

## STAFF REPORT

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

**FROM:** Mark Morris - Co-ordinator Subdivision Consents

**REFERENCE:** RM070604

**SUBJECT:** **SUSTAINABLE VENTURES LIMITED – REPORT EP09/07/03 –**  
Report prepared for the hearing of 1 to 3 July 2009

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### 1. INTRODUCTION

The application is to subdivide 1.6617 hectares of land contained in CT NL 96/197 into three allotments, Lot 1 being 0.2720 hectares and Lot 2 containing 1.03 hectares, and Lot 3 of 0.46 hectares vesting as esplanade reserve.

Lot 2 would be further subdivided into 30 unit titles (in four stages) with associated parking and storage areas. The balance of the proposed Lot 2 will be held as common land.

Planning aspects of the proposed subdivision and land use will be dealt within the Planner's report. My report is mainly limited to recommended conditions on the subdivision consent.

However, I will comment on the following matters that relate to the subdivision consent:

#### 1.1 Unit Titles

Unit Title subdivisions in the Tasman District are relatively rare in that they are usually only used for apartment developments. The one that I have been involved in, was the Abel Tasman Apartments in Little Kaiteriteri which involved 12 apartments and this was approved under RM030648 in 2003 and was completed in 2004.

Unit Titles are covered by the Unit Titles Act 1972, though are still considered a subdivision under the Resource Management Act and requires a completion certificate under Section 224 of the RMA.

The difference with the Unit Titles is that Certificates of title are created for the completed building areas rather than a single parcel of land on which to build.

The unit title will include the area of the apartment, referred as the Principal Unit (PU) and accessory units (AU) which are usually used for carparks.

The areas outside the Principal Units and the Accessory units is referred to as a "Common Area" which is jointly owned by the proprietors of all units as tenants in common. This is administered by a "Body Corporate" which has its statutory obligations set out under section 15 of the Unit Titles Act.

In addition to a section 224 certificate under the RMA , a certificate under Section 5 (1) (g) of the Unit Titles Act is required confirming that:

*"every building shown on the plan has been erected, and all other development work has been carried out, to the extent necessary to enable all boundaries of every unit and the common property shown on the plan to be physically measured."*

There appears to be differences in interpretation, around the country, of this section, and some Councils allow signoff, when the units are still unfinished, but in a state that the dimensions can be "physically measured".

Nelson City Council, which deals with a lot more Unit Title Plans than Tasman, does not sign off the 5 (1) (g) certificate until the Code Compliance Certificate (CCC) has been issued for the units. I would tend to agree that this is the safest method to ensure that the new owners of the Unit Titles get a fully completed building and that is why I have imposed a condition that the CCC for each unit will be required, before signing off the Section 5 (1) (g) certificate.

Unit Title development are becoming increasingly common for tourism developments, where instead of a Company owning the entire development, individuals own each of the unit titles and these are managed ("on behalf") by the development company. The owners of the units, have a certain number of weeks per year and the rest of the year the unit is "managed" on their behalf.

It appears that this "managed apartment" approach will be used with this development.

## **1.2 Road to Vest**

Any residential zone subdivision is subject to Schedule 16.3B (h) of the TRMP, which can require that the road frontage be upgraded to the standards set out in 18.8 of the TRMP, which set out road construction standards (included legal widths) for all classes of road.

In this case, the road adjoining the property is classified as a Distributor Road. Technically, under Schedule 16.3B, Council could require the consent holder to widen the seal formation to 14 metres, with a foot path on either side and road reserve width of 24 metres.

The current road reserve is approximately 10 metres, which is well below the required 24 metres.

In this case, The Engineering Department are only requiring the widening of the road reserve to be in line with adjoining subdivision to the north and south of the property. This would result in additional road widening of approximately 5 metres at the southern boundary to 2.5 metres at the northern boundary.

This additional road reserve widening is line with the five subdivisions of the other coast side subdivisions at Pakawau.

The Davis subdivision (RM960557) in 1996 took 2.5 metres, on the property that adjoins the northern boundary.

The Mchardy subdivision (RM 040824) took an additional 5 metres width.

The Petry subdivision (RM 040782) took at least 5 metres additional width.

The TDC subdivision of the former GBCC dog dosing strip took a 20 metre reserve, because the entire road was contained in the original title.

