



Hastings District Council

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OPEN MINUTES

HEARINGS COMMITTEE

Meeting Date: **Wednesday, 14 March 2018;
Reconvened in Public
Excluded Session on
Thursday, 15 March and also
on Monday, 26 March 2018**

**(Proposed Extension to Eversley Carehome at 400 Cornwall Road,
Hastings and 700 Nelson Street North, Hastings)**

HASTINGS DISTRICT COUNCIL

**MINUTES OF A MEETING OF THE HEARINGS COMMITTEE
HELD IN THE COUNCIL CHAMBER, GROUND FLOOR, CIVIC ADMINISTRATION
BUILDING, LYNDON ROAD EAST, HASTINGS
ON WEDNESDAY, 14 MARCH 2018 AT 9.30AM**

***[AND THEN CONTINUED IN PUBLIC EXCLUDED SESSION
ON THURSDAY, 15 MARCH 2018***

***AND ALSO CONTINUED IN PUBLIC EXCLUDED SESSION
ON MONDAY, 26 MARCH 2018]***

**THEN FURTHER CONTINUED ON MONDAY, 26 MARCH 2018
(FOLLOWING A RESOLUTION TO PROCEED IN OPEN SESSION
AND RELEASE THE HEARING DECISION)**

WITH THE DECISION BEING RELEASED ON TUESDAY, 17 APRIL 2018

- PRESENT:** Chair: Councillor Lyons
Councillor Heaps and Hastings District Rural Community
Board Member: Mr P Kay
- IN ATTENDANCE:** Environmental Consents Manager (Mr M Arnold)
Senior Environmental Planner (Consents) – (Mrs C
Boulton)
Committee Secretary (Mrs C Hilton)
- ALSO PRESENT:** **Appearing for the Applicant**
Vanessa Hamm (Legal Counsel acting for Oceania
Healthcare Limited)
Neil Fenwick – Architect, Neil Fenwick Architects Limited
Tess Fenwick - Neil Fenwick Architects Limited
Rachel de Lambert - Landscape Architect and Partner at
Boffa Miskell Limited, Auckland
Ian Constable – Consulting Traffic Engineer and Director
of Traffic Solutions Limited
Eli Parkin - Development Manager for Oceania Healthcare
Limited
Greg Knell – Planning Consultant and Director of Wasley
Knell Consultants Limited
- Submitters**
Bill Duthie and Valerie Duthie
Graeme Reid and Penelope Reid (speaking to their own
submission and Mr Reid also speaking to the submission
from a group of residents)
Ken Nicholson and Suzanne Smith
Peter Stormer and Barbara Stormer
Roger Tuck
Ethel Gibbs

A number of members of the public and other local residents were also present as observers.

1. APOLOGIES

There were no apologies from members of the Hearings Panel.

2. PROPOSED EXTENSION TO EVERSLEY CAREHOME AT 400 CORNWALL ROAD, HASTINGS AND 700 NELSON STREET NORTH, HASTINGS (RMA20170296)

(The Planning Report (Documents 18/129 and 15313#0186) and supporting documents in the hearing agenda, and also the Applicant's Evidence had been pre-circulated prior to the hearing)

(Note: The document references in italics and brackets denote the number in the Council's records system)

The Chair, Councillor Lyons, welcomed all parties to the Hearing and introduced the Hearings Committee and Council Officers present.

The Chair then made his opening comments and outlined the process to be followed at the hearing, together with addressing "housekeeping" issues. It was explained that the planning report had the same status as any other evidence being considered at this hearing. The Committee had been on a site visit that morning, prior to the hearing.

It was noted that once the parties had presented their respective evidence to the hearing, the Committee would consider that information, undertaking its deliberations in Public Excluded (Confidential) Session.

Ms V Hamm, Legal Counsel for the Applicant, noted that evidence had been pre-circulated prior to the hearing as required, on behalf of the Applicant, from each of the following consultants, and that evidence would be addressed in turn as the hearing progressed.

(Note: While the following evidence had been pre-circulated prior to the hearing, for ease of reference Ms Hamm also circulated bound sets of the written evidence at the hearing).

Neil Fenwick – written evidence *(Council's Records System Document 15313#0206)* and two shadow study videos *(15313#0203 and 15313#0204)*

Rachel de Lambert *(15313#0207)*

Ian Constable *(15313#0210)*

Eli Parkin *(15313#0209)*

Greg Knell *(15313#0205)*

Evidence from **Paul Culley**, Civil Engineer and Director of MSC Consulting Group Limited *(15313#0208)*, had also been pre-circulated. It was noted that Mr Culley had not been able to attend the hearing but would be available if needed, by phone, to respond to any questions from the Committee.

Vanessa Hamm circulated and read her **Legal Submissions** on behalf of Oceania Healthcare Limited (the Applicant) (15313#0243), briefly interpolating as appropriate. (These Legal Submissions had not been required to be pre-circulated prior to the hearing). The main points or paragraphs that she highlighted in her Submissions related to:

- Paragraphs 31 to 34 under the heading “Effects on Property Values” – Ms Hamm highlighted the bold wording under Paragraph 33(b) which noted the Environment Court’s finding regarding the matter of indirect duplication of the consent authority’s function.

