



Society for the Protection of Western Springs Forest Inc.

16 Westview Road, Westmere • info@westernspringsforest.org

Chair and Members
Waitemata Local Board

BY EMAIL

Re: Western Springs Forest Resource Consent – request to stop implementation or to pause implementation while key steps including tree survey and risk assessment and community consultation takes place

Dear Chair,

We are writing to provide updated information to the Waitemata Local Board and to again request that it cancel implementation of the resource consent concerning Western Springs Forest (“WS Forest”) or alternatively makes a decision to pause the implementation of the resource consent while a tree survey and risk assessment of the WS Forest is conducted, and that this survey and risk assessment must meet industry standards. Please find **enclosed**:

1. Risk Assessment Arborist Report by Craig Webb, consultant arborist regarding the Western Springs Forest – using Quantified Tree Risk Assessment (“QTRA”) and (“TRAQ”) methods, dated 12 December 2019;
2. Letter from Stacy Colyer, Greenscene NZ dated 14 April 2016 concerning the fire risk of leaving pine debris in the WS Forest;
3. Letter from Brent Rice, SafeWork NZ dated 21 October 2019 (previously provided to the WLB);
4. Photographs of fire risk in WS Forest – fire damaged trees and eco-pile;
5. Western Springs Native Bush Restoration Project File No.: CP2015/20192 File No.: CP2015/20192 (previously provided to the WLB);
6. Minutes of Waitemata Local Board dated 13 October 2015 regarding Western Springs Native Bush Restoration Project, Resolution Number WTM/2015/161; and
7. Copy of Briefing Paper to the WLB by Friends of Western Springs Forest as a deputation to the Waitemata Local Board on Tuesday 3 December 2019 (this is fully endorsed by the Society for the Protection of Western Springs Forest).

Quantified Tree Risk Assessment report by Craig Webb

Mr Webb is a highly regarded consultant arborist who is a member of NZArb, the New Zealand Arboricultural Association. Mr Webb presented a key seminar at the recent 2018 NZArb Conference on report writing and was part of the NZArb Committee organising their recent 2019 conference.

Mr Webb has prepared a risk assessment report on the WS Forest. He has followed industry standards and provided an assessment using the QTRA method (Quantified Tree Risk Assessment) as well as TRAQ. The WLB will be aware that QTRA is the assessment method used by the expert arborists involved with managing the Auckland Domain transitioning forest with 200+ ageing oak trees – a highly comparable forest to WS Forest.

You will see from Mr Webb’s expert report that he has provided quantified risk ratings for the trees he assessed that were close to targets, such as property and the pathway. The industry standard is to consider a risk ‘tolerable’ at 1/10,000 or less (and this is used in the Auckland Domain). However, Mr Webb considered that even a conservative risk rating for the Western Springs trees was 1/30,000 or less. Mr Webb sees no need to remove any of the pine trees for safety reasons. Some of them require management (such as pruning) but there is certainly no basis to find that this is a forest which poses a risk to the public, and it is clear that there is no basis for full stand removal based on safety grounds.

Fire risk in Western Springs Forest

We also provide a letter from Stacy Colyer, Greenscene NZ dated 14 April 2016 (one of the Auckland Council expert arborists) regarding the Western Springs Forest considering various removal options. You will note that Mr Colyer

considered the pine trees being dismantled with eco-piles and wood left on site and was concerned about a “sizeable fire risk”. Mr Colyer states:

“...I am of the option that the proposed method of getting the trees on the ground...would cause significant damage to the existing native vegetative understory throughout the site. I am also of the opinion that **the amount of debris created from dismantling an estimated 200+ pine trees growing within the subject site would be staggering. It is also reasonable to suggest that leaving this amount of debris (stacked in eco piles or not) would present a sizeable fire risk as the resulting debris dries out.**” (emphasis added)

A sizeable fire risk will be created by the current resource consent as all timber will be left on the ground – nearly 6 linear km of trunks from the dismantled pine trees (over 200 pine trees which are between 30-40m high). The Society raised concerns about the fire risk created by the proposed resource consent both during the resource consent process and mediation process – these concerns have never been addressed by Auckland Council. There is a recent history of fires being lit in the Western Springs Forest – Tree #2099 and its two neighbours (photos enclosed). There are currently eco-piles in the north-west of the site and there is a real concern about the fire risk already posed by these, let alone were these to be massively added to.