The last major subdivision at northern end of Pakawau, the Monty Shaw subdivision (DP 9663) in 1976, took varying widths of road reserve, mainly around 5 metres of additional road reserve width.

### **1.3 Esplanade Reserve**

Under Section 230 (3) of the Resource Management Act, any subdivision, where the allotments are less than 4 hectares in area, is required to set aside an esplanade reserve of at least 20 metres width, and this shall be set aside from the "line of mean high water springs" (MHWS).

In this case the applicant has provided a 20 metre wide reserve, but the position of the MHWS may not be correctly located, which could have an impact on how much of the landward part of the property is contained within the esplanade reserve.

On page 6 (2.2) the application states that the line of MHWS was only established by Golden Bay Surveyors in 2006 to enable identification of setbacks from MHWS, and that if consent is obtained, MHWS will need to be "formally established" to meet LINZ requirements.

I have been on the beach at one of the spring tide days during calm weather, and from my observation, the spring tide line was at least 5 metres closer in to the "toe of the bank" than that shown on the application plan. The tide line appeared to be right up to the toe of the bank at the southern end of the site (boat ramp) and at the northern end of the beach would be no more than 4-5 metres to the toe of the bank.

While I acknowledge, that this is only one spring tide, and to be truly accurate a number of spring tide levels would need to be measured, I would be concerned if consent was given to buildings that are set back as little as 20 metres from MHWS (according to the application plan), when the final MHWS could be at least 5m closer to the toe of the bank. If this happened, then some of the buildings would end up encroaching into the esplanade reserve. The only way to prevent this problem, would be to have a buffer distance of an additional 7 metres from the reserve boundary shown on the application plan( ie a 27 metre setback from application plan MHWS), to ensure that none of the buildings end up in the esplanade reserve.

## **2. CONDITIONS (RM070604)**

Should the Environment and Planning Subcommittee decide to grant consent to the proposed subdivision application, I recommend that the following conditions be imposed:

### **STAGE 1 CONDITIONS**

#### **1. General Accordance**

That the proposal shall be in accordance with the Staig & Smith Ltd Plan titled; "Proposed Subdivision of Pt Sec 11 Square 15 CT 96/197 Ltd Sheet 1", and dated 18 April 2008 (shown as "Plan A " attached to this consent) as amended by the following conditions of consent.

#### **2. Esplanade reserve**

- a) A 20 metre wide esplanade reserve shall be set aside from Mean high water springs (MHWS) in accordance with section 230(3) of the Resource Management Act 1991.
- b) The position of MHWS shall be formally established and agreed by Council's Consents Manager prior to approval of the survey plan under section 223 of the Resource Management Act 1991. The plotting of MHWS shall be established by a Licensed Cadastral Surveyor and shall be based on observations and measurements of at least three spring tides at the coastal frontage of the site.
- c) Prior to its vesting, approval shall be gained from the Reserves Manager before the applicant erects any structures or undertakes any landscaping within the proposed esplanade reserve.
- d) The esplanade reserve shall be finished in accordance with Section 12.2 of the Council's Engineering Standards & Policies 2008.
- e) A 2 metre wide walkway shall be provided along the length of Right-of-Way A to provide pedestrian access from the road to the esplanade reserve. The formation of the walkway shall be undertaken in accordance with the Council's Engineering Standards 2008 and the walkway standards SNZ HB 8630 as part of the development works and completed prior to the issue of a completion certificate pursuant to Section 224(c) of the Act for each stage.

#### **Advice Note:**

The costs of formation for the public walkway/cycleways as required in condition 14 (b) above may be credited against the reserve fund contributions (subject to a quote acceptable to the Council's Community Services Manager).

### **3. Road to Vest**

- a) The existing road reserve along the frontage of the site shall be widened to be alignment with the road reserve that adjoins Lot 9 DP 8000 (an additional 5 metre width) to the road reserve that adjoins Lot 2 DP 19471 (an additional 2.5 metre width).
- b) The existing vegetation and fencing within the area that is to vest as road shall be removed. Any new plantings within the road reserve shall be subject to the approval of Council's Engineering Manager.
- c) The existing power poles along the existing road frontage shall be relocated so that they are located on the new road reserve boundary.
- d) A license to occupy, shall be required from Council's Engineering Department for any structures that are within the road reserve.

