



Notice is given that an ordinary meeting of the Environment and Planning Subcommittee will be held on:

Date: Monday 25 August 2014
Time: 9.30 am
Meeting Room: Tasman Council Chamber
Venue: 189 Queen Street
Richmond

Environment and Planning Subcommittee

AGENDA

MEMBERSHIP

Chairperson Cr S Bryant
Members Crs M Higgins and P Canton

(Quorum 2 members)

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Note: The reports contained within this agenda are for consideration and should not be construed as Council policy unless and until adopted.

AGENDA

1 OPENING, WELCOME

2 REPORTS

2.1 Bay View Estate Ltd..... 5

Subdivision Consent - RM120664

The application seeks the following:

The subdivision of Lots 1-3 DP302279 to create nine allotments:

- Lot 1 of 1.51 hectares;
- Lot 2 of 1.51 hectares;
- Lot 3 of 1.51 hectares (containing two existing workers cottages);
- Lot 4 of 1.39 hectares (containing an existing orchard shed complex);
- Lot 5 of 1.14 hectares;
- Lot 6 of 1.16 hectares;
- Lot 7 of 1.45 hectares (containing an existing dwelling);
- Lot 8 of 1.65 hectares and;
- Lot 9 of 2.13 hectares (containing an existing irrigation pond).

Land Use Consent - RM120665

To disturb soil on a piece of land subject to the Resource Management (National Environmental Standard for Assessing and Managing Contaminant in Soil to Protect Human Health) Regulations 2011.

Discharge Consent - Wastewater (RM120666-RM120673 and RM140164)

Discharge of domestic wastewater to land on proposed Lots 1-9.

Discharge Consent - Storm water (RM120762 - RM120770)

Discharge of stormwater to land on proposed Lots 1-9.

The land use and discharge matters are dealt with in Michael Croxford's report REP 14-08-02

2.2 Bay View Estate Ltd..... 41

Land Use Consent RM120665

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Discharge Consent - Wastewater (RM120666-RM120673 & RM140164)

Discharge of domestic wastewater to land on proposed Lots 1 to 9.

Discharge Consent - Stormwater (RM120762 - RM120770)

Discharge of stormwater to land on proposed Lots 1 to 9.

2 REPORTS

2.1 BAY VIEW ESTATE LTD

Decision Required

Report To:	Environment and Planning Subcommittee
Meeting Date:	25 August 2014
Report Author:	Mark Morris, Co-ordinator Subdivision Consents
Report Number:	REP14-08-01
File Reference:	RM120664
Attachments:	1. 27 Attachment 1: Engineering report 2. 29 Attachment 2: Reserves/walkway report 3. 39 Attachment 3: Location of submitters

1 Summary of Proposal

- 1.1 The applicant proposes to subdivide 9 allotments in a rural residential zone. Lots 1-3 will be on the northern side of the Seaton Valley Road, with Lots 4-9 being on the southern side to be accessed via a central right-of-way which largely follows the existing access to the current dwelling on Lot 7.
- 1.2 Lots 1-3 will have individual access points on to Seaton Valley Road.
- 1.3 The existing dam on Lot 9 is proposed to be lowered. This is covered in Michael Croxford's report REP 14-08-02.
- 1.4 As the property has previously been in orchard in the 1970s, and earlier, there is potential for soil contamination from pesticide residues. A site investigation report has been provided by the applicant assessing any likely contamination. This is addressed in Michael Croxford's report REP 14-08-02.

2 Site Description

- 2.1 The existing property has an area of 13.712 hectares and contains an existing dwelling on proposed Lot 7 and two small cottages on proposed Lot 3.
- 2.2 The Seaton Valley stream runs along the northern boundary of the property.
- 2.3 The property is generally gently sloping with slightly more steeper slopes at the southern end of the property. The property is largely surrounded by existing rural residential properties, with lot sizes between 1 and 4 hectares, except for the Senior block to the east of the property which is 48 hectares in area.



Photo 1: View from Lot 8. Existing planting around the Lot 7 dwelling at the right of photo.

The old orchard shed complex on Lot 4 is in the middle of the photo, with Lots 1-3 on the valley floor in the background. The proposed right-of-way accessing Lots 4-9 will follow the existing driveway in the middle of the photo, then up the gully in the foreground.

- 2.4 Lots 1-3 contain a mixture of pear orchard and pasture. The remaining orchard is irrigated from the irrigation pond on Lot 1.
- 2.5 Lots 4-9 were formerly entirely covered in orchard, but this has been removed and now most of the area is used for pasture, except for some amenity trees around the existing dwelling.
- 2.6 The former orchard shed complex still remains on Lot 4 and partly on road reserve. These sheds are proposed to be removed by the applicant.

3 Status of Application

Zoning: Rural Residential (Mapua)
 Areas: Land Disturbance Area 1; Wastewater Management Area.

Activity	Relevant permitted rule	Applicable rule	Status
Subdivision in Rural Residential (Mapua) zone	Nil	16.3.8.4	Restricted Discretionary

Activity	Relevant permitted rule	Applicable rule	Status
Subdivision adjoining a water course with allotment less than 4ha in area.	Nil	16.4.2.1	Restricted Discretionary
Land use: To disturb soil on a piece of land subject to the Resource Management (National Environmental Standard for Assessing and Managing Contaminant in Soil to Protect Human Health) Regulations 2011.	NES Regulation 8	NES Regulation 10	Restricted Discretionary
Discharge wastewater on proposed Lots 1-8	Nil	36.1.4.2	Restricted Discretionary
Discharge wastewater on proposed Lot 9	Nil	36.1.3.2	Controlled
Discharge stormwater to land	36.4.2.1	36.4.2.3	Restricted Discretionary

Overall the proposal is a **Restricted Discretionary** activity.

4 Notifications and Submissions

4.1 Written Approvals

Prior to notification written approvals were received from:

- Scott Zay Anderson of 154 Seaton Valley Road.

Pursuant to Section 104(3)(a)(ii) of the Act the decision-making panel must not have any regard to any effect on this party.

4.2 Notification

The application was limited notified on 11 April 2014 and submissions closed on 16 May 2014.

4.3 Submissions

Submissions in support

Submitter	Reasons	Heard?
Scott Z Anderson (154 Seaton Valley Road)	In support of the application.	No
Rosemary Lynn (57 Dawson Road)	<ul style="list-style-type: none"> • Generally in support of the application, but concerned about the adverse effects of the subdivision on her property and other neighbouring properties. • Concerned about a number of inaccurate 	No

Submitter	Reasons	Heard?
	<p>statements in the application.</p> <ul style="list-style-type: none"> Concerned about the proposed private covenants which could be waived by the applicant at any time. The building sites on Lots 8 and 9 will significantly obstruct neighbours' views and adversely affect property and amenity values. Concerned about the existing vegetation on her boundary with Lot 8. They need to be removed. 	
William & Erica Lynch (107 A Seaton Valley Road)	<ul style="list-style-type: none"> Support the application in part. Concerned about the size of the lots which are too small. Concerned about traffic safety issues on Seaton Valley Road, which is unsafe for pedestrians. The proposal does not mitigate or address the existing serious road safety problems on Seaton Valley Road. 	Yes.

Submissions in opposition

Submitter	Reasons	Heard?
Debbie & Simon Lavery (55 Dawson Road)	<ul style="list-style-type: none"> Concerned about the effects of the dwelling site on Lot 8 and the adverse effects on their property and the views they currently enjoy. The landscape report completely understates the overall effects on their property. No mention of the effects of water tanks that Council now requires for new dwellings, which would further diminish their primary outlook. 	Yes
James & Natalie Towler (181 Seaton Valley Road)	<ul style="list-style-type: none"> Would like to have say in the covenants for this subdivision. Brought their property solely for the water views of the dam. Want the house restricted to 4.5m. Water tanks to be buried. Tree height no more than 2 metres. House platforms need to be moved so they do not detract from our sea views. Dam on Lot 9 should not be lowered. There is a lot of wildlife that depend on the dam. 	No

	<ul style="list-style-type: none"> • Roof and house colours need to blend in with the landscape. • No paling fencing. 	
<p>Mark & Anne Lane (59 Dawson Road)</p>	<ul style="list-style-type: none"> • Visual effects of water tanks - need to be buried. • Height of shrubs that create a visual impact. Can cause problems with electric fences. Trees and shrubs should be no higher than 5-6 metres. • Covenants should not be able to be changed by the developer. • Visual impact of outbuildings. • Building zones need to be moved because of the effects on property values. • Effects on the zoning rules. 8 of the 9 allotments are less than the required 2 hectare lot size. 	<p>Yes</p>
<p>Lesley Lord, Peter Harling and Alton Trustees Ltd(8) (165 Seaton Valley Road)</p>	<ul style="list-style-type: none"> • Disagree with many of the statements in the applications regarding onsite wastewater disposal. • The removal of pine trees from southern boundary and removal of apple trees on the property has increased the runoff the property and reduced the absorption and transpiration within the site increasing the risk of run-off into downstream properties. • The reduction in the sides of dam, and the loss of water retention in the dam will cause greater runoff and water logging downstream from the property. • The applicant's report (Rounce project Solutions 2010) does not take into account the effects of lowering of the dam, and the associated runoff effects. • The applicant's assessment failed to include a number of matters of discretion that are listed in rule 16.3.8.4. • The proposal to lower the sides of the dam will have a significant adverse effect on our property. • Disagree with the contention that there will be no significant increase in stormwater discharge. The subdivision as proposed, and the lowered dam and spillway will exacerbate the runoff significantly. • The applicant's landscape assessment does not take into account the effects of 	<p>Yes</p>

	lowering the dam and spillway and the increased runoff effects.	
Annette Le Cren (109 Seaton Valley Road)	<ul style="list-style-type: none"> The zoning requires allotment to be at least 2 hectares. The trend to have smaller allotments than 2ha should not continue. All of the allotments should be at least 2 hectares in area. The more sections that are approved the more impact there is on the peaceful rural environment, which is the reason why people have chosen to live in the area. The subdivision will not be on a rural water scheme, so the dwellings will need multiple water tanks which will be an eyesore. The construction of outbuildings should be limited to a defined building area. Trees should be restricted to 5 metres in height so that views and sun shine are not obstructed. Concerned that the rotating of the toxic soil waste from the orchard days, 50cm into ground by machine, will not destroy the toxins and that they may be absorbed into the ground water or leached into the Seaton Valley Stream. The covenants on the properties should not be waived or changed by the applicant or his successors to suit themselves. 	Yes
Mike Shirer (113 Seaton Valley Road)	<ul style="list-style-type: none"> The proposal to create 9 lots will substantially change the rural nature of the blocks and is too many. The number of allotments should be reduced in order to maintain the rural aspect of the lower part of Seaton Valley. 	No

There were no neutral submissions.

A map showing the location of the submitters properties is appended to this report as Attachment 3.

One of the affected persons served notice, John Hodge of 111 Pomona Road, had previously written to Council on 29 January 2014, expressing opposition to the proposed subdivision. However, when the application was limited notified on 20 May 2014 to the affected parties including Mr Hodge, no submission was received from him. Mr Hodge's letter cannot be considered as a submission.

4.4 Comments on Submissions

4.4.1 Some of the submissions are about the private covenants that have been volunteered by the applicants. As these would be private covenants not enforced by Council, they are outside the scope of this hearing unless similar conditions are imposed by way of consent notice.

5 Statutory Considerations

Section 104

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

- Part 2 Of the RMA (Sections 5, 6, 7 and 8)
- Effects on the environment (positive and negative)
- Objectives and Policies of the TRMP
- Other matters

Section 106

This allows Council to decline a subdivision, or impose conditions, in relation to the effects of natural hazards on the site. Natural hazards are covered in Section 7.5 of this report.

6 Sections 6, 7, and 8

The following matters are relevant to this application:

Matters of national importance

- S.6(d) the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers.

Other matters

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

Treaty of Waitangi

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

7 Key Issues

7.1 I consider the key issues relating to this application to be:

- Rural Character and Amenity effects.

- Landscape Effects - consistency with the Coastal Tasman Area Subdivision and Development Guide (CTASDG)
- Servicing Effects
- Natural Hazards
- NES Contaminated Soils- 1970s Orchard land
- Cumulative Effects
- Effects of the lowering of the dam on Lot 9
- Public access to and along Seaton Valley Stream.

7.2 Because this subdivision is a restricted discretionary activity with those matters that Council can consider restricted to the 13 matters set out in rule 16.3.8.4 and the six matters set out rule 16.4.2.1, I will refer to the relevant matters of discretion as they relate to each of the key issues.

7.3 Rural Character and Amenity Effects

- (1) *The relationship between the subdivision proposed and the subsequent development, including effects of location and scale of buildings and other structures.*
- (2) *Effects on the rural landscape, on amenity values and on coastal character and values.*

7.3.1 The effects of the proposed subdivision on rural character and amenity are clearly a concern to a number of submitters, many of whom have outlooks and “view shafts” over the applicant’s property. With the clearing of the previous orchard trees and the replacement grass cover, many of the adjoining properties have an unobstructed view across the property and down to the coast. Clearly, these property owners want to retain these “view shafts” over the applicant’s property.

7.3.2 Any assessment of the effects on rural character and amenity needs to take into account the effects of what can be carried out as a permitted activity and what could be applied for “as of right”. In terms of permitted activity some activities that could be carried out on the property are:

- Establishment of shelter belts (including artificial shelter belts) (3 metres in from the boundary) up to 6 metres in height or un-restricted in height where they are at least 20 metres from a boundary.
- Unrestricted planting of amenity trees across the property, apart from 10 metres from a road intersection.
- Establishment of plantation forestry, 30 metres from a dwelling and 10 metres from internal and road boundaries and unrestricted in height, apart from winter shading on dwelling.

Any of these permitted activities would result in the blocking of these view shafts across the property.

7.3.3 In terms of what can be done “as-of-right, that is a controlled activity subdivision, which would not normally require affected parties consent, the property could be subdivided into six allotments, without development restrictions on the lots except for what is set out in the District Plan. This would mean that the following would be allowed on the six allotments:

- Unrestricted size of the dwelling on each allotment (apart from a 7.5 metre height limit and 5metre side yard setbacks and 10metre road setbacks)
- Up to 500 square metres of non-dwelling buildings and up to 7.5 metre in height.
- Unrestricted amenity tree planting on each of the allotments.

7.3.4 Clearly the transition from what has been a larger rural farming block to what could be done “as-of-right” in the Rural Residential zoned under the District Plan rules, will result in changes in amenity effects on properties as a result of subdivision and associated rural residential development. The effects from this “transition” are anticipated by the plan and need to taken into account in any assessment of the effects on rural character and amenity.

7.3.5 The other issue with effects on rural character is that the policies in the District Plan do anticipate that there will be additional development in the Mapua Rural Residential zone. Policy 7.3.3.18 states:

“To enable additional development in the Mapua Rural Residential Zone, subject to servicing requirements, and evaluation of specific proposals in accordance with the “Coastal Tasman Area Subdivision and Development Design Guide”.

7.3.6 In the “Reasons for the Rules” for the Rural Residential zone in Section 16.3.20 of the TRMP, on page 16/98 paragraph 2 it states:

“In the Mapua Rural Residential Zone, development to greater densities than provided on the basis of the subdivision controlled activity lot size is envisaged, subject to detailed design consideration.”

7.3.7 Therefore, the Plan does anticipate applications such as this one that seek consent for allotments less than the controlled activity lot size. I acknowledge that the policies and objectives of the District Plan, particularly in Chapter 7 “Rural Environment Effects” seek to maintain and enhance rural character and amenity in the rural areas generally. However, this needs to be viewed in the context that the District Plan seeks to enable and provide for rural residential development in specified rural residential zones and that a wide variety of activities can be carried out “as of right”, which together will impact on existing rural amenity and character. Change is to be expected in these zones as they develop.

7.3.8 In this case, the applicant has volunteered part of the conditions from the Rory Langbridge landscape Report, has sought to control some of the equivalent permitted activity standards and as-of right activities in order to mitigate the effects of the additional allotments. My conclusion is that in context of what can be done as a permitted activity and “as-of-right” under the District Plan, that the overall adverse effects of the proposed subdivision (with its volunteered conditions) will be less than minor on the rural character and amenity.

7.4 Landscape Effects

(3) *Consistency with the “Coastal Tasman Area Subdivision and Development Design Guide” for the area.*

(7) *The ability of the wider landscape to absorb the extent of the development proposed.*

7.4.1 The applicant has provided an assessment against the *Coastal Tasman Area Subdivision and Development Design Guide* (commonly referred to as the “Design Guide”) and the TRMP Chapter 9 *Landscape Policies & Objectives* which has been carried out by Landscape Architect Rory Langbridge.

7.4.2 I agree with Mr Langbridge's assessment under the Design Guide and his conclusion in Section 6 of his report that the proposal is consistent with the objectives and policies in TRMP Chapter 9: Landscape.

