

HAMILTON CITY COUNCIL

HEARING OF RESOURCE CONSENT APPLICATION BY FOODSTUFFS NORTH ISLAND LIMITED

DIRECTIONS OF COMMISSIONER HEARING PANEL: No.1

Publicly Notified Application:

This application seeks resource consent for the construction and operation of a new PAK'nSAVE supermarket with a drive-through fuel facility, at-grade car parking and all other associated enabling works. The new supermarket building will be developed to abut the western boundary of the site at 980 Te Rapa Road with a gross floor area (GFA) totalling approximately 6358m². This GFA figure includes all the back-of-house delivery, service and storage areas plus the main retail and mezzanine levels.

We (Murray Kivell and Russell De Luca) have been appointed as Independent Hearing Commissioners by the Hamilton City Council (Council) to hear and determine the above application. Council has identified a date that the hearing will commence, being on **Tuesday 21 May 2019 at 9.00am**, at Council's Committee Room 1. The Commissioners have endorsed this date and Council will in due course issue a formal notice of hearing including details of the venue.

Having reviewed the case and the nature of the submissions, we have decided to issue directions pursuant to our powers under the Resource Management Act 1991 (RMA) to ensure an efficient and effective hearing process. Sections 41B and 41C enable Commissioners 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, we make the following directions:

Evidence Exchange

1. Pursuant to RMA s42A (1) & (3) and s103B (2), that the Council's section 42A report be provided to Foodstuffs North Island Limited (the Applicant) and submitters by opening of business on **Tuesday 30 April 2019¹**.
2. Pursuant to RMA s41B (1) & (2), that Foodstuffs North Island Limited expert evidence in chief be provided to the Hamilton City Council by no later than 5pm on **Monday 6 May 2019**. The Hamilton City Council shall make available to all parties to these proceedings a copy of Foodstuffs North Island Limited expert evidence in chief by opening of business on **Tuesday 7 May 2019¹**.
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 by no later than 5pm on **Monday 13 May 2019**. The Hamilton City Council shall make available to all parties to these proceedings a copy of the submitter's expert evidence by opening of business on **Tuesday 14 May 2019¹**.
4. Pursuant to RMA s41B (1) & (2), that if Foodstuffs North Island Limited 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 Procedure

5. 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.

¹The Hamilton City Council will make the s42A report and all evidence available on the Council website (www.hamilton.govt.nz/foodstuffs) 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.

- 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.
6. Council shall liaise with Foodstuffs North Island Limited and all submitters who intend to present evidence to establish an approximate hearing timetable and order of witnesses prior to the hearing.
 7. 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 1st day of April 2019

A handwritten signature in black ink, appearing to read 'M Kivell', with a horizontal line underneath the name.

Murray Kivell

Commissioner Chair, on behalf of the Hearing Panel