
**BEFORE THE COMMISSIONERS APPOINTED BY PORIRUA CITY COUNCIL
AND GREATER WELLINGTON REGIONAL COUNCIL**

IN THE MATTER OF Land use and subdivision consent (RC
RC6922-SL0046/15

BETWEEN WELLINGTON REGIONAL COUNCIL
Local Authority

AND PORIRUA CITY COUNCIL
Local Authority

AND JAGGER NZ LIMITED
Applicant

**MEMORANDUM OF THE SUBMITTER DAVID WYATT IN RESPONSE TO
THE COMMISSIONERS 2ND MINUTE DATED 20 April 2016 AND PORIRUA
CITY COUNCIL RECOMMENDATION CONDITIONS of CONSENT dated 19th
April 2016.**

Date 28th April 2016.

1. I refer to the 2nd minute of the commissioners dated 20th April 2016.
 - 1.1 I am seeking the Commissioners to grant an extension of 15days in which to review all of the submitted documentation.
 - 1.1.1 I believe it's unfair that the Applicant can delay hearings until they have completed their submissions and then only grant 5 days for Submitter to complete their review.
 - 1.1.2 I believe it's unreasonable to expect submitters to review all documentation within 5 days. I have full time employment with ~10hr working day and have insufficient time to review these documents in full.
2. Duty of Care
 - 2.1 I am respectfully requesting the Commissioner to direct the PCC to document where and how they have discharged their Duty of Care to the impacted residences of this proposed Development Plan.
 - 2.1.1 There has been a lot of focus on the Environmental and Technical issues of this Project but no consideration been given to the impact this development will have on the local residences and community.
 - (a) There are wellbeing issues to be taken into account and not addressed.
 - (i) Construction noise disturbance from Monday to Saturday including public holidays.
 - (ii) No consideration for the elderly and young families living next to a major land development and the impact on their daily lives pre and post development.
 - (iii) No plan/drawing of what the vista will be from the existing residences looking into the proposed high/medium development. I can imagine seeing a huge area of tightly packed roof lines and tops of dividing property fences.
 - (b) There are financial issues to be taken into account and not addressed.
 - (i) Devaluation of family homes which in the majority would be their main assets.
 - (c) There is no provision in the plan for children's recreation areas.
 - (d) There is no provision in the Consent conditions for the Applicant to make good any damage to local residences homes through being effected by dust or potential cracks

in walls caused by vibration during the earthworks construction phase.

- (e) PCC and the Applicant have made comparisons between Brookside Development and Duck Creek South Development although there are not many similarities in their Plans, designs and construction. The Proposed development poses a larger impact to the wellbeing of existing families and requires careful consideration.
- (f) There are safety issues that have not been addressed with there only being one access road to the whole of the proposed development. What happens should a major event occur and the access bridge is unavailable for safe evacuation of people living in the development or emergency vehicle access?. Whilst planning for 100year flood has been taken into consideration there has been no impact statement / risk assessment into road access to the development issues should they be blocked. It will never happen “they say” one reminder Christchurch will “never” be impacted by an earth quake as it’s not on a fault line.

3. David Wyatt’s Submission Response to Resource Consent lodged by Jagger NZ Ltd for the subdivision and development of 149 Lots at Duck Creek North Whitby – Brookside, resource consent application lodged on 14th October 2015.

3.1 I am respectfully requesting the Commissioner to direct the PCC to respond to my concerns as directed by the Commissioner at the time of the hearing.

4. I respectfully request the Commissioners to direct PCC to re-submit their Recommended Conditions of Consent with pertinent document identification number, date, history of changes, remove blank pages and number the pages, identify document owner, list of reviewers, decision makers and approvers.

4.1 I am unsure if the document that I’m reviewing is the latest copy or if I have all relevant pages.

5. I respectful request the Commissioner to direct the PCC to provide clarification as to why they have disregarded the previous agreed/approved Duck Creek Comprehensive Plan without first consulting with the Whitby Community, there has been plenty of opportunity.