7.4.3 In terms of the "wider landscape", there are already a number of rural residential properties less than 2 hectares in size, particularly in the Mapua Estates subdivision on Dawson Road. These properties are still able to provide a rural residential amenity in spite of being well below the 2 hectare lot size. It is my conclusion that the proposal is in keeping with the existing rural residential landscape of the surrounding area.

7.4.4 Mr Langbridge has recommended a number of conditions on the subdivision to help mitigate the adverse effects of the higher density of the allotments in the subdivision. Some of these have been incorporated into my recommended consent notice conditions in Section 9 of this report. I acknowledge that any costs of monitoring and, if necessary, enforcing these conditions will fall to Council (ie, the community) rather than being civil matters between the property owners.

7.5 Servicing and Traffic Effects

(4) *The interim provision of water supply and wastewater services for the land to be subdivided pending the availability of Council-provided reticulated services.*

(10) *The degree of compliance with section 16.2 [Transport Rules], section 18.8 [Road Area Rules], and any current Tasman District Council Engineering Standards.*

(11) *The relationship of any new road with existing roads, adjoining land and any future roading requirements.*

7.4.1 No new water connections are available for this subdivision. Because of this, each allotment will need to provide its own water supply from rain fed water tanks, together with a fire fighting water supply for each dwelling.

7.4.2 The proposed allotments are to be serviced by way of on-site wastewater and storm water disposal. This is dealt with Michael Croxford's report EP 14-08-02.

7.4.3 The applicant has provided a report from Chris Pawson from the Traffic Design Group confirm that the four access crossing points are able to meet or exceed the sight distance requirements in the TRMP.

7.4.4 Dugald Ley, Council's Development Engineer has provided a memorandum (see Attachment 1) advising that the Seaton Valley Road has the capacity to accept the additional traffic generated by the subdivision. He also states that although there are no present plans to provide a footpath, it is likely in future that Council will need to reconsider the merits of a separate footpath. In lieu of this, conditions have been required to remove the orchard sheds lot 4 that currently encroach onto road reserve and a small triangle snip of land (approx 27m²) is being required to vest as road. This will allow a reasonable road verge for any future footpath. There are no other future road requirements that might affect this subdivision.

7.5 Natural Hazards

(6) *Management of natural hazards within and beyond the boundaries of the area.*

- 7.5.1 The eastern areas of Lots 1-3 are at risk from periodic flooding from the Seaton Valley Stream. However, because the proposed building site areas on Lots 1-3 are on the higher raised areas of the allotments, Eric Verstappen, Council's Resource Scientist (Rivers & Coast), did not consider that any of the dwelling sites on 1-3 were at risk from flooding.
- 7.5.2 The applicant has volunteered to provide an upgraded 450mm culvert under Seaton valley Road to take the runoff from the right-of-way and parts of Lots 4-9. Provision will need to be made for the secondary flow path (with easements) to ensure that the dwelling site on proposed Lot 2 is not at risk from overland flows.
- 7.6 NES Contaminated Soils- 1970s Orchard land**
- (8) *Effects of likely land contamination by pesticide residues on future activities on the land.*
- 7.6.1 This is dealt with by Council's Resource Scientist - Contaminated Sites, Paul Sheldon in Mr Croxford's report REP 14-08-02
- 7.7 Cumulative Effects**
- (9) *Actual and potential cumulative adverse effects.*
- 7.7.1 Any application for subdivision that creates allotments below the minimum controlled activity lot size has the potential to create cumulative adverse effects.
- 7.7.2 In this case, because the Plan anticipates these type of consents, and even if other similar applications in the area are approved, then the rural residential amenity will still be able to be maintained. Therefore, the potential adverse cumulative effects are considered to be less than minor.
- 7.8 Public access to and along Seaton Valley Stream**
- (Matters 1-6) Rule 16.4.2.1 Esplanade reserves, Strips and Access Strips on Subdivision - Allotments less than 4 hectares.*
- 7.8.1 Council's Hydrologist Martin Doyle has advised that the average width of Seaton Valley Stream, (along the northern boundary of lots 1-3) at Annual Fullest Flow (AFF) is at least 3 metres wide. Because of this, Rule 16.4.2.1 (Restricted Discretionary Activity) applies to the subdivision and the expectation is that an esplanade reserve is to be taken along the banks of the stream.
- 7.8.2 Council's Reserves Planner, Ros Squire has provided a report on this matter, and this is attached to this report as Attachment 2. Ms Squire's recommendation is that a 5 metre wide esplanade reserve should vest along the banks of the Seaton Valley Stream. This requirement, together with the vesting of the stream bed as river bed, has been incorporated into my recommended conditions of consent under Section 9 of this report.
- 7.8.3 Because some parts of the Seaton Valley Stream may be just outside northern boundary of Lots 1-3, I have recommended that those parts, include a 5 metre wide Access Strip under Section 237B of the RMA, to ensure that there is continuous 5 metre wide access along the northern boundary of Lots 1-3 to join up with the adjoining Lot 3 DP15452 (Senior Property).
- 7.8.4 I acknowledge that the provision of the access strip under Section 237B is dependent on the agreement of the landowner.

7.9 Lowering of the Dam on Lot 9

7.9.1 The assessment of this is covered in Michael Croxford's report REP14-08-02.

7.10 Other Matters

(5) *Provision for and protection of areas of ecological value, landscape value, indigenous vegetation, trees and cultural heritage sites.*

7.10.1 The riparian margins along the Seaton Valley stream are considered to have important ecological values and the proposed conditions for an esplanade reserve along these margins will help protect these values.

7.10.2 Conditions have been recommended for construction of the right-of-way access (construction management plan to control sediment run-off) and under the storm water discharge consent and wastewater discharges consents to help protect the ecological values in Seaton Valley Stream.

(12) *Bonds, covenants, and financial contributions in addition to those specified in standards, and all matters referred to in Section 220 of the Act.*

7.10.3 Financial contributions in terms of Reserve Fund levies should be imposed as conditions of consent, on the additional allotments created by the subdivision. Development Contributions are imposed on additional allotments under the Local Government Act 2004.

7.10.4 Council covenants in the form of Consent notices are included in my recommended conditions of consent under Section 9 of this report. These ensure on-going performance of certain conditions after the subdivision has been completed. Private Covenants (usually referred to as Land Covenants on a Title) are a private matter between the developer and affected parties. Council has no control over these covenants.

(13) *Any other criterion in Schedule 16.3A relevant to the circumstances of the proposed subdivision.*

No other matters are considered relevant.

8 Summary of Key Issues

8.1 The current property, in spite of its rural residential zoning has a large open agricultural landscape. Given the permitted and controlled activity planning rules for the rural-residential zone, the existing environment is expected to change with regard to amenity and landscape outcomes.

8.2 In the context of what can be carried out "as of right" or as a permitted activity, the adverse effects on rural character and amenity of the proposed subdivision, subject to volunteered conditions, are considered to be no more than minor.

8.3 Conditions can be imposed on the proposed subdivision to ensure that the amenity anticipated by the rural residential zoning is achieved and that the adverse effects of the increased dwelling density are avoided remedied or mitigated.

- 8.4 The subdivision layout and dwelling sites are in keeping with the rural residential landscape of the surrounding area.
- 8.5 The proposed dwelling sites can be serviced for on-site waste water disposal and stormwater without adverse effects on the environment.
- 8.6 Subject to the recommended conditions being imposed, the dam on Lot 9 can be lowered without adverse effects on the environment.
- 8.7 The subdivision can be provided with access off Seaton Valley Road, without adversely affecting the use of that road. The removal of the old shed complex on Lot 4 and the at vesting of the snipe of the top corner of Lot 4 will allow a greater visibility along Seaton Valley Road and allow for additional road reserve area for future walk way within the road reserve.
- 8.8 If the recommended conditions are imposed in regard to esplanade reserves, then public access will be able to be provided along Seaton Valley Stream. Public access along water ways is a matter of National Importance under Section 6 of the Resource Management Act.
- 8.9 Overall, the proposed subdivision is considered to be in accordance with the policies and objectives of the Tasman Resource Management Plan and subject to the recommended conditions of consent, the adverse effects on the environment will be no more than minor.

9 Section 5 and Recommendation

9.1 As a planner weighing up all of the relevant considerations in terms of Section 5 of the Act, I consider that a grant of consent for this subdivision proposal **would** promote the sustainable management of natural and physical resources and, on balance, I **RECOMMEND** that the application(s) be **GRANTED**, subject to conditions.

Recommended Conditions for RM12064 Subdivision :

General

- 1. The subdivision and development shall be carried out in accordance with the revised application plan by Davis Ogilvie titled “Proposed Subdivision of Lots 1-3 DP 302279”; Job No. 25993 dated 16 October 2013 and attached to this consent as Plan A.

Staging

- 2. The subdivision shall be completed in the stages as proposed within the application and as set out below:

Stage	Proposed allotments	Building sites
Stage 1	Lots 1-3	3
Stage 2	Lots 4-9 and right-of-way	6

Note: Stage 2 may be done before Stage 1 if required.

Easements

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

The following additional easements in gross shall also be created:

- i) Easement for the Council water supply line that currently is laid through Lots 9 and 7.
- ii) Drainage easement on Lot 2 for the secondary flow path for the outlet from the culvert under Seaton Valley Road, draining the proposed right-of-way. The easement shall extend to the northern end of the proposed building site area on Lot 2.

Rights-of-Way and Access

4. The proposed right-of-way shall have a minimum 10 metre legal width, a minimum sealed width of 4.5 metres (except for the section past the Lot 7 entrance which shall be 3.5 metres wide), metalled shoulders of 500 millimetres and grassed swales for drainage and a maximum grade of 1-in-6.

The right-of-way shall provide for storm water drainage into an approved culvert under Seaton Valley Road, which will need to be at least 450mm diameter with the final stormwater design to be confirmed at the engineering plan stage.

A sealed 3.5m wide access from the right-of-way extending 5 metres into each allotment, with appropriate culverts, shall be provided for Lots 4-9.

Advice Note:

The minimum requirement for a permanent surface is a Grade 4 chip first coat, followed by a Grade 6 void fill second coat.

5. Lots 1-3 shall have crossing places formed from the edge of the seal to 5 metres inside the lot boundary in accordance with Tasman Engineering Standards & Policies 2013.
 - i) Access to Lot 1 shall be located at the tangent point (outside the curve) of Seaton Valley Road.
 - ii) Access to Lot 2 shall be on the eastern side of that lot.
 - iii) The access crossing to Lot 3 shall be formed at the existing crossing point.
 - iv) Vehicle crossing permits will be required to be obtained from Council's Engineering Department with all conditions of the permits to be complied with prior to the signing of the Section 224 (c) certificate.

Engineering Plans

6. Prior to undertaking any engineering works, including earthworks, engineering plans are to be prepared in accordance with Council's Engineering Standards & Policies 2013 and submitted to the Council's Engineering Manager for approval. All construction is to be in accordance with the approved plans.

Environmental Management Plan for Construction and Earthworks effects

7. Prior to the commencement of any earthworks, an Environmental Management Plan specifying control and mitigation of construction earthworks effects, shall be provided to the Council's Engineering Manager for approval by Council's Engineering Manager.

Commencement of Works and Inspection

8. The Council's Engineering Manager shall be contacted at least 5 working days prior to the commencement of any engineering works. In addition, 5 working days' notice shall be given to the Council's Engineering Manager when soil density testing, pressure testing, beam testing or any other major testing is undertaken.
9. No engineering works shall commence until the engineering plans required by Condition 6 and environmental management plan required under Condition 7 have been approved and signed by the Council's Engineering Manager.
10. All works undertaken and services and engineering plans shall be in accordance with the Tasman District Council Engineering Standards & Policies 2013, unless otherwise described above, or to the satisfaction of the Council's Engineering Manager.
11. At the completion of works, the Developer's Professional Advisor (DPA), being a suitably experienced chartered professional engineer or registered professional surveyor shall provide the Council's Engineering Manager with written certification that the works have been constructed to the standards required by the engineering plans required by Condition 6 of this resource consent.

Road to Vest

12. A corner splay/cut 10m by 10m (approx 27m²) shall vest as road on the north eastern point of Lot 4 to allow greater visibility at that corner. The vesting shall be completed as part of Stage 2.

Power and Telephone

13. Each allotment shall be serviced with underground power and telephone connections to the boundary of the lots. Written confirmation of servicing shall be provided to Council by the relevant utility provision prior to application for 224(c) certificate for each stage. All power and telephone reticulation in the subdivision shall be underground.

Building Site Stability

14. The Consent Holder shall provide a report from a chartered professional engineer confirming that each building site area is suitable for residential building, particularly in relation to any cuts, fills, or batters. If the engineer identifies any need for special design (especially foundation design) then that shall be recorded on the relevant title by way of consent notice.
 - i) The certification for residential development shall be in accordance with NZS 4404:2010 Schedule 2A.
 - ii) Where fill material has been placed on any part of the building site area, a certificate shall be provided by suitably qualified Chartered Professional Engineer, certifying that filling has been placed and compacted in accordance with NZS 4431:1989.

Orchard Shed Buildings on Lot 4

15. The existing shed buildings on Lot 4 shall be removed from the site prior to the signing of the Section 224 (c) certificate for Stage 2 (ie, Lots 4-9). The access crossing from the shed complex onto Seaton Valley Road shall be removed and replaced by a grassed water table draining into the stormwater Culvert for the right-of-way required under condition 4 of this consent.

Advice Note:

A building consent will be required for the demolition of the buildings.

Dam Alteration Works on Lot 9.

16. The dam alteration works on Lot 9 shall be fully completed in accordance with the requirements of RM140560. These works shall be completed prior to the signing of the Section 224 (c) certificate for Stage 2 (ie Lots 4-9).

Pesticide Residues

17. The mitigation measures required under RM120665 shall be fully completed prior to the Section 224 approval of the respective stage that the works are being carried out in.

Stream bed to vest as River Bed.

- 18 Those parts of the Seaton Valley Stream that are within the site shall vest as river bed pursuant to section 237A of the Resource Management Act.

Esplanade Reserve to vest.

- 19 An esplanade reserve of 5 metres width shall be taken along the banks of the Seaton valley Stream that runs through the property. The reserve shall vest in accordance with section 231 of the Resource Management Act.

Access Strip

- 20 A 5 metre wide access strip shall be taken along those parts of the northern boundary of

Lots 1-3 that do not adjoin the Seaton Valley Stream. The access strip shall be in accordance with section 237B of the Resource Management Act.

It is acknowledged that this condition (20) for the access strip under section 237B of the Resource Management Act will only be required if agreement is given by the registered proprietor of the land to allow the strip to be created.

Financial Contributions

21. The Consent Holder shall pay a financial contribution for reserves and community services in accordance with following:
- (a) the amount of the contribution shall be 5.62 per cent of the total market value of a 2,500 square metre notional building area (at the time subdivision consent is granted) within the allotment.

A financial contribution is payable on six allotments. A credit has been given for the existing three titles that currently make up the property.

- (b) the Consent Holder shall request in writing to the Council's Consent Administration Officer (Subdivision) that the valuation be undertaken. Upon receipt of the written request the valuation shall be undertaken by the Council's valuation provider at the Council's cost;
- (c) if payment of the financial contribution is not made within two years of the granting of the resource consent, a new valuation shall be obtained in accordance with (b) above, with the exception that the cost of the new valuation shall be paid by the Consent Holder, and the 5.62 per cent contribution shall be recalculated on the current market valuation. Payment shall be made within two years of any new valuation.

Advice Note:

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

22. The building location areas identified on each of Lots 1-9, as shown on the plan prepared by Rory Langbridge Landscape Architects titled *Landscape & Open Space Plan* dated 27 January 2014 as shown on Plan B shall be shown on the land transfer title plan and the corners of the sites fixed by co-ordinates.

Consent Notices

23. The following consent notices shall be registered on the certificates of title for lots within the relevant stage, pursuant to Section 221 of the Resource Management Act. The consent notices shall be prepared by the Consent Holder and submitted to the Council for approval and signing. All costs associated with approval and registration of the consent notices shall be paid by the Consent Holder.
- (a) The construction of all buildings shall be within the Building Areas shown on the title plan DP.....

