

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

**SECTION 42A REPORT UPDATE STATEMENT OF EVIDENCE OF CRAIG MELVILLE
SHARMAN AND MARK HECTOR ROBERTS**

Dated 3 OCTOBER 2022

INTRODUCTION

- 1. Our full names are Craig Melville Sharman and Mark Hector Roberts. We are joint Section 42A Report authors, with the report titled ‘Plan Change 5 – Peacocke Structure Plan to the Hamilton City District Plan: Section 42A Hearing Report’ (**the Section 42A Report**) dated 2 September 2022.
- 2. Our qualifications and experience are as set out in Section 1 of the Section 42A Report.
- 3. We reconfirm that we have read and am familiar with the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2014 and we agree to comply with it.

PURPOSE AND SCOPE OF STATEMENT

- 4. The purpose of this statement is to provide an update to the Section 42A report. This update responds to several matters that were inadvertently not addressed fully within the Section 42A report, and then responds to matters identified within submitter statements of evidence and presentations during this hearing where recommendations are amended in response.

TRANSPOWER NEW ZEALAND NATIONAL COMMUNICATIONS CENTRE

- 5. Council officers and consultants undertook engagement with Submitter 21 Transpower New Zealand in the week leading up to the Section 42A report completion on 2 September 2022, including an ecology site visit by Mr Kessels. In response to submission points 21.4 and 21.6, an agreement was reached to alter the extent of the Significant Natural Area on the site (as shown on Appendix 17A Planning Maps - Map 63B); to maintain the Significant Bat Habitat Area notation (as shown on Appendix 17A Planning Maps - Map 63B) but to alter the underlying zoning from Natural Open Space Zone to Medium Density Residential Zone (as shown on Appendix

17A Planning Maps - Map 63A) to remove the split zoning on the property; to insert a specific rule provision within Chapter 4A Medium Density Residential Zone (see below); and to make a consequential amendment to the rule provision MRZ – PREC1-PSP: R36 Maximum Site Coverage to make explicit the maximum site coverage rule that should apply to the Transpower – Hamilton Communication Centre site.

- 6. The former two recommended changes were included within the Section 42A Report version of Appendix 17A), but the latter two recommended changes were inadvertently not included within the Chapter 4A Medium Density Residential Zone.
- 7. The recommendation within Appendix A to the Section 42A Report (Summary of Submissions and Recommendations) for submission point 21.6 was also not revised as intended. The recommendation in response to submission point 21.6 should be amended to ‘accept’ (with further submissions FS017 and FS018 amended to ‘accept’, and FS013 amended to ‘reject’), with the recommended relief in response being the above mapping revisions within Appendix 17A.
- 8. The abovementioned consequential amendment was required as the R36 Maximum Site Coverage referred only to several housing typologies with therefore no clarity for non-residential land uses, such as the Hamilton Communication Centre. The recommended consequential amendment is as follows with the addition of d):

MRZ – PREC1-PSP: R36 Maximum Site Coverage

<u>1)</u>	<u>The maximum site coverage for:</u> <u>a) Single dwellings</u> <u>b) Duplex dwellings</u>	<u>50%</u>
<u>2)</u>	<u>The maximum site coverage for:</u> <u>a) Terrace Dwellings (53.33)(Peacocke Precinct)</u> <u>b) Apartment buildings (Peacocke Precinct)</u>	<u>60%.</u>

	<p>c) <u>Retirement Villages (Peacocke Precinct) (23.7/ Sub 49.3)</u></p> <p>d) <u>Transpower – Hamilton Communication Centre (21.4)</u></p>	
--	--	--

9. The specific rule recommended for insertion within Chapter 4A Medium Density Residential Zone is as per below.

<u>MRZ -</u> <u>PREC1-</u> <u>PSP: RXX</u>	<u>Alterations and additions to existing buildings, and new buildings for the purpose of operating the National Communications Centre, within the Transpower – Hamilton Communication Centre site shown on Figure 2-1 (Volume 2, Appendix 2 Structure Plans)</u>	
<u>Medium density residential zone -</u> <u>Peacocke Precinct</u>	<u>Activity Status: Permitted</u> <u>Where the following are complied with:</u> <u>PER-1</u> <ol style="list-style-type: none"><u>PREC1-P R36 – Maximum Building Coverage</u><u>PREC1-P R37 – Permeable Surfaces</u><u>PREC1-P R38 – Building Heights</u><u>PREC1-P R39 – Setbacks</u><u>PREC1-P R40 – Height in Relation to Boundary</u>	<u>Activity Status where compliance not achieved with PER-1:</u> <u>Restricted Discretionary</u> <u>Matters of discretion are restricted to:</u> <ol style="list-style-type: none"><u>A - General</u>

SEISMIC INVESTIGATION AREA

10. A matter addressed at paragraph 155 of the planning evidence submitted by Mr Collins on behalf of The Adare Company highlighted that the Section 42a Report identified the need for a new definition for “Seismic Investigation Area” in Appendix 1.1.
11. Appendix 1: District Plan Administration – Definitions and terms. Wording was changed from “Seismic setback line” to “Seismic Investigation Area”, however a definition was not included. This change will add the following definition into Appendix 1. “Means an area that is in close proximity to a

gully or river within which specific geotechnical investigations are required to consider seismic requirements for development, including building foundations.”

STAGING PROVISION

12. Within Ms Fraser-Smith’s statement of evidence (section 3 of primary evidence) the matter of staging and interim infrastructure provision was discussed. This matter was largely agreed during the planning expert conferencing with an assessment matter added to provide an explicit consenting pathway for ‘out of sequence development’. The parties did not agree clause g) relating to interim infrastructure solutions, which stated (1.3.3 X) g)) *“Does not rely on interim solutions, particularly those that become redundant.”*
13. Through further discussions with Ms Fraser-Smith an agreement has been reached on this matter, with an amended clause g) as follows:
- 1.3.3 X) g): *In the event that development relies on any interim solution for infrastructure; that a permanent solution acceptable to Council has been identified, the interim solution does not make the implementation of the permanent solution more difficult; the interim solution does not compromise the design or operational performance of the proposed permanent solution; appropriate legal mechanisms shall be imposed ensuring that any increased cost implications on the permanent solution (as a result of the interim solution) are met by the development and requiring that the removal of any interim infrastructure (and any cost and remediation associated with such removal) once the permanent solution becomes available and responsibility of such removal and any associated reconnection works shall be borne by the developer.*

FLEXIBILITY FOR ROAD WIDTHS

14. Within Section 6 of Ms Fraser-Smith’s statement of evidence the matter of SUB-PREC1-PSP: R21 Rooding, and Pedestrian and Cycle Access was discussed, and in particular clauses 1) and 6). This matter was largely agreed during the transport expert conferencing regarding the inclusion of a new assessment matter that reinforced the indicative nature of

compliance with Table 15-6B. Ms Fraser-Smith’s concern was that clause 6) of the above rule was then contrary to that by stating “Internal vehicle access and public roads shall meet the relevant requirements of Table 15-6B in Appendix 15.” Following discussion with Mr Black this is concurred with, and clause 6) should be deleted to remove this contradiction, as follows:

SUB-PREC1-PSP: R21 R23 Roding, and Pedestrian and Cycle Access

...

~~6) Internal vehicle access and public roads shall meet the relevant requirements of Table 15-6B in Appendix 15.~~

15. In respect of clause 1) the relevant wording is shown below. The deletion of clause 1) was not agreed during transport expert conferencing, and retention of the clause is recommended as being consistent with the Operative District Plan approach whereby the legal road widths for each road type is specified in the subdivision chapter as a standard. Importantly, failure to comply with a subdivision standard does not alter the restricted discretionary activity status, and retention of clause 1) is not considered to change the indicative nature of Table 15-6B.

