



STAFF REPORT

TO: Environment and Planning Committee

FROM: Paul Gibson, Consent Planner

REFERENCE: RM041264

SUBJECT: **SERPENT HOLDINGS LTD – REPORT EP05/04/04** - Report prepared for 15 April 2005 hearing.

1. INTRODUCTION

1.1 Proposals

Subdivision Application

The applicant wishes to subdivide Lot 31 DP 4826, being 928 m² into two allotments. Proposed Lot 1 has an area of 451 m² and currently contains the existing sleepout and woodshed. Proposed Lot 2 is 476 m² and would contain the existing dwelling.

Proposed and Existing Servicing:

Connections to power and telephone for Lot 1 are proposed from Wadsworth Street. Lot 2 has existing connections to underground power laid off the northern boundary of Lot 1 and overhead telephone reticulation from Wadsworth Street.

Each dwelling is proposed to have independent water supplies via individual wells. Proposed Lot 1 accommodates the existing well which serves the dwelling on Lot 2 and the applicant proposes to establish a new well pipe to serve Lot 2.

It is proposed that Lot 1 will connect to the gravity main sewer, which runs along the western boundary of both allotments approximately 1.5 metres into the Golden Bay High School grounds. Lot 2 is currently connected to this system.

Stormwater is proposed to be disposed of via soak pits for Lots 1 and 2.

A concrete vehicle access off Wadsworth Street currently serves the dwelling on Lot 2. A separate access for Lot 1 is proposed close to the northeast corner of Wadsworth Street.

Land Use Application

To construct a dwelling on proposed Lot 1 within the area shown as “extent of building area” on scheme plan RM041264 prepared by Golden Bay Surveyors and dated 6 December 2004. The application states the dwelling will comply with all relevant Residential Zone rules except these relating to sites adjoining a Rural Zone boundary (Section 2.4 of the application). No plans have been provided of the proposed dwelling.

1.2 Site Description

The subject site is located on the western side of Wadsworth Street, on the periphery of the Takaka township and is legally described as Lot 31 DP 4826, being 928 m² in area.

The site is generally flat and contains a two-bedroom stucco clad dwelling with a carport located towards the southern corner of the site. A sleepout with an attached woodshed stands close to the western boundary. The site is landscaped in lawn and residential style gardens with a few trees.

Council's records show three building consents granted on the site:

1. Building Permit H138758 to construct a wash house, issued on 9 December 1977
2. Building Permit B62190 to construct a garage/workshop, issued on 4 September 1984
3. Building Permit F023677 to install a heater, issued on 1 June 1988

1.3 Locality

To the west of the site is Golden Bay High School with the school playing fields adjoining the site. Approximately 25 metres to the northeast is Takaka Primary School. Lot 30 DP 4826 is a pedestrian access which adjoins the site on the northern boundary. Residential properties are located on the opposite side of Wadsworth Street and to the south of the site.

2. STATUS UNDER THE TRANSITIONAL & PROPOSED PLANS

2.1 Transitional Plan Status

Under the operative Transitional Plan (Golden Bay Section) the site is zoned Residential 1.

Subdivision Classification

Subdivision of allotments for Predominant Uses (essentially Permitted Activities) in the Residential 1 Zone requires a minimum area of 500 m² where sewage reticulation is available. Consequently the subdivision application becomes a Conditional Use (essentially a Discretionary Activity) under Rule 3.4.3 (d) as the proposed allotments are less than 500 m² in area.

Land Use Classification

All residential land uses not permitted as Predominant or Controlled Uses are a Conditional Use (essentially a Discretionary Activity) under Rule 3.4.1 (d).

2.2 Proposed Tasman Resource Management Plan

The land is zoned Residential under the Proposed Tasman Resource Management Plan (hereafter referred to as the Proposed Plan). There are no special Areas on the site.

Council has records of flooding affecting the site from past flood events. This data sits outside the Proposed Plan.