The current resource conditions mean that all of the pine trees will remain on the ground in the WS Forest, thereby creating a fire risk. Although full stand removal is opposed by the Society, it is noted that helicopter removal of the trees would not cause such a fire risk – yet helicopter removal of the pine stand has never been considered by the WLB. This option was not presented during the resource consent process nor to the WLB by officers, due to a rigid mindset of Auckland Council officers and their experts which is only the current resource consent approach – which has been clearly shown as flawed¹.

Health and safety assessment of WS Forest

We are aware the Local Board received a briefing on health and safety matters from officials and legal representatives at a workshop on 10 December 2019. We understand that the WLB was advised that they had no choice but to accept advice of officials regarding their health and safety assessment under the Health and Safety at Work Act. **Such advice, if given, is incorrect.**

The Local Board can and must make its own independent decision about the implementation of the resource consent. The WLB cannot effectively be railroaded into the implementation of the resource consent because it is asserted by Auckland Council officers (or lawyers) that there is a health and safety assessment or concern that has been made by Council officers. To extend this logic would mean that officials could trump any decision of the WLB by asserting a health and safety issue, even if there was no health and safety issue. This cannot be the case.

The WLB must ensure that it is making decisions based on evidence and correct factual information. The WLB is entitled to challenge advice officers (and lawyers), to ask for a second opinion or to request further information – in fact it must do so to ensure that decisions are based upon sound grounds. This extends to decisions and advice by officers (and lawyers) about health and safety. If officials are purporting to give advice about a hazard and consequent health and safety obligations, then the hazard must be properly identified – and based upon credible information.

To date, there is no evidence or credible information to show there is a hazard posed by the WS Forest, other than unsubstantiated opinions by an expert retained by Auckland Council who has not followed recognised industry standards. The WLB is on notice of this, and to state or consider that you are bound by official advice concerning health and safety amounts to fettering your discretion, which is not legally permissible – this is a well-known public and administrative law principle.

The Society has provided information to the WLB to show that **5 arborists** who reviewed the Western Springs Forest (a sample number of trees) all agreed that the Western Springs Forest **required further assessment** – these arborists included Mr Collett and Mr Colyer (information provided to the WLB on 11 December 2019 by email).

The Society has provided ample evidence and information to the WLB to show that Auckland Council officers have failed to carry out acceptable arboricultural risk assessments of the pine stand. Any health and safety assessments made by officers therefore have no credible or reliable basis and can and must be challenged by WLB members. At

¹ Of note in the Western Springs Native Bush Restoration Project File No.: CP2015/20192 is that it expressly states that pine tree removal could be staged and that helicopter removal could be employed– refer Document 5, paragraph 16.

the very least, the WLB should require a risk assessment of Western Springs Forest which complies with arboricultural industry standards.

The WLB would be wrong in law to consider itself bound to accept the advice of the Auckland Council officers about any purported hazard or health and safety issues concerning the Western Springs Forest given you are on notice of the deficit of credible information and you have been provided highly credible expert information which gives the opposite assessment to Auckland Council officers and staff (including lawyers). Furthermore, the expert information provided by the Society is based upon recognised industry tree risk assessment standards (ISA and QTRA risk assessment methods).

WLB Resolution of 13 October 2015 – Native Bush Restoration Project

It is important to note some important points about Resolution Number WTM/2015/161 passed by the WLB on 13 October 2015 which referred to the Western Springs Native Bush Restoration Project. Included in the agenda for Resolution Number WTM/2015/161 was the “Western Springs Native Bush Restoration Project File No: CP2015/20192 File No.: CP2015/20192” and a work plan prepared by Wildlands (“WSF Project Proposal”).

The WSF Project Proposal sets out that there was to be full consultation with the community about the Western Springs Native Bush Restoration Project. The WSF Project Proposal states there was to be a consultation plan:

21. A preliminary consultation plan for informing neighbouring residents, park users and the general public is currently being developed. A combination of on-site signage, letter drops, media releases and possibly public meetings, will ensure that the public using and living near the park will be fully informed and have opportunity to comment prior to any work taking place.

This consultation plan has never been developed by the WLB, in clear breach of Resolution WTM/2015/161. There has never been consultation of the neighbouring residents, park users or the public. Such consultation would have to include identification of all reasonably practicable options for the achievement of the objective of a decision; and assess the options in terms of their advantages and disadvantages (section 77 Local Government Act). However, this has never occurred which means the WLB is in breach of Resolution WTM/2015/161.