SUB-PREC1-PSP: R21 R23 Roding, and Pedestrian and Cycle (53.77) Access			Peacocke Structure Plan
1)	Minimum road width of vehicle access to be formed and vested as public road:		
a)	Local Road Transport Corridor		16.8m (See note 1)
b)	Collector Road Transport Corridor - no Public transport		24.2m (See note 1)
c)	Collector Road Transport Corridor – Public transport Route		24.6m (See note 1)
d)	Neighbourhood Street		14.3m (See note 1)(53.21)
e)	Open Space Edge Transport Corridor		11.8m (See note 1) (53.21)
f)	Minor Arterial Transport Corridor		32.2m (See note1)(53.21)
Note 1: This width does not provide for swales or stormwater management. Additional width may be required for these features, if present, and may be required to accommodate any other features or activities.			

TRANSPORTATION

16. Mr Penny in his EIC identified an error in the Section 42a Report relating to Table 15-6b that were not consistent with the recommendation in Mr Black’s EIC (Appendix 1). Mr Black in his rebuttal evidence supports the

corrections to the Table so on this basis it is recommended to amended Table 15-6b as follows:

- a) The berm width for Minor Arterials should be 11.1m.
- b) The berm width for Collectors with PT should be 8.9m.
- c) The Open Space Edge corridors should have a total width of 11.4m including a 5.6m carriageway and berms of 3.3m and 2.5m.
- d) Delete the ownership qualifier for private ways.

MAPPING OF SIGNIFICANT NATURAL AREAS (SNAs), SIGNIFICANT BAT HABITAT AREAS (SBHAs) AND NATURAL OPEN SPACE ZONE

- 17. In Mr Hook’s planning evidence on behalf of M&M Shaw sought for an amendment of the Natural Open Space Zone adjoining Stage 1 of Peacocke along Dixon Road which is zoned General Residential under the Operative District Plan in relation to the M&M Shaw property. The amendment will enable the landowner the ability to make reasonable use of the land by undertaking a residential subdivision. It must be noted that the land has been earth worked in the past and had a consent to subdivide which has now lapsed. With regards to scope the further submitter does not indicate the submission point they rely on however a number of submissions they have furthered on seek the amendment of the Natural Open Space following detailed site assessments. Considering the information provided in Mr Hook’s evidence it is recommended that a minor amendment be made to the boundary of the Natural Open Space Zone in this location.

- 18. Mr Kessel provided supplementary evidence that sets out the findings and recommendations of five site visits he undertook on 8 and 10 August 2022 to provide ecological advice on submitter requests relating to SNAs and SBHAs - including the ‘bat buffers’ and ‘bat corridors’. Based on Mr Kessels’ expert opinion expressed in his supplementary evidence it is recommended that the amendments be made to the structure plan maps and zoning and features maps relating to three locations. These amendments were included in the Section 42a Report based on discussions

with Mr Kessels. However, following the receipt of Mr Kessels’ final report, minor amendments have been recommended to the Jones Land / North View Capital land to widen the portion of the open space buffer identified in Mr Kessels’ rebuttal evidence and amended the boundary of the SNA located on the Transpower site to reflect the recommendation made by Mr Kessels.

CHAPTER 20 NATURAL ENVIRONMENTS

19. Within Attachment 1 to Mr Collin’s evidence in chief, point #32 (and discussed at paragraph 85 of that statement) agreement was reached during planning expert conferencing to include an additional provision for clarity relating to several activities within Chapter 20 Natural Environments relating to SNAs. This is recommended to be accepted with the wording as per below:

<u>Additional Rules for Activities within a Significant Natural Area, Schedule 9C (Volume 2, Appendix 9) located within the Peacocke Precinct</u>	
<u>ga) Park Furniture</u>	<u>P</u>
<u>gb) Construction of new walkways and cycleways through a Significant Natural Area, including associated pruning, maintenance or removal of indigenous or exotic vegetation or trees and associated earthworks</u>	<u>D</u>
<u>gc) Construction of, or access to, new infrastructure in a Significant Natural Area, including associated pruning, maintenance or removal of indigenous or exotic vegetation or trees and associated earthworks</u>	<u>D</u>

CHAPTER INTRODUCTORY TEXT

20. Kāinga Ora in their submission sought to amend the title of the following chapters 3A, 4A, 6A, 6B and 23A. The Section 42a Report rejected this submission. Ms Tait in her planning evidence on behalf of Kāinga Ora sought the change of the headings to ensure consistency. In reviewing the chapters and Ms Tait’s evidence we would have to agree that there is inconsistency and the main body of text do not necessarily read as issues.

Based on the above it is now recommended to amend the titles of chapters 3A, 4A, 6A, 6B and 23A to 'Purpose'. We note that Ms Tait does not seek amendment to Chapters 15A and 15B therefore there is no scope to amend these chapters.

PEACOCKE STRUCTURE PLAN

21. A matter addressed at paragraph 17 in Ms Tait’s evidence highlights that the Section 42a Report recommends the amendment to DEV01-PSP: O3 and DEV01-PSP: O4. However, Ms Tait considers for consistency purposed with the renaming of the High Density Overlay to Increase Height Overlay Objective O3 and O4 should be amended to replace the wording “high density” with “higher density”. In considering this matter we agree with Ms Tait and therefore recommend that the wording of Objectives O3 and O4 be amended accordingly.

DEV01-PSP: 0803

~~Business The Centres in the Peacocke Precinct are well designed functional, safe, attractive and vibrant and provide for the commercial and community needs of the Peacocke residents, as well as higher density living opportunities (55.13), and seek to avoid adverse effects on long-tailed bats and their habitat (38.13) integrate with surrounding neighbourhoods, provide for multi-level apartment buildings and create distinctive places that are functional, safe, attractive and vibrant.~~

DEV01-PSP: 0904

~~The Peacocke Local Centre is the primary business centre within the structure plan area and provides a range of commercial and community services, as well as higher density living opportunities. to the local community (55.14)~~

22. Ms Tait also highlighted an inconsistency within the Section 42a Report and the amended chapters relating to DEV01-PSP: P62. The Section 42a Report accepted the submission by Kāinga Ora (55.94) seeking amendments to DEV01-PSP: P62 and the relocation of the policy from under the “Infrastructure Network” heading and include it with the policies under the “Transport Network” heading. Amendments were made to the policy however the policy was not relocated to site under the “Transport

Network” heading. It is therefore recommended that the policy be relocated to sit under the ‘Transport Network’ heading.

23. Mr Collins in his evidence suggested amendments to DEV01-PSP Components of the Peacocke Structure Plan (Peacocke Transport Network) to include the words ‘and key Local Roads’. Mr Collins does not provide reasons for the amendment, but I would presume the amendment to the wording aims to provide clarity around the indicative nature of both collector roads and key local roads within the Peacocke Structure Plan. We agree that the inclusion of this wording would provide plan users with a better understanding of the intent of the collector and local roads shown on the Peacocke Structure Plan as being indicative. On this basis the suggested amendment is supported.

