
ORDINARY MEETING

OF

REGULATORY PROCESSES COMMITTEE

AGENDA

Time: 9:30am
Date: Wednesday, 15 May 2019
Venue: Ngake (16.09)
Level 16, Tahiwi
113 The Terrace
Wellington

MEMBERSHIP

Mayor Lester
Councillor Calvert
Councillor Calvi-Freeman
Councillor Lee
Councillor Sparrow (Chair)

Have your say!

You can make a short presentation to the Councillors at this meeting. Please let us know by noon the working day before the meeting. You can do this either by phoning 04-803-8334, emailing public.participation@wcc.govt.nz or writing to Democracy Services, Wellington City Council, PO Box 2199, Wellington, giving your name, phone number, and the issue you would like to talk about.

AREA OF FOCUS

The Regulatory Processes Committee has responsibility for overseeing the Council's regulatory functions.

The committee will have responsibility for:

- Resource Management Act (RMA) Commissioners – Approve List and Appointment Guidelines
- Dog Objections and Fencing of Swimming Pools
- Road Stopping
- Temporary Road Closures
- Liquor Ban Bylaw Appeals
- Development Contributions Remissions.
- Approving leases under the “Leases Policy for Community and Recreation Groups”
- Suburb boundary amendments

Quorum: 3 members

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1. Meeting Conduct

1.1 Apologies

The Chairperson invites notice from members of apologies, including apologies for lateness and early departure from the meeting, where leave of absence has not previously been granted.

1.2 Conflict of Interest Declarations

Members are reminded of the need to be vigilant to stand aside from decision making when a conflict arises between their role as a member and any private or other external interest they might have.

1.3 Confirmation of Minutes

The minutes of the meeting held on 17 April 2019 will be put to the Regulatory Processes Committee for confirmation.

1.4 Items not on the Agenda

The Chairperson will give notice of items not on the agenda as follows.

Matters Requiring Urgent Attention as Determined by Resolution of the Regulatory Processes Committee.

The Chairperson shall state to the meeting:

1. The reason why the item is not on the agenda; and
2. The reason why discussion of the item cannot be delayed until a subsequent meeting.

The item may be allowed onto the agenda by resolution of the Regulatory Processes Committee.

Minor Matters relating to the General Business of the Regulatory Processes Committee.

The Chairperson shall state to the meeting that the item will be discussed, but no resolution, decision, or recommendation may be made in respect of the item except to refer it to a subsequent meeting of the Regulatory Processes Committee for further discussion.

1.5 Public Participation

A maximum of 60 minutes is set aside for public participation at the commencement of any meeting of the Council or committee that is open to the public. Under Standing Order 3.23.3 a written, oral or electronic application to address the meeting setting forth the subject, is required to be lodged with the Chief Executive by 12.00 noon of the working day prior to the meeting concerned, and subsequently approved by the Chairperson.

Requests for public participation can be sent by email to public.participation@wcc.govt.nz, by post to Democracy Services, Wellington City Council, PO Box 2199, Wellington, or by phone at 04 803 8334, giving the requester's name, phone number and the issue to be raised.

2. General Business

APPROVAL OF NAME FOR A NEW RIGHT-OF-WAY IN HOUGHTON BAY

Purpose

1. This report asks the Regulatory Processes Committee to approve a name for a new right-of-way in Houghton Bay, as shown on F Plan 3104 (**Attachment 1** refers).

Summary

2. This is a proposal to name a new right-of-way created as a result of subdivision in Houghton Bay.

Recommendations

That the Regulatory Processes Committee:

1. Receives the information.
2. Approves the name *Ara Haewai* to be allocated to the new right-of-way created as a result of recent subdivision in Houghton Bay, as shown on F Plan 3104.

Background

3. The developer of a recent subdivision in Houghton Bay has approached Council requesting a name for a new right-of-way created as part of the subdivision.