- (b) Dwellings shall not exceed a height of 5.5 metres above natural ground level. Where a dwelling site is excavated below natural ground level the height of the dwelling shall not exceed 6.5m in height above the building platform established or 5.5 metres above natural ground level whichever is the lower.
- (c) A landscape plan, prepared a suitably qualified landscaping professional, shall be lodged for the approval of the Council’s Environment & Planning Manager, prior to the issuing of the building consent for a dwelling.
 - i) The landscape plan shall show how visual effects of the proposed dwelling (and other associated buildings such as water tanks) can be mitigated by plantings and/or other landscaping measures.
 - ii) The landscape plan shall be in accordance with the Rory Langbridge Landscape Report, provided with subdivision consent RM120664.
 - iii) The amenity landscaping set out in the landscaping plan shall be fully completed within two years of the issuing of the building consent for the dwelling. Written confirmation shall be provided to the Tasman District Council Environment & Planning Manager from a suitably qualified landscaping professional, advising that the landscaping has been fully completed in accordance with the landscape plan.
 - iv) The landowner shall pay a cash bond of \$1,000 plus a non-refundable bond admin fee of \$140 to Council, prior to uplifting the building consent for the dwelling.
 - v) The bond period shall be for two years from the issue of the building consent for the dwelling and shall be paid back to the landowner, subject to confirmation that the landscaping has been fully completed, as set out in (iii).
- (d) All non-residential buildings shall not exceed 4 metres in height above natural ground level.
- (e) The exterior of all new buildings on Lots 1 - 9 shall be finished in colours that are recessive and blend in with the immediate environment:

Buildings shall be finished in colours that meet the following standards:

Colour Group*	Walls	Roofs
Group A	A05 to A14 and reflectance value ≤50%	That the roof colour is complementary with the rest of the building/s and with a reflectance value of no greater than 25 per cent.
Group B	B19 to B29 and reflectance value ≤50%	
Group C	C35 to C40, reflectance value ≤50%, and hue range 06-16	

Group D	D43 to D45, reflectance value ≤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.

Exterior surfaces of all buildings shall be non-reflective.

- (e) Any recommendations or recommended conditions resulting from the engineering certification required under Condition 14 of resource consent RM120664.
- (f) The owner shall comply with all conditions of the lot's respective wastewater discharge permit:

Lot 1	RM120666(Discharges from new dwelling only)
Lot 2	RM120677
Lot 3	RM120668
Lot 4	RM120669
Lot 5	RM120670
Lot 6	RM120671
Lot 7	RM140164(Discharges from new dwelling only)
Lot 8	RM120672
Lot 9	RM120673

Each discharge permit authorising the discharge of wastewater to each of the lots should be transferred to the new owners when the ownership of each lot changes. Discharge permits do not "attach to the land" and as such should be transferred to the new owner as there are ongoing consent requirements that need to be met.

- (g) The owner shall comply with all conditions of the lot's respective stormwater discharge permit:

Lot 1	RM120762
Lot 2	RM120763
Lot 3	RM120764
Lot 4	RM120765
Lot 5	RM120766
Lot 6	RM120767
Lot 7	RM120768
Lot 8	RM120769
Lot 9	RM120770

Each discharge permit authorising the discharge of stormwater to each of the lots should be transferred to the new owners when the ownership of each lot changes. Discharge permits do not "attach to the land" and as such should be transferred to the new owner as there are ongoing consent requirements that need to be met.

- (h) The owner of Lot 9 shall be responsible for the maintenance of the dam (dam 173) and spillway that has been altered under consent RM140560. The owner of Lot 9 shall be responsible for maintaining the dam and its functioning as a stormwater detention structure in accordance with RM120770.

Advice Note: This consent notice (h) may be removed once the upgrading of the Seaton Valley Stream stormwater system has been fully completed by Council.

- (i) All access to Lots 4 and 5 shall be solely via the right-of-way approved under RM120664.
- (j) If a new dwelling is erect on Lot 7 the existing dwelling shall either be removed or converted for use as garage.

Advice Note:

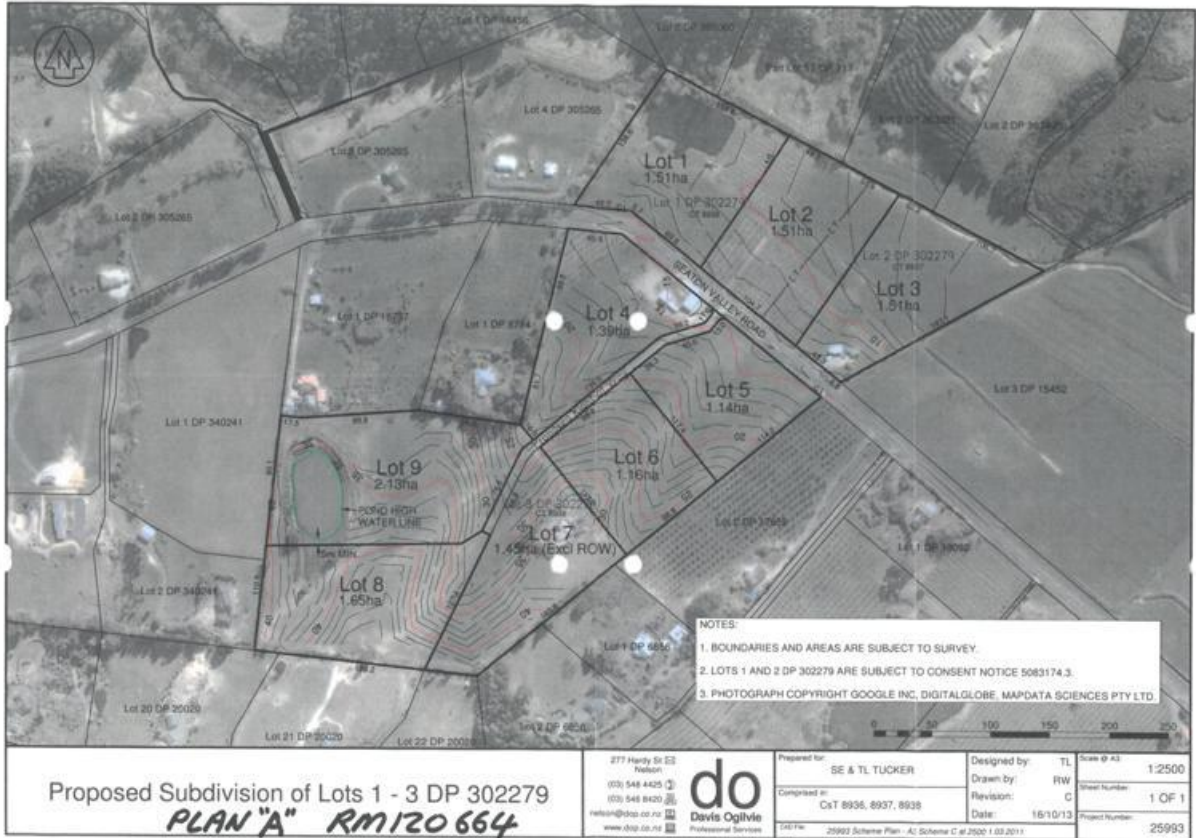
The existing consent notice on CT8937, which requires the removal of one of the cottages if a new dwelling is built, will need to be extinguished in regard to Lot 2, but retained for Lot 1.

General Advice Notes

1. Council will not issue the Section 224(c) certificate in relation to the stages in this subdivision until all development contributions payable for each stage have been paid in accordance with Council's Development Contributions Policy under the Local Government Act 2002. Development Contributions will be payable on 6 allotments in respect of roading, stormwater and water.
2. 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 for each stage.
3. All consent notices shall be prepared by a solicitor and the cost met by the Consent Holder.

PLAN A
RM120664

Item 2.1



**ATTACHMENT 1:
Engineering Memorandum**

To: Mark Morris
From: Dugald Ley
Date: July 2014
File no: RM120664
Subject: **Nine lot subdivision-120 Seaton Valley Road-Tucker**

The above subdivision on Seaton valley road will create lots that are of a similar size to existing lots in the area.

Seaton Valley rd is a rural collector road and carries approximately 480 vpd together with a 6.0m sealed carriageway width. Traffic counts have dropped by approx 30% (was 620 vpd) from that previously when the SH 60 (now Mapua Drive) was located in the area.

Seaton Valley Road is typical of many of the rural roads in the district and has an appropriate width that has capacity to accept the increased traffic generated by this application.

Council Engineering standards and policies outline that a Collector rd with a 6.0m seal width as of right can accept some 500VPD with 70km/hr speed environment. This road meets these requirements.

Council has recently rezoned the Mapua end of Seaton valley rd to residential and preliminary development plans have been submitted to Council for assessment in that area.

In 2007 Council contemplated the upgrade of Seaton valley road together with the installation of a water main to give better levels of service to the residential areas of Mapua. The water main was installed but the upgrade of the road abandoned as traffic counts dropped. The plans do show that a footpath was to be installed along one side of the road. And the widths design show that the reconstructed road would have had a 6.0m carriageway plus sealed shoulders. It is likely that at some future date Council will reconsider the merits of a separate footpath however this is not a project on Councils ten year plan.

Traffic Design groups report dated 16 Feb 2011 outlines that sight visibility distances can be achieved for the entrance for the lots and ROW off Seaton valley rd. The report also goes on to mention the 85th speed at this location being 74 and 81 km/hr, again typical for a road such as this. I concur with the conclusions in that report and those recommendations have been included in the suggested conditions of consent outlined in the planners report.

Summary

I conclude that this application for 9 lots is in keeping with the general development in the area. The traffic generation will increase on Seaton valley rd however the existing road carriageway has capacity for this increase. The application therefore will have less than minor effects on the transportation network in the area.

Dugald Ley
Development Engineer

**ATTACHMENT 2:
Community Development Department Memorandum:**

To: Mark Morris
From: Rosalind Squire, Consent Planner Coastal/Reserves
Date: 25 July 2014
File No: RM120664 - Bay View Estates Ltd
Subject: Reserves/Walkways

Context

The purpose of this memo is to outline the Community Development Department's recommendations with respect to the provision of public access and protection of conservation values adjoining Seaton Valley Stream. I have considered the particular circumstances of the site and its values in the immediate and wider context.

Hydrology staff have reviewed the information they hold on Seaton Valley Stream and have visited the site in order to determine if the stream has a bed with an average width greater than 3 metres at its annual fullest flow (i.e. flood event with a return period of 2.3 years). The reason for this is to confirm whether or not esplanades should be considered. They have confirmed that the bed has an average width greater than 3 metres (Refer Attachment 1).

The proposed allotments adjoining the stream are less than 4 hectares in area. A subdivision that adjoins a river with a bed greater than 3 metres, where the adjoining allotment is less than 4 hectares in area, is a limited discretionary activity in accordance with Rule 16.4.2.1 (Refer Attachment 2). Council is required to consider the vesting of esplanade reserves or the creation of esplanade strips.

The default position in the Rule is that a 20 metre esplanade reserve will be taken for any of the purposes in Section 229 of the Resource Management Act 1991¹. However, Council can determine otherwise after consideration of the following matters:

- (a) *Where, having regard to Section 229 and Part II of the Act, it would not be appropriate to set aside an esplanade reserve because:*
- (i) *in any working port area, there is a risk to security for activities that are permitted or authorised to operate in any part of the area that would otherwise be an esplanade reserve;*

N/A

- (ii) *in any working port area, there is a risk to public safety in any part of the area that would otherwise be an esplanade reserve;*

N/A

- (iii) *the land has little or no value in terms of the purposes of Section 229 of the Act;*

Council's Resource Scientist, Environmental Quality has the following comments on Seaton Valley Stream:

The upper and mid-upper reaches of Seaton Valley Stream have good water quality, natural meanders with good overhead shade and areas of dense riparian vegetation of shrubs and

¹ **229 Purposes of esplanade reserves and esplanade strips**

An esplanade reserve or an esplanade strip has 1 or more of the following purposes:

- (a) to contribute to the protection of conservation values by, in particular,—
- (i) maintaining or enhancing the natural functioning of the adjacent sea, river, or lake; or
 - (ii) maintaining or enhancing water quality; or
 - (iii) maintaining or enhancing aquatic habitats; or
 - (iv) protecting the natural values associated with the esplanade reserve or esplanade strip; or
 - (v) mitigating natural hazards; or
- (b) to enable public access to or along any sea, river, or lake; or
- (c) to enable public recreational use of the esplanade reserve or esplanade strip and adjacent sea, river, or lake, where the use is compatible with conservation values.

gorse. In the headwaters of the valley, there are two flax swamps under QEII covenant. These contribute greatly to higher summer flows, and fish diversity (wetlands release organic carbon and “food” upon which the whole food web including fish rely). The top site assessed in this investigation had both, more species diversity (including koura and shrimp) and higher abundances than those downstream. Numbers of banded kokopu in particular are high. The presence of giant kokopu is very special with only 42 official sites in Tasman District where this species has been recorded (less than 10 sites in streams draining to Tasman Bay). In comparison, fish diversity and abundance is much lower in the 900m upstream of Stafford Drive that has been straightened, and provides unlimited access for cattle (i.e., heavy trampling, all riparian trees/scrub have been removed), as well as silt and debris dug out every 1-2 years. Semi-continuous dissolved oxygen, temperature and conductivity data is available for a site just upstream of this subdivision. The lowest recorded flow at Stafford Drive is 1-2 l/sec. However, the flow during these low-flow periods in the creek at the subdivision was found to be higher at the time of the fish survey.

The following summary is taken from State of the Environment Report “The Health of Freshwater Fish Communities in Tasman District 2011”. The report presents the results of an investigation of the abundance and diversity into freshwater fish and large invertebrates in Tasman District conducted from October 2006 to March 2010.



Figure 70: Seaton Valley Stream fish types

(iv) there is already adequate protection in place for any value the land may have for purposes in Section 229 of the Act.

There are no existing reserves, easements or covenants in place that would provide for the purposes in section 229.

(b) Whether a reserve of greater than 20 metres width is required for purposes in Section 229 of the Act, and the compensation payable for that additional land.

N/A

(c) Whether the subdivision is a minor boundary adjustment or relocation.

N/A

(d) Whether the subdivision is for public utility or infrastructure purposes.

N/A

- (e) *Whether an esplanade strip will achieve the purposes in Section 229 of the Act and is preferable because the location is one where there is a high likelihood of movement of the margin through erosion, inundation or land movement.*
 The creation of an esplanade strip could provide for the purposes in Section 229. However, the likelihood of movement of the stream margin through erosion is considered to be low because the stream is quite incised.
- (f) *Whether any existing structure on land in the reserve entitlement affects the purposes in Section 229 of the Act, including consideration of the form and width of any reserve, access to and along it, and the use of it.*
 The existing dam on proposed lot 1 is approximately 5 metres from the top of the bank of the stream. Assuming the dam is to be retained this will effectively restrict access beyond 5 metres.
- (2) *Whether, in setting aside or creating a reserve or strip, there is any need to restrict public access in order to:*
- *protect areas of significant indigenous vegetation and/or significant habitats of indigenous fauna;*
 - *protect Māori cultural values;*
 - *protect public health and safety;*
 - *ensure a level of security consistent with the purpose of a resource consent (or permitted activity); or*
 - *in other exceptional circumstances sufficient to justify the restriction notwithstanding the national importance of maintaining that access.*

N/A

The applicant's property is upstream from the property currently owned by Mr Senior. Mr Senior holds consent to subdivide his property, the consent is subject to a condition requiring the vesting of a 20 metre wide esplanade reserve adjoining Seaton Valley Stream and the creation of a ROW in favour of TDC to provide public access from Seaton valley Road to Seaton Valley Stream (See leg in strip on Plan A). The conditions of the subdivision consent are included in Attachment 3. The site is also subject to an indicative reserve notation on the planning map which was identified in Plan Change 22.

The consent held by Mr Senior has not been given effect to. However, when it is public access will be provided adjoining the length of the Stream to the north western boundary of that site. It is acknowledged that this does not immediately adjoin the applicant's site, so if an esplanade reserve were provided for as part of this subdivision it would not provide an immediate connection unless an access strip was created from the Senior property boundary to the esplanade reserve on this site as shown on Plan A below.