DEV01-PSP: COMPONENTS OF THE PEACOCKE STRUCTURE PLAN

Transport Network

The transport network (~~refer to Figure 3.4.4a and (55.103)~~ Volume 2, Appendix 2, Figure 2-2 Peacocke Structure Plan - Transport Network (10.15)) shown on the Structure Plan is indicative and not intended to show exact alignments. Collector roads and Key Local Roads in particular are shown conceptually to provide key linkages between different residential neighbourhoods. Their precise alignment will be largely determined as individual subdivisions are progressed. New or altered intersections on the state highway network require the approval of Waka Kotahi (10.15)

24. Mr Collins also proposes the amendment to DEV01-PSP: Components of the Peacocke Structure Plan (Residential Environment) to include the wording ‘...is enabled through an Increase Height Overlay which...’. We agree with the suggested amendment as the inclusion of this wording provides greater clarity of where higher density is anticipated to be delivered as well as established the intent of the Increase Height Overlay which is to allow for developments of up to 5 storeys.

DEV01-PSP: COMPONENTS OF THE PEACOCKE STRUCTURE PLAN

Residential Environment

A higher density area, which is anticipated to have a mix of terrace dwellings and apartment buildings typically (53.23) between 2 and 5 storeys, is enabled through an Increased Height Overlay which has been identified for locations within close proximity of the identified local centre, schools, community facilities and transport routes identified for frequent public transport. The higher density will assist in supporting public transport and creating a viable and vibrant local centre.

25. Kāinga Ora also seeks the retention of Policy DEV01-PSP: P18 as notified however the Section 42a Report has recommended that the policy be amended based on submission point 30.19. Kāinga Ora state that the wording is poor and could be improved. Kāinga Ora propose the following wording:

DEV01-PSP: P18

Development within the Peacocke Precinct Structure Plan considers responds to the effects of climate change, including maximising (where appropriate) planting in public spaces, including roads (for example shade trees) providing shade trees, undertaking plantings on available green space and consider any other measures that may be considered best practice.

26. We agree with the proposed amended wording as the new wording provides clarity and better sets out the intent of the policy.

MEDIUM DENSITY RESIDENTIAL ZONE

27. A matter addressed at paragraph 15 of Ms Tait evidence relating to MRZ-PREC1-PSP: O7. The recommendation within Appendix A to the Section 42A Report (Summary of Submissions and Recommendations) for submission point 55.111 accepted the deletion of the Objective 7 (as notified) stating that the intent of Objective 7 is contained in Objective 9 and therefore to avoid duplication Objective 7 should be deleted. The deletion of Objective 7 was not carried through to the amended Chapter 4A in Appendix B. We would have to agree with this statement and recommend that the provisions in Chapter 4A should be updated to strike out Objective 7 (as notified).

28. In paragraph 21 of Ms Tait’s evidence, she identifies that the Section 42a Report accepts the submission point (38.45) from the Director General of Conservation (DOC) to manage residential lighting and accepts in part the submission by Kāinga Ora seek the retention of the policy as notified (55.138). The policy has been amended to include the wording ‘high-value long tail bat habitat’ Ms Tait suggests for consistency the policy should be amended to replace this wording with ‘Significant Bat Habitat Area’. For consistency and plan clarity we agree with Ms Tait and recommend that the wording be amended as follows:

MRZ - PREC1-PSP: P2114

Residential development is designed to manage effects of fixed lighting on adjacent areas ~~of within the Natural Open Space Zone (53.31) and high-value long-tailed bat habitats~~ Significant Bat Habitat Area (38.45).

MRZ-PREC1-PSP ISSUES

Increased density supports public transport and viable commercial centres, increasing the number of people within a walkable catchment. It also provides more housing options, such as one or two person homes, smaller families and opportunities for retirees to downsize. For this reason, the Peacocke Precinct includes ~~a high density overlay~~ an Increase Height Overlay which is located within walkable distances from the ~~suburban local (53.28)~~ centre, identified public transport routes and areas of amenity including the river and gully network, parks and community facilities (including schools) (24.2). This overlay enables the delivery of higher density housing and in combination with the objectives and policies of the plan, will create a walkable environment that provides ease of access to facilities and amenities and public transport.

MRZ-PREC1-PSP ISSUES

Increased density supports public transport and viable commercial centres, increasing the number of people within a walkable catchment. It also provides more housing options, such as one or two person homes, smaller families and opportunities for retirees to downsize. For this reason, the Peacocke Precinct includes ~~a high density overlay~~ an Increase Height Overlay which is located within walkable distances from the ~~suburban local (53.28)~~ centre, identified public transport routes and areas of amenity including the river and gully network, parks and community facilities (including schools) (24.2). This overlay enables the delivery of higher

density housing and in combination with the objectives and policies of the plan, will create a walkable environment that provides ease of access to facilities and amenities and public transport.

RELOCATED BUILDINGS

29. Kāinga Ora do not support the wording of MRZ-PREC1-PSP: R14 arguing that the matter of the requirement to comply with bulk and location standards are addressed by the Building Act and seeks that the wording relating to this be deleted. The wording proposed in the Section 42a Report is consistent with the rest of the Operative District Plan and provides a clear set of requirements for the establishment of a relocated building as a permitted activity. Based on this the recommendation made in the Section 42A Report is still supported.

PAPAKAINGA IN THE MEDIUM DENSITY RESIDENTIAL ZONE

30. Kāinga Ora submission point 55.161 sought that Papakāinga within the Medium Density Residential Zone be provided for as a permitted activity. Ms Tait in her evidence is now seeking that due to the introduction of MDRS the specific provision relating to Papakāinga should be removed and the development of Papakāinga should rely on MRZ-PREC1-PSP: R3 One, two or Three residential units on a site – Permitted and MRZ-PREC1-PSP: R15 Four or more residential units on a site – Restricted Discretionary. The definition of a Papakāinga in the Operative District Plan is as follows:

***Papakāinga:** Means a community where tāngata whenua live, primarily clustered around marae and other places of significance. Also means contemporary or ancient marae sites with or without accompanying residences or buildings. The extent of individual papakāinga should be determined in consultation with tāngata whenua and is not necessarily confined to multiple-owned Māori land. The definition may also extend to include ‘taura here’ communities who establish modern/urban papakāinga.*

31. We disagree with the removal of Papakāinga from the activity table as in many cases the development of Papakāinga include non-residential

activities such as communal kitchens, child care, community centre, schools etc. The restricted discretionary activity status for Papakāinga is appropriate to allow for the assessment of any development containing non-residential activities.

- 32. We agree that if a proposed Papakāinga is to only contain 1 to 3 residential units this could be processed under MRZ-PREC1-PSP: R3 as a permitted activity and containing 4 or more residential units then this could be processed under MRZ-PREC1-PSP: R15 as a restricted discretionary activity.

HEALTHCARE SERVICES IN THE MEDIUM DENSITY RESIDENTIAL ZONE

- 33. Ms Tait disagrees with the Section 42a Report’s rejection of the proposed change in the activity status for healthcare services in the Medium Density Zone from Non-complying to Discretionary. We agree with Ms Tait that some healthcare services, such as psychology or counselling practices, often benefit from locating within the residential areas and have a negligible effect on residential cohesion. However we consider that the ability to establish these types of activities as home occupations will provide these smaller services and that the intent of a non-complying activity status within the Medium Density Residential Zone aims to support the Local Neighbourhood Centres which allows healthcare services as a permitted above ground floor or Restricted Discretionary on the ground floor. Based on this the recommendation made in the Section 42A Report is still supported.