Subdivision Classification

The subdivision is considered to be a Discretionary Activity under Rule 16.3.4 of the Proposed Plan as the proposal does not meet the following standards under Rule 16.3.3:

- i) Rule 16.3.3 (b) – Figure 16.3A specifies a minimum allotment area of 1000 m² for allotments adjoining Rural 1 Zones. Lot 1 is 451 m² and Lot 2 is 476 m².
- ii) Rule 16.3.3 (h) specifies that allotments adjoining any Rural Zone have a width of at least 30 metres between the zone boundary and the farthest boundary of the allotment. Both Lot 1 & 2 propose 25.2 metres between the Rural 1 Zone boundary and the farthest boundary of the allotment.

Land Use Classification

The land use activity is considered to be a Restricted Discretionary Activity under Rule 17.1.5 of the Proposed Plan as it does not meet the following standard under Rule 17.1.4:

- i) Rule 17.1.4 (v) prescribes that dwellings are setback 25 metres from a rural zone boundary. As Lot 1 is only approximately 25 metres in width it will not be possible to achieve compliance.

3. NON-NOTIFICATION

The applications were not publicly notified as the adverse effects are considered to be no more than minor, and the party considered to be affected has given their written approval. Therefore, it was considered appropriate to process the consent on a non-notified basis. However, due to the proposal being inconsistent with the objectives and policies relating to natural hazards and contrary to Section 106 of the Resource Management Act 1991 (hereafter referred to as “the Act”) it was considered appropriate for the Committee to consider this application as it will have long-term effects for Takaka in general.

4. STATUTORY CONSIDERATIONS

4.1 Resource Management Act

Section 104 of the Resource Management Act sets out the matters which Council is required to have regard to in assessing this application. The assessment contained in this report follows the matters in Section 104.

Section 104

Subject to Part II matters, Council is required to have regard to those matters set out in Section 104. Of relevance to the assessment of this application, Council must have regard to:

- Any actual and potential effects of allowing the subdivision and land use to proceed (Section 104 (1) (a));
- Any relevant objectives and policies in the Tasman Regional Policy Statement, the Golden Bay Section of the Transitional Plan and the Proposed Tasman Resource Management Plan (Section 104 (1) (b));
- Any other relevant and reasonably necessary matter(s) to determine the consent (Section (1) (c)).

In respect of Section 104 (1) (b), the Proposed Tasman Resource Management Plan is now considered to be the dominant planning document, given that it was formulated under the current statutory framework and it is well progressed through the public submission and decision-making process.

Section 104B sets out the framework for granting or declining consent based on the status of an activity as set out in the relevant Plan.

Section 106

Section 106 of the Resource Management Act 1991 states that:

- “(1) a consent authority may refuse to grant a subdivision consent, or may grant a subdivision consent subject to conditions, if it considers that -*
- (a) the land in respect of which a consent is sought, or any structure on the land, is or is likely to be subject to material damage by erosion, falling debris, subsidence, slippage, or inundation from any source; or*
 - (b) any subsequent use that is likely to be made of the land is likely to accelerate, worsen, or result in material damage to the land, other land, or structure by erosion, falling debris, subsidence, slippage, or inundation from any source; or*
 - (c) sufficient provision has not been made for legal and physical access to each allotment to be created by the subdivision.*

Conditions under subsection (1) must be –

- (a) for the purposes of avoiding, remedying or mitigating the effects referred to in subsection (1); and*
- (b) of a type that could be imposed under section 108.”*

4.2 Tasman Regional Policy Statement

The Regional Policy Statement seeks to achieve the sustainable management of land and coastal environment resources. Objectives and policies of the Policy Statement clearly articulate the importance of protecting land resources from inappropriate land use and development.

