

## About the Redbank development at North Richmond

### Description



An image of the RSL Kingsford Smith village layout, still available on their website today, advertising (the green area near the words “retirement living”)

Last Tuesday was the first public meeting where we new councillors addressed regular council business. It went from 6:30pm until well after midnight, owing to the backlog of matters created by the election, and a helping of deferred matters gifted from the previous council.

I remarked at the meeting that this was a baptism of fire, as immediately before us was arguably one of the most contentious issues facing the new council: The Redbank development at North Richmond. The specific item before us on Tuesday were ten blocks in an area called “The Gallery” which back on to the [RSL Retirement village](#). The retirement village residents objected that they had secured their houses in the belief that the land behind them would be left as empty space. They also objected on the grounds privacy, drainage and noise, given that the land slopes upward behind them and a retaining wall has been constructed.

The previous week I had inspected the site and, despite arriving unannounced, the site manager Scott was gracious in receiving me and showing me around. I also spoke to various residents living in the RSL village in Catalina Avenue, who showed me the promotional material the RSL offered them. It did indeed show a layout of the Redbank site with the land in dispute left open— such as the image at the header of this post.

The recommendation from Council staff was to approve the subdivision — or rather to ratify it, since we were told that the blocks had been sold and the new owners were waiting to build. I was informed that the original approval body of this part of the subdivision was not Council, but a State body called the [JRPP \(Joint Regional Planning Panel\)](#), who take planning decisions out of the hands of Councils if the value of a development is over \$20 million.

Meantime, the deferral of this matter by the previous council was taken as a deemed refusal and the developers had commenced litigation in the Land and Environment Court. If the litigation proceeds, legal costs could be considerable to council.

I expressed my anger at the meeting that the JRPP did not take up the issue of why the development they were asked to approve in early 2014 was at such variance with the prospectus offered RSL village purchasers. The village residents have every right to be aggrieved that the material was misleading. My understanding is that the RSL have acknowledged this and have offered the residents the option to move and gain a refund. But surely this is cold comfort for many of those residents who have considerable sunk cost in their new homes and who probably regarded their last move of house as their last.

To determine who has perpetrated a deception on whom is not simple. I believe the testimony of the residents when they say that they were given an indication that the land would be open, both in terms of the brochure they showed me, and verbally. I disagree with the statement in the Council business paper which says

“Investigation from Council staff has not found evidence that sales person’s advice had made this claim [that the land would be left open]”

However, on the other side, there are other factors which should be taken into account:

- The land was always zoned for potential subdivision, and the residents should have known that this was a permitted and likely use of that land when they bought adjacent to it.
- The residents bought-in after the Redbank development was approved (I’m awaiting definite dates here, but the developer says the JRPP approved it in early 2014 and the date one resident quoted me for their settlement was August 2014), and their solicitor *could* have found out the subject land was sub-dividable (but there is the legitimate riposte that they had received a verbal undertaking that the land would be free and did not think to check).
- The material which misled them was produced by RSL Lifecare, and the developers of the subject properties on Tuesday’s D.A’s are an unrelated party, and that recourse should be made by the RSL.
- That a complaint was made to Fair Trading about the deceptive promotional material, but that at this stage, the claim has not been upheld. I disagree, and would encourage the residents to pursue those avenues of appeal that Fair Trading indicated.
- That the developer’s right to build on the lots approved by the JRPP is probably strong and a court case will be unlikely to negate it, but *will* be costly.

After balancing these concerns, I voted to approve the subdivision, but remarked that we metaphorically had a gun to our heads. I wasn’t happy about it, but felt we had to do it. I didn’t believe deferring or refusing it would alter the outcome, as regrettable as it is for the residents of Catalina avenue.

I am heartened, however, to hear that related issues concerning noise, drainage, and the screen planting between the fence and the retaining wall are all matters the developer is still happy to address

with the residents as the matter comes to conciliation in the court.

The residents are entitled to think that the whole system has failed them. From their perspective, the RSL misled them and offered a remedy unpalatable to them. The JRPP should have been where the difference between the RSL prospectus and the developer's request were questioned, but weren't. The matter was dumped in the old Council's lap and then deferred to the new Council, who have again deferred it.

If the entirety of the Redbank decision had been mine to make years ago, I would have said no. However, that is a whole other question. On Tuesday, I was focused on the application before me, and nothing else.

As one of my worthy colleagues said during the meeting: "This is an example of how not to do things". I agree.

### **Category**

1. Uncategorized

### **Tags**

1. Development
2. urban sprawl
3. Redbank
4. North Richmond

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