Discussion

4. A new right-of-way created as part of a subdivision of land in Houghton Bay now needs to be named. Under the Australasian Addressing Standard AS/NZS 4819:2011, right-of-ways serving five or more properties should be named. This right-of-way will give access to at least nine newly created lots off Houghton Bay Road.
5. The developer, Immaculate Construction Limited, has approached Council requesting a name for the right-of-way. They have suggested the name *Haewai* with the road name type of either *Way* or *Close*. *Haewai* is the Māori name for Houghton Bay according to early maps of the area.
6. The Council's Tira Poutama, Iwi Partnerships team has been consulted and raised no objection. In their feedback, Tira Poutama suggested the name type *Ara* for the right-of-way. Normally a right-of-way would have the road type as 'Way' or 'Close', however, in this instance, the type "Ara", meaning path or way, is suggested as appropriate. Tira Poutama has confirmed iwi approval of the proposed name, *Ara Haewai*.
7. The Friends of Houghton Valley was consulted on the proposed name, but have not provided any feedback.

Recommended Name

8. Council officers recommend the name *Ara Haewai* be approved for the new right-of-way created off Houghton Valley Road, as shown on F Plan 3104.

Attachments

Attachment 1. F Plan 3104 Ara Haewai

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Authors	Carline Thomas, Advisor, Land, Customer and Property Information Michael Brownie, Team Leader Land, Customer and Property Information
Authoriser	Toni Thompson, Manager Information Centre David Chick, Chief City Planner

SUPPORTING INFORMATION

Engagement and Consultation

The developer, Immaculate Construction Limited, suggested the name *Haewai*, with the road name type of either *Way* or *Close*, for this new right-of-way shown on F Plan 3104. Feedback on the name was sought from the Council's Tira Poutama, Iwi Partnerships, Team, and the Friends of Houghton Valley. The former suggested the name *Ara Haewai*.

The name has been checked for duplication, similarity and suitability by the Greater Wellington Regional Council.

Treaty of Waitangi considerations

The use of te reo where possible and practicable upholds the principles of the Treaty of Waitangi as well as Council's te reo policy, Te Tauihu. Iwi have advised their support of the proposed name to the Tira Poutama. Iwi Partnerships team.

Financial implications

Not applicable.

Policy and legislative implications

Allocation of street names is a statutory function under Section 319A of the Local Government Act 1974. The use of te reo for street names where possible and practicable is in line with the Council's Te Tauihu: Te Reo Māori policy and action plan.

