

IN THE MATTER of the Resource
Management Act 1991

AND

IN THE MATTER of a subdivision of
land in the South Auckland Land
Registration District

CONSENT NOTICE

(Pursuant to Section 221 of the Act)

THE WHAKATANE DISTRICT COUNCIL ("the Council") being the territorial authority for the district within which the Land described in the First Schedule of this Notice is situated has, pursuant to Part X of the Act, granted its consent to the subdivision shown on Land Transfer Plan 401011 subject to certain conditions, including the requirement in respect of the Land that the Owner (as defined in the Act) complies on a continuing basis with the conditions set out in the Second Schedule of this Notice.

FIRST SCHEDULE

("the Land")

- FIRST** 0.5564 hectares more or less being Lot 1 on Land Transfer Plan 401011 and being part of the land comprised in Certificate of Title 318860 (South Auckland Registry)
- SECOND** 0.5630 hectares more or less being Lot 2 on Land Transfer Plan 401011 and being part of the land comprised in Certificate of Title 318860 (South Auckland Registry)
- THIRD** 0.5086 hectares more or less being Lot 3 on Land Transfer Plan 401011 and being part of the land comprised in Certificate of Title 318860 (South Auckland Registry)

- FOURTH 0.5018 hectares more or less being Lot 4 on Land Transfer Plan 401011 and being part of the land comprised in Certificate of Title 318860 (South Auckland Registry)
- FIFTH 0.8425 hectares more or less being Lot 5 on Land Transfer Plan 401011 and being part of the land comprised in Certificate of Title 318860 (South Auckland Registry)
- SIXTH 2.1375 hectares more or less being Lot 6 on Land Transfer Plan 401011 and being part of the land comprised in Certificate of Title 318860 (South Auckland Registry)
- SEVENTH 0.8679 hectares more or less being Lot 7 on Land Transfer Plan 401011 and being part of the land comprised in Certificate of Title 318860 (South Auckland Registry)
- EIGHTH 0.7978 hectares more or less being Lot 8 on Land Transfer Plan 401011 and being part of the land comprised in Certificate of Title 318860 (South Auckland Registry)
- NINTH 0.7680 hectares more or less being Lot 9 on Land Transfer Plan 401011 and being part of the land comprised in Certificate of Title 318860 (South Auckland Registry)
- TENTH 0.6218 hectares more or less being Lot 10 on Land Transfer Plan 401011 and being part of the land comprised in Certificate of Title 318860 (South Auckland Registry)
- ELEVENTH 1.2629 hectares more or less being Lot 11 on Land Transfer Plan 401011 and being part of the land comprised in Certificate of Title 318860 (South Auckland Registry)
- TWELFTH 1.0423 hectares more or less being Lot 12 on Land Transfer Plan 401011 and being part of the land comprised in Certificate of Title 318860 (South Auckland Registry)
- THIRTEENTH 0.6190 hectares more or less being Lot 13 on Land Transfer Plan 401011 and being part of the land comprised in Certificate of Title 318860 (South Auckland Registry)
- FOURTEENTH 0.6265 hectares more or less being Lot 14 on Land Transfer Plan 401011 and being part of the land comprised in Certificate of Title 318860 (South Auckland Registry)
- FIFTEENTH 5.5600 hectares more or less being Lot 15 on Land Transfer Plan 401011 and being part of the land comprised in Certificate of Title 318860 (South Auckland Registry)

SIXTEENTH

30.3500 hectares more or less being Lot 16 on Land Transfer Plan 401011 and being part of the land comprised in Certificate of Title 318860 (South Auckland Registry)

SECOND SCHEDULE

("the Conditions")

The Owner(s) of Lot 1 - 15 referred to in the First Schedule shall, on a continuing basis:

- 1.0 Comply with the requirements of the management agreement for the shared fire fighting system.

A copy of the fire fighting water supply agreement may be inspected at the offices of the Council at Commerce Street, Whakatane between the hours of 8.00 am and 5.00pm in any day that the Council's office is open to the public.

- 2.0 Ensure that one dwelling only and no accessory buildings for habitation shall be erected on the lot.
- 3.0 Ensure all buildings (dwellings and accessory buildings) are constructed within the nominated building platform identified on land transfer plan 401011.
- 4.0 Ensure that all buildings (dwellings and accessory buildings) are no more than 7 metres above ground level as defined in the Proposed Whakatane District Plan.