The closest that residents and the community have got to consultation about the management and future of the WS Forest is to try and stop the resource consent sought and obtained for the WS Forest. This does not amount to consultation as this engagement has never considered identification of all reasonably practical options for the WS Forest, including a low intervention management approach based on recognition of its inherent character as a transitioning mixed forest with an exotic pine canopy and a native subcanopy.

Request

We therefore request the WLB to:

1. Rescind Resolution Number WTM/2015/161 concerning the Western Springs Native Bush Restoration Project dated 13 October 2015 as it is based upon incorrect arboricultural information, making it clear that implementation of resource consent concerning WS Forest should cease.
2. Work with Auckland Council officers, the community and affected residents, mana whenua, iwi and tangata whenua on a forest management plan, based upon a low intervention management approach in recognition of its inherent character as a transitioning mixed forest with an exotic pine canopy and a native subcanopy.
3. Direct officials to carry out a climate impact assessment on various options of managing WS Forest.

In the alternative

4. Pass a resolution to pause implementation of the resource consent at least until an industry standard risk assessment of the pine stand of Western Springs Forest is conducted. This risk assessment of the full stand must follow either the ISA or QTRA tree risk assessment method (as followed by the New Zealand Arborist Society) which is consistent with the Auckland Unitary Plan, Chapter E16. Trees in Open Space Zones and as is being used in the management of the Auckland Domain.
5. As part of the above resolution, require the full stand tree risk assessment of WS Forest to be conducted by an external and independent arboricultural consultant and given the controversy to date over the WS Forest, be peer reviewed also by an independent arboricultural consultant.
6. Obtain independent legal advice regarding health and safety obligations concerning Western Springs Forest including new hazards generated by the felling such as fire risk.

7. Initiate community engagement and consultation as required in Resolution Number WTM/2015/161 and consistent with the Local Government Act.
8. Ensure consultation with all mana whenua, iwi and tangata whenua who have an interest or traditional or cultural associations with the WS Forest, and that such consultation includes all expert advice available to the WLB, including expert reports obtained by the community and affected residents.
9. Direct officials to carry out a climate impact assessment on various options of managing WS Forest.

And furthermore

10. Provide under urgency a copy of all information provided to the WLB concerning the Western Springs Forest during November and December 2019. This information is requested on natural justice grounds to allow the Society to comment on any contestable information which has been provided to the WLB concerning the WS Forest. To be complete, this request is made under LGOIMA.

The Society remains committed to working constructively with the WLB. It is concerned that Auckland Council officers are trying to force an agenda through the WLB of full stand removal citing health and safety concerns, when they have no proper basis to do so. We are also concerned that WLB members appear to think that they have no say when Auckland Council officers assert health and safety concerns about the WS Forest. We consider the WLB needs to urgently obtain independent legal advice in order to better understand their role, function and powers when it comes to the advice they are receiving from their officers.

We ask for the opportunity to present to the WLB **along with** Auckland Council officers so that you may hear and receive information from both sides, and that the Society is able to respond to information being provided by Auckland Council officers. Currently, the process is not transparent and we are concerned that the decision-making concerning the WS Forest by the WLB is susceptible to challenge as it is not abiding by principles of natural justice and it is not following administrative law principles, as set out above.

We appreciate this is a challenging situation. However, this situation has been brought about due to a fixed mindset of Auckland Council officers (and experts) who have developed a rigid agenda of only considering a full stand removal of the WS Forest. Certain Auckland Council staff members seem to take this issue personally, which is both inappropriate and unhelpful.

Officers at Auckland Council Community Facilities (and through their legal advisors) have refused to engage on this issue to explore alternatives in the management of WS Forest. Officers have persisted in peddling unreliable information about the safety and condition of the pine stand in the resource consent process, the Environment Court process and to the WLB. We consider that Auckland Council officers have not acted in good faith on this matter, which is not something we say lightly. We have said this squarely to the Auckland Council and their legal team during the mediation process and we say it again here.

We ask that the WLB take the actions set out above. There is sufficient information to show that the advice provided by officers to date is unreliable. The WLB should challenge this information and represent the interests and expectations of the community.

In our era of climate change and existential biodiversity decline, in a city which has suffered huge tree loss in recent years, we must avoid strategies which unnecessarily destroy mature trees, cause ecological harm, and risk fire. In particular if they are predicated on unfounded fears of safety.

Yours faithfully,

Steve Abel
Secretary
Society for the Protection of Western Springs Forest