

# MINUTES

**TITLE:** Environment & Planning Subcommittee  
Commissioner Hearing

**DATE:** Monday, 11 December 2006

**TIME:** 9.30 am

**VENUE:** Council Chamber, 189 Queen Street, Richmond

**PRESENT:** David Collins

**IN ATTENDANCE:** Consultant Planner (T Quickfall), Consent Planners (M Durand and N Tyson)

## 1. KAIMIRA VENTURES LTD - APPLICATION NO. RM060719, RM060720, RM050531VI

### 1.1 Application

The application seeks to establish and operate a rural industrial activity, being a winery for the making of grape wine using grapes grown on the subject site and from other Nelson vineyards.

To establish and operate a commercial activity, being a "Cellar Door" outlet for the sale of the applicant's wine, both as an on-licence and an off-licence.

To erect one directional sign at the entrance to the site with an area of 2.25 square metres (1.5 metres high and 1.5 metres wide).

To erect two remote advertising signs. One sign would be at the junction of Palmer Road and Waimea West Road, and the second sign would be at the junction of Palmer Road and Livingston Road. Each of these signs would be no greater than 3 metres in height and would have an area of not more than 1 square metre.

To discharge up to 4 cubic metres of wastewater, being winery wash water, per day to land (the vineyard) via irrigation.

To change the conditions of water permit RM050531 to allow water to be used for winery wash water as well as for irrigation purposes. The daily quantity of water to be taken and the rate of taking are not proposed to be changed.

The application site is located at 97 Livingston Road, Brightwater, being legally described as Lot 2 DP 329744 and Lots 2 and 4 DP 305891 (CT 121832). The property is zoned Rural 1 according to the proposed Tasman Resource Management Plan.

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

The Commissioner reserved his decision and the hearing concluded.

**Report and Decision of the Hearings Commissioner D W Collins, under authority  
delegated by the Tasman District Council**

**Hearing held in the Council Chamber, Richmond**

**on the 11<sup>th</sup> of December 2006**

Commissioner David Collins was appointed by the Tasman District Council to hear the application lodged by Kaimira Ventures Ltd relating to a proposed winery with a “Cellar Door” retail outlet and associated discharge and water use permits at Livingston Road, Brightwater. The application, (strictly, three applications) made in accordance with the Resource Management Act 1991 (“the Act”), was lodged with the Tasman District Council and referenced as RM060719, RM060720, and RM05031V1.

- PRESENT:** **Hearings Commissioner**  
Mr David W Collins
- APPLICANT:** Mr Nigel McFadden, Counsel for the applicant  
Mr Ian Miller, Co-principal of the applicant company  
Mr John McCartin, Civil Engineer  
Mr Donald Petrie, Traffic Engineer  
Ms Jane Hilson, Consultant Planner
- CONSENT AUTHORITY:** **Tasman District Council**  
Mr Tony Quickfall, Consultant Planner  
Dr Michael Durand, Consent Officer (Discharges)  
Mr Neil Tyson, Consent Officer (Water)  
Mr Dugald Ley, Development Engineer
- SUBMITTERS:** Ms Annabelle Laing

**1. DESCRIPTION OF THE PROPOSED ACTIVITY**

Kaimira Ventures Ltd seeks the following consents:

**Land Use Consent RM060719**

To establish a winery to produce wine from grapes grown on the application site and from grapes grown on other land in the District owned by the applicant company or under contract.

To establish a commercial activity in the form of a “Cellar Door” retail outlet for the sale of the applicant company’s wines under an off-licence, and the display and sale of arts and crafts from the Nelson province. (Note: it was originally indicated that an on-licence would also be sought, but it has since been clarified that wine tasting would be complimentary.)

To erect one directional sign at the entrance to the application site with dimensions of 1.5 metres by 1.5 metres, and to erect two off-site signs, one at the junction of Palmer Road and Livingston road, and the other at the junction of Palmer Road and Waimea West Road. The latter are to be no higher than 3 metres and not more than 1m<sup>2</sup>.

#### **Discharge Permit RM060720**

To discharge up to 4m<sup>3</sup>/day of winery wash water to land, by irrigation.

#### **Water Permit to Alter Existing Consent RM050531**

To change the conditions of water permit RM050531 to allow water to be used for winery wash water as well as irrigation. The daily quantity of water taken and the rate of taking are not proposed to be altered.

The application site is a 10.3067 hectare existing vineyard (held in one certificate of title) with frontages to Livingston Road and Palmer Road. Both of these are “access roads” in the Council’s road hierarchy, and both connect to Waimea West Road, which is a “distributor road” in the hierarchy. Access to the proposed winery would be solely from Livingston Road, via a new accessway to be built on the western side of a rural-residential property that juts into the application site. This would allow winery traffic to turn off Livingston Road before this neighbouring property, rather than driving past it to the present accessway.

The application site is bounded by the Wai-iti Stream on the eastern side. There is a public walkway along the Wai-iti Stream stopbank, accessed from the end of Livingston Road.

An existing workshop on the site would be retained and the plans submitted show the proposed winery to be a simple 1,124m<sup>2</sup> structure divided into a tank room, a barrel room, a press pad with the grape processing equipment, a secure storage area, and an administration and visiting area of 180m<sup>2</sup> housing a laboratory, office, staff room and the “Cellar Door” and arts and crafts display area.

The winery would have a capacity to produce 300,000 litres of wine per year. Two-thirds of the grapes would be produced on the applicant’s properties and one-third by contract growers.

The current water permit RM050531 was granted in September 2005 and permits abstraction from a bore for irrigation.

