



STAFF REPORT

TO: Environment & Planning Committee

FROM: Mark Morris, Senior Consent Planner, Subdivision

REFERENCE: RM040950

SUBJECT: **B and A HARDIE – REPORT EP05/07/03** Report prepared for 11 July Hearing

1. APPLICATION BRIEF

1.1 Proposal

The application is for a subdivision and landuse consent.

The proposal is to subdivide Lots 4, 5 and 6 DP 16926 NL 12C/101 of 4.1 hectares into five allotments. Proposed Lot 1 has an area of 1.85 hectares (containing an existing dwelling). Proposed Lot 2 will be 0.51 hectares and Proposed Lot 3 of 0.54 hectares, Lot 4 of 0.2398 hectares to vest as reserve and Lot 5 of 0.967 hectares.

Consent is sought to carry out the subdivision in stages with Lots 3 and 5 as Stage 1, and Lots 1, 2 and 4 as Stage two to be completed in six years from the date of consent.

Consent is sought to have up to eight users on the right-of-way access.

A landuse consent to erect a dwelling on the proposed Lot 2, 3, 4 and 5.

As a result of submissions in opposition, the applicant has approached Council's Community Services Department about the possibility of Lot 4 vesting as a Council Reserve. (see Attachment 2)

The Community Services Department have advised they would be interested in the reserve, but because it is clearly subject to subdivision approval, no formal agreement has been made and no formal change has been made to the application by the applicant. (See Attachment 3)

Therefore, for the purpose of this report, the assessment will be based on the original five Lot proposal with consent to erect a dwelling on Lots 2-5.

1.2 Location and Background.

The property is located on Westdale Road.

The property is located at the head of one of the arms of the Waimea inlet. One of the streams draining the Stringer valley separates the site, with the proposed Lots 4 and 5 on one side and Lots 1, 2 and 3 on the other.

The property is also split by a right-of-way that separates Lot 5 from Lots 1- 4. This existing right-of-way also provides access for four other properties, that were created(along with the existing site) as part of the "Westella" subdivision which was approved by Council in 1994, under RM930301.

The Westella subdivision also created a public access strip which is a public access easement. This runs along the western side of the existing right-of-way and then continues up between the Griffith (Lot 1 DP 16926) and Newth (Lot 2 DP 16926) properties, but is unformed at present.

The subdivision also created additional esplanade reserves along the Stringer stream and the estuary edge.

In 1998 the area was zoned Rural Residential which allowed for Rural residential subdivision as controlled activity down to 2 hectares.

In 2003 the applicant gained consent (RM030931) for a complying subdivision of this site into two titles, the first titles being roughly the same as the proposed Lots 1 and part of Lot 2 at just on 2 hectares and the remaining balance area also being just over 2 hectares. At the time the Coastal Environment Area rules allowed (as a controlled activity) dwellings within 50 metres of the Mean High Water Springs. The applicant also applied, and was granted, a land use consent to erect a dwelling 60 metres from the Mean High Water Springs (MHWS), approximately in the same position as the proposed Lot 3 building site.

This consent (RM030931) for subdivision and land use has not been completed, but remains in effect until 2008.

In December 2003, the Council notified the Variation 32, which brought in the Rural 3 and 3A zones. The Rural Residential zone remained unchanged with the 2 hectare minimum lot size, except for a 100m building setback from the MHWS, and a number of policies and objectives and a Design Guide to assess proposals for allotments less than 2 hectares. It also set down development limits for each of the zoned areas under Figure 7.1A. For the Waimea Inlet Rural Residential zone it has set down 20 as the expected number of additional allotments that will be allowed in this zone.

The variation 32 also made the Waimea Inlet Rural Residential zone a "Services Contribution Area", whereby special financial contributions and levies on development were imposed to fund infrastructural upgrades, including the wastewater reticulation for the area.

However in May this year, Council announced that it intended to delete the wastewater reticulation from the infrastructural services programme.

This means for this site, the on-site effluent disposal, which previously under Variation 32 was seen as an “interim” solution, will now be permanent solution and should be assessed as such.

The legal description of the land is Lots 4, 5 and 6 DP 16926 Certificate of Title NL 12C/101.

1.3 Zoning and Consent Requirements

The land is zoned Rural Residential under the Proposed Tasman Resource Management Plan. As there are no outstanding references on the Rural Residential zoning it is considered that the Rural Residential zoning is operative pursuant to Section 19 of the Resource Management Act 1991. Therefore no assessment is required under the Transitional District Plan.

The subdivision is considered to be a restricted Discretionary Activity under 16.3.11AA of the Proposed Tasman Resource Management Plan in that the minimum lot size is less than 2 hectares required under the controlled activity rule 16.3.10 for the Rural residential (Waimea Inlet) zoned land.

The proposed building sites for Lots 2, 3 and 4 and part of Lot 5 are within the Coastal Environment Area, as set down in the Proposed Plan. This means that any new building would require a resource consent as a controlled activity under rule 18.14.3 of the Proposed Plan with the proposed dwellings on Lots 2, 3 and 4 being a Restricted Discretionary Activity in that the dwelling site will be within 100 metres of the line of Mean High Water Springs.

2. INTRODUCTION

2.1 The Proposal

The applicant’s wishes to subdivide their existing title into five allotments Lot 1 being 1.85 hectares, Lot 2 of 0.51 hectares and Lot 3 of 0.54 hectares, Lot 4 of 0.2398 hectares and Lot 5 of 0.9670 hectares.

3. NOTIFICATION AND SUBMISSIONS

The application was publicly notified on 12 February 2005.

There were 17 submissions, including two late submissions by R Deboyer and R M Deboyer which were each late by one working day.

P and J Wakelin

Opposed to the application for the following reasons:

1. The subdivision is purely a commercial exercise with no regard to the betterment of the coastal area.
2. No block should be smaller than 3-5 acres.

3. The subdivision should adhere to the 100 metre setback distances for house sites.
4. The subdivision should provide for a 18 metre wide road reserve to an including the bridge.

Transit New Zealand

Opposed to the application for the following reasons:

1. The subdivision will result in additional traffic movements of an estimated 36 movements per day which is an additional 12% increase on the daily traffic movements on Westdale Road.
2. The Westdale Road/SH 60 intersection has limited sight distances of 170 metres towards Mapua and 240 metres towards Richmond. This less than the required 330 metres required for a 100 kilometres per hour speed environment. The significant increase in the intensity of use of this intersection is likely to adversely impact on highway safety and sustainability.
3. The Council should take into account the cumulative effects of the subdivision on the Council's infrastructure, including the capability of the road network, as set down in Schedule 16.3A (8) of the Tasman Resource Management Plan.
4. The proposed lot sizes are significantly below the 2 hectares minimum lot size allowed in the Waimea Inlet Rural Residential zone. The granting of consent will harm the integrity and objectives/policies of the TRMP.

