

MINUTES

TITLE: Environment and Planning Subcommittee
DATE: Friday, 15 April 2005
TIME: 1.30 pm
VENUE: Council Chamber, 78 Commercial Street, Takaka

PRESENT: Cr R G Kempthorne (Chair), Crs S J Borlase and T E Norriss.

IN ATTENDANCE: Manager, Consents (J S Hodson), Resource Scientist, Rivers and Coast (E L Verstappen), Consent Planner (P J Gibson), Administration Officer (B D Moore).

1. SERPENT HOLDINGS LTD, 3 WADSWORTH STREET, TAKAKA – APPLICATION RM041264

1.2 Proposal

The applicant sought consent to subdivide Lot 31 DP 4826, of 928 square metres into Lot 1 of 451 square metres with the existing sleep-out and workshop. Also Lot 2 of 476 square metres that has an existing dwelling.

1.2 Presentation of Application

Consulting engineer, Mr R V Stocker, read a statement of evidence and advised that he had investigated the application for the proposed additional house site, to assess this site with respect to the July 1983 flood and the establishment of a floor level for that new dwelling. Mr Stocker said that this floor level should be at least 7.1 metres above Land Information New Zealand datum, which would provide a 500 millimetre freeboard above the July 1983 flood level, on this site.

Registered surveyor, Mr M Potter, read a statement of evidence and addressed the resource management issues of the application. He referred to consistent administration of the District Plan and provided a list of recent subdivision and land use consents in Takaka, where floor levels were required to be established so that buildings will not be inundated in a 2% AEP (annual exceedance probability).

Mr Potter said that a search of Council files has failed to identify a subdivision consent application within the existing Takaka residential area that has been declined on the basis of flood hazard in the last five years. The evidence addressed the concerns raised in staff reports from Mr E Verstappen and Mr P Gibson. The evidence said that the proposal will not create any off-site effects and that there will be no material damage to the land. The proposal is not contrary to the objectives and policies, providing a suitable condition relating to floor levels is imposed.

1.3 Staff Reports

Consent Planner, Subdivision, Mr P Gibson, summarised his report of 5 April 2005 and spoke about the potential for a flood event to affect the site and the hazard for residents escaping rising floodwaters. This report referred to the flood hazard report provided by Mr Verstappen and that the Consent Planner was in agreement with the findings of this report and that construction of a dwelling on the proposed allotment would create a barrier that may exaggerate the effect of floodwaters in this area. The report also said that 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. Mr Gibson recommended that Council decline the subdivision and land use applications.

Resource Scientist, Rivers and Coast, Mr E Verstappen, spoke to his report of 5 April 2005 contained within the agenda. This report provided background on flooding which has occurred in the Takaka area, especially the 1983 flood. The subject property was flooded in 1983 and water was reported as having entered the existing dwelling. Mr Verstappen also expressed concern about the potential for limited egress from the property in a major flood event and that it is further potentially compromised by the degree of mobility and age of the residents who may be occupying that dwelling. Mr Verstappen said that the nature of the hazard to the land cannot be mitigated and he was concerned that Council is being asked to intensify the development of this site.

1.4 Right of Reply

Mr Potter responded for the applicant. He questioned if all flood-prone sites should have the same restrictions and questioned whether one site is worse than another. He noted that all the old consents except one on the appendix list of recent subdivision and land use consents in Takaka, tabled at this meeting, were granted by delegated authority.

The Subcommittee reserved its decision at 3.25 pm.

Moved Crs Norriss / Borlase EP05/04/18

THAT the public be excluded from the following part of the proceedings of this meeting namely:

Serpent Holdings Ltd

The general subject of the matter to be considered while the public is excluded, the reason for passing this resolution in relation to the matter, and the specific grounds under Section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

Subject	Reasons	Grounds
Serpent Holdings Ltd	Consideration of a planning application.	A right of appeal lies to the Environment Court against the final decision of Council.

CARRIED

**Moved Crs Kempthorne / Borlase
EP05/04/19**

THAT for the purposes of discussing the application of Serpent Holdings Ltd as an "In Committee" item, the Manager Consents be authorised to be in attendance as advisor.

