

11 December 2006

File Ref: ~~62-06-012-02~~
Your Ref: 192725-R-P-C010

Doc No: OW-75050
Enquiries to: Joanne Watts

MTEC Consultants Ltd
PO Box 878
ROTORUA

Attention: Bart Yetsenga



copy to: P29078
P19979
P19980
P32302 - P32349
P32309

Dear Sir,

**NOTICE OF DECISION REGARDING OBJECTION TO LAND USE CONSENT AND
CONSEQUENTIAL VARIATION TO SUBDIVISION CONSENT**

Consent No.: 62-06-012 (land use) & 63-06-013 (subdivision)
Applicant: Generation Developments Ltd
Location of proposal: Harris St, Ariki St and Ngongotaha Rd
Legal Description: Lots 1 – 3 DPS 79465 and Sec 1 SO 50280

I wish to advise that the following decision has been made under authority delegated to staff in respect of the above application:

Pursuant to Section 357D of the Resource Management Act 1991, the Rotorua District Council has reviewed its decision of 28 June 2006 regarding the land use consent by Generation Developments Ltd to construct 48 dwellings prior to or concurrently with subdivision of the property at Harris St, Ariki St and Ngongotaha Rd legally described as Lots 1 – 3 DPS 79465 and Sec 1 SO 50280 and advises that it has made the following decision regarding the objection:

The objection received has resulted in variation to the following conditions:

- condition 2 of the land use consent to correct an error in the plan reference;
- amendment to condition 11 of the land use consent to reflect the new agreed minimum floor levels;
- amendment to condition 10 i) of the subdivision consent to reflect the new agreed minimum floor levels within the Consent notices to be registered against each of the Certificates of Title for the new lots

The reasons for this decision regarding the objection are:

1. The objection was received within the statutory time for re-consideration.
2. Further information provided after approval of the land use and subdivision consent has now established final designed ground water levels and overland flow paths. Council's engineers are satisfied that these are below the proposed levels. As a consequence of reassessment of the levels the original 1.50 level has had to be increased to 1.55m to meet NZS 3604 for timber floors.

3. Council engineers are comfortable with the reduction of levels for concrete floors on the basis of information provided. The proposed Minimum Finished Floor Levels (FFL) will allow for the required clearance above final designed ground water levels.

The applicants are advised that:

(a) Right of objection to this decision

This decision regarding the objection has been made under authority delegated to staff, you have a right to have this decision reviewed by Council's Statutory Hearings Sub-Committee. Please advise Council in writing requesting a review of the decision within 15 working days of receiving this decision in order that a Statutory Hearing can be set. Alternatively, please be advised that you have a right of appeal to the Environment Court pursuant to Section 358 of the Resource Management Act 1991. Any appeal must be lodged with the Environment Court within 15 working days of being notified of this decision.

(b) Timeframe for giving effect to this consent

This subdivision consent lapses on the expiry of 5 years after the date of commencement of the consent unless the consent is 'given effect' to. The commencement date in the case of this non notified consent is the date of receiving the original decision letter NOT the date of receiving the decision letter for this objection. (Sect 116). A subdivision is deemed to be 'given effect to' when the survey plan in respect of the subdivision has been submitted to Council under Section 223. Certification that all conditions of the subdivision consent have been complied pursuant to Section 224 must be obtained by the applicant and the Land Transfer Plan deposited within a period of less than 3 years from the date the survey plan was approved.

LAND USE

For completeness, the original conditions of land use consent are reproduced below with changes resulting from the decision regarding the objection shown in *italics*.

