

IN THE MATTER OF The Resource Management Act 1991

AND

IN THE MATTER OF An application for resource consent
RM170114 Earth and Sky Limited Partnership

Final Decision on Conditions of Commissioner Cindy Robinson

23 January 2018

Conditions

[1] In the Decision of 22 December 2017 to grant resource consent to Earth and Sky Partnership ('the Applicant') subject to conditions ('the Decision') I set out draft conditions for the purpose of seeking clarification and correction of some matters. In particular, there were two matters I sought comment on from the Applicant and the Council's consultant planner. The first issue related to the possibility of an updated landscape plan to correct an error identified on the Concept Plan for Option 2 submitted during the hearing. The second matter was to confirm the proposed colour of the Observatory dome as the applicant had identified in closing that there were three preferred options. I required the identification of the final colour for certainty reasons. I also invited any corrections in relation to any other condition. I did not provide an opportunity to revisit the findings clearly set out in the Decision.

Condition 6

[2] The Applicant and Council have conferred. I accept that condition 6 can be appropriately framed without the requirement to update the landscape plan.

Condition 13

[3] The Applicant has requested that condition 13 be amended to reduce the decided cash in lieu payment to 21 carparks, rather than 24 as set out at [42] of the Decision and reflected in Condition 13. The Applicants request is not a drafting correction as it would be to require me to revisit my reasoning. It is not appropriate to do so.

Condition 17

[4] On the issue of the colour of the Observatory dome, there is agreement as to the appropriate colour to be RAL 7024. This is 'Graphite Grey' which is a recessive colour with a Light Reflectivity Value of 7%. I have included that colour in condition 17.

Approved Plans

[5] For completeness I attach the approved plans referred to in Condition 1 as 'Attachment 1.'

Decision as to conditions

[6] For the reasons set out in the Decision of 22 December 2017 as amended above, I confirm the grant of resource consent RM170114 to Earth and Sky Limited Partnership subject to the following conditions:

General

1. Except as required by subsequent conditions (if relevant) the development shall proceed in accordance with the information and plans submitted with the application, including the further information/amended plans dated 17 August 2017 and 20 November 2017 attached to and forming part of this consent.
2. That unless it is otherwise specified in the conditions of this consent, compliance with any monitoring requirement imposed by this consent shall be at the consent holder's own expense.

Lighting

3. Prior to the opening of the development to the public and illumination of any external lighting within the site, the consent holder shall provide the following to the Council's Planning and Regulations Manager (or their nominee):
 - a) Layout plans (including mounting heights) and specifications for all proposed outdoor lighting fixtures and certification by a suitably qualified professional that the design complies with all Lighting Standards in section 12 rule 13 of the Mackenzie District Plan, or the Mackenzie District Plan Lighting Standards in place at the time.
 - b) A Lighting Operation and Maintenance Plan, highlighting that any replacement or additional lighting is required to comply with the outdoor lighting standards set out in the Mackenzie District Plan, in place at the time of any replacement or additional lighting being undertaken.
 - c) Light from internal areas within the building shall be controlled to minimise the extent of practicable light emissions, including the following measures:
 - i. Directing light sources away from external windows to minimise light spill;
 - ii. Lamp (light source) selection to minimise UV or blue spectrum light (particularly avoiding light below 440nm within the spectrum) and with a preference for LEDs in the 2700K-3000K range.

Use

4. The outdoor seating area of the café/restaurant/bar shall have no table service between 12.30am and 7am.
5. No live or amplified music shall be played in the outdoor seating area of the café/restaurant/ bar.

Landscaping

6. Landscaping shall be in accordance with the Landscape Concept Plan (Option 2) by Earthwork Landscape Architects Ltd dated 5 December 2017 except that the coloured shading for the eastern 1m parking strip shall utilise Planting low-med mix rather than Planting tussock mix referred to on the Landscape Concept Plan (Option 2).
8. All required landscaping shall be undertaken and completed by the end of the first planting season (1 May to 30 November) following any activity commencing on-site. Notwithstanding this, when the activity commences during the months of October or November, the landscaping shall be undertaken and completed within 12 months of the activity commencing on the site.
9. All landscaping required for this consent shall be maintained. Any dead, diseased, or damaged landscaping is to be replaced immediately with plants of a similar species.
10. Prior to the commencement of building work, a Site Plan detailing revised on-site car parking with a maximum of six spaces shall be provided to Council's Planning and Regulations Manager (or their nominee).

Car Parking and Cash-in-Lieu

11. No more than six car parks shall be established on-site.
12. The on-site car parks shall only be used for staff or for accessible parking for people with disabilities.
13. A cash-in-lieu contribution shall be paid to the Mackenzie District Council equivalent to 24 car park spaces at the rate of \$4000 (excluding GST) each, prior to the Observatory and Visitor Centre commencing operation.

Construction/earthworks

14. All proposed works shall to be carried out in accordance with an Erosion and Sediment Control Plan (ESCP). Unless approved as part of a separate stormwater discharge permit or land use permit for excavation/filling from Environment Canterbury, the consent holder shall prepare an ESCP and submit this to Council at least 10 working days prior to the commencement of construction work associated with this consent. The performance criteria for the ESCP, unless directed by Council subdivision engineers, will be based on ECAN's Erosion & Sediment Control Toolbox For Canterbury (<http://esccanterbury.co.nz/>). The ESCP shall include (but is not limited to):

- Site description, i.e. topography, vegetation, soils etc.
- Details of proposed activities.
- A report including the method and time of monitoring to be undertaken.
- A locality map.
- Drawings showing the site, type and location of sediment control measures, onsite catchment boundaries and offsite sources of runoff.
- Drawings and specifications showing the positions of all proposed mitigation areas with supporting calculations if appropriate.

This plan is to be certified by the Head of Resource Consents (or their nominee) as meeting the requirements of this condition prior to the commencement of any construction work. Once certified, the ESCP will thereafter form part of the Approved Consent Document.

15. No earthworks shall commence on-site until such time as:

- (a) The ESCP has been certified by Council in accordance with Condition 14 with Council to provide certification (where all necessary information has been provided) within five working days of the ESCP being received;
- (b) The approved ESC measures are in place and;

The consent holder has submitted an Engineering Completion Certificate signed by an appropriately qualified and experienced engineer to Council. The Certificate shall

attest that the erosion and sediment control measures have been properly installed and in accordance with ECAN's Erosion & Sediment Control Toolbox For Canterbury. This certificate shall also name the person(s) responsible for the maintenance of these measure and be sent to the Council.

16. Adequate dust control measures must be in place at all times so as to minimise any nuisance to neighbouring properties, including from any temporary stockpiles. Appropriate equipment (e.g. water hose, sprinkler system) shall be available on-site at all times and used whenever required by adverse conditions (windy weather, etc.) as well as to reduce dust emission from heavy traffic within the site.

Observatory dome

17. The finished colour of the Observatory dome shall be RAL 7024 ('Graphite Grey') Light Reflectivity Value of 7%.

Advice Notes:

- i. The Council may elect to exercise its functions and duties through the employment of independent consultants.



Cindy Robinson

Independent Hearing Commissioner