5.1.1 The baseline of the development has not been changed and requires clarification from PCC that after previous extensive and at considerable expense to the rate payers on what bases the PCC determination used to disregard this agreed plan.

5.1.2 Direct the PCC to consult with the Whitby Community in regards to this new proposed development plan. As was the process with the existing Duck Creek Comprehensive Plan.

6. I respectfully request the Commissioner to direct the PCC to provide clarification of their Recommended Conditions to the following and direction to make necessary changes:

6.1.1 Condition 16: The hours of construction shall be limited to Monday to Friday between the hours of 7:30am and 6:00pm and Saturday 8:00am to 4:00pm

- (a) The proposed development is located in a valley, rated a high wind zone with existing homes surrounding it. Construction noise will be amplified and the spread of dust will be wide. Dust preventative measures of dampening soil are rarely effective on a 24/7 bases, the top of the soil dries out and the wind will whip it up to be deposited near and far.
- (b) PCC recommended condition would impact on the local residences in noise, dust and additional traffic on SH58 during the heaviest period of traffic movement.
- (c) PCC recommended condition will impact on the local residences basic human rights of peace and quiet allowing the Application to continue construction even on public holidays such as Christmas Day etc.
- (d) I request the Commission to direct PCC to:
 - (i) Change the construction hours to Monday to Friday between the hours of 9am to 4pm excluding all Public Holidays.

6.1.2 Condition 18 & 19: Reasonable Requests & Complaints

- (a) I request the Commission to direct PCC to:
 - (i) Expand on what is a reasonable requests and/or complaint will encompass.
 - (ii) Include – a condition – That in the case of conflict who will make a determination if the request/complaint should be upheld, appropriate actions to be taken and detail associated time frames in which to discharge this condition.

6.1.3 Condition 27: Transportation of earthwork material

- (a) I request the Commission to direct PCC to include these additional conditions:
 - (i) Applicant to advise proposed route for transportation to and from the development.

- (ii) Applicant to provide a detail truck transporting plan to and from the development, in regards to timing between truck movements to ensure there is a significant gap of a minimum of 10-15minutes between trucks to minimise impact to normal traffic movements and safety of traffic.
- (iii) Applicant shall not route any vehicles on suburban roads.
- (iv) Applicant directed to use impervious covers on all trucks and trailers to ensure no material is dropped and to minimise dust on all journeys to and from the development.
- (v) Applicant to ensure no impact is caused to local residences as to location of delivered and stored earth works material etc and construction vehicles and machinery etc.

6.1.4 Condition 30 Comment [BH6]: Removal of Bullet points from under conditions 29 & 112

- (a) I request the Commission to direct PCC to:
 - (i) Clearly identify if their reference applies to the previous conditions 29 & 112 or the new numbered conditions 29 & 112 and identify said bullet points, enabling understanding and auditing of this amendment.

6.1.5 Condition 40: Frontage of dwelling with road set back a minimum of 3m from the road frontage boundary.

- (a) PCC should explain the purpose of consenting for a 3m set back from the road frontage boundary rather than 5m.
- (b) I request the Commission to direct PCC to:
 - (i) Amend the condition to a minimum of 5m from the road frontage boundary
 - (ii) Amend the Advise Note to: Eaves (of up to 600mm) are permitted to extend into the 5m front yard

6.1.6 Condition 37 that has been deleted: All residential lots (but not including lot 6) shall contain a single storey dwelling.

- (a) When considering the proposed development being a high/medium density development other environmental factors need serious consideration when multi storey dwellings are being introduced into the plan.

- (b) I request the Commission to direct PCC to:
 - (i) Reinstated this condition.
 - (ii) Advise why this condition is no longer considered valid and as to what expert advice had been sort to base their determination on.
 - (iii) Advise what consideration has been given to the effect of casted shadows and wind impact will have from a multi level dwelling on adjacent properties and vista from existing residencies has been made and if expert advice has been sort to support this change.

