
**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 SUBMITTERS IN RESPONSE TO THE
COMMISSIONERS 2ND MINUTE DATED 20 April 2016**

1. We refer to the 2nd minute of the commissioners dated 20th April 2016.
2. The undersigned submitters have given careful consideration to the 2nd minute and have endeavoured to comply with the terms of it.
3. Submitters have found it almost impossible to make a meaningful submission on accordance with the stated terms of the minute and request clarification with regard to a number of issues.
4. The minute has required a detailed examination of the suggested consent conditions dated 2 April 2016 submitted by the Greater Wellington Regional Council. The Commissioners will be aware that that document consists of 97 pages of suggested conditions relating primarily to environmental, engineering and similar issues but does not address broader issues of design of the subdivision and compliance with the Porirua City Council District Plan, the measures agreed between Porirua City Council and Whitby Coastal Estates and representatives of Whitby embodied in the Duck Creek Comprehensive Plan and a decision of the Environment Court: WC/208 Whitby Coastal Estates v Porirua City Council & Whitby Residents Association
5. The Porirua City Council suggested Conditions of Consent is a 27 page document which is undated, which while smaller suggests a larger number of amendments.
6. Unfortunately, neither set of draft Conditions of consent adequately address a number of fundamental issues in respect of the consent hearing which may also be the subject of further conditions if the Commissioners decide to approve the Application subject to comprehensive conditions, rather than reject it out of hand. The terms of the minute and in particular paragraph 8, appear to preclude any further submissions from the submitters on matters that have been omitted from either set of the draft conditions and the submitters therefore request a further direction from the Commissioners as to whether those matters are being separately considered and will be adjudicated upon by the Commissioners. The draft Conditions of Consent do not cover all of the issues that may result in conditions being applied.
7. The issues which fall within the parameters of the difficulty are identified in the foregoing paragraphs and include the following:
 - 7.1 The bulk and location requirements required by the District Plan including provisions of front and side yards, height, driveways and lot sizes.
 - 7.2 The departures from the District Plan proposed in respect to the width of all roads within the ambit of the scheme. The submitters have taken the view that a 7 metre carriageway width is unsuitable especially on the length of the road from James Cook Drive and bridge 3 on the concept plan.

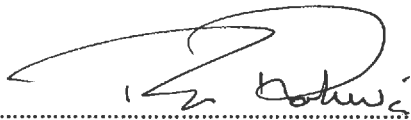
- 7.3 The issue of 5 (or in some plans 6) lots situated at the north end of the subdivision close to James Cook Drive. The Duck Creek Comprehensive Plan showed this land adjacent to the salt marsh as a reserve which also conferred some advantages of access to the subdivision from James Cook drive.
- 7.4 The various issues regarding access to the Whitby Walkway system have not been adequately covered in the proposed conditions. In particular there are uncertainties in the design with regard to access around Marsden School, and provision of a walkway access from the end of Shackle Lane to the proposed walkway between bridges 2 and 3 has not been addressed.
- 7.5 The submitters raised a number of questions with regard to the design of the subdivision adjacent to Observatory Close and in particular with regard to design and earthworks in that area and it appears that requests for further consultation with landowners has not been met although it is accepted that the Commissioners may attend to that matter separately
- 7.6 The Duck Creek Comprehensive Development Plan made significant provision for improvements in amenity value by the provision of water ponds and this was followed in The Banks subdivision setting a precedent. We note also that the design of Transmission Gully has also incorporated these water ponds in their designs. This matter does not appear to have been addressed in the proposed design or the suggested conditions
- 7.7 It is proposed that the requirement that all dwellings be single storied be significantly amended by the addition of multi storied buildings on selected lots. This would be opposed by submitters in conjunction with their substantial objection with regard to the wider substantive submissions in respect of smaller lots, bulk and location requirements, road and carriageway width and the like.
- 7.8 Individual submitters will no doubt have individual submissions which are of particular concern to them and this memorandum should not be taken as a comprehensive account of the difficulties that submitters have identified.
8. The submitters are concerned to ensure that a major overriding issue will be addressed by the Commissioners in their decision whether it agrees that the matter should proceed subject to conditions, or whether the application should be rejected in its entirety. It is open to the applicants, if they so decide, to develop the land in a manner that accords with the District Plan and the requirements for Esplanade Reserves which are embodied in the Duck Creek Comprehensive Plan. The submitters have operated

under what they anticipated would be a reasonable expectation that Porirua City Council would act as a representative of and advocate for and preserve the interests of the Whitby residents as represented in the Duck Creek Comprehensive Plan and associated documents mentioned above. The submitters believe that they and all their neighbours in Whitby, or indeed the Porirua City as a whole are entitled to rely on the provisions and standards encapsulated in the District Plan until is changed in accordance the legal requirements of the appropriate legislation. The Commissioners heard submissions regarding that matter and are aware that the Suburban section contained in the District Plan is seriously overdue for review.

9. This matter serves as an example of the difficulties that will always be experienced by individual submitters who do not have the legal or technical ability to deal with a consent application of this complication and are forced to rely on the perception that the relevant local authority will represent their interest and will do so on the basis that the local authority takes its District Plan seriously. In this case the submitters have been prejudiced by the fact that the Porirua City Council has a conflict of interest in the discharge of its responsibility to represent residents and its prudential and judicial responsibilities. We make no criticism of the Greater Wellington Regional Council in this regard.
10. The submitters would appreciate a further direction from the Commissioners with regard to how or whether the foregoing issues will be addressed

Dated this 26th April 2016.

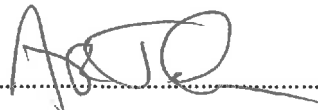
Signed



.....Trevor Roberts



.....David Wyatt



.....Ash Johnstone