

31 August 2021

Ila Daniels  
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Dear Ila  
Bayswater Marina S92 clarifications

After responding on 23 August to some of your matters of clarification requested on 2 August 2021, this letter responds to further questions, again those coded yellow in your spreadsheet.

I have also attached the updated AEE. The only “yellow” response need is transport related (Item number 26) and this has proven to be difficult as survey work is needed, impossible in the current lockdown.

The responses to the questions are in the same order as in the spreadsheet.

Q’s 16-18, 20-21, 23, 26-31, 33-34, 36-38, 82. Also for Non-section 92, Q’s 5-7, 8:

Response: See attached report from Stantec.

Q 41.

*I must admit to being a little confused by the response to my subdivision staging question?*

*They are stating they anticipate one (single) s224(c). The scheme plan at attachment 10.1 (attached) conforms to this arrangement and identifies no staging.*

*The s92 response (above) however states that while they anticipate the issue of the one s224(c), they will “create the stage 1 principal units and multiple future development units.”*

*They must therefore either:*

- a) confirm removal of the staging references in the subdivision section of the AEE and proceed on the basis of scheme plan at attachment 10.1 or,*
- b) provide staging plans (and any necessary staging assessments), conforming to the requirements of s24(2)(a-c) Unit Titles Act 2010 (providing the PUD Plan, Staged Unit Plans and Complete Plan) and identifying the FDU’s.*

*Also in respect option a) above, there will be a requirement for s32(2)(a) certification for all PU's prior to any new titles issuing which is clearly not their intent from this response.*

*I strongly suggest they seek advice from their Surveyor prior to responding.*

Response: This question has been responded to by the project's surveyor and property lawyer, as follows:

1. The land is currently comprised in Certificate of Title 639741. That title will not be subdivided before the unit title plan is lodged.
2. When the unit title plan deposits, it will sit over the underlying fee simple title.
3. The Bayswater unit title subdivision will be a staged unit title development under sections 23 to 30 of the Unit Titles Act (**Act**). This means that:
  - (a) A proposed unit development plan (**PUD plan**) is lodged at LINZ showing how the subdivision will look when it is completed. It is expected that a single RMA section 224(c) certificate will issue for the entire unit title subdivision at the time the PUD plan is deposited at LINZ, i.e. all conditions of subdivision consent for the deposit of the PUD plan will be satisfied (or consent notices registered).
  - (b) When the PUD plan is lodged a first stage unit plan must also be lodged showing at least one complete unit. At that time a principal unit title will issue for the completed unit and one or more future development unit (FDU) title will issue for the units that are yet to be built. The only certificates required to convert each FDU title into a principal unit title will be the section 32(2)(a) certificate referred to in paragraph (f) below.
  - (c) FDU titles will be sold to builders/owners who will then build on the FDU title.
  - (d) Following completion of each building, the relevant owner will apply to LINZ for a conversion of the FDU title into a principal unit title. It is not possible (or required by the Act) to provide staging plans because the timing for conversion of FDU titles to principal unit titles is entirely dependent on the speed of sales and construction of the units.
  - (e) When the last of the units is built and all principal unit titles are issued, a complete unit plan will deposit at LINZ. At that point there will be no FDU titles and all units will be Principal Units.
  - (f) Each stage unit plan must be accompanied by a certificate issued by Auckland Council under section 32(2)(a) of the Act which confirms that every building shown on the plan has been erected, and all other development work has been carried out, to the extent necessary to enable all the boundaries of every unit and the common property shown on the plan to be physically measured.

Mark Hornabrook, out property lawyer is happy to discuss this with Auckland Council - Mark has left a message for David Snowden last week to call him although he has not done so as at the time of writing. Craig Shearer has also left two messages with David with no response as yet.

Q50.

*Esplanade strip width – any variations must be immediate and not gradual. This doesn't appear to be the case on the attachment 10.1 showing the esplanade strip location and the location of the carparks. Further info needs to be provided that shows the width of the esplanade strip where it varies – i.e. How wide are each of the separate sections where the width is obviously different.*

*Note from Ila – If we can just get some dimensions added on the Draft Unit Plans prior to notification. So clear to submitters esplanade strip width around the relevant part of the site.*

Response:

Please refer to Attachment 10.3, Easements and Esplanade Strip Plans which has been amended, re-issued, and attached with this response. The plans on Plan T4 show the immediate variations. Advice from our surveyors is that immediate variations are not required to be shown on the Unit Title Plans.

Further, Plan T1/4 Diagram A now contains dimensions showing esplanade width thus answering the Note from Ila.

Q79.

*Having viewed the S92 response there are two issues where further information is sought.*

- a) Is there any proposal to address the blank wall on the direct eyeline when walking east on the central – east-west road?*
- b) Is there screening on the north western balconies to manage privacy between future residential terrace and apartment balconies 5-6m away?*

Response: Thanks for these questions. I think the renders that are now available may assist John with question a). In respect of question b), screening is a good idea, but final agreement as to such a design detail will need to be finalised at the Building Consent stage.

In response to Q88 on 23 August I said: *There are no easements shown on AT land in the Draft Unit Title Plan dated June 655a Rev 10 June 2021.* However, I have since noticed that Attachment 10.3 – Easements and Esplanade Strip Plan, does have the fuel easements on AT land. This document has now been amended to remove the easements for AT land and it has been re-issued. As per question 50, this attachment is attached.

Finally in my response to Q49, sent on 23 August, I said “I have inserted a clause in Appendix 6 of the Development Summary document (Attachment 11) addressing maintenance and management of the strip”. I forgot to attach a copy of this change. I am now sending you a re-issued copy of Attachment 11, which includes Appendix 6 of that document. There are also some other minor changes to Attachment 11.

Apart from Q 26, the only other questions to be discussed (all after notification) are I believe 7, 42-43, 46-47, 16-17, 21, 2331,33, 76. I do not consider the inability to answer Q 26 is reason to hold up notification.

Can you please proceed to notification as soon as you are able.

Your sincerely

A handwritten signature in blue ink, appearing to read "Craig Shearer". The signature is fluid and cursive, with a large initial "C" and "S".

Craig Shearer