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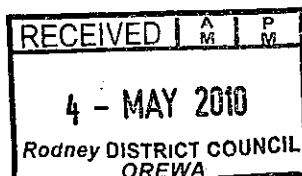
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Our Ref.
6700

Your Ref.

30 April 2010

The Chief Executive
Rodney District Council
Private Bag 500
OREWA



Dear Sir,

**RE: SECTION 357 OBJECTION TO CONDITIONS
OF SUBDIVISION CONSENT R54884
FOR MOYA TRUST
AT 207 MATAKANA VALLEY RD, MATAKANA.**

On behalf of the applicant we wish to object, pursuant to Section 357A(1)(g) of the Resource Management Act 1991, to some of the conditions of consent R54884 as follows:

- **Condition 5(a) (revegetation)**
- **Condition 5(n) (sanitary sewer reticulation lots 1-38)**
- **Condition 5(p) (pedestrian access)**
- **Consent Notice 6(e) (Covenants)**
- **Consent Notice 6(f) (building restrictions)**
- **Consent Notice 6(g) (building restrictions)**
- **Processing Fees - amounts**

Conditions 5(a) and Consent Notices 6(e), (f), & (g) are unreasonable, unfair and beyond the scope of the assessment criteria for the Medium Density zone. No reasons or justifications were given for imposing such draconian conditions and, despite the applicant having rejected them at draft consent stage, no discussion or consultation was entered into by Council prior to their inclusion in the final consent.

Conditions 5 (n) and 5(p) are objected to only in part, in relation to some of the wording.

Notice is given that an objection to the amount of the processing fees is being prepared and will be forwarded separately to Council. This can be dealt with separately from the following objections to conditions.

The application was lodged at Council on 18th December 2008. Council has taken an undue and excessive length of time to consider and finalise the consent which was received at this office on 12th April 2010.

Draft Engineering conditions were available in July 2009, and it should not have been beyond Council's abilities, not-with-standing their statutory requirements, to provide a final Consent shortly thereafter, particularly as Council had at that time

recently granted a very similar Consent R54566 (MVR Ltd) immediately adjoining the applicants land.

The Consent was considered as a non-notified application, and neighbours' approvals to the application were obtained.

Condition 5(a) and Consent Notice 6(e):

The revegetation of the entire extent of the proposed covenanted areas is unreasonable and excessive.

The proposed restrictive covenant which was offered in the application was not intended to be for planting purposes, but to prevent building within the defined area.

A landscape plan covering the entire extent of the proposed covenanted areas is unwarranted in this zone. It is highly likely that, being a residential area, owners will plant in these areas as a matter of course, particularly along the western and side boundaries for screening and shelter from wind. Imposing a Landscape Plan and Monitoring programme on these owners restricts freedom of choice and their rights as proprietors to undertake permitted activities in the Residential Zone.

Consent Notices 6 (f &g):

The applicant was conscious during the subdivision design phase of the desirability of not allowing buildings to dominate the ridgeline but also to not unnecessarily restrict how and what was able to be built.

For this reason the restrictive covenants on Lots 2 to 5 were voluntarily proposed to prevent building directly on the ridgeline. It was not the intention to prevent structures from projecting above the ridgeline when viewed from the nearest public viewing points.

The building height restrictions imposed by the Consent Notice are arbitrary in nature and affect each Lot in different and inconsistent ways because of their different aspects and relationship to the contours and ridgeline.

The imposition of the proposed consent notices 6(f) and (g) will impose an artificial maximum height which, when built to, is likely to create a horizontal built line of flat roofs right across the face of the hillside.

This would be more visually obtrusive than allowing roofs to project above the ridgeline in a more random unstructured manner.

The nearest public viewing points are on Matakana Valley Road which is at least 350 m from the ridgeline.

Adverse visual effects are significantly dissipated over this distance and by the intervening existing residential and commercial development and existing mature trees and vegetation.

Within the Medium Density Residential Zone section of the District plan there is no consideration of ridgelines within the objectives or policies for this zone, nor is there a requirement in the rules of the Residential zone to protect ridgelines.

The subject site is not within the Landscape Protection or Low Intensity Residential zones where the assessment criteria do require protection of sensitive ridgelines. It is clear from this distinction that there was no intent or requirement at the time of drafting the Operative District Plan 2000 to protect this particular ridgeline from the known and expected effects of residential development.

It is expected that the visual aspects of medium density residential subdivision of the land were considered at the time of creating the boundaries of the zone. The Medium Density Zone boundary could have been located east of the ridgeline to protect the ridgeline if it had been considered appropriate.

Section 104 (2) of the Resource Management Act states that *“a Consent Authority may disregard an adverse effect of the activity on the environment if the plan permits an activity with that effect”*.

There are sufficient building height rules within the District Plan to create the environment anticipated by the Medium Density zoning. Any further restriction would constrict the buildable area of each Lot, forcing building envelopes closer to the proposed road, reducing front yards and making buildings even more imposing and dominant over the proposed road. The restriction considerably devalues these prime sites and prevents the sites from being developed in the manner in which the zoning intended.

The owners of the site are fully entitled to the use of the zoning to the extent of the District Plan rules without unreasonable and unfair conditions being imposed. An additional height restriction on these Lots restricts freedom of choice and the rights of proprietors to undertake permitted activities in the Residential Zone. The applicants consider that imposition of both the planting covenants and the building height restrictions will be a considerable deterrent to purchasers, particularly where there are other choices available.

Condition 5(n):

The general context of the condition is agreed to, however the applicant objects to the inclusion of the wording... *“Provided that the necessary consents can be gained from the Consenting Authority to include discharges from areas currently outside the area of wastewater benefit,”* and *“... to extending the current areas of benefit and...”*.

Council’s Waste Water Map C4 (dated December 2007) from Ch 22, Appendix 22C of the Operative District Plan shows the subject site entirely within the Matakana Waste Water Catchment area, and not *“outside the area of wastewater benefit”* as described.

A copy of Map C4 is enclosed with the area subject to this application highlighted. There is no reference in the Operative District Plan 2000 to any other *“area of wastewater benefit”*.

The applicant has submitted their application utilising the references and restrictions imposed in the District Plan, and is entitled to Subdivision Consent on the same basis.

It has always been understood that consent would be subject to connection to the Council's proposed sewer extension, and it was expressly written in the application in order to assist Council to determine the requirement for the extension and possible locations for connections to be made.

The application has included extensive Engineering consultation and design work by Riley Consultants, and at no stage were questions raised by Council's Engineers regarding any wastewater capacity or discharge consent issues. Despite the applicant having requested advice in this regard at draft consent stage, no discussion or consultation was entered into by Council prior to their inclusion in the final consent.

Condition 5(p)

The inclusion of Lot 40 in this condition may be seen as unnecessary. Pedestrian access is to be provided via the Right of Way over Lot 34 with an Easement in Gross in favour of Rodney District Council as stipulated in Condition 4(a).

The applicant queries whether Council would desire an additional path within the Storm Water Utility reserve.

Conclusion:


The consideration and processing of Conditions of Consent should have been comparable and consistent with R54566. It is very clear that this has not occurred.

We request that the abovementioned conditions 5(a) and consent Notices 6(e, f & g) be deleted in their entirety, and that Conditions 5(n) and 5(p) be amended to delete the references indicated above, particularly the reference to the "area of wastewater benefit".

We look forward to your confirmation of the receipt of this objection.

Yours faithfully

BUCKTON CONSULTANTS LTD



Richard Bromley

Registered Professional Surveyor