Royal Forest and Bird Protection Society (Nelson/Tasman Branch)

Opposed to the application for the following reasons:

1. Continued fragmentation of rural land, which reduces the sustainability of the land resource for future generations.
2. Increased residential development of four additional dwellings will adversely affect the rural and natural landscape of the area.
3. Increased intensification of land occupation will adversely the estuary through increased number of cats and other pets that are threat to bird life in the estuary. Waimea Inlet has been recognised as having the qualities of a wetland of international importance under the RAMSAR criteria. The estuarine edge adjacent to the subdivision is known to be habitat for endangered native birds.
4. The application is not in accordance with the design guidelines under the Proposed Tasman Resource Management Plan.
5. The proposal is not in accordance with the rules and the policies in the Plan designed to protect estuarine margins.
6. The application is contrary to the New Zealand National Coastal Policy Statement in particular 1.1.1 and 1.1.2.

7. The application will not meet the purpose of the Resource Management Act, that is, the sustainable management of natural and physical resources, as there will be an unacceptable level of adverse effects on the natural and physical resources associated with both the land to be subdivided, the neighbouring land and the adjacent estuary.

If the application was to be granted, the allotment size should be at least 2ha and a restriction on buildings so that no buildings are within 100 metres of the MHWS and a covenant placed on the titles that no cats and dogs be permitted on the land.

P and W Hedwig

Supported the application for the following reasons:

1. There is a shortage of lifestyle properties in the area.
2. The land is zoned rural residential and the proposal is compatible with at intention.
3. The proposal fits in well with current patterns in the area.
4. People are finding 2 hectare blocks too large to look after.
5. The proposal has a good mix of rural residential block sizes.
6. The proposal makes a sensible, efficient use of the current property, which is already fragmented by the right of way and stream.
7. Rural residential subdivisions and new residents add significantly to the overall wealth and productivity of the region.

J M Newth

Opposed to the application for the following reasons:

1. The buildings are within the 100 metre coastal setback rule.
2. The lot sizes are too small, Lot number too many and their low-lying location close to the Waimea Estuary.
3. There are more than six users on the right-of-way which will bring excessive traffic movements.
4. The lot sizes are well below the 2 hectare minimum for a rural residential zone.
5. The application if granted would set a precedent for further subdivision that would undermine the Council's ability to protect the natural character of the local environment and severely reduce the rural character and amenity of the area.

C Newth

Opposed to the application for the following reasons:

1. The application does not comply with the 100 metre Coastal setback rule.
2. If the application was granted it would be setting a precedent for future developers to undermine the integrity of the 100 metre setback rule.
3. The development would create an adverse effect on the coastal environment, natural character and ecosystems and amenity values that are treasure within the existing Westella subdivision.
4. It is important that the integrity of the Council's planning is adhered to.

Lucy (13), Renee (11), Harrison (9) and Jackson (8) Carver

Opposed to the application stating:

1. We like living in the country and if the houses are built it will be like we're living in the city again.
2. We kayak, swim and have mudflats in the estuary and use the drive for cycling and walks.
3. If the subdivision goes ahead the driveway will be dangerous for us to use because there will be so many cars using the driveway.
4. The extra houses will ruin the atmosphere of the estuary.

L and R Lamb

Opposed to the application, in particular building in an environment with high watertables, building within 100 metres of the Mean High Water Springs and have allotments under 1 hectare.

Stated that they lived in the Westella subdivision for six years and found it was a well thought out and planned subdivision with an excellent access and green belt in the paddock leading on to the estuary.

They also witnessed that on several occasions there was low-lying water on the proposed Lots 2, 3 and 4.

Also the creek adjoining Lots 4 and 5 has flooded on occasions resulting in Lot 4 and the access being completely under water. This problem has increased since the new highway realignment.

Council should not allow dwellings within 100 metres of the Mean High Tide mark.

The subdivision is quite different from other approved subdivisions in the area in that the lots are all on flat lowlying water logged lots and all well under 1 hectare in size.

L Tasker

Opposed to the application in particular the effluent disposal and drainage polluting the streams and Waimea Inlet.

G and E Palliser

Opposed to the application for the following reasons:

1. The adverse impact on the Waimea Estuary
2. The precedent of allowing building within 100 metres of the coast.
3. The proposal is a deviation from the District Plan.
4. The application distorts the existing dwelling density in existing subdivisions.

Christine

C/- Silkwood Park

Support some parts of the application, such as the use of aerated effluent disposal systems and supporting unobtrusive developments with the least impact on the rural environment.

Opposed to having dwellings within 100 metres of the Mean High Water Springs.

The Waimea Inlet is a very important wetland area, and wetland plantings should be required to enhance the natural habitat.

R and R Carver

Opposed to the application for the following reasons:

1. The proposed are well below the minimum 2 hectare lot size for the rural residential zone. The granting of the application will diminish the rural residential nature of the area.
2. The TDC Plan rule 18.14.3 requires that buildings should be at least 100 metres of mean high water springs. The granting of this consent is likely to create a precedent for further subdivision within 100 metres of the estuary edge, thereby lessening the status and integrity of the TDC plan. It will also detract from the proposed Estuary walkway and there will be an insufficient buffer.
3. Opposed to have more than six users on the right-of-way. We have four children (aged 8-13) who use the driveway for walking, cycling and access for swimming and kayaking. Surprised that that applicants were able to gain consent for additional users on the right-of-way for a previous subdivision without the other users consent.
4. The area is very low-lying and at times is saturated. Further information is required on the effluent disposal system.
5. The Plan requires 5 metre building height and yet the applicant is applying for 6 metres (i.e. two storey) building height.

6. Disagree strongly with the statement in the application that that area has “no special associated values”. This part of the Waimea Estuary has outstanding natural beauty and abundant wildlife.
7. The development of Lots 2, 3 and 4 will be visually dominant and will adversely affect the natural character of this coastal environment.
8. The application does not comply with the policies and objective of the proposed plan in relation to lot size and fragmentation of remaining rural land.

D and L Griffith

Opposed to the application, in particular the proposal to create four additional lots, the proposal to have dwellings within 100 metres of the Mean High Water Springs and the consent to have more than six users on the right-of-way.

The creation of four additional allotments will drastically reduce the rural aspect and amenity values of the locality. The proposed building and “screen plantings” on Lots 2 and 3 will be major intrusions on our view.

The TRMP requires buildings to not be sited within 100 metres of the Mean High Water Springs. The proposed houses so close to the waters edge will not “maintain a wide and extensive buffer of the Waimea Inlet” as required.

The right-of-way is not suitable for the use required. It is a narrow bridge and is of insufficient width for a doubling of traffic movements.

