

HAMILTON CITY COUNCIL

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

DIRECTIONS OF COMMISSIONER: No.2

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 counteracting.

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 have received a Memorandum of Counsel for the applicant, Mr Lachlan Muldowney, dated 16 July 2019 seeking an adjournment of the current hearing which is set down for 6 August 2019. The reasons for seeking an adjournment is to enable the applicant to respond to matters raised in a report that the consent authority has received from an independent heritage expert relating to the identification of the spectator grandstand as having some heritage value. The memorandum notes that preservation of the grandstand was not anticipated, and therefore the matter was not addressed in the application documentation.

The applicant has sought time to consider and address this matter prior to the hearing. In addition, the applicant seeks to resolve where possible differences between the heritage experts and has proposed that the heritage experts caucus in order to narrow the issues and identify matters of agreement and those in dispute. I had outlined in Direction No 1 that I may direct caucusing to occur.

Mr Muldowney also submitted that the adjournment would not prejudice the interests of submitters as it will aid both the commissioner and submitters through addressing the matter in evidence that is pre-circulated rather than at the hearing; assist with the provision of a full assessment of effects; and to ensure a more efficient and effective hearing process.

Having considered the memorandum, I have decided to issue further directions to give effect to the request pursuant to my powers under the Resource Management Act 1991 (RMA,) to ensure an efficient and effective hearing process.

Accordingly, I make the following directions:

Timetable and Caucusing

1. The hearing date of 6 August 2019 set down for commencement of the hearing, is vacated.
2. The timetable directions set out in Commissioner Direction No 1 dated 17 May 2019 are vacated.
3. The heritage experts of the applicant, submitters and consent authority undertake expert witness caucusing by 30 August 2019.
4. Any statement produced as a result of expert caucusing is to be circulated to all parties by 5pm, 6 September 2019. The statement is to include those matters that are agreed and those matters where differences still exist, and reasons for those differences.

Exchange of Expert Evidence

5. 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 **20 September 2019**.¹
6. 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 **27 September 2019**. The Hamilton City Council (Planning Guidance Unit) shall make available to all parties to these proceedings a copy of Hamilton City Council– Community Facilities expert evidence in chief by opening of business on **30 September 2019**.¹
7. 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 **4 October 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 **7 October 2019**.
8. 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.

Hearing Date

9. I intend to set the matter down for hearing at the earliest opportunity after 14 October 2019 and will issue a further direction on this in due course.

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).

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.

A handwritten signature in black ink, appearing to read "Bill Wasley". The signature is fluid and cursive, with a large initial "W" and "B" that are connected.

Bill Wasley
Commissioner

Dated this 16th day of July 2019