

STAFF REPORT

TO: Environment & Planning Subcommittee
Development Contributions Delegated Committee

FROM: Dugald Ley, Development Engineer

REFERENCE: RM080360

SUBJECT: **BROWN ACRE VILLAGE - REPORT EP09/05/01** - Report prepared for hearing of 7 May 2009

1. INTRODUCTION

Brown Acre Village Ltd has proposed a residential retirement village of 69 Retirement Villas at the Corner Parker Street And Wilkie Street, Motueka (over 50 year olds) at Motueka. They applied and gained resource consent for the subdivision of four lots with Lots 1, 2 and 3 being standard residential lots and Lot 4 which was subject to a comprehensive housing development of 69 residential units. Parts of the consents (RM080175 (subdivision) and RM080360 (69 units) are subject to appeal and are yet to be heard.

2. BACKGROUND

This discussion/report is to debate an “advice note” contained within the resource consent for land use, ie 69 residential units.

Firstly, the Committee has two decisions to make before it can deliberate on this application:

- 2.1 Development contributions for comprehensive residential developments can only be applied at the time of a building consent and as yet no application has been made. At the applicant’s request, officers have given a “preliminary” assessment indication of the likely development contributions that will be required at the time of building consent. The applicants have also been advised that the development contributions will vary as to the current development contributions charging regime at the time application.

Therefore the first question to be asked is “is the objection legally able to be heard when the applicant has only received a “preliminary” assessment and not the “final” assessment that would be evaluated when the building consent is received”? It is my view that the preliminary assessment is not binding and therefore the decision, if any, on this objection is also not binding.

2.2 Should the Committee agree to hear the applicant's claim then the second question needs to be answered, ie "is this application for this development for residential purposes or is it for commercial / industrial use? If the residential use option is acknowledged then there are no rights of appeal and the application should be dismissed.

In respect of a similar objection previously heard, being the "Stillwater Gardens" application, the Committee chose to hear the case put forward by the applicants; however a building consent had already been applied for at that stage and there was a "commercial" component in the application.

From the applicant's letter the proposed units will be used for residential use and subsequently be put into "unit titles" for future sale to individuals. Note each individual will also be bound into a corporate body for the maintenance of grounds and on-site private infrastructure.

The Committee will be aware that development contributions have progressed via the LTCCP and are about to be reassessed as at 1 July 2009. The development contributions are based on individual household unit of demand (HUD) and in the case of residential development it is clear that one residential dwelling, whether it is one bedroom or five bedrooms equates to one HUD. This assumption has been used for many years.

As previously mentioned, Stillwater Gardens application (16 residential villas and a pavilion) was only considered because the pavilion was a non-residential component of the application. Stillwater Gardens was a mixture of low-number bedroom units with single garages similar to the Brownacres application. The Committee's final decision was:

"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".

The applicant contents that the application should be assessed under the "commercial" formula which has assessments based on:

Roading	Number of car parks,	One HUD = 3 car parks
Water	Size of water main to site	One HUD = 20mm dia
		Ten HUDS = 100mm dia

Wastewater	Number of pans/urinals,	One HUD =2 pans/urinals
Stormwater	Area of hard/impermeable	One HUD =350m ²

Clearly this application is for residential use and should be based on the residential calculation regime and imposed at the time of building consent.

It is also a concern that an applicant could “lock in” a development contribution without an application perhaps not being submitted for a number of years. This could seriously compromise Council’s ability to fund future projects and rely on outdated funding/costings.

Servicing the site has been fully discussed with the applicant and their engineering advisors prior to the consent being granted.

The applicant’s concept engineering plans show that they were aware of the issues regarding Council providing services. Both the wastewater and stormwater plans show Council’s pipe systems and at no time prior to the consent being granted did the applicant enter into a cost sharing agreement with Council but they choose to proceed with the application.

In regard to services, I make the following comments:

Wastewater – This service is available in both Parker Street (outside the applicant’s site) and in Wilkie Street. The site is deemed to be serviced as per Section 459 of the Local Government Act.

Water – This service is available in both Parker Street and Wilkie Street with no restrictions on use.

Stormwater – Te Maatu subdivision (off Parker Street) has recently installed a large diameter pipe from Thorp Street to service this area. Council chose to increase the pipe size to further service the area that could drain via that catchment. Council has not chosen to recoup expenses from the Brown Acre application to allow them to drain to this system. However they were required to connect to it as the applicant’s site must drain via that catchment. Note the only parties that would receive benefit from the extension of that system are the applicants and therefore it is appropriate that they pay their share for that system.

Roading – Parker Street in this area fronting the applicant’s land is sealed with no footpaths or kerb and channel. The application will increase vehicle and pedestrian traffic on to these roads. The Te Maatu subdivision formed up their “frontage” to engineering standards at their cost. This is also outlined in Schedule 16.3B, clause (h) of the TRMP:

Transport Standards and Terms

“Clause (h) requires:-....”where any land to be subdivided has frontage to any existing road that is not constructed to the standards set out in section 18.8.....the road along the frontage adjoining the land to be subdivided is formed and upgraded by the developer to the standards of the road widths, kerb and channeling and associated drainage attributable to the subdivision, berm, footpath, crossing and street lighting specified in section 18.8”

Also under schedule 16.3A, Clause (34) of the TRMP – Transport Access and Roads,

Clause (34) requires:- *“The degree of compliance with the provisions of the Tasman District CouncilEngineering Standards or the ability to achieve acceptable standards by alternative means”*

Clause 6.3.1 (d) of the Engineering Standards states:- *“Where any land to be subdivided/developed, fronts any of the above that is not constructed to the current engineering standards, Council will require as a condition of consent that these roads be upgraded at the full cost of the subdivider/developer. This may also require the installation of services and berms.....”*

I confirm that the works to be completed within and outside the applicant’s site are solely for the benefit of the applicant and serve no other parties. I also confirm that Council has no capital works programme in the immediate area so the applicant’s claim that Council is “double dipping” is false.