The Committee did not ask any questions of Ms Hamm at this point in the hearing, in regard to her Submissions.

Neil Fenwick, Architect, Neil Fenwick Architects Limited and **Tess Fenwick** jointly addressed the following evidence:

- Mr Fenwick’s pre-circulated written evidence (15313#0206)
- three shadow study videos (15313#0203 and 15313#0204 and 15313#0227)
- a number of individual slides from those videos (15313#0220; 15313#0222; and 15313#0224 to 15313#0226), as well as -
- a set of 16 bound colour A3 sheets (15313#0244) showing architectural, zoning and site plans; and landscape concept with the majority of these plans having been circulated in the hearing agenda as part of the application information from Mr Fenwick and Boffa Miskell (these were both circulated in hard copy and also shown on the screen at the hearing).

It was noted that two of the shadow study videos (15313#0203 and 15313#0204) had been forwarded to the Council prior to the hearing. However, given their format, the Chairman had given direction that the videos could be shown at the hearing rather than needing to be pre-circulated and the submitters had been advised of this before the hearing. These videos showed the simulated electronic time lapse version of the effect of the shadow diagrams contained in the evidence from Neil Fenwick. These shadow diagrams were also addressed in the planning evidence to be presented later in the hearing by Greg Knell.

Mr Fenwick addressed the pre-circulated written evidence and he and Tess Fenwick displayed and spoke to the associated shadow study videos as well as the architectural, zoning and site plans; and landscape concept which were both displayed and also circulated at the hearing as a 16 page hard copy set.

Some of the main points that were highlighted included:

- The proposed ground floor plan - the design had been based on the Oceania brief which had been used in other facilities around the country. This was also based on a blend of care and compliance with all legislative requirements.
- The connections that they are making – pedestrian, main entry etc and looking at other connections so there was a safe transition between the existing building and the proposed building.
- Modulation of the proposed building.

- The various elevations and the issues that had been considered and what Mr Fenwick had tried to achieve in regard to his design and his approach to tying these into the Hastings Character Residential Zone and the Hastings City Living Zone.
- He highlighted the various roof lines, hip rooves and gable ends that were proposed, which he also felt tied in with the style of the homes in this area.
- He addressed his approach to the design of the main entrance.
- He noted the use of residential materials and the residential nature of the proposed building elements incorporated into the design, together with the scale of dimensions and aspects of the building.
- The respective heights of the various parts of the proposed building were noted in relation to the 8m maximum building height within the Hastings Character Residential Zone and the Hastings City Living Zone.
- The areas where this maximum height would be exceeded were pointed out on the 7th sheet in the circulated A3 hard copy set – this was titled “Recession Planes and 8.0 metre rolling height 3D”. It showed the areas in grey which protruded through above the 8m permissible height – to 1.196m above that permitted level.
- The complying building envelope, shown in four portions, which could be undertaken if the site was to be subdivided and individual sites developed and the resultant projected shadows that may arise were illustrated in the second video shown.
- The shadows that would arise if 8m high buildings were erected, compared to no development on the site and the long shadows cast by the existing trees was illustrated.
- The complying building envelope and the shadows cast by the proposed building - the respective shadow diagrams were overlaid in order to compare them.
- Mr Fenwick felt the proposal was the best design for this particular site.

Questions were then asked of Mr Fenwick by the Committee. The main points that were addressed or highlighted in response to these questions included:

- Whether consideration had been given to a single level building with a ramp between the new and existing buildings – it was important from an operations viewpoint to have a level transition for the movement of beds, trollies and people between the buildings.
- Whether consideration had been given to lowering the level of the new building or whether that would involve extensive earthworks. That was an operational issue for the Applicant to address.
- Whether there would be glare from the windows of the proposed building in the height of summer. No – this would not occur. On the longest day in December the sun sets to the southwest of the site and due to the angle of incidence being the same as the angle of reflection.
- Shading in summer had been considered and this information was shown in the circulated hard copies and could also be illustrated on the screen – *it was agreed that this would be done following the morning tea break.*
- Mr Fenwick referred to Paragraph 10.10 in his written evidence which addressed the issue of privacy. He felt any privacy issues would be mitigated by the distance between the proposal and the submitters’

houses opposite the site. The sheer distance would mitigate clarity of view between the two buildings.

Rachel de Lambert, Landscape Architect and Partner at Boffa Miskell Limited addressed her pre-circulated evidence (15313#0207). Via slides on the screen, she addressed some of the plans and proposed landscaping details that had also been included in the application and in the hard copy set circulated at the hearing. Ms de Lambert also tabled an A1 Landscape Concept Plan (this was not retained as evidence but was a copy of one of the slides presented at the hearing).

