

15 February 2017

By email kkommu@mcveaghfleming.co.nz

New Lynn Holdings Limited
c/- McVeagh Fleming Lawyers
PO Box 4099
Auckland 1140

Attention: Kishen Kommu

Dear Kishen

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

1. Thank you for your letter of 2 February 2017 and your time on the phone last week in respect of this matter. I have now taken instructions in relation to the matters that you have raised in your letter and respond to those in the same general order below.
2. The Council is comfortable with any meeting between the parties being conducted on a without prejudice basis.
3. With respect to paragraph 2(b)(i) of your letter, I have uploaded five technical documents (dated from 2010 to 2016) along with an options analysis summary report to Onedrive - https://1drv.ms/f/s!AmSOxnU2oKIOjwV_OkRhZZ2mij7R (their file size is too large to send via email). Together, the reports explain why the proposed option was selected and considered the most favourable to the Council. The reports are as follows:
 - (a) 2x Synergine reports
 - (b) Synergine Resource Consent Drawings
 - (c) GHD Prelim Design Report
 - (d) Auckland Council (Healthy Waters Design Office) Prelim Design Report
 - (e) Auckland Council Options Analysis Summary Report
4. The “Options Analysis Summary Report” (**uploaded**) summarises the options that the Council has investigated over the six years and refers to further detail in technical reports. The Appendix in this report supplements the information provided and compares the preferred option with two alternative options that did not pass through the property at 9 Astley Avenue. As these two options were discounted relatively early on, they do not appear in any design reports. However, the report summarises the consideration that was undertaken at that time and reasons why they were discounted.
5. With respect to paragraph 2(b)(ii) of your letter, the initial estimate for the programme was based on a linear progression from the outlet end of the project to

the inlet (this is shown in “Clinker Programme May16” (**uploaded**)). Subsequent consideration of the project identified that a contractor may wish to construct the elements in Astley Avenue first to comply with the requirement to be clear of 10 - 20 Astley Avenue by the end of March 2018. This in turn increased the conservative estimate of the duration the works within the property at 9 Astley Avenue (see “Clinker Programme Jan17” (**uploaded**)). The durations in these programmes were developed through a combination of experience with similar projects and conversations with contractors experienced in this type of construction work.

6. With respect to paragraph 2(b)(iii) of your letter, I am instructed that initially the area for temporary occupation was determined on an optimal size for the contract works, in that it was sized on the basis of what could be considered reasonable for an experienced contractor to work in. This area was then discussed with a local contractor with experience in this type of work and they were satisfied that it would provide sufficient working space to carry out the works. Following the receipt of the turning circle requirements from RCG/Croxley Stationary Limited on 16 January 2017, the temporary occupation area was updated with this information, and the plan “004314.SK001” (**uploaded**) was produced. This demonstrated very little difference from the original area and the Council was satisfied that this area would be sufficient for the contractor to work in. It is important to note here that (within reason) a contractor can work within a constrained site but the more constrained the site, the greater are risks in terms of Health and Safety.
7. I note that an alternative to the temporary occupation area plan (also **uploaded**) has now been discussed with RCG/Croxley Stationary Limited. It is likely that the temporary occupation area will go back to the original dimensions proposed. A site meeting has been organised with Croxley on 24 February 2017 to confirm the temporary occupation area.
8. With respect to paragraph 2(b)(iv) of your letter, I am instructed that the Council is presently conducting a valuation based on pre-construction and post-construction conditions to assist in determining injurious affection and the level of compensation affected parties should receive. Injurious affection and compensation negotiations will commence when an assessment has been completed by the Council’s valuers. However, as I explained in my previous letter, this a spate matter to this process under section 181 of the Local Government Act 2002 (LGA02). It is a valuation matter, dealt with under the Public Works Act 1981 (PWA) and there is no obligation on the Council to settle valuation matters before proceeding with the works.
9. It is important that your client understands this distinction and that it is likely the Council will not be in a position to discuss compensation at any meeting between the parties. However, your client should be assured that the Council will of course comply with all of its statutory obligations under the LGA02 and PWA.
10. The Council is comfortable with paragraph 2(c) of your letter and suggests that the parties meet early in the week commencing 27 February 2017. This has also been suggested by Mr Hinsan Li on behalf of Croxley in his email of 10 February 2017

which I understand you received. The Council considers the purpose of any meeting would be to:

- (a) hear any concerns that your client has in respect of the Works and discuss potential solutions to those concerns.
- (b) discuss the timing of the Works.
- (c) discuss any other matters.

11. Please let me know if you have any issues accessing the documents via the onedrive link. We look forward to hearing from you in relation to the meeting between the parties.

Yours faithfully



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