RESIDENTIAL UNIT SIZE

- 34. Rules MRZ-PREC1-PSP:R46, NCZ-PREC1-PSP:R51 and LCZ-PREC1-PSP:R45 specify the minimum residential unit size. Ms Tait in her evidence seeks to reduce the minimum residential unit size as set out in the table below. Included in the table are the minimum unit sizes within the Operative District Plan and the Auckland Design Guide for comparison:

Residential Unit Type	Operative District Plan	PC5 - Notified Minimum Area	Auckland Design Manual	Proposed Kainga Ora Minimum area
Studios	35m ²	35m ²	40m ²	30m ²
One bedroom unit	45m ²	45m ²	50m ²	45m ²
2-bedroom unit	55m ²	55m ²	75m ²	45m ²
3 or more-bedroom unit	90m ²	90m ²	100m ²	45m ²

35. We do not support the reduction in the size of apartments and consider that the proposed minimum residential unit size proposed by PC5 are appropriate to provide internal amenity and enables for the design of apartments that are functional, well organised and have sufficient space to meet the needs of the intended occupants. Based on this the recommendation made in the Section 42A Report is still supported.

CENTRES

36. A matter addressed at paragraph 16 of the evidence submitted by Ms Tait relating to Policy LCZ – P5 (as notified) has been amended through 55.261 however the word ‘Precinct’ has been missed of the end of the policy. We would agree that the word ‘Precinct’ needs to be added to provide clarity regarding the intent of the policy.

LCZ – PREC1-PSP: P51

A comprehensive, urban design-led approach is used to determine the form of ~~Suburban~~ the local centre intended to serve ~~new growth areas the Peacocke Precinct~~ (55.61).

37. Mr Collins highlights in his evidence an inconsistency in Rules 25.10.5.7 and 25.10.6. regarding signage with the Neighbourhood and Local Centres. To ensure plan clarity and ease of use of the provision it is recommended that the provision be amended as set out below.

- 25.10.5.7 Central City, Business 1 to 7, ~~and~~ Industrial Zones, Neighbourhood Centre Zone - Peacocke and Local Centre Zone – Peacocke (53.46/ 53.57)
- a) Signs in the Central City, Business 1 to 7~~and~~ , Industrial zones, Neighbourhood Centre Zone – Peacocke and Local Centre Zone - Peacocke shall comply with the following standards.
- 25.10.6 Restricted Discretionary Activities: Matters of Discretion and Assessment Criteria
- ii. Any electronic sign in the Central City Zone, Business 1-7 Zones, Industrial Zone, Neighbourhood Centre Zone – Peacocke, Local Centre Zone – Peacocke, Ruakura Logistics Zone and Ruakura Industrial Park Zone which complies with Rule 25.10.4 and Rule 25.10.5

38. LCZ – PERC1 – PSP R41 Height in Relation to Boundary (HIRB) has been amended through Kāinga Ora’s submission 55.313 however in Mr Collin’s evidence he seeks the re-introduction of a HIRB rule within the Local Centre Zone along the boundary with the adjoining Medium Density Residential Zone. Kāinga Ora sought the removal of the HIRB rule on the basis that they were seeking a High Density Residential Zone to replace the High Density Overlay around the Local Centre Zone and considered it not necessary to have a HIRB rule in the Local Centre Zone. The Adare Company through their further submission oppose the amendment proposed by Kāinga Ora and sought the amendment of the rule to be consistent with Schedule 3A and any other relevant provisions under the RMA. In re-considering the above and the Section 42a Report rejecting the inclusion of a High Density Residential Zone it is our recommendation to now reject submission point 55.313 and amend LCZ – PERC1 – PSP R41 to include the following:

LCZ – PERC1-PSP: R41 Height in Relation to Boundary

<u>1)</u>	<u>For the transport corridor boundary, the top storey of any building over 10m <u>12m</u> in height shall be set back by a minimum of 3m.</u>
<u>2)</u>	<u>Where any boundary adjoins a Medium Density Residential Zone, no part of any building shall penetrate a height control plane rising at an angle of 45 degrees beginning at an elevation of 3m above the boundary (55.313)</u>

	<u>Where any boundary adjoins a Medium Density Residential Zone, no part of any building shall penetrate a height control plane rising at an angle of 60 degrees beginning at an elevation of 4m above the boundary</u>
<u>3)</u>	<u>Elements such as flues, flagpoles, open balustrades and aerials shall be exempt from R48R41-1) and 2) above.</u>

OFFICES IN THE NEIGHBOURHOOD CENTRE

39. Ms Tait and Mr Collins both support offices less than 250m² being a permitted activity within the Peacocke Neighbourhood Centre Zone. PC5 proposes that offices less than 250m² within the Neighbourhood Centre Zone are a discretionary Activity while offices greater than 250m² are non-complying activities. This is consistent with the Operative District Plan and the centres hierarchy. I note that offices of less than 250m² in the Peacocke Local Centre Zone are permitted and discretionary up to 500m² and non-complying over 500m².
40. Having offices as discretionary within the Peacocke Neighbourhood Centre Zone enables any proposal to be assessed to the extent to which the proposed office activity in association with other established or consented office activity avoids adverse effects on the vitality, function and amenity of the Central City and sub-regional centres in particular the Peacocke Local Centre. Based on this the recommendation made in the Section 42A Report is still supported.
41. Having offices as discretionary within the Peacocke Neighbourhood Centres enables any proposal to be assessed for any potential effects associated with a proposal for retail or office activity in terms of the specified restricted discretionary activity criteria:

The extent to which the proposed retail or office activity (having regard to its size, composition and characteristics), in conjunction with other established or consented retail or office activity:

- *Avoids adverse effects on the vitality, function and amenity of the Central City and sub-regional centres that go beyond those effects ordinarily associated with competition on trade competitors.*
- *Avoids the inefficient use of existing physical resources and promotes a compact urban form.*
- *Promotes the efficient use of existing and planned public and private investment in infrastructure.*
- *Reinforces the primacy of the Central City and the functions of other centres in the business hierarchy.*

42 Within Mr Collin’s evidence in chief (Attachment 1 point 24) he seeks the introduction of a setback for the top storey of any building over 12m in height shall have a setback of 3m along the transport corridor in NCZ – PERC1-PSP: R47 Height in Relation to Boundary. As the S42a accepted the increase of building height within the neighbourhood centres to 16m the inclusion of the top floor setback should be accepted as this will ensure that buildings along the transport corridor do not impact on the street amenity. The amendment would also align with the provisions within the Local Centre Zone.

NCZ – PERC1-PSP: R47 Height in Relation to Boundary

<u>1)</u>	<u>For the transport corridor boundary, the top storey of any building over 12m in height shall be set back by a minimum of 3m.</u>
<u>2)</u>	<u>Where any boundary adjoins a Medium Density Density Residential Zone, no part of any building shall penetrate a height control plane rising at an angle of 45 60 degrees beginning at an elevation of 3m 4m above the boundary</u>
<u>3)</u>	<u>Elements such as flues, flagpoles, open balustrades and aerials shall be exempt from R645R47-1) and 2) above.</u>

LIGHTING AND GLARE – RULE 25.6.4.4

43. Within Mr Collin’s evidence in chief Attachment 1 point #42 (see also paragraph 81 of that evidence in chief), two amendments were proposed

to Rule 25.6.4.4 as enhancements to the rule. These are shown below in purple text, being a change to the rule title and within clause c).