## **2. PROPOSED TASMAN RESOURCE MANAGEMENT PLAN (“PTRMP”) ZONING, AREAS AND RULE(S) AFFECTED**

The application site is zoned Rural 1 under the Proposed Tasman Resource Management Plan and all relevant provisions are settled. There are no special features or overlays affecting the site.

The winery is a “rural industry” under the Plan and requires consent as a discretionary activity under Rule 17.4.2(b)(i).

The sale of liquor requires discretionary activity consent under Rule 17.4.2(b)(iv)

The “Cellar Door” and sale of arts and crafts falls within the Plan’s definition of “commercial activity” and requires consent under Rule 17.4.2(b)(vii).

The proposed signs require consent as a restricted discretionary activity under Rule 16.1.5(a).

Overall the status of the land use application is discretionary.

The applicant anticipates that the discharge would meet the standards for a permitted activity, but if not it would have the status of a discretionary activity under Rule 36.1.16.

Pursuant to section 127(3) of the Act, a proposal to change a condition on an existing water permit is to be assessed as an application for a discretionary activity.

### **3. NOTIFICATION AND SUBMISSIONS RECEIVED**

The application(s) was notified pursuant to section 93 of the Act with the submission period closing on the 30<sup>th</sup> October 2006. A total of 52 submissions were received. The following is a summary of the written submissions received and the main issues raised.

The majority of submissions support the application, citing employment and other economic benefits to the community, and noting the applicant’s company’s record of supporting the community. Submitters also emphasise the logic of locating the winery at the main vineyard and suggest that any adverse effects would be minimal.

Two submissions oppose consent, but indicate that the winery itself is not opposed. The primary concerns raised are the effects of visitors on the amenities of the locality, in particular traffic effects.

Another submission does not indicate whether the overall development is supported or opposed, but expresses the view that only produce from the rural area should be sold, not arts and crafts.

### **4. PROCEDURAL MATTERS**

No procedural matters were raised during the hearing.

### **5. EVIDENCE HEARD**

#### **5.1 Applicant’s Evidence**

Counsel for the applicant company, Mr McFadden, outlined the applicant’s case and presented legal submissions. He noted that the discharge permit has been sought “out of an abundance of caution” as it is anticipated that the discharge would meet permitted activity standards. Mr McFadden noted that all the nearest neighbours either support the application or have expressed no opposition. In relation to traffic concerns he submitted that the recently established entrance to the walkway along the stopbank would generate more traffic than the applicant’s proposal and noted that no road upgrading had been carried out in association with that development.

Mr Ian Miller, co-principal of the applicant company outlined the applicant company's history and needs. The proposed winery would replace the winery established at the company's River Road site in 1999. He emphasised that the proposed display of art for sale would be just an adjunct to the "Cellar Door" wine sales operation and that it is anticipated that the "Cellar Door" would be open only between Labour Weekend and Easter, or on demand. Mr Miller indicated that the company intends to process grapes from 16 hectares of the company's land and from contract growers in the area – a total crush of about 300 tonnes each year. He predicts the "Cellar Door" would attract about 60 visitors a week on average, and stated that this is based on other similar operations in the region.

Mr John McCartin's evidence related to the proposed effluent disposal system. In his opinion the proposed system would have ample capacity to process the anticipated volumes of wastewater, and the soils of the site are suitable for final disposal.

Mr Donald Petrie provided detailed evidence about the existing and anticipated traffic environment in the locality. He supported the recommendation of the Council engineer, Mr Ley, that the visibility at the Palmer Road/Livingston Road intersection should be improved by the removal of trees (discussed further below). Mr Petrie's evidence discussed present traffic on the affected roads and intersections and the anticipated increase with the proposed activities, coming to the conclusion that the additional traffic likely to be generated by the winery and associated activities would have "...no more than a minor effect on the safety or convenience of existing and future traffic on the local road network."

Ms Jane Hilson's evidence canvassed the relevant provisions in the Proposed Tasman Resource Management Plan and the resource management issues raised by the application. There was no significant disagreement with Mr Quickfall's analysis. Ms Hilson noted that the proposed winery building complies with the Plan standards; it is only the activity that requires consent. She emphasised that the Plan also permits "rural selling places" (up to 25m<sup>2</sup>) and a 1m<sup>2</sup> sign per property. In her opinion it is entirely appropriate to locate a winery within a vineyard and she would not anticipate any adverse effects from including the "Cellar Door" and art sales activities.

## **5.2 Submitters Evidence**

Ms Annabell Laing expanded on the concerns raised in her written submission. In her view there is a distinction between the winery activity, which she does not oppose, and what she termed "tourist activities". She sees this as a matter of principle, indicating that "the number of visitors is irrelevant", but she also expressed the view the intersections that would be used by visitors would be unsafe even for small increases in traffic. Ms Laing described the present amenities of the area and recreational use of the roads for walking, cycling and horse riding.

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

A comprehensive section 42A report was provided by a consultant planner retained by the Council, Mr Tony Quickfall. His report was pre-circulated prior to the hearing. It outlined the resource management issues and relevant provisions of the Proposed Tasman Resource Management Plan. The report indicates that it was prepared with

input from Dr Michael Durand, a Council officer with responsibilities for discharges and Mr Neil Tyson, a Council officer dealing with water take applications.

Mr Dugald Ley, the Council's Development Engineer, provided a report, also pre-circulated, on traffic effects, recommending conditions that would require significant upgrading of the three affected intersections.

## **6. PRINCIPAL ISSUES**

The principal issue in contention is the effects on traffic safety of the additional traffic that would be generated by the proposed activities. A related issue, also very much in contention, is the level of road upgrading that could reasonably be required.