### **4. Coastal Protection Work**

That prior to the issue of a completion certificate pursuant to Section 224(c) of the Resource Management Act 1991 the required work on the existing rock revetment and timber step structures shall be completed and an engineering report provided from a suitably qualified Chartered Professional Engineer confirming all conditions of RM070601 have been fully completed.

### **5. Existing Buildings and Structures**

Any existing buildings and structures that are contained within the esplanade reserve required under condition 1, or straddling the boundary of the reserve, shall be removed prior to the vesting of the reserve, unless they are allowed to remain by the Council's Reserves Manager.

### **6. Landscaping**

- a) Prior to any landscaping work commencing, an amended landscape plan shall be provided to Council's Reserves Manager for approval. The plan shall outline the landscaping proposed the Esplanade reserve, the screening of the buildings from the road and Right-of-Way A and the landscaping required for each of the unit title stage.
- b) The landscaping plan shall include species planting plans, and proposed soil cover preparation, fertilization, mulching and future maintenance and plant replacement.
- c) The landscaping for the esplanade reserve, road frontage and the screening of Right-of-Way A, shall be fully completed and approved by the Council Reserves Manager, prior to the signing of the section 224 certificate for Stage 1. Any plantings within the road reserve shall be subject to the approval of Council's Engineering Manager.

- d) The consent holder shall be required to maintain the landscape plantings for a period of two years following the issue of the Section 224 certificate. A \$10,000 bond shall be taken to cover this period.

## 7. Easements

Easements are to be created over any services located outside the boundary of the allotment that they serve. Reference to easements is to be included in the Council resolution on the title plan and endorsed as a Memorandum of Easements.

Because of the vesting of the additional road reserve under Condition 3 of this consent, the Right-of-Way B shown on application plan shall not be required.

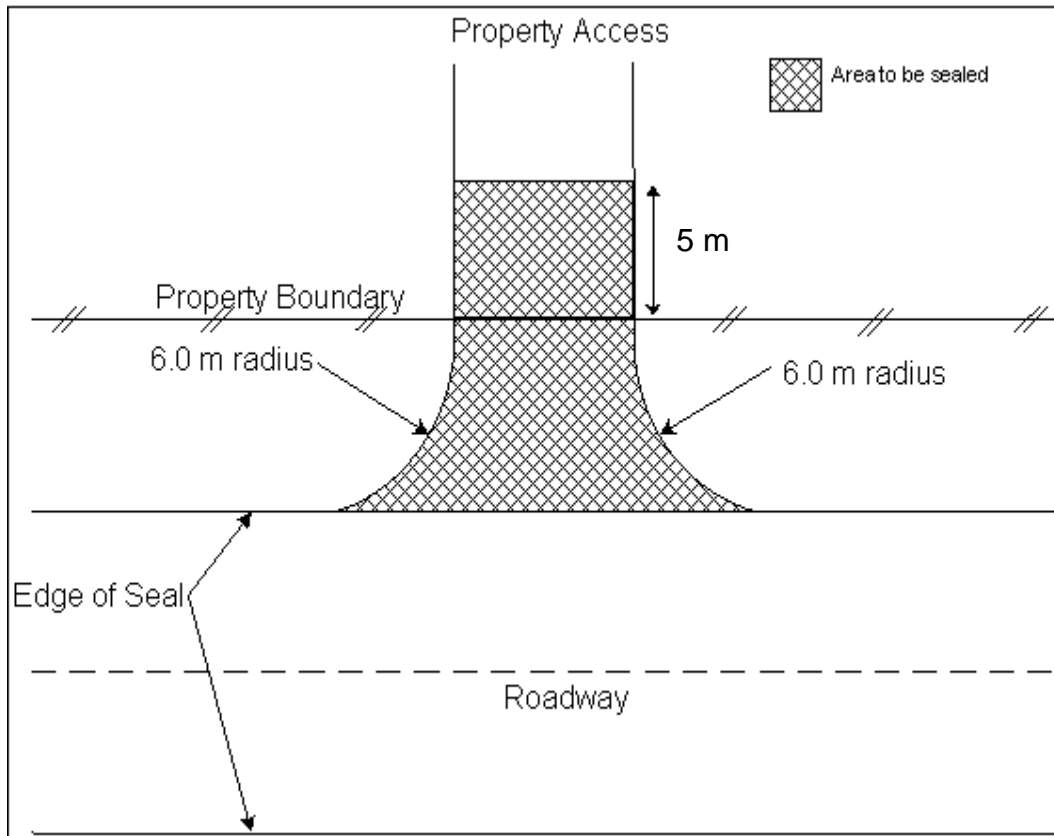
Right-of-Way A shall have a width of at least 6 metres.

