

28 September 2018

Hamilton City Council
Private Bag 3010
Hamilton 3240

Dear Sir/Madam


Weston Lea Limited – Notified Application for Land Use and Subdivision Resource Consents for 337-461 Peacockes Road, Hamilton (Amberfield)

Please find enclosed the submission by the Director-General of Conservation in respect of the notified applications for the land use and subdivision consents by Weston Lea Limited. The submission identifies the Director-General's concerns, which relate to potential effects on freshwater and terrestrial ecosystem values held by the Director-General of Conservation.

As the application documents do not contain sufficient information to assess the mitigation methods to be used for the potential negative effects on long-tailed bats, herpetofauna and freshwater values, the Director-General is unable to support this application. The Director-General is not opposed to working collaboratively with the applicant and other parties to understand and mitigate the negative effects associated with the proposed activities.

Please contact Jacob Williams (RMA Planner) in the first instance if you wish to discuss any of the matters raised in this submission (email jwilliams@doc.govt.nz or phone 027 578 4094).

Yours sincerely



Ray Scrimgeour
Operations Manager
Waikato

Submission on applications for publicly notified resource consents for landuse and subdivision – Amberfield.

Resource Management Act 1991

To: Hamilton City Council.

Name of submitter: Lou Sanson, Director-General of Conservation.

Applicant: Weston Lea Limited.

Submission on: Amberfield subdivision.

Application numbers: 10.2018.00009853.001 & 11.2018.00006695.001.

Trade competition: I am not a trade competitor for the purposes of section 308B of the Resource Management Act 1991.

My submission relates to: The whole application, but in particular the parts relating to the effects on freshwater and terrestrial ecosystems.

My submission is: I oppose the application in part.

Director-General's interest in the application

1. The Director-General of Conservation ('the Director-General') has all the powers reasonably necessary to enable the Department of Conservation ('the Department') to perform its functions.¹ A function of the Department is to advocate the conservation of natural and historic resources generally.² Section 2 of the Conservation Act 1987 defines 'conservation' to mean *'the preservation and protection of natural and historic resources for the purpose of maintaining their intrinsic values, providing for their appreciation and recreational enjoyment by the public, and safeguarding the options of future generation'*.
2. The decisions sought in my submission are required to ensure that the proposed development recognises and provides for the matters of national importance listed in Section 6 of the Resource Management Act 1991 (the Act) and to have particular regard to the other matters in

¹ Refer section 53 Conservation Act 1987

² Refer section 6(b) Conservation Act 1987

Section 7 of the Act, as well as promoting sustainable management of natural and physical resources.

Summary of the Director General's concerns

1. The proposed development site contains some high conservation values including: as a roosting (including maternity roosts), foraging, and commuting habitat for the nationally critical long-tailed bat, lizard species such as the copper skink and their habitats, and freshwater values in the downstream environment (Waikato River).
2. The proposed subdivision and land use activities have the potential to adversely affect long-tailed bats, freshwater, and herpetofauna values at the site and within the surrounding landscape. No certainty is provided in the application to satisfy the Director-General's concerns (as laid out below). The proposed development will have a potentially significant impact on the habitat of long-tailed bats in an area where their habitat is highly restricted. The disturbance from the proposed activities will result in the loss of potential maternity and other roost trees, reduce the available roosting and foraging habitat and limit the connectivity of the remaining suitable bat habitat in the surrounding area potentially rendering habitat unavailable. There is also the potential for the proposed developments to have a negative impact on lizard species located within the proposed development site. Limited information has been presented by the applicant regarding the watercourses located at the site and the potential effects of the proposed activities in the downstream environment. It is acknowledged that currently the conservation values of the watercourses are low, however this does not preclude the potential for them to be restored and support higher values into the future.

My reasons for submission are that:

3. The proposed subdivision and landuse activities have the potential to cause negative effects on the freshwater values through the proposed instream works and effects of sediment entering watercourses. The proposal will result in the loss of about 250 metres of intermittent and ephemeral watercourses.
4. I understand that there is proposed enhancement of the watercourses on the site which will be detailed in a stream mitigation plan. This plan has not been provided with the application and there is no certainty on what it contains. It is therefore difficult to assess its adequacy at mitigating the potential effects of the proposed activity on the freshwater values.