Risks / legal

Nil

Climate Change impact and considerations

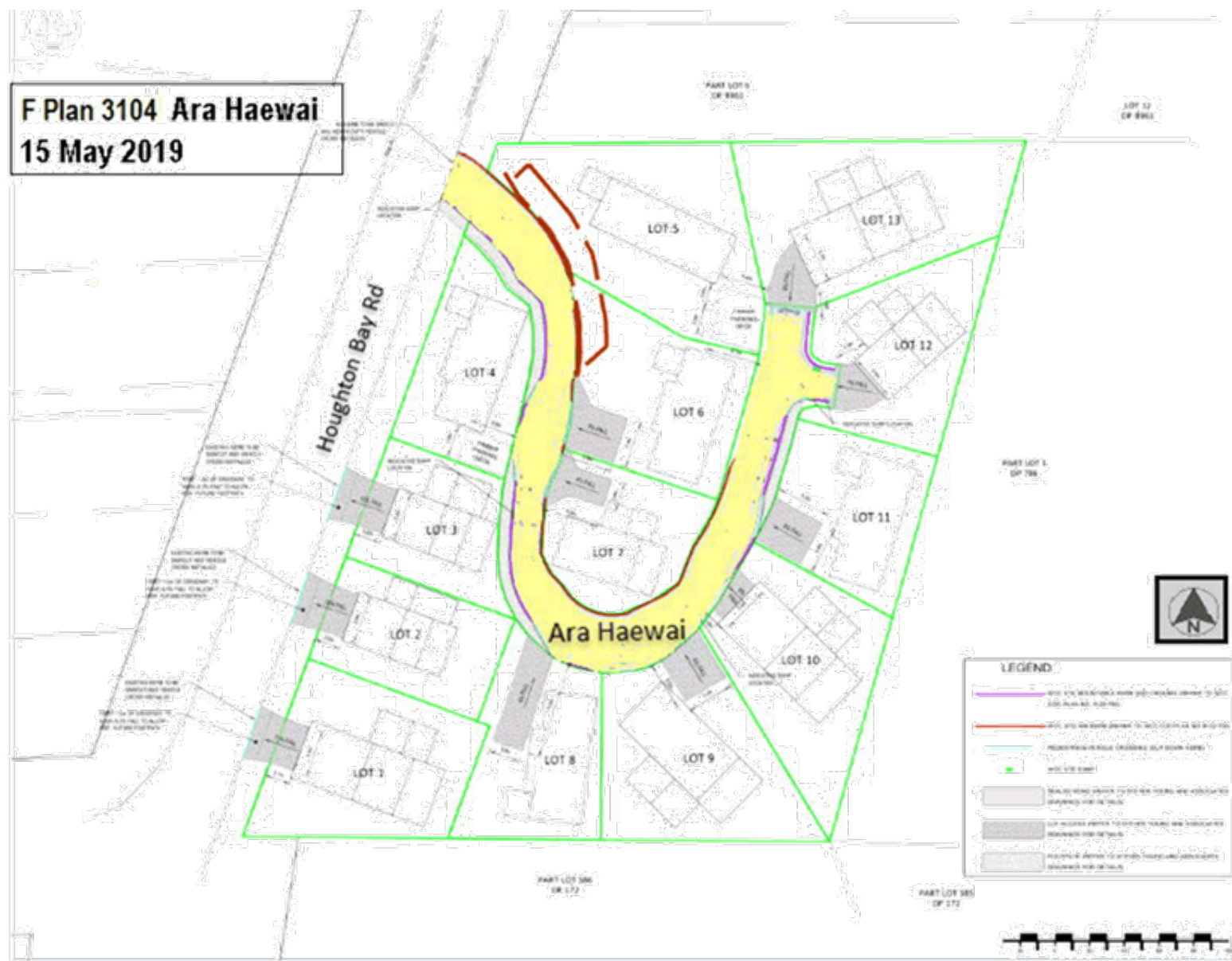
Nil

Communications Plan

There is an extensive notification list which includes Land Information New Zealand, emergency services, and New Zealand Post.

Health and Safety Impact considered

Health and safety for residents of, and visitors to, the right-of-way will be facilitated by the naming of this accessway. Emergency services will be able to more easily locate the site of any emergencies at properties accessed from it.



DEVELOPMENT CONTRIBUTION REMISSION FOR 3 EARP ST.

Purpose

This report provides advice to the Regulatory Processes Committee on Development Contribution (DC) fee remission application received from Linda Meade, owner of 3 Earp Street, Johnsonville.

Summary

1. The owner is planning to convert a residential property into commercial (childcare centre).
2. Assessed DC fees are \$13,708.98. These fees are payable in accordance with the additional loading and impacts anticipated on road, water, sewerage and reserves infrastructure. The Development Contributions Policy provides for additional loading due to a more intense use of the property expected by the proposed childcare centre compared to the existing residential premises.
3. The owner objects to the fees as it is not proposed to increase the floor area.
4. Officers recommend declining the request for the DC remission.

Recommendation/s

That the Regulatory Processes Committee:

1. Receives the information.
2. Agrees with the assessed fees.
3. Declines the application for a remission of Development Contribution.
4. Confirms that Development Contributions fees of \$13,708.98 will be payable by the owner.

Background

5. The work proposed is to install a new bathroom and insulate/re-line walls for the purpose of creating commercial property in the form of an early childhood centre.
6. The owner explains that the property use will provide a community service for Johnsonville and Wellington in terms of looking after children, and educating them, and allowing their parents to go to work.

Discussion

7. The Development Contributions Policy provides two options for DC calculations: being residential and commercial.
8. As the proposal is to change the use of the dwelling from residential to commercial, the DC fees were re-calculated based on the gross floor area.

9. Assessed DC fees are \$13,708.98. These fees are payable in accordance with the additional loading and impacts anticipated on road, water, sewerage and reserves infrastructure.
10. The Development Contributions Policy provides for additional loading due to a more intense use of the property expected by the proposed childcare centre compared to the existing residential use. The policy considers that a childcare centre would have greater use of infrastructure than a residential property. It is considered that there are likely to be more vehicle movements and use of road infrastructure, a greater use of water, and a larger volume of wastewater as a result of the change of use.
11. The owner disagrees with the Development Contribution fees, stating that as there will be no increase in the floor area itself there will not be an impact on the roading and water network. The owner explains that this is because some parents might opt for using public transport, and that there is a water tank installed for re-using the run-off water.
12. The owner explains that the property use will provide a community service for Johnsonville and Wellington in terms of looking after children and educating them, and allowing their parents to go to work.
13. The owner encourages Wellington City Council to review the Development Contribution Policy and the rates.
14. The owner objects to the DC fees of \$13,708.98.