The second broad issue in contention is the appropriateness of visitor-attracting commercial activities in this particular locality.

## **7. MAIN FINDINGS OF FACT**

I consider the following are key facts to be considered in assessing this application.

The roads and intersections in this locality do not meet current Council design standards. Although there was no specific evidence on this, Mr Ley acknowledged that this is not unusual in the District.

Traffic on these roads and the relevant legs of the intersections is very light and although there is some disagreement about the levels of additional traffic likely to be generated by the proposed activities, even with high estimates based on certain assumptions the traffic on these roads and intersections would remain light.

Ground conditions are suitable for the proposed effluent disposal system and it is likely to meet permitted activity standards. Consent has been sought just as a precaution.

## **8. RELEVANT STATUTORY PROVISIONS**

The proposal has to be assessed under sections 104 and 104B of the Act and sections 105 and 107 in relation to the discharge permit. Section 104 directs me to have regard to "...actual and potential effects on the environment.." and the provisions of relevant statutory documents - in this case the Regional Policy Statement and the Proposed Tasman Resource Management Plan.

Consideration is "subject to" the purpose and principles of the Act set out in Part II of the Act. Relevant Part II matters in this case are the overall sustainable management of resources purpose of the Act as defined in section 5(2), section 7(b) – "The efficient use and development of natural and physical resources", section 7(c) – "The maintenance and enhancement of amenity values", and section 7(g) – "Any finite characteristics of the natural and physical resources".

In relation to section 7(b), it is obviously efficient to locate the processing of crops as close as possible to growing areas. Small wineries are traditionally located within vineyards. Although there was no specific evidence about the significance of providing for wine sales from the site, it can be assumed that this would assist the

viability of the vineyard/winery business – if this proved not to be the case, this additional activity would be discontinued. Similarly, although relevant to the broad enabling purpose of the Act expressed in section 5 rather than to section 7(b), it can be assumed that the availability of wine from the winery would be something valued by customers – otherwise they would not make the effort to travel out to the proposed outlet. The benefit derived by customers might relate to the whole experience of visiting the winery in the countryside and tasting different vines in a rural environment as well as any cost advantage.

Section 7(b) and 7(g) also raise the issue of the appropriateness of using potentially productive land for buildings and hardstanding, in particular buildings and hardstanding not required for the winery itself. Two points can be noted here; firstly, the additional parking needed for the “Cellar Door” operation would be available as additional parking and hardstanding needed during the vintage when the sales outlet would be closed, and secondly, at 90m<sup>2</sup> the wine tasting/sales area is quite small relative to the winery itself (over 1,100m<sup>2</sup>).

Section 7(c) requires particular regard to the maintenance and enhancement of amenity values. I visited the locality of the application site twice, at different times of the day, and I accept Ms Laing’s perception of this locality as a pleasant rural living environment. Any additional traffic and the encouragement of the general public into the area could only detract from the amenities. The question though is whether the extent of this detraction outweighs the benefits consent would give to the applicant company, its employees and a sector of the general public.

Section 104(2) provides that I may disregard “...an adverse effect of the activity on the environment if the plan permits an activity with that effect”. This is part of what is known as the “permitted baseline”. Of relevance here is the fact that the Plan permits buildings of the scale proposed as of right, without any consideration of effects on the landscape, and permits “rural selling places”, which although small in floorspace can attract significant numbers of visitors at times.

## **9. DECISION**

Pursuant to section 104B of the Act, consent is hereby granted to all three applications subject to the conditions set out below.

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

Some of the reasoning for my conclusion that the purpose of the Act would best be met by granting the consents sought is set out in the discussion of Part II matters above.

I accept the conclusion reached by Mr Quickfall and Ms Hilson that the proposals support the objectives and policies in the Regional Policy Statement and the Proposed Resource Management Plan. As can be seen in the list of relevant objectives and policies set out in Appendix 4 to Mr Quickfall’s report however, the statements are mostly quite broad and the most relevant ones refer to an intention to “avoid, remedy or mitigate” various potential adverse effects. This raises the question of whether in any particular case it is sufficient to mitigate such adverse effects and not avoid them completely by refusing consent.

There is no dispute that the winery is an appropriate activity on this site. I have considered whether it should be tied to the continued use of the site for grape production, but I think there would have to be a very good reason for the vineyard to give way to some other form of permitted activity, given the efficiencies of locating production as close as possible to the processing facility.

As noted above, the commercial activities proposed are discretionary activities, without limits to scale or location within the zone. This indicates the broad intention of the Plan that some types of commercial activities will be appropriate on at least some sites within the zone. There can be no issue of setting some sort of undesirable precedent for any type of commercial activity on any site in the zone. Against the background of this broad intention I have to consider whether there are any features of this particular commercial activity and particular site which make the proposal suitable or unsuitable.

Looking first at the commercial activity itself, in my assessment the scale is quite modest compared to other possibilities that would also have discretionary status. Turning to the site, there was no evidence that the site (and its location) have any unusual features except the reliance on debatably sub-standard roads and intersections (discussed further below).

I have had regard to the many submissions. As noted above, most of these are supportive and although it is not a "numbers game" the supportive submissions show that in the opinion of those people the proposed development would have significant community benefits. I take the point made in Mr Quickfall's report however that unlike the submitters in opposition, the submitters in support do not live in the immediate affected area.

As discussed above, the central matter I have to determine is whether the detrimental effects outweigh the benefits consent would give to the applicant company, its employees and a sector of the general public.

