

Report No:	REP11-11-03
File No:	RM110594, RM110595
Report Date:	9 November 2011
Decision Required	

Report to: Commissioner Hearing

Meeting Date: 21 November 2011

Subject: RM110594 - Land Use and RM110595 - Subdivision

Report Author: Pauline Webby, Consent Planner - Subdivision

1. SUMMARY OF PROPOSAL

To subdivide a 9.6122 hectare Rural 1 zoned property into four allotments as set out below:

- a) Lot 1 of 1.272 hectares and proposed Building Location area(BLA)
- b) Lot 2 of 5090 m² and proposed Building Location area(BLA)
- c) Lot 3 of 6.098 hectares and existing dwelling and accessory buildings
- d) Lot 4 of 1.6 hectares to vest or transfer to crown as highway reserve

The application seeks land use consent to build a dwelling on each of allotments 1 and 2 in the Rural 1 zone and Coastal Environment Area.

This application also proposes including the easement for a pipeline to convey water from the existing bore to Tasman Village. This is part of a separate negotiation between Council and the applicants and does not form part of this application other than to facilitate the creation of easements should an agreement between the two parties be secured.

This application also proposes the vesting of CFR NL11A/581 in Council as reserve.

The proposed scheme plan is appended to this report as Plan A.

1.1 Legal Description

The application site is legally described as Lot 1 Deposited Plan 375484, comprised in CFR 303779, with proposed title to be vested as reserve being legally described as Lot 1 Deposited Plan 16889, comprised in CFR NL11A/581.

2. STATUS OF APPLICATION

Zoning: Rural 1
 Areas: Coastal Environment Area, Land disturbance 1,

The proposed activity breaches the following rules as set out below:

Activity	Relevant permitted rule	Applicable rule	Status
Subdivision in rural 1 zone	Nil	16.3.5.2	Discretionary
Coastal environment area	18.11.3.1	18.11.3.2	Restricted discretionary
First dwelling	17.5.3.1	17.5.3.3	Restricted Discretionary

Overall the proposal is a discretionary activity.

3. NOTIFICATION AND SUBMISSIONS

3.1 Written Approvals

Prior to notification written approvals were received from:

- R J and S (Strehler) Fitzgerald, 35 Harley Road.

Pursuant to Section 104(3)(a)(ii) of the Act the decision-making panel must not have any regard to any effect on these parties. The location of this party's property is shown on the Map in Appendix A.

3.2 Notification

The application was fully notified and submissions closed on 16 September 2011.

3.3 Submissions

Neutral submissions

Submitter	Reasons	Heard?
NZ Fire Service Commission	Required water supply for firefighting purposes to be installed in accordance with SNZ PAS 4509:2008 for the dwellings on both allotments.	No

Submissions in opposition

Submitter	Reasons	Heard?
RNR Percivall	To refuse consent because they disagree with para 21 of page 17 and para 22 of page 17. Also see Annex 1 page 11 blue colour high visibility of Lots 1 and 2 from all areas of Tasman, Dicker road, the Domain and Kina Peninsular. Lots 1 and 2 are on a ridgeline (Para 22 of Page 17) and will spoil the view of the natural landscape.	Yes
S Percivall	As above	No

These parties' properties are shown in Appendix A.

3.4 Comments on Submissions

No further commentary is made on the submissions as they are self explanatory.

4. 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 (Sections 5, 6, 7 and 8)
- Effects on the environment (positive and negative)
- Objectives and Policies of the TRMP
- New Zealand Coastal Policy Statement 2010

Section 106

No further commentary is added here; the assessment of effects covered in the application, page 19 sections 6.2 and 6.3 is accepted.

5. SECTIONS 6, 7 AND 8

The following matters are relevant to this application:

Matters of national importance

- S.6(a) the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development.

Other Matters

- S.7(f) maintenance and enhancement of the quality of the environment.
- S.7(c) maintenance and enhancement of amenity values

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).

6. KEY ISSUES

- Fragmentation of productive land values
- Rural character and amenity values
- Coastal environment / landscape
- Noise from State Highway on living amenity

- Cumulative Effects
- Access and Servicing
- Reverse Sensitivity
- Positive effects
- Precedent

6.1 Fragmentation of productive land values

Objectives and Policies relating to Rural Land Productive Values

(The underlined terms are defined below).

Objective 7.1.2 *"Avoid the loss of potential for all land of existing and potential productive value to meet the needs of future generations, particularly land of high productive value."*

"High Productive Value" is defined in Chapter 2 of the Tasman Resource Management Plan (TRMP) as:

"in relation to land, means land which has the following features:

- flat to gently rolling topography;*
- free-draining, moderately deep to deep soils;*
- moderate to good inherent soil fertility and structure;*
- a climate with sufficient ground temperature, sunshine, available moisture, and calmness to make the land favourable for producing a wide range of types of plants."*

Policy 7.1.3.2 *To avoid, remedy or mitigate the effects of activities which reduce the area of land available for soil-based production purposes in rural areas.*

Policy 7.1.3.3 *To avoid, remedy or mitigate adverse actual, potential, and cumulative effects on the rural land resource*

Policy 7.1.3.4 *"To require land parcels upon subdivision to be of a size and shape that retains the land's productive potential, having regard to the actual and potential productive values, the versatility of the land, ecosystem values, the management of cross-boundary effects, access, and the availability of servicing."*

Policy 7.2.3.5 *"To ensure that activities which are not involved or associated with soil-based production do not locate where they may adversely affect or be adversely affected by such activities."*

Subdivision Schedule matter 16.3A (1) *The productive value of the land in Rural 1, 2 and 3 zones and the extent to which the proposed subdivision will adversely affect it and its potential availability.*

6.1.1 Assessment of Rural Land Productive Values

Mr Burton's report (attached as Appendix B) articulates that there is a loss of approximately 1.1 hectares of land available for productive use, further reducing the versatility of the remaining productive area of land.

The zoning framework for Rural 1 subdivision, is based around having a productive versatility within each allotment. In terms of the plan rules, the parcel size that is considered to retain that long term versatility for productive use is 12 hectares. The proposed allotments in this subdivision are well below that threshold, and therefore it is highly likely they will be only used for rural residential purposes.

While the area of land that encompasses proposed Lots 1 and 2 is separated from the balance area (Lot 3) by Harley Road it is considered that this is much less of a factor than it has been in past years now that the Ruby Bay By-pass formation is complete and through traffic flows are significantly reduced. Harley Road traffic now connects at a different location, leaving the length of Harley Road that adjoins the application property with limited through vehicle movements (private property access only). It is acknowledged that pedestrian and cycle traffic movements can still access through to the State Highway and therefore are considered part of the traffic along this section of Harley Road. The continued separation of the property by Harley Road is not considered to be a major limitation for any continuing productive use.

Mr Burton acknowledges that there is an area with reduced productivity values where there has been Bypass fill placement. However as set out below he concludes that there is an overall loss of productive values:

“The loss of the productive area in proposed Lots 1 and 2, although small still represents a reduction in size of productive area of the original block by approximately 17%. This will have a negative effect on the productivity of the original property. Although the size of the original property is small in comparison to other horticultural units in the area and as a consequence provides some management and economic limitations of its own, its potential use should not be discounted hence nor should the effect of reducing its effective area through this subdivision.”

It is considered that this application represents a reduction in the area of land available for soil-based production purposes. The TRMP seeks to avoid the loss of available productive land in the rural 1 land with reasoning set out in 7.1.30 and quoted below:

“The rural zoning pattern is the basis for administration of the objective and policies. The Rural 1 Zone comprises the most inherently productive land in the District and includes about five percent of the total land area. Threshold subdivision standards in this area provide flexibility for a range of productive uses to be made of the soil and land resource, while sustaining its long-term availability. Subdivision below the threshold will be limited to that which supports the objective.”

The TRMP zonings of rural 3 and rural residential allow for development opportunities for rural residential lifestyle subdivision in these areas. Subdivision of this nature within the rural 1 zone is contrary to the objectives and policies of the TRMP which strive to conserve and maintain the region's small area of productive soils.

6.2 Rural amenity

Objectives and Policies - Rural Character and Amenity Values

Objective 5.2.2 *“Maintenance and enhancement of the amenity values on site and within communities throughout the District.”*

Policy 5.3.3.2 *“To maintain the open space value of rural areas.”*

Policies 7.3.3.2, 7.3.3.3 and 7.3.3.6 are included in the section 6.3 Coastal Environment and are not repeated here.

