

**BEFORE THE WAIPĀ DISTRICT COUNCIL**

**IN THE MATTER** of the Resource Management Act 1991

**AND**

**IN THE MATTER** of Proposed Plan Change 20 – Airport Northern  
Precinct Extension to the Operative Waipā  
District Plan

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**SUMMARY STATEMENT OF EVIDENCE OF BEN MAXWELL INGER**

**PLANNING (ECOLOGY TOPIC)**

**14 MARCH 2023**

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## **INTRODUCTION**

### **Qualifications and experience**

1. My name is Ben Inger. I am a Senior Planner and Director at Monocle in Hamilton. My qualifications and experience are set out in my Evidence in Chief dated 28 February 2023. I also prepared rebuttal evidence dated 10 March 2023.
2. My evidence does not purport to repeat the same statutory planning analysis as that prepared by Mr Grala and instead is focussed on the planning aspects associated with ecology, including the long-tailed bat.

### **Ecological values**

3. The ecological assessments which have been undertaken for the Plan Change request conclude that the PC20 site has low ecological values for vegetation, native lizards, avifauna and freshwater. The PC20 site contains habitat for the Threatened – Nationally Critical long-tailed bat which has been assessed as being of low to moderate value. There are some high value habitats for long-tailed bats in the area around the PC20 site. Management of effects on long-tailed bat habitat values is therefore an important consideration for PC20.

### **Waipa District Plan**

4. Approximately 41ha of the PC20 site is zoned Airport Business under the WDP, with the remaining approximately 89ha zoned Rural. There are currently no resource consent assessment matters for development of the 41ha Northern Precinct which require or enable consideration of ecological effects.
5. There are no SNAs, bush stands or biodiversity corridors identified on the PC20 site under the WDP. Removal of indigenous and non-indigenous vegetation within the PC20 site is currently a Permitted Activity.
6. In anticipation that there will be residual adverse effects requiring offsetting or compensation because of PC20, TPL has recently entered into a conditional agreement to purchase an 11ha property which is located approximately 500m north-west of the PC20 site between the Waikato River and Raynes Road. Most of the proposed compensation site is located within a 750m wide biodiversity corridor along the Waikato River which is mapped in the WDP. The biodiversity corridor is a location where the WDP seeks to maintain and enhance connectivity and habitat of indigenous fauna and incentivise permanent protection.

7. The WDP refers to the Airport area as the Hamilton Airport Strategic Node and to land surrounding the Airport as a scarce and valuable resource which needs to be efficiently and effectively used.

### **Higher order policy provisions**

8. My EIC refers to the Vision and Strategy for the Waikato River (Te Ture Whaimana o Te Awa o Waikato), the NPS-FM and the WRPS as the higher order policy provisions that I consider to be particularly relevant to ecological matters for PC20.
9. This summary statement focuses on the WRPS given its relevance to the approach to managing effects on long-tailed bat habitat and because there is some disagreement from DOC's experts as to whether PC20 gives effect to it (as required by s75(3)(c) RMA).
10. Criteria for determining significance of indigenous biodiversity are contained in APP5 of the WRPS. The criteria are referred to in the assessments contained in Ms Cummings' and Mr Markham's evidence where they conclude that there are no 'significant' habitats within the PC20 site.
11. The objective for the ecosystems and indigenous biodiversity topic in the WRPS is ECO-O1 (Ecological integrity and indigenous biodiversity):  
  
*"The full range of ecosystem types, their extent and the indigenous biodiversity that those ecosystems can support exist in a healthy and functional state".*
12. Principal reason ECO-PR1 (Maintain or enhance indigenous biodiversity) assists in explaining the different approaches to 'significant' and 'non-significant' areas in Methods ECO-M3 and ECO-M13. It includes the following explanation:  
  
*"No net loss of indigenous biodiversity is to be achieved at a regional scale and does not create a no adverse effects regime. Some activities may result in a loss of indigenous biodiversity; however this will be countered by other regulatory and non-regulatory methods that result in positive indigenous biodiversity outcomes. For non-significant indigenous biodiversity ECO-M3 seeks that district and regional plans avoid, remedy or mitigate adverse effects first, before promoting offsetting. ECO-M3 provides a more flexible approach to offsetting and no net loss than ECO-M13 which applies to areas of significant indigenous biodiversity".*
13. For non-significant indigenous biodiversity, Method ECO-M3 requires that *"where loss or degradation of indigenous biodiversity is authorised adverse effects are avoided,*

