

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

**AND**

**IN THE MATTER** of a hearing for Proposed Private Plan Change 20 -  
Airport Northern Precinct Extension to the  
Operative Waipā District Plan

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**STATEMENT OF EVIDENCE OF KATRINA ROSE ANDREWS**

**For the Waikato Regional Council**

**PLANNING (EXCLUDING TRANSPORT)**

**DATED 7 MARCH 2023**

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## **INTRODUCTION**

1. My name is Katrina Rose Andrews. I am a Policy Advisor in the Strategic and Spatial Planning Team at the Waikato Regional Council (WRC). I have been in this role since August 2022.
2. I hold a Bachelor of Environmental Planning from the University of Waikato and am an Intermediate Member of the New Zealand Planning Institute. I have over four years' experience in resource management planning within the Waikato region.
3. As a member of the Strategic and Spatial Planning Team for WRC I am involved in implementing the Waikato Regional Policy Statement (WRPS) and working with the territorial authorities of the Waikato region and with neighbouring regional councils to assist in the development of consistent integrated regional policy. This includes preparing submissions and planning evidence in relation to district plan changes.
4. I am also part of the project team for Proposed Change 1 to the Waikato Regional Policy Statement – National Policy Statement on Urban Development 2020 and Future Proof Strategy update, which updates the WRPS to give effect to the National Policy Statement on Urban Development 2020.
5. Previous to my role at WRC, I was a resource consents planner at the Waikato District Council. This role involved processing a range of applications for land use and subdivision consent under the Resource Management Act 1991 and providing planning guidance to customers on development proposals.
6. I confirm that I am familiar with the Code of Conduct for Expert Witnesses as set out in the Environment Court Practice Note 2023. I have read and agree to comply with the Code. Except where I state that I am relying upon the specified evidence or advice of another person, my statement is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

## **SCOPE OF EVIDENCE**

7. My statement of evidence is given on behalf of WRC. My statement reinforces the WRC staff submission to Proposed Private Plan Change 20 (PPC20) and reflects my professional opinions as a resource management policy advisor. I also rely on the opinions of Julie Hansen, Senior Policy Advisor – Transport and Infrastructure, in relation to transport policy matters as set out in her statement of evidence.<sup>1</sup>
8. The submission made by WRC staff addressed alignment of the proposed plan change with the WRPS and Future Proof Strategy, high class soils/highly productive land, bats and bat habitat, transport, and climate change considerations.

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<sup>1</sup> Statement of Evidence of Julie Hansen, 7 March 2023, in the matter of a hearing for Proposed Private Plan Change 20 – Airport Northern Precinct Extension to the Operative Waipā District Plan.

9. My statement of evidence relates to all planning aspects of PPC20, except for those relating to transport, which are addressed by Ms Hansen in her statement of evidence. I support the conclusions and recommendations of Ms Hansen and do not intend to repeat them within this statement.
10. My evidence focuses on the following in relation to PPC20:
- The National Policy Statement for Highly Productive Land 2022.
  - Proposed Change 1 - National Policy Statement on Urban Development 2020 and Future Proof Strategy update to the WRPS.
  - Provision for non-ancillary retail.
  - Bats and bat habitat.
11. In preparing this statement of evidence I have read the Plan Change Request and supporting documents, Joint Witness Statements from the expert conferencing sessions for PPC20, Section 42A report and the relevant statements of evidence of the plan change applicants' experts. My assessments are based on this information, along with higher-order policy documents, including the WRPS. Where I have relied on other documents or information, this is referenced within my evidence.
12. I note that where I refer to the plan change provisions, I refer to the amended provisions as set out in Appendices 1a to 1d to the Section 42A report.
13. I attended the expert conferencing sessions on Ecology & Bat Habitat on 8 February 2023 and Economics & Retailing on 9 February 2023, and signed the Joint Witness Statement (JWS) produced at each of these sessions.
14. My evidence focuses on aspects of PPC20 that I consider to still be outstanding, or where I disagree with the conclusions reached in the Section 42A report or statements of evidence for the applicants, with reference to the WRC staff submission to PPC20.
15. I note that due to the way in which the WRC staff submission was summarised by Waipā District Council (WDC), some details are not captured in the Summary of Decisions Requested for PPC20. Therefore, to clarify, where I refer to the WRC staff submission, I am referring to the full submission as published on the WDC website.<sup>2</sup>
16. I generally consider that other aspects of PPC20 not addressed within this statement of evidence or that of Ms Hansen do give effect to the WRPS.

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<sup>2</sup> Submission from Waikato Regional Council on Proposed Private Plan Change 20 – Airport Northern Precinct Extension to the Waipā District Plan, dated 27 October 2022. [Policy Advisor \(waipadcc.govt.nz\)](https://www.waipadcc.govt.nz/policy-advisor)

