

12 January 2017

By email

New Lynn Holdings Limited
c/- Kishen Kommu
McVeagh Flemming
PO Box 4099
Auckland 1140

Dear Mr Kommu

Without Prejudice

9 Astley Avenue – New Lynn Holdings Limited – Objection to Proposed Stormwater Works (LEX 16275)

1. The purpose of this letter is to acknowledge receipt of and respond to your letter dated 23 December 2016 addressed to [REDACTED] in respect of this matter. Your letter raises a number of concerns in relation to the potential effects of the proposed clinker place stormwater pipeline works (the **Works**) on your client's property at 9 Astley Avenue (the **Property**). I have taken instructions in respect of these and address each in turn below.
2. In paragraph 4 of your letter you raise a number of grounds for your client's objection to the Works. The first of these is that the Works restrict Croxley Stationary Limited's (**Croxley's**) ability to move goods and services on and off the site. The Council has been (and continues to be) in discussions with Croxley about how the Works can be progressed in a way that minimises the intrusion on Croxley's use of the Property. Several alternative configurations of the temporary construction occupation area along with routes for trucks to take on the Property have been developed with the aim of finding a solution that suits the Council and Croxley. It is anticipated that a solution can be reached through further discussion between the parties.
3. I am instructed that the Council will be in a position to provide further information in respect of the temporary occupation area for health and safety purposes when the configuration explained in paragraph 2 has been finalised and a contract for the Works has been let.
4. In terms of the duration of the Works affecting the Property, the Council has come to the conservative estimation of 7 months. Without having let a contract for the Works at this stage, this is only an estimate. However, I am instructed that the temporary occupation area can be scaled back to allow more space for Croxley's use of the Property once certain portions of the Works have been completed and so the full occupation area would not necessarily be used for the entire 7 month timeframe. The exact duration and timing of the Works and use of the temporary occupation area is dependent on the construction methodology and sequencing employed by the contractor.
5. With respect to paragraph 4(c) of your letter, the Council has identified a number of issues which make the chosen route for the Works the most favourable option. These include the added cost, difficulty and duration of constructing the pipeline around the Property. In summary, the proposed option was selected for the following reasons:

- (a) It is the least disruptive option, carrying the least risk.
 - (b) High voltage power lines are situated at the end of Clinker Place which would complicate the construction of the pipeline around the Property. In addition, construction of the additional length of pipeline on Astley Avenue would require a full road closure for the duration of that portion of construction.
 - (c) There are constructability issues in running the pipeline around the Property. For example, this option would require a flatter pipe gradient which would in turn mean the construction of a larger shaft. Construction cost, complexity and duration increases with a longer pipeline.
6. As you will be aware, the matter you raise in paragraph 4(d) of your letter is a compensation issue and a matter that is dealt with separately from the process under section 181 of the Local Government Act 2002.
7. The Council has not yet appointed a hearing date but is tentatively working towards 9 March 2017. This will be confirmed in the next week and your client as well as Croxley will be notified as soon as this has been set. I am also instructed that Croxley was served on 21 December 2016 with a similar notice to that sent to your client.
8. Given the unresolved matters between the parties the Council considers that a meeting with your client and Croxley would be beneficial. The purpose of the meeting would be to explain the justification for the chosen route for the Works and discuss the potential configurations on the Property so as to minimise the intrusion on Croxley's use. I suggest that a meeting is convened at the Council's offices next week (subject to availability).
9. Please let me know if this proposal is agreeable to your client and advise of some suitable times so that I can ensure the relevant Council officers are available. I look forward to hearing from you.

Yours faithfully



Luke Cutfield
Solicitor

Direct Dial: 09 890 4354
Fax No: 09 366 2532
Email: luke.cutfield@aucklandcouncil.govt.nz