The only noise concern relates to traffic noise. I accept that even a modest number of additional vehicles using very quiet roads could be noticeable, but I do not consider this to be a major detriment to the amenities enjoyed by residents along the affected lengths of Livingston and Palmer Roads. With these numbers, the situation will still be one where most of the time the only audible traffic will be traffic at a distance on Waimea West Road. The property most affected by traffic noise resulting from this development, the immediate neighbour on Livingston Road, would actually be better off because the proposed new access point would take the traffic off Livingston Road before it goes past that property. There would be reasonable separation between that neighbour's home and the proposed carpark.

The other amenity concern raised is the attraction of strangers to the area. I accept this is a factor against consent but it has to be assessed bearing in mind that the area already hosts non-residents engaged in walking or riding along the lanes or accessing the stopbank walkway, and non-resident workers, including seasonal workers.

The most significant potential adverse effect raised in the submissions and the section 42A reports is road safety. (There is no issue of road capacity apart from the inconvenience caused by the particular narrowness of the seal on Palmer Road north



of the site.) The only evidence I have had from a specialist traffic engineer was from Mr Petrie. He acknowledged that the intersections are less than ideal (as is common in many rural situation in this District and others), noting in particular the lack of visibility at the Livingston Road/Palmer Road intersection because of trees, and the existing need to alter the control at the Palmer Road/West Waimea Road intersection from Give Way to Stop.

As counsel for the applicant, Mr McFadden emphasised, these are existing problems, not problems that would be created by the proposed development. I do not see that as the end of the matter however: existing adverse effects do not make potential adverse effects irrelevant. The question is whether the additional traffic to be generated would make these problems significantly worse.

Mr Petrie's view, which I accept, is that "... the additional traffic activity will be very modest and not such as to have more than a minor effect on the safety or convenience of existing and future traffic on the local road network." He cited two reasons for this: the small increment in traffic anticipated (an annual average of 15-20 vehicle trips per day compared to 6-8 at present for the winery and commercial activity combined – the equivalent of less than two additional dwellings), and the fact that the peak traffic would not coincide with the commuter flow peaks on the roads, particularly Waimea West Road. As peak vehicle numbers are significant as well as average numbers I have noted Mr Petrie's estimate of 60 vehicle movements generated by the proposed development on peak days.

I have considered the argument advanced by Mr Ley and Ms Laing that visitors would be more at risk from these unsatisfactory intersections than local residents who are familiar with them. That does not seem likely to me because unlike a situation like an unusual road camber which can catch out a stranger, the hazard of limited visibility is obvious. If anything I believe visitors would be more cautious than local residents who will be accustomed to finding no opposing traffic on these very low trafficked intersections and may become too relaxed and less alert.

Still, I accept that any additional traffic can only mean that more people are exposed to the existing less than satisfactory situation, and this is a factor against consent. The weight that can be given to this is diminished by the fact that there is no record of accidents at these three intersections over the last five years (checked by Mr Petrie), apart from one minor accident at the Livingston Road/ Palmer Road junction, which resulted in the stop sign control now in place there.

Apart from the suggestion that visitors would be more at risk than existing road users, there was no evidence that the additional traffic would have any particular significance, such as causing the intersections to reach some recognised trigger point for action such as a capacity constraint. I have considered whether I should assume that these intersections are unacceptably dangerous at present so that there is a present need for the improvements recommended by Mr Lay. In that case there would be an argument for a contribution to the upgrading, but in fairness it could only be in proportion to the amount of traffic likely to be generated by the proposed activities – something in the order of a third of the total traffic – because all road users would benefit. The difficulty I have in assuming the intersections are unacceptably dangerous now is that no witnesses suggested that, and it would imply that the Council has been at fault for not upgrading these intersections already.

I can appreciate that it would be advantageous from the Council's perspective to use this opportunity to get these intersections brought up to current standards, but after careful consideration I find there is no evidential basis for requiring even a proportional contribution to this work. The financial contribution that the Council can levy on this development under the Local Government Act and the substantial addition rates that will flow from a development of this value could be applied to this work if it is seen by the Council's advisors as a priority.

Turning to the discharge and water permit applications, there appears to be no reasons not to grant these. No additional water take is sought, just the right to use some of the water in the winery. There was some discussion at the hearing about the amount of detail about the proposed effluent disposal system that should be required at this resource consent stage, but I am satisfied that this is a situation where there is no dispute that ground conditions will allow appropriate disposal so consent can be granted without a detailed design. The conditions recommended by Mr Quickfall and adopted below include a condition that a design is to be submitted for approval prior to the consent being exercised. The Council (relevant officers) will be in a certifying role, ensuring the design is appropriate.

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

I have had the benefit of a draft set of conditions prepared by Mr Quickfall and submissions on some of these by Mr McFadden.

Looking first at the conditions for land use consent, Mr McFadden indicated that the applicant accepts draft conditions 1 to 10. These essentially just record some significant details of the proposal. Condition 4 limits the sale of liquor to wine produced by Kaimira Ventures, which addresses the concern of one submission that other labels might be sold, but I consider the condition should be even more specific and limit sales to wines produced on the site. The application indicates that the applicant's existing winery elsewhere will be closed, but the condition should prevent sales of wine from any other winery that could possibly be constructed or acquired by the applicant company without further assessment of the effects.

Draft conditions 11 to 18 would require various road and intersection upgrades and are partly opposed by the applicant. These are derived from recommendations in Mr Ley's report. I can appreciate that the Council wishes to upgrade roads and intersections in the District to the latest standards, but as discussed above my jurisdiction is limited to imposing conditions to address adverse effects resulting directly from the proposed development. Although Mr Ley and some submitters consider the additional traffic generated would have a significant effect on the safety of affected roads, that is not the considered view of a specialist and highly qualified and experienced traffic engineer, Mr Petrie. After questioning Mr Petrie, I am satisfied that I have no choice but to prefer Mr Petrie's evidence.