W and J Wells

Opposed to the application for the following reasons

1. The Waimea Inlet is an area of outstanding beauty and tranquillity and natural habitat of many species of flora and fauna. It is also an important recreational area.
2. We are opposed to any building lots being established along the Waimea shoreline as these areas give rural atmosphere and must be retained to protect the amenity value of the area, and to preserve a very beautiful and peaceful environment.
3. The approval of this application would be seen as setting a precedent, which could be used for future developers to subdivide to similar lot sizes destroying the beauty of the area and irreversibly changing the environment into that of a residential subdivision.
4. The construction of dwellings on Lots 2, 3 and 4 and the subsequent screen plantings will dramatically change the environment and the loss of coastal views from the right-of-way access.
5. Object to the construction of dwellings on Lots 2, 3 and 4 within 100 metres of the Mean Spring Tide Water line. This line allows safety factor to protect dwellings from flooding from exceptionally high water and storms.

6. The proposed effluent disposal for Lots 2, 3 and 4 poses a potentially high risk at times of high water. Pollution of the estuary is a risk that should not be taken.
7. We move to the Waimea Inlet to enjoy a rural lifestyle in rural environment. We see this proposal negatively impacting on that rural lifestyle choice, the rural views and the environmental enjoyment of the local residents.
8. Contrary to the statement in the application, there will be an adverse social effect on our environment by the approval of this subdivision.
9. The new shoreline walkway will go directly past the proposed Lots 2, 3 and 4. This undermines the project as a nature walkway that pass by residential sections, and even worse if the precedent is set for further coastal sections.

We do not object to the development of Lot 5 in this application.

MC and CR Birchfield

Opposed to the application for the following reasons:

1. The application refers to the subdivision being “infill development”. This is more suited to residential areas such as Mapua or Richmond. The application makes reference to similar size allotments being approved in the area such as Silkwood Park. This is misleading in that Silkwood Park allotments have interest in a large adjoining recreational area which together gives an average area for each allotment of several hectares or more per lot.
2. The landscaping report is only opinion and does not appear to be binding on future purchasers. The Council should not be put in a position of undertaking such a task. The plantings around the existing property have not been done with regard to neighbouring properties.
3. The application refers to the Council wastewater reticulation. This some years off and must be discounted as there will be immediate effects on the estuary once lots are sold and built on.
4. The reports on wastewater disposal have reinforced our opposition to the proposal in that they confirmed the saturated nature of the sites.
5. The reports recommend the installation of an aerated package treatment system. These systems require regular servicing and cleaning and there do not appear to be any controls on these systems from the Tasman District Council. The potential from contamination from a number of these systems without control, is high.
6. The “infill housing” will increase the potential for contamination of the estuary from intensification of use of each of the sites.
7. The granting of the approval for the dwellings will increase the liability of Council for buildings failing in such wet low lying area.

8. Lots 3, 4 and 5 are all subject to flooding during very heavy rain events.
9. Also concerned about the effect of traffic volumes on the private road access and a lack of footpaths for children access off the State Highway 60.

R Deboyer (Late by one working day)

Opposed to the application, in particular the building within 100 metres of the mean high water springs and the subdivision into lots of less than 2ha.

Also made the following points:

1. The area has previously flooding during high tide and heavy rain events.
2. The application contravenes Council's policies and rules.
3. There will be an adverse impact on neighbouring properties who purchased their properties as rural lifestyle blocks not semi urban developments.
4. There will be an impact from discharge of effluent from septic tanks.

R M Deboyer (Late by one working day)

Opposed to the application, in particular the building within 100 metres of the mean high water springs and the subdivision into lots of less than 2 hectare.

Also made the following points:

1. The application contravenes Council's policies and rules.
2. People in lifestyle blocks want privacy not urban or semi-urban living.
3. There is a water shortage throughout the area.
4. There will be an adverse effect on the neighbourhood.
5. There will be an impact from discharge of effluent from septic tanks.

4. STATUTORY CONSIDERATIONS

4.1 Resource Management Act

Part II 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 must be deemed to represent the sustainable use and development of the land resource. The critical issue of this consent is the potential effect of that subdivision and development on rural land values.

These principles underpin all relevant Plans and Policy Statements, which provide more specific guidance for assessing this application.

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 to go ahead (Section 104 (1) (a));
- Any relevant objectives and policies in the Tasman Regional Policy Statement 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 relevant planning document, given the operative status of the Rural Residential zone rules.

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.

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 landuse and development.

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 Tasman Resource Management Plan

The most relevant Objectives and Policies are contained in: Chapter 5 'Site Amenity Effects' and Chapter 7 'Rural Environment Effects'. These chapters articulate Council's key objectives: To protect rural land from inappropriate subdivision and development and to ensure character and amenity values are maintained or enhanced.

The most relevant Rules which follow from these imperatives are contained in Chapter 16.3 'Subdivision' and Chapter 17.6 'Rural 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 landuse consents in terms of these matters is set out in the chapters 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 for any relevant objectives, policies, rules, and consider any other matters relevant and reasonably necessary to determine the application.

5.1 Assessment of Environmental Effects

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 landuse matters will be considered within the following assessment.

Rural Land Productivity

It is accepted that with the rural-residential zoning that the requirement for productive versatility within each lot is not required. However, the 2 hectare minimum lot size does mean that many allotments can still be used productively for grazing or speciality tree crops, though it is likely that poor drainage would restrict most tree crops on this site. With the five lots proposed here, it is much less likely the lots will be used for soil based productive purposes than if the property remained in its current state.

Servicing Effects

According to the application the proposed lots will be serviced by on-site effluent disposal systems. A discharge consent will be required for the onsite disposal systems at the building consent stage. This would require a thorough analysis for the soil types of each lots and a specific design to ensure that the system to ensure there is no adverse effect of effluent disposal on coastal marine values.

Many of the submitters have brought up concerns about on-site effluent disposal in particular the saturated ground conditions that often occurs on the site which can often cause disposal fields to fail, potentially leading to contamination of the estuary.

The applicant's engineering report has acknowledged the poorly drained nature of the site, and has recommended an *"aerated package treatment system, certified by the manufacturer to produce effluent which will comply with current TDC standards prior to the disposal through a subsoil or much cover drip-line system."*

However, while it is possible to get a manufacturer to certify that a certain design can meet the TDC standard, it does not have control over the system for its operating life, and is dependent on the system being maintained and operated properly. For example if the aeration system malfunctions or fails during high watertable conditions, then it is clear that there will be contamination of the coastal marine area.

Most rural properties have sufficient “buffering” by way of their large lot size and low density of dwellings. This application has extremely small lot sizes which, combined with the poorly drained soils and very close proximity to the coastal marine area create a high likelihood in the long term of adverse effects on the coastal ecology.