Policies and objectives relevant to this application are as follows:

- (a) *Maintenance and enhancement of the quality of the Tasman District environment.*
- (b) *Avoidance, remedying or mitigation of the adverse effects on the environment and the community from the use, development or protection of resources.*
- (c) *Efficient use and development of resources.*
- (d) *Open, responsive, fair and efficient processes for all resource management decision-making.*
- (e) *The extent to which the effects of natural hazards will be avoided or mitigated.*
- (g) *The cumulative impact so the subdivision on the District's infrastructure and its efficient use and development, including the capacity and capabilities of the road network and utility services to meet the demands arising from the subdivision.*
- (h) *The relationship of the proposed allotments and their compatibility with the pattern of adjoining subdivision and utility services to meet the demands arising from the subdivision.*
- (i) *Whether a proposed subdivision is capable of accommodating permitted activities in compliance with the relevant rules of the Plan.*
- (k) *The effects of existing or future buildings on an allotment in relation to natural hazards and effects on adjoining sites and whether future building or development should be limited to particular parts of the allotment, or minimum floor levels set.*
- (m) *Avoidance, remedying or mitigation of the adverse effects arising from urban development locating or expanding in hazard-prone areas.*
- (n) *The Council will avoid locating new urban development in areas subject to natural hazards, except that extensions in areas that are so subject may be allowed provided adequate mitigation measures are undertaken.*
- (o) *Council may allow activities at risk from flooding, provided that:*
 - (i) *the activity does not cause risk to the land itself, or to people, land or natural values; and*
 - (ii) *the person carrying out the activity is aware of the risk; and*

- (iii) *that person carries the responsibility for risk management, including the costs of any protection.*

Because the Proposed Tasman Resource Management Plan was developed to be consistent with the Regional Policy Statement, it is considered that an assessment under the Proposed Plan will satisfy an assessment against Policy Statement principles.

4.3 Golden Bay Transitional District Plan

The Transitional Plan now has little relevance to this application as the resource management based instruments have now effectively replaced this. The Transitional Plan contains objectives and policies that relate to the effects of development including natural hazards in much the same way the current resource management documents do. For these reasons, the Transitional Plan Objectives and Policies are not discussed further.

4.4 Proposed Tasman Resource Management Plan

The Plan that is most relevant in the assessment of this application is the Proposed Tasman Resource Management Plan. This is due to its formulation under the Resource Management Act statutory framework and the advancement of the Proposed Plan through the planning process.

The most relevant Objectives and Policies are contained in:

- Chapter 5 'Site Amenity Effects'
- Chapter 6 'Urban Environment Effects'
- Chapter 13 "Natural Hazards"

These chapters express Council's objectives relevant to this proposal:

- *To protect land from inappropriate development*
- *and to ensure character and amenity values are maintained or enhanced.*
- *And to avoid or mitigate the risks of extending development onto land subject to natural hazards*

The most relevant Rules which follow from these imperatives are contained in Chapter 16.3 'Subdivision' and Chapter 17.1 'Residential Zone'. The assessment criteria set out in Schedule 16.3A, which are provided to guide Council in evaluating the proposed subdivision.

Detail of the assessment of the proposed subdivision and land use consents in terms of these matters is set out in the sections following.

5. ASSESSMENT

In accordance with Section 104 of the Resource Management Act, Council must consider the actual and potential effects on the environment of allowing the activity, have regard to any relevant objectives, policies, rules, and consider any other matters relevant and reasonably necessary to determine the application. Each of these matters is discussed below.

5.1 Part II of the RMA Matters

In considering an application for resource consent, Council must ensure that if granted, the proposal is consistent with the purpose and principles set out in Part II of the Act.

If consent is granted, the proposed subdivision and land use must be deemed to represent the sustainable use and development of the land resource. The critical issue in this assessment are the potential adverse effects from natural hazards.

It is considered that the proposed subdivision and associated additional dwelling are inconsistent with Part II of the Resource Management Act in regard to the aspect of sustainable management relating to ensuring that the safety of people and communities are maintained. The establishment of an additional residential dwelling on this flood prone site is not considered to be a responsible decision. Allowing the additional dwelling on the premise that the floor level is above the expected flood levels may create a false expectation that the dwelling would be safe from flooding when in fact if a flood event was to affect the site other issues such as residents escaping raising flood waters is not addressed.

5.2 Section 106 of the RMA Matters

Section 106 states that Council may refuse to grant a subdivision consent, or may grant a subdivision consent subject to conditions, if it considers that the site, or any structure on the site, is or is likely to be subject to material damage from natural hazards including inundation from any source.