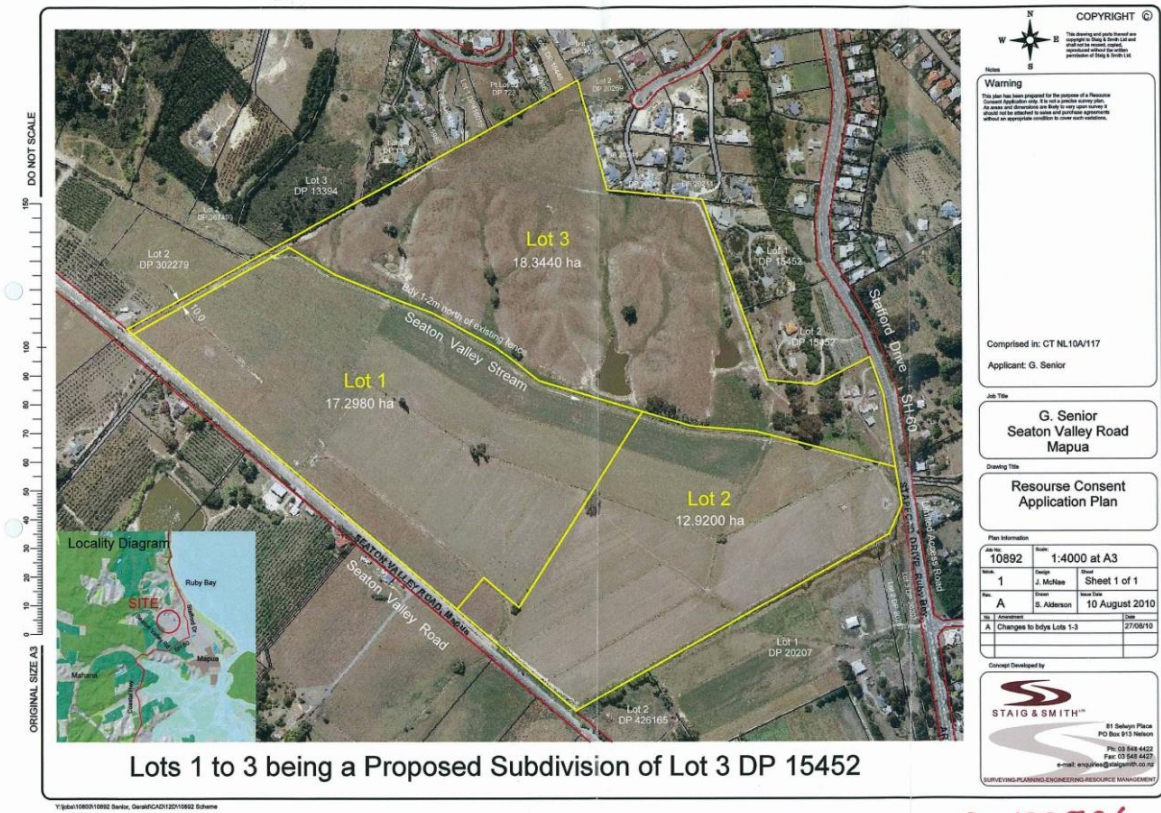
Plan A - Location of stream on the property



Photo 1 - Mid section, Seaton Valley Stream



Plan A - Subdivision plan of Lot 3 DP 15452



Lots 1 to 3 being a Proposed Subdivision of Lot 3 DP 15452

Consideration and Recommendation

The applicant proposes to subdivide the property into nine rural-residential allotments, this is consistent with the surrounding area and anticipated by the zoning of the land.

Item 2.1

Council is required to consider providing for public access and the protection of conservation values by vesting esplanade reserves or creating esplanade strips. Seaton valley Stream has conservation values that would benefit from protection and enhancement and there is an adjoining community of interest that would benefit from access to and along the stream.

Chapter 8 outlines Council's objectives and policies for the margins of rivers, lakes, wetlands and the coast. The relevant objectives and policies are listed in Attachment 2.

The vesting of an esplanade reserve or the creation of an esplanade reserve or strip would be consistent with the relevant rule in the Plan and would help achieve the objectives and policies contained in Chapter 8.

The existing pattern of landholdings and existing and future road and walkway network, is such that it is unlikely that many people, other than the immediate community would access the stream once connectivity is achieved. As such the need for Council to form a walkway at some future time is not as compelling as in other locations or on the adjoining property to the south-east.

For the reasons above I recommend that a condition of consent require the vesting of a 5 metre wide esplanade reserve from the top of the bank on the true right bank of Seaton Valley Stream. The reasons for recommending a reduction in the width of the esplanade are the proximity of the dam to the stream, the width required to accommodate the anticipated level of use once connectivity is achieved and enable restoration of stream bank vegetation.

Attachment 2

Rosalind Squire
Consent Planner, Coastal/Reserves

Attachment 1 - Width Assessment

Rosalind Squire

From: Martin Doyle
Sent: Wednesday, July 30, 2014 3:45 PM
To: Rosalind Squire
Cc: Mark Morris
Subject: Bay View Estate Subdivision - RM120664, esplanade reserve

Assessment of stream width for esplanade reserve

Stephen Tucker's property, valuation number is 1938059700.

I visited the Tucker property today (30 July 2014), and assessed what the stream width would be during the annual fullest flow (defined in hydrological terms as the mean annual flow). I calculated the mean annual flow for this location as 2.4 cumecs.

I walked the length of the creek under consideration, making measurements at regular intervals. It was clear to me that, while the stream pinches in at short locations to a width as little as 2.0 m, the majority of stream length has a width greater than 3.0 m during annual fullest flow. The average of all the measurements I took was 3.6m.

Martin Doyle

Martin Doyle | Hydrologist
Tasman District Council
Private Bag 4
Richmond
(03) 543 8414



1

Attachment 2 - Rule 16.4.2.1

16.4.2.1 Restricted Discretionary Subdivision (Esplanade Reserves, Strips and Access Strips on Subdivision — Allotments less than 4 Hectares)

The subdivision of land where one or more allotments of less than 4 hectares is created, including any balance allotments, adjacent to:

- a river whose bed has an average width of 3 metres or more; or
- a lake whose bed has an area of 8 hectares or more; or
- the coastal marine area;

is a restricted discretionary activity.

A resource consent is required. Consent may be refused, or conditions imposed, only in respect of the following matters to which the Council has restricted its discretion:

- (1) A 20 metre wide esplanade reserve will be taken for any of the purposes in Section 229 of the Act of:

- protecting conservation values;
- enabling public access
- enabling public recreation;

unless the Council determines otherwise after consideration of:

- (a) Where, having regard to Section 229 and Part II of the Act, it would not be appropriate to set aside an esplanade reserve because:
- (i) in any working port area, there is a risk to security for activities that are permitted or authorised to operate in any part of the area that would otherwise be an esplanade reserve;
 - (ii) in any working port area, there is a risk to public safety in any part of the area that would otherwise be an esplanade reserve;
 - (iii) the land has little or no value in terms of the purposes of Section 229 of the Act;
 - (iv) there is already adequate protection in place for any value the land may have for purposes in Section 229 of the Act.
- (b) Whether a reserve of greater than 20 metres width is required for purposes in Section 229 of the Act, and the compensation payable for that additional land.
- (c) Whether the subdivision is a minor boundary adjustment or relocation.
- (d) Whether the subdivision is for public utility or infrastructure purposes.
- (e) Whether an esplanade strip will achieve the purposes in Section 229 of the Act and is preferable because the location is one where there is a high likelihood of movement of the margin through erosion, inundation or land movement.
- (f) Whether any existing structure on land in the reserve entitlement affects the purposes in Section 229 of the Act, including consideration of the form and width of any reserve, access to and along it, and the use of it.

- (2) Whether, in setting aside or creating a reserve or strip, there is any need to restrict public access in order to:
- protect areas of significant indigenous vegetation and/or significant habitats of indigenous fauna;
 - protect Māori cultural values;
 - protect public health and safety;
 - ensure a level of security consistent with the purpose of a resource consent (or permitted activity); or
 - in other exceptional circumstances sufficient to justify the restriction notwithstanding the national importance of maintaining that access.

Attachment 2 - Relevant Objectives and Policies from the TRMP - Chapter 8 Margins of Rivers, Lakes, Wetlands and the Coast

8.1.1 Issue

Provision and enhancement of public access to and along the margins of lakes, rivers, wetlands and the coast, for current and future needs of residents and visitors to the District.

8.1.2 Objective

The maintenance and enhancement of public access to and along the margins of lakes, rivers, wetlands and the coast, which are of recreational value to the public.

8.1.3 Policies

8.1.3.1 *To maintain and enhance public access to and along the margins of water bodies and the coast while avoiding, remedying or mitigating adverse effects on other resources or values, including: indigenous vegetation and habitat; public health, safety, security and infrastructure; cultural values; and use of adjoining private land.*

8.1.3.2 *Notwithstanding Policy 8.1.3.1, public access by way of esplanade requirements will not be sought in areas where risks to public health and safety cannot be avoided, remedied or mitigated; or in areas where it is necessary to maintain security, consistent with the purpose of any resource consent, such as operational port areas.*

8.1.3.3 *To avoid, remedy, or mitigate the adverse effects on public access caused by structures, buildings, and activities in or adjoining water bodies or the coastal marine area.*

8.1.3.4 *To set aside or create an esplanade reserve, esplanade strip or access strip at the time of subdivision of land adjoining water bodies or the coastal marine area, where there is a priority for public access.*

8.2.2 Objective

Maintenance and enhancement of the natural character of the margins of lakes, rivers, wetland and the coast, and the protection of that character from adverse effects of the subdivision, use, development or maintenance of land or other resources, including effects on landform, vegetation, habitats, ecosystems and natural processes.

8.2.3 Policies

8.2.3.1 *To maintain and enhance riparian vegetation, particularly indigenous vegetation, as an element of the natural character and functioning of lakes, rivers, the coast and their margins.*

8.2.3.3 *To avoid, remedy or mitigate adverse effects of land management practices on the margins of water bodies, including wetlands.*

8.2.3.4 *To avoid, remedy or mitigate adverse effects of buildings or land disturbance on the natural character, landscape character and amenity values of the margins of lakes, rivers, wetlands or the coast.*

8.2.3.5 *To set aside or create an esplanade reserve, esplanade strip or access strip at the time of subdivision of land adjoining water bodies or the coastal marine area, where there is a priority to protect the natural character of those margins.*

8.2.3.12 *To enable the maintenance of physical resources for the well-being of the community, where those resources are located in riparian or coastal margins, subject to the avoidance, remedying or mitigation of adverse effects on the environment.*

8.2.3.17 *To pursue and encourage restoration and enhancement of coastal and riparian areas where natural character has been degraded by past human activities.*

8.2.3.21 *To protect historic and cultural sites in riparian margins and the coastal environment.*

Attachment 3 - Condition of Subdivision consent on adjoining property to the South-East (Gerald Senior)

A right of way easement in gross in favour of the Tasman District Council over that part of the leg-in strip to Lot 3 to provide a connection from the proposed reserve to the proposed walkway within Lot 2 DP 367499. Use of the right of way is limited to pedestrian, bicycle and equestrian traffic, with vehicles limited to maintenance only.

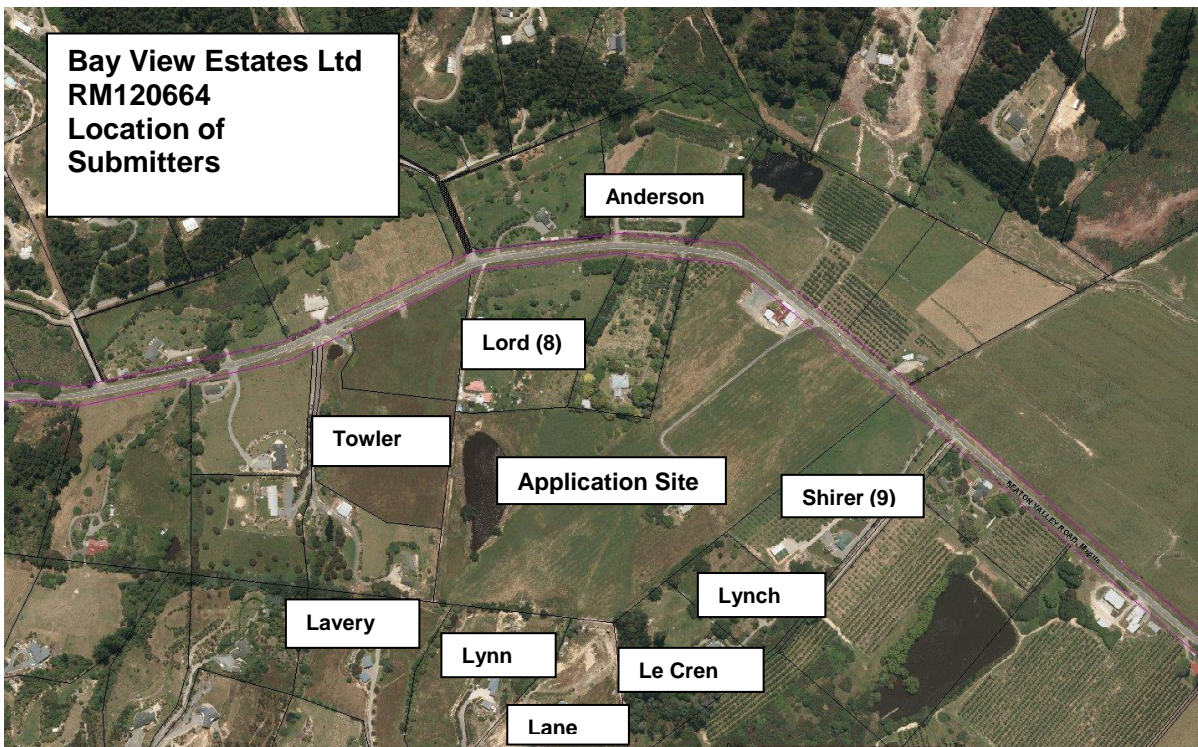
That the survey plan be amended to show a Local Purpose Reserve to vest in Tasman District Council along the banks, and including the bed, of the Seaton Valley Stream.

(a) Boundaries

The southern boundary of the reserve, adjoining Lots 1 and 2, is to follow a line generally 1.0 metre from the true right bank of the stream at its normal flow.

The northern boundary of the reserve adjoining Lot 3 is to follow a line generally 20 metres from the southern boundary of the reserve, with variations to provide for an extended reserve width to maintain practical walkway access and to include areas of native bush and reduction in reserve width to maintain access within Lot 3 or security of the storage dam. A minimum distance of 6 metres from the true left bank is to be provided for the entire length of the reserve.

For the avoidance of doubt, the reserve is to include the bed of the Seaton Valley Stream but the stream bed itself is not to be fixed by survey or shown separately on the survey plan. The reserve is to be shown on the survey plan as "Local Purpose Reserve to vest in Tasman District Council". This is because the reserve will have a range of purposes including providing public access to and along the stream, providing walkway connections from the rural residential areas to Mapua township, providing recreation opportunities, protection and enhancement of conservation values and stormwater detention and disposal.



2.2 BAY VIEW ESTATE LTD

Decision Required

Report To: Environment and Planning Subcommittee
Meeting Date: 25 August 2014
Report Author: Michael Croxford, Consent Planner
Report Number: REP14-08-02
File Reference: RM120664
Attachments: 1. 57 Attachment 1: Memorandum from Neil Tyson
 2. 77 Attachment 2: Memorandum from Paul Sheldon

1 Summary of Proposal

- 1.1 The proposal is for a nine lot subdivision of a Rural Residential zoned property in Seaton Valley.
- 1.2 Historically, part of the property has been in orchard and there is potential for soil contamination from pesticide residues. The applicant proposes to change the use of this land to rural residential from production land
- 1.3 Each lot will require the establishment of an on-site wastewater disposal system.
- 1.4 There is an existing dam on proposed Lot 9 that the applicant intends to modify to being a stormwater retention dam.

2 Site Description

- 2.1 The property is located on north to north-east facing slopes on the southern side of Seaton Valley, Mapua. The subject site is 13.712 hectares and contains an existing dwelling on proposed Lot 7, two small cottages on proposed Lot 3 and a large complex of orchard buildings on proposed Lot 4.
- 2.2 The Seaton Valley Stream flows along the northern boundary of the property.
- 2.3 The subject site is transacted by Seaton Valley Road with proposed Lots 1 to 3 to the north containing a mixture of pear orchard and pasture. Proposed Lots 4 to 9 were covered with orchard which has been removed and now grazed.

3 Status of Application

Zoning: Rural Residential (Mapua)
Areas: Land Disturbance Area 1; Wastewater Management Area.

	PA Rule		Status
Land Use Consent: To disturb soil on a piece of land subject to the Resource Management (National Environmental Standard for Assessing and Managing Contaminant in Soil to Protect Human Health) Regulations 2011.	Regulation 8	Regulation 10	Restricted Discretionary

Discharge Permit: To discharge wastewater on proposed Lots 1 to 8	Nil	36.1.4.2	Restricted Discretionary
Discharge Permit: To discharge wastewater on proposed Lot 9	Nil	36.1.3.2	Controlled
Discharge Permit: To discharge stormwater to land	36.4.2.1	36.4.2.3	Restricted Discretionary

Overall the processing of is bundled with subdivision consent RM120624 and the proposal is assessed as a **Restricted Discretionary Activity**.

