

TO: Members of Hamilton City Council

FROM: Marianne Hoffmann, [REDACTED] Carlisle

DATE: May 10, 2025

RE: Formal Notice of Fiduciary Failure and Circumvention of Public Safety Safeguards – Tower Park Water Tower Project

Dear Council Members,

Let me begin with clarity:

We are not opposing the need for a water tower. That is a separate discussion—one that should be had openly, with the Carlisle community, and the City, based on facts, options, and environmental responsibility.

The problem is the location.

What we are objecting to, and putting you on formal notice for is:

the deliberate circumvention of safeguards designed to protect drinking water, residential safety, and lawful public oversight. The project as approved is fundamentally unsafe, legally flawed, and strategically indefensible. The site you selected is within metres of active municipal wells, surrounded by homes, and zoned for passive parkland—not industrial infrastructure.

This is not about opposing growth. It's about **how you chose to proceed**—with false zoning claims, a misrepresented project scope, and a complete absence of consultation with the people most at risk.

How could any of you even imagine authorizing a massive construction site atop one of the most sensitive and vulnerable wellhead zones in all of Ontario?

Carlisle's groundwater vulnerability is not speculation—it's confirmed by your own City documents, and by the Halton-Hamilton Source Protection Plan. The municipal wellheads at this site tap directly into a **shallow bedrock aquifer**, overlain by thin, permeable soil. These wells lie within a **WHPA-A zone**, with a **vulnerability score of 10**—the highest level of risk classification under the Clean Water Act.

In fact, Hamilton's own consultants used a **calibrated groundwater flow model** to define this risk. The model showed that **surface contamination could reach the wellheads in minutes**, not days, due to the direct subsurface pathways and overlapping wellhead zones.

In Guelph—a city with similar karstic limestone and groundwater vulnerabilities—no such *planned tower* would ever be permitted in a WHPA-A without a full Schedule C Environmental Assessment and Risk Management Plan. And yet here, in Carlisle, your administration is treating this as routine.

You approved a project you didn't understand.

Every member of Council voted for the by-law authorizing construction in Tower Park. But it is now clear you were misinformed, and that by voting in favour, **you fell short of your fiduciary responsibility.**

- You were told this was a simple infrastructure upgrade. It is not.
- You were told the site was zoned S1. It is not. It is legally zoned **P1 – Neighbourhood Park**, and that designation imposes clear restrictions on height, footprint, and use.
- You were told the project did not require a Schedule C Environmental Assessment. But your own **engineering consultants** advised the opposite. The report stated:

“The site is located in a WHPA-A and B. This introduces additional constraints and may trigger regulatory review. Depending on the level of disturbance and construction scope, this project may be better suited to a full Schedule C process.”

— Hydraulic Modelling Technical Memo, Appendix 3, City of Hamilton Project File Report (2023)

You approved construction inside a WHPA-A drinking water protection zone.

Recent analysis using Google Earth and city overlays proves that the **foundation of the planned tower is 24–35 metres from the active municipal wellheads**—well within the 100-metre exclusion zone defined under Ontario's **Clean Water Act**.

Worse, your own staff authorized **grading, crane staging, excavation, and concrete pouring within 5–10 metres of those same wellheads** last week—without informing the public, posting warnings, or demonstrating compliance with Section 58 or 59 of the Act. Residents observed construction equipment parked directly atop the WHPA-A zone with **no signage, no environmental controls, and no oversight.**

This is not theoretical. It happened last week. You have already breached the protection zone.

And if you allow further grading to proceed—without knowing how it may alter sub-surface flow or destabilize the sensitive aquifer—you may cause irreparable damage not just to the project, but to the drinking water supply of the entire Carlisle community.

You are now on formal notice.

You cannot claim ignorance. The evidence is before you:

- A P1-zoned site falsely labeled S1
- A major construction footprint misrepresented as “maintenance”

- Engineering reports warning of Schedule C obligations
- Construction activity within 10 metres of drinking water wells
- No Risk Management Plan filed
- No Indigenous consultation
- No public notification
- And no meaningful engagement with the families who live 20–30 metres from the site

This is a complete breakdown of procedural integrity.