## SUMMARY OF EVIDENCE

17. The WRC staff submission addressed alignment of PPC20 with the WRPS and national policy direction.
18. I acknowledge the efforts of the applicants to address matters raised in the WRC staff submission. My evidence focuses on aspects of the plan change that I consider to still be outstanding, with reference to the submission. I do not address aspects of the Section 42A report that I agree with in my evidence.
19. My recommendations relate to:
  - The assessment of PPC20 against the National Policy Statement for Highly Productive Land 2022 (NPS-HPL).
  - The assessment of PPC20 against Proposed Change 1 - National Policy Statement on Urban Development 2020 and Future Proof Strategy update (Proposed Change 1) to the WRPS.
  - Proposed plan provisions relating to non-ancillary retail activities.
  - The proposed Structure Plan and amended provisions relating to long-tailed bats and their habitat.
20. I consider that further evidence is required in order to complete a robust assessment of PPC20 against the NPS-HPL.
21. WRC has recently prepared Proposed Change 1 to the WRPS to give effect to the National Policy Statement on Urban Development 2020 (NPS-UD) and reflect the updated Future Proof Strategy. Under section 74(2)(a) of the Resource Management Act 1991 (RMA), a territorial authority shall 'have regard to' any proposed regional policy statement when changing a district plan.
22. I recommend amendments to the proposed provisions relating to non-ancillary retail activities to ensure an efficient use of industrial land and ensure that the rule framework achieves the desired outcomes.
23. I consider that the amended provisions are a significant improvement in relation to providing for bats compared to the notified version of PPC20 and that the amended wording generally aligns with the WRPS. However, based on my experience in expert conferencing, I consider there are some remaining uncertainties around the proposed Bat Habitat Area (BHA).
24. I recommend an amendment to the proposed Structure Plan to clarify the relationship between the BHA and the Hub.
25. My recommendations seek to give effect to the WRPS and national policy statements, and ensure alignment between the proposed Structure Plan, policies, and rule framework for the Airport Northern Precinct.

## HIGHLY PRODUCTIVE LAND

### National Policy Statement for Highly Productive Land 2022

26. This section of my evidence refers to the NPS-HPL and the NPS-UD, as well as the Ministry for the Environment's Guide to Implementation for the NPS-HPL (hereon referred to as 'the Implementation Guide').<sup>3</sup>
27. I acknowledge that the Implementation Guide is not a policy statement nor plan and does not carry legal weight. However, the NPS-HPL is a new national policy statement, and the guidance has been prepared by the Ministry for the Environment to help local authorities, applicants and planners understand and implement it.
28. Furthermore, as the NPS-HPL only has one objective "*Highly productive land is protected for use in land-based primary production, both now and for future generations*", I consider it important that the policies and implementation clauses which give effect to this objective are applied and assessed as intended. The Implementation Guide provides a means to assist with this.
29. The NPS-HPL came into force on 17 October 2022, after PPC20 was notified. The district plan must give effect to any national policy statement under RMA section 75(3)(a).
30. As the PPC20 area comprises Land Use Capability Class 1, 2 and 3 soils, the WRC staff submission sought that a robust assessment of the proposed plan change be undertaken against the NPS-HPL, as well as existing provisions within the WRPS relating to high class soils.<sup>4</sup>
31. The applicants' planner has since prepared an assessment against the NPS-HPL, which was lodged with WDC as an Addendum to the Plan Change Request ('the Addendum') in January 2023.<sup>5</sup>
32. This assessment confirms that the approximately 89ha portion of the PPC20 site which is proposed to be rezoned from Rural to Airport Business Zone meets the transitional definition of highly productive land. The Addendum identifies Policy 5 and Clause 3.6 of the NPS-HPL as the relevant provisions to PPC20.
33. I agree that Policy 5 is the relevant policy and Clause 3.6 is the key implementation clause for the Panel to consider in making a decision on PPC20. Policy 5, together with the objective,

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<sup>3</sup> National Policy Statement for Highly Productive Land: Guide to Implementation, prepared by the Ministry for the Environment, dated December 2022. [NPS-Highly-Productive-Land-Guide-to-implementation.pdf \(environment.govt.nz\)](https://environment.govt.nz/nps-highly-productive-land-guide-to-implementation.pdf)

<sup>4</sup> WRPS, LF-O5, LF-P11 and LF-M41.

'High class soils' is the term used within the Operative WRPS, which pre-dates the NPS-HPL. This will need to be updated to align with the terminology and definitions of the NPS-HPL through a plan change process.

<sup>5</sup> PPC Request Addendum, prepared by Harrison Grierson, dated January 2023. [01 - Assessment Against NPS-HPL & WRPS - Jan 2023 \(waipadc.govt.nz\)](https://waipadc.govt.nz/01-assessment-against-nps-hpl-wrps-jan-2023)

sets a strong directive to avoid urban rezoning of highly productive land. This is not to occur unless the tests in Clause 3.6 are met.

34. The Section 42A report, at Paragraph 7.5.12, concludes that PPC20 gives effect to the NPS-HPL based on the information provided and analysis undertaken by the applicants.

### Clause 3.6 Assessment

#### Clause 3.6(1)(a)

35. Clause 3.6(1)(a) of the NPS-HPL requires that:

*(1) Tier 1 and 2 territorial authorities may allow urban rezoning of highly productive land only if:*

*(a) the urban rezoning is required to provide sufficient development capacity to meet demand for housing or business land to give effect to the National Policy Statement on Urban Development 2020; and...*

36. The assessment against sub-clause (1)(a) undertaken by Harrison Grierson was informed by an Assessment of Industrial Land Capacity prepared by Insight Economics, dated 27 January 2023 (Appendix 1 to the Addendum). This report provides an assessment of the latest supply and demand information for business land within the Future Proof sub-region (of Waipā and Waikato districts and Hamilton City), with a particular focus on Hamilton as the airport's effective market.

37. Based on this report, the Addendum concludes that there is a shortfall of business land supply within the sub-region and that the full extent of the Airport Northern Precinct (the 'Northern Precinct') being sought under PPC20 is required to meet demand over the short and medium terms (i.e., the next 10 years).

38. I note that the Implementation Guidance states the following regarding the test for 'sufficient development capacity' under sub-clause (1)(a) (my emphasis in **bold**):

*“sufficient development capacity’ is defined in Part 3, subpart 1 of the NPSUD. The intention of this test is that rezoning HPL to an urban zone can only be considered if it is ‘required’ to provide sufficient development capacity to meet demand for housing and business land (**as assessed in a HBA for tier 1 and 2 local authorities**). Where there is already sufficient development capacity to meet demand for housing and business land within the district, Clause 3.6(a) is not met and urban rezoning on HPL cannot occur.”*

39. As the latest Housing and Business Capacity Assessment for the Future Proof sub-region concludes that sufficient development capacity for business land exists within the sub-region

in the short, medium, and long terms,<sup>6</sup> the Panel will need to consider how the assessment prepared by Insight Economics fits within the requirements of the NPS-HPL and NPS-UD.

Clause 3.6(1)(b) – ‘Within the same locality’

40. Sub-clause (1)(b) requires that *“there are no other reasonably practicable and feasible options for providing at least sufficient development capacity within the same locality and market while achieving a well-functioning urban environment”*.
41. The assessment against sub-clause(1)(b) prepared by Harrison Grierson considers options for providing development capacity within the Waipā district; being expansions of existing industrial growth cells at Hautapu and Te Awamutu. I acknowledge that the statements of evidence of Mr Gala<sup>7</sup> and Mr Hunt<sup>8</sup> also provide an assessment of an additional area within the Waipā district adjoining the boundary with Hamilton City at Frankton.
42. This assessment does not, however, consider whether there are any reasonably practical or feasible options for providing sufficient development capacity outside the Waipā district, despite the conclusion reached in regard to sub-clause (1)(a) relating to supply and demand for business land within the sub-region as a whole i.e. Waipā district, Hamilton City and Waikato district.
43. I therefore consider there is a disconnect between the assessments within the Addendum against Clauses 3.6(1)(a) and (b), and that these should be aligned by assessing other reasonably practical and feasible options for providing the development capacity within other areas of the Future Proof sub-region, particularly Hamilton City as the effective market of the airport.
44. In my view it is misleading to state that all 89ha proposed to be rezoned through PPC20 is needed to meet demand *within the sub-region* within the next 10 years, yet only assess options for meeting this demand *within the Waipā district*. Approaching the assessment in this manner has potential to overstate the amount of highly productive land which needs to be rezoned within the Waipā district in the short to medium term.
45. I also note that the Implementation Guide states the following regarding Clause 3.6(1)(a):

*“The intent is the test could support the rezoning of HPL to an urban zone if needed to provide for short term (within next 3 years) and/or medium term (3–10 years) sufficient development capacity as this is required to be zoned for housing and business land for it to be ‘plan-enabled’ (refer Clause 3.4 of the NPS-UD). Rezoning HPL to an urban zone to provide for long-term development capacity (10–30 years) would not meet this test. This is to avoid the*

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<sup>6</sup> Business Development Capacity Assessment 2021, prepared for the Future Proof Partners by M.E Consulting, dated 30 June 2021. [HBA-OPEN-Attachment-2-Future-Proof-Business-Development-Capacity-Assessment-2021-Final.pdf \(futureproof.org.nz\)](https://futureproof.org.nz/HBA-OPEN-Attachment-2-Future-Proof-Business-Development-Capacity-Assessment-2021-Final.pdf)

<sup>7</sup> Statement of Evidence of Nicholas Grala, paragraphs 53-55.

<sup>8</sup> Statement of Evidence of Jeremy Hunt, paragraphs 62-71.

*premature loss of HPL to urban rezoning and ensure the maximum amount of HPL remains available for land-based primary production until it is actually needed to be rezoned to provide sufficient development capacity.”*

46. Whilst I recognise that WDC is not able to make decisions within Hamilton City, for the purpose of assessing the proposed plan change against the NPS-HPL, I consider that an integrated approach is required to ensure consistency with Clause 3.6(5):

*Territorial authorities must take measures to ensure that the spatial extent of any urban zone covering highly productive land is the minimum necessary to provide the required development capacity while achieving a well-functioning urban environment.*

47. An integrated approach across territorial authority boundaries is also supported by Clause 3.2(1)(b) of the NPS-HPL, which directs that:

*(1) Regional councils and territorial authorities must identify highly productive land, and manage the effects of subdivision, use, and development of highly productive land, in an integrated way, which means:*

...

*(b) providing co-ordinated management and control of the subdivision, use, and development on highly productive land across administrative boundaries within and between regions; and...*

Clause 3.6(1)(b) – ‘Within the same market’

48. Clause 3.6(3) of the NPS-HPL states that:

*In subclause (1)(b), development capacity is **within the same locality and market** if it:*

...

*(b) is for a market for the types of dwelling or business land that is in demand (as determined by a Housing and Business Assessment in accordance with the National Policy Statement on Urban Development 2020).*

49. The conclusions of the Assessment of Industrial Capacity by Insight Economics used by Harrison Grierson to inform the NPS-HPL assessment, relate to supply and demand for industrial land. The assessment concludes that “*the 130ha of industrial land within the Northern Precinct (which PPC20 is proposing) is required to provide sufficient development capacity*”.

50. I note, however, that the activities proposed to be permitted within the Northern Precinct (under Rule 10.4.1.1) are not wholly industrial in nature. A number of non-industrial activities such as cafes and restaurants, visitor accommodation, places of assembly and conference facilities are also proposed to be permitted within the precinct. Provided these activities comply with the performance standards for the zone, they could occur within the Northern Precinct as of right, without the need for resource consent.



51. In my view, the land uses proposed to be permitted within the Northern Precinct are a relevant factor for determining whether the development capacity is 'within the same market' as required by Clause 3.6(1)(b) of the NPS-HPL. The assessment within the Addendum does not include consideration of this.
52. Overall, I consider that in order to complete a robust assessment of PPC20 against the NPS-HPL, further evidence is required that:
- Assesses reasonably practical and feasible options for providing sufficient development capacity within areas of the Future Proof sub-region beyond Waipā district, particularly Hamilton City as the effective market of the airport.
  - Considers the types of land use proposed to be permitted within the Northern Precinct relative to the type of business land for which a shortfall is identified.

### **PROPOSED CHANGE 1 to the WRPS**

53. Proposed Change 1 - National Policy Statement on Urban Development 2020 and Future Proof Strategy update (Proposed Change 1) to the WRPS was notified on 18 October 2022, shortly after PPC20. The purpose of Proposed Change 1 is to update the WRPS to give effect to the NPS-UD and reflect the updated Future Proof Strategy 2022.
54. The WRC staff submission sought that an assessment of PPC20 be prepared against Proposed Change 1. The applicants' planner subsequently provided this assessment within the same Addendum as the assessment against the NPS-HPL discussed above.
55. Submissions on Proposed Change 1 closed on 16 December 2022. Further submissions opened on 31 January 2023 and closed on 15 February 2023. A hearing is expected to be held in mid-2023.
56. Section 74(2)(a) of the RMA requires that when changing a district plan, a territorial authority shall 'have regard to' any proposed regional policy statement. Therefore, the provisions of Proposed Change 1 are relevant for the Panel to consider when making a decision on PPC20.
57. I note that in Paragraph 60 of his statement of evidence, Mr Grala considers that only limited weighting should be given to Proposed Change 1 due to the early stage of the statutory process it is currently in. I do not consider that Proposed Change 1 should be given any less weight than is standard for the requirement of 'have regard to' under the RMA. Proposed Change 1 has been prepared to give effect to the NPS-UD as a higher-order policy document and to reflect the updated Future Proof Strategy, which was prepared through a special consultative procedure and endorsed by the Future Proof Partners, including WDC.
58. The WRC staff submission recommended the following provisions of Proposed Change 1 as requiring particular assessment in relation to PPC20:
- Policy UFD-P11(7)
  - Method UFD-M49

- Appendix APP11 – Development principles
- Appendix APP13 – Responsive planning criteria.

59. These provisions are of key relevance to PPC20, as they relate to out-of-sequence and unanticipated developments. The amendments proposed to these provisions are an important element of Proposed Change 1, as they are needed to address requirements within the NPS-UD relating to responsive planning.<sup>9</sup> The proposed changes to UFD-M49 and APP13 also reflect the approach within the Future Proof Strategy, which differentiates four types of out-of-sequence/unanticipated development.

60. Principle reason UFD-PR11 within Proposed Change 1 advises that collectively the criteria within APP13 are intended to *“assist territorial authorities to determine whether a proposed plan change would create significant development capacity. It will be at the discretion of the relevant territorial authority to undertake a comprehensive assessment and give the appropriate weighting to the criteria, depending on the particular circumstance”*.

61. The Section 42A report, at Paragraph 7.6.6, agrees with the assessment undertaken by the applicants’ planner in relation to the out-of-sequence development criteria and concludes that PPC20 gives effect to these provisions. No reasoning is provided within the Section 42A report justify this.

62. One point I wish to highlight in relation to the applicants’ assessment against Proposed Change 1 is that Criteria B(a) within APP13 states:

*“That the development demonstrates that it would not affect the feasibility, affordability and deliverability of planned growth within urban enablement areas and/or village enablement areas over the short, medium and long term. In the interest of clarity, proposals in areas currently identified for development beyond long term on Map 43 and which are proposed to be brought forward into an earlier timeframe must demonstrate that they do not affect that feasibility, affordability, and deliverability of planned growth in the earlier time periods.”*

63. The applicants’ assessment against this criterion only considers potential impacts of the rezoning on other precincts of the Airport Business Zone; it does not consider whether PPC20 may impact other planned growth areas beyond this.

64. I consider that a more detailed assessment against Criteria B(a) is required in order to complete an assessment of PPC20 against APP13 and Proposed Change 1 overall. This links to the assessment discussed in Paragraphs 40 to 47 above of whether there are any other reasonably practical and feasible options for providing sufficient development capacity in the wider sub-region.

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<sup>9</sup> NPS-UD, Policy 8 and Clause 3.8(2).

## NON-ANCILLARY RETAIL

### WRC Staff Submission and WRPS

65. For ease of reference, the proposed provisions within Section 10 – Airport Business Zone of the Waipā District Plan (WDP) relevant to the topic of non-ancillary retail are attached as Appendix 1 to this statement of evidence.
66. PPC20 proposes to introduce new Rule 10.4.2.11A which permits up to 5,000m<sup>2</sup> gross floor area (GFA) of non-ancillary retail activities within the Northern Precinct. This is in addition to a total 5,300m<sup>2</sup> GFA permitted for non-ancillary retail activities elsewhere in the Airport Business Zone (excluding the Airport Terminal building).
67. The WRC staff submission raised concerns that the combined total of these GFAs would lead to a significantly higher amount of non-ancillary retail being permitted within the Airport Business Zone than is required to meet the day-to-day needs of future workers and people visiting the Zone for business purposes.
68. The key provisions of the WRPS of relevance to this issue are Policy UFD-P13 and Appendix APP12. UFD-P13 directs that:

*Management of the built environment in the Future Proof area shall provide for varying levels of commercial development to meet the wider community's social and economic needs, primarily through the encouragement and consolidation of such activities in existing commercial centres, and predominantly in those centres identified in Table 37 (APP12). Commercial development is to be managed to:*

*1. support and sustain the vitality and viability of existing commercial centres identified in Table 37 (APP12);*

*...*

*6. maintain industrially zoned land for industrial activities unless it is ancillary to those industrial activities, while also recognising that specific types of commercial development may be appropriately located in industrially zoned land; and...*

69. As recorded in Section 3.1 of the JWS (Economics and Retailing), the planners and economists agree that the level of retail within the Northern Precinct should not undermine 'the vitality and viability of existing commercial centres' as directed by the WRPS.

### Non-Ancillary Retail Activities within the Amended Provisions

#### Rules 10.4.1.1 and 10.4.2.11A

70. I defer to the economists for the applicants and other submitters to agree whether 5,000m<sup>2</sup> is the appropriate quantum of retail GFA to provide for the daily needs of workers and people visiting the Northern Precinct for business purposes, as this assessment is outside my expertise as a planner.

71. As recorded in the JWS however, the economists and planners agree that the existing 'retail' definition within the WDP also includes other activities listed in Activity Table 10.4.1.1 (Permitted activities for the Airport Business Zone) and the planners agree that it would be preferable for the plan provisions to clearly identify what types of activities are included in the retail GFA cap. I also understand from the expert conferencing session that it is the applicants' intention for service stations, cafes, restaurants, food outlets and licensed premises to be subject to the retail GFA cap.

72. I consider that the proposed rule framework is not currently clear as to which activities are included in the retail GFA cap and that amendments are required to the rules to address this and ensure the intended outcomes are achieved.

73. The list of Permitted activities for the Airport Business Zone in Rule 10.4.1.1 currently includes the following for the North Precinct:

...

(i) Services stations and commercial garages

(j) Cafes, restaurants, takeaway food outlets and licenced premises

...

(u) Retail activities and wholesale shops...

However, the amended provisions only explicitly subject (u) 'Retail activities and wholesale shops' to Rule 10.4.2.11A relating to the proposed 5,000m<sup>2</sup> GFA cap.

74. While the WDP definition of 'retail activities' could arguably be interpreted as including some of the above activities in Clauses (i) and (j), based on my experience processing resource consent applications, I consider that because these activities are listed separately within the Activity Status table, they are more likely to be interpreted by plan users as not being subject to Rule 10.4.2.11A. Accordingly, the amended provisions have potential to create confusion and risk not achieving the desired outcome.

75. To address this, I consider that amendments are required to Clauses (i) and (j) of Rule 10.4.1.1 to also subject service stations, cafes, restaurants, food outlets and licensed premises to the GFA cap within Rule 10.4.2.11A, as agreed in the JWS.

76. While service stations, cafes, restaurants, food outlets and licensed premises were the only other activities listed within Rule 10.4.1.1 specifically discussed in expert conferencing, I consider that all non-ancillary retail activities listed within this rule that are not directly related to aviation activities should be subject to the GFA cap, to achieve the purpose of Rule 10.4.2.11A. It would be beneficial for this to occur in liaison with WDC planners who apply and interpret the WDP rules.

77. Specifically, I have concerns about 'building supply outlets' provided for in Clause (q). This term is not defined in the WDP and is therefore best confirmed with WDC planners as to its interpretation, however, when acting in a non-ancillary capacity these have potential to

attract customers to the Northern Precinct above those visiting for day-to-day industrial purposes. Therefore, not subjecting such activities to the GFA cap could lead to an inefficient use of industrial land, as well as increase out-of-centre trip generation.

78. As a Strategic Industrial Node within the WRPS, the WDP recognises that land surrounding the airport is a scarce and valuable resource that needs to be efficiently and effectively used.<sup>10</sup> Furthermore, the Housing and Business Capacity Assessment 2021 for the Future Proof Sub-region states that to reduce pressures on industrial land supply it is important that industrial land within “industrial development areas” is protected from encroachment by other uses, especially large format retail.<sup>11</sup>

79. In my opinion, appropriately limiting non-ancillary retail within the Northern Precinct is especially important given the new requirements of the NPS-HPL to only allow urban rezoning of highly productive land if it is *required* to provide sufficient development capacity, as discussed earlier in this statement of evidence.

#### Rule 10.4.1.5

80. I understand from the expert conferencing session that service stations, cafes, restaurants, food outlets and licensed premises within the Northern Precinct are intended to be confined to the Hub or Retail area identified on the Airport Business Zone Structure Plan (‘the Structure Plan’), as is currently proposed for ‘retail activities’ under Rule 10.4.1.5. In my opinion, an amendment to Rule 10.4.1.5 is required to make this clear, for the same reasons as discussed in Paragraph 74 above.

81. For completeness, I also note that ‘education facilities’ are currently listed both as a Permitted activity in Rule 10.4.1.1 and as a Non-Complying activity within the Northern Precinct in Rule 10.4.1.5.

82. To summarise, I recommend the following amendments to rules relating to non-ancillary retail:

- Amendments to Clauses (i) and (j) of Rule 10.4.1.1 to also subject service stations, cafes, restaurants, food outlets and licensed premises to the GFA cap within Rule 10.4.2.11A.
- Amendments to any other clauses within Rule 10.4.1.1 that relate to non-ancillary retail activities not directly related to aviation, including ‘building supply outlets’ within Clause (q).
- An amendment to Rule 10.4.1.5 to state that service stations, cafes, restaurants, food outlets, licensed premises and any other relevant retail activities not located within the Hub or Retail area are Non-Complying activities within the Northern Precinct.
- An amendment to Rule 10.4.1.1(s) to clarify that education facilities are not a Permitted activity within the Northern Precinct.

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<sup>10</sup> Operative Waipā District Plan, Section 10.1.3.

<sup>11</sup> Business Development Capacity Assessment 2021, prepared for the Future Proof Partners by M.E Consulting, dated 30 June 2021, page 10.

## **BATS AND BAT HABITAT**

### **WRPS**

83. Under section 30(1)(ga) of the RMA, regional councils are responsible for the establishment, implementation, and review of objectives, policies, and methods for maintaining indigenous biological diversity.
84. The Ecosystems and Indigenous Biodiversity (ECO) chapter of the WRPS accordingly sets out objectives, policies and implementation methods relating to the maintenance and enhancement of indigenous biodiversity across the Waikato region. The objective for this chapter 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.*
85. PPC20 is required to give effect to the WRPS under RMA section 75(3)(c).
86. The Section 42A report did not assess any of the provisions within the ECO chapter of the WRPS, despite bat habitat and biodiversity being identified as a sub-topic raised in submissions.
87. Mr Inger, in Annexure 1 to his statement of evidence, has identified the provisions of the WRPS that he considers most relevant to the ecological effects of PPC20.
88. I agree that the provisions identified by Mr Inger are those of key relevance to the ecological effects of PPC20. In relation to the ECO chapter, I do, however, also consider Principal reason *ECO-PR2 – Protect significant indigenous vegetation and significant habitats of indigenous fauna* to be relevant. This provides an explanation to support Method ECO-M13 and the criteria for determining significance of indigenous biodiversity in Appendix APP5.
89. In the following paragraphs, I refer to provisions within the ECO chapter, as I consider these to be of greatest relevance to the topic of long-tailed bats and bat habitat. Other chapters of the WRPS relevant PPC20 overall are discussed elsewhere in my evidence and in the statement of evidence of Ms Hansen.

### **WRC Staff Submission**

90. The long-tailed bat is classified as a Nationally-Critical (Threatened) species. Long-tailed bats have a significant presence in the southern Hamilton area, including north Waipā. Ongoing development within this area has potential to create cumulative adverse effects on bats and their habitat.
91. The WRC staff submission strongly recommended that the provisions for bats and bat habitat within PPC20 be strengthened to meet the direction of the WRPS. The submission sought both

further assessments to be undertaken to ensure that bat habitat will be sufficiently protected in the plan change, and a range of changes to the proposed plan provisions to better protect bats and their habitat.

92. The submission also noted that WDC's Strategic Planning and Policy Committee endorsed the Waikato Regional Bat Strategy in November 2021. A key outcome of this strategy is to align plans, policies and methods for bat habitat protection and restoration through high level strategic collaboration between alliance members.

### **Amended Provisions**

93. As recorded in the Section 3.1.1 of the JWS (Ecology and Bat Habitat), I consider that the amended provisions are a significant improvement in relation to providing for bats compared to the notified version of PPC20.
94. I generally consider that the wording of the amended provisions aligns with the WRPS and addresses the concerns raised in the WRC staff submission in relation to the drafting of provisions.
95. However, as noted in the JWS, following expert conferencing I considered further evidence to be required to determine the adequacy of the proposed Bat Habitat Area (BHA) shown on the amended Structure Plan. In my view as a planner, the ability of the proposed rules to maintain or enhance significant long-tailed bat habitat values in accordance with proposed Policy 10.3.2.2A, hinges on whether the proposed BHA is sufficient to enable bats to continue using the site to the same or greater frequency as present and to maintain connectivity to other areas of bat habitat (to the extent possible within the boundaries of the plan change).
96. I hold this view because, aside from standards for removal of trees or vegetation outside a BHA under Rule 10.4.2.14C, the proposed rule framework will generally enable the remainder of the PPC20 site outside of the BHA to be developed for Airport Business Zone activities and associated infrastructure.
97. The protection of the BHA is the key method proposed by PPC20 to 'avoid' adverse effects on bat habitat values in accordance with the effects management hierarchy. Therefore, in my opinion, it is important that the proposed BHA is carefully considered to ensure all of the subsequent plan provisions achieve their intended purpose.
98. From my experience in the expert conferencing session, it appears the bat ecologists for the applicants and submitters do not currently agree on whether the BHA will be functional for bats following development of the plan change area. From my understanding, this includes the impacts of the size of the proposed BHA, the corridor width and the spine road crossing the BHA.
99. In this absence of consensus between the ecologists, I am currently unable to confidently assess whether PPC20 overall (the proposed Structure Plan in combination with the amended

policy and rules) gives effect to the relevant provisions within the ECO chapter of the WRPS, particularly the below aspects of Policy ECO-P1 and Method ECO-M1.

***ECO-P1 – Maintain or enhance indigenous biodiversity***

*Promote positive indigenous biodiversity outcomes to maintain the full range of ecosystem types and maintain or enhance their spatial extent as necessary to achieve healthy ecological functioning of ecosystems, with a particular focus on:*

- ...
- 2. *the continued functioning of ecological processes;*
- 3. *the re-creation and restoration of habitats and connectivity between habitats;*
- 4. *supporting (buffering and/or linking) ecosystems, habitats and areas identified as significant indigenous vegetation and significant habitats of indigenous fauna;*
- ...
- 9. *managing the density, range and viability of indigenous flora and fauna; and...*

***ECO-M1 – Maintain or enhance indigenous biodiversity***

*Regional and district plans shall maintain or enhance indigenous biodiversity, including by:*

- ...
- 3. *creating buffers, linkages and corridors to protect and support indigenous biodiversity values, including esplanade reserves and esplanade strips to maintain and enhance indigenous biodiversity values.*

100. I note that in her statement of evidence, Ms Cummings has assessed the PPC20 site as not meeting the criteria for determining significance of indigenous biodiversity in APP5 of the WRPS.<sup>12</sup> I defer to the bat ecologists to agree whether the site meets the significance criteria. However, from a policy perspective, I wish to highlight this as another important aspect of the WRPS assessment, given that Policy ECO-P12 and Method ECO-M13 refer specifically to significant habitats of indigenous fauna.

**Relationship Between the Bat Habitat Area and the ‘Hub’**

101. There was not time within the expert conferencing session to specifically discuss Appendix S10 or the amended Structure Plan.

102. I consider that the relationship between the BHA and the ‘Hub’ shown on the amended Structure Plan is currently unclear for plan users. In my opinion, an amendment to the Structure Plan is required to ensure this relationship is clear and the BHA is protected as intended.

103. The updated Structure Plan in Appendix S10 shows the ‘Airport Northern Precinct Hub’ as a hatched area near the centre of the PPC20 site. This overlies part of the BHA shown in green on the Structure Plan.

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<sup>12</sup> Statement of Evidence of Georgia Cummings, paragraphs 60-68.



104. Proposed Principle S10.3.13 within Appendix S10 states that *“For the Northern Precinct, the areas which are identified as Bat Habitat Areas are to be protected and enhanced as bat habitat”*. This principle does also note that multi-functional use of the BHA for stormwater networks is anticipated. I understand from Paragraph 89 of Mr Inger’s evidence that it is likely the BHA will be vested in WDC as reserve, however, it is possible that the BHA within the Hub area may have an alternative form of legal protection.
105. My understanding from the Plan Change Request is that the Hub is intended to be a higher amenity area incorporating both retail activities and open space. However, the Hub is not described within Appendix S10 and the only reference to the Hub anywhere within the proposed provisions is in Rule 10.4.1.5(d), which states that retail and visitor accommodation activities are Non-Complying unless located within the Hub (or Retail area, in the case of retail activities).
106. Therefore, the only understanding of the Hub available to future plan users is that it is intended to incorporate retail and other commercial activities. This conflicts with the purpose of the BHA as an area to be protected and enhanced as bat habitat. Accordingly, I consider that the overlay of the Hub on the BHA has potential to create confusion, particularly as it is not yet known which form of legal protection the BHA will have.
107. To address this, I consider the ‘Hub’ overlay should be removed from the BHA (whatever its final size and location) on the Structure Plan, to make it clear that the BHA is an area to be protected as bat habitat, in accordance with Principle S10.3.13 and the amended provisions within Section 10.
108. If, due to its proximity to the Hub, the BHA is intended to be used for purposes that have potential to adversely affect bat habitat values, other than stormwater management and the potential road as evidenced within Appendix S10, this should be clarified so any associated ecological effects can be considered by the Panel when assessing the proposed BHA.

## **CONCLUSION**

109. Overall, I acknowledge the applicants’ efforts to address the WRC staff submission to PCC20. I consider the amended provisions to be a significant improvement in relation to providing for bats compared to the notified version of PPC20.
110. However, I am of the view that some further evidence is required in order to complete a robust assessment of PPC20 against the NPS-HPL and that amendments are needed to the proposed Structure Plan and provisions relating to non-ancillary retail activities and bat habitat, to provide clarity to plan users and ensure that intended outcomes are achieved.
111. My recommendations seek to give effect to the WRPS and national policy statements, and ensure alignment between the proposed Structure Plan, policies, and rule framework for the Airport Northern Precinct.

*Katrina*

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**7 March 2023**

## Appendix 1: Proposed provisions within Section 10 – Airport Business Zone of the WDP relevant to non-ancillary retail activities

As set out in Appendix 1a to the Section 42A Hearing Report.

### 10.4.1 Activity Status Tables

10.4.1.1	Permitted activities The following activities must comply with the performance standards of this zone
(a)	General and commercial aviation activities and buildings.
(b)	Industrial activities.
(c)	Transport and freight depots, and bus depots.
(d)	Vehicle rental and valet services, vehicle parking and storage (excluding Southern Precinct)
(e)	Emergency service facilities.
(f)	Helicopter pads and facilities for their servicing and management. <i>Note: Civil Aviation Authority requirements also apply.</i>
(g)	Utility services and utility structures, including navigational aids and control towers.
(h)	Storage and sale of aircraft fuel and lubricants.
(i)	Service stations and commercial garages (excluding Southern Precinct).
(j)	Cafes, restaurants, takeaway food outlets and licensed premises (excluding Southern Precinct).
(k)	Visitor accommodation (excluding Southern Precinct).
(l)	Places of assembly (excluding Southern Precinct).
(m)	Conference facilities (excluding Southern Precinct).
(n)	Offices (excluding Titanium Park Southern and Northern Precinct).
(o)	<del>Ancillary Office Titanium Park Southern and Northern Precinct offices ancillary to any permitted activity.</del>
(p)	Laboratories and research establishments (excluding Southern Precinct).
(q)	Hire facilities and building supply outlets (excluding Southern Precinct).
(r)	Storage warehouses.
(s)	Education facilities (excluding aviation educational training and excluding the Southern Precinct) between the outer control boundary Ldn 55 and the air noise boundary Ldn 65.
(t)	Aviation education training.
(u)	Retail activities and wholesale shops, subject to Rules 10.4.2.11, <a href="#">10.4.11A</a> and 10.4.2.12 (excluding Southern Precinct <del>and retail activities specified in Rule 10.4.1.5(d)(ii)</del> ).
<a href="#">(ua)</a>	<a href="#">Ancillary Retail</a>
(v)	Earthworks
(w)	Temporary construction buildings.
(x)	Signs
(y)	Demolition and removal of buildings and structures, except those listed in Appendix N1 Heritage Items.
(z)	Relocated buildings, except for those listed in Appendix N1.
<a href="#">(za)</a>	<a href="#">Trimming or pruning of vegetation or trees within the Northern Precinct outside a Bat Habitat Area.</a>
<a href="#">(zb)</a>	<a href="#">Removal of vegetation or trees within the Northern Precinct outside a Bat Habitat Area, subject to Rule 10.4.2.14C.</a>
<a href="#">(zc)</a>	<a href="#">Trimming, pruning or removal of vegetation or trees within the Northern Precinct inside a Bat Habitat Area, subject to Rule 10.4.2.14D.</a>

10.4.1.5	Non-complying activities
(a)	Failure to comply with Rules 10.4.2.11 and 10.4.2.12 - Maximum floor space for retail activities and Rules 10.4.2.16 to 10.4.2.18 - Noise: aircraft and engine testing.
(b)	Residential activities between the Outer Control Boundary (Ldn55) and the Air Noise Boundary (Ldn65).
(c)	All other activities not listed in activity status table Rules 10.4.1.1 to 10.4.1.4.
(d)	The following activities within the Titanium Park – Northern Precinct: (i) Offices (excluding ancillary offices – refer to Rule 10.4.1.1(n)) (ii) Retail activities <del>and wholesale shops</del> <u>not located within the Hub or Retail area identified within the Airport Business Zone Structure Plan in Appendix S10</u> (iii) Visitor Accommodation <u>not located within the Hub area identified within the Airport Business Zone Structure Plan in Appendix S10</u> (iv) Healthcare facilities (v) Education facilities (excluding aviation education training)
(e)	Scheduled engine testing that exceeds the standard in Rule 10.4.2.16 by more than 5dBA.
(f)	The following activities in the Titanium Park – Southern Precinct: (i) Vehicle rental and valet services, vehicle parking and storage; (ii) Service stations and commercial garages; (iii) Cafes, restaurants, takeaway food outlets and licensed premises (iv) Visitor accommodation; (v) Places of assembly; (vi) Conference facilities; (vii) Offices (excluding ancillary offices – refer to Rule 10.4.1.1(n)); (viii) Laboratories and research establishments; (ix) Hire facilities and building supply outlets; (x) Education facilities; and (xi) Retail activities and wholesale shops, subject to Rules 10.4.2.11 and 10.4.2.12

### Rules - Maximum floor space for retail activities

10.4.2.11 The total floor area of all non-ancillary retail activities located in the Airport Business Zone, excluding activities in the Hamilton International Airport Terminal building and the Northern Precinct, shall not exceed 5,300m<sup>2</sup> GFA.

10.4.2.11A The total floor area of all non-ancillary retail activities located in the Northern Precinct of the Airport Business Zone shall not exceed 5,000m<sup>2</sup> GFA.

10.4.2.12 Retail shops shall have a floor area less than 450m<sup>2</sup> GFA each, except that one retail shop may have a floor area of more than 450m<sup>2</sup> GFA and less than 1,000m<sup>2</sup> GFA, provided that the retail shop shall primarily sell pre-prepared fresh food/groceries and beverages, together with other non-food goods in an ancillary capacity.

Activities that fail to comply with Rules 10.4.2.11, 10.4.2.11A and 10.4.2.12 will require a resource consent for a non-complying activity.