

MINUTES

TITLE: Development Contribution Delegated Committee
DATE: Wednesday, 5 September 2007
TIME: 11.15 am
VENUE: Council Chamber, 189 Queen Street, Richmond
PRESENT: Cr E M O'Regan (Chair), Cr T E Norriss

IN ATTENDANCE: Regulatory Manager (J Hodson,) Development Engineer (D Ley), Administration Officer (B D Moore)

1. APPLICATION BC070818 - STILLWATER GARDENS RETIREMENT VILLAGE LTD, TEMPLEMORE DRIVE, RICHMOND

1.1 Application

The applicant company had sought a review of development contributions required as a condition with BC070875

1.2 Presentation of Proposal

Solicitor, Ms S Goodall of Duncan Cotterill appeared for the applicant and referred to her letter of 9 August 2007 requesting a review of the amount of development contributions payable. She tabled and read evidence and referred to Table 3 on page 64 of the Council's Long Term Community Consultation Plan (LTCCP) that sets out how a Household Unit of Demand (HUD) is calculated. Ms Goodall submitted that to consider each building as one Household Unit of Demand, would not lead to a fair outcome and asked that the Council use its discretion to reduce the amount of development contributions payable.

Ms Goodall said that the LTCCP provides for special reviews and Section 6 of the Development Contributions Policy states that "Council also reserves the right to refund money in circumstances it considers appropriate in relation to payments made for second dwellings". Ms Goodall said that the key point is that villas will, for the majority of time, only be occupied by one or two people. She said that this is directly related to the demand on infrastructure that can be expected.

Ms Goodall acknowledged that the staff report notes that there is inconsistency between the HUDs calculated by Duncan Cotterill and the HUDs calculated by David Todd Ltd, the architectural designer employed by the applicant.

Ms Goodall stated the applicant's assessment of each of the services for which a review was requested. For water usage, the applicant assessed the demand from this development as only two-thirds of that expected by a standard residential development and sought that the figure be adjusted to ten HUDs. For wastewater, the applicant assessed the level of HUDs at 14 instead of the Council assessment of 15. The stormwater assessment suggested by Ms Goodall was 13 instead of 15 as calculated by the Council. The roading assessment was established by Ms Goodall as five HUDs instead of the Council calculation of 15.

Ms Goodall acknowledged the requirement of one carparking space per five beds or one per dwelling, plus one per staff for elderly persons' homes. She said that it was not proposed for staff to be parked on the site and therefore the number of carparking spaces required is 16. In her calculation, she had divided the 16 carparking spaces by three, which gives a total of 15 HUDs on the site as opposed the 16 used in the Council's calculation. Ms Goodall quoted the case of Waitakaere City Council vs Estate Homes saying that there must be a logical link between the development and demand.

In conclusion, the evidence said that while accepting the approach taken by Council to consider this as a residential activity, it does have a number of difference to standard residential activities. She asked the Committee to use its discretion to reduce the amount payable.

1.3 Council Officer's Report

Development Engineer, Mr D Ley, spoke to his report EP07/09/03 contained within the agenda. Mr Ley confirmed that this development is on its own title and said as residential development one HUD per unit is recommended. He spoke of the future potential to create a unit title for each residential unit. He said that the Council has been reasonably generous with previous HUD calculations for the Stillwater Gardens development. Mr Ley confirmed that the HUDs calculation as listed in his staff report is true and correct and that Council's decision should be upheld.

1.4 Right of Reply

Ms Goodall responded for the applicant and said that how residential use is classified is open to interpretation. She reminded Council of its discretion as referred to in the LTCCP and its ability to refund money and discount levies. Ms Goodall stressed that the subject application was quite different to a normal residential development and recommended this for consideration by the Council as a case for special calculation.

The Committee reserved its decision at 2.20 pm.

RESOLUTION TO EXCLUDE THE PUBLIC

**Moved Crs O'Regan / Norriss
EP07/09/04**

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

Stillwater Gardens Retirement Village 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 passing this resolution are as follows:

General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Ground(s) under Section 48(1) for the passing of this resolution
Stillwater Gardens Retirement Village Ltd	Consideration of a planning application	A right of appeal lies to the Environment Court against the final decision of Council.