6.1.7 Condition 44: Site coverage shall be restricted to a maximum of 40% [45%] coverage and Note: Residential dwellings/building with permitted site coverage are not restricted to single story.

- (a) With the development plan being high/medium density housing there has been no expert advice as to the impact that two story dwellings would have on adjacent properties and existing residencies with casted shadow, wind etc.
- (b) I request the Commission to direct PCC to:
 - (i) Ensure the condition for site coverage is maintained at a maximum of 35% site coverage.
 - (ii) Delete said notation.

6.1.8 Condition 45: Lots – as numbered shall be restricted to a maximum of 45% site coverage.

- (a) I request the Commission to direct PCC to:
 - (i) Ensure the condition for site coverage is maintained at a maximum of 35% site coverage.

6.1.9 Condition 48 item i. Temporary traffic management measurers required to manage the impacts on road users during the proposed working hours, including details confirming that the stop/go controls required to establish and remove the temporary access will only operate at night between Sunday and Thursday during the hours of 19:00 – 05:30

- (a) This condition is quite confusing and I seek clarification in regards to – is this consenting that machinery, trucks etc can be travelling between said times?
- (b) I request the Commission to direct PCC to:
 - (i) Clarify Condition 48 item i

- (ii) Ensure the condition does not allow machinery and trucks to enter/leave the development during said times.

6.1.10 Condition 48 item ii. Confirmation that access into the site off State Highway 58 will be no longer than 12 weeks in duration and only within off peak hours as defined by Capital Journeys for heavy vehicles

- (a) This condition appears to conflict with condition 16 see above 6.1.1
- (b) This will adversely impact on the local residence and community's wellbeing with being subjected to what appears to be considerably noise from the proposed development for basically 24hrs 7 days a week over a 12 week period.
- (c) I request the Commission to direct PCC to:
 - (i) Delete condition 48 ii in its entirety.

6.1.11 Condition 48 item iii: Measurements to maintain safe cyclist access along State Highway 58

- (a) Currently whilst driving along State Highway 58, being a narrow winding road with virtually no safety barriers on the inlet side of the road, when coming across a cyclist there is insufficient room in which to overtake unless the centre of the road is crossed. This applies to small vehicles.
- (b) Combined with additional conditions 48 item i. and ii. permitting heavy vehicles travelling to and from this development basically 24hrs 7 days a week over a 12 week period on a narrow winding State Highway must cause serious Traffic Safety risks.
- (c) I request the Commission to direct PCC to:
 - (i) Provide details of how they intend to manage and measure this condition (safety of cyclists) is to be met when large volumes of trucks and trailers in addition to normal traffic are travelling this route.
 - (ii) Confirm acceptance of liability in the event of an accident resulting from these conditions.
 - (iii) Confirm they have fully discharged their obligations under the new EHS Government Policy.

6.1.12 Condition 49: Postgate Drive Roundabout and Pauatahanui Roundabout a. The consent holder shall submit a survey, jointly prepared with the NZ Transport Agency, of the precondition of Postgate Drive roundabout and Pauatahanui Roundabout to the Manager stating the precondition of both roundabouts.

(a) The proposed development will results in a large amount of additional heavy machinery, truck and trailer movements. This consent is too narrow and should be extended.

(b) I request the Commission to direct PCC to:

(i) Extended the consent to include junction of James Cook Drive and State Highway 58 and up James Cook Drive to where the access road to the proposed development is located.

(ii) Extended the consent to include State Highway 58 road between Postgate Drive Roundabout and Pauatahanui Roundabout and from State Highway 58 road James Cook Drive proposed development access road and extend one kilometre beyond these locations.