There is a cumulative effect issue of having number of on-site disposal systems close to the Waimea Inlet. Each system, by itself, may have a minor effect, but cumulatively, this can add up to a significant effect on the estuarine values, that Council planning documents are seeking to protect.

Traffic Effects

The proposed application will involve the creation of four additional allotments, and the resulting traffic movements on to Westdale road.

Rural Character and Amenity Values

The rural character of the area of the Waimea Inlet is predominantly characterised by high level of natural amenity with an associated low density of built form and structures, particularly close to the estuary edge.

Historically most of the development has been close to the ridgelines near the road, leaving the estuary edge largely undeveloped and still retaining its natural form, in spite of the rural-residential zoning.

Concern about residential development close to the estuary led to the 100 metres setback rule being imposed under Variation 32 to ensure that the adverse effects on the estuary both from a visual and a runoff point of view are kept to a minimum.

Clearly there has been some development that was approved prior to December 2003 that will be within the 100 metres setback, but it is expected that in terms of environmental outcomes that future development will comply with the 100 metres setback. In this regard, the adverse effects of the proposal are more than minor and not in accordance with the Council’s planning documents in that the application involves development well within the 100 metres setback.

Once the lot size goes down well below 1 hectare (in this case, 0.239 hectares for Lot 4 and 0.51 hectares for proposed Lot 2) it is much more likely that buildings will dominate the landscape and less likely that the vegetation will be able to mitigate the effects of the buildings.

There is concern amongst submitters of the adverse effects on the rural amenity of approving further small rural residential allotments of the size proposed in this subdivision.

The area has important coastal values and the Waimea Inlet is listed as an “Area with Nationally Important Natural Ecosystem Values” under Schedule 15.1F of the Proposed Plan.

The Council's policies and objectives on the Rural Environment seek to protect the rural environment from the adverse effects of activities including of subdivision and urbanisation and thereby maintaining and enhancing the rural character and amenity values of the area.

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

"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 creation of an additional four rural-residential lots on the existing 4.1 hectare allotment has the potential to detract from the amenity values of the property and the rural character of the surrounding environment.

The area of the subdivision has a high degree of natural and rural amenity, with a corresponding low level of built development particularly close to the estuary edge.

The Rural residential zone minimum lot sizes for subdivisions and single dwellings act as a "density control mechanism" that, if consistently applied, should maintain the desired rural amenity that the Council planning documents are seeking.

If the subdivision was approved, then the integrity of the planning documents to maintain that rural amenity would be clearly undermined in that inevitably many other similar subdivision applications would seek similar treatment and lead to a cumulative effect on the existing rural character and amenity of the area.

Coastal Amenity and setback from the Coast.

The application involves at least three dwellings that will be very close to the coastline adjoining the site. There has been widespread concern amongst submitters about the adverse effects of have residential development so close to an estuarine area.

One of the features of the Waimea Inlet Rural Residential Zone is that most dwellings are generally well setback from coastal edge. The plan now requires building to be at least 100m setback from line of Mean High Water Springs. The proposed dwellings on Lots 2-4 are all well within this setback. It is considered that the adverse effects of having dwellings so close to a sensitive coastal environment are more than minor, and there would be significant adverse effects if the approval lead to other similar applications around the coast.

The applicant has stated there is differing interpretation on how the line of Mean High Water Springs.

The plan sets down in Chapter 2 the following definition for "Mean High Water Springs" which states:

"In relation to its location, means the position or line of mean high water spring tides wherever that position or line happens to be from time to time, irrespective of any representation of mean high water springs on any plan, map or instrument."

It could be assumed that the seaward edge of the esplanade reserve should be the line of Mean High Water Springs as required by section 230 of the Resource Management Act 1991. The problem with this property is that the esplanade reserve was originally surveyed in 1987 prior to the Resource Management Act, when the requirement was the line of "Mean High Water" under the previous legislation.

It is likely that the line for "Mean High Water Springs"(MHWS) is further in, more towards the seaward boundary of Lot 7 DP 16926, which was created under the Westella subdivision. However for this subdivision, the line of Mean High Water Springs was not surveyed.

From my observation of the aerial photos and on site, the line of Mean High Water Springs appears to be considerably closer in than first thought and some of the esplanade reserves may well be less than 20m in width from the MHWS.

Because of this uncertainty, I have required as a condition of consent (if granted) that a resurvey be carried out by a registered surveyor to accurately determine the line of Mean High Water Springs. This will enable coastal setbacks and esplanade reserve widths to be accurately determined.

5.2 Relevant Plans and Policy Statements.

The subdivision and resulting landuse activities must be deemed to be consistent with 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 used 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 Policy Statement.

The following summarises the most relevant plan matters and provides brief assessment commentary:

Chapter 5 - Site Amenity Effects Council must ensure that the rural character and amenity values of the site and surrounding environment are protected, and any actual or potential effects of the proposed subdivision must be avoided remedied or mitigated, including cross boundary effects.

Objectives: 5.1, 5.2, and 5.3 As detailed in the assessment of effects (Chapter 5.1), there will be an effect of the proposed activity on character and amenity values. An additional four small rural residential

Policies: 5.1.1, 5.1.3A, 5.1.9, 5.2.1, 5.2.7, 5.2.8, 5.3.2, 5.3.3, 5.3.5 allotments would be created in a rural landscape, contributing to a loss of rural character and amenity in the area.

Chapter 7 – Rural Environment Effects The productive potential of land resources must be protected, and used efficiently. Rural character and amenity values must be maintained or enhanced

<i>Objectives:</i> 7.1, 7.2, 7.3	The actual adverse effects on productive values is not considered to be significant, particularly in regard to the rural-residential zoning.
<i>Policies:</i> 7.1.1, 7.1.2, 7.1.2A, 7.1.3, 7.2.1, 7.2.2, 7.2.4, 7.3.1, 7.3.3, 7.3.7, 7.3.8.	Rural amenity values will be affected by the additional residential activity in the area. These matters are discussed in more detail in the assessment of effects (Chapter 5.1).
<i>Chapter 10 – Significant Natural Values and Cultural Heritage</i>	Archaeological sites of significance must be protected, including any sites of significance to Maori. A notation as part of consent if granted may be provided to alert the applicant of her obligations in terms of the Historic Places Trust. There are no known sites of heritage value.
<i>Objectives</i> 10.1 <i>Policies</i> 10.1.3, 10.1.5.	
<i>Chapter 11 - Land Transport Effects</i>	The actual and potential effects of the proposed subdivision on traffic safety must be avoided, remedied or mitigated.
<i>Objectives</i> 11.1, 11.2 <i>Policies</i> 11.1.2B, 11.1.3, 11.1.4A.	The proposed subdivision and additional dwellings will result in additional traffic on to Westdale Road. This matter is discussed in more detail in the assessment of effects (Chapter 5.1).
<i>Chapter 16.2 – Transport</i>	Permitted activity performance conditions that manage vehicle access, parking and road standards are contained in this rule.
<i>Chapter 16.3 – Subdivision</i>	Requires Discretionary Activity resource consent for Rural Residential Zone subdivision, namely the creation of allotments that will be less than 2 hectares.
<i>Assessment Criteria: Rule 16.3A</i>	Assessment criteria set out in Rule 16.3A provide guidance in the assessment of the application for determining appropriate conditions. Key matters such as servicing, amenity values and the effect of the proposal on key resources must be addressed when assessing any application for subdivision consent. Matters most relevant to this application have been covered in the assessment of effects of this report (Chapter 5.1).
<i>Chapter 17.6 – Rural Residential Zone Rules</i>	Any activity on the proposed lots is subject to permitted activity performance standards and conditions set out in Rule 17.6.4, Rural Residential Zone rules.