~~25.6.4.4 Peacocke Medium Density Zone: Peacocke Precinct~~

- a) ~~Lighting~~ Added illuminance from artificial outdoor lighting shall not exceed 0.3 lux (horizontal and vertical) at any height ~~when measured at the external boundary of the Significant Bat Habitat Area (SBHA).~~
- b) Artificial outdoor lighting shall be fixed artificial outdoor lighting. Lighting attached to a vehicle is not considered to be fixed.
- c) ~~Within 100 metres of a SBHA, artificial outdoor lighting on land adjoining a SBHA, including land immediately on the opposite side of the road which adjoins a SBHA, must;~~

44. Following discussion with Mr McKensey these amendments are supported. The former amendment has the statutory effect of applying this rule to not just the Peacocke Medium Density Zone, but to the entirety of the Peacocke Precinct, meaning that this rule would also apply to the Local Centre Zone and Neighbourhood Zone. However rather than ‘Peacocke Precinct’ which would also include the Natural Open Space Zone with potential for confusion, the recommendation is to amend to “Peacocke Medium Density Zone, Peacocke Local Centre Zone and Peacocke Neighbourhood Centre Zone”.
45. The latter amendment is also supported, as it provides for situations where large properties may be adjoining an SBHA, but the artificial outdoor lighting being considered may be several hundred metres from the SBHA. To avoid unnecessary demonstration of compliance and associated cost, based on advice from Mr McKensey a 100 metre threshold is recommended for inclusion in the rule. The recommended rule provision as amended is therefore as follows:

~~25.6.4.4~~ ~~Peacocke Medium Density Zone, Peacocke Local Centre Zone and Peacocke Neighbourhood Centre Zone: Peacocke Precinct~~

- a) ~~Lighting~~ Added illuminance from artificial outdoor lighting shall not exceed 0.3 lux (horizontal and vertical) at any height ~~when measured at the external boundary of the Significant Bat Habitat Area (SBHA)~~
- b) Artificial outdoor lighting shall be fixed artificial outdoor lighting. Lighting attached to a vehicle is not considered to be fixed.
- c) ~~Where within 100 metres of a SBHA, artificial outdoor lighting on land adjoining a SBHA, including land immediately on the opposite side of the road which adjoins a SBHA, must;~~

BAT AND HABITAT ENHANCEMENT PANEL

46. Within Attachment 1 to Mr Collin’s evidence in chief, point #3 proposed inclusion of a new policy to establish a clear purpose and commitment to establishment of a Bat and Habitat Enhancement Panel. The proposed policy is as follows:
3. Add the following new policy in the Natural Environment policy section of Chapter 3A:
- [DEV01-PSP-Px: Establish a Bat and Habitat Enhancement Panel to advise on matters relating to the creation, restoration and enhancement of habitat for long-tailed bats, and the monitoring of long-tailed bat activity, within and beyond the Peacocke Structure Plan Area.](#)
47. Following discussion with Mr Kessels and Ms Mueller the inclusion of this policy is recommended for acceptance. The critical need for such a panel is clear based on hearing evidence presented by multiple parties, and the policy will set out the important role that this panel will undertake, both for Council and also landowners/future consent applicants.
48. Similarly at point #57 within Attachment 1 to Mr Collin’s evidence in chief, a new section is proposed within Appendix 1.5 Other Methods of Implementation at section 1.5.4 Collaboration and Partnership, as follows:

57. Amend section 1.5.4 Collaboration and Partnership by inserting the following new clause (r):

- (r) Establish a City-wide Bat and Habitat Enhancement Panel as a non-statutory body in conjunction with Waikato Regional Council, mana whenua and the Department of Conservation (with representatives from each or nominees) to undertake a coordination and advisory function. This entity will be responsible for:
 - (A) Advising on preparation of a City-Wide Bat Management Strategy to direct coordinated and centralised habitat enhancement initiatives (planting and pest control) and monitoring activity within and outside of the Peacocke Structure Plan Area;
 - (B) Directing the use of financial contributions and other sources of funding to specific projects and locations (which may be within Waipa District and Waikato District) for long-tailed bat habitat restoration and enhancement to mitigate, compensate and off-set adverse effects on low to moderate value habitats as a result of urban development;
 - (C) Supporting and advising resource consent applicants, landowners and developers; and
 - (D) Supporting and advising Hamilton City Council on the review of reports and management plans.

49. For the above reasons and in support of the above policy, and following discussion with Mr Kessels and Ms Mueller, this new provision is recommended for acceptance.

VEGETATION CLEARANCE RULE - RULE 25.2.5.2

50. Within Attachment 1 to Mr Collin’s evidence in chief, point #41 proposed the re-drafting of the vegetation clearance rule (Rule 25.2.5.2) to alter the sequence so it better reads as a permitted activity rule provision. This proposed re-drafting is as follows:

- a) The removal of any tree or vegetation within the Peacocke Structure Plan Area outside the Natural Open Space Zone is a permitted activity where:
 - i it has a diameter less than 150mm measured at 1.4m in height above ground level; or
 - ii where it has a diameter of 150mm or more measured at 1.4m in height above ground level and:
 - (A) A report is provided by a suitably qualified ecologist demonstrating that, following an assessment of the tree, the tree is not a confirmed or potential bat roost tree; and
 - (B) The above report is provided to Hamilton City Council prior to the removal of the tree(s); or
 - iii the vegetation removal is associated with works authorised by an existing subdivision or land use resource consent.

51. Relating to the same provision, Mr Gooding proposed an amendment to delete the wording 'in conjunction with works' to a stronger 'authorised by' wording. This proposed amendment is shown below:

25.2.5.2 Vegetation Clearance in the Peacocke Structure Plan Area

a) No removal of trees or vegetation within the Peacocke Structure Plan Area with a diameter of more than 150mm measured at 1.4m in height above ground level, unless:

- i. ~~It is in conjunction with works~~ a~~Authorised by an associated~~ subdivision consent; or*
- ii. ~~It is associated with works~~ a~~Authorised by an existing~~ resource consent; or*
- iii. A report is provided by a suitably qualified ecologist demonstrating that following an assessment of the tree that the tree is not an existing bat roost tree and there is low potential for the tree to be used as habitat for long-tailed bats, and*
- iv. That the above report is provided to Hamilton City Council prior to the removal of the tree(s).*

52. It is recommended that the rule be amended to incorporate the above proposals, given the former enhances the readability of the provision and better reflects that it is a permitted activity rule, whilst the latter better reflects the intent of the rule. An amendment to Mr Collin's wording is to not insert the words 'outside the Natural Open Space Zone' as Rule 25.2.5.2 as recommended within the Section 42A Report was intended to apply to SBHA's as whilst within the Natural Open Space Zone, vegetation clearance protection is via this rule provision, and these SBHA's will be in private ownership until such time as they are vested in Council as reserves. Instead 'outside of Significant Natural Areas' has been included within the amended recommendation. The recommendation is to amend the Section 42A Report version of the rule as follows:

25.2.5.2 Vegetation Clearance in the Peacocke Structure Plan Area

- a) The removal of any tree or vegetation within the Peacocke Structure Plan Area outside Significant Natural Areas is a permitted activity where:*

- i. it has a diameter less than 150mm measured at 1.4m in height above ground level; or
- ii. where it has a diameter of 150mm or more measured at 1.4m in height above ground level and:
 - (A) A report is provided by a suitably qualified ecologist demonstrating that, following an assessment of the tree, the tree is not a confirmed or potential bat roost tree; and
 - (B) The above report is provided to Hamilton City Council prior to the removal of the tree(s); or
- iii. the vegetation removal is authorised by an existing subdivision or land use consent resource consent.