In this particular case, it is considered that there are no conditions, setting minimum floor levels included, that would mitigate the risk that this site is subject to material damage from flooding. Consequently this proposal is considered to be contrary to Section 106.

5.3 Assessment of Environmental Effects & PTRMP Assessment Criteria

Pursuant to Section 104 (1) (a) of the Resource Management Act, the following effects assessment has been set out. For the sake of brevity, both subdivision and land use matters will be considered within the following assessment.

Schedule 16.3.A of the PTRMP sets out the assessment criteria to be used when considering an application for subdivision. The relevant matters also relate to potential and actual effects on the environment which are addressed under the following headings.

Amenity Values

- (2) *The potential effects of the subdivision on the amenity values and natural and physical character of the area.*

Amenity values are defined in Section 2 of the Resource Management Act 1991, as follows:

“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.”

The proposal does not meet the requirement for allotments adjoining a Rural 1 zone to be a minimum of 1000m² net site area (451 m² & 476m² is proposed). Neither does the development meet the requirement that allotments adjoining any Rural zone needs 30 metres between the zone boundary and the furthest boundary of the allotment (approximately 25 metres is proposed). However, it is considered that the proposal meets the intent of these rules which is to ensure that allotments situated next to rural land are large enough to enable the location of dwellings with reasonable separation from activities in these adjoining zones. In this instance, the adjoining Rural 1 property is designated for education purposes and contains Golden Bay High School. This is not a rural activity, and the school is considered to be a compatible use with the residential allotments proposed. Further, written approval has been obtained from the Principal of the School. All other relevant building construction standards will be met. Consequently, there are no concerns regarding the general amenity effects of the proposal.

Natural Hazards

- (3) *The extent to which the effects of natural hazards will be avoided or mitigated.*

This matter is addressed more specifically by Mr Eric Verstappen, Council’s Resource Scientist, Rivers and Coast in his report, attached as Appendix 1 of this report. However, it is pertinent to make the following comments regarding the potential for inundation, in relation to this application.

Takaka has a well recorded history of flooding and both the Transitional District Plan (Golden Bay Section) and the Proposed Tasman Resource Management Plan identify this issue as a matter of consideration.

The Flood Hazard Report prepared by Land & River Limited, provided as part of the application states on page 1 that:

“The most severe flood on record at this site was in July 1983. There is no contemporary written account of flooding at this site, however the neighbour at #4 Wadsworth Street was at home at the time and reports that there was flood water over the floor of #3 Wadsworth Street (the subject site). He also recalls that there was a fast flow of flood water along Wadsworth Street from Rototai Road which piled up against the concrete wall and spilled onto his front lawn flooding it to about 18 inches deep.”

The Flood Hazard Report provided as part of the application proposes the imposition of a minimum floor level for any proposed dwelling of 500 mm above flood level. Having considered the matter, I agree with Mr Eric Verstappen's Report of Council (contained in Appendix 1 of this report) which concludes that the adverse effects of this proposal cannot be mitigated by conditions of consent. Allowing this proposal to proceed where it is considered that the effects of inundation will not be avoided or mitigated is at odds with the assessment criteria of the Proposed Plan. There is a danger that if this consent is approved, an expectation will be created that Council will not enforce its objectives relating to natural hazards and its assessment criteria in the Plan, and other properties will be sought to be subdivided down to less than 500 m². Once additional dwellings are constructed in the area, the effects of any floodwater may be exacerbated. The construction of a dwelling on the proposed allotment would create a barrier that may exaggerate the effect of floodwaters in this area.

The probability of a flood of the 1983 magnitude may well be of the lower frequency. However, the impact or effect of such an event is very significant and historical records indicate it is likely to occur at some time in the future.

Some subdivision has taken place in Takaka over the past few years, but each case is considered on its merits. The fact that other subdivisions have been approved in the past does not necessarily mean that this proposal should also be granted. Instead, the proposal on the table needs to be weighed up against the relevant planning documents, including Pat II and Section 106 of the Act, and the relevant provisions of the Proposed Plan, including the objectives regarding natural hazards. It should not be measured against other developments proposed in the past.