The main points or paragraphs that were highlighted in her evidence or that were addressed in response to questions from the Committee included:

- The Landscape Amenity and Visual Effects Assessment Report submitted with the application had been prepared by her colleague Mr Tom Lines (who is unable to attend this hearing). Ms de Lambert peer reviewed that earlier report, adopted and agreed with its findings and is presenting this evidence.
- There were no adjoining neighbours to the actual site, other than buildings forming part of the existing facility. The residential neighbours were all across the street.
- Trees removed from the vacant site – they were removed from earlier occupation of the site.
- The existing evergreen trees on the site do cast long shadows over properties to the west in the mornings.
- Under the proposal there were trees on the site that would remain, including the large liquid amber.
- She noted the site spanned three land use zones - the Hastings Character Residential Zone, the Hastings City Living Zone and the Open Space Zone (recognised to be a mapping error).
- Proposed landscaping had been designed in sympathy with the existing architecture of the zone and to continue that effect.
- There was generous space for landscaping along Nelson Street North and Kitchener Street. There were no vehicle accessways or garages in front of the proposed building.
- Types of planting proposed – including three large Pin Oak trees proposed with underplanting to maintain the amenity of the streetscape – and including flowering Cherry trees and Vertical Oaks.
- Main entry was off Nelson Street North and was internal to the site.
- Setback distances – 7m in Hastings City Living Zone.
- The proposed building was stepped forward to be not less than 6m from the boundary.
- As part of addressing the overall concept of the building and planting proposed, Ms de Lambert noted the design of the proposed building, including the elevations and that, in some places, the eaves projected out further than the lower part of the building.
- An independent peer review had been undertaken for the Council by Gavin Lister, from Isthmus, titled Landscape + Visual + Urban Design Review (Attachment C in the agenda documents).
- A key point in the peer review was the comfort expressed in the ability of the scale of the site to take a larger footprint as proposed. Also the

overall conclusion that any adverse effects would be minor or less than minor and that there were also some positive effects that would result.

- She noted the heights that some of the proposed trees could reach in a park setting if they were not managed by an arborist as was normal in a residential environment.
- She also noted which trees would be removed as part of this proposal.

The hearing adjourned for morning tea at 10.35am
and resumed at 10 50am

Following the tea break, Mr Fenwick addressed the earlier noted question from the Committee regarding the shading effect that would result in summer. A Summer Solstice Shadow video was shown and addressed. He noted the shadowing, shown in increments on each slide, that would result on the longest day, being 21st December. He advised that the resultant shadows would not touch the houses on Nelson Street North.

The Committee also asked further questions of Mr Fenwick in regard to his earlier presented evidence. The main points raised in response to those questions included:

- The proposed building facade on Kitchener Street and how dominating that could be with no garages along that frontage to allow light through. There would be light shafts coming through between the evergreen trees.
- The effect of shadowing from the proposal compared to the situation if complying homes and trees were on the subject site. Trees throw much longer and heavier shadows compared to the continuous shadow from a building – but he did not feel this would have any particular effect on the buildings across the street.
- The proposed floor height compared to the existing. A 1 in 12 ramp slope would comply with the code but would be quite steep and hard for elderly and frail people with walkers or wheelchairs to navigate. A 1 in 20 grade slope or shallower would be the minimum.
- A ramp may need to be 10m long and would have an impact and need to be accommodated in the new building. He did not feel this would be sensible from a design or operational viewpoint. Ramps within a building can be dangerous.

Ian Constable, Consulting Traffic Engineer and Director of Traffic Solutions Limited addressed his pre-circulated evidence (15313#0210). The main points or paragraphs that were highlighted in his evidence or that were addressed in response to questions from the Committee included:

- He addressed the last sheet in the circulated A3 set and Paragraphs 21 to 39 of his evidence, noting the streets adjacent to the site:
 - All were straight with clear visibility and safe pedestrian access points.
 - Nelson Street North was classed as a collector road and all the others were local roads.
 - Where on-street parking was permitted along these streets.
 - Plenty of on-street parking for the carehome staff.

- Traffic counts stated as vehicles per day. All the roads were currently operating well within their available capacity.
- No accidents on roads surrounding the site in past 5 years.
- The proposal likely to generate a maximum increase of 15-22 vehicle trips per hour at maximum peak time for the carehome. He did not consider this to be an issue.
- Currently six vehicle crossings to the site. This will be reduced to two.
- Currently five parking spaces on site – this will increase to 25, but there will still be a shortfall of 13 from the number required under the District Plan – being 38. The 13 park shortfall is the same as currently exists.
- There will be a lower demand at nights and weekends for parking associated with the carehome.
- There will be a shift in the demand for on-street parking from Cornwall Road to Nelson Street North and Kitchener Street, by approximately four vehicles – due to the location of the proposed pedestrian access.
- Figures 3 and 4 of his evidence – parking on-site, including two disabled parks. Access available for trucks and ambulances.
- He saw no issue with construction vehicles accessing the site and agreed with Recommended Conditions 8 to 14 in the Planner's report, including Condition 13 about submitting a construction traffic management plan.
- No residents will have cars. On-street parking for staff and some visitors.
- Traffic surveys done in middle of June, what about the summer-time?
- Mr Constable said he was not local and had not been to the site. He had reviewed the Council Officer's report and attached traffic report. Traffic surveys showed Roberts Street was filled up in January 2018.
- While there may be increased parking in one area rather than another, overall the demand could be accommodated.
- Streets are wide and angle parking is possible down one side to increase the number of car parks.
- Could consider no-stopping on either side of accessway to site if required.

