

**UNDER THE RESOURCE MANAGEMENT ACT 1991**

**IN THE MATTER OF** an application by A  
Charlton to establish a residential unit and  
accessory building on an undersized rural lot at  
1069 Highcliff Road, Dunedin.

Council File: LUC-2016-481

**MINUTE OF HEARING COMMISSIONER A HENDERSON**

1. At the hearing of the above application on 17 March 2017, the Applicant relied upon the understanding that the subject site, 1069 Highcliff Road, was a single lot that could be sold independently. This resulted in the Applicant's position being that there was no subdivision consent sought or needed to separate the site from the adjoining property at 1075 Highcliff Road.
2. Following the adjournment of the hearing, I was advised by the Applicant that this in fact was not the case, and that the application has therefore been assessed in error. The Applicant's further investigation revealed that the Titles for 1069 and 1075 Highcliff Road are held together as a single site by way of a covenant that restrict the sites from being sold as individual allotments.
3. Having sought advice from the Council's legal advisors, there are two options that the Applicant has to progress with the application, as follows:
  - (i) The Applicant elects to continue with the land use which would become an application for a second residential unit on a rural site that does not provide for residential activity at a density of 15ha per residential unit.

If the Applicant elects to follow this option, a fair procedure needs to be adopted to all participants. This would require the Applicant to amend their evidence, which the Council planner would then reassess under s42A. Submitters would then have the opportunity to consider the amended report and respond with any amended evidence.

The Hearing may be reconvened following the exchange of the evidence to allow consideration and questioning of the amended reports if required, or if requested by the parties.

Should this option be followed, if the Applicant subsequently applies to cancel the covenant that ties the two Titles together, this will necessitate an application for a new land use consent to recognise that the two dwellings are to be located on undersized lots.

- (ii) The Applicant withdraws the application and reapplies to cancel the covenant (pursuant to section 240 RMA), and for land use consent to establish the new dwelling on 1069 Highcliff Road and land use consent for the dwelling on 1075 Highcliff Road on what would then become an undersized Rural allotment. A new notification decision would need to be made.

4. Based on the above, I request that the Applicant advise the Council by Friday, 7 April 2017 as to which option they wish to progress under, at which time I will issue an amended timetable if required. Should the Applicant require additional time to determine their preferred approach, please advise the Council as to the length of time required.
5. Any queries regarding this Minute should be directed to Ms Kirstyn Lindsay, Senior Planner, at [Kirstyn.lindsay@dcc.govt.nz](mailto:Kirstyn.lindsay@dcc.govt.nz).

A handwritten signature in blue ink, appearing to read 'A Henderson', is positioned above the printed name.

Andrew Henderson  
Hearings Commissioner

24 March 2017