Servicing

- (7) *The adequacy of design, capacity, standard and staging of existing or proposed public utilities servicing the subdivision, including any impact on utilities servicing the wider area and outlets to, or connections with, public systems, and the ability to accommodate future developments on adjoining land, and their ability to avoid, remedy or mitigate effects on a temporary or permanent basis.*
- (8) *The cumulative effects of the subdivision on the District's infrastructure and its efficient use and development, including the capacity and capabilities of the road network and utility services to meet demands arising from the subdivision.*

No issues regarding the provision of services.

Contaminants

- (12) *Whether the subdivided land has been, or is, subject to contaminants that may be hazardous to the future occupiers of the land and whether sufficient works or other solutions have been undertaken to avoid, remedy or mitigate the hazardous effects.*

There is no known record of any contaminants on the site. The site is not included in the relevant Council database.

Engineering Design

(14) Whether engineering design is appropriate for the circumstances.

No concerns regarding engineering design of services. Engineering plans would be required prior to a Section 223 Certificate if the application was approved.

Buildings

(20) The ability of any existing or proposed building to comply with this Plan, including avoiding adverse effects on ridgelines shown on the planning maps.

As discussed in earlier sections of this report, a dwelling on Lot 1 would be a Restricted Discretionary Activity under Rule 17.1.5 as dwellings need to be setback 25 metres from a rural zone boundary. As Lot 1 is only approximately 25 metres in width it will not be possible to achieve compliance. As written approval has been obtained by the only affected party, the Golden Bay High School, and the use of the adjoining Rural 1 site is a school rather than a rural activity, this matter is not considered to be of concern.

Transport, Access and Roads

(26) The degree of compliance with provisions of the current Tasman District Council District Engineering Standards, or the ability to achieve acceptable standards by alternative means.

(26A) The proximity, safety and ease of access between any site and the nearest collector, distributor or arterial road,...

(26C) The extent to which an existing road needs to be up-graded to manage effects of traffic generated by the subdivision, taking into account the existing state and use of the road and the construction standards of Chapter 18.10 rules for that particular class of road.

(28) The ability to comply with the site access and vehicle crossing requirements of Rule 16.2.2.

Traffic and access matters have been had regard to and are not considered to be major issues in the assessment of this proposal.

Cumulative Effects

The principle of cumulative effect should be applied to the flooding issue as similar future development will alter the characteristics of flood patterns and flows in the area.

5.4 Relevant Plans and Policy Statements

The subdivision and land use activities must be assessed against the relevant objectives and policies pursuant to Section 104 (1) (c) and (d) of the Act. The most relevant Plan is considered to be the Proposed Tasman Resource Management Plan and will be attributed the greatest weight in this assessment. Because this was developed to be consistent with the Regional Policy Statement, the assessment would also be considered satisfy an assessment under the Regional Policy Statement.

The key objectives and policies are as follows:

Proposed Tasman Resource Management Plan, Relevant Policies & Objectives

Site Amenity

- “(a) 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.*
- (b) To ensure that the 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.*
- (c) Maintenance and enhancement of amenity values on site and within communities throughout the District.*
- (d) To maintain and enhance features which contribute to the identity and visual and aesthetic character of localities, including heritage sites and buildings.*

Urban Environment Effects

- (a) Urban growth that minimises the loss of land of high productive value and avoids or mitigates risks of extending on to land subject to natural hazards.*

Natural Hazards

- (a) Management of areas subject to natural hazard, particularly flooding . . . to ensure that development is avoided or mitigated, depending on the degree of risk.*
- (b) To avoid the effects of natural hazards on land use activities in areas or on sites that have a significant risk of flooding...*
- (c) To avoid the expansion of flood prone settlements onto those parts of the surrounding flood plains where they might be subject to flood hazard.*
- (d) To prevent damage or interference with the functioning of the major overland flood flow paths of rivers in the District, except as provided for in Policy 13.1.5 (flood protection works).”*

Comments

Chapter 13 of the Proposed Plan provides a strong policy framework regarding the avoidance of building on areas of natural hazard prone land in the Tasman District.

This proposal would result in the expansion of residential development by creating an additional undersized allotment and dwelling onto a site where they are likely to be subject to flood hazard.

