

HAMILTON CITY COUNCIL
HEARING OF RESOURCE CONSENT APPLICATIONS BY WESTON LEA LIMITED
DIRECTIONS OF COMMISSIONER HEARING PANEL: No. 11

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.

The Panel have received a Memorandum of Counsel for Riverlea Environment Society requesting that the panel consider the additional submissions made by DoC and further memoranda from RESI relating to additional evidence and the supplementary 42A report, be considered.

In our Direction No 8 dated 7 June 2019 we directed that the parties respond as fully as possible to issues raised about “ *Additional or alternative measures available and required to adequately avoid, remedy or mitigate the effects of the development*” which was raised in our Direction No 7.

Direction No 8 required this information to be provided to the Council as part of the parties closing submissions and before the Council prepared its s42A report. The s42A report was to be circulated to the parties by 16 August 2019.

The panel then provided that the hearing would be re-convened to consider the s42A report and to hear from any Council witnesses in support of the conclusions it had reached in the s42A report. The applicant would then have a right of reply.

Subsequently, after the circulation of the s42A report, and in response to suggestions made by the Council, counsel for DoC filed a memorandum raising a jurisdictional concern about powers it has under the Wildlife Act 1953 and wanting to file further evidence.

The panel issued Direction No 10 that it would consider the jurisdictional issue, including hearing submissions from any party on that issue at the re-convened hearing. The panel rejected any application to hear the further evidence. The jurisdictional issues can be determined without the need for further evidence on mitigation (or other) issues, and the parties have been given ample opportunity to provide evidence on those issues.

Subsequent to Direction No 10 being issued, Counsel for Riverlea Environment Society filed a memorandum urging the panel to consider the evidence submitted by DoC and wanted to also submit further evidence. Riverlea maintained that otherwise, issues of natural justice would arise.

The panel rejects this application and rejects any notion that in so doing it is breaching natural justice. Direction No 10 already confirmed that the panel would not consider the further evidence submitted by DoC. The panel also provided an opportunity for all parties to make submissions on the matter that would be considered by the panel i.e. jurisdictional issue raised by DoC. In those circumstances no issues of natural justice arise, as all parties have an equal opportunity to comment on the matters the Panel will consider.

Accordingly, we make the following direction:

That the request of the Riverlea Environment Society to make further submissions other than the jurisdictional matter concerning the Wildlife Act, is declined for the reasons set out in Direction No 10.

Dated this 4th day of September 2019

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

Bill Wasley

Commissioner Chair
on behalf of the Hearing Panel