4 Notifications and Submissions

- 4.1 Details of the notification process and submissions can be found in Section 4 of Mr Mark Morris' section 42A report.
- 4.2 Ms Annette Le Cren was the only submitter to specifically raise an issue regarding the proposed remediation of the soil contamination. She raises concerns that the methodology will not remove the contaminants and potentially result in them becoming mobile and leaching into the Seaton Valley Stream.
- 4.3 Ms Rosemary Lynn and Ms Lesley Lord and others raise concerns regarding the proposed wastewater disposal methodology. Ms Lynn notes that parts of the area identified as suitable for wastewater overlap those subject to overland stormwater flows. Ms Lord's submission raises concerns with the additional hydraulic loading from the wastewater fields to serve proposed Lots 8 and 9 on the surface water flow regime within the catchment entering her property.
- 4.4 A number of submitters raise concerns regarding the proposed stormwater mitigation measure, namely the modification of the existing irrigation detention pond to a stormwater retention pond. Ms Lynn states that she has grave concerns over the changes and the perceived effects on neighbours both aesthetically and safety wise. Mr & Mrs Lavery are concerned about the on-going maintenance of structures within the catchment served by the dam. Mr & Mrs Towler seek the preservation of the dam in its current state for wildlife. Ms Lord's submission seeks that the dam remains in its current form as a detention dam and that the water is piped to below her property.

5 Statutory Considerations

5.1 Section 104

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

- Part 2 (Sections 5, 6, 7 and 8)
- Effects on the environment (positive and negative)
- Objectives and Policies of the TRMP
- Other matters

5.2 Section 105

As the activity is a DISCHARGE PERMIT then the consent authority must also have regard to:

- (a) *the nature of the discharge and the sensitivity of the receiving environment to adverse effects; and*
- (b) *the applicant's reasons for the proposed choice; and*
- (c) *any possible alternative methods of discharge, including discharge into any other receiving environment.*

5.3 Section 107

Also, as the activity is a DISCHARGE PERMIT then the consent authority shall not grant consent-

if, after reasonable mixing, the contaminant or water discharged (either by itself or in combination with the same, similar, or other contaminants or water), is likely to give rise to all or any of the following effects in the receiving waters:

- (c) *the production of any conspicuous oil or grease films, scums or foams, or floatable or suspended materials:*
- (d) *any conspicuous change in the colour or visual clarity:*
- (e) *any emission of objectionable odour:*
- (f) *the rendering of fresh water unsuitable for consumption by farm animals:*
- (g) *any significant adverse effects on aquatic life*

6 Sections 6, 7, and 8

6.1 No matters of national importance under Sections 6 or 7 of the Act have been identified for these consents.

Treaty of Waitangi

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

7 Key Issues

7.1 The key issues that I consider relate to this application are:

- Wastewater
- Stormwater quantity, including modification of the existing dam
- Soil contamination remediation

7.2 Key Issue 1: Wastewater

The TRMP identifies the following issue relating to on-site disposal of domestic wastewater:

33.4.1 *Inappropriate design, poor installation practices, inadequate system maintenance and increasing density of on-site domestic wastewater disposal systems cause a variety of adverse effects in parts of the District.*

Only one objective is listed:

- 33.4.2** *On-site disposal of domestic wastewater, which avoids, remedies or mitigates adverse effects on groundwater or surface water quality, habitats, human health and amenity values.*

The TRMP identifies two policies regarding wastewater discharges:

- 33.4.3.2** *To ensure that the adverse effects, particularly the cumulative adverse effects, of on-site disposal of domestic wastewater on water quality and aquatic habitats, including coastal water, and on human health or amenity in the Wastewater Management Area are avoided, remedied or mitigated by:*

- (a) *controlling the use of on-site systems in areas where there are significant limitations to sustainable on-site disposal of domestic wastewater including:

 - (i) *low or very low permeability clay soils;*
 - (iii) *areas of high groundwater tables;*
 - (vi) *proximity to surface water bodies;*
 - (vii) *high density of existing and new on-site systems and the cumulative impact of such discharges in terrain that has significant limitations to on-site disposal;**
- (b) *requiring comprehensive site and soil assessments to identify any site limitations;*
- (c) *requiring a high level of performance for design, construction, installation, operation and maintenance for new on-site disposal systems;*
- (d) *ensuring adequate buffers between disposal fields, water bodies, and the coast, especially Waimea and Mapua Inlets;*
- (e) *reducing the risk to human health arising from pathogens in the wastewater entering into water;*
- (g) *ensuring stormwater management accounts for potential effects on on-site disposal fields;*
- (h) *ensuring that the potential adverse effects, especially cumulative effects of further residential development, are taken into account in considering any application to subdivide land in the Wastewater Management Area.*

- 33.4.3.3** *To require regular programmed maintenance of on-site wastewater treatment and disposal systems to minimise risk of system failure and reduce risk of adverse environmental effects.*

- 7.3 The applicant's agent Mark Rounce, Consulting Chartered Professional Engineer of Rounce Project Solutions Ltd, has proposed on-site treatment and discharge methods for the domestic wastewater that are in general accordance with New Zealand Standards, and are typical of many wastewater systems already installed and operating in the Wastewater Management Area (WMA) identified within the TRMP.
- 7.4 The wastewater systems are proposed to be "secondary treatment" systems which produce a relatively high quality effluent and the wastewater is proposed to be discharged to identified land application areas comprising a network of buried pressure compensating dripper lines.
- 7.5 It should be noted that Mr Rounce's report has been based on an old scheme plan prior to the reduction in the number of proposed lots from ten to nine. It is also based on design flow rates determined under AS/NZS 1547:2000. This standard has been superseded by a 2012 update which changes some of the input parameters for determining loading and sizing of

fields. Importantly though, the change in lot size (the result of having fewer lots), and the change in input parameters from the new standards will both have implications for determining the area of the land application area. The former will have the effect of increasing available space on each lot and the latter will determine how much can be accommodated within the site. Mr Rounce has identified an area on each lot greater than required and used a loading rate which is consistent with the TRMP (2mm/m²/day) but more conservative than the Standard (3mm/m²/day). Therefore, I consider that there is sufficient space without requiring further investigation.

- 7.6 For these reasons I have proposed a set of consent conditions that allow flexibility in designing the wastewater system for each lot at the time of building consent.
- 7.7 With regards to Ms Lord's concerns regarding the additional hydraulic loading within the catchment above her property. The loading rates determined within the Standards are set based partly on the ability of the soil to hydraulically take up the designed loading rate. I am of the opinion that the additional volume of water will be off-set by the capture of roof water for potable supply as this is a self-limiting factor in determining the outputs from the dwelling unless water is bought in from outside the property. It is most likely that this will occur at times when there is low rainfall and therefore good capacity in the soil to take up the additional moisture.
- 7.8 Having reviewed the application and visited the site I am in agreement with the assessment of Mr Rounce that the potential adverse effects on the environment of the proposed wastewater discharges will be less than minor.
- 7.9 **Key Issue 2: Stormwater quantity including modification of the existing dam**

The TRMP lists the following issue regarding stormwater discharges:

33.3.1.2 *Contaminants in urban and rural run-off can have significant adverse effects on receiving environments, particularly cumulative adverse effects from urban run-off.*

With the following objective:

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

- 7.10 Relevant policies within the TRMP include:

33.3.3.3 *To manage the adverse effects of stormwater flow, including primary and secondary flowpaths, and the potential for flooding and inundation.*

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

33.3.3.5 *To avoid, remedy or mitigate the adverse effects of stormwater on water quality and the potential for contamination.*

33.3.3.7 *To require owners of all or part of any stormwater drainage network to avoid, remedy or mitigate any adverse effects of stormwater discharges.*

33.3.3.8 *To encourage an integrated whole-catchment approach to the management and discharge of stormwater.*

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

7.11 The TRMP requires that buildings on sites created after 28 July 2007 within the Rural Residential zone require a discharge permit unless they discharge to a part of the Council-maintained stormwater drainage network that has the capacity to receive additional stormwater. On 11 June 2013, the applicant's consultant Davis Ogilvie & Partners Ltd advised of the following modifications to Dam 173:

- reduced in height to less than 3 metres and a new crest level of 32.3 metres; and
- reduced in maximum volume to 4,780 cubic metres but with a residual dam capacity of 3,700 cubic metres at a normal operating level of 31.5 metres.

7.12 In addition:

- all the dam including the spillway will be contained within a single proposed Lot; and
- the changes will result in stormwater detention and mitigates the effects of the subdivision; and
- eliminate the need for a Landuse Riverbed consent as Dam 173 will comply with the Permitted Activity dimensions for dams under the TRMP Rule 28.2.2.1(c).

In addition, the modified dam will:

- Continue to provide a fire-fighting water source;
- Pose minimal risk to downstream property in the event of failure; and
- Provide some amenity/landscape value for the landowner.

7.13 Mr Neil Tyson, Council's Consent Planner Water, has reviewed the information and I have appended a separate report from him on this matter. Mr Eric Verstappen, Council's Resource Scientist Rivers & Coast, has reviewed the information and is satisfied that the information provided by Mr Gary Hodder, the Applicant's Consulting Engineer, is accurate and provides sufficient stormwater mitigation for the proposed development.

7.14 The primary concern for the lots created by this application is that the stormwater from the buildings and hard-stand areas is adequately conveyed to ground and then through the site to the Seaton Valley Stream without causing any adverse effects such as flooding and erosion.

7.15 Having reviewed the application and visited the site I am in agreement with the assessments of Mr Hodder, Mr Alley, Mr Tyson and Mr Verstappen that the potential adverse effects of the stormwater discharge will be less than minor.

Key Issue 3: Soil contamination remediation

7.16 The TRMP identifies the following issue in relation to soil contamination remediation

33.5.1 *Contaminated sites may continue to discharge contaminants into the environment and they may:*

- (a) contaminate soils;*
- (b) pollute surface and ground water;*
- (c) discharge contaminants to air;*
- (d) result in the uptake and bioaccumulation of contaminants by plants and animals;*
- (e) have adverse effects on the environment and human health.*

There is limited information on the number and location of contaminated sites and the nature of risk they pose to human or natural values.

7.17 The following objective is listed:

33.5.2 *To avoid, remedy or mitigate the adverse effects of contaminated sites on human health and the environment.*

7.18 The relevant policies are:

33.5.3.6 *To avoid, remedy or mitigate the adverse effects of the discharge of contaminants from contaminated sites.*

33.5.3.7 *To avoid, remedy or mitigate the adverse effects of the use of contaminated sites where the level of hazardous substances poses or is likely to pose a risk to human health or the environment.*

7.19 The Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (the NES) apply when a person wants to disturb the soil on a piece of land that has been subject to an activity described in the *Hazardous Activities and Industries List*, Wellington, Ministry for the Environment. These regulations provide a national environmental standard for activities on pieces of land whose soil may be contaminated in such a way as to be a risk to human health.

7.20 I append to my report a memorandum from Mr Paul Sheldon, Council's Resource Scientist Contaminants, which discusses the specific concerns raised by Ms LeCren regarding the proposed site remediation measures. Mr Sheldon has reviewed the information submitted by Mr Martyn O'Cain, on behalf of the applicant, and considers that the information meets the criteria within the NES and that the proposed site remediation works are appropriate for the proposed activity.

7.21 Having reviewed the application and visited the site I am in agreement with the assessments of Mr O'Cain and Mr Sheldon that the potential adverse effects on human health as a consequence of disturbing the land to make it fit for purpose will be less than minor.

8 Summary of Key Issues

8.1 The proposed discharges of wastewater and stormwater and land disturbance associated with contamination of the soils are considered to be consistent with the relevant policies and objectives within the Tasman Resource Management Plan and Part 2 of the Act.

8.2 I am of the opinion that the applicant has demonstrated in their application that the proposed development can be achieved with appropriate controls and supervision without adverse effects on the environment which will be more than minor.

9 Section 5 and Recommendation

9.1 As a planner weighing up relevant considerations in terms of Section 5 of the Act, and **SUBJECT TO** the Committees determination of the other matters relating to the subdivision covered in Mr Mark Morris' report, I consider that granting land use and discharge consents would promote the sustainable management of natural and physical resources and I **RECOMMEND** that the application(s) be **GRANTED**, subject to the following conditions.

Recommended Conditions:

Land Use Consent RM120665

1. The Consent Holder shall ensure that all works are carried out in general accordance with the application RM120665 submitted to Council dated 4 September 2012 and further information dated 13 June 2013, unless inconsistent with the conditions of this consent, in which case these conditions shall prevail.
2. Pursuant to Section 128 of the Resource Management Act the Council may, within the month of August each year and within the duration of the on-site works, review any or all of the conditions of consent for all or any of the following purposes:
 - (a) dealing with any adverse effect on the environment which may arise from the exercise of the consents that was not foreseen at the time of granting of the consent, and which is therefore more appropriate to deal with at a later stage; or
 - (b) requiring the Consent Holder to adopt the best practicable option to remove or reduce any adverse effect on the environment resulting from the activity; or
 - (c) to comply with National Environmental Standards made under Section 43 of the Resource Management Act 1991.
3. Pursuant to Section 125 of the Act, this consent shall lapse eight years after the date of the consent unless either the consent is given effect to, or the Council has granted an extension pursuant to Section 125(1)(b) of the Act.
4. Once the consent has been given effect to, all earthworks works shall be completed within 12 months.

Advice Note:

The consent is given effect to once the works commence.

SUPERVISION AND NOTIFICATION

5. The Consent Holder shall appoint a representative(s) prior to the exercise of this resource consent, who shall be the Council's principal contact person(s) in regard to matters relating to this resource consent.
6. The works shall be overseen by a suitably qualified and experienced Environmental Engineer/Scientist (referred subsequently as 'the Engineer') who specialises in contaminated land remediation.
7. The Consent Holder or appointed representative shall contact Council's Co-ordinator Compliance Monitoring at each of the following stages:
 - (a) at least 24 hours prior to commencement of works on-site;
 - (b) upon placement of all sediment control measures;
 - (c) at least 24 hours prior to decommissioning of the sediment control measures.
8. As part of the written notice required in Condition 7, the Consent Holder shall inform the Council's Co-ordinator Compliance Monitoring of the name and contact details of the following persons:

- (a) the Consent Holder representative(s) required under Condition 5;
- (b) the Engineer required under Condition 6.

Should any person(s) change during the term of this resource consent, the Consent Holder shall provide the Co-ordinator Compliance Monitoring written notice of the new person's name and contact details with 1 working day.

- 9. Copies of this resource consent, the Earthworks Management Plan and the Remediation Action Plan shall be provided to all contractors undertaking the works, and shall be produced without unreasonable delay upon request from a servant or agent of the Council.

MONITORING AND REPORTING

- 10. All testing and reporting required under this consent shall be performed by a suitably qualified and experienced person, such as the engineer, in general accordance with the Ministry for the Environment Contaminated Land Management Guidelines No. 1: Reporting on contaminated sites in New Zealand (2003) & No. 5: Site investigation and analysis of soils (2004).
- 11. A Validation Report and a copy of the as-built required in Condition 13 shall be provided to Council's Co-ordinator Compliance Monitoring within 1 month of completion of works on-site.

SITE MANAGEMENT

- 12. Work shall be undertaken in accordance with the Remediation Action Plan submitted in the application. Amendments to these Plans can be made if approved by the Co-ordinator Compliance Monitoring and if consistent with the conditions of this consent.

DISPOSAL OF EXCAVATED MATERIAL

- 13. All contaminated material shall be disposed of on-site in accordance with the Remediation Action Plan.
- 14. Detailed as-built plans shall be provided to the Council within 3 months of completion of the works. The plans as a minimum will show where material has been disposed of and how it is capped.

EMISSIONS

- 15. No visible dust shall be present at or beyond the site boundary during the earthworks.
- 16. If stockpiled material is dusty in the opinion of Council's Compliance Officer, the Consent Holder shall cover the stockpile with an impermeable material or other form of dust suppression (eg, light misting of water) to minimise the potential release of dust.
- 17. There shall be no odour discharged that is considered to be objectionable or offensive in the opinion of Council's Compliance Officer at or beyond the site boundary.
- 18. If stockpiled material is odorous in the opinion of Council's Compliance Officer, the Consent Holder shall cover the stockpile with an impermeable material or other form of odour suppression (eg, application of odour suppressant compounds) to limit the potential release of odours/vapours.
- 19. The Consent Holder shall ensure that during the earthworks surface water (ie, stormwater) shall be diverted away from excavations and soil stockpiles.

ADVICE NOTES

1. The Consent Holder shall meet the requirements of Council with respect to all Building Bylaws, Regulations and Acts.
2. All necessary signage and safety measures should be implemented during the works.
3. Access by the Council's officers or its agents to the property is reserved pursuant to Section 332 of the Resource Management Act 1991.
4. Pursuant to Section 127 of the Resource Management Act 1991, the Consent Holder may apply to the Consent Authority for the change or cancellation of any condition of these consents.
5. Council draws your attention to the provisions of the Historic Places Act 1993 that require you in the event of discovering an archaeological find (eg, shell, midden, hangi or ovens, garden soils, pit, depressions, occupation evidence, burials, taonga) to cease works immediately, and tangata whenua, the Tasman District Council and the New Zealand Historic Places Trust should be notified within 24 hours. Works may recommence with the written approval of the Council's Environment & Planning Manager, and the New Zealand Historic Places Trust.
6. These resource consents only authorise the activities described above. Any matters or activities not referred to in these consents 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.