The land use consent is now subject to the following conditions:

General conditions

1. All conditions relating to this resource consent must be met in full and a Planning Compliance Certificate issued before occupation of any of the houses unless otherwise specified.
2. That the proposal proceeds in accordance with the application submitted numbered 192725-R-S-C015 and dated 27 April 2006 and the plans by Colin J Davis & Associates for houses on lots 1 – 48 as stamped 'approved' except where modified by any conditions of this consent.
3. That all engineering works required to be undertaken to satisfy the conditions of this consent shall be carried out in accordance with the Rotorua Civil Engineering Industry Standard (RCEIS) and the District Plan, to the satisfaction of the District Engineer.
4. That in carrying out the proposed works which includes construction of building platforms on each of the proposed lots no run off, silt, sediment or other materials shall be permitted to discharge off-site that could damage or disturb neighbouring properties, public roads or drains by installing and maintaining appropriate erosion and sediment controls, prior to and during the works and until the site is stabilised. The temporary stormwater control is required to achieve control of a 2% AEP storm event.

Prior to the commencement of any earthworks

5. That prior to the commencement of any earthworks associated with the excavation and filling of building platforms, a 'co-ordinated construction methodology' plan shall be

provided to the satisfaction of the District Engineer that demonstrates that earthworks and associated access points are managed in a controlled way in association with the construction of the subdivision works that ensures the integrity of new roading and services is maintained without damage.

6. Written confirmation shall be provided from Environment Bay of Plenty Earthworks confirming that the proposed earthworks for the subdivision and building platform works do not require resource consent, mindful that the earthworks quantities will be cumulative.

Prior to construction of any dwellings

7. That the Engineering Plans and specifications required for the subdivision consent be approved prior to construction of the first house.
8. That survey pegs for the proposed lots be put in place in accordance with the subdivision consent or alternatively house locations be certified as being in accordance with the land use application plans and any amendments required by the subdivision consent & or engineering plan approval prior to foundation inspection.
9. That the existing abandoned sewer and stormwater mains shall be removed and the trenches backfilled and certified prior to construction of any house within the affected proposed lots.
10. That the minimum building platform level for each of the sites shall be 1.0 metres above the ground water level. The building platform shall be certified by a Chartered Professional Engineer as suitable for building prior to foundation inspection.
11. *That the minimum finished floor level for any building requiring a building consent shall be 1.30 metres above the ground water level for buildings with concrete floors and 1.55 metres above the ground water level for buildings with timber floors.*
12. Stormwater disposal from any development on the Lots (roof, driveway and hard surfaces) shall be reticulated to the approved connection for that Lot and a secondary overland flow path formed to dispose of surface stormwater so that it discharges to the Council reticulated system.

Acoustic treatment of buildings

13. Any habitable buildings on Lots 9 – 16 & 28 & 29 shall comply with the appropriate NZS Standards for internal noise (NZS2107:2000) or latest version of the standard applicable at the time of building.

Prior to occupation of houses

14. That all roads, street lighting, sewerage, stormwater, water supply, electricity, and telecommunications facilities shall be provided to the standards required by Council as a service operator or other service operators in which the infrastructure will be vested. Certification from Council or other appropriate service operator that it is satisfied with the standard of the service provided, and that it will accept the particular service, shall be provided to Council as consent authority before it issues any Section 224 Certificates to enable a survey plan to be deposited and prior to occupation of any of the houses.

Access

15. That an on site turning area be provide for all lots where the vehicle entrance is 15m or less from any street intersection boundary (including the opposite side of a 'T' junction or where a vehicle entrance is 15m or less from any traffic calming or traffic control structure as required by Appendix 18 f1.2 of the District Plan.

Financial contribution

16. That the financial contribution for reserves and heritage purposes as set out in the subdivision consent conditions be paid to Council prior to occupation of the houses. The amount payable has been assessed at 5% of the value of the land area exclusive to 45 of the

48 additional dwelling less 50% of the land value of the Local Purpose Reserve to vest as part of the subdivision.

