

Good morning commissioner; as introduction my name is les fugle, director of the applicant's company Woodgate Limited

For convience below is page summary of the Agenda annexes:

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Appendix 1) RM 2553 - page 20
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Appendix 3) fast track – council submission - page 63
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Mr Hindrup's report re my objection - page 85
Appendix C) s88(3) return letter - page 387
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Appendix G) Mr Hindrup's evidence in reply to my submission - page 405

- 1) It may be advantageous if were to start by addressing Mr Hindrup's submission (appendix G - point 4) that the s37 matter ought not be considered as had not been raised in my s357 objection. The background why not included the objection is framed on s88(3) being that which s357 addresses – that provision does not catch section 37; challenge to this section requires Judiciary Review before the High Court; however, Council/Commissioner upon its own motion at any time before or after an event may vary or revoke its own decision. It is therefore my submission that it is not only open to the Commissioner to consider s37 issue but if of the mind may recall the time extension notice on ground of improperly used, thereby s88(3) issued out of time.
- 2) Further, I would like to draw Commissioner's attention that a LGOIAMA request for copy of the entire RC 6923 file made; The purpose for this information gathering was to familiarize myself with what internal process Council undertook in considering the various elements of s37 and, whether any peer review was undertaken prior to the s88(3) and s37 notices. Council replied to that request yesterday, last day under the Act which they must respond, however, no information encircling Council's inhouse working has been disclosed.
- 3) Mr Hindrup (appendix G – point 5) advances there is no requirement to advise of Council's position ahead of returning the application. That is correct, however, the accepted industry standard of fairness is to keep an applicant informed. Further, it is said given the limited time window (10 working days) to reject the application it was not practical to liaise with applicant. This comment is undermined by fact Council used (19 working days) before issuing the return. That additional time is ample to draw applicant's attention to any perceived shortcomings, more so given there was an exchange of communication going on at that time between Council and Mr Paul Thomas (applicant's planner).
- 4) The Agenda bundle includes the earlier granted consent RM 2553 (page 20) and the fast-track application (appendix 4) both which relate to the same parcel of land as that on hand. The purpose behind annexing these documents is to merely highlight, as example, the degree of information Council held over and above that within RC 6923.
- 5) After the return notice, that application now dead unless revoked, decision was made to submit a new application (LU 7013) for only the earthworks i.e. exclude retirement village

layout/buildings; While this now granted, subject to conditions and issued after RC 6923 returned the same geotechnical matters were raised in both applications yet LU 7013 was not subject to a return notice.

- 6) Mr Hindrup advances (appendix G – point 9) aforesaid applications are fundamentally different e.g. RC 6923 required consideration over matters of design/position/serviceability not needed addressing in LU 7013. I accept that comment, however, it is my submission Council has acknowledged (via LU 7013) the geotechnical issues were capable of been addressed via s92 thereby leaving the planning issues to consider which I say were minor issues and capable of being addressed, if necessary, via s92 and/or with the setting of consent conditions.
- 7) It is advanced by Council that a pre-application meeting (non-compulsory) may have avoided matters raised within the return letter. That statement needs to be treated with degree of mindfulness. Council had more than sufficient knowledge of the project intent and any additional dialog beyond that having occurred would not have advanced the application drafting further.
- 8) Ultimately this hearing is about whether sufficient information had been provided to satisfy s88(2); I shall therefore turn to the points within the s88(3) letter (appendix C page 387) and address those one by one unless Commissioner has at this point any questions. In doing so shall refer to my (appendix page 25) submission.