6.1.13 Condition 49 b: Immediately following the 12 week period permitted for access to the site from State Highway 58, the consent holder shall submit a final survey

(a) The proposed development will results in a large amount of additional heavy machinery, truck and trailer movements throughout the life of the development not just the first 12 weeks. This consent is too narrow and should be extended

(b) I request the Commission to direct PCC to:

(i) Extend the period of required site inspections to a 6 monthly bases for the duration of the proposed development and to include additional roadway inspection as detailed in 6.1.12 (b) (i) & (ii) above.

6.1.14 Condition 49: Additional Condition be added

(a) The Applicant to lodge a bond with NZ Transport Agency for repair of damage to road way items as detailed in 6.1.12 (b) (i) & (ii) above.

(b) I request the Commission to direct PCC to:

(i) Include this new condition.

6.1.15 Between Condition 52 & 53: Financial Contribution Note: Should a development agreement between the applicant and Council not be agreed and signed by both parties prior to the completion of any stage of subdivision

(a) I'm not sure why the PCC has included this condition as there are defined Recreation and Civic Development Contributions listed. Any agreement outside of these Contributions should be seen to be above board and open to ratepayer's scrutiny.

(b) I request the Commission to direct PCC to:

(i) State reasons as to why there would be the requirement for a separate agreement between the Applicant and Council falling outside defined Recreation and Civic Development Contributions.

(ii) Any such agreement and justification for agreement to be open for consultation with Rate Payers prior to the PCC signing off any agreement with the Applicant.

(iii) Advise justification should PCC be unable to agree with 6.1.15 (b) (i) and (ii) above.

6.1.16 Condition 55: That the development be in general accordance with information and plans submitted with the application and held on Council file RC6922 and stamped "Approved Plans for Resource Consent RC6922"

(a) This is rather concerning, are the PCC advising that the development plans are already approved for Resource Consent?

(b) I request the Commission to direct PCC to:

(i) Clarify if Resource Consent has received prior approval to this the Consultation Period.

6.1.17 Condition 55: Minor alterations may be approved upon request providing the development is not materially different, the scale and intensity of adverse effects will be no grater, and no approval from affected persons is needed.

(a) The alteration to consents to withdraw restrictions to single story dwellings [existing Condition 37 & 103 deleted and amendments to new Condition 44] makes this a Major alteration to the approved plan

(b) Conditions to allow the building of multi level dwellings in a high/medium development without first considering the impacts of casted shadows, wind impact etc.

Combined with the proposed development being located in a valley and zoned as a high wind area, surrounded by existing properties would require further consultation with experts in this field.

- (c) I request the Commission to direct PCC to:
 - (i) Withdraw Resource Consent Approval RC6922 until the matters in 6.1.17 (a) and (b) above have been appropriately addressed.
 - (ii) Direct the Applicant to re-commence consultation process with this major alteration to their plan as all pre-consultation documentation did not include multi dwelling buildings.

6.1.18 Condition 108: All fills, excluding temporary stockpile areas are to be compacted

- (a) In regards to the temporary stockpile areas
- (b) I request the Commission to direct PCC to:
 - (i) Advise duration that a stockpiles are considered to be temporary and be limited to 5 days.
 - (ii) Add a condition that stockpiles are not located in an area that will impact on existing residences.
 - (iii) Add a condition that on site earthmoving machinery, cranes and the like are not parked in areas that will impact on existing residences

6.1.19 Condition 108A: Duck Creek Wastewater Pump Station Conditions

- (a) Regardless of upgrades performed on the sewage plant there will always be the risk of smells (normally associated with sewage) and noise from operating pumps and this can be exacerbated with normal machinery breakdowns, maintenance work and weather conditions.
- (b) To mitigate the risk of additional remedial work of which costs will be to the account of GWRC and/or PCC rate payers that caveats be placed on adjacent Residential Lots.
- (c) I request the Commission to direct PCC to:
 - (i) Add a condition that caveats are placed on property titles of adjacent and nearby Lots to the Sewage pump station to the extent that owners are aware of the associated risks and will

not seek compensation from GWRC and/or PCC rate payers.