The reasons for the original land use consent decision were:

1. The site is zoned Residential B in the District Plan where the construction of additional houses to a density of one house per 450m² is a Controlled activity. This consent will allow construction of 48 houses along side construction of subdivision works which were approved on 19 May 2006.
2. As a controlled activity the Council is satisfied that there will not be any adverse effects which can not be avoided or remedied by the conditions of consent. Conditions require subdivision works to be carried out concurrently with housing construction so all is completed prior to occupation of any of the houses. This consent includes earthworks for building platforms hence conditions being placed within this consent which are ordinarily found within the subdivision consent.
3. There is a history of high Ground Water Level's (GWL), poor stormwater soakage disposal and ponding issues in the surrounding area. In addition, information contained in the subdivision application confirms the summer GWL is only 800mm Below Ground Level in some areas; it is expected this will be higher during winter conditions. Any particular limiting effects of the "saturated grey silt" and the perched water table (which is some 3 metres above lake level) as recorded by the preliminary borehole logs, should also be established. Subdivision consent conditions & condition of this consent require groundwater table investigation to ensure the proposed stormwater disposal system will provide adequate disposal prior to any construction.
4. Other conditions require those houses with boundaries adjacent to the State Highway and / or industrial zoned land to be acoustically designed to ensure residential amenity of a high standard is achieved for future residents.
5. The proposal is considered to be consistent with the relevant objectives & policies of the District Plan and the purposes and principles of the Resource Management Act 1991 given the land has been zoned for residential development.
6. A financial contribution is payable in accordance with Appendix U of the District Plan towards the development of existing, and purchase of additional, land to enhance the amenity and heritage value of reserves. Financial contribution conditions have been placed within the subdivision consent and will be required to be met at Sect 224 stage.

The applicants are advised that:

Engineering advice

- (a) In regard to the proposed water layout, Lots 9 & 10 does not meet the requirements for a rider in the access lot. Scour valves at the end of riders are not required. Riders can be flushed by demand and if necessary through the last connection. The link from the development to Ngongotaha Road (SH 36) is to be uPVC not mdpe.
- (b) There is an open drain in subdivision site behind properties fronting 52 – 58 Wikaraka Street that goes no where. This drain fills up and then overflows into the properties above. Suitable shaping of the contour will end this effect.

- (c) It is noted a piped reticulation system to collect the runoff from sites, hard surfacing, buildings and roads is proposed. Due to existing downstream pipe size constraints this will be a duplicate system discharging directly to the lake. An EBOP Discharge permit will be required.
- (d) This system is to be designed to cater for 2% (50 year) AEP flows within the pipe to minimise secondary flow effects on reserves, adjoining streets and property, although a 1% (100 year) AEP secondary flow path is also proposed.
- (e) The shaping of the lots and any filling will need to ensure that secondary flowpaths in relation to adjoining properties are provided for. A complaint regarding stormwater overflow from the subject site onto the rear of the properties at 52-58 Wikaraka Street has been received by Council.
- (f) Due to the nature of the site, more comprehensive ground water investigations is required, in particular to demonstrate that a satisfactory long term sub-soil ground water collection system can be installed within public areas that will maintain the winter water table at a minimum of 1 metre below the proposed roads. Council expects that an experienced Geotechnical Engineer would be consulted to confirm the suitability of the proposal.
- (g) Prior to any works in the road reserve, a Road Opening Notice must be obtained from Council. This is available free of charge, by contacting Tiki Galvin on Ext 8238.
- (h) The work on the public stormwater and sewer mains is to be carried out by an "approved" Council contractor.
- (i) Written confirmation is required from Environment Bay of Plenty Earthworks that the proposed works do not require resource consent, mindful that the earthworks will be cumulative.
- (j) The watermain location in the reserve is to be finalised as part of Engineering Plan approval.
- (k) The traffic safety audit is to look at vehicle crossing locations, in particular for the Lots 1, 17, 21, 33, 36, 45 and 48. The scale of the plans have made it difficult to assess but the report should also outline which additional Lots require on-site turning that have not been shown on the submitted plans for the Land Use Consent. Lots 17 and 33 have the vehicle access either sharing or particularly close to an access lot vehicle crossing.