ECOLOGICAL REHABILITATION AND MANAGEMENT PLAN - INFORMATION REQUIREMENT 1.2.2.26

53. Within Attachment 1 to Mr Collin’s evidence in chief, point #49 proposed various amendments to the information requirement for subdivision applications under 1.2.2.26 Ecological Rehabilitation and Management Plan Peacocke Precinct (ERMP) (see also paragraphs 158 to 160 of the evidence in chief). In summary these propose an additional ‘gateway’ whereby the provision of an ERMP would only be required “*where that ecological assessment confirms the presence of a watercourse, wetland, significant indigenous vegetation or other significant habitat of indigenous fauna*”, rather than “across the board”, and there were also amendments proposed at clauses vii and ix.
54. It is acknowledged that preparation of an ERMP imposes a potentially significant cost on consent applicants and should therefore be effectively targeted. It is also acknowledged that in response to recommendations from Mr Kessels (see statement of evidence dated 2 September 2022 Section 7.3 Other Recommendations) that the area threshold for subdivisions was lowered from two hectares to 5,000m² and therefore an ERMP will be required in more circumstances. Whilst cautious of the amendment, in most instances a site will contain a watercourse, wetland, significant indigenous vegetation or other significant habitat of indigenous

fauna in any event, and the practical difference of when the ERMP requirement applies is unlikely to be substantially different. This amendment is recommended for acceptance.

- 55. The deletion of clause vii) regarding lighting is supported as I concur with Mr Collins that this matter is satisfactorily managed through the specific lighting standard and provisions within Rule 25.6.
- 56. The proposed amendments to clause ix) are only partially supported, as consent applicants are likely to be required via consent condition to contribute to enhancement of SBHA’s. Whilst a financial contribution may be also required, this would relate to off-site enhancement works and there may will be on-site enhancement works required via consent condition. The word ‘vesting’ has been incorporated as a useful amendment and the terminology enhanced.

1.2.2.26 Ecological Rehabilitation and Management Plan Peacocke Structure Plan Precinct

All subdivision applications within the Peacocke Structure Plan Precinct (55.401) adjoining or including any Natural Open Space Zone open-space zone or involving more than two hectares 5,000m² of land shall include an assessment of freshwater and terrestrial ecological values prepared by a suitably qualified ecologist. Where that assessment confirms the presence of a watercourse, wetland, significant indigenous vegetation or other significant habitat of indigenous fauna then, as part of the resource consent application, an Ecological Rehabilitation Management Plan (ERMP) shall be included as part of the resource consent application. The objective of the ERMP is to manage construction related effects and to assess and identify opportunities to enhance freshwater and terrestrial ecological values within proposed public roads or reserves within the site. As a minimum and cCommensurate with ecological values found on the site, each application shall, it is to include the following, and the methods to implement them:

i	<u>Design and implement for monitoring and assessment of ecological significance of any freshwater and terrestrial ecological values, including aquatic biota, wetlands in accordance with NES-FW natural wetland protocols, indigenous birds, indigenous lizards and long-tailed bats.</u>
ii.	<u>An indigenous fish management plan for any stream or wetland habitat within the site, including a summary of fish habitat and species abundances (3.15) present, a summary of planned works, permitting requirements, procedures for dealing with pest fish, biosecurity protocols, timing of works, procedures for recovering indigenous fish prior to and during works, roles and responsibilities of parties, reporting</u>

		<u>requirements, monitoring plans and responsibilities (3.15) and any specific mitigation measures.</u>
	<u>iii.</u>	<u>Maintenance or enhancement of fish passage in accordance with the New Zealand Fish Passage Guidelines.</u>
	<u>iv.</u>	<u>Measures to avoid, remedy, mitigate, offset or compensate for any significant effects on habitats of indigenous fauna including birds, lizards and long-tailed bats and their habitats.</u>
	<u>v.</u>	<u>Consideration of herpetofauna and avifauna and related habitat where values are likely to be affected.</u>
	<u>vi.</u>	<u>Measures to minimize harm on indigenous fauna species during any habitat removal or modification.</u>
	<u>ii.</u>	<u>Planting of indigenous tree species to provide indigenous vegetation and habitat for indigenous fauna.</u>
	<u>vii.</u>	<u>Fixed lighting design that achieves the required lighting standards in relation to areas of Significant Bat Habitat, and is sensitive to bats in the wider area, including avoidance of upward-facing lighting and UV lighting, and avoidance of lighting in wetland and riparian margin areas.</u>
	<u>viii.</u>	<u>Restoration planting to include wetland restoration, habitat enhancement and riparian buffer zones.</u>
	<u>ixv.</u>	<u>The vesting establishment and enhancement of identified Significant Bat Habitat Areas corridors as identified within the Peacocke Structure Plan.</u>
	<u>xvi.</u>	<u>Evidence of engagement with tangata whenua during preparation of the ERMP including how the outcomes of that engagement have been addressed.</u>

BAT MANAGEMENT PLANS – INFORMATION REQUIREMENT 1.2.2.28

57. Within Attachment 1 to Mr Collin’s evidence in chief, point #51 proposed various amendments to the information requirement for applications under 1.2.2.28 Bat Management Plans (BMP) (see also paragraphs 74 to 79 of the evidence in chief). Mr Collin’s described the Section 42A Report version of this provision as ‘too wide-ranging and onerous’ and instead proposed a substantially different provision in response. We would characterise the changes as being a removal of many items that the submitter appeared to consider as being Council functions to be delivered rather than elements to be provided by consent applicants.
58. The amendments to narrow the provision in this way are not supported, although some of the amendments have been recommended for adoption

as wording enhancements. This includes the removal of the majority of the second advisory note given the recommendation to include similar wording at Appendix 1.5.4 r). The amendments to the BMP provision proposed within the Section 42A Report recognised the inclusion of a new proposed rule 25.2.5.2 (and 25.2.3k)) to provide greater vegetation protection within the 'low' and 'moderate' habitat areas located throughout the Medium Density Residential Zone, rather than just within the SBHAs zoned as Natural Open Space Zone. This does represent a substantial widening of the provision, and to that extent Mr Collin's position has merit.

- 59. Removal of substantial portions of the provision as proposed by Mr Collins is not supported however given the criticality of this provision to the broader framework of Council's PC5 bat protection response. This would weaken the overall response as the amendments limit the BMP provision to an ecological assessment that reports on the values present, but with removal of the action-oriented elements of the BMP provision in an entirely unsuitable manner.
- 60. Some wording from Mr Collin's proposed amendments regarding when a BMP is required has been recommended for acceptance as the explicit references to Rule 25.2.3(k) (Vegetation clearance in the Peacocke Structure Plan Area that does not meet the requirements of 25.2.5.2) and the Rule 25.2.5.2 wording 'any tree exceeding 15cm diameter at a height 1.4m above ground level', are useful amendments for clarity. These are shown below:

1.2.2.28 Bat Management Plan

All applications within the Peacocke Structure Plan Area in the Significant Bat Habitat area that require consent under Rule 25.2.3(k) (Vegetation clearance in the Peacocke Structure Plan Area that does not meet the requirements of 25.2.5.2); or any subdivision in circumstances where any tree exceeding 15cm diameter at a height 1.4m above ground level is proposed to be removed seek to remove any trees or vegetation with a diameter at breast height (DBH) higher than 15cm shall include a bat management plan. The Bat Management Plan shall be prepared and undertaken by a suitably qualified bat ecologist (Class D or E) and include:

....

61. The simplification of the second advisory note is recommended for acceptance, given the recommended insertion of similar wording at Appendix 1.5.4 r). This recommended amendment is shown below (in purple text):

Advisory Note: Hamilton City Council’s intention is to establish a PeacockeCity-wide Bat and Habitat Enhancement Review Panel is recorded in Appendix 1.5.4(r).

or similar entity to be established as a non-statutory body in conjunction with Waikato Regional Council, mana whenua and the Department of Conservation (with representatives from each or nominees) to undertake a coordination and advisory function. This entity could make recommendations on an ongoing basis to Hamilton City Council as the consenting authority, and support resource consent applicants, landowners and developers; prepare a Peacocke Bat Management Strategy to direct habitat enhancement initiatives, and coordinated and centralised monitoring activity, including outside of the Peacocke Structure Plan Area within, to direct the use of financial contributions to specific projects and locations, to identify suitable locations (including within Waipa District and Waikato District) for long-tailed bat habitat restoration and enhancement projects to be funded through financial contributions from consent applicants within the Peacocke Structure Plan Area; review Habitat Management Plans, Bat Protection Plans and similar produced by consent applicants; and support Hamilton City Council with the review of monitoring and compliance reports provided by consent applicants required via resource consent conditions.