Objective 7.4.2 *“Avoidance, remedying or mitigation of the adverse effects of a wide range of existing and potential future activities, including effects on rural character and amenity values.”*

Policy 7.4.3.3 *“To provide for the maintenance and enhancement of local rural character, including such attributes as openness, greenness, productive activity, absence of signs, and separation, style and scale of structures.”*

Policy 7.4.3.4 *“To exclude from rural areas, uses or activities (including rural-residential) which would have adverse effects on rural activities, health or amenity values, where those effects cannot be avoided, remedied or mitigated.”*

Subdivision Schedule matter 16.3A (2) *“The potential effects of the subdivision on the amenity values and natural and physical character of the area.”*

“Rural character” is defined in the TRMP (Chapter 2) as:

“the character of the land as shown by the predominance of rural productive activities and includes:

- (a) a high ratio of open space to built features;*
- (b) large areas of pasture, crops, forestry, and land used for productive end;*
- (c) built features associated with productive rural land uses;*
- (d) low population density;*
- (e) predominant form of residential activity directly associated with a productive land use;*
- (f) social and economic activity associated with productive land use;*
- (g) cultural values associated with farming and living on the land.”*

“Amenity values”, as defined in Section 2 of the Resource Management Act 1991, is set out below:

“Amenity values means those natural or physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes.”

6.2.1 Assessment of the Proposed Rural Character and Amenity

The adjoining property owners at 35 Harley Road who have provided their written approval have not been considered further in terms of any effects of privacy and amenity values.

It is my assessment of the above policies and objectives relevant to rural character and amenity that this proposal will represent a loss of the rural character and amenity values sought in the rural 1 zone.

Mr Carter's review attached as Appendix D provides an assessment of the application in the context of the above policies and objectives and confirms this potential reduction of rural character and amenity values. This review also critiques the viewpoint proposed in the landscape assessment provided by Mr Langbridge.

The Part 2 matter of importance relevant to this application is S.7(f) *"maintenance and enhancement of the quality of the environment"*. The quality and openness of the rural character, relatively uncluttered by lifestyle dwellings is one factor in maintaining the quality of environment along the length of SH60 from the Tasman settlement to Motueka. Policy 5.3.3.2 *"To maintain the open space value of rural areas"* reinforces this focus and specifically refers the value of open space.

In this locality of the district, provision has been made for lifestyle development within the rural 3 zone. The rural 3 zone is at its closest some 250 metres to the south of the application site but this rural 3 area is distinctly separated from the rural 1 land contained in units 2A and 3A by SH60 (Bypass). The closest recent clustered lifestyle development is situated approximately two kilometres to the west further up Harley Road.

This proposal represents a loss of those qualities set out above in terms of rural character and openness and these values will not be readily mitigated on this site which both Mr Carter and Mr Langbridge identify as having areas of high and medium visibility.

The proximity of three lifestyle properties (proposed two additional allotments) adjoining Harley Road will also change the rural amenity enjoyed by pedestrians and cyclists using this section of the road to one with a higher dwelling density generated from the two additional lifestyle properties proposed.

6.3 Coastal Environment

Objectives and Policies - Coastal Environment Values

Objective 6.4.2 *"Containment of urban subdivision, use and development so that it avoids cumulative adverse effects on the natural character of the coastal environment."*

Policy 6.4.3.1 *"To avoid the creation of new settlement areas in the coastal environment."*

Policy 6.4.3.3 *“To protect the coastal environment from sprawling or sporadic subdivision, use and development.”*

Issues 7.3.1 *“There is a desire in the community for residential development opportunities within a rural part of the District, used productively and having some existing rural residential development. Managing the pressure for and cumulative effects of residential development in the Coastal Tasman Area which is a rural area close to the coast, to the District’s main urban centres, and to major transport routes, while protecting the productive values of the rural land resource, coastal and rural character, and amenity values.”*

Policy 7.3.3.2 *“To identify areas (Rural 1 locations) within the Coastal Tasman Area where the potential adverse effects of further subdivision and development for residential or rural residential purposes are of such significance that further development is discouraged.”*

Policy 7.3.3.3 *“To ensure that the valued qualities of the Coastal Tasman Area, in particular rural and coastal character, rural and coastal landscape, productive land values, and the coastal edge and margins of rivers, streams and wetlands are identified and protected from inappropriate subdivision and development.”*

Objectives 9.2.2 *“Retention of the contribution rural landscapes make to the amenity values and rural character of the District, and protection of those values from inappropriate subdivision and development.”*

Policy 9.2.3.1 *“To integrate consideration of rural landscape values into any evaluation of proposals for more intensive subdivision and development than the Plan permits.”*

Policy 9.2.3.3 *“To retain the rural characteristics of the landscape within rural area”*

Policy 9.2.3.5 *“To evaluate, and to avoid, remedy or mitigate cumulative adverse effects of development on landscape values within rural areas”.*

Objective 5.1.2 *“Avoidance, remedying or mitigation of adverse effects from the use of land on the use and enjoyment of other land and on the qualities of natural and physical resources.”*

Policy 5.1.3.1 *“To ensure that any adverse effects of subdivision and development on site amenity, natural and built heritage and landscape values, and contamination and natural hazard risks are avoided, remedied, or mitigated.”*

6.3.1 Assessment of the Coastal environment

The Coastal Tasman Area (CTA) is described in 7.3.30 as: *“The Coastal Tasman Area lies between the Moutere River and the northern edge of the Waimea Plain. It includes Kina Peninsula and all the land inland to the upper boundary of the coastal catchments draining to the sea.”*

And in the same section the following statement is made:

“It is expected that there will be little change in those areas in the Coastal Tasman Area that retain Rural 1, Rural 2 and Rural Residential zonings.”

Mr Carter’s has provided a complete assessment in the context of the above policies and objectives for the Coastal Environment Area and I will not repeat them here. The CTA area pertinent to the Mariri estuary and the application site is shown in figure 1 below:

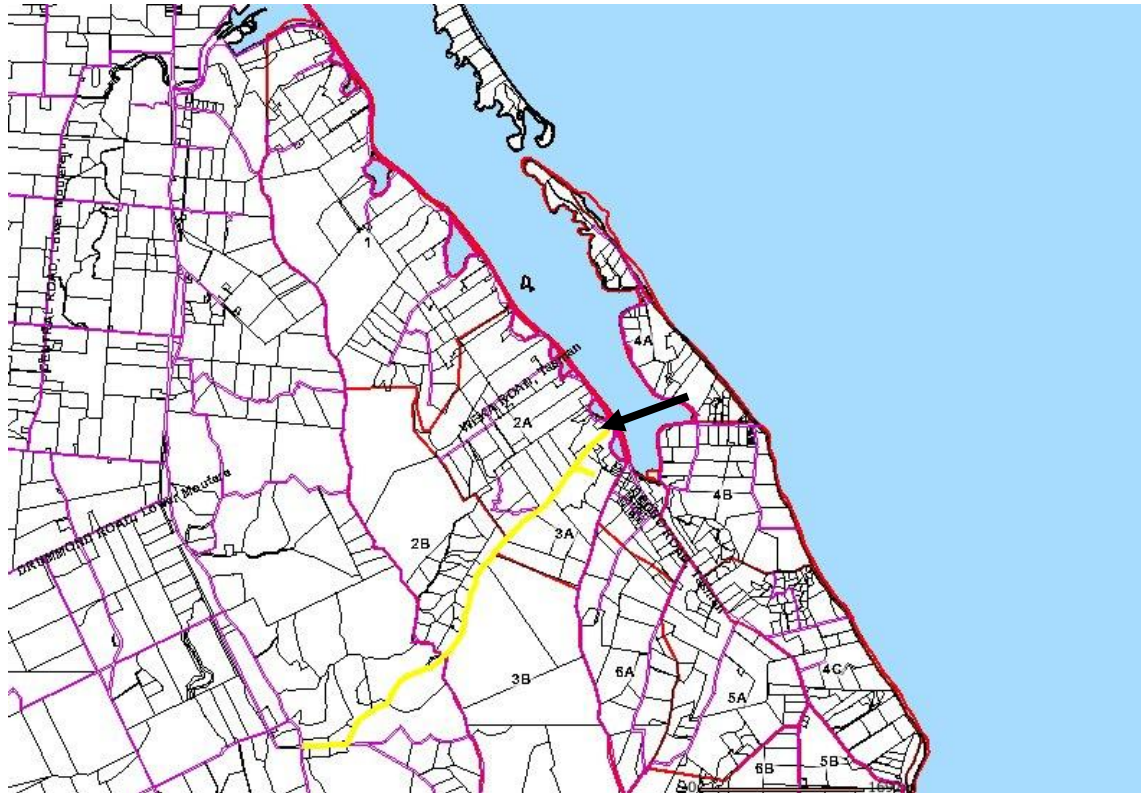


Figure 1 showing location of the CTS in relation to the application site

While the rural 1 zone rules and assessment requirements as set out in the TRMP do not require the assessment of the application under the Coastal Tasman Area guideline, the guideline does include specific guidance on subdivision and residential development in Sub unit 2A and 3A and these are quoted below:

Landscape units 2 and 3

“The more open and narrow landscape unit comprising the Rural 1 Zoned land (sub-unit 3A) provides partial containment from the Coastal Highway with local landforms relative to both the orientation of the main part of the valley and public viewpoints from the Coastal Highway and the Moutere Inlet in general. While sub-unit 3A is not within the Rural 3 Zone, in landscape terms, the relationship between these two sub-units is important and should be acknowledged in any development proposals within the Harley Road South landscape unit.”

(k) *Maintaining the open character of the Harley Road ridge as a defining feature between Landscape Units 3 and 2.*

“As with Landscape Unit 3 (Harley Road South), the area has historically been defined by its forestry use on the steep upper slopes and the more productive Rural 1 and 2 land on the lower and flatter landforms that extend down to the Coastal Highway. In landscape terms, the wider Landscape Unit, which includes Sub-Unit 2A, extends from Old Coach Road to the Coastal Highway. While the boundary between these two sub-units is land use and cadastral based, it nevertheless provides an appropriate landscape and visual differentiation between sub-units.”

These guidelines provide clear information that the areas of rural 1 land form an important spatial buffer in terms of maintaining a high level of rural character and amenity; they signal that development of rural residential lifestyle allotments is to be restrained. Mr Carter’s review in Appendix D confirms this conclusion and more fully develops the reasoning for this position.

The arrows in figure 1 below indicate the location of the application site in relation to landscape units 2A and 3A. Note the position of the Rural 1, 2 and 3 Zones in relation to the application site.

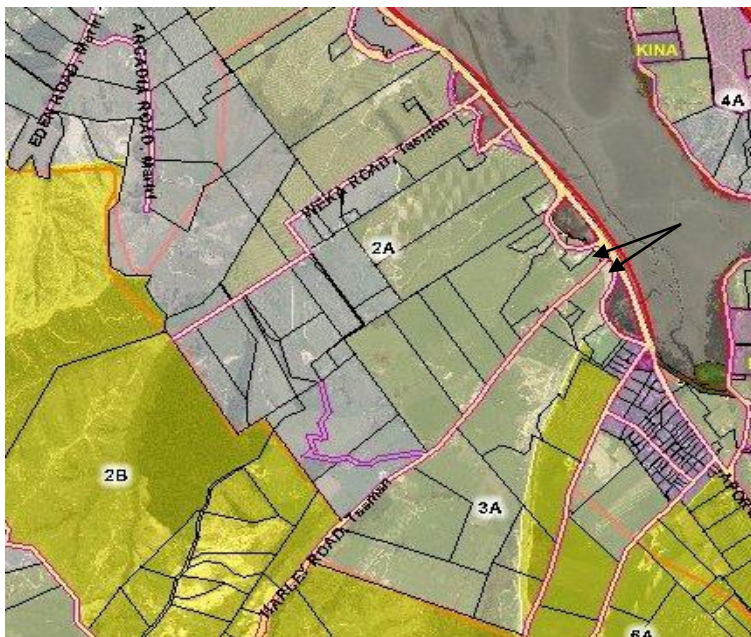


Figure 2 showing location of landscape units 2A and 3A

Mr Carter’s review of both the application and Mr. Langbridge’s landscape assessment has highlighted specific areas of concern as he states in his conclusion:

“We disagree with the progression of that assessment from the standpoint that the area has intact rural character and is an important adjunct to the coastal environment. That SH60, rather than reducing landscape quality has highlighted the sensitivity of the area to new development particularly in relation to views but also in relation to the enhancement works including reopening the

coastline to natural processes and realignment so as to create at the application site a highly visible landform gateway to the coast.” and

“We consider that the Tasman settlement is contained both in terms of its landscape pattern and the zoning in the TRMP and this does not extend to the north side of SH60 and the application site. “

Landscaping proposed by Mr Langbridge for the site, to screen and or buffer the view of dwellings in this location, is not considered to mitigate the impact of increasing the density of lifestyle allotments and dwellings in this location; this is confirmed in Mr Carter’s review.

I consider that two additional lifestyle allotments and their dwellings will have a significant adverse effect on the character and amenity of the coastal environment in this location. This proposal does not reflect the outcomes anticipated by the TRMP for this locality and will impact negatively on the values associated with this Rural 1 zone and the Landscape units 2A and 3A.

Therefore the proposal is considered to be contrary to the objectives and policies of the relevant to the rural 1 zone and is not consistent with the Coastal Tasman Area guidelines for landscape units 2A and 3A.

6.4 Noise from State highway on residential living amenity

Objectives and Policies - noise

Policy 7.3.3.17 *“To avoid or mitigate exposure of subdivision and development to road noise, including from State Highway 60 and the designated Ruby Bay Bypass*

6.4.1 Assessment of the Noise from State Highway

Advice from Council’s Environmental Health Officer was that any new occupiers of these allotments would be aware of the potential noise implications from a major roading network. NZTA has not submitted on this application. It is considered that there is the potential for a reduction in residential amenity from highway noise for future residents on either of Lot 1 or 2 given the proximity of SH60 to both of the proposed allotments. The applicants have volunteered a noise emanation easement in favour of NZTA, which would alert future owners of the potential for noise from SH60.

6.5 Cumulative Effects

Objectives and Policies

Policy 7.3.3.14 *“To take into account, and avoid or mitigate potential cumulative adverse effects on rural character, rural landscapes and amenity values, including the potential impact that complaints from new residential activities can have on existing productive activities, arising from adverse cross-boundary effects, when assessing the effects of subdivision and development in the Coastal Tasman Area.”*

6.5.1 Assessment of Cumulative Effects

It is considered that the loss of the 1.1 hectares of Rural 1 land will add to the cumulative loss of land available for a productive use. Also as referred to in Mr Carter's review the changes to the landscape (the increase of dwelling density) in this location will contribute to a loss of rural landscape quality and also impact on coastal environment values. There are potential cumulative adverse effects which compound over time eroding the rural character, rural landscapes and amenity values provided by the existence of the rural land that has had limited inappropriate development surrounding the Moutere estuary on the landward side of SH60.

6.6 Servicing

Objectives and Policies relating to servicing

Objective 7.4.2 *“Avoidance, remedying or mitigation of the adverse effects of a wide range of existing and potential future activities, including effects on rural character and amenity values.”*

Policy 7.4.3.9 *“To avoid, remedy or mitigate servicing effects of rural subdivision and development, including road access, water availability and wastewater disposal.”*

Subdivision Schedule matters 16.3A relating to servicing.

8A) *“For water supply, the extent of compliance with the “Drinking Water Standards for New Zealand 1995” or any subsequent replacement of this standard.”*

(10) *“Where wastewater disposal will occur within the net area of the allotment, the extent to which the site and soil assessment, design and construction of the system complies with the AS/NZS 1547; 2000, taking into account the requirements of rules in Chapter 36 regulating the discharge of wastewater.”*

(11) *“The adequate provision of potable water and water for fire fighting.”*

6.6.1 Assessment of servicing

No further commentary is added here; the assessment of effects covered in the application, page 22 sections 7.28 is accepted.

6. 6.2Water supply / firefighting

NZ Fire Service has made a submission requesting conditions for firefighting water supply for each dwelling to the standards specified in SNZ PAS 4509:2008 and has no requirement to be heard.