Eli Parkin, Development Manager for Oceania Healthcare Limited, addressed his pre-circulated evidence (15313#0209). The main points or paragraphs that were highlighted in his evidence or that were addressed in response to questions from the Committee included:

- Oceania had resulted in 2008 from merger of ElderCare and Qualcare.
- Aim is to provide an integrated suite of care on the same site.
- There was a move away from institutionalised care to high end residential levels in carehomes.
- Currently the facility provides rest home and dementia level care and generally fully occupied with a waiting list. Not currently certified for hospital level care, but intend to seek this qualification.
- The existing building had been constructed in 1984 with regular refurbishment programmes and there were no plans to replace it.

The evidence of **Mr Paul Culley**, Civil Engineer and Director of MSC Consulting Group Limited (15313#0208), had been pre-circulated. Mr Culley was available by phone if the Committee wished to ask any questions of him. At this time, the Committee did not have any questions to ask Mr Culley.

Greg Knell, Planning Consultant and Director of Wasley Knell Consultants Limited addressed his pre-circulated evidence (15313#0205). The main points or paragraphs that were highlighted in his evidence included:

- The roads around the site would create some distance between the site and its neighbours across the road which was a good mitigating measure. There were no adjacent neighbours.
- This will result in less loss of privacy and less effect resulting from the scale of building.
- The subject site had an area of land available in an established residential area. Often carehomes have no adjacent land to expand into.
- Using adjacent land meant residents did not need to be relocated out of their existing community.
- Hastings Character Residential Zone and the Hastings City Living Zone both had design guidance and assessment criteria and this helps to achieve good design outcome for an area.
- Sound planning and resource management view can deal with increasing future number of elderly people expected to be living in the community.
- Design controls can be used to break up building mass.
- Nearby Cornwall Park provides permanent open space and a balance against the urban space.
- Open Space Zone (recognised to be a mapping error). This area was within the site at Cornwall Park end and not part of the public recreation area.
- Hastings City Living Zone provides for Homes for the Aged as a discretionary activity, which comes under Residential Activity.
- Hastings Character Residential Zone provides for Homes for Aged for more than 10 persons as a restricted discretionary activity.
- Overshadowing effect – Paragraphs 10.13 to 10.19 in his evidence.
- In regard to the scale of complying mass in terms of overshadowing, the important point is the width of the building, not its depth.
- Opposite the houses at 404 and 406 Kitchener Street, the complying mass steps forward so it creates a broader shadow on those houses. It does not have any greater effect (negligible) on those properties.
- Policies RP1, RP3 and RP5 were highlighted.
- He felt the development suited the existing well established aged care site and the scale and design of the building fitted the environment and was a wise use of resources.

The Committee then asked questions of Mr Knell. The main points that were raised or that were addressed in response to questions from the Committee included:

- He confirmed he was aware of the Heretaunga Plains Urban Development Strategy (HPUDS) which said that intensity of development was not appropriate in Hastings Character Residential Zone. HPUDS has a section regarding elder care that was still being reviewed and reflects the need to meet the demand for aged care, but it does not deal well with the need for aged people to be able to age within their community.
- The definition of “community” can be within a 10km radius.
- This was a carehome, rather than a retirement village.
- The proposal was not contrary to the objectives and policies of the Plan – so while it is non-complying, it was not contrary to the Plan provisions.

The hearing adjourned for lunch at 11.48am
and resumed at 12.15pm.

In response to clarification sought by Ms Hamm, the Chair confirmed that the Committee did not have any questions for **Mr Culley** in regard to his evidence, which had been pre-circulated prior to the hearing.

Presentation of Submissions:

Each of the submitters wishing to speak then addressed the hearing in turn.

Mrs Penelope Reid made a verbal presentation and circulated a set of copies of seven colour photographs, with six of them showing the views of the subject site from their home (15313#0245). The photographs gave an indication of how much of the proposed building they believed will be seen above the existing privacy hedge from inside their home and from their main outdoor living area at the front of their property.

The main points that she highlighted included:

- They objected to the effect of the proposal on the neighbourhood and the scale of the building, rather than the fact it was a resthome.
- It will adversely affect their view and they will lose their privacy.
- It will be a large, dark building with balconies right “in their face”.
- There was meant to be no parking outside their house, but the parking zones were never monitored.
- They know how much their property was currently shaded by the trees and did not agree with the shadow diagrams that had been shown.
- The stream on the border with Cornwall Park – she believed there had to be a certain distance between the stream and the boundary. She asked if that was why the Open Space Zone was located there.

