

7 December 2020

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Request for Official Information responded to under the Local Government and Official Information and Meetings Act 1987 (LGOIMA) – reference: 7719395 (OIR 2021-129)

I refer to your email we received on **11 November 2020**. I have set out the text of your letter and our response in relation to the resource consent issues raised:

- 1. I have raised numerous concerns since May with KCDC regarding the Resource Consent process and the non-complying activities. I personally believe that the Resource Consent should be in some part (at the very least) a notified consent.***

Thank you for your views on whether or not the application for the resource consent should be notified. The test for whether or not the application should be notified is set out in the Resource Management Act 1991 (RMA) and a notification decision will be made in accordance with these provisions.

- 2. I believe there is a double standard at play here given that a private developer (not KCDC) could NOT submit for a Resource Consent and be granted a Non notified status when there are THIRTEEN NON COMPLYING activities associated with a development. At the very minimum signed and dated acceptance by affected immediate neighbours would be a baseline minimum.***

The effects of the proposal will be fully assessed at the time a notification decision under the RMA is made. Currently the application is on hold pending the submission of further information. Until this information is provided the effects cannot be fully assessed and a notification decision cannot be made.

- 3. Neighbours – KCDC had no consultation prior to lodging for consent. KCDC have since spoken to a few neighbours, but only after my email raising the lack of consultation. No signed acceptance of proposed plans and activities has been obtained by KCDC.***

No notification decision has been made.

- 4. Are you setting a precedence by allowing a development that cannot achieve parking requirements within the site, to simply discuss with a neighbour the opportunity to use some of their spare land? At the time of writing KCDC only had a letter of understanding with the Paraparaumu Beach Golf Club to use some of their area for paid parking. As the processing planner you should have real concerns this is setting a precedent for ALL future development on the Kapiti Coast. I for one will be advising my clients that the door is open for offsite parking.***

No precedent is being set in the assessment of this proposal. Applications are considered on a case by case basis.

5. Have you got a parking agreement for perpetuity to safe guard the 17 publicly owned carparks that will be removed from Paraparaumu Beach?

The resource consent application did not include a parking agreement.

6. How can you guarantee, as a planner, that the letter of understanding and the long term viability of the parking does not vanish one day?

This issue will be considered in the context of the Council's consideration of the application for a resource consent.

7. Of further concern is KCDC's most resent Beach Bylaw review looking to close the north end of Manly Street to cars and boat launching, forcing them down to the Boating Club end of Manly Street therefore increasing further the demand for carparks and now cars with boat trailers as well. Has this new potential parking demand and vehicle movement intensification proposed in the Bylaw been factored into your decision going forward?

No decision has been made on the resource consent application.

8. Has there been a stringent parking and vehicle movement strategy been developed for the whole Paraparaumu Beach Area, given that KCDC are seeking development funding for further work at the beach. The Gateway cannot be assessed as an isolated project.

This is not a relevant factor in the consideration of the Gateway resource consent application. The proposal will be assessed taking into account the existing environment as per the requirements of the RMA.

9. As the processing planner, there to enforce the RMA and protect the general public, are you satisfied that you can justify the pathways to compliance?

A full assessment of the application has not been undertaken and a decision on the proposal has not been made. The application will be assessed as per the requirements of the RMA and the provisions within the Proposed District Plan.

10. KCDC have included Food and Beverage as an activity within the Gateway proposal. However, there is no consideration or thorough analysis of this type of activity within the body of the Resource Consent. Where specifically does the Resource Consent relate to noise and smell pollution/management, transient parking of customers and staff, delivery parking, lighting pollution etc etc.

The effects will be assessed through the resource consent process.

11. Have the neighbours been adequately informed of the disruption/negative impact a food and beverage activity will have?

No decision on notification has been made and the effects will be assessed through the resource consent process.

12. Is it acceptable, to you, as the independent processing planner, that KCDC has underplayed the significance and impact all these activities? There is a negative impact on the immediate and wider community.

This questions asks for the expression of opinion and does not fit the criteria of official information held by this Council and on that basis cannot be answered.

13. So how do you, as the independent processing planner, accurately critique and assess a Resource Consent when it is so ambiguous?

The application will be assessed as per the requirements of the RMA and the provisions within the Proposed District Plan.

14. At the very least give the community the opportunity to have a say via a prudent process of a Notified Resource Consent.

Please refer to our response to Question 1.

Further questions in an email to Council dated 14 November 2020

15. I was led to believe, Via a KCDC OIA dated 1 September, that you were the independent planner processing the RM200087. (the Kapiti Gateway project). Please see attached OIA. Given this resource consent is still being processed after initial lodgement in May 2020, it is still not clear who is processing the application? Who will outside of KCDC approve or decline the application.

Tony Thomas is an independent processing planner for this application. It is very likely that an independent RMA accredited commissioner will be appointed to make a decision on the resource consent application.

16. Wayne Maxwell, If Tony Thomas Consulting Ltd provided recommendations and advice as a consultant on the project, who within council will take delivery of these recommendations. ?

If an independent commissioner is delegated to a make a decision on the resource consent application, they will consider amongst other things the assessment and recommendations by the processing planner.

17. Wayne Maxwell I would ask if Tony Thomas was only a consultant providing feedback on the application, who will be responsible to approve or decline the RC 200087 application?

Please refer to our response to Question 16.

18. Specifically, There seems to be many unanswered questions relating to adequate car parking provisions under the District plan. KCDC is proposing within their application to demolish 17 public owned and maintained car parks. To compensate for these 17 missing parks, a private landowner PBGC will now charge the public to use these carparks. How can the Paraparaumu Beach Golf Club legally provide parking for this gateway development, in the absence of public parking at the site in question.?

You should seek your own legal advice or planning advice on the requirements of the Proposed District Plan and how they can be satisfied.

19. What contracts are in place to ensure the rate paying public have the use of these parks for perpetuity?

Please refer to our response to Question 6.

21. A private developer could never successfully propose this type of arrangement for lack of car parking on a private project that needed Resource consent. Why is this type of arrangement reserved for only council?

The application for a resource consent is still being assessed and considered. This approach is not reserved just for Council, and a developer could propose a similar car parking arrangement through a resource consent application. Each application is assessed on its own merits.

22. Does this type of arrangement extend to the Marine Parade development site council owns too?

Please refer to our response to Question 21.

23. Assume for a minute that the RC200087 application is successful. In the event of a legal challenge who will ultimately be in the crosshairs?

Council is confident with the robustness of its processes relating to applications for resource consents.

24. A consultancy firm that purely makes recommendations based on the documents/Reports it received or a Territorial authority who commissioned these reports and supporting documents then accepts the consultants recommendations and ultimately approves the RC application.?

This statement asks for the expression of opinion and does not fit the criteria of official information held by this Council and on that basis cannot be answered.

25. Is the rate payer left to cover the cost of a legal challenge?

Please refer to our response to Question 23.

Ngā mihi



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Te Kaihautū Ratonga Whakaritenga