

**HAMILTON CITY COUNCIL
HEARING OF RESOURCE CONSENT APPLICATIONS BY WESTON LEA LIMITED
DIRECTIONS OF COMMISSIONER HEARING PANEL: No. 7**

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.

In response to various issues raised by the parties, the Panel issued Direction 6 dealing with:

- a) The provision and exchange of further information between the ecology experts for the parties;
- b) Arrangements for further expert caucusing by the party's ecologists;
- c) Whether the panel wanted targeted assistance on any issues;
- d) The date for a further s42A report; and
- e) The date for a reconvened hearing.

The parties have completed steps a) and b) above and have now filed further memoranda seeking further directions in respect of the other matters, and in particular:

- a) Whether the Panel further had further questions in the light of the further information provided by the applicant, and questions from the other parties in response;
- b) Whether the date for the s42A report could be changed to 1 or 3 July; and
- c) Whether the hearing date could be changed to 19 July (or 16 July retained if not).

Discussion

The panel has reviewed all the memoranda submitted by the parties. In response the Panel notes the following matters.

Yes, the Panel does consider it could provide further guidance as set out below. However, the Panel repeats that seeking this information should not in any way limit the caucusing to these matters. Rather normal caucusing should occur, and as part of that, the parties should try to provide guidance on the matters listed below so far as they are able to.

Direction 6 said that the reconvened hearing should start on 16 July 2019. Counsel for Hamilton City Council as consent authority, has requested by memorandum dated 30 May 2019 that if possible, the

hearing be reconvened on 19 July due to a clash that the HCC's bat ecology witness has with a previous hearing commitment on the 16 July. We note that counsel for the Weston Lea has not opposed this potential change in hearing date. At this stage not all commissioners are available on the 19 July, however that situation may change in the near future. Therefore, we intend to retain the 16 July hearing date but will issue a further direction if the 19 July becomes available.

However, we have considered the requests of both Counsel for Weston Lea and HCC regarding the date by which the further s42A report is to be circulated. We also noted the desire of Counsel for Weston Lea to have sufficient time to prepare and lodge a written reply that is provided to the hearing panel prior to reconvening of the hearing.

DIRECTIONS

As a result, the Panel further directs as follows.

1. Caucusing of Expert Witnesses

The Panel considers it would benefit from information about:

- (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.
- (d) Options for community and technical engagement and liaison on the Ecological plans which could include groups established for specific purposes – plan development, implementation and technical expertise are examples.

2. Resumed Hearing Date

The reconvened hearing will commence on 16 July 2019. The Panel will continue to monitor the commissioner's availability. The Panel will immediately advise the parties if the reconvened hearing can start instead on 19 July 2019.

3. Provision of Further s42A Report

The further s42A report be provided to all parties by 5pm 1 July 2019.

ADDENDUM

After finalising this Direction but before arranging for it to be distributed, the Panel received a further memorandum from Counsel for the Director-General of Conservation (**DGoC**) dated 7 June 2019 raising issues about the adaptive management plan in Dr Parson's evidence.

The Panel notes that the memorandum was circulated to Counsel for the other parties.

The Panel thanks the DGoC for the memorandum. It notes the issues raised, including the passages from the Supreme Court decision in *Sustain Our Sounds v The New Zealand King Salmon Company*.

However, the Panel does not propose making any specific directions in response to that memorandum. The Panel simply observes that it is for the applicant to present the evidence it relies on. The applicant will of course note the observations made by the DGoC and the passages from the *Sustain Our Sounds* decision. The Panel has no objection to the parties discussing the issues raised by the DGoC at caucusing, but that is a matter for the parties and their experts.

We note receipt of an email dated 7 June 2019 from Counsel for the Riverlea Environment Society Inc (RESI) supporting the Counsel for the DGoC memorandum. In addition, the email confirmed that RESI would also like to see those matters outlined in its memorandum of 24 May 2019, to be considered and reported on by the experts.

The Panel also acknowledges receipt of a memorandum from Counsel for Weston Lea dated 7 June 2019 outlining concerns regarding the requests from Counsel for both the DGoC and RESI. The Panel notes the matters raised and opinions expressed in the memorandum.

This direction addresses the matters raised.

A handwritten signature in black ink, appearing to read 'Bill Wasley', with a stylized flourish at the end.

Bill Wasley

Commissioner Chair
on behalf of the Hearing Panel

Dated this 7th day of June 2019