Chapter 36.1 – Discharges to Land – A discharge consent for the discharge of wastewater to land for the additional allotments will be required at the building consent stage, as there is no permitted activity rule for the Waimea Inlet rural-residential zone.

Chapter 7 *Rural Environment Effects* is concerned with the effects of land fragmentation on all productive land whether it be highly productive or not.

In Objective 7.1.0 it sets out its principle objective to:

“Avoid the loss of potential for all land of existing and potential productive value”.

Policy 7.1.2 seeks 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 7.1.2A seeks to avoid, remedy or mitigate the *“cumulative effects on the soil resource and productive value of the land.”*

It is acknowledged that with the rural residential zoning the effect on productive values will not be significant.

Section 7.2A “ISSUES COASTAL TASMAN AREA” sets out the specific policies for the Coastal Tasman Area.

The policies that would be particularly relevant to the proposal are:

7.2A.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 and streams are identified and protected from inappropriate development.

7.2A.14 To progressively develop a network of interconnected pedestrian, cycle and equestrian routes, and reserves within the Coastal Tasman Area, including to and along the coast.

7.2A.15 To mitigate adverse effects on rural landscape and character by evaluating subdivision and development proposals together, when providing for further residential and rural- residential development in the Coastal Tasman Area.

7.2A.16 To take into account, and avoid or mitigate potential cumulative adverse effects on rural character, rural landscapes and amenity values, when assessing the effects of subdivision and development in the Coastal Tasman Area.

7.2A.18 To allow for limited development beyond that provided for as a controlled activity within the Waimea Inlet Rural Residential Zone, subject to servicing requirements, and evaluation of the effects of specific proposals, in accordance with the design guide.

These policies and in particular 7.2A.3, emphasise the need to protect the rural and coastal values of the Coastal Tasman Area and the need to protect the “coastal edge and margins of rivers and streams from inappropriate development”.

It is considered that this proposal in its current form is contrary to the above policies.

Policy 7.2A.18 does acknowledge that Council may approve development that is less than the controlled activity minimum lot size, but that these proposals need careful evaluation against the design guide that has been developed to assess applications in the Coastal Tasman Area. This assessment is covered in Frank Boffa's report (See attachment 1).

Objective 7.3.0 states:

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

The following policies are relevant to this application:

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

7.3.4 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, remedies or mitigated.

7.3.9 To avoid, remedy or mitigate servicing effects of rural subdivision and development, including road access, water availability and wastewater disposal.

It is my conclusion that Council's planning documents and the policies seek to provide opportunities for rural-residential development in rural residential zones such as the Wamea Inlet zone. However, the policies and objectives particularly those in 7.3.0, 7.3.3 and 7.3.4 still seek to retain a degree of rural character and amenity. This has been further backed up by the specific policies for the Coastal Tasman Area, in particular 7.2A.3, which seek to protect the “coastal edge” and the “margins of rivers and streams” from inappropriate development.

The Proposed Plan has set down 2 hectares as an acceptable level of density for subdivision and dwellings. Applications that are below this level must be assessed against the Design Guide and the specific Coastal Tasman Area policies that were developed under Variation 32.

Frank Boffa has done an analysis of the proposal against the requirements of the Design guide (see Attachment 1) and his conclusion is that the application is not in accordance with the Design Guide and therefore should be declined.

Figure 7.1 at the end of Chapter 7 of the Proposed Plan sets out the expected number of additional dwellings that are expected for Waimea Inlet Rural Residential zone.

For the entire zone there is only 20 additional dwellings anticipated for this zone. Based on my understanding of this area, this means that the 2 hectare lot average density would need to be largely retained if this limit is to be achieved.

5.3 Part II Matters

The proposed subdivision and associated landuse activities are considered to be inconsistent with the purpose and principles contained in Part II of the Resource Management Act.

Section 6 (a) requires, as a matter of national importance, the “preservation of the natural character of the coastal environment”, and the protection of the coastal environment from “inappropriate subdivision, use and development.”

Part II of the Act is concerned about “maintaining and enhancing amenity values” under Section 7 (c). As I have discussed earlier the proposal will adversely affect the open rural amenity of this area by introducing a higher density of rural residential development, that is incompatible with the 2 hectare minimum lot size and the 100 metre building setback from Mean High Water Springs.

It is considered that the application is not consistent with the Act’s purpose of achieving the sustainable management of natural and physical resources.

5.4 Other Matters

Precedence and Cumulative Effects

Precedence in itself is not an “effect” but the subsequent approval of this subdivision is likely to lead to lead to other similar applications from Rural 2 properties each wanting like treatment. This can lead to a cumulative effect that is very much a relevant adverse effect under 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.

In the case of this application to subdivide, the key issue is the potential for a cumulative loss of rural character and amenity values associated with more dense residential development in the rural landscape.

The issue of "precedence" must be acknowledged in practical terms as giving rise to cumulative adverse effects.

- Applications for consent are lodged on the basis that consent to previous applications have been granted under like conditions.
- Council can expect pressure to act consistently in its application of Plan objectives, policies, rules and assessment criterion. That is, Council is expected to be consistent in its decision-making.

In the *Corsan v Taupo District Council(RMA 058/01)* case the Court found that the integrity of the plans and the consistent administration of the planning documents was an important issue. In his conclusion Judge Whiting states:

“We find that the integrity of the plans and confidence in their consistent administration is the major determinant in this case.”

This was in a case where the application only involved one additional allotment of around 2 hectares in an area where the minimum lot size is 4 hectares as a discretionary activity under the Proposed Plan.

In this case we have a 2 hectare minimum lot size under the Proposed Plan. Clearly the integrity of the Rural Residential Zone rules in achieving a low density rural environment will be undermined by the approval of this application for such small lot sizes.

Permitted Baseline Test

Under Section 104 (2) of the Resource Management Act, a consent authority may use what is called the “permitted baseline test” to assess what are the actual and potential effects on the environment of allowing the activity.

