

Report No:	RCS11-05-01
File No:	11728
Date:	14 April 2011
Decision Required	

REPORT SUMMARY

Report to: Community Services Committee
Meeting Date: 5 May 2011
Subject: Bach on Esplanade Reserve, Ligar Bay
Report Author: Jim Frater, Manager Property Services

EXECUTIVE SUMMARY

Mrs Gatward has owned a bach at Ligar Bay since the 1950s which subsequently became vested as esplanade reserve upon a subdivision of the land. The Golden Bay County Council gave a commitment that the bach may remain for the term of Mr Gatward's life and the Community Services Committee subsequently agreed that this should be for the balance of Mrs Gatward's life. The Committee confirmed a policy in March 2011 for the occupation of structures on esplanade reserves and the policy provides for exceptions to be provided on the licence expiry date. The Community Services Committee has requested a report on issues pertaining to the Gatward property.

RECOMMENDATION/S

It is recommended that the Committee confirm that the Gatward bach at Ligar Bay, which is situated on the esplanade reserve, be allowed to remain with the term of Mrs Gatward's life and that it be removed to the satisfaction of Council, within three months of her death.

DRAFT RESOLUTION

THAT the Community Services Committee receives the Bach on Esplanade Reserve, Ligar Bay (Report RCS11-05-01) and;

THAT the Community Services Committee confirm that the Gatward bach at Ligar Bay which is situated on the esplanade reserve be allowed to remain with the term of Mrs Gatward's life and that it be removed within three months of her death to the satisfaction of Council.

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1. PURPOSE

- 1.1 At the Community Services Committee meeting held on 24 March 2011, it was resolved "THAT the Manager Property Services report back to the Community Services Committee on the issues pertaining to the Gatward property".

2. BACKGROUND

- 2.1 The bach was constructed in the early 1950s and was subsequently acquired by the Swafford family who owned the land. Mr Swafford leased the land to his daughter, Mrs Gatward, in 1964. As the result of a subdivision of the property the peninsula was vested as an esplanade reserve and subject to the provisions of the Reserves Act. In 1981 the Golden Bay County Council wrote to Mrs Gatward's husband, Roger Gatward, confirming occupancy for the term of his life. He died on 28 April 2008. It was not until Mr Gatward died that the historical information relating to the Swafford family and Mrs Gatward's status as the owner of the bach, was made known to the Council. On the basis of the information and supporting documents provided by Mrs Gatward's lawyer, the purpose of passing resolution CS08/12/17:

**Moved Cr Norriss/Mayor Kempthorne
CS08/12/17**

THAT:

- (a) Council resolution CS08/09/14 be rescinded;**
- (b) Mrs B E Gatward be notified;**
- (c) The Council accepts that Mrs Gatward is the licensee for life for the occupation of a bach on the Ligar Bay Esplanade Reserve;**

- (d) **This decision is subject to the Gatward family accepting that the bach is to be removed within three months of the date of death of Mrs Gatward;**
- (e) **The reserve is to be reinstated to the satisfaction of the Council's Reserves Manager following the removal of the improvements; and**
- (f) **That in the event that the Gatward family chooses not to remove the dwelling, such removal and reinstatement will be undertaken by the Council at the expense of the Gatward family.**

CARRIED

- 2.2 The purpose of passing the resolution was to recognise Mrs Gatward as the rightful owner of the property rather than her late husband. The report was considered with "the public excluded".
- 2.3 In 2004, the Council agreed on a policy for the occupation of buildings on local purpose (esplanade) reserves. The policy aligned the term of occupation with the expiry of the baches on legal road at Ligar Bay or the life of the main occupier whichever is the earliest.
- 2.4 In 2011 a new policy for structures on esplanade reserves was adopted.

3. PRESENT SITUATION/MATTERS TO BE CONSIDERED
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- 3.1 The Committee's actions have been questioned which appears to be the reason that this report has been requested. When the policy on occupation of esplanade reserves was established in 2004, the Committee was unaware of a prior commitment having been made by the Golden Bay County Council. After having been provided with evidence to the effect that Mrs Gatward was the owner of the bach rather than her late husband, the Committee's action in allowing Mrs Gatward's occupancy for the balance of her life became an exception to the policy recognising the decision previously made by the Golden Bay County Council.
- 3.2 Questions of sanitation and disposal of effluent were also raised with the Committee. This has been referred to the appropriate Council staff and has also been discussed with Mrs Gatward's representative.

4. FINANCIAL/BUDGETARY CONSIDERATIONS

- 4.1 There are no directly related financial or budgetary considerations relating to this report.

5. OPTIONS

- 5.1 The Committee may review the decision to allow the occupancy of the Gatward bach for the balance of Mrs Gatward's natural life, review that decision so that the licence expires on 31 March 2014 or choose an alternative date of which the licence shall expire.

6. PROS AND CONS OF OPTIONS

- 6.1 Confirm that the licence may continue for the balance of her natural life. This option recognises the decision made by the Golden Bay County Council with the amendment made by the Tasman District Council to recognise the correct owner of the bach. While it sits as an exception to the policy, the policy provides for exceptions.
- 6.2 Require the licence to terminate on 31 March 2014. This would bring it into line with the recently adopted policy. The Committee in considering this option may wish to reflect on the decision of the Golden Bay County Council which was made in 1981 which appears to recognise the circumstances with which the land came to the Council and subsequently considered that a lifetime licence is acceptable.
- 6.3 Identify an alternate date to terminate the licence. We can see no valid reason why an alternative date should be considered.

7. EVALUATION OF OPTIONS

- 7.1 Reserve licences include a provision that the Council may terminate them on the giving of three months notice. In the event that sanitary or compliance issues were not satisfied, this would be a reason to consider terminating a licence. The question before the Committee is therefore whether to confirm that the Gatward bach may continue to remain at the Ligar Bay Esplanade Reserve for the term of Mrs Gatward's life or whether it should terminate on

31 March 2014. It is the author's opinion that the intention of the Golden Bay County Council in 1981 should be looked upon favourably and be regarded as

an exception to the Council's policy for the occupation of structures on esplanade reserves. However, either of the first two options identified could probably be justified.

8. SIGNIFICANCE

- 8.1 This subject is not a significant decision according to the Council's policy on significance.

9. RECOMMENDATION/S

- 9.1 It is recommended that the Committee confirm that the Gatward bach at Ligar Bay, which is situated on the esplanade reserve, be allowed to remain with the term of Mrs Gatward's life and that it be removed to the satisfaction of Council, within three months of her death.

10. TIMELINE/NEXT STEPS

- 10.1 Following a decision of the Committee, Mrs Gatward's representative will be notified of the Committee's decision and also notified of the requirements of the new policy for the occupation of structures on esplanade reserve and the issue of a new licence identifying those changes.

11. DRAFT RESOLUTION

THAT the Community Services Committee receives the Bach on Esplanade Reserve, Ligar Bay (Report RCS11-05-01) and;

THAT the Community Services Committee confirm that the Gatward bach at Ligar Bay which is situated on the esplanade reserve be allowed to remain with the term of Mrs Gatward's life and that it be removed within three months of her death to the satisfaction of Council.

J K Frater
Manager Property Services