*remedied or mitigated (whether by onsite or offsite methods)” and that biodiversity offsets should be promoted “as a means to achieve no net loss of indigenous biodiversity where significant residual adverse effects are unable to be avoided, remedied or mitigated”.*

14. For significant indigenous biodiversity, Method ECO-M13 applies. The required effects management response is in clauses (2) to (4) which state:  
  
*“2. require that activities avoid the loss or degradation of areas of significant indigenous vegetation and significant habitats of indigenous fauna in preference to remediation or mitigation.*  
*3. require any unavoidable adverse effects on areas of significant indigenous vegetation and significant habitats of indigenous fauna are remedied or mitigated.*  
*4. where any adverse effects are unable to be avoided, remedied or mitigated in accordance with (2) and (3), more than minor residual adverse effects shall be offset to achieve no net loss”.*
15. Clause 2 is not an unqualified avoidance directive. There is also no requirement for avoidance to be exhausted as has been suggested by Mr Gooding for DOC.
16. Key policies which these methods relate to are Policy ECO-P1 which is relevant to all indigenous biodiversity and Policy ECO-P2 which is relevant to indigenous biodiversity which is significant. ECO-P1 seeks to *“Promote positive biodiversity outcomes and maintain or enhance their spatial extent as necessary to achieve health ecological functioning of ecosystems...”*<sup>1</sup>. ECO-P2 requires significant habitats of indigenous fauna to be protected by ensuring the characteristics that contribute to its significance are not adversely affected to the extent that the significance of the habitat is reduced.
17. Objective UFD-O1 in the urban form and development topic seeks to ensure that development of the built environment occurs in an integrated, sustainable and planned manner which enables positive environmental, social, cultural and economic outcomes. The objective lists a broad range of eleven matters, one of which is promoting positive indigenous biodiversity outcomes. Another matter is providing for a range of commercial development to support the social and economic wellbeing of the region.
18. Policy UFD-P11 refers to the development principles in APP11 of the WRPS, one of which is:

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<sup>1</sup> The policy goes on to identify 10 matters which are of particular focus.

*“k. promote positive indigenous biodiversity outcomes and protect significant indigenous vegetation and significant habitats of indigenous fauna. Development which can enhance ecological integrity, such as by improving the maintenance, enhancement or development of ecological corridors, should be encouraged;*

19. Policy UFD-P11 relates to adopting the Future Proof land use pattern. It requires that new industrial development should predominantly be located in the Strategic Industrial Nodes in Table 35 (APP12) and in accordance with the indicative timings in that table. The Airport is identified as a Strategic Industrial Node.
20. Policy IM-P1 in the integrated management overview of the WRPS requires an integrated approach to resource management to be adopted. The policy refers to the benefits of aligning decisions across boundaries and to maximising opportunities to achieve multiple objectives. Method IM-M9, which is associated with policy IM-P1, relates to off-site mitigation of adverse effects. It lists priorities for restoration or enhancement as possible alternatives to on-site mitigation in situations where it is not appropriate or practical to mitigate the adverse effects of an activity on-site.

#### **PC20 Amended Provisions**

21. Changes are proposed to the notified PC20 provisions to significantly tighten the requirements for the management of effects on the habitat of long-tailed bats.
22. The changes include the identification of BHAs on the Airport Business Zone Structure Plan totalling approximately 4.95ha. The BHAs are areas of the PC20 site identified by Ms Cummings as being amongst the highest value habitats for long-tailed bats and that provide the best opportunities for protection and enhancement. The BHAs include a grouping of trees within the ‘Hub’ surrounded by a 20m buffer and a 50m wide corridor centred on a tree row extending west towards Middle Road.
23. Other proposed changes to Sections 10, 15 and 21 and Appendix S10 of the WDP include:
  - (a) A new Resource Management Issue which refers to the need to recognise and provide for the protection of identified areas of bat habitat.
  - (b) A new Policy 10.3.2.2A which describes the required approach for managing effects on long-tailed bat habitat values, including reference to BHAs as areas where more than minor adverse effects must be avoided. The policy is now proposed to read as follows:

*“10.3.2.2A To maintain or enhance significant long-tailed bat habitat values by:*

- (a) providing Bat Habitat Areas for long-tailed bats within the Northern Precinct;*
- (b) controlling the location of buildings adjacent to Bat Habitat Areas;*
- (c) minimising light spill into Bat Habitat Areas;*
- (d) requiring the preparation and implementation of an Ecological Management Plan as part of development to:
  - i. avoid more than minor adverse effects on long-tailed bat habitat values within Bat Habitat Areas;*
  - ii. avoid or mitigate more than minor adverse effects on long-tailed bat habitat values outside of Bat Habitat Areas; and*
  - iii. where any adverse effects on long-tailed bat habitat values are unable to be avoided or mitigated, ensure that any more than minor residual effects are offset or compensated to achieve no net loss.”**

(c) Vegetation trimming, pruning and removal rules.