6.7 Transport

Objectives and Policies relating to Transport

Objectives 11.1.2

Policy 11.1.3.4 *“To avoid, remedy or mitigate adverse effects of traffic on amenity values”.*

6.7.1 Assessment of transport

No further commentary is added here; the assessment of effects covered in the application, page 22 sections 7.30 is accepted.

Council’s Development Engineer is satisfied that new vehicle crossings could be achieved in accordance with the standards set out in the TRMP and Engineering Standards 2008.

6.8 Reverse Sensitivity Effects

Subdivision Schedule matter 16.3A (9) *“The relationship of the proposed allotments with the pattern of adjoining subdivision, land use activities and access arrangements, in terms of future potential cross-boundary effects.”*

6.8.1 Reverse Sensitivity Assessment

The creation of additional small rural residential lifestyle allotments in a productive rural environment has the potential to create cross-boundary effects and limit future rural productive land uses.

For the adjoining property owners at 35 Harley Road who have provided their written approvals no further consideration has been given to potential reverse sensitivity effects on them.

It is considered that rural emanations easements for the balance Lot 3 should be included if the committee were to grant this application.

6.9 Positive Effects

The application proposes the exchange of the vesting of CFR NL11A/581 with Council as a reserve in exchange for one of the proposed Rural 1 lifestyle allotments on the ridge at Harley Road. This small accretion claim title of 2485 m² which is located on the Mariri Loop Road adjoining the estuary is considered by Council to be of limited value in terms of its utilisation as a residential curtilage due to some of the constraining factors present (i.e drainage for waste water discharge and setbacks). This is not to say that it cannot be achieved merely that there are impediments. Resource consent application and approval would also be required prior to construction of a dwelling.

Therefore while the Council's Forward Reserve Planner in her report (attached as Appendix C) has advised that:

"If Council is of a mind to grant the application, the Community Services Department doesn't oppose the proposed vesting of CT 11A/581 as a reserve. The site is an attractive piece of land, the bulk of which is mown grass with some estuarine vegetation established around the margin. The vesting of the land would enhance public access to and along the coastal marine area and provide for the protection of conservation values by adding to the existing network of road and esplanade reserves adjoining the Moutere Estuary."

The exchange of this existing title for one of the proposed rural 1 zoned lifestyle allotments on a high visibility headland/ridge of Harley Road is not considered a sufficient positive to justify the creation of a lifestyle allotment in this location.

Council's Forward Reserve Planner also highlights the opportunity to obtain an easement over a small area to allow for the provision of a public access separate from SH60.

The opportunity to gain small improvements for public access in conjunction with the above reserve are not considered sufficient positive to justify this proposal creating two addition lifestyle allotments in this Rural 1 location.

Please refer to the report attached as Appendix C from Council's Forward Reserve Planner's for further detail.

6.10 Precedent

Case law has established that the granting of consent for one application (like for like) may well have an influence on how another application should be dealt with. The pressure for subdivision of Rural 1 coastal properties is likely to increase with demand for sites with high quality outlooks and settings. As a consequence care must be taken to ensure that a consistent approach in assessing subdivisions is taken to ensure a precedent effect is not created. This particular subdivision is not considered to be especially unique in a way that would set it apart from other potential applications. It is acknowledged that this property has lost a large area of land both to the Bypass formation and now the property also contains an area of land that has been degraded due to the placement of fill associated with the By pass development.

7. SUMMARY OF KEY ISSUES

- The property is zoned Rural 1 and within landscape units 2A and 3A of the Coastal Tasman Area under the Tasman Resource Management Plan.
- Mr Carter identifies the unique and undervalued importance of the Harley Road landscape specifically the headland area that would encompass Lots 1 and 2 as he states in his review, *"It is the landforms on both sides of SH60 at this important coastal gateway that give context to and frame the view to the head of the Inlet and Kina Peninsula."*

- Mr Carter is clear in his landscape review that there are adverse effects for both coastal character, rural character and amenity value generated by this proposal that are unlikely to be mitigated by the volunteered conditions.
- In terms of adverse effects in the reduction of coastal environment, rural character and amenity value, it is considered that there will be a detrimental cumulative effect overtime resulting from any additional rural residential lifestyle subdivision in the Rural 1 zone.
- The Coastal Tasman Area guidelines for Landscape units 2A and 3A within the Rural 1 zone clearly identify that this area is to be maintained with the “openness” and “rural characteristics” defined in the TRMP, the application disregards this requirement.
- Chapter 7 has objectives and policies (set out in section 6.3) that specify that rural residential lifestyle development in this Rural 1 location is inappropriate and that the rural 3 and rural residential zones have provided the opportunity for this type of development.
- This development is contrary to the policies and objectives of the Plan that seek to maintain coastal environment values and maintain and enhance the open rural character and amenity values associated with the property.
- Mr Burton’s report confirms that this proposal will reduce land available for future productive use.
- Mr Burton also notes that while the property has lost land area to the SH60 Bypass, the additional loss of land for Lots 1 and 2 is a further incremental loss of land reducing the potential productive versatility of this property.
- It is considered that this proposal compounds the detrimental cumulative effect; the incremental loss of available productive land.
- This development is contrary to the policies and objectives of the Plan that seek to avoid the loss of productive land.
- The vesting of CFR NL11A/581 as reserve is not considered to be a positive factor of sufficient merit to outweigh the negative impact of this proposal.
- The potential for precedent in relation to this subdivision proposal is considered to be increased in that it is difficult to set this proposal apart from other subdivision scenarios in this locality
- The loss of land from the property for the Bypass formation is not considered to be justification for a subdivision in this circumstance.

8. SECTION 5 AND RECOMMENDATION

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 **would not** promote the sustainable management of natural and physical resources and I **STRONGLY RECOMMEND** that the application(s) be **DECLINED**.

9. CONDITIONS, ADVICE NOTES, PLANS

9.1 Volunteered Conditions of Consent

1. The subdivision shall be undertaken in accordance with the scheme plan submitted with the application, prepared by Planscapes (NZ) Ltd and titled *J and M Johnstone: Harley Road - Lots 1 to 4 being proposed subdivision of Lot 1 DP 375484 and Lot 3 DP 311141* and attached as Plan A.
2. Lot 1 DP 16889 (CT 11A/581) shall vest in the Tasman District Council as reserve.

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.

Advice Note

The water main easement is subject to agreement being reached with, and any water permit being obtained by, the Tasman District Council.

4. Easements shall be created over any rights of way and shall be shown in a Schedule of Easements on the survey plan submitted for the purposes of Section 223 of the Act. Easements shall be shown on the land transfer title plan and any documents shall be prepared by a solicitor at the Consent Holder's expense.
5. Reference to easements shall be included in the Council resolution on the Section 223 certificate and shown in a memorandum of easements on the survey plan required by Section 223 of the Act.

Emanations Easement

6. An emanations easement shall be registered over Lots 1 and 2 in favour of the continued use of and any perceived effects from State Highway 60.

Rural Emanations Easement

7. A rural emanations easement in favour of Lot 3 DP XXX shall be registered on the title of proposed Lots 1 and 2 DP XXX and the memorandum granting the easement is to be generally in the form attached as Appendix A.

8. Vehicle crossings shall be formed from Harleys Road to proposed Lots 1 and 2, in accordance with Council Engineering Standards. The crossings shall be sealed for a distance of 10metres from the edge of the existing carriageway.

Advice Note

Proposed ROW A need not be formed as part of this subdivision, in anticipation of its use by the dominant tenement for property management purposes only.

9. The Council's Engineering Department shall be contacted at least 5 working days prior to the commencement of any engineering works.
10. Proposed Lots 1 and 2 shall be connected to the Tasman reticulated water supply or, in the event that scheme does not proceed, each allotment shall be subject of a consent notice requiring that at the time of building consent for the new house they be provided with a water storage tank of 23,000 litre minimum capacity equipped with a camlock coupling to enable connection for fire-fighting purposes.

Advice Note

All water to be used for human consumption is required to achieve a potable standard (as defined in the current NZ Drinking Water Standards). Details confirming the availability of an adequate potable water supply will be required with the building consent application for any water tank on Lots 1 and 2.

11. Full servicing for live underground power and telephone cables shall be provided to the boundary of Lots 1 and 2. The Consent Holder shall provide written confirmation to the Council's Engineering Manager from the relevant utility provider that telephone connections have been made to the boundaries of the allotment. The written confirmation shall be provided prior to a completion certificate being issued pursuant to Section 224(c) of the Act.

