

DISTRICT PLAN AND REGULATORY COMMITTEE

MINUTES: of a meeting of the District Plan and Regulatory Committee which commenced at 9.00 a.m. in the Committee Room, Centreway Road, Orewa on Wednesday, 17 February 2010.

PRESENT: Crs Gaye Harding (Chairperson)
Dave Parker QSM
Grahame Powell
Suzanne Weld

IN ATTENDANCE: Chief Legal Officer (Rob Goldsbury)
Democracy Services Officer (Elise Heyns)

9.00 a.m. Manager: District Planning (Peter Vari), Planning Consultant (Burnette O'Connor) and Council Solicitor – Simpson Grierson (Jill Gregory) in attendance.

054/02/10 APOLOGIES

AGENDA ITEM NO. 1

Harding/Parker

That the apology from Cr Goudie be received and sustained.

Carried

055/02/10 NOTIFICATION OF NEW APPEAL(S)

AGENDA ITEM NO. 3

There was no notice of new appeals.

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056/02/10 PUBLIC EXCLUDED
AGENDA ITEM NO. 6

Harding/Powell

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

Minute No(s). 057/02/10

The general subject of each matter to be considered while the public is 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:

General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Grounds under section 48(1) for the passing of this resolution
Appeals / Proposed District Plan 2000	Refer grounds	That the exclusion of the public from the whole or the relevant part of the proceedings of the meeting is necessary to enable the Local Authority to deliberate in private on its decision or recommendation in any proceedings before it where: (i) a right of appeal lies to any court or tribunal against the final decision of the Local Authority in those proceedings; or (ii) the Local Authority is required, by any enactment, to make a recommendation in respect of the matter that is the subject of those proceedings. (section 48(1)(d) Local Government Official Information and Meetings Act 1987.)

Harding/Powell

That Council's Solicitor, Jill Gregory, be permitted to remain at this meeting, after the public has been excluded, because of her knowledge which will be of assistance in relation to the matters to be discussed in confidential agenda item 9.

Carried

058/02/10 APPEAL AGAINST MENACING DOG CLASSIFICATION –
KATHERINE MCCARTHY
FILE REF DC/9/2
AGENDA ITEM NO. 3

The appellant, Katherine McCarthy, was present for this item.

Ms McCarthy said that her dog, Charlie, was nine months old when the incident happened. Since then he had been neutered, micro-chipped and kept on a tight run. She said the property was fully fenced and the gate padlocked and Charlie could not escape.

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Animal Control and Bylaws Manager (Wayne Knightbridge) addressed the agenda report. He said the level of aggressive behaviour shown in such a young dog was quite disturbing.

The Chairperson, Cr Harding, thanked Ms McCarthy for her attendance and advised that a decision would be made later in the meeting.

059/02/10 **APPEAL FOR RELEASE OF DOG RETAINED UNDER SECTION 71 OF THE DOG CONTROL ACT 1996 – SUE TOMLINSON**

FILE REF DC/10/1

AGENDA ITEM NO. 4

9.50 a.m. Animal Control and Bylaws Officer (Craig McFarlane) in attendance.

The appellants, Mr and Mrs Tomlinson, and their Legal Counsel, Mr Peter Boyd, were present for this item.

Mr Boyd addressed the Committee. He tabled evidence provided by Simon Goodall, the Director of Dog Guru Ltd, who performed a temperament testing on Bing (copy of results on File: DC/10/1). Mr Boyd summarised Mr Goodall's report and Bing's test results. Mr Goodall's conclusion was that Bing posed no threat and recommended that it should be returned to its owners, should be submitted to training, and should be required to wear a muzzle in public.

Mr Boyd described the circumstances leading to the attack. He said the appellants, Sue and Phil Tomlinson, were responsible owners who wanted their dog home for the period pending the court case.

It was noted that it could be several months before the court case was heard.

Animal Control and Bylaws Manager (Wayne Knightbridge) addressed the agenda report. He said it was unusual dog behaviour for one dog to kill another dog and Council officers were concerned about returning Bing to the same stressed environment. He said that, should the Committee decide to return the dog to its owners, it should be with strict conditions.

The Chairperson, Cr Harding, thanked the Mr and Mrs Tomlinson and Mr Boyd for their attendance and advised that a decision would be made later in the meeting.