CARRIED

**Moved Crs
EP05/04/20**

THAT the public meeting be resumed and that the business transacted during the time the public was excluded be adopted and that the following resolutions be confirmed in open meeting.

CARRIED

2. SERPENT HOLDINGS LTD, 3 WADSWORTH STREET, TAKAKA – APPLICATION RM041264

**Moved Crs Kempthorne / Norriss
EP05/04/21**

THAT pursuant to Section 104 and 104B of the Resource Management Act 1991, the Council grants consent to Serpent Holdings Ltd to subdivide Lot 31 DP 4826 into two allotments and to construct a dwelling on proposed Lot 1.

The consent is granted subject to the following conditions and granted for the following reasons:

CONDITIONS – SUBDIVISION:

Servicing

1. Full separate servicing is provided for Lot 1, including separate water, underground power and telephone, sewer and stormwater connections. Water connections are to be metered.

Confirmation of the above from the line operator and a copy of the certificate of compliance will be required prior to the release of the Section 224 Certificate.

Access

2. A vehicle crossing shall be formed and sealed to serve Lot 1. The vehicle crossing shall be of a width, measured at the boundary of the site, of between 3.5 metres and 6.0 metres. The design shall be in accordance with **Appendix B** of this consent.

ADVICE NOTE:

For the purposes of this condition, the existing vehicle crossing serving Lot 2 off Wadsworth Street is considered to meet the requirements of this condition if a joint vehicle crossing is desired.

Engineering Plans

3. Engineering plans are required to be submitted for approval prior to the commencement of any works. All engineering details are to be in accordance with the Council's Engineering Standards. All necessary fees for plan approval shall be payable.

As-built plans detailing water, sewerage and stormwater, indicating exact locations of pipes, laterals, connections etc, complete with depths, shall be provided for all lots.

Engineering Supervision

4. All works shall be constructed in strict accordance with the Council's Engineering Standards and are to be to the Council's Engineering Manager's satisfaction. The Tasman District Council's Engineering Department shall be contacted two working days **prior** to the commencement of any engineering works on this subdivision.

The applicant shall engage a suitably qualified consultant (registered surveyor/engineer) for advice and to supervise/test the construction of the work. The Completion Certificate pursuant to Section 224 of the Resource Management Act 1991 shall not be released by the Tasman District Council until a "Certificate of Supervision" signed by the consultant is provided and all the necessary fees have been paid.

Easements

5. Easements are to be created over any services located outside the boundaries of the lots that they serve as easements-in-gross to the Tasman District Council or appurtenant to the appropriate allotment. Reference to easements is to be included in the Council resolution on the title plan.

Consent Notice

6. Pursuant to Section 221 of the Resource Management Act 1991, the following consent notice shall be prepared by the consent holder and submitted to Council for approval. All associated costs shall be at the consent holder's expense.
 - a) Any building on Lot 1 used for habitable purposes shall have a minimum floor level of 7.1 metres in terms of LINZ datum.

Development Impact Levies

7. The following development impact levy payments are to be made on Lot 1.

Calculation of Development Impact Levy Payment (all GST inclusive)

Reserves and Community Services

A reserves and community services levy equivalent to 5.5% of the assessed market value of lot 1 shall be payable. The valuation shall be by way of a special valuation undertaken by a registered valuer at the applicant's request and cost. The applicant is requested to forward a copy of the consent plan to the registered valuer when the valuation is requested. This valuation is to be forwarded to the Tasman District Council for calculation of the reserve fund contribution.

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 one allotment in respect of roading, wastewater and water.

NOTATIONS:

Council draws attention to the provisions of the Historic Places Act 1993 that require that in the event of discovering an archaeological find (e.g. shell, midden, hangi or ovens, garden soils, pit depressions, occupation evidence, burials, taonga) to cease works immediately, and tangata whenua, the Tasman District Council and the New Zealand Historic Places Trust shall be notified within 24 hours. Works may recommence with the written approval of the Council's Environment and Planning Manager, and the New Zealand Historic Places Trust.

CONDITIONS - LANDUSE:

Term of Consent

1. The consent to construct a dwelling on each of Lot 1 commences on the date of deposit of the survey plan of subdivision RM 041264.
2. The consent shall lapse two years from the date of issue of the Section 224 certificate for RM 041264.