Financial Contributions

12. 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 2,500 square metres (rural)(at the time subdivision consent is granted) of Lot 1;
 - (b) the Consent Holder shall request in writing to the Council's Consent Administration Officer (Subdivision) that the valuation be undertaken. Upon receipt of the written request the valuation shall be undertaken by the Council's valuation provider at the Council's cost;
 - (c) if payment of the financial contribution is not made within two years of the granting of the resource consent, a new valuation shall be obtained in accordance with (b) above, with the exception that the cost of the new valuation shall be paid by the Consent Holder, and the 5.62 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.

13. The building sites on Lots 1 and 2, identified in the Rory Langbridge report, shall be pegged and shown on the section 223 title plan submitted to Council for approval.
14. Certification from a chartered professional engineer or geotechnical engineer experienced in the field of soils engineering (and more particularly foundation stability) that the nominated building sites on Lots 1 and 2 are suitable for the erection of residential buildings shall be submitted to the Council's Engineering Manager. The certificate shall define on Lots 1 and 2 within the building location area, the area suitable for the erection of residential buildings and shall be in accordance with Schedule 2A of NZS 4404:2004 Land Development and Subdivision Engineering.

Advice Note:

Any limitations identified in Schedule 2A may, at the discretion of the Council, be the subject of a consent notice pursuant to Section 221 of the Resource Management Act 1991 prior to the issue of the Section 224(c) certificate. This consent notice shall be prepared by the Consent Holder's solicitor at the Consent Holder's expense and shall be complied with by the Consent Holder and subsequent owners on an ongoing basis.

15. Prior to Section 224 approval the consent holder shall undertake the re-vegetation planting within Lots 1 and 2 in accordance with report and plan by Rory Langbridge Landscape Architect (April 2011). The re-vegetation shall use coastal forest species selected from the *Moutere Downlands Valleys Ecosystems Native Plant Restoration List* published by TDC, and some exotic tree species, in the location and of height specified on the Mitigation Planting and Revegetation Plan in Mr Langbridge's report. The consent holder shall submit to Council confirmation from a registered landscape architect that the planting has been completed.
16. The following consent notices shall be registered on the certificate of title for Lots 1 and 2 pursuant to Section 221 of the Resource Management Act. The consent notices shall be prepared by the Consent Holder's solicitor and submitted to Council for approval and signing. All costs associated with approval and registration of the consent notices shall be paid by the Consent Holder.
 - (a) All structures as defined by the Building Act of the day that require a building consent must be located within the nominated building location area pegged as a requirement of condition 13 above.
 - (b) All buildings shall have a maximum height of 5.0m above existing ground level. For the purpose of this condition, "height" in relation to a building

shall mean the vertical distance between any part of the building, and natural ground level immediately below that part of the building.

- (c) Water tanks are to be incorporated into the structure of the buildings or buried within the lots so as not to be visible from beyond the site.
- (d) Colours of the houses must be complementary to the colours found on the site in the general area, and the roof colours should be darker than the walls so as to reduce the perceived scale of the buildings. It is important to control the reflective values of the colours being considered for structures built in this environment. It is required that:
- (e) All walls shall be clad or finished in paint or other materials, and have no lighter (no greater percentage) than **50%** reflectance value.
- (f) All roofs shall be clad or finished in paint or other material, and have no lighter (no greater percentage) than **15%** reflectance value.
- (g) Any residential building on Lots 1 and 2 shall be provided with a fire fighting water supply system that complies with SNZ PAS 4509:2008 - The NZFS Fire Fighting Water Supplies Code of Practice.
- (h) All re-vegetation planting on Lots 1 and 2 planted in accordance with Condition 15, shall be retained and maintained at all times by the allotment owner. Any vegetation that dies shall be replaced within the next planting season by coastal forest species selected from the *Moutere Downlands Valleys Ecosystems Native Plant Restoration List* published by TDC. The re-vegetation plantings shall be subject to the tree height restrictions shown on the Mitigation Planting and Revegetation Plan in Mr Langbridge's report (August 2011) but not higher than 12.5m RL for Areas A and B as shown on the plan prepared by Planscapes (NZ) Ltd dated June 2011 and titled "*proposed height restriction area*" (see Figure 3 above).

GENERAL ADVICE NOTES

Council Regulations

1. This is not a building consent and the Consent Holder shall meet the requirements of Council with regard to all Building and Health Bylaws, Regulations and Acts.

Other Tasman Resource Management Plan Provisions

2. This resource consent only authorises the activity described above. Any matters or activities not referred to in this consent or covered by the conditions must either: 1) comply with all the criteria of a relevant permitted activity rule in the Tasman Resource Management Plan (TRMP); 2) be allowed by the Resource Management Act; or 3) be authorised by a separate resource consent.

Consent Holder

3. This consent is granted to the abovementioned Consent Holder but Section 134 of the Act states that such land use consents “attach to the land” and accordingly may be enjoyed by any subsequent owners and occupiers of the land. Therefore, any reference to “Consent Holder” in the conditions shall mean the current owners and occupiers of the subject land. Any new owners or occupiers should therefore familiarise themselves with the conditions of this consent, as there may be conditions that are required to be complied with on an ongoing basis.

Development Contributions

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

This consent will attract a development contribution on two allotments in respect of roading.



Pauline Webby
Consent Planner - Subdivision



Notes
 (1) VERIFY ALL DIMENSIONS ON SITE.
 (2) DO NOT SCALE FROM DRAWING.
 Computed in: CT 303779
 Applicant: J & M Johnstone

Proposed Easements	
Purpose: Right of Way	Dominant Tenement
Shown: Servient Tenement	Lot 1 hereon
	Lot 2 DP 375484
Proposed Easements in Gross	
Purpose: Right to Convey Water	Grantee
Shown: Servient Tenement	Tasman District Council
C	Lot 3 hereon

Areas D & E are subject to a private covenant

No	Amendment	Date

Designed by:
 planscapes (t/e) ltd
 317 Hardy Street
 PO Box 99
 Nelson
 Ph: 03 539 0281
 enquiries@planscapes.co.nz

DESIGN:
 DRAWN: P Newbury
 CHECKED:
 APPROVED:
 DATE: Aug 2011

JOB TITLE
J & M Johnstone
Harley Road

DRAWING TITLE
 Lots 1 to 4 Being
 Proposed Subdivision
 of Lot 1 DP 375484 &
 Lot 3 DP 311141
 Scale: 1:2500@A3 Job: 0274
 Ref: Scheme Sheet: 1 of 1

RM 110594



Location of Written Approvals (x)



ExploreTasmanMap App. 1

5/11/2011 DISCLAIMER:

This map is derived from ExploreTasman and has generally been compiled from data generated by and supplied to the Tasman DC. It has no legal status and is known to be incomplete. To ascertain the exact location of any item, Tasman DC advises that the customer arrange onsite verification. Tasman DC will not be liable for any damages or loss whatsoever suffered from the use of this information.

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<http://tsrvims-9/servlet/com.esri.esrimap.Esrimap?ServiceName=ExploreTasman&Clie...> 5/11/2011

RM110594, J and M Johnstone

The application area is situated on gently rolling to flat land bordering the State Highway 60 at Harley Road. The application is to subdivide a 9.6122 hectare property into four allotments along with provisions for land vested into Council reserve. The focus of this report is the effect of the productive capability of the land associated with the creation of lots 1 (1.272ha), lots 2 (0.509ha) and lot 3 (6.098ha), as this has the potential to fragment productive land.

The application area is predominantly flat to gently rolling with small areas of rolling land. The soils of the application area are mapped as Mapua sandy loams. The Classification System for the Productive Land in the Tasman District maps the application area as class B. This class land is the second most versatile in a 7 class ranking system for the Tasman District. The classification report indicates that the crop range in class B is nursery, floriculture, orchards, market garden, cropping, pastoral and production forestry. Although this is a similar crop range to class A land, the difference between the two classes will be found in the versatility within each land use type. For example although orcharding can be carried out successfully on both class A and B land, a wide range of orchard crops could be grown on class A where only a limited range could be grown in class B areas due to greater soil, slope or climate limitations. On the application area the soils would limit some crop choices and the possibility of market gardening and intensive cropping would be unlikely.

Historic land use is a good indicator of the land's potential. The majority of the application area had been in orchard for many years highlighting that the B classification for potential productivity is appropriate.