## 8. Vehicle Crossing

A sealed vehicle crossing shall be formed to service Lot 1 in the position shown on the plan of subdivision.

The vehicle crossing for Lot 1 shall be constructed in accordance with the design shown below:

### Vehicle Crossing



and shall provide the following:

- a) The access crossing shall be at least 6 metres wide.
- b) the access sealing shall extend at least 5 metres inside the property boundary;
- c) provision of culvert crossings and water tables **where required**. The road culvert shall be to the approval of the Tasman District Council Engineering Manager;
- d) The access crossing shall be sealed in accordance with Tasman District Engineering Standards 2008;
- e) A road crossing permit shall be required from Council's Engineering Department. All works required under this permit shall be fully completed.

## **9. Financial Contributions (Stage 1)**

The Consent Holder shall pay a financial contribution for reserves and community services in accordance with following:

- a) the amount of the contribution shall be 5.5 per cent of the total market value (at the date of the consent decision) of Lot 1;
- b) the Consent Holder shall request in writing to the Council's Consent Administration Officer (Subdivision) that the valuation be undertaken. Upon receipt of the written request the valuation shall be undertaken by the Council's valuation provider at the Council's cost;
- c) if payment of the financial contribution is not made within two years of the granting of the resource consent, a new valuation shall be obtained in accordance with (b) above, with the exception that the cost of the new valuation shall be paid by the Consent Holder, and the 5.5 per cent contribution shall be recalculated on the current market valuation. Payment shall be made within two years of any new valuation.

### **Advice Note:**

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

### **Advice Note:**

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

The Development Contributions Policy is found in the Long Term Council Community Plan (LTCCP) and the amount to be paid will be in accordance with the requirements that are current at the time the relevant development contribution is paid in full.

This consent will attract a development contribution on one allotment in respect of roading.

## **10. Engineering Certification**

- a) At the completion of works, a suitably experienced chartered professional engineer or surveyor shall provide Council with written certification that the works have been constructed to the standards required.
- b) Certification that Lot 2 is suitable for the erection of residential buildings shall be submitted from a chartered professional engineer or geotechnical engineer experienced in the field of soils engineering (and more particularly foundation stability). The certificate shall define on the lot an area suitable for the erection of buildings.
- c) Where fill material has been placed on any part of the site, a certificate shall be provided by a suitably experienced chartered professional engineer, certifying that the filling has been placed and compacted in accordance with NZS 4431:1989.

### **Advice Note:**

Please note that the consent holder will need to comply with the Historic Places Trust Section 14 Authority No.207/93 dated 22 November 2006 in relation to any land disturbance as part of this subdivision.

## **STAGE 2 CONDITIONS: (UNIT TITLES)**

### **11. General Accordance**

That the proposal shall be in accordance with the Staig & Smith Ltd Plan titled; "Proposed Subdivision of Pt Sec 11 Square 15 CT 96/197 Ltd Sheet 2 ", and dated 18 April 2008 (shown as "Plan B " attached to this consent) as amended by the following conditions of consent.

### **12. Staging ( Unit Titles)**

The following stages are approved:

Stage A:  
Units 1-9

Stage B:  
Units 10-18

Stage C:  
Units 19-27

Stage D:  
Units 28-30.



### **13. Consent Period**

A consent period of 10 years is approved.

For avoidance of doubt, this means that all stages of the subdivision need to be given effect to (ie all unit title plans approved), within 10 years of the date of consent.

### **14. Effluent Disposal**

All works required under Discharge consent RM 070602, shall be fully completed, prior to the issuing of the Section 224 certificate for any of the unit titles.

Full sewer reticulation complete with any necessary manholes and a connection to the building site of each lot shall be provided with a connection to the approved treatment and discharge system required under RM070602.

### **15. Telephone and Power**

Live telephone and power connections shall be provided to each unit and all wiring shall be underground as per the requirements of Tasman District Council. Written confirmation of connection will be required from the relevant authorities.