There is no suggestion that the upgrading recommended would be a financial contribution under section 108(10) of the Act. I understand the Council may levy a contribution towards the general upgrading of roads under the Council's Local Government Act Development Contributions Policy 2006 at the time the building consent is uplifted.

I have nevertheless considered each of the suggested roading upgrades and can comment as follows.

The applicant volunteers to seal the length of Livingston Road from the intersection with Palmer Road to 5 metres past the proposed entrance to the winery. This is estimated by Mr Petrie to cost \$15,000 to \$20,000 and would also benefit other users of this section of the road, primarily the two rural-residential properties and people accessing the walkway.

The suggested alteration of the control at the Palmer Road/West Waimea Road intersection would not be an expensive exercise (Mr Petrie estimated less than \$1,000) but in the absence of evidence that a problem would be created by the proposed development, rather than an existing problem exacerbated, I do not see how I could have jurisdiction to require it. Mr Ley presented a sketch of a more significant upgrading proposal at the hearing, involving widening on the opposite side of Waimea West Road, but as I see it the question is one of jurisdiction, not a question of what sort of improvement would be desirable.

Similarly in relation to the recommended major upgrade of the Palmer Road/West Waimea Road intersection (estimated by Mr Petrie to cost over \$50,000), I have no evidence that the modest increase in traffic predicted would trigger a significantly different adverse effect from what, arguably, is an adverse effect experienced by existing road users.

Finally, it appears that the suggested upgrading of the Livingston Road/Palmer Road intersection could not be achieved without removal of vegetation on private land not owned by the applicant as well as vegetation on the road reserve. That is not necessarily fatal to the intent of the condition as it could be worded as a pre-condition for the development to take place rather than an obligation involving a third party, but again, I do not have any evidence that the additional traffic would create a new adverse effect.

I note that Mr Petrie supported removal of the vegetation at this intersection within the road reserve to improve the visibility, and as part of his right of reply Mr McFadden stated that the applicant volunteers to contribute up to \$1,000 for this. It transpires however that the four Cyprus trees on the north-east corner are protected under the District Plan (map 56). There is other vegetation interspersed with them that could readily be removed however. There is also the option of additional signage to indicate the particularly poor visibility.

The volunteered provisions for sealing the section of Livingston Road and removing vegetation have been expressed in the conditions as contributions to the Council because the conditions cannot strictly authorise the consent holder to undertake works on land not owned by the consent holder.

Draft condition 19 suggested a covenant on the title preventing the erection of dwellings on the application site while the winery or "Cellar Door" are operating. I understand that a single dwelling would have the status of a controlled activity, giving the Council the ability to consider whether the additional traffic from such a dwelling would create a significant adverse traffic effect that should be addressed, but in any case as Mr McFadden pointed out there would be a legal difficulty in imposing a condition purporting to prevent a landowner from applying for further consents.

There was some discussion at the hearing about the nature of the off-site signs and it was accepted on behalf of the applicant that these should be limited to directional finger signs attached to existing posts. Resource consent for these does not of course obviate the need for separate approval of any signage within the road reserve from the Council as roading authority.

A review condition has been included because although I accept that the estimates of visitors to the "Cellar Door" operation have been based on the experience of other similar businesses in the region, it is possible that this one could be particularly successful, raising the need to reassess the traffic effects.

I have adopted the conditions for the discharge and water take permits as recommended by Mr Quickfall as they appear to be all standard conditions and no issues about them were raised.

Issued this 31<sup>st</sup> day of January 2007.

D W Collins  
Hearings Commissioner

## **RESOURCE CONSENT NUMBER: RM060719**

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

**Kaimira Ventures Ltd**  
(hereinafter referred to as "the Consent Holder")

**ACTIVITY AUTHORISED BY THIS CONSENT:** A winery with a "Cellar Door" retail outlet for wines produced, associated display and sales of arts and crafts, and signage.

### **LOCATION DETAILS:**

Address of property: 97 Livingston Road, Brightwater  
Legal description: Lot 2 DP 329744 and Lots 2 and 4 DP 305891  
Certificate of title: NL 121832  
Valuation number: 1939023600

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

### **General**

1. The activity shall proceed in accordance with the application and plans as lodged ; the further information and site plan provided on the 22<sup>nd</sup> of September 2006 (Gowan Walters & Associates Ltd, May 06, labelled Appendix C1 and appended to this decision); further information (traffic report and discharge assessment) provided on 14<sup>th</sup> November 2006; and the following conditions of consent. Where there are

any apparent or actual conflict between the documentation supplied with the application and any condition of this consent, the conditions shall prevail.

### **Hours of Operation**

2. Hours of operation for the Cellar Door (sale of liquor, sale of arts and crafts and wine tasting) shall be limited to 10am (1000) to 6pm (1800) (weekdays, weekends and public holidays).

### **Sale of Liquor**

3. The sale of liquor is limited to off-license sales only, except where the consent holder is providing complimentary wine tastings.
4. The sale of liquor shall be limited to the off-license sale of wine produced at this winery.

### **Sale of Arts and Crafts**

5. The sale of arts and crafts (including but not limited to paintings, pottery, wood work, condiments and craft ware) shall be limited to arts and crafts produced within, or produced by artists residing within, the Tasman District Council and the Nelson City Council local authority boundaries.

