

MINUTES APPEALS HEARING COMMITTEE	MEETING HELD ON TUESDAY 29 APRIL 2014	TIME 11.35AM
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MINUTES of a meeting of the Appeals Hearing Committee, held at the Council Chambers, Ground Floor, 175 Rimu Road, Paraparaumu, on Tuesday 29 April 2014 commencing at 11.00am.

PRESENT:

Cr	T	Lloyd	(Chair)
Mayor	R	Church	
Cr	M	Cardiff	
Cr	D	Ammundsen	

IN ATTENDANCE:

Cr	K	Gurunathan	
Ms	T	Evans	(Group Manager Community Services)
Mr	A	Guerin	(Resource Consents and Compliance Manager)
Mr	W	Gair	(Principal Resource Consents Planner)
Ms	T	Ferry	(Executive Secretary Community Services)
Mr	M	Edgar	(Director, Cuttriss Consultants Ltd)

The Chair Cr Lloyd welcomed everyone to the meeting and read the Council blessing.

**APP 14/04/11
APOLOGIES**

MOVED (Ammundsen/Mayor)

That the apologies of Cr Penny Gaylor and Cr Gavin Welsh be accepted.

CARRIED

It was noted Cr Murray Bell is currently on Leave of Absence.

**APP 14/04/12
DECLARATIONS OF INTEREST**

Cr Ammundsen advised she had officiated yesterday at the funeral of Mr Tunbridge's (the applicant's) mother. She confirmed no conversation had taken place regarding today's meeting.

**APP 14/04/13
PUBLIC SPEAKING TIME**

It was agreed Mr Mark Edgar, on behalf of the applicant, could speak at the time the objection was being considered.

There were no other members of the public wishing to speak.

MINUTES APPEALS HEARING COMMITTEE	MEETING HELD ON TUESDAY 29 APRIL 2014	TIME 11.35AM
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**APP 14/04/14
CONFIRMATION OF MINUTES**

MOVED (Ammundsen/Mayor)

That the minutes of the Appeals Hearing Committee meeting on 18 March 2014 be accepted as a true and accurate record of that meeting.

CARRIED

**APP 14/04/15
MEMBERS BUSINESS**

- (a) Public Speaking Time Responses – there was no public speaking to respond to.
- (b) Leave of Absence – there were no requests for leave of absence.
- (c) Matters of an Urgent Nature – there were no matters of an urgent nature.

**APP 14/04/16
SECTION 357 RMA OBJECTION HEARING (APPEALS COMMITTEE HEARING
RELATED TO DEVELOPMENT CONTRIBUTIONS)**

Principal Resource Consents Planner Wayne Gair spoke to the report, providing a summary of the application, relevant Council policy, District Plan provisions and statutory provisions. He outlined the objection that had been lodged and reiterated his assessment of the Reserves Contribution and Development Contribution that should be paid.

In answer to questions from Committee members, Mr Gair advised:

- Applications of this type, i.e. those that lapse and then come back to be renewed, are rare; there have been only about six in the last five years;
- In his opinion, lapses were generally because the developer had forgotten about the deadline, did not understand the process (due to incorrect advice from their consultant or lawyer), or due to a mistake over easements, titles etc;
- In this case the developer had neglected to make the necessary certification application, and so the application expired. There are tests in the RMA to determine whether an extension was valid, and in this instance it would probably have been granted if requested;
- Council does not provide reminders to developers to remind them of critical dates in the consent/development process, and he was not aware of any other council that did so;
- Development contributions allow for items such as water reservoirs, pipe works, roading contributions, community facilities and infrastructure such as swimming pools. They generally reflect circumstances at the time of the application, which is why the fees on the second application are different to those on the first; and
- He was unaware of whether there was a water meter on the additional lot that had been created.

Mr Mark Edgar, Director of Cuttris Consultants, spoke on behalf of the applicant. He stated the developer had had every intent to complete the project and so had applied for completion certificate ahead of time. Unfortunately this meant the opportunity was lost to

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--	--	-------------------------

extend the time frame. He felt because the new consent had been granted within the eight year period in which the original consent could potentially still have been considered "live", then it was a unique situation which warranted leniency. Although he agreed with most of Mr Gair's report, he felt Council's requirement relating to Reserve and Development Contributions was not fair and reasonable.

In answer to questions from Committee members, Mr Edgar advised:

- He believed his client was satisfied with the valuation on the property; in any event his company rarely challenges valuations as it is not financially viable to do so;
- In the 27 years he had been with the company he could only find two examples of this type of event happening before i.e. applications that lapse and then come back to be renewed;
- He did not know why the original owner failed to apply for an extension;
- He confirmed his company advised the new owner that a new consent was required and a process would have to be gone through, he also accepted there were associated processing times and costs;
- He does not know whether the new owner discussed the property with Council staff; he said if the owner had been told "top up" fees were required, he would have objected. Mr Gair reiterated the advice Council always gives is that Development and Reserve Contributions are assessed at the time an application is made; and
- Mr Gair confirmed the engineering fees were to cover conditions as outlined in Appendix 2 to his report.

Committee members then discussed possible outcomes to the objection. They acknowledged there was a problem caused by the change of ownership, but felt staff had done the right thing. They also acknowledged this decision would likely create a precedent.

MOVED (Ammundsen/Cardiff)

That the objection to the imposition of the Development Contributions as set out in the advice notes attached to the subdivision consent issued under Council's reference of RM130077 be dismissed for the reasons provided in the Officer's report.

CARRIED

Mr Edgar left the meeting 12.58pm.

**APP 14/04/17
RESOLUTION TO GO INTO PUBLIC EXCLUDED**

(Continued overleaf)

MINUTES APPEALS HEARING COMMITTEE	MEETING HELD ON TUESDAY 29 APRIL 2014	TIME 11.35AM
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MOVED (Ammundsen/Cardiff)

<p>PUBLIC EXCLUDED RESOLUTION</p> <p>That, pursuant to Section 48 of the Local Government Official Information and Meetings Act 1987, the public now be excluded from the meeting for the reasons given below, while the following matters are considered:</p> <ul style="list-style-type: none"> • Confirmation of Public Excluded Minutes: 18 March 2014 <p>The general subject of each matter to be considered, while the public are excluded, the reason for passing this resolution in relation to each 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:</p>		
<p>Confirmation of Public Excluded Minutes: 18 March 2014</p>	<p>Section 7(2)(a) – to protect the privacy of natural persons.</p> <p>Section 7(2)(f)(i) – to maintain the effective conduct of public affairs through the free and frank expression of opinions by or between or to members or officers or employees of any local authority ... in the course of their duty.</p>	<p>48(1)(a): That the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist.</p>

CARRIED

The meeting went into public excluded session at 12.59pm.

The meeting came out of public excluded session at 1.02pm.

The meeting was closed at 1.02pm.

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Chairperson

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Date