6.1.20 Removal of existing Condition 103: The consent holder or future owners of Lots 1-5 and 101-149 shall comply with the following: “Any dwelling constructed on this allotment shall be restricted to being single level”

- (a) This is a Major departure from the submitted plans and with information and plans submitted with the application and held on Council file RC6922 and stamped “Approved Plans for Resource Consent RC6922”.
- (b) There are no reasons stated as to why/who requested removal of this consent.
- (c) I request the Commission to direct PCC to:
 - (i) Re-instate this Condition.
 - (ii) Advise why the condition was removed and at who’s request and reason for granting the request.
 - (iii) Advise if there have been any discussions with the Applicant in regards to removal of this condition. Should there have been said discussions then a record of the discussions/agreements should be fully disclosed.

6.1.21 Removed existing Condition 104: Condition 106 shall be the subject of consent notice under section 221 of the Resource Management Act 1991

- (a) As stated above 6.1.20 (a) & (b)
- (b) I request the Commission to direct PCC to:
 - (i) Re-instate this Consent
 - (ii) Advise why the consent was removed and at who’s request and reason for granting the request.
 - (iii) Advise if there have been any discussions with the Applicant in regards to removal of this consent. Should there have been said discussions then a record of the discussions/agreements should be fully disclosed.

6.1.22 Condition 119: Lots – as numbered shall comply with the following: “Residential lots as numbered that exceed site coverage

shall be restricted to a maximum of 40% [45%] site coverage and dwelling/buildings shall be single story. Note: Residential dwellings/building with permitted site coverage are not restricted to single storey.

- (a) This is a Major departure for the submitted plans and with information and plans submitted with the application and held on Council file RC6922 and stamped "Approved Plans for Resource Consent RC6922".
- (b) With the development plan being high/medium density housing there has been no expert advice as to the impact that two story dwellings would have on adjacent properties and existing residencies with casted shadows, wind etc.
- (c) There are no reasons stated as to why/who requested removal of this condition.
- (d) I request the Commission to direct PCC to:
 - (i) Re-instate this condition
 - (ii) Advise why the condition was removed and at who's request and reason for granting the request.
 - (iii) Advise if there have been any discussions with the Applicant in regards to removal of this condition. Should there have been said discussions then a record of the discussions/agreements should be fully disclosed.
 - (iv) Ensure the condition for site coverage is maintained at 35% site coverage

6.1.23 Condition 121: The consent holder or future owners of Lots – as numbered shall comply with the following: shall be restricted to a maximum of 45% site coverage

- (a) I request the Commission to direct PCC to:
 - (i) Ensure the condition is a maximum of 35% of site coverage.

6.1.24 Condition 123: The consent holder or future owners of Lots – as numbered shall comply with the following: shall be setback minimum distance of 3m from road frontage boundary

- (a) I request the Commission to direct PCC to:
 - (i) Ensure the condition for setback minimum distance of 5m from road frontage boundary.

7. I note there are no conditions associated with the Applicants request for sizing of road departure from legal road widths

7.1.1 I request the Commission to direct PCC to:

- (a) Ensure all roads 1, 2 & 3 on the development comply to the legal widths of: Proposed 12-19.4m and carriageway width of 7.0m (with intermittent parking) which is less than required 20.0m legal road width and 11.0m carriageway width needed to comply with Part H of the District Plan. Private driveways are proposed with a minimum legal width of 3.2m which is less than the required 3.5m permitted standard.

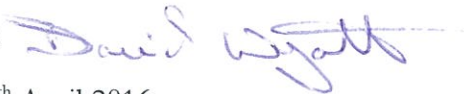
7.1.2 I request the Commission to direct PCC to:

- (a) Not grant consent on this development until the plan is limited to 89 or less residential Lots.

Submitter: David Wyatt

Address: 4 Shoal Place, Whitby, Porirua 5024

Signature:



Dated: 28th April 2016