Options

15. The Committee has two options:
 - a. To remit Development Contribution fees in full or partially;
 - b. To decline the request for remission and invoice the owner \$13,708.98.

Next Actions

16. The Committee is to notify Council officers of their decision and the owner will be notified accordingly.

Attachments

Attachment 1.	Development Contribution fees objection	Page 14
Attachment 2.	DC fee assessment	Page 18
Attachment 3.	Floor plan	Page 19

Author	Kristina Kolpashnikova, Customer Service and Business Support Manager
Authoriser	Mark Pattemore, Manager City Consenting and Compliance Moana Mackey, Acting Chief City Planner

SUPPORTING INFORMATION

Engagement and Consultation

N/A

Treaty of Waitangi considerations

N/A

Financial implications

If the remission is granted, Council will effectively incur the cost of \$13,708.98.

Policy and legislative implications

The recommendations are based on the current Development Contributions Policy of 01.07.2015.

Risks / legal

Development Contributions Policy enables remissions of Development Contributions to be granted in exceptional circumstances at the Council's discretion and states, that these decisions will not be regarded as creating precedent or expectations. However, there is a risk, that these decisions will set precedent.

Climate Change impact and considerations

N/A

Communications Plan

N/A

Health and Safety Impact considered

N/A

Daisies Early Education and Care Centre
 c/- Linda Meade
 11/8 Thatcher Cres
 Crofton Downs
 Wellington 6035

Subject: Development Contributions for 3 Earp St, Johnsonville – conversion of an existing dwelling to a childcare centre

Dear Wellington City Council

This letter lays out why I believe that Development Contributions in respect of 3 Earp St should be waived by Wellington City Council.

First a few facts:

- The existing villa at 3 Earp St, one of the oldest in Johnsonville, sits on a site of around 530SQM and is around 158SQM in floor area.
- Resource Consent was granted in late 2018 to convert to existing building into a childcare centre. The building will be untouched from the exterior and the main interior renovations involve a new bathroom and insulation/re-lining of the walls. Thus a historic villa will be preserved. There is no expansion of the existing footprint.
- Daisies Early Education & Care Centre already operates a centre next door at 5 Earp St, recently celebrated 10 years since opening and has earned a formidable reputation as one of the highest quality centres in Wellington, or even NZ. We have a very long waiting list, and have been asked repeatedly by families to expand.
- At the time of opening in 2008, Daisies was rated as a residential dwelling. Some years later, following a review by Council, it was re-classified as a commercial building – while at the same time many other childcare centres were deemed to be not liable for any rates at all. The sole difference being the ownership structure since Daisies is operated by a company with two private shareholders, while others were operated by charitable trusts established many years ago – presumably with philanthropic assistance to fund establishment costs.
- On enquiry, the reason given was that the relevant legislation stipulates that education establishments operated on a not for profit basis should be exempt from rates. While it does not state that education establishments operated by a privately held company should be rated at commercial rates this was the interpretation adopted by the Council and since that time the rates at 5 Earp St have ranged from \$8,000 to \$9,000.
- For residential dwellings, Development Contributions generally apply where new floor area is created. In this case that does not apply. The only reason that Development Contributions have been levied in this case is because the use of the house will be a childcare centre rather than a house, and because it has been deemed that this is a commercial use.
- When a building is converted to a commercial use, even where there is no expansion, development contributions are calculated using the entire floor area to guide the calculation. The rationale given is that commercial use generally puts a heavier load on the water and roading network.

I believe it is important that the Council takes into consideration the following:

