residents Association (Management Company) and Management Plan**

That all owners of Lots 1 to 11 inclusive shall be members of the Residents Association and shall comply with the Management Plan on an ongoing basis.

R D Shirley
Subdivision Officer