

BEFORE THE INDEPENDENT COMMISSIONER

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of an application for resource consent for the construction and establishment of a storage and distribution facility, warehouses, ancillary offices and site remediation at 16A Wickham Street, Hamilton

**STATEMENT OF EVIDENCE OF JOHANNES GERARDUS MARTINUS VAN ROOY
(Three Waters)**

Dated 15 November 2023

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INTRODUCTION

1. My full name is Johannes Gerardus Martinus van Rooy.
2. I have an NZCE (Civil) and a Dip. Teaching (Sec). I am a Senior Development Engineer in the Development Engineering Unit at Hamilton City Council (HCC). I have been employed by HCC since April 2015, initially as an Asset Maintenance Engineer in the City Waters Unit. I have held my current role since 2020.

CODE OF CONDUCT

3. I am familiar with the Code of Conduct for Expert Witnesses (Environment Court Practice Note 2023) and although I note this is a Council hearing, I agree to comply with this code. The evidence I will present is within my area of expertise, except where I state that I am relying on information provided by another party. I have not knowingly omitted facts or information that might alter or detract from opinions I express.

SCOPE OF EVIDENCE

4. This evidence addresses HCC's concerns about the proposed development at 16A Wickham Street in relation to water supply, wastewater disposal and stormwater management.

EXECUTIVE SUMMARY

5. Ensuring there are well-functioning 'Three Waters' infrastructure systems within Hamilton City is a critical function of HCC. The ability for those systems to manage growth to acceptable standards is central to all of its infrastructure planning.

6. HCC is concerned about development that occurs close to the Hamilton City boundary placing demand on HCC's infrastructure where it cannot be properly accommodated due to network capacity constraints. If not managed appropriately, this then may lead to network failures, increased public health and safety risks, regulatory breaches, and prosecutable non-compliances.
7. HCC is concerned about the Three Waters servicing requirements of the development proposal at 16A Wickham Street. HCC has little existing capacity to accommodate additional wastewater within this part of the City's network, and no available capacity to supply this development with Three Waters services. As a result, the applicant has indicated that it will make provision for its Three Waters requirements without integrating with the HCC networks. While this is positive in terms of HCC retaining capacity in its networks, it gives rise to other adverse effects which are not mitigated.
8. Specifically, the applicant's evidence states that:
 - a) Wastewater is able to be tankered to a location outside of HCC's boundaries for disposal;
 - b) The potable water supply will be provided through rainwater harvesting and/or tanker-supplied water during dry periods;
 - c) Suitable water supply will be provided for firefighting purposes; and
 - d) A discharge consent for a stormwater discharge has been obtained from Waikato Regional Council (**WRC**).
9. I am concerned that the proposed wastewater and water supply solutions are unreliable and that there remains a risk that HCC will be required to provide services if these systems fail. The proposed solutions will also give rise to additional adverse transportation effects.

10. A reticulated, integrated solution, where capacity for growth is planned for, would always be a preferred outcome. I consider that the proposed self-service arrangements are not a sustainable integrated solution. I rely on Mr Davey's planning assessment of the adequacy of the applicant's proposed conditions, including those that deal with Three Waters, to address the concerns that I have outlined.

HAMILTON'S THREE WATERS SYSTEMS

11. Today's environmental, social, and cultural expectations and regulatory obligations in relation to Three Waters require levels of service and performance that are significantly higher than delivered historically. Hamilton City's existing Three Waters systems have performance challenges to varying degrees across the City.
12. Hamilton relies on the Waikato River as its sole source for water supply, and it discharges treated wastewater and urban stormwater to the river. The Waikato River is not an infinite source of water and has a limit on the contaminant loads it can receive. These environmental limits present significant challenges to the City.
13. The City's current Three Waters infrastructure cannot fully accommodate the levels of urban intensification already enabled by the District Plan, let alone what is required under the National Policy Statement on Urban Development and the Medium Density Residential Standards in the Resource Management Act 1991 (**RMA**), without significant investment. No part of Hamilton City is unconstrained with respect to Three Waters. There are identified wastewater network constraints in and around the City's south western catchment, where the proposed development is located.

14. Without the necessary investment, capacity issues increase the risk of system failures, including increased wastewater overflows and inadequate treatment; water supply systems that cannot meet demand or fire-fighting requirements; increased contaminant loads, discharge velocities and volumes from stormwater systems; and increased flood risks. The system failures would further degrade the receiving environment, further impact on cultural values and increase public health and safety risks. These impacts and outcomes are inconsistent with The Vision and Strategy/Te Ture Whaimana (**Te Ture Whaimana**) and the National Policy Statement – Freshwater Management (**NPS-FM**). The level of investment needed to implement the necessary solutions is beyond HCC’s ability to sustainably afford.
15. In addition, HCC has significant consent compliance obligations. HCC holds a suite of consents from WRC for taking water from and discharging treated wastewater and stormwater to the Waikato River as required by the Waikato Regional Plan. These consents impose conditions setting specific parameters or limits for managing the respective activities. For example, based on the parameters of HCC’s water take consent, its capacity for making additional water allocations beyond the demands of resource users within the City itself is severely constrained.
16. Given HCC’s significant and varied statutory responsibilities, and in light of the clear lack of capacity within its Three Waters networks and the existing financial constraints confronting infrastructure investment, HCC follows a robust, structured approach to Three Waters system infrastructure planning and investment within the City. Accordingly, HCC has significant concerns about unplanned and ad hoc development occurring on the boundary of the City that may seek to rely on HCC’s infrastructure services.
17. HCC has a Three Waters Connection Policy (**Connections Policy**) supported by a suite of bylaws which seek to protect the functioning of the Three Waters networks from unplanned and ad hoc development. The bylaws

allow HCC to refuse connections to its networks under specified circumstances.