### **Access and Parking**

6. Access to the Cellar Door shall be sealed with a minimum access width of 4.5 metres.
7. Vehicle speeds on the access shall be restricted to 30 kilometres per hour, and speed limit signs shall be erected advising motorists of this limit.
8. Parking shall be provided adjacent to the Cellar Door for 12 parked car parks, including a disabled access car park.
9. Cellar Door parking shall be sealed.
10. Provision shall be made for a bus/coach park, which shall be marked exclusively for bus/coach parking.
11. The vehicle entrance / vehicle crossing shall be formed in accordance with the requirements of the Proposed Tasman Resource Management Plan as at the date of this consent, and as shown in the Traffic Design Group plan marked Proposed Site Layout, drawing 8753W1/9 attached to this consent.
12. Access and parking shall be designed and laid out in accordance with the Traffic Design Group plan marked Proposed Site Layout, drawing 8753W1/9 attached to this consent.

### **Roads and Traffic**

13. The consent holder shall contribute to the Council on request the full cost of sealing Livingston Road from the existing seal end to 5 metres past the entrance to the proposed winery. Seal shall be a 2 coat seal grade 4 and 6 chip for a width of 4.5 metres (the same as the seal width adjacent). (Note: this is a volunteered condition and assumes the Council will wish to undertake this work)

14. The consent holder shall contribute to the Council on request up to \$1,000 including GST for the removal of vegetation at the intersection of Livingstone Road and Palmer Road to improve visibility. (Note: this is a volunteered condition, and assumes the Council will wish to undertake this work.)
15. The Livingstone Road sealing referred to in Condition 13 shall be completed prior to the "Cellar Door" activity commencing, unless the Council determines not to take up the consent holder's offer to pay for it or the work is not completed within a month of the "Cellar Door" operation being ready to open.
16. All works shall be to the Council's Engineering Standards and engineering plans submitted prior to a building consent application.

### **Lighting**

17. Any external lighting shall be permanently directed away from the dwellings on adjoining properties.

### **Signs**

18. The on-site sign shall be located as shown on the site plan as shown in the Further Information Site Plan (sign "A") attached. That sign shall be no larger than 1.5 metres wide by 1.5 metres high or 2.25 square metres in total area, and shall comply in all other respects with the Rural 1 Zone sign requirements of the Proposed Tasman Resource Management Plan as at the date of this consent (e.g. lighting, colour and lettering size – refer to the advice note number 4 below).
19. Both of the off-site signs shall be limited to directional finger signs attached to existing posts, one at the intersection of Palmer Road and Livingstone Road, and one at the intersection of Palmer Road and Waimea West Road.
20. The off-site signs shall comply in all other respects with the Rural 1 Zone sign requirements of the Proposed Tasman Resource Management Plan as at the date of this consent (e.g. lighting, colour and lettering size – refer to the advice note number 4 below).

### **Monitoring**

21. The Consent Holder shall advise the Council when the activity this consent authorises commences so monitoring of conditions can be programmed.

### **Review**

22. Pursuant to section 128 of the Resource Management Act 1991, the conditions of this consent may be reviewed 12 months after the date of consent, or at the expiry of any 12 month period thereafter. The review may be necessary to:
  - a) deal with any significant adverse effects on the environment which may arise as a result of this consent; and
  - b) deal with any other matter relevant to the authorised activity that may be raised through the review.

The review of conditions shall allow for:

- a) the deletion or amendment of any of the conditions of this consent; or

- b) the addition of new conditions as necessary to avoid, remedy or mitigate any adverse effects on the environment.

#### ADVICE NOTES

1. Monitoring of the consent is required under section 35 of the Resource Management Act 1991 and a deposit fee is payable at this time. Should monitoring costs exceed this initial fee, Council will recover this additional amount from the resource consent holder. Costs are able to be minimised by consistently complying with conditions and thereby reducing the frequency of Council visits.
2. Prior approval of the Council is required before any public access may be created from the winery or Cellar Door to the Wai-iti stopbank.
3. The activity is required to comply with the noise provisions of the Rural 1 Zone set out in the Proposed Tasman Resource Management Plan as follows:

#### 17.4.2(d)

Noise generated by the activity, when measured or within the notional boundary of any dwelling in a Rural Zone (other than any dwelling on the site from which the noise is being generated), Rural residential, Papakaianga or Tourist Services Zone, or at or within any site within a residential Zone, does not exceed:

	<b>Day</b>	<b>Night</b>
L <sub>10</sub>	55dBA	40dBA
L <sub>max</sub>		70dBA

Except that this condition does not apply to all noise from any intermittent or temporary rural activity, including noise from:

- vi. mobile horticultural and agricultural equipment;
- vii. forest and tree harvesting activities;
- viii. animals, except when associated with intensive livestock farming and animal boarding activities;
- ix. bird scarers and hail cannons.

NB: Day = 7.00 am to 9.00 pm Monday to Friday inclusive and 7.00 am to 6.00 pm Saturday (but excluding public holidays).

Night = all other times plus public holidays.

The measurement and assessment of noise at the notational boundary of a dwelling applies whether the measurement location is within Tasman District or in an adjacent district.

Noise must be measured and assessed in accordance with the provisions of NZS 6801: 1991, measurement of Sound and NZS 6802:1991, Assessment of Environmental Sound.

