

Waitai Coastal-Burwood-Linwood Community Board
Briefing
MINUTES ATTACHMENTS

Date: Thursday 21 March 2024
Time: 4.04pm
Venue: Boardroom, 180 Smith Street, Linwood

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Port-link Industrial Park

Council briefing to the Waitai Coastal-Burwood Linwood Community Board

21 March 2024

What the District Plan permits on the site

- The storing of containers is permitted in this zone.
- Other industrial activities, warehousing and distribution.
- Buildings up to 11 metres in height in the areas specified in the Portlink Development Plan.
- Planting of trees and shrubs within the 'Landscape and stormwater area (Green Space)'
- Any permitted activity needs to be compliant with noise standards as outlined in Chapter 6 of the District Plan.
- Activities which are compliant with built form and activity standards in the zoning, waterway, natural hazards, earthwork and transport chapters
- The main issues arising: whether containers must comply with District Plan rules for "buildings"; noise; and setbacks.

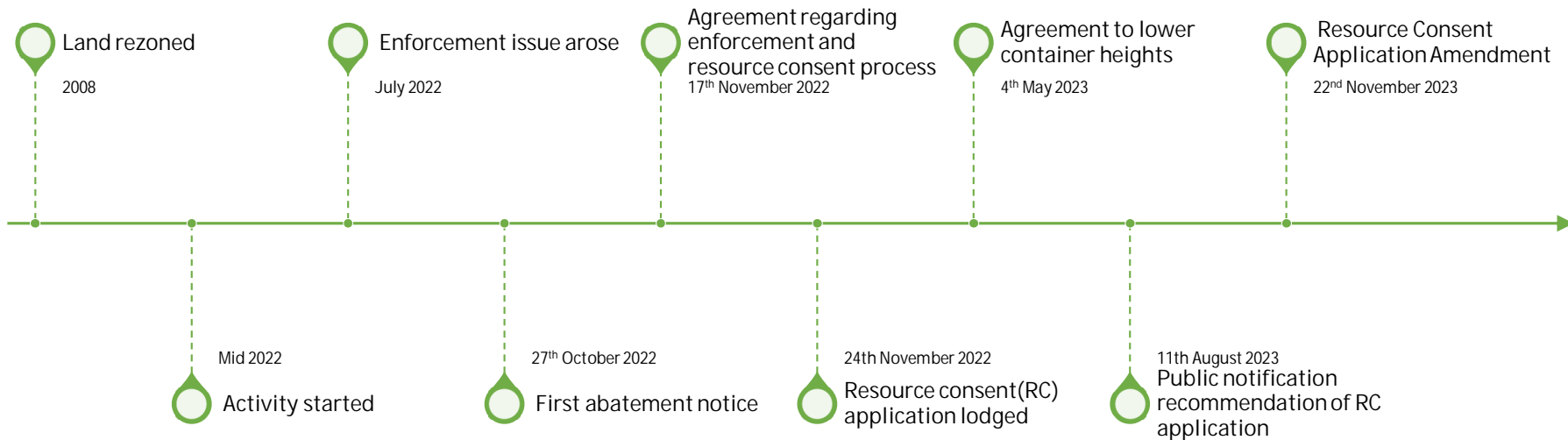
Port-link Outline Development Plan



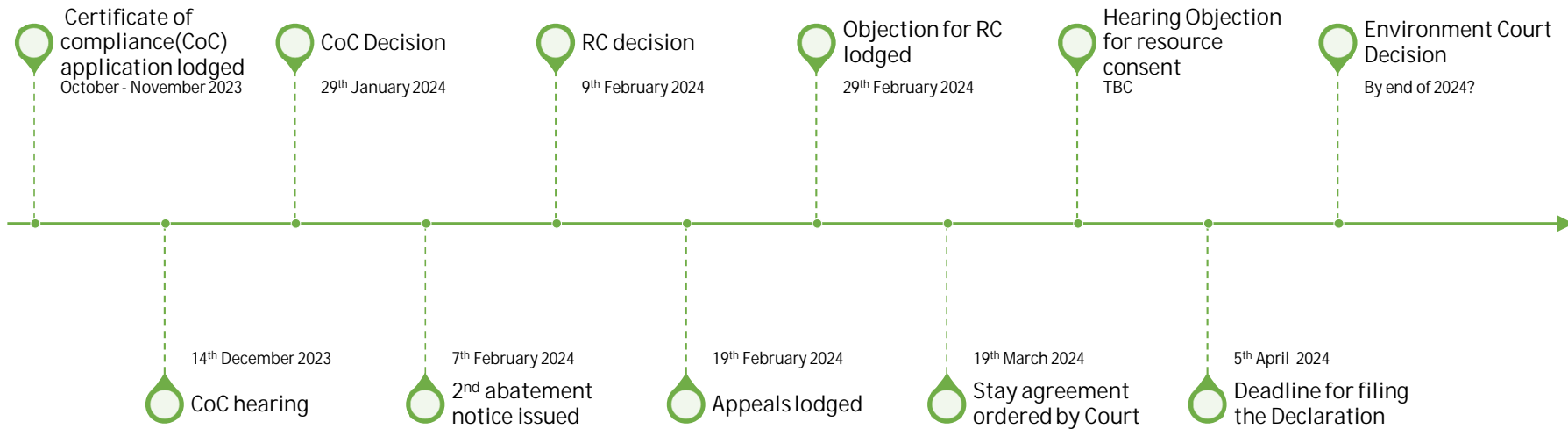
District Plan Non-Compliances

- The buildings currently exceed the 11 metres height overlay in the Port-link Outline Development Plan.
- Finished floor levels and filling within the Flood Management Area.
- Noise standards have been exceeded in some areas.
- Waterway intrusions which are adjacent to a site of ecological significance.
- Retrospective earthworks.
- Subdivision related non-compliances – natural hazards, reserves, servicing and consent under the National Environmental Standard for Contaminated Soils
- Not being in accordance with elements of the Port-link Outline Development Plan.