5. There may be the potential for sediment to enter the water courses on the site during storm events and earthmoving activities which will have negative impacts on the freshwater values in the downstream environment (the Waikato River).
6. There is strong policy direction in the Hamilton City Council District Plan to avoid adverse effects on Significant Natural Areas (Policy 20.2.1d, 20.2.1e, 20.2.1f, 20.2.1g, 20.2.1j, 20.2.1k, 20.2.1n). These policies give effect to policies 11.1 and 11.2 in the Waikato Regional Council Regional Policy Statement and implement the District Plan objective 20.2.1:

“Significant Natural Areas are protected, maintained, restored and enhanced”

Given the policy direction in the Hamilton City Council District Plan, the negative effects associated with the proposed landuse and subdivision activities on the long-tailed bat population should be avoided, remedied, or offset

7. The site is used as a commuting and foraging corridor for long-tailed bats and the impacts of the proposal are likely to be very high on the local long-tailed bat population. The proposed subdivision and landuse activities mostly avoid the mapped Significant Natural Areas alongside the Waikato River riparian margin, however the effects of the proposed activities will likely have a negative effect on the habitat of long-tailed bats in the vicinity of the proposed development with potential consequences for the long-term viability of the population. The applicant states that the disturbance from the proposed activities will likely make the site, in effect, permanently impermeable to bats. I agree with this assessment and note that it is possible that the loss of habitat may lead to a local extinction particularly in conjunction with the proposed future development in the Peacockes Structure Plan area. Previous studies have identified reduced bat occupancy in parts of Hamilton with more intensive urbanisation, lighting, and noise, therefore it is likely that the proposed development will have a large negative effect on the local bat population.
8. The applicant has stated that the trees located at the site are unlikely to be frequently used as roost sites. I disagree with this statement and note that more survey work would be required to qualify this.
9. I understand there is some additional work being undertaken to identify areas in the South Hamilton area to off-set or compensate for the potential effects of the proposed activities on

the local long-tailed bat population through the development of a bat management plan. There is no certainty on what this management plan contains. Without seeing this plan, it is difficult to assess the effectiveness of any mitigation offsetting or compensation that could potentially be used in support of the application.

10. The application documents discuss the mitigation of potential negative effects on herpetofauna through the use of a Lizard Management Plan. This plan has not been provided with the application and I understand that it will be developed in conjunction with an application for a Wildlife Act Authority. There is no certainty on what the Lizard Management Plan contains. It is difficult to assess the proposed mitigation without seeing the Lizard Management Plan and therefore its adequacy at mitigating the potential effects associated with the proposed activities.
11. The information provided with the application is insufficient to determine the potential effects that the proposed development will have on any lizards present at the site. A lizard survey has not been undertaken by the applicant. The applicant does not provide any evidence that the proposed vegetation planting will have a net benefit for lizards located at the site. The applicant has assessed the impact of the proposed activities as having a very low ecological effect on lizards. I disagree with the statement. The scale and nature of the proposed activities may cause the loss of any resident lizard species at the site.

The Director-General seeks the following decisions from the consent authority:

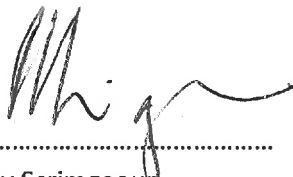
12. I seek the following:
 - a) That the consent authority **declines the applications** unless suitable conditions are imposed such as, but not limited to, requiring the applicant to engage and consult with the Department regarding the development of a Bat Management Strategy, Stream Management Plan, Lizard Management Plan; and,
 - b) Suitable conditions are imposed to ensure that any Bat Management Strategy developed contains, but is not limited to: quantitative outcomes for the maintenance and enhancement of the Hamilton South long-tailed bat population, the identification of an area, or areas, of bat roosting habitat and associated commuting corridors, a legal means of protecting these areas as ongoing bat habitat, the specification of management and other activities including pest management, vegetation restoration, and further survey work to identify potential roost trees; and,

- c) Suitable conditions are imposed to ensure that any on-site mitigation for the negative effects on bats include, but is not limited to: the retention of any bat feeding, commuting, and potential roosting habitats with effective buffering vegetation between them and the proposed housing, bat sensitive lighting design with appropriate monitoring, ongoing revegetation, noting that there are no, or unlikely to be any, mitigation available to address effects on bats in the short term; and,
- d) Suitable conditions are imposed to ensure that any Stream Mitigation Plan developed contains, but is not limited to, suitable stream restoration objectives, a comprehensive monitoring programme including water quality standards as triggers; and,
- e) Suitable conditions are imposed to ensure that there will be no change in instream clarity in the Waikato River between upstream and downstream of the site during construction; and,
- f) Suitable conditions are imposed to ensure that any Lizard Management Plan developed requires, but is not limited to: a baseline lizard survey undertaken by a suitably qualified herpetologist, a detailed planting plan that with relevant objectives to create lizard habitat that will benefit the local lizard population and ongoing monitoring; and,
- g) Such other relief as may be necessary and appropriate to address my concerns.

I wish to be heard in support of my submission.

If others make a similar submission, I will consider presenting a joint case at hearing.

A copy of this submission has been served on the applicant.



.....
Ray Scrimgeour
Operations Manager
Waikato
Acting pursuant to delegated authority

Date: 28th September 2018

Address for service:
RMA Shared Services
Department of Conservation
Private Bag 3072
Hamilton 3240
Attn: Jacob Williams, 027 578 4094

Note: A copy of the Instrument of Delegation may be inspected at the Director-General's office at Conservation House Whare Kaupapa Atawhai, 18/32 Manners Street, Wellington 6011.