4. Except where exemptions are provided in conditions of consent, any signs are required to meet the following Rural 1 sign provisions of the Proposed Tasman Resource Management Plan as follows:

16.1.5

The erection of one outdoor sign per site in the Rural 1, Rural 3, Rural 3, Rural residential, Conservation, recreation, Open Space or Papakaianga Zone is a permitted activity that may be undertaken without a resource consent, if it complies with the following conditions:

- (a) The sign is a property identification sign that gives the name of the property and/or the owners and/or the activity on the property and is erected on the property to which it relates, and is in accord with Figure 16.1E.
- (b) Maximum height is 3 metres.
- (c) Maximum area is 1 square metre.
- (d) A freestanding sign does not restrict visibility of motorises at any intersection or access.
- (e) During the hours of darkness, a sign is illuminated only if the premises or business is open for business.
- (f) Minimum lettering height is 150 millimetres if located in an area where the speed limit does not exceed 70 kilometres per hour and 200 millimetres where the speed limit exceeds 70 kilometres per hour.

16.1.2

- (e) The sign is maintained in a tidy, legible state.
- (f) Spotlights or floodlights used to illuminate a sign are permanently fixed so as to be directed solely at the sign.
- (g) No sign mimics the design, shape or colour combinations of statutory, regulatory or advisor traffic signs.
- (l) The sign does not incorporate retro-reflective materials, flashing illumination, aerial display or animated or moving display.

Issued this 31<sup>st</sup> day of January 2007.

D W Collins  
Hearings Commissioner



## **RESOURCE CONSENT NUMBER: RM060720**

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

**Kaimira Ventures Ltd**  
(hereinafter referred to as “the Consent Holder”)

**ACTIVITY AUTHORISED BY THIS CONSENT:** Discharge to land of winery wash water.

### **LOCATION DETAILS:**

Address of property: 97 Livingston Road, Brightwater  
Legal description: Lot 2 DP 329744 and Lots 2 and 4 DP 305891  
Certificate of title: NL 121832  
Valuation number: 1939023600

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

1. The rate of discharge shall not exceed 4 cubic metres per day.
2. The discharge shall consist only of treated wastewater generated by the washing of tools and equipment used in the wine production areas.
3. A complete design for the winery wastewater treatment and disposal system shall be submitted to Council for approval prior to the exercise of this consent.

#### **Advice note:**

This design should be based upon findings from a complete site and soil assessment carried out by a suitably qualified or experienced wastewater engineer.

4. The point of discharge shall be to land within the boundaries of Lot 2 DP 329744, Livingston Road, Waimea West.
5. The construction and installation of the wastewater treatment plant and disposal system shall be carried out under the supervision of a person who is suitably qualified and experienced in wastewater treatment and disposal systems.
6. The person supervising the construction and installation of the system as required by Condition 5 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 statement shall confirm the following:
  - a) that all components of the wastewater system (including the treatment plant and the disposal area) have been inspected and installed in accordance with standard engineering practice and the manufacturer’s specifications; and
  - b) that the components used in the facility are in sound condition for continued use for the term of this resource consent.

7. The Consent Holder shall submit a set of final "as-built" plans to the Council's Co-ordinator Compliance Monitoring that show the location of all components of the wastewater treatment and disposal system and the reserve area. 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, with particular regard to the sampling point.
8. 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 disposal area.
9. A meter with an accuracy of  $\pm 5\%$  shall be installed and maintained at a point located after the final pump-out chamber and before the point where the wastewater discharges to the disposal area.
10. During vintage the volume of water discharged is to be recorded daily and records are to be kept on site and made available to Council upon request.
11. The Consent Holder shall enter into, and maintain in force at all times, a written maintenance contract for the ongoing maintenance of the treatment and disposal systems. This contract shall be with a person or organisation trained by Smith and Loveless Inc. in the maintenance of the wastewater treatment system.

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.

12. Notwithstanding Condition 11, the wastewater treatment and disposal system shall be inspected and serviced not less than once every twelve 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 disposal systems that were inspected and the state of those components;
  - c) any maintenance undertaken during the visit or still required;
  - d) a description of the appearance of the filter/s and tanks;
  - e) the location and source of any odour detected from the system during the inspection; and
  - f) a description of the appearance of the disposal area.
13. The Consent Holder shall, annually during vintage, collect a sample of the treated wastewater and it shall be tested for the following:

- a) pH
- b) Total suspended solids (TSS)
- c) 5-day biochemical oxygen demand (BOD<sub>5</sub>)
- d) Total Nitrogen
- e) Total Phosphorous
- f) Sodium
- g) Calcium
- h) Magnesium
- i) Potassium

The testing shall be undertaken by an appropriately accredited laboratory. The wastewater shall be collected from the sampling point required by Condition 8 by a suitably experienced person using containers supplied by the accredited laboratory. A chain of custody for the delivery of each wastewater sample shall be established between the Consent Holder and the accredited laboratory.

14. Treated wastewater entering the disposal field shall comply at all times with the following limits:
  - a) the five day biochemical oxygen demand (BOD<sub>5</sub>) in any single sample shall not exceed 150 milligrams per litre; and
  - b) the concentration of total suspended solids (TSS) in any single sample shall not exceed 150 milligrams per litre.
15. There shall be no ponding of wastewater on the ground surface nor run-off of wastewater into other surface water.
16. 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 determinants analysed if the results indicate that this is required and/or appropriate.
  - e) to specify or impose limits on the pH and BOD and/or concentrations of TSS, nitrogen, phosphorous, sodium, calcium, magnesium and/or potassium.

17. This resource consent expires on 31 May 2016.

Issued this 31<sup>st</sup> day of January 2007.

D W Collins  
Hearings Commissioner

**RESOURCE CONSENT NUMBER: RM050531 (amendment to conditions)**

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

**Kaimira Ventures Ltd**  
(hereinafter referred to as “the Consent Holder”)

**ACTIVITY AUTHORISED BY THIS CONSENT:** Amendment to the conditions attached to this existing consent to allow water to be used for winery wash water as well as irrigation.

