

IN THE MATTER OF THE RESOURCE MANAGEMENT ACT 1991

**AND IN THE MATTER OF AN APPLICATION FOR SUBDIVISION AND
LAND USE CONSENT FOR THE AMBERFIELD
DEVELOPMENT**

BETWEEN WESTON LEA LIMITED

Applicant

AND HAMILTON CITY COUNCIL

Consent Authority

**COUNSEL FOR RESI RESPONSE TO APPLICANT'S MEMORANDUM DATED 17
MAY 2019**

Dated: 24 May 2019

1. This memorandum is filed by Counsel for the Riverlea Environment Society Incorporated (RESI) in response to the Memorandum of counsel for the Applicant dated 17 May 2019. (“the Memorandum”)

Experts’ compliance with Code of Conduct

2. Counsel would like to reassure the Commissioners that the RESI experts are fully conversant with the ecological management and mitigation material documented by Weston Lea in support of its application. Assertions made in the Memorandum to the contrary are incorrect. Given the scattered nature of that information through the Applicant’s documentation and evidence, there will be benefits in having a compiled record of the various locations of that information, as unanimously proposed by the experts at caucusing on 14 May. (JWS 14 May “Reasons Why” column on page 3.)
3. The RESI ecology experts maintain that insufficient information regarding some aspects of the ecological management and mitigation material has been documented to enable full assessment of the effectiveness of mitigation. These views were made clear in the RESI evidence.
4. Some of the documented points of information were verbally contradicted during the hearing by Weston Lea experts and their Counsel. It is hoped that the information package to be provided by the applicant’s experts will provide clarity on these and other points.
5. It is inappropriate to disclose information received from the experts about what occurred during caucusing, beyond referring the JWS, so no response will be made to the matters raised in paragraphs 9 and 14 of the Memorandum.

Proposed collation of information

6. Counsel welcomes an information package from Weston Lea regarding the ecological management and mitigation material on 31st May or at any time prior.
7. Counsel seeks confirmation that the package described in the Weston Lea MoC dated 17th May, point 18 (a)¹, will include at least the points listed in paragraph 4.² Counsel encourages the provision of as much detail as possible, noting however that the compiled information is limited to the existing documentation and evidence.
8. Counsel would like to ensure that caucusing can proceed efficiently, and therefore requests that there is an exchange of views about the Applicant's information amongst the experts prior to reconvened caucusing.
9. Counsel requests that a mediator is present to co-ordinate the reconvened caucusing.
10. Counsel is satisfied with the date of reconvened caucusing proposed by the experts (starting the week of 10th June). That would allow sufficient time for s42A responses to be compiled.

Directions to the experts for caucusing

11. There is no need for directions to the experts about their responsibilities in relation to caucusing. As noted above, the allegations about previous non-compliances with caucusing obligations are incorrect.

¹ i. The existing material and related technical information contained in Weston Lea's application, EIC, and EIR concerning the proposed management of the potential adverse ecological effects of the proposal on bats; and ii. The newer information contained in Dr Parson's EIR, which provides further information concerning the implementation of certain mitigation measures addressed in the material described under paragraph 18(a)i.; ...

² (a) Planting design around the reserve areas, East/West Shelter Belt, and North/South Gully;
(b) Urban design guidelines, including such things as streetscaping;
(c) Buffer corridor profiles and cross-sections; and
(d) Engineering earthwork designs, including existing and proposed finished levels.

12. It is appropriate for the Commissioners to direct the Applicant's experts to produce the description of all management measures currently proposed and documented, in accordance with the agreement reached amongst the experts in caucusing on 14 May 2019.
13. It would also be helpful for the Commissioners to direct:
 - a) the Submitters' experts to list any necessary information they believe to be absent from the Applicant's proposed management measures and information (prior to caucusing); and
 - b) the Applicant's experts to respond to that list.

If there is that three-stage exchange of information prior to caucusing, the experts will all have prior knowledge of the information available, measures proposed and perceived gaps in that information.
14. There is no need for directions that require the pre-circulation of "will say" statements by the experts. The JWS should be the only product of the caucusing process and the only additional evidence to be put before the Commissioners.
15. If the Commissioners see a need for "will say" statements, those statements should be required from all of the experts, not just the experts for the submitters.
16. It would be helpful for the Commissioners to provide guidance on the matters that are of prime importance in assisting their deliberation. RESI respectfully suggests that the following matters need to be addressed by the experts and reported in their Joint Witness Statement:
 - (a) The nature, locations and extent of the key effects of the development if not mitigated, as listed 1-8 on page 2 of the JWS dated 14 May 2019.
 - (b) The nature, locations and extent of the key effects of the development if the Applicant's proposed measures for avoidance, remediation and mitigation of those effects are implemented. This should include predicted delays in achieving adequate remediation or mitigation.

(c) Additional or alternative measures available and required to adequately avoid, remedy or mitigate the effects of the development.

17. If a reconvened hearing date later in the week of 8 July 2019 is suitable for the Commissioners, RESI supports the proposed change of date to accommodate counsel assisting the City Council.

Dated: 24 May 2019



P. Lang
Counsel for Riverlea Environment Society Incorporated