

30 August 2022

***Without prejudice save as to costs***

Lawson Robinson  
PO Box 45  
Napier 4140

**Director ref:** Laura Bielby  
**Refer to:** Jade Magrath

**Attention: Matthew Lawson**  
**By email: [mlawson@lawsonrobinson.co.nz](mailto:mlawson@lawsonrobinson.co.nz)**

Dear Matthew

**ENV-2022-AKL-000167 *Sandra Ellmers Family Trustee Ltd v Central Hawkes Bay District Council***

1. As you are aware, we have been instructed to act for Central Hawke's Bay District Council in relation to the appeal lodged by your client, Sandra Ellmers Family Trust Limited, against certain conditions of subdivision consent RM210103.
2. Your client has appealed the following conditions of the consent:
  - a. condition 48, which limits the provision of a potable drinking water supply to rainwater collection; and
  - b. condition 49, insofar as it requires any on-site domestic wastewater system to have an On-Site Effluent Testing (**OSET**) rating of "A" or better, or equivalent (being discharge quality of median total nitrogen of <15mg/L and median total phosphorous of <2mg/L).
- 3.

The Council has considered the matters raised in your client's notice of appeal, and is of the view that both issues are capable of being resolved without recourse to mediation or a hearing. The Council proposes that the appeal be resolved on the basis that conditions 48 and 49 are amended to reflect the wording proposed at the hearing by the Council's reporting officer, as follows (additions shown in underline and deletions shown in strikethrough):

(48) The consent holder shall register with the Registrar General of Land a consent notice to be complied with on an ongoing basis, pursuant to Section 221 of the Resource Management Act 1991, against the records of title for Lots 1 – 312 (All Stages), as specified below:

~~(a) Potable drinking water supply for this lot must be from rainwater collection and any application for building consent shall include provision of a rain water collection and storage system for this purpose. The system must be installed in accordance with the relevant manufacturer's specifications and any such other requirements and maintained in good working order thereafter.~~

(a) Any application for building consent for a habitable building must include provision of roof water collection tanks for the supply of potable water. The rainwater tank storage system must be installed and maintained in good working order thereafter. For clarity, this requirement does not preclude the installation of an alternative bore water supply.

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(49) The Consent Holder shall register with the Registrar General of Land a consent notice to be complied with on an ongoing basis, pursuant to Section 221 of the Resource Management Act 1991, against the records of title for Lots 1 – 312 (All Stages), as specified below:

Any domestic wastewater system installed and utilised on this lot must be in compliance with the requirements of the Hawke's Bay Regional Council's Resource Management Plan or any successor of that Plan and must:

- Utilise drip-line irrigation for the discharge of treated effluent; and
- Include UV Treatment for the purpose of disinfection;
- ~~be of an OSET rating of A or better, or equivalent (being discharge quality of median total nitrogen of <15mg/L and median total phosphorous of <2mg/L.~~

The land owner must install, operate and maintain the system, and keep records in accordance with the manufacturer's specifications and for the purpose of compliance with Section 15 of the Resource Management Act 1991.

4. The Council considers that these amendments address the concerns raised in the notice of appeal and are within the scope of relief sought.
5. We are required to report to the Court by this Wednesday, 31 August 2022 and would therefore be grateful if you could confirm by close of business today (Tuesday, 30 August 2022) whether the Council's resolution proposal is accepted by your client. If the proposal is accepted, consent documents could then be prepared over the coming weeks, and, given the timely resolution of this matter, we would not anticipate there being any issues as to costs.
6. We look forward to hearing from you.

Yours faithfully  
**Rice Speir**



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