### **16. Stormwater**

The applicant shall provide a detailed stormwater management plan at the engineering plan stage covering stormwater runoff from access areas, hard surface areas and the roofed area of all buildings. The plan shall show how stormwater shall be treated and disposed during saturated ground conditions and how secondary stormwater flows shall be provided for. The final design for treatment and disposal of stormwater shall be to the satisfaction of the Council's Engineering Manager.

### **17. Water Supply**

A firefighting water supply shall be provided for each unit title stage in accordance with NZS PAS 4509:2003.

As-built plans and a water supply producer statement from a chartered professional engineer confirming that the unit titles within each stage comply with NZS PAS 4509:2003 – NZFS Firefighting Water Supplies Code of Practice shall be provided to the Council's Environment & Planning Manager prior to Section 224 approval for each stage.

### **18. Access and Carparking**

All access and carparking areas shall be formed with a minimum layer of 150mm basecourse covered with a 25mm layer of dolomite chip, or an alternative formation approved by Council's Engineering Manager. The access surfacing shall be fully completed to the satisfaction of the Council's Engineering Manager.

Each of the residential units shall be provide with at least two car parks per unit. One of these shall be part of the unit title ( eg accessory unit) and the others can be part of the carparking provided in the “common area”.

#### **19. Engineering Plans**

- a) Engineering plans covering the works set out in conditions 14-18 are required to be submitted for approval by Council’s Engineering Manager prior to the commencement of any works. All engineering details are to be in accordance with the Council’s Engineering Standards 2008.
- b) As-built plans detailing completed access works and all stormwater and sewage reticulation shall be provided for each stage of the development, for approval by Council’s Engineering Manager. The as-built plans shall be in accordance with Council’s Engineering Standards 2008.

#### **20. Completion of Building Work for each Unit Title**

The Section 224 certificate and Section 5 (1) (g) certificate under the Unit Titles Act shall not be signed off until the Code Compliance Certificate has been issued for the respective apartments.

#### **21. Landscaping**

The landscaping for each of the unit title stages, required under condition 6 of this consent shall be fully completed to the satisfaction of the Council’s Reserves Manager. The consent holder shall be responsible for the maintenance of the landscaping for period of two years and a \$10,000 cash bond shall be taken for each unit title stage to cover this maintenance period.

#### **22. Earthworks**

All earthworks that may be required as part of this consent shall comply with the requirements and conditions of consent of RM070601.

#### **23. Commencement of Works and Inspection**

The Engineering Department shall be contacted in writing, five working days **PRIOR** to the commencement any engineering works.

#### **24. Engineering Certification**

- a) At the completion of works for each stage, a suitably experienced chartered professional engineer or surveyor shall provide Council with written certification that the works have been constructed to the standards required.
- b) Where fill material has been placed on any part of the site, a certificate shall be provided by a suitably experienced chartered professional engineer, certifying that the filling has been placed and compacted in accordance with NZS 4431:1989.

## 5. Financial Contributions (Unit Titles)

The Consent Holder shall pay a financial contribution for reserves and community services in accordance with following:

- a) the amount of the contribution for each unit title shall be 5.5 per cent of the total market value (at the date of the consent decision) of the land area of each the unit title(including the accessory parking unit) plus 1/30 of the value of the remaining common area ;
- b) the Consent Holder shall request in writing to the Council's Consent Administration Officer (Subdivision) that the valuation be undertaken. Upon receipt of the written request the valuation shall be undertaken by the Council's valuation provider at the Council's cost;
- c) if payment of the financial contribution is not made within two years of the granting of the resource consent, a new valuation shall be obtained in accordance with (b) above, with the exception that the cost of the new valuation shall be paid by the Consent Holder, and the 5.5 per cent contribution shall be recalculated on the current market valuation. Payment shall be made within two years of any new valuation.

### **Advice Note:**

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

### **Advice Note:**

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

The Development Contributions Policy is found in the Long Term Council Community Plan (LTCCP) and the amount to be paid will be in accordance with the requirements that are current at the time the relevant development contribution is paid in full.

This consent will attract a development contribution on thirty unit titles in respect of roading.



M D Morris  
**Co-ordinator Subdivision Consents**



Lots 1 - 3 being Proposed Subdivision of Pt Sec 11 Square 15 CT NL 96/197 Ltd.



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