Both the Transitional District Plan (Golden Bay Section) and the Proposed Plan provide a clear indication that the continued growth of Takaka is discouraged and an eventual relocation of the township should occur. Whether this would ever happen in reality is questionable, as the capital investment in the township is substantial. Each infill subdivision and additional dwelling that is approved within Takaka adds to this situation and consolidates the existing development.

The natural hazards chapter of the Plan states that:

“where limited information exists about some natural hazards which could or do affect the District, a precautionary approach is appropriate.”

A precautionary approach is considered to be necessary in this instance due to the lack of certainty regarding the frequency and severity of the flood risk, and the significant potential effect should a flood event occur on the site.

In conclusion it is considered that the proposed subdivision is contrary to the policies and objectives in the Proposed Plan which relate to natural hazards.

5.5 Other Matters

Precedence and Cumulative Effects

Precedence in itself is not an “effect” but if this subdivision and land use was to be approved it is likely to lead to other similar properties also expecting to be allowed to subdivide and build an additional dwelling. This can lead to a cumulative effect that is very much a relevant adverse effect under defined in Section 3 (d) of the Act.

In resource management terms, the cumulative effect of establishing a pattern of consent decisions based on other applicants wanting similar outcomes, can have adverse effects on significant resource management issues.

Building Act 1991 and 2005 Amendment

The Building Act also places specific restrictions on buildings proposed for sites prone to natural hazards that are similar to Section 106 of the Resource Management Act 1991.

If the applications were granted it is possible that a Building Consent for a dwelling on the site would not be granted due to non-compliance with Section 72 of the Building Act. This would be assessed by the Building Section of Council. The creation of a new allotment which is subject to flooding and the construction of a dwelling which would affect adjoining landowners. In addition, any dwelling would have to be in compliance with the Building Code which does not allow the construction of buildings where a flood risk is present.

This should be taken into account as consistent decision making between the decision on the land use consent for the additional dwelling and the ability for a building consent to also be granted for that dwelling is required to provide continuity between these Council functions and certainty for the owners.

6. CONCLUSIONS

6.1 Activity Classification under Proposed Plan

The property is zoned Residential under the Proposed Plan.

The subdivision proposal is a Discretionary activity under the Proposed Plan (PTRMP) as it does not meet the minimum of 1000m² net site area, and the 30-metre separation between the Rural zone boundary and the furthest boundary of the allotment.

The land use activity is a Restricted Discretionary Activity under the Proposed Plan as the dwellings will not meet the setback of 25 metres from a rural zone boundary.

6.2 Activity Classification under Transitional Plan

Subdivision of allotments for Predominant Uses (i.e. Permitted Activities) in the Residential 1 Zone requires a minimum area of 500 m² where sewage reticulation is available. Consequently the subdivision application is a Conditional Use (i.e. Discretionary Activity) under the Transitional Plan.

All residential land uses in the Residential 1 Zone not permitted as Predominant or Controlled Uses are a Conditional Use under the Transitional Plan.

6.3 Weighting of the Plans

The Proposed Plan is now considered to be the dominant planning document, given that it was formulated under the current statutory framework of the Resource Management Act and it is well progressed through the public submission and decision-making process.

6.4 Flooding Risk

Council has records of flooding affecting the site from past flood events.

6.5 Non-Notification

The applications were not publicly notified as the only party considered to be adversely affected has given their written approval for the proposal. Therefore, it was considered appropriate to process the consent on a non-notified basis.

6.6 Delegation

Due to the proposal being inconsistent with the objectives and policies relating to natural hazards and the application being contrary to Part II and Section 106 of the Act it was considered appropriate for the Committee to consider this application as it will have long-term effects for Takaka in general.

6.7 Assessment

As prescribed in Section 104 of the Act, in assessing the applications the actual and potential effects on the environment of allowing the subdivision and dwelling were had regard to. As were the relevant objectives, policies, assessment criteria and rules of the Plans. The application was also assessed against Part II and Section 106 of the Act. In addition, other matters considered relevant and reasonably necessary to determine the applications were addressed including the matter of precedent and the provisions of the Building Act. The key matter in this assessment is considered to be the potential for flooding on the subject site.