3. LTCCP PROCESS

The appropriate vehicle to amend policies relating to development contributions is via the LTCCP consultation process. The applicant is aware of this process and is likely to make a submission. I am not aware if they have submitted in previous LTCCP consultation rounds.

4. SUMMARY

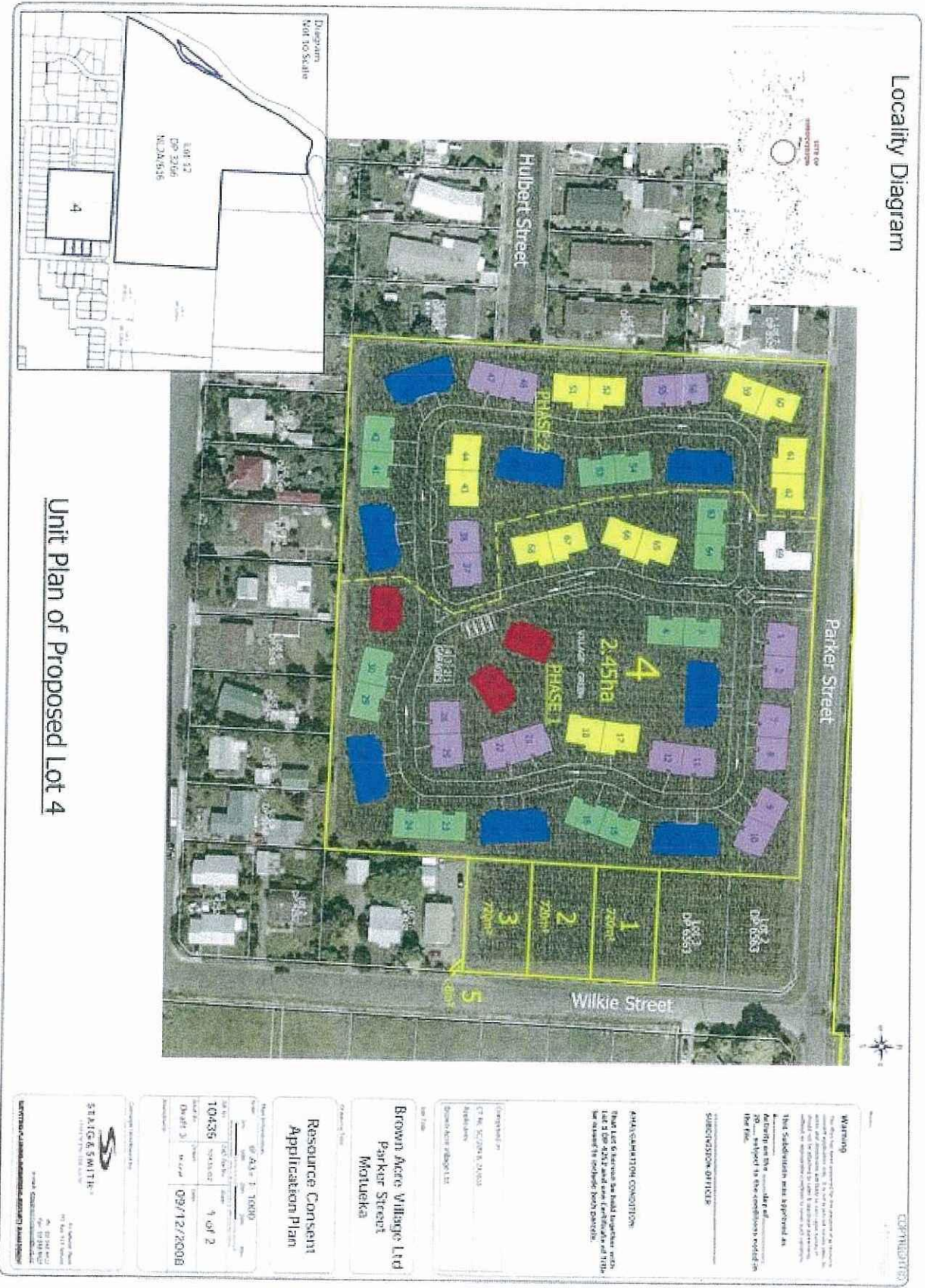
Officers have consistently applied the development contribution policy over a number of applications. Stillwater Gardens is an example where the committee chose to uphold the Officer’s view and confirm the recommended HUD amounts.

It is important that Council is consistent in applying HUD amounts and my recommendation is to continue with that consistent line.

I have not heard anything that makes this application any “different” from similar applications and my recommendation is to confirm the preliminary assessment calculated by officers in that 69 HUDS are required for each of the services being roading, water, wastewater and stormwater.

Dugald Ley
Development Engineer

**Plan B – RM080175 and RM080360
Comprehensive Residential Development Plan**



Unit Plan of Proposed Lot 4