The application report highlights that the creation of the two small lots, being lots 1 (1.272ha) and lots 2 (0.509ha) would have no effect on productivity because of existing constraints on productive use for this section of land on the south eastern side of Harley Road. These constraints have been highlighted in the application as its small size, irregular shape and proximity to an existing rural residential allotment. The area in question is small. It has been assessed that approximately 1.1 hectares of this site would be suitable for horticultural use. The shape of this potentially useful area is irregular but not to such an extent that it would severely limit crop choice or management. The area is highlighted on the adjacent aerial photo.



The proximity of the adjacent rural residential block should not influence potential land uses of this block as setbacks, as outlined in the TRMP, for horticultural plantings are not influential in this situation.

This area does not include the land affected by stockpile and work areas associated with recent highway construction as it is accepted, from the evidence in the application, that land productivity of this area has been compromised.

The loss of the productive area in proposed Lots 1 and 2, although small still represents a reduction in size of productive area of the original block by approximately 17%. This will have a negative effect on the productivity of the original property. Although the size of the original property is small in comparison to other horticultural units in the area and as a consequence provides some management and economic limitations of its own, its potential use should not be discounted hence nor should the effect of reducing its effective area through this subdivision.

Report by Andrew Burton
Resource Scientist (land)
24 October 2011

Memorandum

Environment and Planning Department

To: Pauline Webby, Consent Planner - Subdivisions
From: Rosalind Squire, Forward Planner, Reserves
Reference: RM110594
Subject: **J and M Johnstone, Harley Road, Tasman**

1. INTRODUCTION

The purpose of this report is to respond on behalf of the Community Services Department to the proposal outlined in the application with respect to the vesting of land as reserve. The report also makes some additional comments with respect to public access adjoining SH 60 and Harley Road.

I am familiar with the site and surrounding area and have considered the application in the context of existing formed and unformed legal roads, reserves and walkways in the vicinity of the site.

2. APPLICATION AND COMMENTS

- 2.1 The application proposes the vesting of CT 11A/581 in the Council as reserve.
- 2.2 There are two larger Council owned reserves in the immediate Tasman area, these are shown in Figure 1 below. One reserve adjoins the Moutere Estuary to the north of Tasman Township (Tasman Memorial Recreation Reserve - 1.86ha) and the other adjoins Tasman Bay at the end of Kina Beach Road (Kina Beach Recreation Reserve - 2.4ha).
- 2.3 The bulk of the Moutere Estuary margin lies within road reserve. There is an existing esplanade reserve on the Tasman Bay side of Kina Peninsula and a strip of Crown land at the head of the estuary. There are no other esplanade reserves in the immediate vicinity of the application site.
- 2.4 If Council is of a mind to grant the application, the Community Services Department doesn't oppose the proposed vesting of CT 11A/581 as a reserve. The site is an attractive piece of land, the bulk of which is mown grass with some estuarine vegetation established around the margin. The vesting of the land would enhance public access to and along the coastal marine area and provide for the protection of conservation values by adding to the existing network of road and esplanade reserves adjoining the Moutere Estuary.



Figure 1 - Existing Coastal Reserves in the Kina/Tasman area

3 ADDITIONAL COMMENTS ON PUBLIC ACCESS ADJOINING SH 60 AND HARLEY ROAD

- 3.1 The Ruby Bay bypass presents a significant barrier for pedestrians and cycles to cross. As part of the planning for the bypass a number of pedestrian and cycle underpasses were constructed. One of these is located immediately to the west of the Tasman Recreation Reserve as shown in Figure 2.
- 3.2 We understand that this is a well used thoroughfare for Tasman residents wanting to commute to Motueka or for short walks/cycles. Once users cross under the highway, turn right down Harley Road toward Motueka Township they then need to negotiate a corner which takes them very close to SH 60.
- 3.3 We consider that there would be some public benefit from the formation of a practical and safe pedestrian and cycle access via a right of way, over a small part of the applicant's property to the east of the existing right of way (east of the red line shown in Figure 3 below). This would enable the formation of a walk/cycleway set back from and elevated above the state highway. The formation of any access would also be subject to discussions with the New Zealand Transport Agency.



Figure 2 - Public pedestrian /cycle access over ROW



Figure 3 - Detail of possible access easement for safer pedestrian/cycle use

I am happy to discuss the above as and when required.

Rosalind Squire
Forward Planner, Reserves

Introduction and Background

1. Tasman Carter Ltd is engaged to review the landscape report (August 2011) by Rory Langbridge Landscape Architects Ltd for JR and MM Johnstone and consider whether its findings in relation to proposed development is consistent with the landscape provisions in the TRMP including the Coastal Tasman Area Subdivision and Development Design Guide (The Design Guide).
2. The application to create two additional rural residential titles results in part from the requirement of 1.60 hectares of the Applicant's land for the Ruby Bay By Pass (SH60). That has left the Applicant with a title (subject to survey) comprising 1.78 hectares east of Harley Road. The Applicant owns a further 6.098 hectares west of Harley Road (Lot 3 DP 311141) and north of Johnstone Loop - Lot 1 DP 16889. It is proposed to vest Lot 1 DP 16889 in Tasman District Council as Reserve *"in exchange for one new house allotment."*
3. The site and the locality was inspected on the 2 November 2011.

Proposed Development

4. The Application seeks consent for two additional rural residential allotments and land use consent to build a residence on each of proposed Lot 1 and 2 within identified building location areas (890m²). A ROW in favour of Lot 1 DP 311141 and Lot 2 DP 375484 (Lot 2 cannot be built on) will be created along the south boundary of proposed Lot 1.
5. Lot 3 will remain as productive rural site containing a dwelling occupied by the applicant's daughter and her family.
6. As noted earlier Lot 4 is to vest or transfer to the Crown as highway reserve.
7. Lot 1 DP 16889 is proposed to vest in Tasman District Council as Reserve.
8. Volunteered conditions of consent in relation to proposed Lot 1 and 2 include:
 - Vehicle crossings formed from Harley Road sealed 10 metres from the edge of the carriageway into Lot 1 and 2.
 - Water reticulated or 23,000 ltr storage. Water tanks to be incorporated into the structure of buried within the lot so as to be invisible from beyond the site (consent notice).
 - All power and telephone to be underground.
 - All structures are to be located within the nominated building location area (consent notice).

- All buildings are limited as to height to 5 metres above existing ground level (consent notice).
- Colours of the houses must be complementary to the colours found on the site in the general area, and the roof colours should be darker than the walls including that walls shall be clad or finished in materials with reflectance value not exceeding 50% and roofs not exceeding 15%.
- There is a consent condition requiring revegetation by the consent holder of land east of the nominated building sites subject to a height limit (RL12.5 metres) within an areas A (Lot 1) and B (Lot 2) mapped on Sheet 1 using coastal forest species from the Moutere Downlands Valleys Ecosystem native plant restoration list. Subject to the above height restriction native plant species with a mature height exceeding 5 metres high and native plant species with mature height fewer than 3 metres high are required in conjunction with exotic tree species incorporated into the mix on proposed Lot 2. Confirmation that the plantings have been completed is required from a Registered Landscape Architect. Thereafter consent notice stipulates that planting undertaken under the consent condition is retained and maintained by the allotment owner. 2 of 12

Existing environment

Landscape character north of Tasman Township

9. The Tasman settlement is at the head of the Moutere Inlet. The Inlet is a nationally important coastal area with natural processes intact to the extent that there is "*habitat for banded rail [at] the head of the inlet...*" (TRMP Schedule 25.1F). The inlet has a backdrop of rolling landforms, which typify the Moutere area and create distinctive "*little landscapes*" (TDCLCA).
10. On the southwest side of the Inlet the catchment boundary runs along Old Coach Road approximately 58 metres AMSL and 108 metres AMSL. Below Old Coach Road there eight gentle valleys with a small estuary embayment at the base of each, enclosed on each side by raised landform spurs. Historic realignment of SH60 traverses the head of each embayment creating the so-called *Mariri Loops*. North of Tasman Township the land on the northwest side of the Inlet is primarily in pipfruit production including shelterbelts, homesteads and amenity gardens, workers accommodation, packing and implement sheds, roading; from country roads to internal gravel tracks.
11. Kina Peninsula encloses the opposite side of the Inlet with landforms and Kina Peninsula Road facing towards the *Mariri Loops* and the area immediately north of Tasman Township. Here the distance between each side of the Inlet is approximately 500 metres.
12. The Tasman Township is well defined in terms of the zoning pattern in the Tasman Resource Management Plan (TRMP). The zoning pattern comprises Residential (the township) and Rural 3 zoning pattern on the southeast side of SH60 and land zoned Rural 1 inland of SH60 encompassing the *Mariri Loops* all the way to Motueka.