Discharge Consent - Wastewater (RM120666-RM120673 & RM140164)

1. The design, construction and operation of the domestic wastewater treatment and land application system shall be in general accordance with the information received in support of the application, the report prepared by Mark Rounce of Rounce Project Solutions Ltd dated 21 December 2010, unless inconsistent with the conditions of this consent, in which case these conditions shall prevail.
2. The applicant shall provide a full design of the wastewater system to Council when applying for the building consent. This shall define the maximum design loading daily discharge rate (MDL). The maximum rate of discharge shall not exceed 2000 litres per day (on each of the new lots).

TREATMENT AND LAND APPLICATION SYSTEM

3. The maximum loading rate at which the wastewater is applied to land shall not exceed 2 millimetres per day (2 litres per square metre per day). The land application area shall be no less than half the MDL in square metres in area and incorporate at least half the MDL in lineal metres of pressure-compensating drip irrigation line. The emitters in the drip irrigation line shall be spaced no more than 0.6 metres apart along the line and each shall emit wastewater at a rate of no more than 1.6 litres per hour. Adjacent lateral drip irrigation lines shall be laid no more than 1 metre apart.
4. The treated wastewater entering the land application area, as measured at the sampling point required to be installed in accordance with Condition 11, shall comply at all times with the following limits:

- (a) the 5 day biochemical oxygen demand (BOD5) in any single sample shall not exceed 30 grams per cubic metre; and
 - (b) the concentration of total suspended solids (TSS) in any single sample shall not exceed 45 grams per cubic metre.
5. The wastewater treatment system shall be fitted with an audible and visual alarm.
 6. There shall be no ponding of wastewater on the ground surface, or any direct discharge or run-off of wastewater to surface water.
 7. The construction and installation of the wastewater treatment plant and land application system shall be carried out under the supervision of a person who is suitably qualified and experienced.

That person shall provide a written certificate or producer statement to the Council's Co-ordinator Compliance Monitoring prior to the exercise of this resource consent. This certificate or producer statement shall include sufficient information to enable the Council to determine compliance with Conditions 1, 3, and 11 and shall also confirm the following:

- (a) that all components of the wastewater system (including the treatment plant and the land application area) have been inspected and installed in accordance with standard engineering practice and the manufacturer's specifications;
 - (b) that all components of the wastewater system are in sound condition for continued use for the term of this resource consent.
8. The Consent Holder shall submit a set of final "as-built" plans to the approval of the Council's Co-ordinator Compliance Monitoring, showing the location of all components of the wastewater treatment and land application system. For the purpose of this condition, the Consent Holder shall ensure that the "as-built" plans are drawn to scale and provide sufficient detail for a Council monitoring officer to locate all structures identified on the plans, including the sampling point required to be installed in accordance with Condition 11.
 9. No grazing stock shall be allowed access to the land application area at any time. In the event that such stock are held elsewhere on the property, suitable fences shall be installed around the land application area to prevent access by such animals.
 10. A suitable reserve land application area equivalent to the primary land application area shall be kept available for future use of wastewater disposal. This reserve area shall be at least 5 metres from the property boundary and remain undeveloped. It shall be located within the areas marked "reserve area" on the plan referred to in Condition 1 of this consent. For the purpose of this condition, "undeveloped" means that no buildings or structures shall be constructed on the area set aside as reserve land application areas, however the reserve areas may be planted with trees or other vegetation.
 11. A sampling point to allow collection of a sample of the treated wastewater shall be provided at a point located after the final pump-out chamber and before the point where the wastewater discharges to the land application area.

MAINTENANCE AND MONITORING

12. Samples of the treated wastewater shall be collected 6, 12 and 24 months following the first exercise of this consent from the sampling point referred to in Condition 11. The samples shall be tested for BOD5 and TSS by an accredited environmental testing laboratory. Results of these tests shall be forwarded to the Council's Co-ordinator Compliance Monitoring within 10 working days of the results of each test being received by the Consent Holder.

The samples required by this condition shall be taken at times where the dwelling is being used in a typical fashion. "Typical fashion" means that the occupancy, at the time of sampling and during the preceding 48 hours, varies by no more than one person from the number of people who normally reside in the dwelling. The samples shall be taken using laboratory supplied containers and according to the procedures directed by the accredited environmental testing laboratory and shall be transported to the laboratory under chain of custody.

13. The Consent Holder shall enter into, and maintain in force at all times, a written maintenance and monitoring contract with an experienced wastewater treatment plant operator, or a person trained in the wastewater treatment operation by the system designer, for the ongoing maintenance of the treatment and land application systems.

The contract shall specify the frequency of treatment plant inspections and maintenance during the term of this resource consent and shall include an inspection and maintenance schedule that is in accordance with the conditions of this consent.

A signed copy of this contract shall be forwarded to the Council's Co-ordinator Compliance Monitoring prior to the exercise of this consent.

14. Notwithstanding Condition 13, the wastewater treatment and land application system shall be inspected and serviced at least every 12 months and a copy of the service provider's maintenance report shall be forwarded to the Council's Co-ordinator Compliance Monitoring within two weeks of each inspection. The inspection report shall include, but not be limited to, the following information:
- (a) the date the inspection was undertaken and the name of the service provider;
 - (b) a list of all components of the treatment and land application systems that were inspected and the state of those components;
 - (c) any maintenance undertaken during the visit or still required, and a timetable for the expected completion of this work;
 - (d) a description of the appearance of the filter/s and tanks;
 - (e) the location and source of any odour detected from the system; and
 - (f) a description of the appearance of the land application area (ponding, vegetation growth, etc).

REVIEW OF CONSENT CONDITIONS

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

EXPIRY

16. Pursuant to Section 125 of the Act this consent shall lapse 10 years after the date this consent is granted unless either the consent is given effect to, or the Council has granted an extension pursuant to Section 125(1)(b) of the Act.
16. This resource consent expires on 15 years after the date it is first given effect to.

ADVICE NOTES

1. Officers of the Council may also carry out site visits to monitor compliance with resource consent conditions. Access by the Council or its officers or agents to the property is reserved pursuant to Section 332 of the Resource Management Act.
2. Monitoring of this resource consent will be undertaken by the Council as provided for by Section 35 of the Act and will attract a monitoring fee for which the Consent Holder will be invoiced annually. Should the monitoring costs exceed the annual charge, the Council reserves the right to recover these additional costs from the Consent Holder. Costs can be minimised by consistently complying with conditions, thereby reducing the necessity and/or frequency of Council staff visits.
3. It is strongly recommended that household water reduction fixtures be included in the house design in order to ensure that the discharge volume limit is met. The measures and fixtures should be in accordance with AS/NZS 1547:2000 and Auckland Regional Council's Technical Publication 58.
4. The Consent Holder should meet the requirements of the Council with regard to all Building and Health Bylaws, Regulations and Acts. Building consent will be required for these works.
5. This consent is not subject to Section 134 of the Act and therefore does not "attach to the land". Therefore, when the ownership of the property that this consent pertains to changes, the consent should also be transferred to the new owners as there are ongoing consent requirements that must be met.

6. All reporting required by this consent should be made in the first instance to the Council's Coordinator Compliance Monitoring.
7. Council draws your attention to the provisions of the Historic Places Act 1993 that require you in the event of discovering an archaeological find (eg, shell, midden, hangi or ovens, garden soils, pit, depressions, occupation evidence, burials, taonga) to cease works immediately, and tangata whenua, the Tasman District Council and the New Zealand Historic Places Trust should be notified within 24 hours. Works may recommence with the written approval of the Council's Environment & Planning Manager, and the New Zealand Historic Places Trust.
8. This resource consent only authorises the activity described above. Any matters or activities not referred to in this consent or covered by the conditions must either:
 - (a) comply with all the criteria of a relevant permitted activity rule in the Tasman Resource Management Plan (TRMP);
 - (b) be allowed by the Resource Management Act; or
 - (c) be authorised by a separate resource consent.
9. Plans attached to this consent are (reduced) copies and therefore will not be to scale and may be difficult to read. Originals of the plans referred to are available for viewing at the Richmond office of the Council. Copies of the Council Standards and documents referred to in this consent are available for viewing at the Richmond office of the Council.

Discharge Consent - Stormwater (RM120762 - RM120770)

1. The Consent Holder shall ensure that all works are carried out in general accordance with the application submitted to Council dated 4 September 2012, unless inconsistent with the conditions of this consent, in which case these conditions shall prevail.
2. The Consent Holder shall show at the time of applying for building consent that the details of the proposed stormwater design for each lot meets Conditions 1 to 9 of this consent.

Advice Note:

Low impact design for stormwater management on each of these properties is encouraged. The soils found in this area have poor drainage, meaning soakage methods of disposal are unlikely to be effective and are therefore not recommended.

3. The stormwater from the hard surfaces shall either be discharged as sheet flow over the property or piped and discharged in a manner that does not cause any adverse effect.
4. The discharge or diversion shall not cause or contribute to erosion of land, including gullies and the bed of any stream or drain, nor shall it contribute to any damage caused by flooding.
5. Stormwater from cut-off drains shall be disposed of in such a way as to not affect slope stability or the integrity of the earthworks and shall not cause erosion.
6. The discharge shall not cause the production of conspicuous oil or grease films, scums or foams, or floatable or suspended material in any receiving water.
7. The quality of treated stormwater discharge authorised by this consent shall not exceed the following quality standards:
 - (a) Total petroleum hydrocarbons 15 milligrams per litre
 - (b) Total suspended solids 100 milligrams per litre

8. All aspects of the stormwater systems shall be checked on a regular basis as required, but not less than once every year.
9. The Consent Holder shall ensure the consent is transferred to the new property owner. The transferor remains responsible for compliance with the terms and conditions of the consent until written notice of the transfer is given to the Council.

REVIEW OF CONSENT CONDITIONS

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

EXPIRY

11. Pursuant to Section 125 of the Act this consent shall lapse 8 years after the date this consent is granted unless either the consent is given effect to, or the Council has granted an extension pursuant to Section 125(1)(b) of the Act.
12. This resource consent expires on XX August 2049.

ADVICE NOTES

1. Officers of the Council may also carry out site visits to monitor compliance with resource consent conditions.
2. The Consent Holder should meet the requirements of the Council with regard to all Building and Health Bylaws, Regulations and Acts.
3. Access by the Council or its officers or agents to the property is reserved pursuant to Section 332 of the Resource Management Act.
4. All reporting required by these consents should be made in the first instance to the Council's Co-ordinator Compliance Monitoring.
5. Council draws your attention to the provisions of the Historic Places Act 1993 that require you in the event of discovering an archaeological find (eg, shell, midden, hangi or ovens, garden soils, pit, depressions, occupation evidence, burials, taonga) to cease works immediately, and tangata whenua, the Tasman District Council and the New Zealand

Historic Places Trust should be notified within 24 hours. Works may recommence with the written approval of the Council's Environment & Planning Manager, and the New Zealand Historic Places Trust.

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

**BAY VIEW ESTATES LTD SUBDIVISION RM120664
July 2014**

ASSESSMENT OF DAM & IRRIGATION RELATED ACTIVITIES

Background and Proposal

This report assesses the proposed modifications of the Bay View Estate Limited's (former Tucker Orchards) Dam 173 and proposed changes to related irrigation consents. It is also to assess submissions to the Bay View Estate Limited's subdivision application RM120664 that relate to the proposed dam alterations.

As part of the subdivision application RM120664, various options were considered by the applicant relating to existing water storage Dam 173. In response to the initial subdivision plan, Council staff advised the applicant that the existing six metre high dam had the potential to adversely affect a dwelling site on proposed Lot 9 and other properties downstream in the event of a dam failure. The applicant was requested to provide:

A dam safety and investigation report from a Chartered Professional Engineer practising in civil engineering and also assessing the effects of a dam failure on dwelling sites downstream from the dam.

The option chosen by the applicant and assessed in this report relates to the proposed alteration of Dam 173 and its change in purpose from irrigation to stormwater runoff mitigation relating to the proposed subdivision development. On 11 June 2013, the applicant's consultant Davis Ogilvie & Partners Ltd advised of the following modifications to Dam 173:

- reduced in height to less than 3 metres and a new crest level of 32.3 metres; and
- reduced in maximum volume to 4,780 cubic metres but with a residual dam capacity of 3,700 cubic metres at a normal operating level of 31.5 metres.

In addition:

- all the dam including the spillway will be contained within a single proposed Lot; and
- the changes will result in stormwater detention and mitigates the effects of the subdivision; and
- eliminate the need for a Landuse Riverbed consent as Dam 173 will comply with the Permitted Activity dimensions for dams under the TRMP Rule 28.2.2.1(c).

In addition, the modified dam will:

- Continue to provide a fire-fighting water source;
- Pose minimal risk to downstream property in the event of failure; and
- Provide some amenity/landscape value for the landowner.

The applicant's dam engineer is Gary Hodder. Mr Hodder was the original design engineer for Dam 173 in 1991.

Existing Water Permits and Other Consents

The six metre high dam (Dam 173) is currently authorised under Landuse Riverbed consent RM120203. The proposed *alteration* of Dam 173 requires a separate consent and this activity is allocated number RM140506.

Once the dam modifications are completed, Landuse Riverbed consent RM120203 will no longer be required as the dam's dimensions will comply with the *Permitted Activity* dimensions under the TRMP Rule 28.2.2.1(c). If subdivision application RM120664 is approved, then at Section 224

stage (or before) and upon written notice from the applicant that the dam alterations are complete, the Council could accept the surrender of RM120203.

There are two existing water permits RM120201 and RM120202 relating to the applicant's property. Water permit RM120201 currently authorises taking water from the Seaton Valley Stream during winter months to storage in an existing reservoir adjacent to the stream and also to top-up storage Dam 173. When irrigation of the orchard was required in summer, the second water permit RM120202, authorised the only irrigation pump located beside the reservoir at volumes up to 2,250 cubic metres per week to irrigate 9 hectares of orchard. When the reservoir got low as a result, the water storage in Dam 173 could be discharged via a pipe down to augment the reservoir.

On the 5 July 2013, the applicant confirmed various proposed changes to the existing water permits RM120201 and RM120202. The applicant seeks to retain both but to restrict the consented activities just to the remaining pear orchard to the north of Seaton Valley Road (being proposed Lots 1-3) and the reservoir pond. The change of conditions of both RM120201-2 relate to the legal description of the land, the rates of taking, area irrigated and the removal of any reference to other land or Dam 173. Recommended replacement water permits (ie RM120201V1 and RM120202V1) are attached.

SUBMISSIONS

Public notification has resulted in various submissions relating to Dam 173. The issues discussed here do not include landscape, amenity or wildlife effects which are assessed in Mark Morris' planners report.

Rosemary E Lynn (Submitter #2) – (see their Concern 4) has grave concerns regarding the proposed alteration of Dam 173 including regarding the proposed spillway and concrete weir and affects on neighbours and the safety of properties. The submitter does not believe the reduction is necessary or desirable or that the spillway etc will be aesthetically pleasing.

This submitter seeks (see their Condition h) an independent review of the necessity of the planned dam reduction and related works and the likely effects on neighbours and downstream effects of increased water flow in the Seaton Valley Stream.

Debbie & Simon Lavery (Submitter #3) advise that the applicant has been less than truthful with neighbours including regarding advice to them it was the Council that had ordered the proposed reduction in Dam 173 "as it posed an earthquake risk".

Note: The submitter has raised what I assess to be an unrelated issue regarding surface flooding/ponding of water. Apparently this is a result of a blocked drainage pipe on the applicant's property. My assessment is the issue is a private/civil matter relating to *trespass*, in this case by ponded water. My understanding is that landowners are responsible for the maintenance of any drains on their property.

Lesley Lord, Peter Harling & Alton Trustees Limited (Submitter #8) are gravely concerned about increased water flow through their property located immediately downstream of Dam 173. The submitters identify the removal of pine trees and the apple orchard from the applicant's property as resulting in a "huge difference in run-off" to the extent that some of their property is now too wet to sustain cattle grazing. For completeness, the relevant parts of the submission are repeated here:

The current situation with runoff is that it flows through and accumulates on the submitter's property, as well as pouring through the boundary from pipes on the applicants land adjacent to the vicinity of proposed Lot 9. The submitter already discharges water from the existing dam in order to ensure that the water from the dam at its current level does not overflow. The water needs to be discharged almost continually to prevent overflow.

The submitter does this on recommendation from the applicants following their anticipation that the dam would overflow after removal of the orchard (and thus irrigation of orchard) unless water was discharged.

This situation is exacerbated by the change in weather patterns over the last three to four years, and as severe weather events are predicted to become more frequent, it is more than likely that these high rainfall events will further contribute both to the increase of volume of water filling the dam and to increased runoff onto the submitter's property.