Under this principle, the proposal is compared with what could be done as permitted activity under the relevant Plan.

In this case because most of the site is within the Coastal Environment Area which requires Controlled Activity consent for all new buildings, very little building development could occur as a permitted activity, except possibly for Lot 5 and this would not be a dwelling, because there is already a dwelling on the site.

As there is no subdivision as a permitted activity under the Proposed Plan, and permitted building activity is extremely limited, it is considered that the permitted baseline test is not relevant to this application.

6. CONCLUSIONS

- 6.1 The proposal is a Restricted Discretionary Activity under the Proposed Tasman Resource Management Plan in that all the lots are under 2 hectares.
- 6.2 The property is zoned Rural Residential under the Proposed Plan.
- 6.3 The Waimea Inlet and the surrounding coastal hills have very high scenic values and ecological values, particularly the tidal estuarine area, which immediately adjoins this site. The Waimea Inlet is recognised as an “Area of Nationally Important Natural Ecosystem values” under Schedule 25.1F of the Proposed Plan.
- 6.4 The Waimea Inlet, in spite of it’s Rural Residential zoning, has still managed to retain a high degree of natural amenity, with the coastal strip still retaining its natural form with most houses set well back from the coastal edge. This application in its present form, seeks to create small allotment very close to the waters edge, which if approved would destroy the open natural amenity of this area.
- 6.5 The property does not have any unique characteristics that would enable Council to approve the subdivision for such small lot sizes, without expecting further applications from similar sized Rural Residential properties all of which would expect similar favourable treatment. While there have been some applications in the Rural Residential zone down to the 1 hectare size, none have been below the 1 hectare level.

The Silkwood development, that was quoted in the application, had small residential lots in conjunction with a larger "Common Area" which gave an overall lot density much higher than what is being proposed in this application.

- 6.6 The policies and objectives of the Proposed Plan seek to avoid the adverse effects of fragmentation on productive values of all rural land (objective 7.1.0), though it is accepted that with the rural residential zoning the effects on productive values will not be significant.
- 6.7 The Proposed Plan under objective 7.3.0 seeks to avoid, remedy or mitigate the adverse effects of subdivision and associated development on rural character and amenity and has specific policies regarding development in the Coastal Tasman Area under 7.2A. It is considered that the proposed subdivision is contrary to these objectives and policies.
- 6.8 The application is against the general thrust of the council's planning documents which seek to retain a minimum level of rural character and openness in a rural area with a high natural amenity by way of the 2 hectare minimum lot size. This proposal is considered to be contrary to the principles of sustainable development of resources required under Part II of the Resource Management Act 1991.
- 6.9 Part II of the Resource Management Act includes a matter of national importance in Section 6, the protection of the Coastal Environment from inappropriate subdivision and development. In this regard it is considered that the proposed subdivision is contrary to Part II of the Resource Management Act.
- 6.10 It is considered that the proposal is contrary to the policies and objectives of both the Regional Policy Statement and the Proposed Plan and the adverse effects on the environment are more than minor. Therefore the application should be declined under Section 104B of the Resource Management Act 1991.

7. RECOMMENDATION

That pursuant to Section 104B of the Resource Management Act 1991 the Tasman District Council **DECLINES** its consent to the application by B and A Hardie to subdivide CT NL 12C/101 into five allotments (RM040950) and for a land use consent to erect a dwelling on each of Lots 2 -5.

8. RECOMMENDED CONDITIONS

As I have recommended decline of consent and believe that the adverse effects of the proposal cannot be avoided, remedied or mitigated by conditions, I have not included a detailed list of conditions.

However if the committee was going to grant consent, I would recommend that the subdivision consent be amended to include the following:

- i) Lot 1 of 1.85 hectares
- ii) Lots 2 and 3 as one allotment of 1.5 hectares. (referred as Lot 2)

- iii) Lot 4 to vest as Local Purpose reserve (Recreational)
- iv) Lot 5 of 0.9670 hectares

and the following conditions imposed:

SUBDIVISION CONSENT

8.1 The Plan shall be amended so that Lot 3 is removed and becomes part of an enlarged Lot 2 of 1.5 hectares. Lot 4 would vest as local purpose reserve and Lot 5 would be 0.967 hectares.

A plan shall be provided from a Registered Surveyor accurately showing the Line of Mean High Water Springs as it relates to the coastal boundary of the site.

The plan shall also show a 20 metre wide reserve width in from the line of Mean High Water Springs and the stream adjoining Lots 7 and 9 DP 16926. Any of these areas that are not already within esplanade reserve, shall vest as esplanade reserve pursuant to Section 236 of the Resource Management Act.

An accurate scaled plan shall be prepared by the applicant, showing amended lot layout set out above and submitted to Council within 15 working days of this decision and prior to the submission of engineering plans and submission of a Section 223 title plan.

The plan shall also show a 300 square building site for each of Lots 2 and 5 that is at least set back at least 100 metres from the line of Mean High Water Springs. The boundary of Lots 1 and 2 may need to be altered to allow for the building site on Lot 2 to comply with the 100 metre setback.

8.2 Development Impact Levies for reserves and community services on two allotments in accordance with Section 16.5.2AA of the Proposed Tasman Resource Management Plan. This may be waived if Lot 4 vests as Local Purpose reserve.

ADVICE NOTE

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

The Development Contributions Policy is found in the Long Term Council Community Plan (LTCCP) and the amount to be paid will be in accordance with the requirements which are the amount to be paid and 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 and water.

8.3 The right-of-way adjoining Lots 4 and 5 shall be widened to an equivalent road width formation for Rural 3 access place which is a 5 metre traffic lane width with concrete edge restraint on either side and a 1.4 metre sealed footpath on the western side, which shall be contained within the existing public access strip. The formation shall be sealed in accordance with Tasman District Engineering Standards 2004 with grassed watertables to deal with stormwater.

A sealed entrance way shall be provided from the right-of-way to Lot 2 and Lot 5, with the sealing extending at least 5 metres into the allotment.

8.4 Prior to the commencement of works, engineering plans shall be submitted for approval by the Council's Engineering Manager, detailing the access and right-of-way works.

8.5 Underground power and telephone servicing are to be provided to the Lot 2 and 5 building site in accordance with TDC Engineering Standards.

8.6 Certification of the building site area on Lot 2 and Lot 5 by a Chartered Professional Engineer in accordance with TDC Engineering standards Section 11 Appendix B and certification that all engineering works have been completed in accordance with TDC Engineering Standards or to the satisfaction of the Council's Engineering Manager.

The certification of the building site on Lot 5 shall also take into account any flooding hazard from the adjoining stream on the northern boundary and any coastal inundation hazard. Any recommended conditions to mitigate the natural hazards shall be imposed as consent notices on the Lot 5 title.