Timeline



Timeline



Resource consenting

- In November 2022, the applicant lodged a resource consent application. Council planner was going to recommend public notification.
- In Mid-2023, the applicant amended the application. The commissioner processed the application as non-notified, and it was granted in February with conditions.

Certificate of Compliance

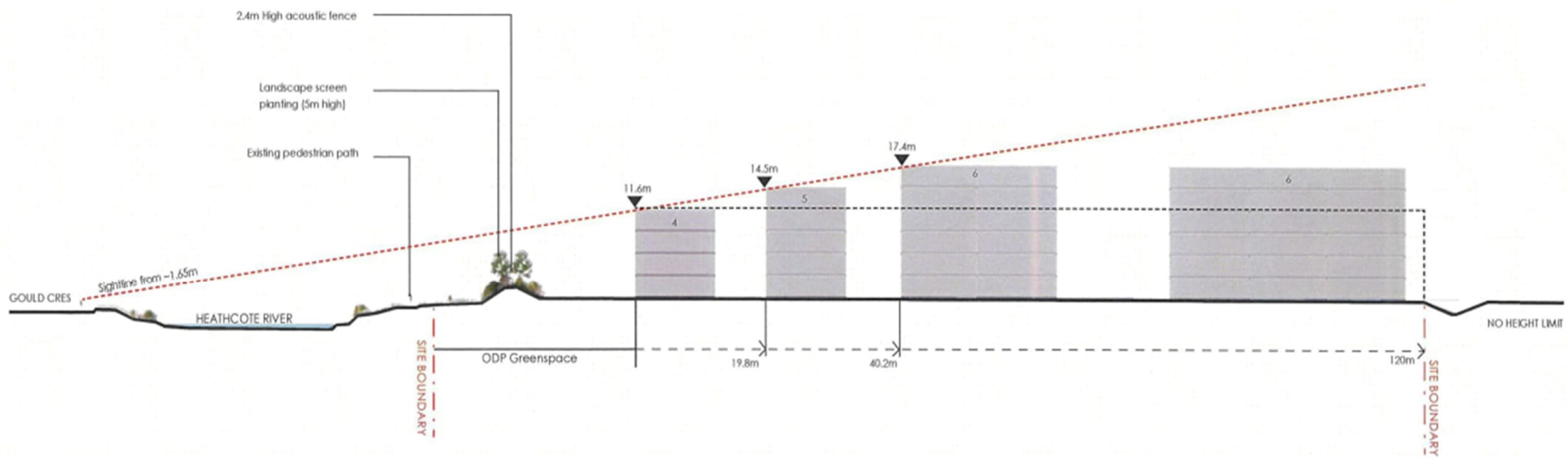
- A Certificate of Compliance is a certificate issued by the Council under the RMA saying that that activity described in the Certificate complies with the District Plan.
- The applicant sought Certificates claiming that the activity on the site complies with District Plan as the applicant considers that containers are not subject to the District Plan rules for "buildings".
- The Council's Commissioners declined to issue the Certificates. They decided that containers are subject to the District Plan rules for "buildings".
- An enforcement officer then issued an abatement notice requiring the container heights to comply with the District Plan.

Objection and Court Proceedings

- **Objection:** The RMA provides that applicants for resource consent can lodge a formal objection with the Council, and appeal to the Environment Court. Applicant lodged an objection on 29 February. Council are processing that. There will be a Council decision on the objection and then possibly an appeal.
- **Appeals:** Applicant has appealed to the Court against the abatement notice and against the Certificate of Compliance decisions.
- **Stay:** (a Court order that the enforcement is on hold until court proceedings finished): Applicant applied for this. The Court issued it, with conditions agreed to by the Council, on 18 March (see next slide)
- **Declaration:** Appellants have told the Court that they intend to apply for a Declaration from the Court that containers are not within the definition of "building". Court: if they are to do that, lodge it by 5 April.
- **Timing of Court decisions:** unknown.



Stay Agreement



Compliance update

- Height: Complying with the "stay" order. Until the court proceedings are resolved.
- Buildings in landscape and stormwater area: Council issued abatement notice in late 2022 which required the operator to remove all shipping containers from the landscape and stormwater area. This was complied with.
- The other matters that the Council granted resource consent for:
 - Earthworks
 - Waterway setback
 - Inconsistencies with the Outline Development Plan
 - Subdivision matters
- Noise: The resource consent set noise conditions. Conditions are not in effect because applicant lodged the objection to conditions. The applicant still needs to comply with noise standards. Council has asked the applicant to demonstrate compliance in the interim period.

Any questions?