

## HAMILTON CITY COUNCIL

### HEARING OF RESOURCE CONSENT APPLICATION BY WESTON LEA LIMITED

#### DIRECTIONS OF COMMISSIONER HEARING PANEL: No.1

Publicly Notified Applications:

*Applications by Weston Lea Limited to develop approximately 105 hectares of land adjoining the western bank of the Waikato River in Peacocke Hamilton at 337-461 Peacockes Road, Hamilton. The location is fully described by the application for resource consent. The subdivision and development will provide for 862 dwellings on individual certificates of title. In addition, there will be two large lots proposed adjacent to Peacockes Road to be development in the future for a mixed use residential/commercial centre (development of these lots is not part of current applications). Earthworks, new roading, cycleways, walkways, additional planting within a retained esplanade, and three waters infrastructure are required to enable to the development and a number of open space areas are included in the applications.*

We (Bill Wasley, Richard Knott and Loretta Lovell) have been appointed as Independent Hearing Commissioners by the Hamilton City Council (Council) to hear and determine the above applications. Council has identified a date that the hearing will commence on **29 April 2019 at 1.30pm**. The Commissioners have endorsed this date and Council will in due course issue a formal notice of hearing including details of the venue.

Having reviewed the case and the nature of the submissions, we have decided to issue directions pursuant to our powers under the Resource Management Act 1991 (RMA) to ensure an efficient and effective hearing process. Sections s41B and 41C enable Commissioners to direct that briefs of evidence be provided prior to the hearing, and that the order of business at the hearing may also be directed.

Accordingly, we make the following directions:

#### **Exchange of Expert Evidence**

1. Pursuant to RMA s42A (1) & (3) and s103B (2), that the Council's section 42A report be provided to Weston Lea Limited (the Applicant) and submitters by opening of business on 3 April 2019.<sup>1</sup>
2. Pursuant to RMA s41B (1) & (2), that Weston Lea Limited expert evidence in chief be provided to the Hamilton City Council by no later than 5pm on 8 April 2019. The Hamilton City Council shall make available to all parties to these proceedings a copy of Weston Lea Limited expert evidence in chief by opening of business on 10 April 2019.<sup>1</sup>

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<sup>1</sup>The Hamilton City Council will make the s42A report and all evidence available on the Council website ([www.hamilton.govt.nz/amberfield](http://www.hamilton.govt.nz/amberfield)) and a hard copy will be available for viewing on the Ground Floor of the Municipal Building, Hamilton City Council, Garden Place during office hours (7.45am to 5.00pm Monday to Friday).

3. Pursuant to RMA s41B (3) & (4), any submitter who intends to present expert<sup>2</sup> evidence is to provide a written brief of that evidence to Hamilton City Council by no later than 5pm on 15 April 2019. The Hamilton City Council shall make available to all parties to these proceedings a copy of the submitter's expert evidence by opening of business on 17 April 2019.
4. Pursuant to RMA s41B (1) & (2), that if Weston Lea Limited intends to present evidence in rebuttal of the section 42A report or any pre-circulated submitter evidence, then a written brief of that rebuttal evidence is to be presented by the witness as part of the hearings process.

#### **Caucusing of Expert Witnesses**

5. The Commissioners request that expert witnesses in the areas of expertise on Transportation and Terrestrial Ecology caucus prior to the hearing to try to resolve any differences of opinion in their areas of expertise. We direct that this commence prior to the section 42A report being circulated so any matters can also be addressed in that report.

We require a statement to be tabled at the hearing outlining what has subsequently been agreed and/or what matters are still outstanding in respect of differing opinions. We may also require caucusing by expert witnesses during the hearing if considered appropriate in respect of any particular issue.

#### **Site Visits by Hearing Commissioners**

6. The Commissioners will undertake a site visit commencing at 10am Monday, 29 April 2019. This will only be for commissioners together with a person from the Council who is not involved with the application or hearing process to take us on the site visit. This site visit is to enable commissioners to understand the location of the proposal and associated context.
7. We will commence the hearing at 1.30pm that day to consider and determine any hearing procedural and house-keeping matters, including the undertaking of a more in-depth site visit and the participation of parties in such a visit.
8. It is proposed that the hearing of evidence will commence at 9am on Tuesday 30 April 2019.

#### **Hearing Procedure**

9. The hearing will be conducted in the following manner:
  - The party adducing the pre-circulated evidence is to call the witness in person (unless attendance in person has been waived), commencing with the applicant and followed by submitters.
  - The witness will be introduced and asked to confirm his or her qualifications and experience.
  - The witness will not be required to present their pre-circulated evidence in full. Rather, the witness will present a written summary of their evidence as well as present any supplementary and/or rebuttal evidence (verbally or in writing) not contained in the pre-circulated evidence. Any supplementary evidence should not repeat matters already covered in the pre-circulated evidence.

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<sup>2</sup>The term 'expert' means a person recognised as an expert in his or her field due to relevant qualifications and/or experience. An expert witness must exercise independent and professional judgement and must not act on instructions or directions of any person.

- We have no legal power to direct lay (non-expert) witnesses to pre-circulate their evidence. However, submitters and lay witnesses are welcome to pre-circulate their evidence in accordance with the above directions. If they do, the evidence will be pre-read and will be dealt with in the manner outlined above.
10. Council shall liaise with Weston Lea Limited and all submitters who intend to present evidence to establish an approximate hearing timetable and order of witnesses prior to the hearing.
  11. In respect of any expert witnesses not being called by the applicant and where they have provided technical reports to the applicant, we request a summary statement be presented at the hearing outlining any matters and conclusions reached having considered the section 42A report and any submitter expert evidence.

Dated this 22nd day of February 2019

A handwritten signature in black ink, appearing to read 'Bill Wasley', with a stylized initial 'W'.

Bill Wasley  
Commissioner Chair, on behalf of the Hearing Panel