

HAMILTON CITY COUNCIL

HEARING OF RESOURCE CONSENT APPLICATION BY HAMILTON CITY COUNCIL – COMMUNITY FACILITIES

DIRECTIONS OF COMMISSIONER: No.1

Publicly Notified Application:

Application for consent to demolish a Category B Heritage Building (Municipal Pools) and undertake associated earthworks and site remediation. The works involve the removal of some existing underground infrastructure and the retention of other underground structures previously associated with the pool complex. Following demolition and site clearance, the works involve contouring of the site to enable landscaping and planting to be undertaken to integrate the site with the wider Ferrybank Reserve. These works will involve the installation of underground supporting structures to provide stability to the adjoining Victoria Street road reserve on the western boundary and the Celebrating Age building adjoining the northern boundary of the site. Approximately 1,380m³ of earthworks will be required, comprising clean fill material for backfilling and re counterering.

Associated works involve the excavation of trenches to enable the capping of an existing wastewater connection. As the immediate vicinity of the works includes a number of Protected Trees, the Root Protection Zones of these trees have been defined by an arborist. The Root Protection Zones are to be defined and protected on site by safety fencing and all works are to occur outside of the defined Root Protection Zones.

I (Bill Wasley) have been appointed as Independent Hearing Commissioner by the Hamilton City Council (Council) to hear and determine the above application. Council has identified a date that the hearing will commence on **6 August 2019**. I have endorsed this date and Council will in due course issue a formal notice of hearing including details of the venue.

Having reviewed the application documentation and submissions, I have decided to issue directions pursuant to my powers under the Resource Management Act 1991 (RMA) to ensure an efficient and effective hearing process. Sections s41B and 41C enable me as Commissioner, to direct that briefs of evidence be provided prior to the hearing, and that the order of business at the hearing may also be directed.

Accordingly, I make the following directions:

Exchange of Expert Evidence

1. Pursuant to RMA s42A (1) & (3) and s103B (2), that the Council's (Planning Guidance Unit) section 42A report be provided to Hamilton City Council – Community Facilities (the Applicant) and submitters by opening of business on **16 July 2019**.¹
2. Pursuant to RMA s41B (1) & (2), that Hamilton City Council– Community Facilities expert evidence in chief be provided to the Hamilton City Council (Planning Guidance Unit) by no later than 5pm on **22 July 2019**. The Hamilton City Council (Planning Guidance Unit) shall make available to all parties

¹The Hamilton City Council (*Planning Guidance Unit*) will make the s42A report and all evidence available on the Council website and a hard copy will be available for viewing on the Ground Floor of the Municipal Building, Hamilton City Council, Garden Place during office hours (7.45am to 5.00pm Monday to Friday).

to these proceedings a copy of Hamilton City Council– Community Facilities expert evidence in chief by opening of business on **23 July 2019**.¹

3. Pursuant to RMA s41B (3) & (4), any submitter who intends to present expert² evidence is to provide a written brief of that evidence to Hamilton City Council (Planning Guidance Unit) by no later than 5pm on **30 July 2019**. The Hamilton City Council (Planning Guidance Unit) shall make available to all parties to these proceedings a copy of the submitter’s expert evidence by opening of business on **1 August 2019**.
4. Pursuant to RMA s41B (1) & (2), that if Hamilton City Council – Community Facilities intends to present evidence in rebuttal of the section 42A report or any pre-circulated submitter evidence, then a written brief of that rebuttal evidence is to be presented by the witness as part of the hearings process.

Caucusing of Expert Witnesses

5. I may request the caucusing of experts prior to the hearing and will issue a further direction if I require this.

Site Visit by Hearing Commissioner

6. I will undertake a site visit commencing at a date to be advised. Representatives of all parties are invited to attend the site visit but the applicants and Council representatives at the site visit shall not be appearing at the hearing to present evidence including the section 42A report.

It is to be noted by all parties that the site visit is to view the site and adjacent features. It is not an opportunity for any discussion on the proposal or its merits or otherwise.

Hearing Procedure

7. The hearing will be conducted in the following manner:
 - The party adducing the pre-circulated evidence is to call the witness in person (unless attendance in person has been waived), commencing with the applicant and followed by submitters.
 - The witness will be introduced and asked to confirm his or her qualifications and experience.
 - The witness will not be required to present their pre-circulated evidence in full. Rather, the witness will present a written summary of their evidence as well as present any supplementary and/or rebuttal evidence (verbally or in writing) not contained in the pre-circulated evidence. Any supplementary evidence should not repeat matters already covered in the pre-circulated evidence.
 - We have no legal power to direct lay (non-expert) witnesses to pre-circulate their evidence. However, submitters and lay witnesses are welcome to pre-circulate their evidence in accordance with the above directions. If they do, the evidence will be pre-read and will be dealt with in the manner outlined above.

²The term ‘expert’ means a person recognised as an expert in his or her field due to relevant qualifications and/or experience. An expert witness must exercise independent and professional judgement and must not act on instructions or directions of any person.

8. Council (Planning Guidance Unit) shall liaise with Hamilton City Council– Community Facilities and all submitters who intend to present evidence to establish an approximate hearing timetable and order of witnesses prior to the hearing.
9. In respect of any expert witnesses not being called by the applicant and where they have provided technical reports to the applicant, we request a summary statement be presented at the hearing outlining any matters and conclusions reached having considered the section 42A report and any submitter expert evidence.

Dated this 17th day of May 2019

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

Bill Wasley
Commissioner