And

Examination of the design plan indicates that it is proposed to construct a spillway from the lowered dam, which as far as it can be ascertained appears to drain above ground in the vicinity of the common boundary between the submitter's property and proposed Lot 9 – where accumulation of surface runoff and water-logging is already a problem.

This aspect is of grave concern to the submitter. The proposed detention in the lowered dam would be less than exists in the present arrangement, and so discharge would occur sooner than at present. This does not appear to have been dealt with in the developers' engineers' calculations.

Retaining the current level of water within the dam without overflow to surrounding land is only just possible through the submitter's almost constant release of water accumulated in the dam via a temporary pipe in the dam and discharge of water. Under the proposal now tabled, the catchment area for the dam would remain unchanged, but there would be significantly less volume of detention in a lowered dam and this would create a significant overflow of water. The application appears to deal with this by providing a spillway. However, the proposed dam spillway in the diagram referred to as "design plan – pond area" appears to discharge directly through the boundary of the submitter's property. If overflow was allowed to discharge to land as shown then it would end up solely on the submitter's property.

Pipes on the applicants land currently discharge water from the eastern slope and western dam area to above ground close to the submitters' boundary, a significant volume of water discharges from this point in heavy rain fall events.

AND

As already stated, the submitter anticipates severe adverse effects as a result of increased water run-off from dam spillage, particularly if the sides of the dam are lowered. If the proposed spillway is constructed water will inevitably be discharged onto the common boundary where significant ground waterlogging is already experienced. There is a legal requirement to discharge the water from the low flow pipe via a pipe within the submitters' easement. The developer is obliged to provide a pipe that is fit for this purpose for the whole length of the easement. In our opinion a Novaflo or similar pipe does not fit this description.

AND

If consent is granted, I wish the Council to impose the following conditions:

- 1. The height of the dam should remain at its current level.*
- 2. The applicant should be required to drain through a water drainage pipe of adequate diameter and construction (solid walled) on the submitter's property, and maintain that drain. All water from drainage pipes on the applicants' property that discharge water onto the submitters property, including those currently insitu, should be directed through this pipeline. There is already a water pipe easement over the submitter's land in favour of the applicant's*

property. However, the current application fails to utilise or even mention this drainage easement. With some upgrading and mandatory requirements for ongoing maintenance this easement could provide the appropriate water course for excess storm water if adequately linked to the applicant's design. At present, the drainage pipe is Novaflow (as advised by the applicant) which is susceptible to infiltration by tree roots and blockage related to silting which compromise its effectiveness. At the time of the applicants meeting with the submitters the applicant expressed the view the pipe was likely compromised by roots from the neighbours trees on the eastern side of the submitter's boundary. However, a larger diameter solid walled pipe could be installed to provide a sustainable option for maintaining an effectively functioning route for the discharge of water.

The applicant should not be permitted to discharge water from drainage pipes to land.

AND

4. *The applicant / future purchaser/s of the Lot containing the dam will be potentially liable for any damage to the submitters land resulting from overflow of water.*

The applicant cannot discharge water which unacceptably interferes with use and enjoyment of the submitters' land, unless it is required to be connected to pipe and be conveyed through the pipe in the easement.

Tasman Resource Management Plan ("TRMP") Rules Affected

The applicant's dam (173) has a catchment area of under 20 hectares and the damming activity therefore complies with the Permitted Activity Rule 31.1.4.1 TRMP.

In addition, the discharge of water from a dam is deemed to be a Permitted Activity under Rule 36.2.2.8 TRMP as it is proposed and understood that Rule 36.2.2.8(g)(i) will be complied with ie the discharge during floods does not exceed the natural inflow. Furthermore, under Rule 36.4.2.1 the discharge or diversion of stormwater or drainage water into water, or onto or into land, where the stormwater or drainage water may enter water is Permitted Activity if the point of discharge or diversion is within any **Rural Residential** zone and it commenced before **19 September 1998**. The applicant's dam and the various pipework discharging stormwater and drainage water was installed and operating prior to 1998.

With regard to Section 13 RMA, there are rules relating to dams under Part IV of the TRMP. For Dam 173, RM120203 relates to the current *use* of the riverbed while RM140560 is required for the proposed dam alterations. RM140560 is potentially a *Restricted Discretionary Activity* under Rule 28.2.2.4 TRMP.

With regard to RM120201-2, the proposed change of conditions of these water permits is deemed to be fully *Discretionary* under the RMA. Bundling therefore results in these consent applications being assessed as fully **Discretionary**.

Relevant Statutory Provisions

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

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

Most of the objectives and policies contained within the TRPS are mirrored in the TRMP and the activity is considered to be consistent with the relevant objectives and policies contained in Chapters 27, 28, 30 and 31 of the TRMP.

The following matters from TRMP Rule 31.1.2.4 (1)-(9) are considered potentially relevant:

- (4) Effects on fish and eels, including entrainment in pipes.

For the activity of *alteration of a dam* and under TRMP Rule 28.2.2.4 conditions can be imposed to address issues including:

- (2) Effects on river bed and bank stability upstream and downstream of the dam.
- (3) Effects on other water users, downstream landowners and landowners affected by the dam structure or impounded water, including modified downstream flows and effects of failure.
- (4) Effects on fish and eel passage.

PRINCIPAL ISSUES (ACTUAL AND POTENTIAL EFFECTS ON THE ENVIRONMENT)

Hydrology (Pre and Post)

A very basic description of the catchment flows pre and post construction and now alteration of Dam 173 is as follows. Pre-dam, *natural flow* conditions for this small (4.3ha) catchment would be *ephemeral*. In other words, most summers surface flows would be nil owing to natural low rainfall, (Moutere Gravel) geology and catchment size. In a dry winter, surface flow would be intermittent and often just seepage except for a short time during and after rainfall events. Surface flow conditions at the dam site would therefore range between nil or minor seepage, while a Q100 rainfall event could see up to 0.80 cubic metres per second (ie 800 litres per second) according to the applicant's engineer.

Post-dam with a fully planted and irrigated orchard, there may be little or no flow below the dam year-round, particularly in dry winters when catchment runoff was insufficient to refill Dam 173. Under this scenario, it is likely the dam would be topped up by pumping in early spring, prior to summer irrigation being required. The dam would therefore be full for only a short period until summer irrigation again lowered the dam water level. This was Lord/Harling's favoured operating scenario.

Post orcharding, the dam is full all the time except as a result of irrigation by the downstream neighbour (ie Lord/Harling) who also advise they take and discharge storage in order to lower the dam level to maintain floodwater detention capacity in the dam. This submitter advises that, as a result, there are few if any spillway discharges from the dam.

Post the proposed dam alteration, flows below the dam will return closer to the *pre-dam construction* natural flow condition. The exception is for flood flows, which are to be modified/reduced due to the stormwater detention function of the dam.

RELEVANT ISSUES

Further information It has been identified and confirmed by Stephen Tucker (emails 21 and 22 July 2014) there is 50mm discharge pipe through the dam which was capped and buried after it was found not to be operative following dam construction. If this subdivision application (and dam alteration) is approved, this pipe may need to be relocated to ensure it is not further damaged including during dam alteration. Best practise may also suggest that permanent access to this pipe's outlet to allow future inspection and monitoring may well be appropriate. The reported damage to this pipe suggests that commissioning this outlet to allow dam dewatering is not an option.

Stephen Tucker's email also advised that the easement on the Lord/Harling's property has a 100mm perforated Novaflo drainage pipe only. In place of the (non functioning) 50mm dam

discharge pipe they installed a 100mm PVC pipeline on their own land to the bottom reservoir and used this when the reservoir required more (irrigation) water or, in a reverse direction, to top up Dam 173 in the winter months. This 100mm PVC pipeline was removed when the apple orchard was pulled out in 2005.

Stephen Tucker was asked to comment on "water spurting into the air" on his property in the vicinity of where water flows entered the Lord/Harling's property. His reply was "...at the said point is where a junction box is that a couple of drains flow into including a dam overflow pipe, if the pipeline that runs through Lesley and Peters property was blocked this would cause it to overflow out of the ground at this point."

Note: There is no information whether the new pipes from altered Dam 173 will discharge to a replacement junction box at the Lord/Harling's boundary.

Legal Issue - My assessment is there is no legal requirement for the applicant to pipe catchment flow through the Lord/Harling property including via the legal easement. The easement in my opinion is specific to the operation of an irrigation system which in fact was never installed. I therefore agree with the applicant's (Tony Alley) statement (10 June 2014) that there is no obligation on the applicant to drain water via the easement rather *a right to do so*. Given the change in landuse and this subdivision application, I see no purpose in the easement continuing to exist if this subdivision application is approved. Furthermore, the easement's continuation means it is uncertain who actually owns the 100mm Novaflo pipe and whether the landowner can claim it and maintain it, or replace it.

Proposed Dam Alterations - I have reviewed the applicant's engineering design report from Hodder Consulting Ltd supplied on 13 June 2013. The report confirms that the altered dam will provide adequate stormwater detention to delay runoff from the dam (and catchment) and compensate for increased runoff from the development of the new lots and dwellings.

It is clear from the report, that the altered dam will not achieve the outcome that the Lord/Harlings are after. The Lord/Harlings wish to see the dam retained at its current height and the applicant required to capture and pipe all catchment flow in an appropriately sized (solid walled) pipe via the existing easement to discharge at the Seaton Valley Road.

(As assessed above) I do not find any legal requirement for the applicant to pipe catchment flow to downstream of the submitter's property and it is not a requirement under the TRMP that stormwater flows be piped in the Rural Residential Zone.

Furthermore, rather than being an asset this and similar rural irrigation dams are likely to become a liability for their owner as houses and property develop below them. I therefore support the proposed alterations to the dam given the change in land zoning, landuse and the fact that the dam is no longer required for its original purpose.

OTHER ISSUES

Ensuring the Dam's Future Existence

I have assumed the altered dam (Dam 173) will be owned by the future purchaser of proposed Lot 9. As for any dam owner, this owner will be required to maintain the dam be liable for any damage to downstream property resulting from the dam's operation or failure.

There will I assume be a requirement for the owner of Lot 9 to retain and maintain the dam as a functioning detention structure and a condition giving effect to this such as requiring a Consent Notice on Lot 9's title, will be needed under RM120664.

If a Consent Notice is adopted it is understood it can have an *uplifting* clause such that when the upgrading of the Seaton Valley Stream stormwater system is completed by Council then the Consent Notice can be removed. At that time, the owner of Lot 9 could remove the detention dam.

Legality of Discharges

The Lord/Harlings submitted the applicant should not be permitted to discharge water from drainage pipes to land. This issue is addressed above (see *TRMP Rules Affected*) and the *discharge* of water from a dam is a Permitted Activity as is the discharge or diversion of stormwater or drainage water into water, or onto or into land *where the stormwater or drainage water is within any Rural Residential zone and it commenced before 19 September 1998*.

My assessment is that the above rules are consistent with the Common Law requirement relating to natural water flows through or from an upstream property.

Recommendation

If consent is granted I have attached both revised consents RM120201V1, RM120202V1, RM120203 and new RM140560 for the Committee's consideration.

I am happy to answer any questions.

Neil Tyson
Consent Planner, Water

FULL SET OF RECOMMENDED CHANGED CONSENTS FOR RM120201V1, RM120202V2, RM120203 AND NEW CONSENT RM140560



RESOURCE CONSENT DECISION

Resource consent number: RM120201V1

Pursuant to Section 104B of the Resource Management Act 1991 (“the Act”), the Tasman District Council (“the Council”) hereby grants a change of conditions of resource consent to:

Bay View Estates Limited
(hereinafter referred to as “the Consent Holder”)

Activity authorised by this consent: To Take Surface Water to Storage (in Winter Only).

Location details:

Address of property: 131 Seaton Valley Road, Mapua
Valuation number: 1938059700

Pursuant to Section 108 of the Act, consent is issued subject to the following conditions and an unchanged expiry date of **31 May 2028**:

CONDITIONS

Site, Take and Use Details

- | | | |
|----|---|--|
| 1. | Legal Description of Land:
& 2 DP 302279 | Proposed Lots 1-3 of the subdivision of Lots 1 |
| | Category of Water Source: | Surface |
| | Source: | Seaton Valley Stream |
| | Plan Zone, Catchment: | Moutere Surface Water Zone, Moutere |
| | Purpose and Use: | Storage |
| | Maximum rates of take authorised: | 4.90 litres per second
17.6 cubic metres per hour
143.00 cubic metres per day
1,000.00 cubic metres per week
5,000.00 cubic metres per annum |
| | Location at or about point of take: | Easting: 1606318 Northing: 5434654 NZTM |

Intake Screen

- The water intake when installed in the stream shall at all times be screened sufficiently to prevent the entrapment and entrainment of fish. As a minimum, the intake screen shall be constructed such that the velocity at the outer screen surface is less than 0.3 metres per second and the screen mesh size shall be no greater than 5 millimetres.

Monitoring Conditions

3. This consent shall only be exercised during the winter months May to October inclusive and only for the purposes of filling the Consent Holder's reservoir and only in accordance with the rates and volumes stated in Condition 1.
4. This consent shall not be exercised to the extent that more than 30% of the instantaneous stream flow is taken and the taking of water shall at no time cause the visible surface flow at the point of take to cease.
5. If notified of water rationing by the Council, the Consent Holder shall cease the exercising of this consent and the taking of water shall be suspended until further notice.

Monitoring Charges

6. The Consent Holder shall pay the reasonable costs associated with the monitoring of this consent.

Water Metering

7. The Consent Holder or their agent shall if requested by the Council and at their own expense, install and thereafter operate and maintain a water meter that complies with the Water Meter Specifications as stated in Chapter 2 of the Tasman Resource Management Plan.

Advice Note:

The Resource Management (Measurement and Reporting of Water Takes) Regulations 2010 do not apply to this consent as the rates of taking are less than 5 litres per second.

Review of Conditions

8. Council may for the duration of this consent and within the 3 month period following the anniversary of its granting each year, review the conditions of the consent pursuant to Section 128 of the Resource Management Act 1991 for the purposes of:
 - (a) dealing with any unexpected adverse effect on the environment which may arise from the exercise of the consent and which is appropriate to deal with at a later stage;
 - (b) to reduce the quantities and rates of water authorised to be taken if the consent is not fully exercised;
 - (c) when relevant national environmental standards or regulations have been made under Section 43 of the Resource Management Act 1991;
 - (d) requiring the adoption of the best practical option to remove or reduce any adverse effects on the environment;
 - (e) to comply with the requirements of a relevant operative rule in the Tasman Resource Management Plan including, but not limited to, the maximum rates of taking of water and water metering requirements.

Records to be Kept

9. The Consent Holder shall keep such records as may be reasonably required by the Council and shall, if so requested, supply this information to the Council. If it is necessary to install additional measuring devices to enable satisfactory records to be kept, the

Consent Holder shall, at his or her own expense, install, operate and maintain suitable devices.

10. This consent may be cancelled upon not less than 3 months' notice in writing by the Council if it remains unexercised without good reason for any continuous period exceeding 5 years.

ADVICE NOTES

1. This resource consent only authorises the activity described above and, for the avoidance of doubt, this consent does not authorise any physical works in the river bed or any damming of water or any refuelling of machinery. 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.
2. The Consent Holder is advised that proposed TRMP Rule 28.1.6.1(c)(vii) permits bed disturbance for or associated with the excavation of less than 5 cubic metres of gravel for improving access to an authorised taking of water, provided the excavated material is placed upstream of the excavation and is not removed from the bed.
3. Section 126 of the Resource Management Act 1991 states that the consent may be cancelled upon not less than 3 months' notice in writing if the consent remains unexercised without good reason for any continuous period exceeding 5 years.
4. Access by the Council or its officers or agents to the land subject to this resource consent is reserved pursuant to Section 332 of the Resource Management Act.



RESOURCE CONSENT DECISION

Resource consent number: RM120202V1

Pursuant to Section 104B of the Resource Management Act 1991 (“the Act”), the Tasman District Council (“the Council”) hereby grants a change of conditions of resource consent to:

Bay View Estates Limited
(hereinafter referred to as “the Consent Holder”)

Activity authorised by this consent: To Take from Storage for Irrigation.

Location details:

Address of property: 131 Seaton Valley Road, Mapua
Valuation number: 1938059700

Pursuant to Section 108 of the Act, consent is issued subject to the following conditions and an unchanged expiry date of **31 May 2028**:

CONDITIONS

Site, Take and Use Details

- | | | |
|----|---|--|
| 1. | Legal Description of Land:
& 2 DP 302279 | Proposed Lots 1-3 of the subdivision of Lots 1 |
| | Category of Water Source: | Storage |
| | Source: | Pond |
| | Plan Zone, Catchment: | Moutere Surface Water Zone, Moutere |
| | Purpose and Use: | Irrigation |
| | Area Irrigated (ha): | 1.20 |
| | Maximum rates of take authorised: | 4.90 litres per second
17.6 cubic metres per hour
43.00 cubic metres per day
300.00 cubic metres per week |
| | Location at or about point of take: | Easting: 1606329 Northing: 5434596 NZTM |

Intake Screen

2. The intake when installed in the water body shall at all times be screened sufficient to prevent the entrapment and entrainment of fish. As a minimum, the intake screen(s) shall be constructed such that the velocity at the outer screen surface is less than 0.3 metres per second and the screen mesh size shall be no greater than 5 millimetres.