**Moved Crs Norriss / O'Regan
EP07/09/05**

**THAT the open meeting be resumed and the business transacted during the time the public was excluded be adopted.
CARRIED**

**2. APPLICATION BC070818 - STILLWATER GARDENS RETIREMENT VILLAGE LTD,
TEMPLEMORE DRIVE, RICHMOND**

**Moved Crs Norriss / O'Regan
EP07/09/06**

**THAT pursuant to delegated authority by the Council, the Committee DECLINES the appeal.
CARRIED**

A copy of the decision letter sent to the applicant is attached.

Date Confirmed:

Chair:

7 September 2007

Duncan Cotterill Lawyers
Attention: S Goodall
PO Box 827
NELSON 7040

Dear Madam

DEVELOPMENT CONTRIBUTION REVIEW: STILLWATER GARDENS RETIREMENT VILLAGE

I refer to your attendance on 5 September 2007, along with Mr Mark Nimmo, at a review of the assessment of the development contributions in respect of 16 residential units and a pavilion being an extension of the Stillwater Gardens Retirement Village.

An assessment had been issued for the Development Contributions (DC) on the basis of 15 HUDs, plus one HUD at the discounted rate for a first dwelling (i.e. 33% of the full HUD) and no DC for the pavilion. The total amount for that invoice was \$184,222.91 and it included a 5% discount on the DC and a financial contribution of \$4,583.33.

In brief, a charge of one HUD per villa has been recommended by staff, on the basis that those villas have the same demand for services as a normal dwelling, but no HUD charged for the pavilion as it is exclusively for the use of the residents of the retirement village.

It has transpired that the Building Consent was uplifted and only those charges paid for at that time. You have also requested that any "reassessment" of the DCs have a discount of 5% applied to it.

Council's Subcommittee comprising Crs O'Regan and Norriss considered the matters put forward by yourself and Mr Nimmo along with information and comment provided by Mr Ley.

In brief, you considered that although the retirement villa development had received resource consent for "comprehensive residential development and a community activity" that a "special assessment" should be made (more on the lines of a non-residential activity as per Table 3 in the LTCCP) so that a "fair outcome" can be reached by Council using its discretion to reduce the number of HUDs.

Your position is that the following numbers of HUDs should be applied given the special nature of the occupation of the villas:

Water	10
Wastewater	14
Stormwater	13
Roading	5

Development Contributions Decision – Stillwater Gardens Retirement Village

At the outset the Subcommittee considered the situation to be unusual as there is generally no call for a reassessment of DCs for residential developments, however it is acknowledged that the DCs in this case are significant and the delegation model operated at Council is that any decision made can be reviewed by those with a higher level of delegation. In addition, the project does contain a non-residential component (i.e. the pavilion). As the request has been made for a review, the Subcommittee consider that the process is appropriate. It is also acknowledged that a request was made at the time of the application for an “assessment” of the demand for services by the applicant. This is usually done for “non-residential” developments, but as stated earlier, this project has a non-residential component. Considering the scale of the development, the initial assessment was sought to be made by the “staff committee” (informed by comments from the applicant) instead of the more routine assessments made by building administration staff for residential projects.

The Subcommittee has been asked to assess the demand for services generated by the retirement village compared to a normal residential development.

It was noted that the villas were a mixture of two and three bedroom units, with either single or double garages.

The Subcommittee did not accept the suggestion that the nature of the intended occupants (being generally either single people or couples, usually over the age of 65) was “special” to the point that a lesser level of servicing of the villas would be generated. The villas are indistinguishable from other small dwellings. The Subcommittee was concerned that the DC policy should be applied fairly and consistently. It was not acceptable that one developer would pay a lesser amount of DC than another where the demand for services was the same.

Therefore, in summary, the Subcommittee supports the Development Contribution assessment made by staff which is for 16 HUDs for each of the services (water, wastewater, roading and stormwater). It is noted that one HUD will be charged as per a first dwelling at a discounted rate of 33% of a HUD. The Subcommittee confirms the waiver of DCs in relation to the pavilion as per the original assessment.

With regard to the request for a 5% discount to be applied, the Subcommittee notes that the wording in the LTCCP indicate clearly that this is only available if the payment is made at the time of uplifting the building consent and therefore it is not possible to make this discount available at this point.

Please find enclosed a copy of invoice 17990 for \$193,677.60 for Development Contributions for the 16 villas.

Yours faithfully

Jean Hodson

Regulatory Manager