Ground level means the level of the ground existing when approved earthworks associated with any subdivision of the land have been completed, but before cutting or filling of the land for any new building or structure has begun. Areas of cut or fill which have resulted or will result from work undertaken as part of the construction of a building shall not be used in the measurement of height.

- **Provided** that where ground level, as defined above, was established prior to 1 January 1990, then ground level shall be deemed to be the level of the ground on 1 January 1990.
 - **Provided** that where Council has subsequently approved the deposit of fill to avoid inundation, subsidence, soil erosion or any other land stability problem, then ground level shall be measured at the new level.
- 5.0 Ensure that all buildings are constructed of natural wood or stone or other materials painted or finished in visually muted, recessive colours generally in accordance with the BS5252 colour codes A03-A14, B17-B29 and with a reflectivity less than 40%.
- 6.0 Ensure the roofs of all buildings are painted and finished in a colour with a reflectivity of no more than 20%.

- 7.0 Recognise that the lots are in close proximity to indigenous vegetation and a riparian margin that may contain animal life. Uncontrolled domestic animals such as cats and dogs can have a detrimental effect on local biodiversity. Some garden varieties of plants have the potential to invade and degrade significant natural areas.
- 8.0 Recognise the property is located in a rural area where the predominant use of land is typically rural production and other rural based activities. The effects of these activities, including fertiliser and chemical spray applications may from time to time result in the occupier experiencing effects such as dust, noise, lighting, or increased traffic volumes and types of vehicles. The owners of the land acknowledge that these effects are typical of the rural environment they live within and will therefore not make complaints to the Whakatane District Council or the Bay of Plenty Regional Council or any other party concerning such effects arising from rural activities that are being carried out lawfully.
- 9.0 Ensure that all buildings, water tanks, septic tanks, effluent disposal systems, and stormwater systems including discharge points, are located within the nominated areas as shown of Figure 1 of the report entitled "Geotechnical Completion Report, Mimiha Ridge Subdivision, Stage 2, Paenui Limited dated May 2008"
- 10.0 Ensure that all development works for the construction of all buildings including earthworks, retaining walls, access, stormwater and effluent disposal systems are designed and carried out in accordance with the recommendations of the reports entitled "Geotechnical Completion Report, Mimiha Ridge Subdivision, Stage 2, Paenui Limited dated May 2008" and "Geotechnical Suitability of Site for Subdivision- Mimiha Ridge Subdivision- Stage 2, 68 Mimiha Road, Matata dated October 2006." Appropriate design and documentation shall be provided as part of the Building Consent documentation.
- 11.0 Ensure that any water reduction features required to be installed within any building as a result of the specific design of an effluent disposal system shall be installed and maintained within the building at all times.
- 12.0 Ensure that all stormwater collection, storage, dispersion and anti-scour structures or measures required as a result of the specific design of stormwater control shall be installed and maintained in accordance with the recommendations of the report entitled "Geotechnical Completion Report, Mimiha Ridge Subdivision, Stage 2, Paenui Limited dated May 2008" and any requirements of the specific engineering design, to ensure their ongoing effectiveness.
- 13.0 Permit the Council's officers or contractor's entry upon the land at reasonable times so as to ascertain compliance with these conditions.
- 14.0 Pay the Council's legal costs and disbursements directly or indirectly attributable to the preparation execution registration and enforcement of this Notice and the Council's conditions set out in this Notice and any variation or cancellation of such conditions, with respect to conditions 1-13.

The Owner(s) of Lots 5 to 15 referred to in the First Schedule shall, on a continuing basis:

- 15.0 Ensure that the Commonly Owned Access Lots 18 and 19 (COAL) shall be maintained in perpetuity as private access Lots by the owners of Lots 18 and 19 to the intent that Lots 18 and 19 are maintained without the assistance of the Council. There shall at all times be registered over the certificates of titles of Lots 5 to 15 referred to in the First Schedule an easement or other instrument recording the terms of an approved Management Structure (COMS) which provides for effective and efficient management of Lots 18 and 19 and requires all of the owners to adequately fund and maintain Lots 18 and 19 for the purposes of:
- (a) access to Lots 5 - 15 on Land Transfer Plan 401011,
 - (b) landscaping of Lots 18 and 19,
 - (c) water drainage from Lots 18 and 19 to adjoining lots,
 - (d) provision and maintenance of the carriageway and services on or under Lots 18 and 19.
- 16.0 Be jointly and severally liable for and shall perform the obligation of the COMS as specified in this consent notice and in the consent of the Council for the subdivision of the Land in the absence of a COMS or where the COMS fails to perform such obligations.
- 17.0 Pay the Council's legal costs and disbursements directly or indirectly attributable to the preparation execution registration and enforcement of this Notice and the Council's conditions set out in this Notice and any variation or cancellation of such conditions, with respect to conditions 15-16.