13. The correlation between the TRMP zone boundaries and the natural landforms north of the township indicate that the land use planning is based on a logical landscape framework. The town and its relationship to the surrounding rural hinterland is strong and typified at Rush Lane where there are views of the southern most *Mariri Loop* recently restored (reopened to the Inlet as part of the realignment of SH60) and the rural lands on the north side of SH60 centred on a raised landform spur - notably the Application site.
14. The Langbridge assessment concludes that the neighbour's house (35 Harley Road), development within the Tasman Township and a consented but as yet un built subdivision further up Harley Road within the Rural 3 Zone provides the locality with rural residential character and not rural character in accordance with the underlying Rural 1 zone.
15. The view from several areas including SH60 does not reflect that conclusion. The neighbour's house (35 Harley Road) is surrounded by pasture grazed by sheep; bunds constructed and planted as part of the SH60 realignment buffer the Tasman Township from SH60.
16. The Rural 3 subdivision referred to in the Langbridge assessment is located approximately two kilometres further up Harley Road and within a zone designed specifically to accommodate further development. Therefore we do not see that those elements provide "*a rural residential character...*" or "*an absorption capacity for further development within this area*". The view from the Percivall property (submitters to the notified application) across the Council Reserve does not seem to support that conclusion either. Given the likely development of vegetation planted on the SH60 bund resulting in a view only of the northern portion of the application site (most likely the house on Lot 2 will be visible) the rural character viewed does not have a high absorption capacity for rural residential development from the Percivall property.
17. The Applicant's property comprises 9.6122 hectares of land zoned Rural 1 centred on Harley Road. There is a landform spur with a broad, flat top. Harley Road is aligned down the middle. The landform spur is a significant and defining landform ridge that is characteristic of the landscape sub unit 1.
18. Land south side of Harley Road approximately 1.272 hectares encompasses part of the flat area on top of the spur and is between 12 and 48 metres wide but generally 35 metres wide. Here building location areas 1 and 2 are proposed at the edge of the slopes leading down to SH60, which face as noted above towards the view shaft from Rush Lane, SH60 and the Inlet. The remaining land is comprised of flats, which to some extent have been affected by the placement of salt contaminated soil presumably from the Inlet. All of the above landforms are in pasture and during the site visit were grazed by sheep.
19. 35 Harley Road adjoins the application site on the south side. That site is comprised of two parcels; Lot 1 DP 311141, containing the dwelling and gardens and Lot 2 DP 375484. The dwelling is located in conjunction with the flat area on top of the spur in an area where the flat ground is narrower than that application site. 35 Harley Road is a rural residential property both in terms of its size and the development characterises of the site including a broad conifer hedge on three sides of Lot 1.

Lot 2 is in pasture and combines visually with the grazed flats within the Applicant's property and the adjoining property to the south (Lot 2 DP 8305). The area is not "*currently devoid of vegetation*" it contains pasture, shelterbelts and the like which one would expect given the underlying pastoral land use and the rural zoning on the north side of SH60.

20. It is into the above described landscape that SH60 having traversed inland from the Waimea Inlet descends through Dicker Valley to the Moutere Inlet. On average 4,500 vehicles use SH60 daily. For road users travelling towards Motueka the descent from the head of the Dicker Valley is characterised by an emerging view of the Tasman Bay coast encompassing Kina Peninsula, Moutere Inlet and the rural lands adjoining the coast on the north side of SH60 including initially the pastured sloped within Lot 2 DP8305 below Harley Road. The approach to the coast takes road users, including visitors to the region, into the landscape unit adjoining the Tasman Township on the north side. 35 Harley Road and the slopes leading up from SH60 to the ridgeline crest in front of the proposed building location areas on proposed Lot 1 and Lot 2 frame the Inlet view. As noted, the application site, combined with Lot 2 DP 375484 (35 Harley Road), Lot 2 DP 8305 and lots further south grazed by sheep are zoned Rural 1. It is hard to conclude, when the area is *quintessentially* rural as the Langbridge assessment does that "*residential development is prominent in this location*". It is the landforms on both sides of SH60 at this important coastal gateway that give context to and frame the view to the head of the Inlet and Kina Peninsula. Mr. Langbridge concludes, "*the application site is not integral to, the landscape or cultural character values that prevail within this landscape*". This is partly due to the limited visibility or the bulk of the site and partly due to the separation that exists between the subject site and its surroundings". One can scarcely imagine a more highly visible location sensitive to the type of development proposed.
21. The rural amenity values are strongly related to the coastal setting with much of the land and the SH60 approach from the south facing towards the constantly changing Inlet. The importance of the amenity values associated with the coastal environment is particularly evident from the SH60 transport corridor but also from localities close to the coast.
22. A study undertaken by the Council in 2005³ noted the areas landscape characteristics as follows:
- *The predominantly rural character of the area.*
 - *The distinctive pattern of the horticultural activity and in particular the orchards and their associated "historic' buildings and structures including those within or on the edge of the Mariri Loops.*
 - *The varied and visually pronounced topographic pattern and character of the area.*
 - *The appearance of openness and expansiveness of the landscape, albeit relatively small in scale.*

- *The remnant tidal lagoons (Mariri Loops) formed by the realignment of the Coastal Highway.*
- *The Landscape Legislative and Policy Framework*

23. S6(a) of the Act requires the preservation and protection of natural character from inappropriate development. It is not only areas with high natural character that is to be preserved. As noted above this locality although natural character of the coastal environment has been significantly impacted on it is far being extinguished. Designation of the Moutere Inlet ecosystem as nationally important is evidence of that. Natural character levels are not considered to be Outstanding as noted in Policy 13(1)(a) of the NZCPS. Therefore it is the *significant adverse effects* that are required to be avoided.

3 Tasman District Coast Landscape Character Assessment 2005. Boffa Miskell Ltd.

Other adverse effects of activities on natural character in all other areas of the coastal environment must be avoided, remedied or mitigated.

24. Chapter 7 of the TRMP identifies the issue; *“Managing the pressure for and cumulative effects of residential development in the Coastal Tasman Area which is a rural area close to the coast, to the District’s main urban centres, and to major transport routes, while protecting the productive values of the rural land resource, coastal and rural character, and amenity values.”* Policy 7.3.3.1 identifies that it is within the Rural 3 Zone that the type of rural residential development proposed in the application is envisaged whilst avoiding adverse effects on the environment. Policy 7.3.3.2 identifies that where the potential adverse effects are of *such significance* further subdivision should be discouraged. Annex 1 of the Applicant’s landscape assessment maps much of the area as High visibility. We consider that given the openness of the site, the importance of the gateway location that the potential adverse effects will be significant. Policy 7.3.3.3 requires that valued qualities of the CTA in particular rural and coastal character, rural and coastal landscape and the coastal edge are identified and protected inappropriate subdivision and development. Policy 7.3.3.6 requires the protection of rural and coastal character, including landscape and natural character, and amenity values from development pressures in areas outside those anticipated by the Plan for the location of development including the land west of Moutere Inlet.

25. Although we do not have the appropriate expertise to conclude as Mr. Langbridge’s does that Lots 1 & 2 are *“not currently productive to any degree and is not considered to have productive potential in the foreseeable future”*. We note the court’s decision in Burnaby Orchards *“...a landowner should not be over-confident of achieving consent to subdivide small pockets of land in the Rural 1 zone by mounting an argument that that are comparatively unusable” or excessive to requirements for productive purposes, if the bulk of the property has productive values as in this case.”* The court’s decision would seem to reflect the apparent vulnerability of the landscape and visual effects of rural residential subdivision including in that case that *“two new residential buildings... would produce a different visual character and profile at odds with the rural character of the area.”* We consider, despite the proposed mitigation - that will be the result in the case.