Minimum Floor Level

3. The dwelling on Lot 1 of the subdivision RM 041264 shall have a minimum floor level of 7.1 metres above LINZ datum.

NOTE: This consent does not authorise any non-compliance with the requirements for dwellings in the Residential zone. All those requirements shall be met unless another resource consent is approved for any proposed non-compliance.

REASONS FOR THE DECISION: (Subdivision and Land Use Together)

1. The land is zoned Residential under the Proposed Tasman Resource Management Plan (TRMP). The application is a discretionary activity under the Tasman Resource Management Plan as it does not comply with the size or shape factor required for residential lots adjoining the rural zone. The subject land is within the residential area, surrounded by houses and other residential type activities including schools and a kindergarten.
2. It is understood that there are no references to the Residential zone subdivision objectives, policies and rules of the Proposed Tasman Resource Management Plan and therefore in accordance with Section 19 of the Amendment Act, no weight is given to the Transitional Plan.
3. The Committee noted that the application had not been notified and therefore there were no submissions. The application had been referred to the Committee as there was a negative staff recommendation and it was considered that the application should be determined by the Committee in accordance with the delegated authority in place.
4. Regarding the issue of the proximity of the land to the adjoining rural land, the application fell to be considered as a discretionary activity. It was noted that as the land was occupied by the Golden Bay High School, it was unlikely to be used for any rural land use in the future. Thus if the site had been across the road, it would have fallen to be considered as a Controlled Activity. Given this situation, the Committee agreed with the staff assessment that the issue of the size and shape factor were not significant.
5. The Committee carefully considered the concerns raised by the staff about the potential impact of flooding on the future occupants of a dwelling on Proposed Lot 1. This was clearly the key issue associated with the application and gave compelling reasons to consider declining consent because of the flooding inundation risk in this area.
6. However, the Committee considered the history of consents granted for both land uses and subdivisions in the Takaka township as presented by Mr Potter on behalf of the applicant. The Committee was advised that where buildings had been approved in areas subject to a flood hazard, that a minimum floor level condition had been imposed. It was clear that a flood hazard existed for the Takaka township and surrounding floodplain area and the Committee heard that the flood in 1983 probably equated to a flood of a 2% AEP.

The Committee was told that during that flood event approximately 400 mm of water would have been covering the subject land. The applicant in this case had volunteered a condition requiring the dwelling to be constructed at a level of 7.1 metres above LINZ datum which would mean that there would be approximately 500 mm of freeboard above the level of the 1983 flood.

7. The Committee noted the provisions of Section 106 of the Resource Management Act 1991, which provided for subdivisions to be declined if the land or any structure on the land would be likely to suffer material damage by flooding or inundation. The Committee considered that based on the evidence presented, that if the minimum floor level was imposed, there would be no likelihood of material damage being suffered by the dwelling. The Committee was told that the speed of flood waters in this location was unlikely to be swift enough to cause material damage to a future dwelling if it was designed appropriately.
8. The Committee noted that the minimum floor level condition would not prevent the land being affected by a flood in the Takaka floodplain, and therefore a Notice under the Building Act would be applied to the title at the time of a building consent for the dwelling.
9. The Committee considered that if the Council wanted to prevent further subdivision in the Takaka floodplain area, then clear rules should be incorporated into the Tasman Resource Management Plan including a strategic plan regarding where future development should take place. This would involve the appropriate level of community consultation to take place to signal such a change of direction in the Council's planning framework. The Committee considered that they were constrained in the face of the past history of consents which had been granted which had created the existing pattern of residential land uses in the township today and the lack of specific rules to trigger a resource consent where a flooding or inundation hazard existed, plus an alternative location where growth should be directed, including a clear signal that further subdivision and residential development in the Takaka floodplain be prohibited.
10. In summary, the Committee considered that the proposal was consistent with the objectives and policies of the Proposed Tasman Resource Management Plan and the Resource Management Act 1991 and subject to the conditions imposed, the effects on the environment will be no more than minor.

CARRIED

Confirmed:

Chair: