

IN THE MATTER of the Resource Management Act
1991

AND

IN THE MATTER of an application for resource
consents by Watercare Services
Limited to undertake works
relating to the proposed Huia
Replacement Water Treatment
Plant

EIGHTH MINUTE OF THE HEARING COMMISSIONERS

Preamble

1. Pursuant to section 34A of the RMA, Auckland Council ("**Council**") has appointed Independent Hearing Commissioners Philip Brown (as Chairperson), Juliane Chetham, Hugh Leersnyder, and Michael Parsonson to hear and determine an application for resource consents by Watercare Services Limited ("**Watercare**") to undertake works relating to the proposed Huia Replacement Water Treatment Plant.
2. The hearing has commenced and evidence has been heard from the applicant and submitters over eight days comprising 24 February, 26-27 February, 4-6 March, and 11-12 March 2020. The hearing has stood adjourned since 12 March 2020.
3. In our Second Minute dated 13 March 2020, the Commissioners directed that expert caucusing be convened to consider the issue of Kauri Dieback and that testing be undertaken to determine the presence or absence of Kauri Dieback on the site and on surrounding land. The directions required, as an initial step, that the experts were to convene to discuss the methodology, extent and scope of Kauri Dieback testing that is to be undertaken.

4. Expert witness caucusing took place on 16 April 2020, and the outcome is recorded in a Joint Witness Statement (“JWS”) dated 17 April 2020. That JWS set out an agreed process and timeline for undertaking the testing and obtaining results.
5. Regular progress updates on Kauri Dieback sampling and diagnostic work were provided by way of memoranda of counsel. In its memorandum of 21 October 2020, Watercare advised that the Kauri Dieback sampling had been completed and testing of the samples was being undertaken. The final results were subsequently available in November 2020 in a report prepared by BioSense Limited (the sampling and testing contractor). The results confirmed the presence of the Kauri Dieback pathogen on the site and in the surrounding area.
6. In our Seventh Minute dated 27 October 2020, the Commissioners directed that a date for the substantive expert caucusing be scheduled. We noted that Watercare may seek further directions from the Commissioners following completion of the caucusing, with regard to the scheduling of further hearing time or any other matter necessary to advance the processing of its resource consent applications.

Progress Update

7. The substantive expert caucusing took place on 15 December 2020, with assistance from an independent facilitator. Participants were provided with the BioSense report, together with updated information from Watercare to confirm the nature of the proposal and the mitigation measures proposed to manage the Kauri Dieback biosecurity risk.
8. A second JWS was subsequently produced, signed at various dates in late January and early February 2021 by several of the participants with expertise in matters relating to Kauri Dieback. We understand that Mr Jack Craw did not attend the caucusing, and that Dr Nick Waipara participated in the conference but subsequently withdrew from proceedings and declined to sign the JWS.
9. Following the expert caucusing, correspondence was received from Titirangi Residents and Ratepayers Association¹ and from Royal Forest and Bird Protection Society of New Zealand Inc (both dated 18 December 2020). These submitters raised concerns with the expert caucusing and sought that it be rescheduled and undertaken again. A memorandum of counsel for Watercare, dated 21 December 2020, opposed further caucusing and sought that the hearing be reconvened.

¹ Representing that organisation and also The Tree Council, Waitakere Ranges Protection Society, Save Our Kauri Trust, and Titirangi Protection Group

Further Directions

10. Having reviewed the correspondence received from submitters and from Watercare, the Commissioners have determined that further expert caucusing is not required. Information is now available that confirms the presence of the Kauri Dieback pathogen on the site and further evidence can be adduced on behalf of both Watercare and submitters to respond to that information.
11. Accordingly, the Commissioners direct as follows:
 - (a) The hearing shall be reconvened. Arrangements for the reconvened hearing are to be made by Mr Otter, the Council's Senior Hearings Advisor. It is anticipated that around three days of hearing time may be required.
 - (b) The reconvened hearing time is to enable the following:
 - Presentation of any further evidence from the parties that addresses the results of the Kauri Dieback testing, the updated methodology proposed by Watercare to manage risk, and/or the case for avoidance of any risk related to potential spread of Kauri Dieback infection. The Commissioners will not hear or receive evidence from submitters pertaining to other matters that have already been addressed in submitters' evidence or that could have been addressed previously.
 - Presentation by the Council reporting planner and specialists of responses to the evidence that has been heard.
 - Watercare's right of reply, including further evidence that may be required to address matters that have arisen during the hearing.
12. Any enquiries regarding these Directions or related matters should be directed to Sam Otter, Senior Hearings Advisor, by email at sam.otter@aucklandcouncil.govt.nz

For and on behalf of the Hearing Commissioners



Philip Brown

Chairperson

16 February 2021