

BEFORE THE HEARING PANEL

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of Proposed Plan Change 5 to the Operative Hamilton
City District Plan

MEMORANDUM OF COUNSEL ON BEHALF OF HAMILTON CITY COUNCIL

Dated 2 October 2022

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MAY IT PLEASE THE HEARING PANEL:**Introduction**

1. This memorandum is filed on behalf of Hamilton City Council (**HCC**).
2. The hearing of submissions on Plan Change 5 (**PC5**) is currently scheduled to conclude on 3 October 2022, with the hearing likely to remain open for a further period to enable written closing legal submissions to be filed on behalf of HCC.
3. The purpose of this memorandum is to seek a direction that prior to HCC closing its case, the hearing is adjourned for a brief period to enable HCC to file further evidence addressing the issue of the wider management strategies which HCC will be required to lead in order to address ecological issues at a 'landscape scale' both within and beyond the Peacocke area.
4. The requirement for this wider management strategy was addressed in evidence filed on behalf of HCC, and submitters including the Director General of Conservation (**DOC**) and the Adare Group Limited (**Adare**).
5. Through the evidence presented to date, it has become apparent that the management of the ecological effects on the Long-tailed bat and its habitat will require steps to be taken which sit outside the strict confines of the district plan functions of HCC. While the district plan provisions will play a key role in managing these effects, there is a requirement for a wider strategic approach, involving multiple agencies.
6. HCC recognises that it will play an important leadership role in developing and implementing these wider strategies. The purpose of the additional

evidence is to provide the Panel with better certainty and clarity around HCC's intended approach to this issue.

The further evidence

7. The evidence presented to date is clear; after application of the WRPS effects management hierarchy, urbanisation of Peacocke will result in residual ecological effects on the Long-tailed bat and its habitat, for which ongoing environmental compensation is required.
8. That compensation will be implemented both within and outside of the Peacocke area. The proposed plan provisions enable some of those compensation initiatives to be addressed via subdivision and land use consent processes. However, there will also be a requirement for ecological compensation to be implemented outside of Peacockes, and not solely via resource consent conditions.
9. The further evidence to be filed on behalf of HCC will address the potential framework for an overarching strategy led by HCC including:
 - a. The role and function of centralised monitoring which would inform on environmental baselines and update on measurable outcomes on compensation deliverables and Long-tailed bat habitat outcomes (including within Peacocke) at a 'landscape level'; and
 - b. How the resource consent processes within PC5 will interface with this strategy to inform a robust adaptive management regime, leading to evolving bat management strategies over time which are responsive to updated monitoring data; and
 - c. The funding mechanisms for delivering on the compensation outcomes, including via consent conditions, financial

contributions, development contributions, and targeted rates;
and

- d. Multi- agency collaboration and inputs including via existing structures, e.g Waikato Bat Alliance.

10. HCC considers that this further evidence will enable the Panel to make a better informed judgment on how the risks and uncertainty relating to these residual ecological effects will be managed.

Directions sought

- 11. HCC seeks the following directions:
 - a. After completing presentations from remaining submitters, and the updated section 42A report on 3 October 2022, the hearing shall be adjourned to a date to be confirmed;
 - b. HCC is to lodge any further evidence by 4pm 11 October 2022;
 - c. Any party wishing to present further evidence, strictly confined to matters raised in HCC's further evidence, is to lodge that evidence by 4pm 18 October 2022;
 - d. If the panel considers any further discussion with witnesses is necessary the hearing is to be reconvened at the earliest available date on 'microsoft teams' for that purpose, and to hear any updated section 42A responses;
 - e. HCC is to lodge closing legal submissions by 28 October 2022;
 - f. After lodgement of the HCC closing submissions the Panel will determine the date upon which the hearing is closed.

12. HCC respectfully request that the procedural issues identified in this memorandum are addressed at the reconvened hearing on 3 October 2022.

Dated at Hamilton this 2nd day of October 2022.



L F Muldowney/S K Thomas
Counsel for Hamilton City Council