10.35 – 10.50 a.m. Morning Tea adjournment.

10.50 a.m. Senior Policy Planner (Dave Paul) and Planning Consultant (David Wren) in attendance.

060/02/10 **SCHEDULE OF DELEGATED DECISIONS ON RESOURCE CONSENT APPLICATIONS**

FILE REF TP/1/6

AGENDA ITEM NO. 5

Weld/Harding

That the report on decisions relating to:

- (a) Land Use Resource Consent Applications [s.88 of the Resource Management Act 1991] (Controlled Activity, Discretionary Activity, Non-Complying Activity, Preservation or Conservation of Landscape);
- (b) Lapsing of Consents [s.125 of the Resource Management Act 1991];

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- (c) **Change or Cancellation of Consent Conditions by Consent Holder [s.127 of the Resource Management Act 1991];**
- (d) **Existing Uses [s.10 of the Resource Management Act 1991];**
- (e) **Non-Conforming Buildings [s.10 of the Resource Management Act 1991];**
- (f) **Any Other Decision Relating to Activities;**
- (g) **Subdivision Consent [s.105 of the Resource Management Act 1991] and Development Plans [s.409];**

made pursuant to delegated authority from the Council, be received.

Carried

061/02/10 PUBLIC EXCLUDED

AGENDA ITEM NO. 6A

Harding/Powell

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

Minute No(s). 062/02/10, 063/02/10, 064/02/10, 065/02/10, 066/02/10, 067/02/10 068/02/10 and 069/02/10

The general subject of each matter to be considered while the public is 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:

General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Grounds under section 48(1) for the passing of this resolution
Appeals / Proposed District Plan 2000	Refer grounds	<p>That the exclusion of the public from the whole or the relevant part of the proceedings of the meeting is necessary to enable the Local Authority to deliberate in private on its decision or recommendation in any proceedings before it where:</p> <p>(i) a right of appeal lies to any court or tribunal against the final decision of the Local Authority in those proceedings; or</p> <p>(ii) the Local Authority is required, by any enactment, to make a recommendation in respect of the matter that is the subject of those proceedings.</p> <p>(section 48(1)(d) Local Government Official Information and Meetings Act 1987.)</p>

Carried

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Note: The following decisions was made with the public excluded then brought into open meeting.

070/02/10 APPEAL FOR RELEASE OF DOG RETAINED UNDER SECTION 71 OF THE DOG CONTROL ACT 1996 – SUE TOMLINSON

FILE REF DC/10/1

AGENDA ITEM NO. 4

Powell/Parker

- (a) That the dog named Bing, owned by Sue Tomlinson, be returned to its owner at 78 Spindler Road, Wellsford subject to the following conditions:
- (i) That a suitable enclosure (inspected and approved by an animal control officer) be provided on the property that will adequately confine the dog Bing;
 - (ii) That the dog Bing be kept on a lead and muzzled at all times when not confined within the above enclosure;
 - (iii) That the Tomlinsons employ Simon Goodall of Dog Guru Limited to provide behavioural training for the dog Bing;
 - (iv) That should the Tomlinsons fail to comply with the above conditions the dog Bing will be seized and retained in Council's care pending legal action.
- (b) That the decision be restated in open meeting.

Carried

071/02/10 APPEAL AGAINST MENACING DOG CLASSIFICATION – KATHERINE MCCARTHY

FILE REF DC/9/2

AGENDA ITEM NO. 3

Parker/Powell

- (a) That the menacing dog classification under section 33A of the Dog Control Act 1996 against the dog known as Charlie be upheld.
- (b) That the decision be restated in open meeting.

Carried

It was recommended that a 'beware of the dog' sign be installed at the property to warn visitors.

072/02/10 WELLSFORD DOG INCIDENT

FILE REF DC/1/1

AGENDA ITEM NO. 8

Harding/Parker

- (a) That the report be received.
- (b) That the decision and the agenda report be restated in open meeting.

Carried

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It was recommended that the Animal Control and Bylaws Manager liaise with the Communications Department to prepare a public notice to raise public awareness of the importance of reporting unregistered dogs.

The meeting closed at 12.20.

CONFIRMED AS A TRUE AND CORRECT RECORD THIS 4TH DAY OF MARCH 2010

MAYOR

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CONFIDENTIAL