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Jennifer Caldwell
Panel Convener

Dear Jennifer,

RE: Minute 1 of the Panel Convener – Brymer Farms Ltd [FTAA-2608-1284]

1. The Hamilton City Council (HCC) is in receipt of Minute 1 from the Panel Convenor for the Brymer Farms Limited (Brymer) Fast Track process.

2. Minute 1 records at paragraph 4 the list of parties which are invited to attend the conference. HCC confirms its intention to attend. HCC also notes that the relevant wastewater and potable water issues are the domain of IAWAI. While IAWAI is a CCO under a 50/50 shared ownership between HCC and Waikato District Council (**WDC**), it is a distinct interested party and HCC asks that its status be recognised accordingly.
3. This memorandum addresses the relevant Schedule 1 and 2 matters outlined within Minute 1.

Schedule 1
Approvals

4. Brymer seeks land use and subdivision consents for a residential development primarily located within WDC territorial boundary but also at two points extending inside the HCC boundary.

5. While most of the development will be located within WDC, the proposal will rely on infrastructure and services currently situated within Hamilton and the proposal will have implications on the city's transport network and surrounding communities.

6. Brymer seeks the following approvals under the Operative Hamilton City District Plan (ODP):

    a. Earthworks and establishing a public road; and
    b. Subdivision to vest land as “public road.”

7. While these approvals establish the physical transport route to connect to Hamilton City, the access itself to HCC’s transport network will be subject to HCC’s separate transport connection approval process.

8. The proposal also requires HCC approval as road controlling authority to vest public roads and to connect to existing public roads. Again, this will be subject to HCC’s separate access approval process. Similarly, HCC anticipates that Asset Owner Approval will be required for connections to the three waters networks managed by IAWAI.

9. We also understand that Brymer seeks subdivision and land use consent under the Operative and Operative in Part Waikato District Plans for a wide range of matters.

Complexity

10. HCC considers the Brymer project to be of moderate complexity in terms of planning issues, but the project is of a high complexity when considering the territorial authority boundary issues and the associated implications for the delivery and funding of infrastructure and services (including the provision and funding of social infrastructure).

11. The following are the principal complexities relating to intra boundary issues:

    a. There is no Strategic Boundary Agreement (SBA) between HCC and WDC. The Brymer development will rely on HCC infrastructure and services, while rates and any applicable development contributions will be payable to WDC. Irrespective of progress on an SBA, specific funding arrangements are needed to give effect to the principle that growth pays for growth and address potential implications for HCC ratepayers.

    b. The Brymer development requires significant upgrades to transport, water and wastewater infrastructure of which multiple entities will be responsible for certifying and maintaining through conditions of consent. There are no legally binding commercial agreements to secure the identified interim or strategic infrastructure solutions.

    c. HCC considers that the respective responsibilities and arrangements for infrastructure delivery and funding should be resolved before a decision is made. As a minimum, a condition precedent is proposed by HCC that requires a Private Developer Agreement (PDA) to be agreed ahead of any works commencing on site and assets being vested. This will be a necessary pre-requisite to any transport connection approval given by HCC.

    d. The equitable funding and financing of infrastructure via rates, development contributions, or private developer led initiatives, remain unresolved. In the context of the demand this development will have on HCC assets, while these issues may not be fully within the ambit of the Fast-track Approvals Act 2024 (FTAA), conditions precedent which ensure these matters are addressed in development agreements before development occurring, are necessary.

12. These matters are particularly relevant because the affected WDC land is currently zoned for rural purposes, and the land has not been subject to structure planning or coordinated infrastructure planning by HCC or WDC to support rezoning. Further there is no identification of the site for urban development in any higher order planning strategies such as the Waikato Regional Policy Statement or Waikato 2070.

Issues

13. HCC has engaged constructively with the applicant throughout the pre-application process with strategic partners (e.g. WDC, WRC, IAWAI and the NZTA). These meetings included subject matter experts in transportation planning, engineering, geotechnical engineering, parks and ecology. HCC acknowledges that there have latterly been separate discussions with IAWAI and WDC, particularly with respect to funding agreements for infrastructure.

14. HCC acknowledges that the applicant has amended the proposal during the pre-application process to respond to some of the concerns raised, including removing the retirement centre at the north of the site and proposing a road connection to Grandview Road.

15. Engagement with Brymer has continued following the acceptance of the application for processing by the EPA. This includes work on a live "work in progress" tracker identifying outstanding issues and requests for further information, ongoing technical discussions, and feedback on draft conditions of consent. This work is assisting parties to narrow the issues of contention, and we will update the Panel with where agreement has been reached in our response to the substantive application / Statement of Fact (s53).

16. The principal issues to discuss at the Convenor meeting include:

    a. *Transportation and traffic related effects*

        i. The Brymer development will initially connect to Harrogate Place and Grandview Road, through currently residentially zoned landholdings within HCC. Harrogate Place and Grandview Road are both local roads and accordingly significant increases in traffic volume will raise transport safety, network efficiency and neighbourhood amenity considerations.

        ii. HCC's transport specialists have identified matters requiring further assessment before the proposed development thresholds, staging triggers, and the timing of a connection to and a roundabout at SH23 can be supported.

        iii. The principal transportation related concerns are:

            1. The Brymer development may exacerbate existing network performance issues in the West Hamilton, including safety issues along SH23 and the SH23 / Dinsdale roundabout.