18. In terms of cross-boundary connections, the position under the Connections Policy is that HCC will not provide new or increased water use to individual properties located outside the City boundary.
19. HCC's approach to out of district servicing as described in the Connections Policy includes:
 - a) Only supplying new out of district three waters services to other local authorities or their agents, and requiring written supply agreements to formalise the supply of new Three Waters services;
 - b) Not considering new service requests if that allocation has potential to pose a risk to meeting the supply needs of Hamilton City unless there is an existing allocation that has been secured with an agreement; and
 - c) The applicant for services must provide sufficient information that will enable HCC to assess effects on HCC's network capacity.
20. HCC has limited existing capacity to accommodate growth in this part of its wastewater network, and no available capacity to supply this 'out of town' development with Three Waters services. There is no agreement between HCC and the developer to provide the development site with any Three Waters services. There are known wastewater constraints upstream of the catchment area where the proposal is located, and an acknowledged need for a substantial wastewater upgrade in this southern area. A sub-regional Southern Waste Water Treatment Plant is in the project planning stage. The business case for this plant relies on all wastewater within the area (that includes the proposed development site) being connected to it.

21. As discussed below, in this respect the proposal fails to deliver a sustainable and integrated 'Three Waters' solution. There is neither capacity to connect to HCC's reticulated network, and the proposal also excludes itself from participating in any broader long term strategic infrastructure solution, such as the Southern Wastewater Treatment Plant project.

APPLICANT'S EVIDENCE

22. I have reviewed the evidence of Mr Pottow and Mr Brimelow and respond to it below.

Wastewater

23. The site has no wastewater connection to Waipa District Council's (**WDC**) public reticulation. Mr Brimelow confirms that the proposal relies on an onsite private wastewater storage tank that will be periodically emptied and tankered offsite.
24. The proposed tanker solution is not a reliable solution for wastewater. HCC actively discourages this approach to wastewater management due to the environmental and health risks associated with waste being stored onsite, transferred to a tanker, and then conveyed across the transport corridors. In addition to the obvious health and environmental risks, the process will also generate additional heavy traffic movements which are another concern for HCC.
25. In terms of tankered waste, HCC does not allow tankered waste from outside the City to be disposed of at its Pukete Wastewater Treatment Plant. If non-compliant tankered liquid waste is discharged into Hamilton's reticulated network or at the Pukete Wastewater Treatment Plant, there is potential for considerable damage and disruption to the treatment process and the associated infrastructure to occur.

26. I note that proposed Condition 13 proffered by the applicant expressly rules out disposing of any wastewater at any Wastewater Treatment Plant in Hamilton. However, I remain concerned that if the proposed wastewater storage tank and transport solution fails, HCC may be expected, or left with no option but, to provide a solution which may create adverse effects on HCC's wastewater network or the environment.
27. The installation of an alarm that alerts of an overspill is helpful. However, I maintain the view that there is insufficient certainty that the wastewater will be appropriately managed at all times.

Water supply

28. The site has no water connection to the WDC public reticulation. Mr Brimelow confirms that the proposal relies on rainwater harvesting and/or tanker-supplied water during dry periods for potable water supply.
29. A tankered water supply is not a reliable solution for on-site water demand. HCC actively discourages this as a supply option due to the health risks associated with water being transported and stored, in addition to generating additional heavy traffic movements.
30. The application indicated that water for firefighting purposes would be supplied through a connection to the adjacent Waste Management site's water supply. HCC provides water supply to the Waste Management site. The water supply agreement between HCC and Waste Management, as well as the District Plan and HCC's Water Supply Bylaw, prevents a cross-lot supply from the Waste Management potable water supply for all purposes, including general and firefighting supply. A breach of the water supply agreement or the Water Supply Bylaw may result in the loss of service to the Waste Management Site in addition to a \$20,000 fine.

31. Mr Pottow's evidence for the applicant asserts that water supply for firefighting purposes will be provided by a dedicated firefighting water tank and pump. Again this gives rise to reliability concerns, and increased transport effects which could be avoided with a reticulated solution.

Stormwater

32. The applicant's evidence confirms that WRC has approved a stormwater discharge consent for the development.
33. This site discharges stormwater into HCC's Waitawhiriwhiri Stream catchment and will impact HCC's ability to achieve compliance with its comprehensive stormwater discharge consent.
34. To ensure ongoing compliance is achieved HCC requires that any development enabled on the site must be conditional upon:
 - a) Stormwater discharges from the site being limited to 80% of the pre-development volumes;
 - b) An attenuation (in addition to reuse) system to limit the instantaneous discharge from the site up to the 10% ARI and 2% ARI rainfall events, designed and implemented in accordance with the Regional Infrastructural Technical Specification (RITS); and
 - c) A two-stage quality treatment and attenuation system being implemented, given the nature of the activity and the areas of trafficked hardstand.

CONCLUSION

35. HCC does not have capacity to enable the proposed development to connect to its wastewater and potable water networks.

36. Overall, I consider that the proposal will generate adverse effects relating to Three Waters infrastructure as follows:
 - a) Undermining the sustainability of strategic three waters networks due to a failure to integrate with and contribute to the costs of developing and operating a reticulated wastewater and potable water network;

 - b) Environmental and health related risks arising from the proposed non- reticulated solutions;

 - c) Additional adverse transportation effects arising from non-reticulated servicing.

Johannes Gerardus Martinus van Rooy

15 November 2023