(d) A rule requiring a 5m minimum building setback from BHAs.

(e) A rule for controlling lighting in and near BHAs (including light spill).

(f) A rule requiring an EMP and BMP (a sub-plan). Although the notified PC20 provisions included a requirement for an EMP and BMP to accompany resource consent applications for development of the Northern Precinct, substantial changes are proposed to Rule 10.4.2.14B in the amended provisions to make the requirements clearer and more comprehensive.

(g) New ecological assessment criteria specific to the Northern Precinct which are contained in Section 21.1.10.18A and Section 21.1.10.21.

24. The amended provisions go significantly further than the existing provisions that apply to the 41ha of land that is zoned Airport Business Zone within the Northern Precinct, which do not require or enable consideration of ecological effects at all. The amended provisions also impose a much higher threshold for management of ecological effects than any other provisions applying to urban development under the WDP.

25. I consider that the amended provisions for PC20 will give effect to the WRPS provisions, including the key WRPS provisions which I have broadly summarised above. For the

PC20 site, I remain of the view that the relevant provisions in the WRPS are those that relate to non-significant biodiversity because Ms Cummings and Mr Markham have concluded that the PC20 site is not significant in terms of the criteria in APP5. The protection of significant habitats of indigenous fauna outside of the PC20 site will be achieved by providing appropriate habitat connectivity through the identification and protection of BHAs within the PC20 site and through the intended enhancement of the proposed compensation site.

### **Rebuttal evidence**

26. I provided rebuttal evidence in response to Ms Thurley and Mr Gooding for DOC, Ms Andrews for WRC and Mr Govender for HCC.
27. I agreed with several changes suggested by Mr Gooding and one change suggested by Ms Andrews which have been incorporated into the updated PC20 provisions in Annexure 1 of Mr Grala's rebuttal evidence. With those changes made, my understanding is that the amended provisions (i.e. the text in the WDP) are generally agreed by the planning experts, with one exception in the case of Mr Gooding which relates to a discrete change that he suggests to Policy 10.3.2.2A to insert the word "functional".
28. The key differences of opinion appear to be:
  - (a) Ms Thurley's opinion that the entire PC20 site (except areas with buildings) is 'significant' under the WRPS;
  - (b) DOC's experts consider that more habitat should be protected within the PC20 site, that opportunities to mitigate and remedy effects within the PC20 site should be maximised and that more offsite compensation should be provided to work toward a no net loss outcome; and
  - (c) Mr Gooding considers that mapping of a SNA on the PC20 site is required.
29. Neither Mr Gooding nor Ms Thurley have provided any evidence which identifies the additional areas of the PC20 site that they consider should be protected as BHAs. They are also unclear as to what part of the PC20 site they consider should be mapped as a SNA. Mr Gooding has not provided an assessment of how the further loss of developable land within a Strategic Industrial Node would accord with other provisions in the WRPS.

30. Even in the event that the Hearing Panel were to determine that some or all of the PC20 site is 'significant' under the WRPS, I do not consider this to be a fatal flaw for PC20 because the proposed approach and the provisions in PC20 would still give effect to the WRPS.
31. I note that Ms Cummings' view is that the proposed approach to effects management for PC20 is appropriate and will provide a superior outcome for long-tailed bats compared to minimisation of habitat fragmentation on-site.

### **Conclusion**

32. The potential ecological effects arising from PC20 can be managed through the application of the amended provisions in the WDP. PC20 will give effect to relevant National Policy Statements and the WRPS and will be consistent with the Vision and Strategy for the Waikato River.
33. The Section 42A Report recommends that PC20 be approved and accepts the amended provisions in full with respect to ecology matters.
34. I consider that PC20 appropriately addresses ecological matters and that it is appropriate for the Plan Change request to be approved.

**Ben Inger**  
14 March 2023