MATTERS OF DISCRETION 1.3.3 P3 AND P5

62. Within Attachment 1 to Mr Collin’s evidence in chief, points #52 and #54 propose various amendments to the assessment criteria at 1.3.3 P3 Development in the Peacocke Precinct and P5 Subdivision in the Peacocke Precinct (see also paragraphs 164 to 167 of the evidence in chief).
63. The minor wording amendments to P3 j), l) and p) are supported on the basis that the clarity of meaning is enhanced. The amendment to P3 o) regarding cats and pest control is not supported as the narrowing of the wording is not suitable and the limitation to ‘domestic cats’ is not supported as the intent is for feral cats to also be included as a key pest species to be targeted. The amendments shown below (in purple text) are recommended for acceptance:

P3 j)

The extent to which the proposal avoids, remedies, mitigates, off-sets or compensates for the effects of development on identified Significant Bat Habitat Areas and non-identified low to moderate habitat values ~~in the Medium Density Residential Zone~~. This may include the direct ~~through the~~ protection of identified Significant Bat Habitat Areas, the protection of confirmed or potential bat roost trees (subject to the recommendations of the assessment required in Appendix 1.2.2.28), ~~provision of re-vegetated and enhanced ecology corridors to provide~~ new and enhanced bat habitat or the provision of a financial contribution ~~to provide for this elsewhere~~ towards city-wide initiatives for the long-tailed bat.

P3 l)

The extent to which transport corridors are located and designed to avoid or minimise effects of roadside lights and vehicle headlights on nearby Significant Bat ~~Habitat~~ Areas, and the bat population within that area. Where transport corridors are proposed in Significant Bat Habitat Areas ~~ecological corridors~~, they should take the shortest route practicable (provided that is the route most likely to minimise impacts), be aligned and designed to minimise the number of existing trees that are required to be removed, ensure lighting is designed to ensure that the bat corridor maintains its role and function, and is designed to enable bats to continue to access the wider corridor.

P3 p)

The extent to which the application addresses residual adverse effects on bats and achieves a net biodiversity gain, whether through direct actions or via a financial contribution to be used within publicly owned land for measures such as habitat enhancement and targeted predator control. ~~that achieves residual pest indices relevant to bat conservation.~~

64. The same amendments are recommended for acceptance within P5 for the same reasons:

x)	<u>The extent to which the proposal avoids, remedies, mitigates, off-sets or compensates for the effects of development on identified Significant Bat Habitat Areas and non-identified low to moderate habitat values within the Medium Density Residential Zone, This may include the direct through the protection of identified Significant Bat Habitat Areas, the protection of confirmed or potential bat roost trees (subject to the recommendations of the assessment required in Appendix 1.2.2.28), provision of re-vegetated and enhanced ecology corridors to provide new and enhanced bat habitat or the provision of a financial contribution towards city-wide initiatives for the long-tailed bat.</u>
x)	<u>The extent to which transport corridors are located and designed to avoid or minimise effects of roadside lights and vehicle headlights on nearby Significant Bat Habitat Areas, and the bat population within that area. Where transport corridors are proposed in Significant Bat Habitat Areas ecological corridors, they should take the shortest route practicable (provided that is the route most likely to minimise</u>

	<u>impacts), be aligned and designed to minimise the number of existing trees that are required to be removed, ensure lighting is designed to ensure that the bat corridor maintains its role and function, and is designed to enable bats to continue to access the wider corridor.</u>
--	--

65. As a broader response to the amendments proposed by Mr Collins and other submitters, it is considered that an additional assessment matter should be added under both P3 and P5 recognising the extent of planting or other ecological enhancement work on the property already undertaken by a landowner/consent applicant prior to lodgement of the resource consent application. The intent is to enable recognition (and certainly not penalise) a landowner/consent holder where that party has undertaken ‘early planting’ or other ecological enhancement work prior to lodgement of the consent application. Accordingly, it is recommended that the follow additional assessment matter be included within both P3 and P5 to enable consideration of previous planting and/or ecological enhancement:

P3:

The extent to which the consent applicant and/or landowner(s) can demonstrate that they have undertaken previous planting and/or broader ecological enhancement work within the property, prior to lodgement of the resource consent application. This previous planting and/or broader ecological enhancement work should be taken into account when considering the extent of further ecological enhancement necessary via consent conditions.

P5:

The extent to which the consent applicant and/or landowner(s) can demonstrate that they have undertaken previous planting and/or broader ecological enhancement work within the property, prior to lodgement of the resource consent application. This previous planting and/or broader ecological enhancement work should be taken into account when considering the extent of further ecological enhancement necessary via consent conditions.

66. Within the statement of evidence presented by Mr Gooding, Attachment A Consolidated Provisions presented a series of alternative amendments to both P3 and P5. Whilst these are not supported as the amendments have a different focus to that within the assessment matters, the substitution of the word ‘mustelids’ with the phrase ‘other pests’ is a useful

amendment to broaden out the pest species covered beyond cats and mustelids. These amendments are recommended for acceptance and are within P3 o) and P5 x) as follows:

P3:

<u>o)</u>	<u>The extent to which measures for the control of cats and other pests mustelids has been addressed and the effectiveness of the measures proposed, including their implementation and ongoing monitoring. This includes the estimated timing for completion of animal pest control measures and the anticipated ecological enhancement outcomes following the implementation of the animal pest control measures.</u>
-----------	--

P5:

<u>x)</u>	<u>The extent to which measure for the control of cats and other pests mustelids has been addressed and the effectiveness of the measures proposed, including their implementation and ongoing monitoring. This includes the estimated timing for completion of animal pest control measures and the anticipated ecological enhancement outcomes following implementation of the animal pest control measures. This includes whether the application details the means through which the control of cats and other pests mustelids within the application site will be carried out, including the registering of consent notices pursuant to section 221 of the Resource Management Act 1991 on records of title for properties created through subdivision.</u>
-----------	--

LANDSCAPE CONCEPT PLAN– INFORMATION REQUIREMENT 1.2.2.25

67. Within Attachment 1 to Mr Collin’s evidence in chief, point #48 (and discussed at paragraphs 156 and 157 of that statement) proposed minor amendments to Rule 1.2.2.25 Landscape Concept Plan Information Requirements to reflect that the information requirement should only apply where applications propose new public road or reserve areas. Mr Collin’s explains that this would avoid capturing applications for subsequent subdivision of super lots created by a previous subdivision where the super lot is contained within existing or consented roads with the subdivision comprises only private lots and accessways and not new public areas. This point is concurred with to avoid unnecessary duplication of landscape reporting with the recommended amendment shown as follows:

[1.2.2.25 Landscape Concept Plans Peacocke Structure PlanPrecinct \(55.400\)](#)

For any subdivision and land use development application in the Peacocke Structure Plan Precinct (55.400) adjoining or including any open space zone or (46.7/ 53.86) involving the development of more than two hectares of land and where including proposed new public roads or reserve areas, a Landscape Concept Plan shall be provided with the application that meets the following requirements (and shall apply to the application footprint of the proposed subdivision).