1. The argument of a “heavier load” is flawed:
 - Parents drop their children off at childcare centres on their way to work, thus they do not add any significant burden to the road network. In fact the Daisies site was intentionally chosen near to be the Johnsonville transport hub so that parents – if they wish – could have the option of using active modes and/or public transport, so the opposite may actually be true.
 - Children at Daisies, do – naturally – make use of the water/waste-water network. However, we have a water tank run off the roof for watering the garden or outdoor water play. In any event those same children would be using water where-ever they were located during the day so the overall burden on the water network is unchanged merely by congregating those children into one spot. And then at the end of the day, they go home.
 - Many children are enrolled into home-based care across Wellington. It has been the fastest growing provider of childcare in NZ for many years now. In home-based care settings, up to 4 children can be cared for by a single (unqualified) care-giver. That caregiver is effectively running a business but is not classified as commercial. This is inequitable.
 - Daisies voluntarily elected to pay metered water rates at 5 Earp St, so any actual water usage is already paid for on a usage basis. We are very happy to do the same for 3 Earp St.
2. Daisies is a social enterprise not a “commercial” business
 - While it is undoubtedly easier for Council to follow a rules based process to determine in what circumstances a building should attract developer contributions, or indeed be levied higher (commercial) rates, this ignores the fact that there are enormous differences between a business like Daisies which provides not only necessary, but socially and economically valuable services to the community, and “commodity” businesses like cafes, shops or office premises.
 - To simply categorise a business as commercial or non-commercial and then charge enormously different rates and levies such as development contributions is not only unfair, it also acts a deterrent to the establishment of the very businesses the Council seeks to encourage as important community facilities. Was this the outcome the Council was seeking when it made it’s policy around rates and development contributions?
 - Early childhood education is recognised in the District Plan as an activity that is desirable to have in the community, because it supports both employment outcomes so that parents can go to work, and education outcomes for the children.
 - Unfortunately there is no legal form in NZ which allows for a business to be characterised as a social enterprise. In the UK a social enterprise does exist as a separate option from a company and allows only 50% of any profits to be paid to shareholders.
 - The reality for the Daisies owners is that we never created the business “for profit” but equally a charitable trust model was also not viable because starting a business like Daisies needs significant capital and a brand new charitable trust created for this purpose would not have access to this sort of capital. Notwithstanding the provision of this capital by the owners from their own resources, payment of cash dividends has never been a feature of our model, with all cash surpluses going back into the business or being used to pay down debt or repay some of the equity put into the business by the owners as start-up capital.
 - This means that Daisies has all of the hallmarks of a social enterprise – started with private capital but with the intention of delivering social returns, not commercial returns for the owners.

3. Childcare centres should be encouraged in suburban locations, particularly close to schools and transport hubs. Instead there are multiple regulatory hurdles put up which are enough to deter all but the most determined.
 - It is no wonder that home-based care has taken off, given the regulatory hoops that the establishment of a modest 30-place childcare centre has to jump through.
 - Education regulations do of course require some minimum standards, but these relate mostly to the size of the property – outdoor and indoor space. These rules means that a property must be at least 500 Sqm (land) and 150 Sqm (building), on largely flat land and with good access. In Wellington, these restricts the number of properties available and recent market value rises have priced almost all such properties out of reach. In other words, childcare centres by their nature are capital intensive and require the use of relatively large amounts of land. This is not something that can be avoided.
 - To get Resource Consent it is necessary to convince officers that vehicle movements around the location will not cause issues, that noise (to neighbours) will be not be excessive and that parking can be safely provided. In our case this process took 2.5 years from the time we acquired the property to the time Consent was granted. In this time there were multiple meetings, many consultants reports (at not inconsiderable cost), not to mention my time and that of your officers. Given that in that time, the property value had increased by 33%, most sane people would have given up and cashed in.
 - Have been granted Resource Consent (in November 2018), Building Consent was then applied for – which we thought would be straightforward given the building is not being significantly modified. But new fire safety requirements have added complexity and cost significantly and the end result was a stipulated need to create a legal easement between the two properties. More cost, more delays.
 - The overall cost to date to achieve Resource Consent and Building Consent, for a building that is going to stay largely unchanged is now in excess of \$50,000. The only way this was possible was for private capital to be used, borrowed against my own home. Will I ever get this back from net surpluses, after paying the bank interest on the large mortgage required to buy the house and complete the conversion? My guess is no, unless the business is sold some time in the future.

4. Does the Council have any role to play in encouraging the provision of early childhood education – ideally good quality ECE?
 - That of course is a policy decision for Councillors. Perhaps there is no role? or only the most minor role in considering how permissive the District Plan provisions are? I would note that the last time the District Plan was updated, it made it harder not easier to gain Resource Consent.
 - Or could the Council consider being more pro-active. Recognising that as the city grows, with a bigger workforce, increased provision of ECE is also necessary? And that good quality ECE is vital to our economic and social wellbeing? Home based childcare is one solution but the quality of care is enormously variable. And being owned by a charitable trust does not of itself mean better quality either.
 - And if the Council did believe it should play a role, where would it look for models where cities have embraced the importance of early childhood education almost into the fabric of the community? Reggio Emilia is one such city in Italy where educators now travel in groups to see how it has done it. Perhaps Wellington could be the Reggio Emilia of Asia Pacific?
 - Could the Council be even more pro-active in encouraging ECE in the city and in the suburbs. For example, by encouraging new building developers to include ground floor ECE provision

in place of cafes and shops. Or even by making spare Council-owned land available for 5 or 10 year leases?