6.8 Resource Management Act 1991

Part II of the Act is concerned about maintaining the safety of people and communities. It is considered that the application is not consistent with the Act's purpose of achieving the sustainable management of natural and physical resources.

6.9 Objectives & Policies

This proposal is contrary to the natural hazards policies and objectives under the Proposed Plan. For the policies and objectives relating to natural hazards to be successful in the long term, Council needs to be consistent in enforcing them where they relate to a particular property. With this particular site the best way to avoid the effects of potential flooding is to decline this subdivision and construction of an additional dwelling.

6.10 Provisions of the Proposed Plan - Allotment Size & Lot Width

The proposal does not meet Rule 16.3.3 b) which requires allotments adjoining a Rural 1 zone to be a minimum of 1000m² net site area (451 m² & 476m² is proposed). Neither does the development meet Rule 16.3.3 h) which states that allotments adjoining any Rural zone needs 30 metres between the zone boundary and the furthest boundary of the allotment (approximately 25 metres is proposed).

However, it is considered that the proposal meets the intent of these rules which is to ensure that allotments situated next to rural land are large enough to enable the location of dwellings with reasonable separation from activities in these adjoining zones. In this instance, the adjoining Rural 1 property is designated for education purposes and contains Golden Bay High School. This is not a rural activity, and the school is considered to be a compatible use with the residential allotments proposed. Further, written approval has been obtained from the Principal of the High School.

6.11 Assessment Criteria

The proposal was weighed up against the relevant assessment criteria of the Proposed Plan and found to be inconsistent with the criteria relating to the extent to which the effects of natural hazards will be avoided or mitigated.

6.12 Environmental Effects

The predominant anticipated adverse effect of the proposal is the flood risk on the site and the effect on the residents and neighbouring properties if a flood event was to occur.

The consideration of this subdivision in terms of Part II and Section 106 of the Resource Management Act 1991 and the provisions of both the Transitional District Plan (Golden Bay Section) and Proposed Plan can only indicate one logical outcome – to decline the application.

I do not consider the effects of flooding have been remedied or mitigated by the applicant and the approach of a minimum floor level does not address the real issue that the location of the site is not a reasonable place to encourage or allow additional residential dwellings, especially at a density of double that allowed by the Proposed Plan.

While the flooding event is one of uncertain probability, it can and has occurred with reasonably regular frequency. Just because there has not been a major event since 1983, does not mean the issue should be avoided or dismissed.

For those reasons, I cannot support the applications.

7. RECOMMENDATION

That pursuant to Section 104B of the Resource Management Act 1991 the Tasman District Council **declines** both the subdivision application RM041264 by Serpent Holdings Limited to subdivide Lot 31 DP 4826 into two allotments and the related land use application (also RM041264) to construct a dwelling on proposed Lot 1.

However, if Council is of a mind to grant consent to the applications then conditions relating to vehicle access, water supply, sewer, stormwater, power and telephone, engineering certification, easements and engineering plans should be imposed. In my view the adverse flood risk cannot be mitigated by conditions of consent.

Paul Gibson
Consent Planner (Subdivision & Land Use)



Memorandum

Environment and Planning Department

To: Environment and Planning Consents Committee

From: Eric Verstappen

File: RM041264

Subject: **SERPENT HOLDINGS – SUBDIVISION OF 3 WADSWORTH ST,
TAKAKA FLOOD HAZARD ASSESSMENT**

Background

Takaka township lies on the floodplain of the Takaka River. There are no formal flood protection works provided for the township and is thus fully exposed to flood hazard. The last major flood to affect the township, and the property in question, occurred on 9-10 July 1983. A report prepared for the applicant by Mr Richard Stocker, dated 16 Feb 2005, provides a good summary of the effects of that flood on the property and immediate neighbourhood.