Irrigation Application

3. All irrigation shall meet the following standards:
- (a) the maximum application rate shall not exceed 190 cubic metres (19 millimetres)

per hectare per week for any irrigated soil type;

- (b) an irrigation rotation shall not exceed 38 millimetres or such lesser amount determined by the soil type;
- (c) the irrigation of any land shall not exceed the amount able to be retained by the soil profile and any drainage through the soil profile shall be avoided;
- (d) the irrigation shall not result in surface flow or run-off from the irrigated land;
- (e) irrigation shall be restricted to the land identified in Condition 1 and shall not trespass onto land not owned or under the control of the Consent Holder including any public road.

Farm Irrigation Management Plan (FIMP)

- 4. Council reserves the right to require from the Consent Holder a Farm Irrigation Management Plan (FIMP) documenting the operation of their irrigation scheme including regarding soil moisture monitoring, leak detection programmes and scheme maintenance.

Monitoring Conditions

- 5. If eels are present in the pond, this consent shall not be exercised to the extent that the taking of water causes dam storage to be emptied and sufficient water shall be retained for the survival of the resident eels.

Monitoring Charges

- 6. The Consent Holder shall pay the reasonable costs associated with the monitoring of this consent.

Review of Conditions

- 7. Council may for the duration of this consent and within the 3 month period following the anniversary of its granting each year, review the conditions of the consent pursuant to Section 128 of the Resource Management Act 1991 for the purposes of:
 - (a) dealing with any unexpected adverse effect on the environment which may arise from the exercise of the consent and which is appropriate to deal with at a later stage;
 - (b) to reduce the quantities and rates of water authorised to be taken and area irrigated if the consent is not fully exercised;
 - (c) when relevant national environmental standards or regulations have been made under Section 43 of the Resource Management Act 1991;
 - (d) requiring the adoption of the best practical option to remove or reduce any adverse effects on the environment;
 - (e) to comply with the requirements of a relevant operative rule in the Tasman Resource Management Plan including, but not limited to, the maximum or minimum levels or flows or rates of use of water, irrigation application rates, water metering requirements, or minimum standards of water quality.

Records to be Kept

8. The Consent Holder shall keep such records as may be reasonably required by the Council and shall, if so requested, supply this information to the Council. If it is necessary to install additional measuring devices to enable satisfactory records to be kept, the Consent Holder shall, at his or her own expense, install, operate and maintain suitable devices.
9. This consent may be cancelled upon not less than 3 months' notice in writing by the Council if it remains unexercised without good reason for any continuous period exceeding 5 years.

ADVICE NOTES

1. This resource consent only authorises the activity described above and, for the avoidance of doubt, this consent does not authorise any physical works in the river bed or any damming of water or any refuelling of machinery. 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.
2. Access by the Council or its officers or agents to the land subject to this resource consent is reserved pursuant to Section 332 of the Resource Management Act.



RESOURCE CONSENT DECISION

Resource consent number: RM120203

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

Bay View Estates Limited (previously Tucker Enterprises)
(hereinafter referred to as “the Consent Holder”)

Activity authorised by this consent: Use of the Riverbed relating to a Dam Structure.

Location details:

Address of property: 131 Seaton Valley Road, Mapua
Valuation number: 1938059700
Legal Description: Proposed Lot 9 from the subdivision of Lot 3 DP 302279

Pursuant to Section 108 of the Act, consent is issued subject to the following conditions and an expiry date of **31 May 2028**:

CONDITIONS

Site and Dam Details

- | | | |
|----|----------------------------|---|
| 1. | River Being Dammed: | Unnamed Tributary of the Seaton Valley Stream |
| | Plan Zone, Catchment: | Moutere Surface Water Zone, Moutere |
| | Catchment Area (ha): | 5.5 |
| | Dam Height (m): | 6 |
| | Storage (m ³): | 10,000 |
| | Council Dam Number: | 173 |
| | Location co-ordinates: | Easting: 1606011 Northing: 5434336 (NZTM) |

Maintenance

2. The Consent Holder or their agent shall regularly inspect the dam and any associated structure and shall maintain the dam in a good state of repair including that it shall be kept free of debris.
3. If requested by the Council, the Consent Holder shall commission a dam safety inspection and report by a Chartered Professional Engineer practising in civil engineering and a copy of this report shall be provided to the Council.

Review of Conditions

4. The Council may within 3 months of the first anniversary of the granting of the consent and within 3 months following each annual anniversary thereafter of the granting of this consent review any or all of the conditions of the consent pursuant to Section 128 of the Resource Management Act 1991 for all or any of the following purposes:
 - (a) to deal with any unexpected adverse effect on the environment which arises from the exercise of the consent, including adverse effects on downstream landowners, on bed or bank erosion or instream values; or
 - (b) to require compliance with operative rules in the Tasman Resource Management Plan (TRMP) including requirements and rules relating to the operation and maintenance of dams; or
 - (c) to ensure consistency with any dam safety regulations under the Building Act or other relevant legislation; or
 - (d) to require changes to the dam to ensure that the dam is adequately protected against storm events.

Records to be Kept

5. The Consent Holder shall keep such records relating to the operation of this consent and effects of the activity on the environment as may be reasonably required by the Council and shall, if so requested, supply this information to the Council. If it is necessary to install measuring devices to enable satisfactory records to be kept, the Consent Holder shall, at his or her own expense, install, operate and maintain suitable devices.
6. The dam embankment and within 5 metres of the toe of the embankment shall be maintained clear of any trees, any vegetation more than 1.5 metres in height, and any vegetation that prevents inspection of the dam embankment.

ADVICE NOTES

1. Pursuant to Section 36 of the Resource Management Act, the Consent Holder may be required to pay the reasonable costs associated with the monitoring of this consent.
2. Nothing in this consent authorises the trespass of any part of a dam, including any associated structure or any ponded water, onto any land without the consent of the landowner.
3. If requested, the Consent Holder shall maintain an appropriate level of public liability insurance cover throughout the life of the dam and produce evidence of cover on request.
4. Access by the Council or its officers or agents to the land subject to this consent is reserved pursuant to Section 332 of the Resource Management Act.
5. This resource consent only authorises the activity described above. Any matters or activities not referred to in this consent or covered by the conditions must either: 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.



RESOURCE CONSENT DECISION

Resource consent number: RM140560

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

Bay View Estates Limited
(hereinafter referred to as “the Consent Holder”)

Activity authorised by this consent: Alteration of a Dam Structure.

Location details:

Address of property: 131 Seaton Valley Road, Mapua
Valuation number: 1938059700
Legal Description: Proposed Lot 9 from the subdivision of Lot 3 DP 302279

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

CONDITIONS

Altered Dam Details

- | | | |
|----|--------------------------------------|---|
| 1. | River Being Dammed: | Unnamed Tributary, Seaton Valley Stream |
| | Plan Zone, Catchment: | Moutere Surface Water Zone, Moutere |
| | Catchment Area (ha): | 4.3 |
| | New Dam Height (m): | 3 |
| | New Storage Volume(m ³): | 4,999 |
| | Council Dam Number: | 173 |
| | Location co-ordinates: | Easting: 1606011 Northing: 5434336 NZTM |

Other Conditions

2. The Consent Holder or their agent shall alter the dam in accordance with the Hodder Consulting Limited drawings 1305 Sheets 1-5, and the specification (April 2013) and Davis Oglivie drawing 25993 Sheet 1 Design Plan as supplied with the application except where inconsistent with these conditions, in which case these consent conditions prevail.
- 2.1 Prior to dam alteration commencing, all practical and reasonable efforts shall be undertaken to locate the original 50mm dam discharge pipe and if located the pipe shall be protected from further damage during the alteration work.

Advice Notices:

Location of the original dam discharge pipe will provide a practical de-watering mechanism but it also be important to protect this pipe and ensure it is undamaged and in good condition.

Building consent is not required for the dam alterations owing to the dam not having dimensions of a large dam.

3. The dam alterations shall be supervised by a Chartered Professional Engineer practising in geotechnical engineering and experienced in the construction of dams with all inspections specified in the Engineering Inspection Schedule undertaken. Furthermore, prior to the work authorised by this consent commencing the Consent Holder shall forward to Council a letter from the Chartered Professional Engineer confirming engagement to supervise the dam alteration.
 4. For the avoidance of doubt, the dam spillway shall be constructed in natural ground and not pass over the embankment crest.
 5. A Construction, Erosion and Sediment Management Plan (CESMP) relating to the dam alteration works shall be developed and approved by the Council's Co-ordinator Compliance Monitoring or his agent prior to commencement of works and a copy of the CESMP shall be provided to all construction contractors prior to construction earthworks commencing.
 - 5.1 As far as is practicable, the CESMP shall ensure that earthworks are not to be carried out during periods of wet weather and, in addition, the CESMP shall address dewatering of the dam including the recovery and relocation of eels present in the dam.
 - 5.2 All cut and fill batters and faces exposed during works shall be sufficiently stabilised using appropriate erosion control techniques as soon as is practicable after construction is complete, so as to minimise sedimentation and run-off erosion effects from the exposed earthworks. Site rehabilitation and re-vegetation should be completed as soon as practicable on completion of the earth-working components and no later than 12 months from the date of the disturbance.
- Advice Note:**
The Consent Holder is referred to Auckland Regional Council's TP 90 publication for relevant guidelines.
- 5.3 Surplus excavated material shall be disposed of on-site and topsoil separately stockpiled as directed by the supervising Engineer. Any surplus material must be placed so that no soil material or vegetation may enter water.
 6. The Consent Holder shall contact and advise the Council's Co-ordinator Compliance Monitoring or his agent by e-mail or written notice as follows:
 - (a) at least 24 hours prior to construction commencing on the dam embankment; and
 - (b) at completion of the altered dam embankment, earthworks and spillway.
 7. The entire dam embankment and all appurtenant structures shall following subdivision be located within a single certificate of title ensuring clear liability and ownership of the structure.

Maintenance

8. The Consent Holder or their agent shall regularly inspect the dam and any associated structure and shall maintain the dam, spillway etc in a good state of repair including that it be kept free of debris.

Rock Protection Required

9. In order to ensure that there are no adverse effects of the dam on the downstream property, the spillway discharge and all rock protection (or similar) shall be placed under the direction of the Chartered Professional Engineer referred to in Condition 3 and shall be setback a minimum of five metres from the boundary to allow for maintenance by the Consent Holder.

Dam Certification

10. At the completion of the dam alterations, both the supervising Chartered Professional Engineer and the contractor undertaking the dam alterations shall provide to the Council written certification that the work has been completed in accordance with the approved engineering plans, specifications and site instructions and that the inspections specified in the Engineering Inspection Schedule were undertaken.

Vegetation

11. The Consent Holder shall not plant, or allow to grow, any trees or shrubs on the dam embankment or within 3 metres of the dam toe and shall ensure that the dam embankment and any unplanted land is grassed down as soon as practicable after dam completion and no later than 6 months following completion of the works.

Notice to Contractors

12. Prior to undertaking any on-site works authorised by this consent the Consent Holder shall provide a copy of this consent and any other relevant consents to the contractor undertaking the works and the Chartered Professional Engineer overseeing the construction.

Insurance Cover

13. The Consent Holder shall provide evidence of a minimum \$1million public liability insurance cover to Council before commencing work and shall maintain this cover throughout the alterations of the dam and produce evidence of cover on request.

Expiry and Lapsing

14. This consent shall lapse 5 years after the date that the consent commences unless the consent is either: a) given effect to; or b) the Council has granted an extension pursuant to Section 125(1)(b) of the Act.
15. This consent shall expire 35 years after the consent is given effect to.

Advice Note:

For the avoidance of doubt, the date that the consent commences is the date when any appeals have been settled and the Consent Holder is legally authorised to go ahead with the work. The date that the consent is given effect to is when substantive work first begins on site.

Review of Conditions

16. The Council may within 3 months following the anniversary of the granting of the consent each year review any or all of the conditions of the consent pursuant to Section 128 of the Resource Management Act 1991 for all or any of the following purposes:
 - (a) to deal with any unexpected adverse effect on the environment that may arise from the exercise of the consent; and/or
 - (b) to require the adoption of the best practical option to remedy or reduce any unexpected adverse effects on the environment; and/or

- (c) to comply with requirements of an operative regional plan.

OTHER ADVICE NOTES

1. Access by the Council or its officers or agents to the land subject to this consent is reserved pursuant to Section 332 of the Act.
2. The Consent Holder shall pay the reasonable costs associated with the monitoring of this consent.
3. Nothing in this consent authorises the trespass of any part of a dam, including any associated structure or any ponded water, onto any land without the consent of the landowner.
4. 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.

TO: Mark Morris; Michael Croxford
FROM: Paul Sheldon
DATE: 3 July 2014
FILE NO: RM120664
SUBJECT: **Submission of Annette Joan Le Cren regarding Bay View Estates Subdivision**

Mark - Michael

You have asked me to respond to the concerns raised by Annette Le Cren concerning the proposed remediation methodology for residual soil contamination from the use of orchard sprays on the development site. Specifically:

1. The effectiveness of deep mixing as a remediation method.
2. Generation of runoff containing contaminants
3. Leaching into Seaton valley stream.

My response is as follows:

Vertical mixing is a well proven approach to reducing concentration of some contaminants and in particular metal based sprays which were widely used in orchards prior to 1980. The New South Wales Environmental Protection Agency prepared guidelines for this method 20 years ago. (*Guidelines for the Vertical Mixing of Soil on Former Broad-Acre Agricultural Land*, January 1995). This approach has been utilised for much of the historic orchard land of Tasman District.

In general vertical mixing can achieve a halving of contaminant concentrations, thus reducing the surface contaminant concentration and associated direct human contact. Halving contaminant levels below the surface within the rooting depth of food crops will also reduce the uptake by plants and hence the associated exposure of people from eating food grown on this property. It should be noted that the acceptable contamination levels set in the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NES) allows for up to 25% of a person's dietary intake to be from vegetables and crops grown on site. Therefore the ingestion pathway is already provided for within the acceptable contamination levels of the NES.

In order to avoid unintended impacts from vertical mixing the NSW EPA recommends a number matters to be considered before adopting this approach. My comments are inserted between each of the NSW EPA recommendations.

A. *The degree of contamination and the lateral and vertical extent of contamination have been established*

This has been established for the Bayview development.

B. *The background concentration of the principal contaminant has been assessed*

There is a good understanding of background arsenic and lead concentration for this area.

C. *The soil that needs to be vertically mixed is not more than 0.5 metre deep*

Mixing is recommended to a maximum of 0.5 m.

D. *The land does not have any 'hot spots'*

The shed areas were investigated and found compliant with the NES.

E. *There is no viable alternative technology for remediating the contaminants at the site*

While other methods exist they would be prohibitively expensive on a site of this size.

F. *The contaminants at the site are not volatile*

Arsenic and lead are bound very tightly to soil and are not volatile

G. The proposed plan for managing the soil at a site has been accepted by the appropriate planning consent authority

A soil erosion and sedimentation plan will be required before earthworks commence (see below).

H. The site is not situated in an environmentally sensitive area

For the purposes of these guidelines, an environmentally sensitive area is an area that is located:

- within 40 m of a natural water body or wetlands
- on a flood plain
- within a drinking water catchment area
- in a recharge area for groundwater resources either currently being exploited or which may reasonably be expected to be exploited in the future
- in an area with highly permeable soils.

The area of SV3 and the shed area meets these criteria

I. An Occupational Health and Safety Plan that satisfies WorkCover requirements has been prepared

This will be required before works proceed

The NES also places controls on earthworks which require measures to be put in place to minimise the exposure to mobilised contaminants. These controls must be in place before the works commence, during the undertaking of the works and after the conclusion of the works.

As the contaminants present on this site are principally residual from metal based sprays (arsenic and lead) which bind very tightly to the soil particles, control can be achieved by managing soil erosion and sedimentation during the proposed earthworks.

An approved Soil Erosion Sedimentation Plan (and its implementation) will be required prior to the commencement of earthworks to ensure that measures are in place to divert surface stormwater around the earthworks area, control erosion (wind and water) with the works area, and to trap any sediment generated to contain it within the development site where it can be subsequently revegetated or surface capped to prevent it from moving into local streams or onto adjoining properties.

Paul Sheldon
Resource Scientist Contaminants