8.7 The coastal planting along the coastal boundary of Lots 1 & 2 and the Framework planting at the northwestern corner of Lot 2, as set down in the Rory Lngbridge Landscape Plan dated July 04, shall be completed prior to the issuing of the Section 224 (c) certificate. A written report shall be provided from a Landscape Architect confirming that the plantings have been fully completed with adequate measures in place for their long term survival.

8.8 Consent notices on the proposed Lot 2 and 5 including the following:

- a) Restriction that no building shall be erected within 100 metres of the line of Mean High Water Springs.
- b) Residential buildings on Lots 2 and 5 shall be restricted to the Building site areas marked on the Title Plan
- c) Restriction that height of all buildings on Lots 2 & 5 shall be no more than 5 metres above natural ground level.
- d) Consent notice advising of the need for a discharge consent for any on-site effluent disposal system for Lot 2 and 5.
- e) Any recommended conditions from the engineering report in condition 8.6.

8.9 Easements for all services located outside the allotments that they serve.

8.10 All works and engineering plan details are to be in accordance with Tasman District Engineering Standards 2004 or to the satisfaction of the Tasman District Engineering Manager.

8.11 The esplanade reserve areas adjoining Lots 1, 2 & 5 shall be fenced off with a stock proof fence along the reserve boundary, or where there is an existing stock proof fence, the fence shall be relocated to the reserve boundary.

LAND USE CONSENT (Lots 2 and 5 only)

8.12 The dwelling shall be erected on the building areas specified in the subdivision consent RM040950.

8.13 The commencement date shall be the date of the signing of the section 224 certificate for subdivision consent RM040950.

8.14 The dwellings shall be no more than 5 metres in height above natural ground level.

8.15 The dwelling shall comply with any development conditions specified in the engineers report specified in condition 8.6 of the subdivision consent.

8.16 The exterior of the dwelling shall be non-reflective recessive colours that blend in with the surrounding environment.

8.17 That prior to approval of the building consent for the dwelling be obtained that a discharge consent be obtained for the on-site effluent disposal system for the dwelling.

Mark Morris
**Senior Consent Planner
(Subdivisions)**

**Report prepared for
Tasman District Council
by**

**Frank Boffa
29 June 2005**

1. Background

I have been asked to review and report on this application in terms of the relevant criteria listed in TRMP Section 16.3.11AA, Discretionary Subdivision (Specified Rural Residential Zones) and also Rule 18.14.4 Discretionary Activities (Building Construction).

2. The Application

- 2.1 The applicant seeks to subdivide a 4.1 hectare rural residential lot to create four additional titles. The parent lot with the existing house will be 1.85 hectares in area with the four new lots being 5,100 square metres, 5,400 square metres, 2,398 square metres and 9670 square metres respectively.
- 2.2 Consent is also sought to create building sites within 100 metres of mean high water springs (i.e. lots 2, 3 and 4).
- 2.3 The application for subdivision is supported by a Landscape Design Report prepared by Rory Langbridge.

3. The Site

- 3.1 I have read the site description prepared by both Mr Bacon and Mr Langbridge and I agree with their general description of the site and its coastal landscape setting.
- 3.2 I do not, however, share the view of Mr Langbridge with respect to the open and unplanted nature of the coastal edge, which incorporates the application site. Mr Langbridge notes in his final paragraph describing the site that –

The open unplanted nature of most of the application site is not important in the overall landscape context.
- 3.3 I disagree with this comment and consider that the open and unplanted nature of the site is very significant and an important feature of the immediate area.
- 3.4 Mr Langbridge also states that –

The “prominence” of the site is partly exacerbated by the open nature (lack of planting) of the site at present when seen in contrast to the generally planted and developed rural residential neighbours, which surround the site.

- 3.5 I consider the contrast between the planted and settled existing enclave of rural residential development to be a feature of the area and I do not support extensive planting of the open area. I note that one of the main features of the mitigation proposed is extensive planting within the application site. In my view the open nature of the site is a particular and distinctive feature of the area and should be recognised and managed as such.
- 3.6 In order to be more specific with respect to landscape and visual effects, contour information should have been provided along with specific details relative to:
- Access and associated earthworks
 - Extent of curtilage and building platform areas.
 - Indicative building form and location of dwellings within curtilage areas.
- 3.7 The site is visible from a number of locations in and around the southern and eastern areas of the Waimea Inlet. From Westdale Road, the inlet itself and from vantage points on the Hoddy Road peninsula, the site is visible and relatively prominent. Development of the site and in particular along the inlet edge is likely to have significant landscape and visual effects.

4. TRMP Provisions

- 4.1 The site is zoned Rural Residential (Services Contribution Area). The minimum lot size for a Controlled Activity is two hectares with lots less than two hectares being a Restricted Discretionary Activity. The matters of discretion include compliance with the Design Guide for the area and other specific listed matters under TRMP Section 16.3.11AA. These include -

(1) *The relationship between the subdivision proposed and the subsequent development, including effects of location and scale of buildings and other structures.*

- 4.2 The application provides limited information with regard to the subdivision itself or the subsequent development of the lots with particular reference to the location and scale of buildings and other structures. While the application makes reference to the height and colour of buildings, structural landscape plantings and earthworks (the reference being that these will be minor), this information is generic and is not specific to the particular development. A consent to the subdivision on the basis of the information supplied would enable controlled activity status for subsequent development that may very well be inappropriate in terms of adverse effects.

(2) *Effects on the rural landscape, on amenity values and on coastal character and values*

- 4.3 The area in general is largely rural in character and while pockets of rural residential development are apparent, the area currently retains its overall open rural character. The upper slopes to the west and immediately adjacent to the proposed subdivision appear as a small rural residential pocket at the inland head of the Bronte Road peninsular. While this small enclave of development generally appears to sit comfortably within its rural coastal setting the rural and undeveloped area between this development and the estuary is an important open space. Further development of the scale and nature proposed would compromise the rural/coastal character of this area, which also displays high levels of natural character and visual amenity.
- 4.4 Figure 7.1 in Chapter 7 of the TRMP anticipates the number of additional expected dwellings in the Waimea Inlet Rural Residential Zone to be 20. Given the character and extent of this zone it is unlikely, in my opinion, that lots smaller than two hectares in size would in general be inappropriate. In general I consider the two hectare minimum lot size is appropriate and will assist in achieving the environmental outcomes sought in this particular and distinctive rural residential zone. I understand there is currently a 2 lot approved subdivision for the site.
- 4.5 The proposed subdivision and development will, in my opinion, potentially have an adverse effect on the rural, coastal and amenity values of this particular area of the Waimea Inlet and the immediate rural/coastal neighbourhood.

(3) Consistency with the Design Guide for the area.