With respect to the severity of the 1983 event, the flood peak did not reach an unusually high level at the Kotinga recorder. In relation to flood events in the Takaka river in 1967 and 1975, experienced Catchment Board staff assessed the return period of the 1983 flood event at about 25-30 years. Given the passage of time without a major flood event, the return period of the 1983 event is likely to be greater now, although in absolute peak terms not necessarily as great as 2% annual exceedence probability (ie 50 year return period on average).

Despite not reaching an unusually high peak flow, there is no question that the effects of the 1983 flood event were very severe on the Kotinga plain and around Takaka township. This is attributable to the relatively long duration of the flood peak, thereby causing flood overflows on to the floodplain and into the township for an extended period. Similar flooding effects may be experienced by a flood having a larger peak (say exceeding a 2% AEP) but a lesser duration. Thus it is reasonable to conclude, as Mr Stocker has done, to attribute a rough order 2% AEP to the 1983 event.

A salient point to bear in mind is that the effect of a similar rainfall event to the 1983 event will likely give rise to a different impact on the floodplain and township. This is due to changes in either the river, floodplain land cover or built development in the township. Increased development and redevelopment that has occurred since 1983 in the township can (and probably will) cause flood flows to divert along different paths to those experienced in 1983. This might potentially increase adverse flooding effects, particularly on a local scale.

Section 3 of the Resource Management Act requires Council to assess potential effects (in this case, of flooding) of low probability which have a high potential impact. This not only includes assessment of a 1983-type flood event, but even more extreme events. In this regard I refer to the effects of flooding on the Takaka township (including this property) caused by the failure of the Cobb dam, or the possibility of a slip dam failure at Lake Stanley. Both scenarios have been investigated and are reported as producing flooding of the township on a scale significantly exceeding the 1983 flood event. Both events have an extremely low probability of occurring, but their effects can be devastating.

Statistically, the property has approximately a 70% certainty of experiencing a “50 year” flood event in the next 50 years. As we have not experienced a 1983-size flood event for 32 years, the probability of the a new house on a subdivided property not being affected by a 2% AEP (“50 year”) flood in the next 50 years is very slim indeed!

Subdivision of 3 Wadsworth St

The property was affected by flood hazard in 1983, with water reported to have entered the present dwelling. Floodwater also affected properties in the neighbourhood, reportedly ponding to almost 0.5m depth at No.5 as well as flowing swiftly in the street and doubtless over the floodplain as well. The experiences of 1983 may be significantly worse in a future similar or larger event, for reasons already mentioned.

In a major flood event, and particularly where floodwater is likely to be flowing rather than relatively still, egress from a property in such circumstances quickly becomes difficult. It is further potentially compromised by the degree of mobility (and age) of the residents who may be occupying that dwelling. Evacuation assistance may not be available in an emergency, and in any event is limited to higher ground within the neighbourhood only and no further, as noted in Mr Stocker’s report.

Council has a duty to avoid development on hazard-prone land unless the potential adverse effects can be mitigated to such a degree so as to render hazard risks to a level of insignificance. A track record has already been established by Council in denying residential development of a flood-affected property in Takaka township (Slater, Haldane Rd, 1991). This was a large rural lot, whereas the subdivision in question is of an existing, developed residential lot of less than 1000 sq.m.

Mitigating flood hazard to a new dwelling can only be achieved through raising the floor level to provide adequate clearance (at least 500mm) above design flood level. Proposed development on this subdivided lot would be subject to a Section 36 hazard notice under the building Act, as the land on which a dwelling would be built would be subject to flood hazard. This cannot be avoided, as placing fill on the land to create a notionally dry, flood-free property, cannot be countenanced. Floodwater would be diverted around such an “island” and potentially adversely affect neighbouring properties.

In summary, the actual and potential flood risks to Takaka township and the property in question are real, significant, and have been experienced already. This proposal is not for the development of a vacant lot amidst other existing developments, but for the subdivision of an essentially standard-sized and developed residential lot to create a high density situation. It is one matter to contemplate that residents in Takaka, including at No 3 Wadsworth Street, have to live in a location that is at risk to flooding. It is another matter entirely to allow subdivision of such land with an acknowledged and significant flood hazard, limited egress in an emergency and potential safety concerns, into higher densities and therefore increase these risks.