26. Policy 7.4.3.3 seeks to provide for the maintenance and enhancement of local rural character, including such attributes as openness, greenness, productive activity, separation, style and scale of structures. The application site and the inland areas behind it reflect the above attributes, within a visually coherent arrangement. We do not agree with the conclusion that *“the area is not typically rural in either land use or open space values”*.
27. The policy highlights the view that it is not just effects within the general rural area (policy 9.1.3.6), which are to be managed; rural character at a local scale requires consideration and the outcome of sustainable management. That accords with the landscape experience from the transport route; traversing as it does local landscape sub units as well as larger areas both of which contribute to the experience of a continuous and coherent rural character, unless at some point it is compromised by inappropriate subdivision and / or development. The problem is identified at 9.1.30.4 *Ad hoc subdivision changes the open space character of the landscape by introducing new lines of fencing and plantings*.
28. Policy 9.1.3.3 seeks to ensure that structures do not adversely affect visual interfaces such as skylines, ridgelines and the shoreline of the sea, the unity of landform, vegetation cover and views. All of these attributes will be adversely affected by a grant of consent.
29. Objective 9.2.2 to ensure that rural landscapes and the contribution they make to amenity values and rural character of the district are protected from inappropriate subdivision and development. The policy framework gives effect to the objective by retaining the rural characteristics of landscape within rural areas.
30. In respect of the Coastal Environment Area and the assessment criteria under 18.11.3.2(1) Council has reserved its discretion to:
- The effects of the location, design and appearance of the building, including its scale, height, materials, landscaping and colour, on the amenity and natural character of the locality, including effects on:*
- (a) *natural features;*
 - (b) *landscape and seascape values;*
 - (c) *significant natural values;*
 - (d) *the character of any existing development.*
31. The character of existing development is considered to be subservient to the rural character of the area. There are significant natural values associated with the Inlet. These have been enhanced including by reopening one of the “Loops” to the wider Inlet. Areas including visual and acoustic bunds associated with the by pass project have rightly been planted in appropriated coastal vegetation. The policy framework in relation to rural residential subdivision does not support extending that approach to the rural lands adjacent the Inlet and SH60. That activity within the Rural 1 zone would seem to open up the possibility of rural residential subdivision within the Rural 1 zone between Tasman and Motueka.

32. The purpose of the Design Guide is to: ...*promote and encourage well-designed and innovative developments in the Rural 3 Zone, which will retain the overall rural and coastal values and on-going opportunities to utilise land of high productive value.* (Emphasis added) The purpose is to be achieved by following the process set out in Chapter 2 of the Guideline. ...*subdivision outcomes are intended to be the product of in-depth site assessments of key matters like productive values, landscape character and amenity values and wastewater disposal constraints. By overlaying all of the assessment information, development constraints and opportunities can be determined. "In all other zones within the coastal Tasman Area, the Guide has a non-regulatory effect, encouraging and advocating the principles contained within it."*
33. The Design Guide sets out under 2.2.4 the process of Assessment and Evaluation and directs applicants to:
- (i) *Map and describe areas of the site where land development would potentially result in adverse environmental effects because of environmental constraints. This information is termed "constraints information".*
 - (ii) *Map and describe areas of the site where development could occur without adverse environmental effects that are more than minor. This information is termed "opportunities information".*
- (b) *Overlay the constraints information with opportunities information from (a)(i) and (ii) above. Use a map or maps to show areas that may be developed without adverse effects, and areas where development may result in conflict with one or more of the guidelines of the Design Guide.*
- (c) *Identify any measures that may be used to avoid, remedy or mitigate a constraint and how a constraint may be overcome in a way that enables the guidelines to be met.*
34. The opportunities and constraints are appropriately mapped on Annex 1. However we disagree with the notion that featured views from SH60 somehow avoid the application site as a peripheral element - seen only from the side. However we consider Mr. Langbridge's visibility mapping is correct - the site is highly visible.
35. Chapter 4 of the Design Guide provides location specific Guidelines:
- Based on landscape characteristics and values, a series of landscape units and sub-units has been determined. The capacity of each unit and sub-unit to absorb more development in landscape terms has been assessed. The location-specific guidelines provided in this section are based on this assessment. Consistency with the location-specific guidelines can ensure that the landscape values of the coastal Tasman area are not compromised by inappropriate subdivision and development.*
36. The Johnstone site is located within Landscape Unit 3A. The following Guidelines are considered to be relevant to the application:

Landscape Unit 2 and 3

(e) Keeping all development of buildings and structures off significant and defining landforms and ridges that are characteristic and / or features of the landscape sub unit.

(f) Avoiding development on ... visually prominent landforms.

37. Annex 1 maps the application site as High visibility, however the assessment of Guideline (f) in Annex 3 states that development on ... visually prominent landforms has been avoided. Unless that relates to the mapping of the flat area on top of the spur as medium visibility that would seem to be inconsistent. Even if the top of the spur as medium visibility any structure located there would inevitably project upwards into an area of high visibility.

Landscape Unit 3

(k) Maintaining the open character of the Harley Road ridge as a defining feature between Landscape units 3 & 2

38. Although the assessment comment is that this will be achieved we cannot see how the location two houses and mitigation plantings will achieve that outcome in relation to the existing open pastoral character of the site including views to the coast from Harley Road.

Conclusions

39. The Langbridge assessment concludes:

- The construction of SH60 has introduced a significant change to the landscape, and is largely responsible for the creation the land subject of the application.
- Surrounding development lends the site a rural residential character in which residential development is prominent as opposed to rural character.
- Regardless of a) Annex 1 which maps high visibility and b) reference to significant and defining landforms and ridges that are characteristic and / or features of the landscape sub unit in the design guide and c) Chapter 9 of the Plan, the land is not in Mr. Langbridge's assessment integral to the landscape or cultural character values that prevail within this landscape.
- That provides the landscape with an absorption capacity for further development and contributes to the perception that any development within this area would be merely infill.

40. We disagree with the progression of that assessment from the standpoint that the area has intact rural character and is an important adjunct to the coastal environment. That SH60, rather than reducing landscape quality has highlighted the sensitivity of the area to new development particularly in relation to views but also in relation to the enhancement works including reopening the coastline to natural

processes and realignment so as to create at the application site a highly visible landform gateway to the coast.

41. We consider that the Tasman settlement is contained both in terms of its landscape pattern and the zoning in the TRMP and this does not extend to the north side of SH60 and the application site.

Tasman Carter Ltd

8 November 2011.

Right to Emit Noise from Hail Cannons and Other Farming Activities/Equipment, Odour from Farming Activities, and Drift from Agricultural and Horticultural Sprays

1. Definition

In this easement the term “authorised farming activities” means all rural activities, including farming and horticultural crop production (and in particular, odour and noise from farming activities, the spraying for weeds and horticultural pests and diseases and the use of hail cannons to protect against hail damage to fruit crops) together with any other activity permitted under the relevant District Resource Management Plan for the time being in force and any existing uses and any activity permitted by any resource consent(s). The term “authorised farming activities” shall also include any other activity ancillary to the activities already defined or necessary therefore.

2. Rights and Powers

The owners or occupiers from time to time of the Dominant Tenement shall have the full, free, uninterrupted and unrestricted right, liberty and privilege for themselves and their respective servants, tenants, agents, licensees and grantees from time to time to emit noise from hail cannons and other farming practices and equipment, odour from farming activities, and drift from agricultural and horticultural sprays and to allow such emanations to escape, pass over or settle on the Servient Tenement in the course of the use of the Dominant Tenement for rural purposes with the intent that such aforementioned rights shall run with the Servient Tenement and be forever appurtenant to the Dominant Tenement.

3. Terms, Conditions, Covenants, or Restrictions in Respect of the Above Easement

- (a) The owners or occupiers from time to time of the Servient Tenement shall allow authorised farming activities to be carried out on the Dominant Tenement without interference or restraint.
- (b) All noise emitted from hail cannons, and farming practices and equipment shall not exceed the maximum level permitted in any relevant District Resource Management Planning document.

The owners or occupiers from time to time of the Servient Tenement shall not:

- (i) make or lodge; nor
- (ii) be party to; nor
- (iii) finance nor contribute to the cost of;

any submission, application, proceeding or appeal (either pursuant to the Resource Management Act 1991 or otherwise) designed or intended to limit, prohibit or restrict the continuation or recommencement of the authorised farming activities by the owners or occupiers from time to time of the Dominant Tenement.

- (c) The owners or occupiers from time to time of the Dominant Tenement shall at all times use sprays in accordance with usual agricultural and horticultural practices in the District.