

Kylie Flood

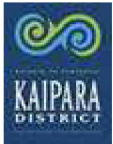
From: Administration Requests
Sent: Monday, 25 February 2019 5:46 PM
To: [REDACTED]
Cc: Administration Requests; Natalie Dyer
Subject: FW: Mangawhai Golf Club
Attachments: image001.jpg

Hi Ross

Thank you for your request for legal advice relating to the Mangawhai Golf Club. Sorry but unfortunately I am unable to give you the information from our lawyers as it is legally privileged.

I understand your concerns and the Golf Club have suggested some further mitigation measures they could put in place to alleviate the golf ball problem. They are being placed in front of the Golf Club's governance committee for a decision shortly. Once a decision is made Councillor Wethey will be in touch with you.

Regards Linda



Linda Osborne | Administration Manager
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From: Ross Cook [[mailto:\[REDACTED\]](mailto:[REDACTED])]
Sent: Thursday, 14 February 2019 12:28 PM
To: Natalie Dyer <[\[REDACTED\]](mailto:[REDACTED])>
Cc: Chief Exec <chiefexec@kaipara.govt.nz>; cr.larsen gmail account <jglarsen.nz@gmail.com>; Councillor Wethey <Cr.Wethey@kaipara.govt.nz>; Councillor Jones <Cr.Jones@kaipara.govt.nz>
Subject: Re: Mangawhai Golf Club

Hi Natalie, thanks for your response.

Regrettably in the last three plus months KDC has failed to address the key issues or demonstrate any propensity to exercising their statutory responsibility arising from the unlawful actions being perpetuated by the Mangawhai Golf Club (MGC).

KDC has also failed to respond to the questions I raised in my email addressed to the KDC dated 22/11/2018.

Firstly, in summary, and to contextualize, the MGC is the lessee of reserve land owned and administered by KDC (refer to KDC District Scheme).

KDC is also the statutory authority responsible for the issue and administration of consents including compliance.

MGC will operate under a consent or some other legal instrument for which KDC has the responsibility and statutory obligation to ensure and importantly, enforce compliance.

I'm 100% certain that the MGC consent does not permit them to hit golf balls (projectiles) (whether actually mentioned or implied in the consent), outside the boundaries of the golf course, particularly onto private land or public roads etc.

As the statutory authority KDC has an obligation to enforce the consent conditions and require MGC to immediately stop activities which are in breach. I would appreciate any advice to the contrary.

Secondly, (and I regard this as a bit of a red herring perpetuated by MGC and now KDC), I'm a little perplexed as to how KDC can conclude that adequate provision has been made to address the Health and Safety at Work Act 2015 (HSE Act) when golf balls continue to rain down on Greenview Drive and, incidentally, Molesworth Drive also.

I make the following observations;

Under the HSE Regulations, dangerous (hazardous) activities; and there is no doubt that the MGC activities are dangerous as evidenced by the plethora of danger signs along the Molesworth Drive boundary, and the balls that continue to fall outside the course, are required to be mitigated with a strong emphasis on elimination.

Regulations demand fences, barriers, signs and other measures are to be put in place to protect the public.

Examples are fences around construction sites to prevent construction activities spilling outside property boundaries and endangering the public. Roadworks demand a combination of barriers, cones, speed restrictions and traffic control safety vehicles etc. for the same purpose, so I'm not sure how you could conclude the same protection should not be afforded the public outside the Golf Course.

None of the MGC measures introduced or proposed have or are likely to reduce the risk of golf balls traveling outside the Golf Course boundaries. I would welcome a truly independent review of the measures proposed.

Consequently, as required by HSE Regulations, the activity should be suspended immediately until such time as credible measures have been put in place to mitigate any risk.

Thirdly, KDC as owners of the land, and importantly, as a Public Body, have a statutory obligation to ensure activities conducted on their land are conducted in a lawful and safe manner. It's not acceptable to attempt to abrogate responsibility to the lessee when aware of the implications, particularly in relation to safety.

If this were simply a H&S issue, I suggest that the HSE Act intention is to push responsibility up the chain to ensure H&S is given the highest priority. As owners, KDC sit at the top of that chain and consequently share that responsibility, particularly in the context of failure to meaningfully mitigate a known hazard. Failure to authoritatively and objectively review proposals from the MGC would be negligent.

I am interested in the advice you have received which enabled you to determine that this was a HSE Act matter as this will have a bearing on any future action.

Is this advice available to me? and if so, can you please send me a copy including any request seeking the advice.

Finally, this is not a private matter between the MGC and myself, it is a matter of public safety for which KDC has prime responsibility.

As your responses to date have been particularly slow but the risk of serious harm injury or fatality remains, I request that you respond by 22/02/2019.

Regards

Ross Cook

On Wed, 13 Feb 2019 15:49 Natalie Dyer <[REDACTED]> wrote:

Good afternoon Mr Cook

Further to your query regarding the activity at the Mangawhai Golf Club, we have investigated, and reached the following conclusions;

- The Council has contacted the Golf Club, in its' capacity as lessor, to ask the club as lessee, what plan has been put in place to manage the risk in accordance with the Health and Safety at Work Act 2015.
- Council is satisfied that the Golf Club have taken appropriate and reasonable steps to mitigate the issue.

As this is a private matter between yourself and the golf club, you will need to direct further correspondence to the golf club, for a resolution.

Nga Mihi

Natalie Dyer | Executive Assistant

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