The objectives of the Landscape Concept Plan is to identify opportunities to protect or enhance the natural character and cultural, heritage and amenity values, within the subdivision site, to recognise and provide for tangata whenua values and relationships with Peacocke, and their aspirations for the area, and to reflect the area's character and heritage. The landscape concept plan shall include:

CHAPTER 15A PEACOCKE NATURAL OPEN SPACE ZONE

68. Within Attachment 1 to Mr Collin's evidence in chief, point #31 proposed several minor wording amendments to better describe the intent, and to improve terminology with the word 'significant' added. This point is concurred, with the recommended amendment as per below:

Chapter 15A – Natural Open Space Zone

31. Amend the third paragraph of NOSZ– PREC1-P: Issues to read:
- The Natural Open Space Zone includes publicly and privately owned areas that possess natural or landscape values or that are locations where Significant Bat Habitat Areas are proposed to be created to mitigate potential effects of urban development within the Peacocke Structure Plan area and surrounding areas on the city-wide long-tailed bat population. The Natural Open Space zoned areas will be vested as public reserves. It is important to protect these areas from
69. The tabled statement from Bevan Houlbrooke on behalf of the submitter Ron Lockwood sought that additional wording be added within Chapter 15A, to make explicit Council's intent for the vesting of Significant Bat Habitat Areas as described within paragraph 7.80 of the Section 42A Report. It is acknowledged though that the statement of evidence of Mr Sirl (paragraphs 29 and 32) addressed that any Council acquisition of land will be informed by a valuation from an independent property valuer. Further that when esplanade reserves are required through subdivision that these are vested at no cost to Council. The recommended amendment below reflects that clarification.

NOSZ – PREC1- P: ISSUES ... The Natural Open Space Zone in the Peacocke Structure Plan includes areas that have been identified to protect the significant habitat of long-tailed bats. These include buffers to known habitats and the creation of connections to these known habitats that will ensure bats are able to continue to access these areas for roosting and foraging without having to navigate urbanized areas. Council's intention is that this land will be vested at the time of subdivision and that it is classified pursuant to the Reserves Act 1977 as either Local Purpose (Ecological) Reserve for Significant Bat Habitat Areas or as Local Purpose (Esplanade) Reserve where the sections of 229 to 237 of the Resource Management Act 1991 apply. Landowners will be compensated for fair market value for the vesting of Local Purpose (Ecological) Reserve where being created for Significant Bat Habitat Areas (with esplanade reserves vested at no cost to Council).

MISCELLANEOUS OBJECTIVE, POLICY AND RULE WORDING AMENDMENTS

70. Within Attachment 1 to Mr Collin's evidence in chief are a number of proposed amendments to provisions. The paragraphs below relate to proposed amendments where recommended for acceptance.

71. Within Attachment 1 to Mr Collin's evidence in chief, point #10 proposed minor wording additions to enhance terminology and enhance clarity, which is concurred with as shown below (in purple text):

10. Amend DEV01-PSP: P22 to read:
- Road layouts adjacent to ~~identified natural features~~ Significant Bat Habitat Areas recognise and retain the ecological functions and processes of those areas their natural form where practicable.

72. Within Attachment 1 to Mr Collin's evidence in chief, points #11, #12 and #34 proposed minor wording additions to enhance terminology, which are concurred with as shown below (in purple text):

11. Amend DEV01-PSP: P26 to read:
- Protect bat Significant Bat habitat Habitat Areas within and adjoining the edge of the Mangakotukutuku Gully and Waikato River to ensure long tailed bats are able to continue to utilise these areas.

12. Amend DEV01-PSP: P28 to read:
- Provide ~~ecological corridors~~ Significant Bat Habitat Areas between the major arms of the Mangakotukutuku Gully and Waikato River of sufficient width that enables the movement of long tailed bats between the two areas.
34. Amend SUB – PREC1-PSP: O9 to read:
- Subdivision enables the restoration of ~~responds to and restores~~ the natural environment with a focus on the Significant Bat Habitat Areas ~~those areas~~ identified in the Peacocke Structure Plan which provide for ~~including the creation of new ecological corridors and protection and enhancement of identified existing ecological corridors including stream network.~~
73. Within Attachment 1 to Mr Collin’s evidence in chief, point #13 proposed minor wording additions to enhance clarity, which is recommended for acceptance as shown below (in purple text):
13. Amend DEV01-PSP: P48 to read:
- ~~To e~~Ensure co-ordination of development and infrastructure ~~S~~staging and sequencing is in general accordance with any the staging stage indicated on the relevant shown on planned staging and sequencing in the Peacocke Structure Plan.
74. Within Attachment 1 to Mr Collin’s evidence in chief, point #17 proposed a minor wording addition, which is concurred with as shown below (in purple text):
17. Amend the second paragraph of DEV01-PSP: Components of the Peacocke Structure Plan (Peacocke Transport Network) to read:
- The transport network (~~refer to Figure 3.4.4a and Volume 2, Appendix 2, Figure 2-2 Peacocke Structure Plan - Transport Network~~) shown on the Structure Plan is indicative and not intended to show exact alignments. Collector roads and Key Local Roads in particular are shown conceptually to provide key linkages between different residential neighbourhoods. Their precise alignment will be largely
75. Within Attachment 1 to Mr Collin’s evidence in chief, point #40 proposed wording changes to SUB-PREC1-PSP: R25 Provision of Ecological Areas to remove repetition and to delete clause a) on the basis that the SBHA’s are mapped as zoned areas within Appendix 17A and shown on the Appendix 2 structure plan diagrams, and therefore there is no need to retain the specified minimum width. This amendment is supported with the amendments below recommended for acceptance (in purple text):

40. Amend SUB-PREC1-PSP: R25 Provision of Ecological Areas to read:

1) Where subdivision includes <u>Natural Open Space</u> zoned areas identified in the <u>Peacocke Structure Plan</u> area as <u>Significant Bat Habitat Areas Corridors</u> , these shall be provided vested in Council as Local Purpose (Ecological) Reserve or Local Purpose (Esplanade) Reserve, and vested in Council in accordance with the Peacocke Structure Plan and be designed to meet the following requirements:	
<u>a)</u>	<u>Maintain a minimum width of 50m.</u>

76. Further, in response to Mr Gooding’s statement of evidence and the document ‘Attachment A Consolidated Provisions’, several proposed amendments are also recommended for acceptance as shown below:

~~DEV01-PSP: 015011 Enable development adjacent to ecological Natural Open Space Zone areas where it is designed to managed to protect and enhance ecological functions and processes. the effects of development on the function of these areas.-(36.13)~~

~~DEV01-PSP: P13 P7 Higher density development in the Peacocke Structure Plan:~~

- ~~1. Shall be established within a walkable distance of the Peacocke Local Centre, neighbourhood centres, identified public transport routes, adjacent to schools, parks and community facilities.~~
- ~~2. May be provided along areas of Natural Open Space Zone including the river corridor and gully network where ecological functions and processes can be protected and enhanced (36.18).~~

CONCLUSION

77. The above paragraphs represent a series of changes to the recommendations set out within the Section 42A Report dated 2 September 2022 for consideration by the panel of hearing commissioners. Except where amended above, in all other respects the recommendations contained within the Section 42A Report remain the recommendations. This includes the appendices to the Section 42A Report Appendix A – Summary of Decisions Requested and Recommendations, and Appendix B – Recommended Revisions to District Plan Chapters. In respect of the various district plan chapters being amended by Plan Change 5, these are currently being updated to reflect the revised recommendations within

this statement and these chapters will be made available to hearing commissioners in the coming days to support the making of decisions.

Craig Melville Sharman and Mark Hector Roberts

3 October 2022