The Owner(s) of Lot 16 referred to in the First Schedule shall, on a continuing basis:

- 18.0 Preserve in perpetuity the indigenous forest, vegetation and habitats on the part of the land marked "Z1", "Z2" and "AC" and identified on Land Transfer Plan 401011 (the protected area) without modification and in accordance with the approved management plan, subject to 18.1 herein;
- 18.1 Control any pest plants and animal pests as identified in the most recent version of the Bay of Plenty Regional Plant and Animal Pest Management Strategies and any other environmental plant pests as Whakatane District Council Officers may advise;
- 18.2 Maintain a seven-wire post-and-batten fence around extents of the areas marked "Z1", "Z2" and "AC" except the boundaries of Ac where they about Z1 & Z2 in the approved location, to the satisfaction of the Council.
- 18.3 Not cause, permit or suffer any stock to graze within the protected area;
- 18.4 Ensure any planting in the protected area only uses indigenous plants grown from seed or cuttings collected from natural populations within the Bay of Plenty;

- 18.5 Be permitted to enter into a management agreement with Council Officers for the purpose of planning and carrying out maintenance, enhancement or restoration works in the protected area consistent with the covenants purpose in clause 18.0;
- 18.6 Not cause or permit or suffer any fire to be lit within the protected area or on any part of the land from which the fire may spread to the protected area;
- 19.0 Permit the Council's officers or contractors entry upon the land at reasonable times so as to ascertain compliance with these conditions.
- 20.0 Pay the Council's legal costs and disbursements directly or indirectly attributable to the preparation execution registration and enforcement of this Notice and the Council's conditions set out in this Notice and any variation or cancellation of such conditions, with respect to conditions 18-19.

The owner(s) of Lot 15 referred to in the First Schedule shall, on a continuing basis:

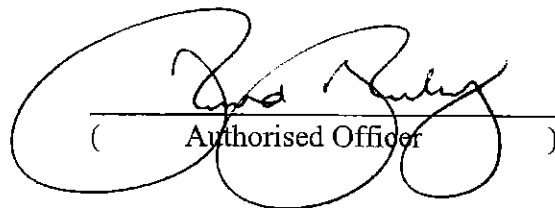
- 21.0 Recognise and continually ensure that stormwater collected from the public road is able to discharge to lot 15 from the stormwater outlets located on the boundary between the road and lot 15.
- 22.0 Pay the Council's legal costs and disbursements directly or indirectly attributable to the preparation execution registration and enforcement of this Notice and the Council's conditions set out in this Notice and any variation or cancellation of such conditions, with respect to condition 21 above.

The owner(s) of Lot 6 referred to in the First Schedule shall, on a continuing basis:

- 23.0 Recognise and continually ensure that stormwater collected from Lot 19 is able to discharge to lot 6 from the stormwater outlet located within Lot 6 near the boundary between Lots 6 & 19.
- 24.0 Pay the Council's legal costs and disbursements directly or indirectly attributable to the preparation execution registration and enforcement of this Notice and the Council's conditions set out in this Notice and any variation or cancellation of such conditions, with respect to condition 23 above.

DATED at Whakatane this 29th day of May 2009

AUTHENTICATED by the)
 Council by the Principal)
 Administration Officer of)
 the Council pursuant to)
 Section 252 of the Local)
 Government Act 1974)


 (Authorised Officer)

CONSENT NOTICE

(Pursuant to Section 221 of the Resource Management Act 1991)

GIVEN by: Paenui Limited

IN FAVOUR of: THE WHAKATANE DISTRICT COUNCIL

DATED: 29th day of May 2009

PROPERTY: Lots 1 – 16 inc.
Deposited Plan 401011

SUBJECT: Consent Conditions

COUNCIL REFERENCE: 24.3.06.107

HAMERTONS
Lawyers
(B N Carter)
Telephone NO. 07 307 0680
Fax NO. 07 307 0225
PO Box 601
DX JA31519
WHAKATANE
(drt consents) Paenui Ltd (a)