The Chair asked Council Officers to comment on this point about the Open Space Zone.

The Council’s Reporting Planner, Mrs Catherine Boulton, explained that:

- The area in the top corner of the site was designated as Open Space Zone.
- This was generally agreed to be a mapping error and it should be along the boundary with Cornwall Park where the stream is.
- There were setbacks 6m from the stream boundary.
- A permitted activity consent for infringing on the setback had been obtained from the HB Regional Council.
- There are already buildings on the open space area.

Further main points that **Mrs Reid** highlighted or addressed in response to questions from the Committee included:

- Their property in Nelson Street North was actually closer to the site than residents in Kitchener Street.
- This zone allowed for a maximum building height of 8m and this building will exceed that height.
- They believed the 8m maximum permitted height would be just below the power lines shown in the photos she had circulated.
- She did not believe the privacy issue would be mitigated by the road width. She felt the building would look straight into her property.
- She said that Nelson Street North was narrower than Kitchen Street.

Roger Tuck made a verbal presentation in regard to the submission made on behalf of himself and Zinaida Umieziene. The main points that he highlighted or referred to in response to questions from the Committee included:

- They had moved to their property at 402 Kitchener Street in 2002.
- They live in a character zone and had to abide by Council rules. They had been shocked by the scale of the proposal and had expected it to be set back with gardens in front of the building.
- Some of the residents who would be living on the site were not able to walk to the park.
- He raised the concern of fire risk and how incapacitated residents could be evacuated from a two storey building in the event of a fire.
- In summer the concerts in the park meant the road was full of cars and he believed this would affect access for fire engines in the event of a fire.
- He also felt their properties would be devalued as a result of the proposal.

At this point, the Chair advised Mr Tuck that the Building Act covered building safety and the types of issues that he was raising. The Committee also could not take into account any possible effects on property values. These issues were outside the scope of matters able to be addressed at this hearing.

Further main points that **Mr Tuck** highlighted or addressed in response to questions from the Committee included:

- Traffic issues and amenity.
- Such a large building was not in keeping with the character of the area
- He did not believe there was enough room for the proposed landscaping around the building and that it would not have much of an effect on the scale and bulk of the proposed building.
- This was an elderly care facility, not a retirement facility.
- A single storey building would be more in keeping with the area.
- He noted the volume of traffic at summer events in the area and the fact that the Traffic Engineer, Mr Constable, did not live locally.
- Building setbacks and parking on Kitchener Street.
- Some drivers use Nelson Street North as a race track and it “was an accident waiting to happen”.
- He suggested reconsidering the location of the main entrance and having lovely gardens for residents who can’t get along to Cornwall Park.

Ken Nicholson made a verbal presentation in regard to the submission made on behalf of himself and Suzanne Smith. The main points that he highlighted or referred to in response to questions from the Committee included:

- They had moved to 709 Nelson Street North into a character home 20 years ago. The zoning had since changed to Hastings Character Residential Zone.
- The existing Eversley Carehome was the same character as their home.
- The Applicant's evidence was saying the road won't be busy and there would be enough car parks. He wasn't convinced by the Traffic Engineering evidence of Mr Constable.
- He felt the Applicant's main focus would actually be on obtaining maximum returns for its shareholders.
- They did not oppose an extension as such, but it should be more in keeping with the character of the area.
- Clarification was sought by the Committee about the statement in their submission regarding existing trees and bird corridors.
- He feels this proposal would result in the removal of trees and bird life – such as tui and morepork. Having a lot of trees relatively close to each other facilitated birds flying from one area to another.

Bill and Valerie Duthie circulated and addressed their evidence (which was in two parts (*15313#0246 and 15313#0247*)) in regard to their submission, interpolating where appropriate.

Their evidence comprised:

- Written evidence (*15313#0246*).
- A copy of SuperSeniors newsletter February 2018 including a statement from the Minister for Seniors, Tracey Martin (*part of 15313#0247*).
- A copy of an information sheet promoting the HB Open Day at Summerset on Saturday, 17 March 2018 (*part of 15313#0247*).

The main points that Mr Duthie highlighted in the evidence being presented on behalf of himself and his wife included:

- Mr Duthie outlined his wife's extensive background of years working as a staff nurse and her work caring for the elderly.
- He had worked as a psychiatric nurse, including caring for elderly patients with dementia.
- A statement in the newspaper that they were snobs who did not care for people was nonsense. They were concerned for the elderly and also for their own property and wellbeing.
- This proposal would be an eyesore and he felt it would be an institution.
- He referred to the circulated SuperSeniors newsletter and the item on the CARE Village.
- Residents who were in hospital care were often capable of being in residential care if they have the care and support they needed.
- He said that people who went into care lost their independence. He cited the information sheet about the Summerset Open Day and highlighted the picture showing activities available on that site – such as gardening.
- There was no provision for residents at Eversley to do any gardening.
- He noted the evidence from Eli Parkin that change was not anticipated at the existing Eversley Carehome building. He believed Oceania's Legal

Counsel, Ms Hamm, had contradicted this in her Submissions by saying an extension was planned.