**LOCATION DETAILS:**

Address of property: 97 Livingston Road, Brightwater  
Legal description: Lot 2 DP 329744 and Lots 2 and 4 DP 305891  
Certificate of title: NL 121832  
Valuation number: 1939023600

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

**1. Site, Take and Use Details:**

Contact Postal Address:	121 River Terrace Road, Brightwater
Location:	Livingston Road, Waimea West
Legal Description:	Lot 2 DP 305891 & Lot 2 DP 329744 Waimea SD
Purpose:	Irrigation
Category of Water Source:	Groundwater
Source:	Appleby Gravel Unconfined Aquifer
Zone and Catchment:	Wai-iti Dam Service Zone, Waimea Catchment
Irrigated Area:	5.7 hectares
Maximum rates of take authorised:	40 cubic metres per hour 285 cubic metres per day 1,995 cubic metres per week
Point of take location:	
Map Location	Easting: 2518687 Northing: 5983031
Well Number:	WWD 1407
Meter Required:	Meter Required: Yes

## 2. **Water Meter Specifications, Maintenance and Readings:**

The permit holder or their agent shall, at their own expense, install, operate and maintain a water meter that complies with the Council's Water Meter Specifications as stated in the Tasman Resource Management Plan.

3. The water meter required under Condition 2, shall be installed in accordance with the water meter manufacturer's specifications and, for new water meters, a copy of the meter's specification along with written confirmation by the permit holder of the meter's installation, shall be provided to Council's Co-ordinator, Compliance Monitoring prior to the exercising of this consent.
4. Following installation of a water meter, the permit holder shall thereafter record their meter reading on the same day each week throughout every November to April inclusive and shall return their (two) meter readings to the Council's Co-ordinator, Compliance Monitoring at the end of each two week period and by the dates specified each year (by Council), provided that Council reserves the right to require returns on a weekly basis during periods of water rostering or rationing in the zone.

### **Advice Notice:**

The permit holder is required to supply a complete record of their weekly water usage during the months of November to April inclusive and this includes recording nil usage. Regular (preferably Monday) meter readings are required to ensure consistent data and because Council monitors weekly use by consent holders.

5. The permit holder shall pay the reasonable costs associated with the monitoring of this permit including, if and when requested by Council, the full costs associated with water meter calibration to confirm their meter's accuracy is within the range of plus or minus five percent, provided that meter calibration is not more frequent than five yearly, and the full cost of monitoring compliance with the conditions of this consent including the reasonable costs associated with maintaining a water meter-usage database, and the full cost of levelling in the new bores to a common (above mean sea level) datum.

## 6. **Rostering of Water Usage**

Rostering of the taking of water under this permit will be required upon notification by the Wai-iti Zone Water User Committee when the river flow at the Council's Livingstone Road recorder reaches 100 l/sec during the months of November to April inclusive and rostering of users may be required during the months of May to October inclusive to maintain the minimum winter flow of 400 l/sec.

Rostering is required to achieve reductions in total instantaneous extraction rates from surface waters and from groundwater:

## 7. **Rostering Timetable**

Rostered pumping times will be determined by the Wai-iti Zone Water User Committee, subject to the agreement of the Council's Environment and Planning Manager, and rostering shall be implemented by the User Committee to achieve the agreed staged reductions.

8. Council reserves the right to require from the permit holder a property water management plan that identifies:
  - a) the soil type(s) irrigated under this consent, the soil's moisture-holding capacity; and
  - b) identifies the irrigation equipment, rotation and application rate that avoids subsurface drainage to below the crop rooting zone and any surface run-off; and
  - c) documents other measures necessary to achieve efficient water use, including soil moisture monitoring, metering usage and leak detection programmes, repairs and maintenance.
  
9. The Council may within three 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 which may arise from the exercise of the consent including but not restricted to the non-operation or failure of the Wai-iti Community Water Augmentation Scheme; and/or
  - b) to require the adoption of the best practical option to remedy or reduce any adverse effects on the environment; and/or
  - c) to comply with requirements of any relevant water conservation order or an operative regional plan, including any allocation limit, minimum flow regime, rate of use limit, or rationing or rostering restriction; and/or
  - d) to comply with relevant national environmental standards made under Section 43 of the Resource Management Act 1991; and/or
  - e) to reduce the quantities of water authorised to be taken to reflect the yield of the bore where the take is from groundwater and the permit is unable to be fully exercised.
  
10. This permit may be cancelled upon not less than three months' notice in writing by the Council to the permit holder, if the Wai-iti Community Water Augmentation Scheme ceases to operate but without prejudice to the right of the permit holder to apply for a further permit in respect of the same matter provided that the rates granted as no greater than those authorised prior to the Scheme's operation.
  
11. For the purposes of Section 125 of the Resource Management Act 1991, this consent shall lapse on the date specified for its expiry, which is 31 May 2016, and the lapsing provisions of the Act do not apply to this consent in the Wai-iti Dam Service Zone.
  
12. Section 126 of the Resource Management Act 1991 states that a consent which has been given effect to but has not been exercised for five years, can be cancelled by Council unless the consent expressly provides otherwise. Section 126 (Cancellation of Consent) does not apply to this consent within the Wai-iti Dam Service Zone.

13. The application of water to any land shall not exceed the rate of 350 cubic metres per hectare per week.

**Advice Note: Section 332 – Access**

Access by the Council or its officers or agents to the land subject to this water permit is reserved pursuant to section 332 of the Resource Management Act.

Issued this 31<sup>st</sup> day of January 2007.

D W Collins  
Hearings Commissioner

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**Date Confirmed:**

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**Chair:**