

Good afternoon,

Thank you for your email.

I strongly object to the proposition that a contractually agreed covenant can resolve this wastewater issue.

The fact that the developer has offered to include the covenant is in itself an acknowledgement that a 100m setback does not go far enough to resolve the problem. I have the following grounds for objecting to the proposed covenant:

- 1) The wastewater smell is a health issue. Relying on a no complaints covenant not only creates a situation where people have to live with a potential health issue in their back yard, but it raises questions about access to justice by requiring them to contractually agree not to complain about it. It seems fundamentally unfair for a developer to use their bargaining power in the current market to force people to agree to live with a potential health hazard, just to be able to purchase property.
- 2) A no complaints covenant will only be in place for a specified period of time. I would expect that this agreed position would include a plan (including financial plan) on how to upgrade the wastewater facilities within the time that the covenant will be in place, to ensure that the situation is resolved by the time the covenant lapses. Without such a plan, the problem is just delayed, not resolved, and will be much more pressing by the time the covenant lapses and presumably the majority of the development has been completed.
- 3) By adding a no complaints covenant to the subdivision covenants, the developer will actually be bringing the wastewater issues to the fore for potential purchasers. This means that the sections within the 100m and 150m setback from the pond may be less valuable and may impact the value of surrounding properties. At worst, the reputation of the entire subdivision and the town of Lincoln could be affected. This does not seem like a situation that will be to the benefit of the Lincoln community.

Ultimately, the appropriate solution would be one that does not put future residents in a position where they are forced to “live with” an unacceptable smell. The appropriate solution is a solution that ensures that the infrastructure of Lincoln can deal with the additional wastewater pressure that will result from the proposed development and that residents are put in a position where they can enjoy their surrounding area and their wellbeing are not negatively impacted by inadequate infrastructure.

Kind regards,  
Tania Hefer