

BEFORE INDEPENDENT HEARING COMMISSIONERS

APPOINTED BY THE HAMILTON CITY COUNCIL

IN THE MATTER of the Resource Management t Act 1991 (the **Act**)

AND

IN THE MATTER of an application for subdivision and land use consent for the Amberfield development

BETWEEN Weston Lea Limited

AND Hamilton City Council

Memorandum of Counsel for the Director-General of Conservation

Dated: 30 May 2019

Submission Number: 59

Department of Conservation
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Hamilton
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MAY IT PLEASE THE COUNCIL HEARING COMMISSIONERS:

1. Counsel for the Director-General of Conservation (the **Director-General**) refers to the Directions of Commissioner Hearing Panel: No. 6, specifically paragraphs 1 and 2:

“1. Weston Lea’s experts provide the submitters ecologist with an information package by 5pm Monday 27 May 2019 identifying and outlining: - the existing material 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 - 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 above

2. That submitters consider the information provided as set out in (1) above and to advise the applicant’s experts by 5pm Thursday 30 May of any information gaps.”

2. In respect of directions 1, Counsel has attached Appendix 1 from the Director-General’s experts advising of the information gaps in relation to the information package provided by the applicant’s experts on 27 May 2019.
3. It is noted that the information package mostly contained information already provided by the applicant in the AEE, EIC and EIR. The only new information, not previously seen by the Director-General’s experts, are the 24 May evidence-in-chief by Mr Mark Kessner on lighting and the applicant’s working version of ecology conditions as of 27 May set out in Appendix 22 of the information package. The information gaps identified are, therefore, similar to those identified in the evidence of the Director-General’ experts.

Dated 30th May 2019



Victoria Tumai

Counsel for the Director-General of Conservation

Appendix 1 – Director-General’s experts review of information package

1. This document is authored by Dr Barea, Ms Pryde and Dr Borkin, for the Director-General of Conservation in relation to the resource consent application by Western Lea. It is a reply to a compilation of reports and evidence titled “Amberfield Development Compilation of ecological mitigation information Prepared for Weston Lea Limited 27 May 2019” (the Information Package).
2. At the May 14, 2019 expert caucusing, the authors to this document understood the Applicant’s ecologists agreed to provide a compilation of measures proposed to manage adverse effects of the Western Lea Subdivision. All in attendance agreed with this approach to progress caucusing.
3. It was our understanding that the Information Package would separate proposed ecological mitigation from other reports and information forming the application. The information supplied is a 561 page pdf largely containing the information already available in the application on the Hamilton City Council website and which we were already familiar with. The Information Package includes several modifications to the application, including to the approach to managing adverse effects. There remains a lack of clarity around several discrepancies in some figures and management actions recommended by the Applicant’s experts that have not been carried forward into proposed conditions. We attempted to work around these issues using the proposed conditions and cross checking with the other documents in the Information Package and the application.
4. In addition to the provided document, we would like to see the various alternatives for the subdivision that were considered prior to proposing the current design in this application.
5. We would also like to see details of the step wise process by which the mitigation hierarchy was applied demonstrating avoidance of adverse effects and supporting the assertion that residual adverse effects are absent.
6. In terms of adaptive management we would like to see details of the design, including a broader range of adaptive responses (beyond modifying the proposed mitigation) including how the staging of the subdivision will respond to the exceedance of triggers so that adverse effects are avoided given the requirement of the Hamilton City Plan and results in the persistence of the bat population.