            2. Insufficient information has been provided to demonstrate that adverse transport effects on the network will be satisfactorily mitigated. Further assessment and engagement with Road Controlling Authorities (RCAs) are needed to determine the nature, extent, and timing of the required mitigation.

        iv. On the information currently available, HCC has not yet been able to support the proposed development thresholds for Harrogate Place and Grandview Road, including the level of development proposed before the SH23 connection is established. Further assessment is needed to determine appropriate thresholds and the timing of that connection.
        v. The resolution of these matters is fundamental to determining appropriate development thresholds and staging conditions.

        vi. Further clarification of the mode-share assumptions relied upon in the Integrated Traffic Assessment is also sought.

vii. The proposed connection to SH23 will require approval from the New Zealand Transport Agency (NZTA) as asset owner and Road Controlling Authority. While the NZTA were involved in earlier discussions with HCC, it is unclear whether further discussions have been had with the NZTA.

viii. These transportation issues will require resolution ahead of any access approval being provided by HCC.

b. Stormwater related issues

i. Further information is required to address the concerns that have been raised by HCC experts with respect to the stormwater servicing and potential downstream flooding effects.

ii. There are existing downstream and upstream flood issues that may be exacerbated if stormwater is not attenuated appropriately, and stormwater management measures that are needed in low-lying parts of the site containing peat soils could constrain development and yield. HCC acknowledges that the site is complex from a stormwater perspective and intends to work with WDC and WRC to identify outstanding information requirements that will be shared with the applicant ahead of our formal response to the substantive application (s53).

c. Geotechnical related issues

i. Further information is required to demonstrate how the geotechnical concerns raised during pre-application engagement have been addressed.

ii. Significant geotechnical constraints associated with peat soils are present in the southern parts of the site. It is also noted that the higher-density apartment and commercial areas are proposed on parts of the site with these geotechnical constraints. Substantial engineering intervention is likely to be required in these areas and to futureproof reticulated infrastructure that will traverse these areas.

iii. Further technical information is needed to address land stability and settlement concerns arising from earthworks on parts that are subject to geotechnical constraints.

d. Water and wastewater servicing issues

i. These are matters which can only be addressed by IAWAI. However HCC understands that IAWAI's position is that the strategic water and wastewater solutions identified within the application documents broadly align with IAWAI's expectations. The ultimate wastewater and water solutions have not been fully resolved. The Brymer development requires the timely delivery of permanent strategic water and wastewater infrastructure to service the development and protect long-term network performance, resilience and capacity. There is no available capacity in the water or wastewater networks to service the development, and strategic solutions are required to enable the development from the very beginning. Interim servicing arrangements may be considered only once strategic solutions are confirmed, and then only as temporary

measures pending delivery of the agreed long-term servicing solution. Interim servicing arrangements must not delay or dilute delivery of the strategic solutions. IAWAI must retain the ability to review, restrict or pause further interim connections if progress toward delivery of the strategic infrastructure to agreed timeframes is not maintained. Further agreement and detail are required, including scope, timing, delivery, staging and development thresholds.

e. Draft conditions, and relationship to funding and commercial agreements

i. There is insufficient technical information to support the proposed staging, thresholds, and timing of infrastructure. It is critical that there is broad agreement on these matters as they inform the drafting of conditions are commercial terms.

ii. The draft conditions that have been supplied by Brymer need to be refined so that they clearly articulate staging, infrastructure requirements and HCC's role.

iii. Infrastructure funding, cost recovery, development contributions, securities, bonding and vesting obligations remain unresolved. This requires careful consideration to ensure alignment between infrastructure agreements, PDAs and conditions.

iv. We acknowledge that BFL is committed to working collaboratively with HCC and WDC to refine the draft conditions.

Matauranga and tikanga

17. HCC has no comment on this matter.

Panel membership

18. HCC understands that Waikato Regional Council and the Waikato River Authority will recommend a panel member, and that the Panel be limited to three members. Given the cross-boundary nature of the proposal and the associated issues identified above, HCC still considers that a panel consisting of up to four (4) experts would be preferable. HCC requests that this include an independent chair and a panel member each with a high degree of RMA and local government planning and/or legal experience, and if possible, a panel member with transport and three waters infrastructure expertise. HCC's specific recommendations around the composition of the panel has already been communicated to the Convenor and is consistent with this requested approach.

Procedural requirements

19. HCC remains willing to engage with the panel and the Brymer team to narrow the issues of contention and to develop workable consent conditions and associated infrastructure arrangements.

20. HCC recommends that a timeframe of at least 60-70 workings days would be appropriate under s79 of the FTAA and any information requests also take into account upcoming statutory holidays. This reflects the complexity of the proposal and the significance of the issues that remain unresolved.

Other matters

21. HCC is not aware of any other matters that the EPA should be aware of to determine timeframes or panel composition.

Kind Regards,



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