Legal violations are only half the story.

This letter addresses the **legal and procedural failures** behind your approval of the Tower Park water project. But the **real-world consequences of your decisions**—to health, human rights, child development, biodiversity, and long-term land safety—are far more serious.

Each of the following is being filed or prepared as a **formal complaint, brief, or tribunal submission**:

- **Environmental Safety and Wildlife Breach (P7/P6 Buffer Violation)** – Failure to apply the required 120m buffer between the proposed tower site and sensitive ecological zones under provincial environmental planning rules.
- **Ontario Human Rights Tribunal (OHRT) Complaint** – Impacts on individuals with autism and other disabilities due to chronic construction noise, forced displacement, and loss of safe park space.
- **Infant & Child Health Risk Brief** – Documented evidence shows that **prolonged exposure to construction noise above 50–60 dB** can negatively impact infants and young children. Studies have found:
 - **50 dB**: Recommended maximum during infant sleep; higher levels may interfere with neurodevelopment.
(Source: www.publications.aap.org/pediatrics/article/133/4/677/32749)
 - **60 dB**: Chronic exposure above this level may begin to impact auditory development in children.
(Source: www.ceenta.com/news-blog/how-loud-is-too-loud-for-my-baby)
 - **70 dB**: Long-term exposure linked to auditory damage, attention difficulties, and language delay.
(Source: www.healthychildren.org/English/news/Pages/sounds-the-alarm-on-excessive-noise-and-risks-to-children.aspx)

- **85 dB:** Formerly considered an occupational safety limit; now flagged by pediatric experts as unsafe for children over moderate durations.

(Source: www.publications.aap.org/pediatrics/article/152/5/e2023063753/194472)

These thresholds are far below the **90+ dB construction noise levels** anticipated by the City's own documentation. Children living within 50 metres of the planned tower will face daily exposure during excavation, crane work, and diesel staging. This poses a serious risk to child health, speech development, and long-term wellbeing.

- **Clean Water Act Enforcement Request (MECP)** – Based on confirmed WHPA-A violations and illegal construction activity within a 100m exclusion zone.
- **Ombudsman Oversight Request** – To act as an intermediary due to broken trust, and to investigate administrative and procedural misconduct by City officials and Council.
- **Petition Submission and Zoning Challenge** – Supported by residents and land-use maps, disputing the City's claims regarding zoning, parcel ownership, and public notification.

These are not threats. They are the inevitable response to your failure to uphold the law, protect the community, or consult those most affected.

Your duty going forward

We are calling on you to take immediate and lawful action:

1. **Immediately pause all construction and staging activity at Tower Park and formally commit that no further approvals, tenders, or contracts will be issued or finalized until all legal, environmental, and zoning concerns raised in this letter are fully resolved.**
2. Revoke the project's MCEA exemption and reclassify it as a Schedule C undertaking, as recommended by your own consultants.
3. Investigate the zoning misrepresentation and approval process, including how a P1-zoned site was treated as S1.
4. Disclose all internal communications, planning documents, and legal reviews related to exemption classification, Schedule C obligations, and WHPA-A risks.
5. Hold a public meeting in Carlisle to explain how this decision was made and to hear directly from affected residents.
6. Be fully transparent with the entire community by:
 - Posting project updates, maps, and contact information on the park's public notice board;
 - Creating and maintaining a public email list for residents who wish to receive timely updates;

– Sending a formal Notice of Intent by registered mail to all impacted municipal addresses within the surrounding area.

Respectfully,

Marianne Hoffmann

[REDACTED], Carlisle

Google Earth Pro – Red circles represent a 100m radius around the Wellheads in WHPA-A-10
Rough work anchoring the plan to google – using wellheads _ Aspect ratio preserved

NOTE: ALL OF THE CITY'S LAND (S1) AND (P1) IS WITHIN 100m of the Wellheads -a breach of the OSWA