In considering all of the above, I hope you can see that right now Wellington City is not a welcoming place for early childhood education. In fact, it feels pretty hostile. Not only are there many regulatory barriers which create significant compliance costs, but any childcare centre run through a company – no matter how small, family owned or socially motivated – is automatically classified as “commercial” and thus charged both commercial rates and development contributions. To make matters worse, childcare is a space-intensive business so these rates and contributions are necessarily levied on relatively large properties, so the cost is higher again.

So here is my request to you:

1. Review your policies around both Development Contributions and Rates and think carefully about how these could be re-designed to incentivise the sorts of developments seen as desirable rather than as a pure cost-recovery play.
2. Consider creating a new classification for social enterprises. This would be nation-leading in New Zealand and could result in many start-ups looking to Wellington as a progressive and welcoming place to do business.
3. Waive the development contributions levied on Daisies for the conversion of an existing dwelling. And even better, have another look at your rates policy and consider whether you could grant us a rates rebate too. We are not looking for no rates, just the same rates as the other residential houses in Earp St.

Thank you for listening.

Yours sincerely



Linda Meade

Development Contribution Summary

Property

WUFI: 1052108
 Address: 3 Earp Street
 Legal Description: LOT 2 DP 12847

Property Type: Survey
 Status: Current

Service Requests with Development Contribution Items

SR Code: 427638 SR Type: aBLDG CONSENT Online
 SR Item Description: C1- Change of Use- Convert existing residential dwelling into an early childhood centre. Includes interior renovations, exterior landscaping, new drive on access, car parking, and a covered pergola to the rear of the property.

DC Attribute Type	Actual Value	Calculation Value	Calculation Value Change Reason
Year	2015-2016	2015-2016	
Base SR Number	427638	427638	
Base Assessment	Yes	Yes	
No. of Existing Dwellings	1	1	
Final No. of Dwellings	0	0	
No. of Existing Lots	0	0	
Final No. of Lots	0	0	
No. of Existing Units	0	0	
Final No. of Units	0	0	
Existing Square Metres	0	0	
Final Total Square metres	158	158	
Max EHU per Level	2.70	2.70	
Zone (Locality)	F - Johnsonville-Onslo	F - Johnson	
Development Contribution	14221.34	14221.34	
Equivalent Household Unit	2.76	2.76	
Equivalent Household Unit - Residential	-1.00	-1.00	
EquivHousehold Unit - Non Residential	3.76	3.76	

Development Contribution Fees Breakdown

Type	Rate (GST Inclusive)	EHU	Total Fee (GST Exclusive)	Gst	Total Fee (GST Inclusive)
ZoneF Dev Contr City - Reserves	522.10	-1	-454.00	-68.10	-522.10
ZoneF Dev Contr City - Roading	1508.80	2.76	3621.12	543.17	4164.29
ZoneF Dev Contr City - StormWater	189.75	2.7	445.50	66.82	512.33
ZoneF Dev Contr City - WasteWater	139.15	2.76	333.96	50.09	384.05
ZoneF Dev Contr City - WaterSupply	387.55	2.76	930.12	139.52	1069.64
ZoneF Dev Contr - Reserves	0	-1	0.00	0.00	0.00
ZoneF Dev Contr - Roading	0	2.76	0.00	0.00	0.00
ZoneF Dev Contr - WasteWater	1362.75	2.76	3270.60	490.59	3761.19
ZoneF Dev Contr - WaterSupply	1820.45	2.76	4369.08	655.36	5024.44
ZoneF Dev Contr City - Com_Infra_Str	0	-1	0.00	0.00	0.00
ZoneF Dev Contr City - Com_OpenSpace	172.50	-1	-150.00	-22.50	-172.50
Total:					14221.34

Assessment updated date: 20/03/2019 14:21:19

LESS STORMWATER = 512.33

NEW TOTAL \$13,708.98