At this point the Chair advised Mr Duthie that the hearing was considering the application before it which was for a resource consent, and the Committee was not here to judge the care of the elderly.

Further main points that Mr Duthie highlighted in the evidence being presented on behalf of himself and his wife included:

- The traffic surveys had been undertaken at a time of year when Heinz Wattie would have been at a minimum staffing level. There was generally a lot more traffic in that area as their staff parked in Kitchener Street and Nelson Street North.
- In response to clarification being sought by the Chair (about the statement on Page 3 of his evidence) – Mr Duthie explained that, as a \$5,000 fee had been paid by the Applicant to Council to process the Application, he believed there should have been enough funds available to allow for submissions to be sought from a wider area, rather than limiting them to only those who had been notified. He said there was no other inference being implied by his statement.
- The shadowing videos had indicated that the resultant shading would be within the regulations. He still believed that the resultant shading would have a significant impact on local residents.
- If the two storey building was to be set back from the street it would lessen the impact of shading on local residents.
- Agenda Page 21 – the statement that there would be a shortfall of 15 (not 13) carparks.
- Light and glare – at present the effect of the lighting is relatively tolerable.
- Noise – data shown was in isolation, not shown in a cumulative context.
- The first paragraph on Page 7 of his evidence - building setbacks. There was a contradiction between the agenda report and Mr Knell's evidence.
- The third paragraph on Page 7 of his evidence – he disagreed with the separation distances in Mr Fenwick's evidence (Page 16). He disputed that there would be less impact from the proposal over that distance.
- A single storey building on the site "would be welcomed".
- He did not feel that the Applicant had looked at alternatives for this site or alternative sites of a suitable size to accommodate the proposal.
- He suggested moving the building back from the Kitchener Street frontage into the car park area. This would free up 14 parking spaces as the turning circle would not be needed.
- Alternatively move the building back into the carpark from a point approximately where the Nelson Street North front entrance was shown.
- This could involve minimal alteration to the proposed design and while it would not improve the situation for most Nelson Street North residents, it would alleviate some of the Kitchener Street residents' concerns – a lot of the noise, light and resultant effects would be further from residents.
- The front entrance could be turned to face into the carpark area.
- While they did not like either option, they would prefer to have the carpark area closer to them rather than the building as was currently proposed.

The Committee then asked questions of Mr Duthie. The main points that were addressed or referred to in response to questions from the Committee included:

- The location of the existing lights on the site that caused glare into their property. There were two spotlights on the corner of the building. They had not raised this with Eversley as they had not wanted to complain.
- The issue of the limited notification process involved with this application. Mr Duthie said in his evidence that he had asked twice for this scope to be widened to include adjoining residents deemed to be potentially affected to more than a minor extent.
- He referred to Paragraph 20 of Ms Hamm's Opening Legal Submissions, which stated that the proper course of action for any party who disagreed with the Council's notification decision was to seek to judicial review in the High Court.

The Chair asked Officers to comment on the limited notified process.

The Environmental Consents Manager, Mr Arnold, explained that the decision that this application should be limited notified had been reviewed by a senior Council Officer – in this case he had undertaken the review and had agreed with that decision.

Peter and Barbara Stormer circulated and read their evidence in regard to their submission (15313#0248). The main points that they highlighted or referred to in response to questions from the Committee included:

- They did not believe that compliance and other issues can be significantly ignored simply because there were no adjoining neighbours to the subject site or because the Applicant had a preference for a particular design.
- They supported the use of ramps or lifts or lowering the building.
- Paragraph 6)b) of their evidence - the shadow diagrams showed how significant the shadowing would be on Nelson Street properties and some Kitchener St properties.
- Paragraph 6)c) of their evidence – they suggested decreasing the building's depth so it could be set further back with gardens at the front and be attractive for the residents and for those living across the road.
- Instead of having 59 new units the Applicant could consider having 45 – while an amended proposal may still have significant issues in terms of effects on residents, it would at least reflect the concerns and effects that locals have raised and are suggesting be taken into consideration.
- The residents were asking for the proposal to be modified in such a way that benefits all parties.
- Paragraph 6)c) of their evidence (traffic density) – they noted that there had been traffic management issues the week before the hearing when a new roof had been delivered, as it was such a busy area, traffic-wise.
- Angle parking in their area would be chaotic.
- There was a risk to children from traffic in Roberts Street and local residents were concerned about anything that may increase traffic in this area.
- They did not think it was reasonable that residents should have to seek a judicial review in order to establish their right to come to a hearing and express their concerns. This process imposed an unreasonable obstruction for the residents to have to overcome in order to be heard.

- This did not show an appreciation of the general financial situation of local residents compared to that of the Applicant. This fact also was reflected in the volume and type of evidence that the residents had been able to produce for this hearing, compared to that produced on behalf of the Applicant.