- 4.6 With respect to this particular area, the Design Guide refers to eleven matters relative to the maintaining of the landscape qualities and values within the area.
- (i) *The maintenance of the open rural pattern and character of the area*
- 4.7 I disagree with Mr Bacon who considers that as the area has an established rural residential character the proposed development should be seen as infill development as envisaged in the design guide. The more intensive development referred to in the design guide refers to cluster development within the Rural 3 area. What is suggested by Mr Bacon as “infill to achieve a more intensive development” is not what the Design Guide envisages for this particular zone or indeed the area in general.
- (ii) *Maintaining a wide and extensive buffer at the Waimea Inlet, particularly where the adjacent landforms are low and relatively flat.*
- 4.8 The proposed development intrudes upon the Waimea Inlet buffer. Riparian planting suggested by Mr Bacon will not be effective in appearing to create or maintain an effective landscape buffer and natural edge to the Waimea Inlet. In this particular area, the openness of the coastal landscape is more important than the extensive planting proposed as mitigation. Council has acknowledged the importance of protecting the estuary and coastal margins of the area by increasing the setback from 50 metres to 100 metres. In the recent Farndale decision (RM041427), Council considered that the 100-metre setback from the estuary be maintained. The Farndale subdivision is approximately 500 metres north of this application site. In my opinion the 100 metre setback should be maintained and buildings should not be permitted to encroach into this important ecological and visually sensitive area.

(iii) Maintaining views of and to the Waimea Inlet.

4.9 I agree with Mr Bacon that direct views of and to the inlet will not be affected by the proposed development, however, views from the inlet to the area are important and will be affected. In my opinion the context of the inlet edge will be modified and to this extent its character and the perception of the area will be changed and adversely compromised.

(iv) Avoiding skyline development and development that is highly visible.

4.10 The development will not be skylined, however, I consider the development will be highly visible from locations to the south and east of the site. As noted previously, the proposed development will further expand the existing enclave of rural residential development to the extent that it will detract from the existing development, which currently sits relatively comfortably in its rural/coastal setting. Further development, as proposed, will extend development into the open coastal margin, which is a particular feature of the immediate area.

(v) Retaining existing amenity and conservation tree planting and supplementing these as appropriate with further strategic plantings.

4.11 The site currently does not contain significant plantings and in its current state need not be further planted. The objective of the guideline was in regard to subdivision and development where additional planting was deemed appropriate and as a means of achieving higher levels of landscape integration. The structural planting proposed will not in my opinion soften or visually integrate the development into its landscape setting. In many respects, the planting proposed appears to seek to screen the dwellings and is likely to further highlight their visual appearance. In my opinion the planting proposed is primarily for mitigation and accordingly, tends to be somewhat out of character with the natural setting of the area.

(vi) Avoiding house sites in open and visually exposed sites.

4.12 The proposed house sites are in relatively open and visually exposed locations. The visual effects of the proposed development will be significant, adverse and cannot be readily mitigated.

(vii) Avoiding development where extensive earthworks are required.

4.13 I agree with Mr Bacon that the level of earthworks are likely to be relatively minor overall, however, I consider further information relative to earthworks should be provided with applications such as this.

(viii) Maintaining landscape diversity and open rural patterns particularly when viewed from other peninsula sub-units, the Waimea Inlet, the Mapua settlement area and Rabbit Island.

4.14 Further subdivision and development will result in a more enclosed pattern that displays more urban rather than rural characteristics. At present the area retains a diverse and rural character overall, albeit with a small enclave of rural residential development. The development of the coastal margin of this area will compromise the open rural character of the immediate area and is likely to create more of an urban like enclave rather than what I consider to currently be a rural/residential enclave of development set with a more "natural" setting. The proposed subdivision will, in my opinion, compromise the coastal setting of the area.

(ix) Development primarily occurring inland of the realigned Coastal Highway

4.15 This is not applicable and refers more to the Rural 3 Zone.

(x) Maintaining the character and pattern of land use in its present low-density form.

4.16 The proposed development will change the pattern and diversity of the area to the extent that the existing natural and rural character will be adversely affected. I do not agree with Mr Bacon who considers the proposal to be "infill development" that is appropriate in this particular setting.

(xi) Considering infill development or small clusters of lots that are likely to be more appropriate.

4.17 Cluster or infill development on this site is not appropriate. As noted in 4.7 of this report, the concept of clustering is more specific and relevant to the Rural 3 Zone rather than the Waimea Inlet Rural Residential Zone. While the cluster concept can be adapted to rural residential areas, it should not be used to justify infill and more intensive development in the rural residential zone.

4.18 The Design Guide also covers Subdivision Guidelines (Section 9). The major points relevant to the application site have been covered in the previous comments. However, with regard to the Objectives noted in the Subdivision Guidelines, the application:

- Does not protect the distinctive landscape character of the coastal Tasman area.
- Is an inappropriate subdivision, use and development of the site.
- Is not a low impact development.

4.19 The Design Guidelines noted in Sections 10 to 15 apply to development subsequent to subdivision and are not relevant given the nature of what is currently proposed and the lack of more specific site development information

(6) the ability of the wider landscape to absorb the extent of development proposed.

4.20 While the extent of development proposed is relatively contained, it will have a significant visual impact on the immediate and adjacent Waimea Inlet area landscape.

(8) Actual and potential cumulative effects

4.21 Consent to this application will have cumulative effects and will make it difficult for Council to decline other consents which are likely to follow. In this regard, the potential for more widespread cumulative effects is significant.

4.22 With respect to the rules related to Building Construction (18.14.4), the principal reason for the rules (18.14.5) states –

"The intention of these rules is to minimize the obtrusiveness or dominance of buildings in the coastal landscape."

4.23 As noted throughout this report, the proposed development following subdivision will have an adverse effect on the coastal landscape, natural character, the rural setting and landscape values in general. Subdivision into lots smaller than 2 hectares in this particular coastal location is in my view generally inappropriate.

5. Coastal Zone

5.1 Three of the four additional house sites proposed will be within 100 metres of mean high water springs. I consider this to be inappropriate and do not support houses being sited within the 100 metre coastal setback. As noted previously Council recently declined a consent for a subdivision where a house site was within the 100 metres coastal setback area (Farndale Subdivision).

5.2 The open coastal margin is currently an important amenity and context to the adjacent existing development. The subdivision and development of this coastal edge, will in my opinion, severely compromise the landscape and coastal amenity values of the area.

6. Submissions

6.1 I have read the submissions made in respect to the proposed subdivision. In summary the issues raised in submissions in opposition are:

- Increased density
- Size of lots
- Visual/rural amenity effects
- Land fragmentation
- Precedent effect

6.2 I have commented on these aspects in my report and in general I agree with the main points raised in opposition by submitters.

7. Recommendation

7.1 From a landscape perspective the application for subdivision should be declined.