Monitoring

- (l) Fulfilment of the conditions of this consent within the timeframe specified in the consent is necessary to carry out the proposal for which this consent relates. Your progress towards satisfying the conditions of consent will be monitored by Council's Monitoring & Compliance Officer. Please contact the Monitoring & Compliance Officer to schedule a final inspection when you have completed the conditions of consent so that a Planning Compliance Certificate can be issued.

Archaeological sites

- (m) Council has no records of an archaeological site on this property. This may be due to one of two factors. Either, there are no sites present or there has not been an archaeological survey undertaken. Please be advised that both known and unknown archaeological sites are protected under the Historic Places Act 1993. If during the exercising of this consent any archaeological site is uncovered work must stop and permission be obtained from the Historic Places Trust under the provisions of either Section 11 or 12 of the Historic Places Act 1993.

SUBDIVISION

For completeness, the original conditions of subdivision consent are reproduced below with changes resulting from the decision regarding the objection shown in *italics*.

The subdivision consent is now subject to the following conditions:

1. That the Land Transfer Plan be prepared in accordance with the preliminary plan of subdivision prepared by MTEC Consultants, numbered 192725-R-P-D005 Sheet 01 Issued B and dated 26.04/06 except where conditions require modification of this.
2. That all engineering works required to be undertaken to satisfy the conditions of this consent shall be carried out in accordance with the Rotorua Civil Engineering Industry Standard (RCEIS) and the District Plan, to the satisfaction of the District Engineer.
3. That all roads, reserves, street lighting, sewerage, stormwater, water supply, electricity, and telecommunications facilities shall be provided to the standards required by Council as a service operator or other service operators in which the infrastructure will be vested. Certification from Council or other appropriate service operator that it is satisfied with the standard of the service provided, and that it will accept the particular service, shall be provided to Council as consent authority before it issues any Section 224 Certificates to enable a survey plan to be deposited. Those services certified for approval by Council as service operator shall vest in Council on deposit of the survey plan.

Prior to construction

4. That a traffic safety audit shall be obtained to the satisfaction of the District Engineer both prior to Engineering Plan design and commencing any construction work and post construction.

Sub-soil Drainage

5. That prior to submitting Engineering Plans and specifications for approval, and the commencement of any construction work, a detailed specialised investigation of the subsoil drainage proposals to control the perched ground water table shall be carried out and submitted for the approval of the District Engineer.
6. That engineering design plans and specifications for the proposed roading (including street lighting, road reserve landscaping and footpaths), stormwater and subsoil drainage, secondary flow paths, sewage, water supply, electricity, and telephone facilities shall be submitted to all relevant services operators for written approval before commencing construction work. Work undertaken without Council's written approval for those services to vest in Council shall not be accepted.

Engineering works

7. That the 2% AEP reticulated stormwater shall be discharged to existing outlet at the end of Paraone Street into Lake Rotorua.
8. The existing abandoned sewer and stormwater mains shall be removed and the trenches backfilled and certified. The removal of the existing abandoned pipes is due to possible confusion, and existing pipes drawing in ground water flow which may cause settlement and foundation problems.
9. That in carrying out the proposed works no run off, silt, sediment or other materials shall be permitted to discharge off-site that could damage or disturb neighbouring properties, public

roads or drains by installing and maintaining appropriate erosion and sediment controls, prior to and during the works and until the site is stabilised. The temporary stormwater control is required to achieve control of a 2% AEP storm event.

Consent Notices:

10. That all owners and subsequent owners of Lots 1 – 48 be advised of the following by way of a Consent Notice registered against the Certificate of Titles for the said lots.

i. That the minimum finished floor level for any building requiring a building consent shall be 1.30 metres above the ground water level for buildings with concrete floors and 1.55 metres above the ground water level for buildings with timber floors.

ii. That the minimum building platform level shall be 1.0 metres above the ground water level. The building platform shall be certified by a Chartered Professional Engineer as suitable for building prior to foundation inspection.

iii. Stormwater disposal from any development on the Lots (roof, driveway and hard surfaces) shall be reticulated to the approved connection for that Lot and a secondary overland flow path formed to dispose of surface stormwater so that it discharges to the Council reticulated system.