Graeme Reid also spoke on behalf of the Group Submission of Residents from Roberts Street, Kitchener Street and Nelson Street North. He circulated and read evidence in regard to this group submission (15313#0249). The main points that were highlighted included:

- This was a busy area traffic wise.
- There were a large number of events or activities that took place in this area, as well as the activities in Cornwall Park and at Heinz-Watties. These all had an effect on increased traffic in the area – Taikura Rudolf Steiner School; Medical Centre; access from Kitchener St East; cricket; cultural days; freedom campers; carols at Christmas time; concerts in the park; Heinz-Watties staff and local residents' cars.

The Committee did not ask any questions of Mr Reid.

Ethel Gibbs was present for part of the hearing, but did not wish to speak to the submission that had been made on behalf of herself and her husband.

The hearing adjourned at 1.50pm and resumed at 2.06pm

The Council's Reporting Planner, Mrs Boulton, spoke to her report and addressed points that had been raised as part of the Submissions presented by Ms Hamm and the evidence presented by others on behalf of the Applicant, as well as the matters raised by the submitters and the respective responses made by each party to any earlier questions from the Hearings Committee. The main points that were addressed by Mrs Boulton included:

- She clarified that there had been discussions regarding the lowering of the height of the proposed building and the gradients of any resultant ramps.
- Council's Stormwater Engineer had requested a minimum floor level for the proposed building, due to the nearby stream. This was another consideration that may have contributed to the building height.
- The matter of outdoor living space had been raised in the submissions but had not been addressed in the Applicant's evidence nor in the planning report.
- There were standards in the Proposed District Plan for residential buildings and single residential units, but not for elder care facilities.
- She could not comment on any wind tunnel effect arising from the proposed building, as this was not within her expertise.
- The discrepancy between the short fall in car parking numbers – her report had stated 15 parks, while evidence on behalf of the Applicant had stated a 13 park short fall.

- Disabled car parks – the Council’s interpretation of this standard is that two disabled parks were required and were additional to the carparks that had been provided.
- She understood Mr Constable’s evidence, noting that this was not the usual way of determining traffic numbers. She had used the HDC approach and had used those figures in her planning report.
- It was not relevant to consider the undergrounding of overhead lines as part of this consent application.
- Building setbacks had been raised. There was a discrepancy between the standard front yard setback of 7m required on the Kitchener and Nelson Street North frontages and the setback of only 4.6m that would be achieved in the proposal from the front of the building at its closest point to the Kitchener Street frontage. A 3m setback was permitted in the City Living Zone.

Mrs Boulton then responded to questions from the Hearings Committee. The main points that were raised or addressed in response to the questions included:

- Clarification of the fact that the proposal was not contrary to the Plan but it was a non-complying activity. This was put into perspective.
- When an application did not meet a certain standard it becomes subject to an assessment in regard to its effects and how it meets the Plan requirements. In this case she believed that any potential effects may be mitigated and that the proposal was not contrary to the objectives and policies of the proposed Plan.
- She confirmed that the proposal met both arms under the threshold tests of the Plan, under s104D.

Ms Hamm exercised a verbal Right-of-Reply on behalf of the Applicant. The main points that she highlighted included the following:

- Oceania was an experienced provider of aged care.
- The continuum of care aspect.
- Retirement villas and units were for more independent people.
- Resthomes and dementia and hospital beds were for those with less independence. The Summerset brochure that Mr Duthie had submitted was not appropriate in regard to the type of elder care in this application.
- The proposed extension will be a quality facility.
- Paragraph 4 - there was no inconsistency between her Submissions and Mr Knell’s evidence in regard to the matter of redevelopment.
- Paragraph 5 – there were no wind provisions in the District Plan and this suggests it is not an issue in Hastings. Existing trees are much higher than the proposed building.
- Paragraphs 6 and 7 – the Plan provisions will be complied with in regard to lighting, glare and noise.
- Vehicle movements – servicing will be undertaken in the internal area of the site and trucks will go into the site.
- Paragraph 8 outlined three relevant levels of effect. Mr Duthie had said that effects would not be less than minor for Kitchener Street residents in the context of the notification assessment.
- The non-complying gateway test was whether the effects were minor (not less than minor).

- Notification process – there was a very clear process set out under the Resource Management Act. She felt Council had followed the statutory process in this case.
- Access, Traffic, Parking and Sightlines – Mr Constable's experience has informed his assessment of this application and his evidence to this hearing.
- He has undertaken many surveys of retirement and aged-care facilities.
- Residents have different perceptions and genuinely held concerns, unsupported by hard data. It was irregular to disregard independent expert opinion without a good reason to do so.
- Even allowing for increased traffic numbers when an event was held in Cornwall Park, the vehicle numbers would be no-where near the road's capacity of 20,000 vpd.
- On-street parking was considered to be effects neutral and the existing situation is lawful. So if this application was not granted consent, then the current situation would not change. If consent was granted the number of on-street parking would also not change (i.e. a 13 car park shortfall).
- Access – the number of vehicle crossings will reduce from six to two, providing four more on-street car parks.
- Paragraphs 27 to 31 - she addressed the District Plan standards and the approach to considering these in regard to non-complying activities.
- Paragraphs 32 to 35 – applying the gateways tests under s104D.
- She highlighted the difference between expert opinion evidence and the evidence of lay witnesses.
- The landscape evidence of Ms de Lambert and the peer review of Mr G Lister agree that the effects of the proposal will be minor.
- Two storey homes can be built in the Hastings Character Residential Zone and trees can be cut down unless they are protected under the Plan.
- HPUDS looks at the projected increase in the demand for aged care accommodation likely over the next 30 years.
- The proposal involved a great site, existing building and adjoining bare land which the Applicant was a great asset for the district.

