

14 March 2022

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Request for Official Information responded to under the Local Government and Official Information and Meetings Act 1987 (LGOIMA) – reference: OIR 2122-205 follow up questions to OIR 2122-188.

I refer to your information request we received on 23 February 2022, where you wished to clarify a few points. Question 5 is being responded to in a separate letter by the Project Management Office. The response from the Resource Consents team to Questions 1, 3, 4, 6, 7 and 8 is as follows:

1. Re Council's response to your Question 32.

There is a feeling of futility within the construction sector when dealing with KCDC decisions so while no formal objections have been made there is a real body of work that can be scrutinized. How can KCDC be sure that any peer review from an independent planning commissioner is truly independent when they are paid and/or occupy space in the KCDC environment.?

Independent commissioners who are NZPI members sign up to an NZPI code of ethics which requires them to ensure that they manage any conflicts of interest appropriately and act with professional integrity when undertaking their work. We would rely on the professionalism of the independent commissioner and if the public still has concerns regarding the notification decision made then a Judicial Review with the High Court could be lodged, and a Judge would make a decision on whether Council followed due process when making the notification decision under the RMA.

- a) After 2 years why has the independent assessor not determined whether the application needs to be partly notified/non notified or fully notified. After 20 years of dealing with RC applications, I have personally found that notification on applications is identified very quickly. Has the applicant (KCDC) been notified by the independent assessor as to his/her expected level of notification that this project will attract?***

The independent processing officer cannot make a notification decision until all of the information requested has been supplied. The reason why further information is requested is so that the processing officer has sufficient information to make a notification decision. The RMA requires sufficient information for this decision to be made and doing so before all the requested information is submitted would increase the risk of a challenge to any decision. This is Council's standard practice and is what the Ministry for the Environment guidance recommends.

- b) Has the applicant (KCDC) commissioned additional reports from the time of the initial RC lodgement to avoid the need to further consult with actual affected parties or the wider community.?**

All reports and information requested are required to fully assess the effects of the proposal.

- 3. How can KCDC accurately measure the level of effects if no one from KCDC or their consultants has spoken or consulted with the neighbouring property owners and occupants? There needs to be a direct correlation between the high level of non compliance identified in the RC application and how this non compliance will impact on the surrounding amenity and quality of life of those citizens living in the immediate area.**

As mentioned above Council relies on the professional expertise of processing planners and in this instance, the independent planning consultant and other experts who are assessing the application. These experts are qualified to determine effects and interpret the District Plan and RMA which is the process when making these decisions.

- 4. How can any report made by exterior consultants to measure the impact of adverse effects carry any weight when the very people who will be affected have not been consulted.?**

Please refer to the above.

- 6. The Resource consent for the Gateway is no nearer to being approved after 2 long years of changes/further information reports and requests / additional consultants /re-design yet not once has there been discussion/consultation with the affected neighbouring property owners. Is KCDC concerned about the negative optics this displays to the ratepayers of Kapiti?**

The resource consent teams responsibility is to assess and determine applications in accordance with the relevant legislation, the team does not make decisions based on 'negative optics'.

- 7. Given that 2 years has lapsed, Is KCDC concerned that a lack of consultation will expose the council to a legal challenge for lack of due process.?**

No notification decision has been made and please see previous responses regarding potential legal challenge.

- 8. Is KCDC operations concerned that this level of non compliance coupled with lack of consultation is setting a costly precedent for future developers to use to their advantage on future projects?**

Each application is different and is assessed on their own merits therefore the resource consent team is not concerned that any decisions on this application will result in a precedent being set. In fact, RMA case law has stated that the processing of one application does not result in precedents for other applications.

Ngā mihi



James Jefferson
Group Manager Regulatory Services
Te Kaihautū Ratonga Whakaritenga

16 March 2022

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5. U6 photo Montages Ltd were hired by KCDC in december 2021 to create a number of photographs. These types of photos are scalable to show accuracy for any presentation work. The photos have no practical function for construction purposes but purely as a presentation tool.

Given that a company representative was specifically flown in from Auckland and spent 4 days in Kapiti creating these images.

- ***What is the purpose of these photos?***

The photos were used to create visual simulations of the project to assess the visual impacts as required as part of the resource consent process. Council engaged Beca to complete the visual impact assessment for the resource consent and U6 were subcontracted by Beca to create the images.

The task of taking the photos required four days as poor weather conditions limited visibility of Kapiti Island and delayed the work.

- ***How much did this body of work cost the Ratepayers of Kapiti.?***

The cost of having the visual simulations done was \$16,850 + GST.

Ngā mihi



Sean Mallon
Group Manager Infrastructure Services
Te Kaihautū Ratonga Pakiaka