11. That all owners and subsequent owners of Lots 16, 27, 30, 35 and 37 be advised of the following by way of a Consent Notice registered against the Certificate of Titles for the said lots.

Areas 'E', 'F' and 'G shown on DP are easements to allow an overland flow path for storm events greater than a 2% AEP (50 years). Within the easement area there shall be no alteration to the shape or level and there shall be no placement of anything that could create an obstruction for stormwater. This notice is in addition to the easement documents which you are advised to refer to.

Acoustic treatment of buildings

12. Any habitable buildings on Lots 9 – 16 & 28 & 29 shall comply with the appropriate NZS Standards for internal noise (NZS2107:2000) or latest version of the standard applicable at the time of building.

That the owners and subsequent owners of the said Lots shall be advised of this requirement by way of a consent notice registered on the certificate of titles created for the said lots.

Financial Contribution

13. That a financial contribution calculated at 45/48th of 5% of the land value of proposed Lots 1 – 48 shall be paid to Council for reserves and heritage purposes. Where lots have an area greater than 900m² the value of an 850m² lot will be used.

14. That 50% of the value of Lot 54 can be credited against the financial contribution for reserves and heritage values payable.

Vesting of land

15. That Lot 54 be vested in Rotorua District Council as Local Purpose Reserve (Access way & Utility).

16. That Lot 53 be vested in the Rotorua District Council as road.

17. That Lot 55 be vested in Her Majesty the Queen as Road and that Lot 56 be vested in Her Majesty the Queen as Local Purpose Reserve (Segregation).

Amalgamation conditions

18. That Lot 49 hereon (legal access) be held as to three undivided one third shares by the owners of Lots 9, 10 and 11 hereon as tenants in common in the said shares and that individual certificates of title be issued in accordance therewith.
19. That Lot 50 hereon (legal access) be held as to five undivided one fifth shares by the owners of Lots 13, 14, 15, 16 and 24 hereon as tenants in common in the said shares and that individual certificates of title be issued in accordance therewith.
20. That Lot 51 hereon (legal access) be held as to seven undivided one seventh shares by the owners of Lots 26, 27, 28, 29, 30, 31 and 32 hereon as tenants in common in the said shares and that individual certificates of title be issued in accordance therewith.
21. That Lot 52 hereon (legal access) be held as to eight undivided one eighth shares by the owners of Lots 37, 38, 39, 40, 41, 42, 43 and 44 hereon as tenants in common in the said shares and that individual certificates of title be issued in accordance therewith. See request 563008.

Surrender of existing subdivision consent

22. That pursuant to Section 138 of the Resource Management Act 1991, by giving effect to this consent the application surrenders the previous consent issued for the boundary adjustment subdivision Council reference 63-05-022 and dated 26th October 2005.

The reasons for the original subdivision consent decision were:

1. The site is zoned Residential B in the District Plan where the proposed subdivision is a Controlled Activity. As a controlled activity as it fully complies with the Rules for subdivision in 16.3 and 16.4 of the District Plan.
2. After considering the assessment criteria for Controlled activity subdivision Council is satisfied that any adverse effects of the proposal are minor or can be mitigated by consent conditions. In this regard it is noted that there is a history of high Ground water levels (GWL), poor stormwater soakage disposal and ponding issues in the surrounding area. In addition, information contained in the subdivision application confirms the summer GWL is only 800mm below ground level (BGL) in some areas; it is expected this will be higher during winter conditions. Any particular limiting effects of the "saturated grey silt" and the perched water table (which is some 3 metres above lake level) as recorded by the preliminary borehole logs, should also be established. Conditions require detailed specialised investigation and design.
3. It is noted that the site adjoins Industrial B zoned land to the south. A condition has been imposed requiring a consent notice clause stating habitable buildings within Lots 9 – 16, 28 & 29 comply with the NZ Standard for internal noise. While it is acknowledged that this condition is more appropriately placed within the land use consent it has been placed within this consent as an effective way of advising further owners of the requirement to ensure residential amenity is not diminished by industrial noise for the benefit of residents within the subdivision.
4. As the subdivision complies with the rules it is also considered to be consistent with the relevant objectives & policies of the District Plan and the purposes and principles of the Resource Management Act 1991. The provision of the access way to Ngongotaha Rd was

required by Council officers to ensure there was opportunity provided within the subdivision layout to allow pedestrian and cycle access in accordance with District Plan policy, recreation and cycleway policy.

5. No adjoining landowners or occupiers are considered adversely affected by the proposed subdivision as it fully complies with the District Plan subdivision rules and will allow for the residential development to a density set out as appropriate in the Residential B zone. Transit NZ were considered an affected party as the site adjoins State Highway 36 – Ngongotaha Road albeit that no vehicular access is proposed directly to the State Highway from the subdivision. Conditions have been imposed in accordance with Transit NZ requirements. A financial contribution is payable in accordance with Appendix U of the District Plan towards the development of existing, and purchase of additional, land to enhance the amenity and heritage value of reserves.

The applicants are advised that:

- (a) Cancellation of previous subdivision consent
Council will issue a cancellation of consent notice pursuant to Section 138 at the time of Sect 224 sign off. A copy will be forwarded to Transit NZ at that time.
- (b) Engineering advice
In regard to the proposed water layout, Lots 9 & 10 does not meet the requirements for a rider in the access lot. Scour valves at the end of riders are not required. Riders can be flushed by demand and if necessary through the last connection. The link from the development to Ngongotaha Road (SH 36) is to be uPVC not mdpe.
- (c) There is an open drain in subdivision site behind properties fronting 52 – 58 Wikaraka Street that goes no where. This drain fills up and then overflows into the properties above. Suitable shaping of the contour will end this effect.
- (d) It is noted a piped reticulation system to collect the runoff from sites, hard surfacing, buildings and roads is proposed. Due to existing downstream pipe size constraints this will be a duplicate system discharging directly to the lake. An EBOP Discharge permit will be required.
- (e) This system is to be designed to cater for 2% (50 year) AEP flows within the pipe to minimise secondary flow effects on reserves, adjoining streets and property therefore provision for these secondary flows needs to be provided for on each lot.
- (f) The shaping of the lots and any filling will need to ensure that secondary flowpaths in relation to adjoining properties are provided for.
A complaint regarding stormwater overflow from the subject site onto the rear of the properties at 52-58 Wikaraka Street has been received by Council.
- (g) Due to the nature of the site, more comprehensive ground water investigations will be required, in particular to demonstrate that a satisfactory long term sub-soil ground water collection system can be installed within public areas that will maintain the winter water table at a minimum of 1 metre below the proposed roads. Council may require a peer review from an experienced Geotechnical Engineer to confirm the suitability of the sub soil drainage proposal.
- (h) Prior to any works in the road reserve, a Road Opening Notice must be obtained from Council. This is available free of charge, by contacting Steve McLeod on Ext 8238.

- (i) The work on the public stormwater and sewer mains shall be carried out by an "approved" Council contractor.
- (j) Written confirmation is required from Environment Bay of Plenty Earthworks that the proposed works do not require resource consent, mindful that the earthworks will be cumulative.
- (k) The watermain location in the reserve is to be finalised as part of Engineering Plan approval.
- (l) Obligations under the Historic Places Act 1993

Council has no records of an archaeological site on this property. This may be due to one of two factors. Either, there are no sites present or there has not been an archaeological survey undertaken. Please be advised that both known and unknown archaeological sites are protected under the Historic Places Act 1993. If during the exercising of this consent any archaeological site is uncovered work must stop and permission be obtained from the Historic Places Trust under the provisions of either Section 11 or 12 of the Historic Places Act 1993.

If you have any questions regarding this decision, please contact **Joanne Watts**, Best Practise Advisor, or the Duty Planner.

Yours faithfully

Nigel Wharton
Director, Environmental Services