Ms Hamm then responded to questions from the Committee. The main points that were raised or addressed in response to questions included:

- Whether the Applicant had given consideration to moving the proposed building back from the street frontages and changing the carparking configuration as had been suggested during the hearing.
- Consideration had been given to the District Plan provisions and the Hastings Character Residential Zone provisions – the Applicant had been more concerned about bringing the building forward and not including garages along the street frontage. She did not feel the suggestions would be consistent with the Plan, so those types of alternatives had not been considered.

At this point in the meeting, the Chair and the Committee members agreed to a suggestion by Ms Hamm that she provide a written copy of the verbal Right-of-Reply she had presented at the hearing. This was received, via email, on Thursday, 15 March 2018 (15313#0228) and forwarded to the Hearings Committee on that same date. *(Ms Hamm also included an addendum regarding the subsequent question from Councillor Heaps that had been raised at the hearing).*

The Committee would now undertake its deliberations and would consider the written copy of the Right-of-Reply as part of that part of the hearing process.

At this point the Committee went into Public Excluded Session to undertake its deliberations.

Councillor Lyons/Councillor Heaps

That the public be excluded from the deliberations in relation to the hearing of the Proposed Extension To Eversley Carehome At 400 Cornwall Road, Hastings and 700 Nelson Street North, Hastings (RMA20170296). The reason for passing this Resolution in relation to this matter and the specific grounds under Section 48(2)(a) of the Local Government Official Information and Meetings Act 1987 for the passing of this Resolution is as follows:

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:

- a) Any proceedings before a local authority 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.**

CARRIED

The Hearing adjourned at 2.40pm

and would reconvene in Public Excluded Session
for the Committee to undertake its deliberations

HASTINGS DISTRICT COUNCIL

MINUTES OF A RECONVENED MEETING OF THE HEARINGS COMMITTEE
HELD IN THE COUNCIL CHAMBER, GROUND FLOOR, CIVIC ADMINISTRATION
BUILDING, LYNDON ROAD EAST, HASTINGS
ON WEDNESDAY, 14 MARCH 2018

*[AND THEN CONTINUED IN PUBLIC EXCLUDED SESSION
ON THURSDAY, 15 MARCH 2018 IN THE GUILIN ROOM, GROUND FLOOR*

*AND ALSO CONTINUED IN PUBLIC EXCLUDED SESSION
ON MONDAY, 26 MARCH 2018 IN THE GUILIN ROOM, GROUND FLOOR]*

THEN FURTHER CONTINUED ON MONDAY, 26 MARCH 2018
(FOLLOWING A RESOLUTION TO PROCEED IN OPEN SESSION
AND RELEASE THE HEARING DECISION)

WITH THE DECISION BEING RELEASED ON TUESDAY, 17 APRIL 2018

PRESENT: Chair: Councillor Lyons
Councillor Heaps
Hastings District Rural Community Board Member: Mr P Kay

IN ATTENDANCE: Environmental Consents Manager (Mr M Arnold)
Committee Secretary (Mrs C Hunt)

1. APOLOGIES

There were no apologies.

2. PROPOSED EXTENSION TO EVERSLEY CAREHOME AT 400 CORNWALL ROAD, HASTINGS AND 700 NELSON STREET NORTH, HASTINGS (RMA20170296)... *Continued...*

*(The Planning report, background information and evidence had been
previously circulated)...*

The Committee then confirmed its decision in Open Session so it could be publicly released. The full decision wording, including narrative, is contained in a separate document as noted in italics below.

DECISION

Councillor Lyons/Mr P Kay

That Pursuant to Sections 104, 104B and 104D of the Resource Management Act 1991, consent is REFUSED to Oceania Healthcare Limited to construct an additional two level care home complex comprising 59 care suites as an extension to the existing 50 bed carehome that will exceed the maximum

height, height in relation to boundary, maximum building coverage, and building setback standards of the District Plan at 400 Cornwall Road, Hastings

CARRIED

(Note: The full wording of the signed hearing decision is attached as a separate document. The full decision is circulated with, and forms part of these minutes – the signed decision is saved under 15313#0293 in the Council's system.

That full decision wording also includes the narrative which summarises details of the hearing process and the evidence that was presented to the Committee for its consideration, in regard to the application).

The meeting was formally closed on Monday, 26 March 2018 at 9.15am

Confirmed:

Chairman:

Date: