

IN THE MATTER

of the Local Government Act 1974

IN THE MATTER

of the proposal to construct a private drain
within 7 Nicholson Place, Glenfield

STATEMENT BY DAVID FREDERICK SERJEANT

27 November 2018

1. INTRODUCTION

1.1 My name is David Serjeant. I am a Town Planner and Director of Merestone Limited, an independent planning and resource management consultancy. I hold the qualifications of Bachelor of Town Planning from Auckland University (1979) and Master in Business Studies (Economics) from Massey University (1985). I am a full member of the New Zealand Planning Institute. I am also an MfE accredited Independent Hearings Commissioner.

1.2 In early August 2018 I was appointed by Auckland Council (**Council**) to facilitate negotiations relating to the construction of a private drain within 7 Nicholson Place, Glenfield to provide for the upgrading of the stormwater network serving other properties in the catchment. These negotiations have not resulted in an agreement between the parties and consequently the matter requires determination by Council pursuant to section 460 of the Local Government Act 1974 (**LGA**).

2. PROPOSAL AND BACKGROUND

2.1 At the time of my appointment I was provided with details of the proposal. This included the following:

(i) Engineering Approval ENG60304410 granted by Auckland Council on 14 August 2017.

(ii) A Supplementary Engineering Approval ENG60304410 granted by Auckland Council on 29 March 2018.

(iii) Documents detailing the record of communications with the land owners of 7 Nicholson Place and 137 Coronation Road.

(iv) Plans of the existing local stormwater network.

2.2 From the plans at (iv) it is evident that the existing local network has a catchment consisting of approximately 970m² of Coronation Road road reserve, 137 Coronation Road, and 5 and 7 Nicholson Place. This is a catchment with a total area of approximately 3090m². The proposal would add stormwater from 129-131, 133 and 135 Coronation Road, an additional catchment of 2700m².

2.3 The applicant's are the S Saunders & J McFetridge Partnership, owners of 129-131 Coronation Road. In order to facilitate further development of that property the stormwater network requires upgrading. The proposal is for a new 200mm pipe to

be laid across the rear boundaries of 133 and 135 Coronation Road and then to connect into the existing local stormwater network. This connection could either take place within 7 Nicholson Place or 137 Coronation Road. The Engineering Approvals referred to at (i) and (ii) above provide respectively for these connections.

- 2.4 The connection to 7 Nicholson Place (as per (i) above) requires a new manhole within 135 Coronation Road from which a short length of pipe would be laid to an existing manhole situated approximately 1m inside the rear boundary of 7 Nicholson Place. The connection to 137 Coronation Road (as per (ii) above) requires the new pipe to extend approximately 1m into the side boundary of 137 Coronation Road at which point it would connect to a new manhole on the existing line coming down from Coronation Road.
- 2.5 As the engineering approvals demonstrate that Council have determined that the stormwater design is the best practicable option for the proposal, I accept that they are equally acceptable in terms of section 460(1) of the LGA.
- 2.6 The owners of 133 and 135 Coronation Road have provided written approval to the proposal.
- 2.7 On the basis of the first approval, the applicant and the Council attempted unsuccessfully to obtain approval from the owners of 7 Nicholson Place (J Tang and C Jin as represented by Theresa Tang). Ms Tang expressed concerns about the capacity of the existing system and the effects of stormwater flows on the future development of their property (email 22 September 2017).
- 2.8 The focus then shifted to a connection at 137 Coronation Road. On the basis of verbal approval, the Supplementary Engineering Approval was prepared and processed Council (as per (ii) above). Unfortunately, some time in late May 2018 a written note was delivered to the applicants from the owners of 137 Coronation Road withdrawing that approval on the basis of the significant disturbance to his vegetable garden (evident from aerial photos) with the installation of a new manhole. The owner pointed out that an existing connection point was located just over the boundary within 7 Nicholson Place.
- 2.9 Since that time efforts to gain written approval have focussed on 7 Nicholson Place.

3. COMMUNICATIONS SINCE AUGUST 2018

- 3.1 Since my engagement in August 2018 I have had the following communications with Ms Tang:

- (i) On 27 August I spoke to Ms Tang by phone and introduced myself and my facilitator role in the process. I sought to have an on-site meeting with her to gain a greater understanding of how the stormwater connection might affect her property and what her concerns were. Her response was that she did not want a meeting. She explained to me the concerns she had expressed the previous year about system capacity and effects on her ability to develop her property.
- (ii) This phone call was followed up by email, which resulted in a response from Ms Tang detailing her concerns about capacity. In summary, Ms Tang could not accept that a new 200mm pipe with associated stormwater flows could be added into the existing 225mm system without overflows being generated at the manhole on her property.
- (iii) In response to her query, the Council (Mr Daniel) provided Ms Tang with a letter confirming that the existing and future development was required to be consistent with Auckland Council Code of Practice for Land Development and Subdivision Chapter 4 – Stormwater November 2015 and the Auckland Council Stormwater Bylaw 2015 (September 7 2018).
- (iv) A stormwater capacity analysis prepared by the applicant was also provided demonstrating that the system has the capacity to cope with the existing and proposed flows for the design 10year ARI storm event. In particular, the 225mm pipe flowing out of the subject manhole on 7 Nicholson Place would still be at approximately 60% capacity during that event (105 litres/sec compared with 177 litres/sec) (4 October 2018).
- (v) On 15 October 2018 I again offered to meet with Ms Tang to discuss the report and her concerns (email). Ms Tang replied that she had not read the report and declined a meeting. I understand that Mr Daniel had also sought a meeting with Ms Tang more than once during this period.
- (vi) On 25 October Ms Tang responded by email. She raised concerns about two matters. Firstly, she sought a guarantee of no overflows during storm events greater than the 10year ARI design storm event. Secondly, and related to potential overflows in such events, the poor condition of the existing manhole on her property. Ms Tang included photos of the manhole.
- (vii) The Council agreed by email of 1 November 2018 that it would upgrade the manhole on her property as part of the works. Further by email of 5 November

2018 the Council advised that the matter would be proceeding to a hearing pursuant to section 460 of the LGA.

- (viii) By email of 5 November 2018 Ms Tang also raised the issue of overland flows being intercepted and by email of 7 November 2018 whether Council would be paying for all such improvements and whether the applicants would “pay a reasonable and sufficient compensation for our risk”.

4. ASSESSMENT AND CONCLUSION

- 4.1 This matter has been very protracted, first commencing in mid 2017, and running over most of the intervening period. I have successfully conducted several of these matters in the role of an independent facilitator/negotiator. An important first step has always been to have a site meeting with the party from whom agreement is being sought. In my view, this process has been frustrated by the unwillingness of Ms Tang to meet on site, or elsewhere. Site meetings are very useful to be familiar with the physical situation as aerial photography is always limited. A case in point here is the condition of the existing manhole. A site meeting would have identified the condition of the manhole and this matter could have been resolved at an early stage.
- 4.2 The actual extent of the works within the subject property is important matter in considering best practicable option. In this case, a very small length (~ 2m) of new pipe is necessary, involving minimal works and disruption to the subject property. These works would be conducted from across the boundary at 135 Coronation Road and not involve entry via the 7 Nicholson Place frontage.
- 4.3 What could potentially involve works entering from the 7 Nicholson Place frontage is the replacement of the manhole, although this has yet to be confirmed. I note that the new manhole within 135 Coronation Road will need to be brought along the route of the new line and it is possible that the replacement manhole could travel the same route.
- 4.4 In any event, construction must be managed to minimise adverse effects and all such works are subject to restoration conditions for affected properties.
- 4.5 In relation to the standard of the upgrade proposed I consider that the applicant and Council are not required to design for a storm event in excess of the specified 10year ARI design storm event. Further, the level of disruption related to the new pipe within the subject property is very much at the lower end of effects and in my view these

effects are mitigated through the replacement of the existing manhole and overland flow management.

- 4.6 In conclusion, I consider that the upgrading of the new network as proposed, together with the replacement of the existing manhole on 7 Nicholson Place and improved interception of overland flow of the catchment immediately above 7 Nicholson Place will both provide appropriately for further development and result in an overall improvement to stormwater management within the local catchment.
- 4.7 Consequently, I support a resolution of the Council pursuant to section 460(1) of the LGA to enable this project.

David Serjeant
27 November 2018