

**BEFORE THE INDEPENDENT HEARING PANEL  
APPOINTED BY HAMILTON CITY COUNCIL**

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

**AND**

**IN THE MATTER** of hearing submissions on Plan Change 5 to the Hamilton  
City District Plan

**BETWEEN** **THE ADARE COMPANY LIMITED**  
**Submitter #53**

**AND** **HAMILTON CITY COUNCIL**  
**Local authority**

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**REPLY EVIDENCE OF ANDREW COLLINS  
FOR THE ADARE COMPANY LIMITED**

**PLANNING**

**21 SEPTEMBER 2022**

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## SUMMARY OF EVIDENCE

1. My name is Andrew Collins. I prepared a statement of evidence in chief (**EIC**) on planning on behalf of The Adare Company Limited (**Adare**) dated 16 September 2022.
2. I have the qualifications and experience set out in my EIC. I repeat the confirmation given in my EIC that I have read the Code of Conduct for expert witnesses and that my evidence has been prepared in compliance with that Code.
3. I respond to matters raised in the expert evidence of Ms Susannah Tait for Kainga Ora; Ms Hannah Craven for Waikato Regional Council; Mr Jesse Gooding for the Director-General of Conservation; and Mr Phillip Brown for Woolworths New Zealand Limited.

## RESPONSE TO SUSANNAH TAIT (KĀINGA ORA)

### *Healthcare services in Medium Density Residential Zone*

4. In paragraph 29 of her evidence, Ms Tait seeks discretionary activity status for healthcare services in the Medium Density Residential Zone, as opposed to non-complying activity status in PC5. Adare opposed this in its further submission. I note that healthcare services are a permitted activity in the Local Centre Zone<sup>1</sup> and in the eight Neighbourhood Centre Zones<sup>2</sup> within Peacocke. Ms Tait notes that readily accessible healthcare services support community wellbeing by providing critical services in close proximity to residents. I agree with this general statement but note that the eight Neighbourhood Centre Zones within Peacocke are distributed in a manner that provide proximity for residents. Given that these zones have ample capacity to meet projected demand, I would think it is more appropriate to keep the activity rules unchanged and thereby encourage healthcare services into those neighbourhood centres.

### *Offices in Neighbourhood Centres Zones*

5. In paragraphs 30 to 32 of her evidence, Ms Tait proposes permitted activity status for “commercial offices” and “professional offices”. I note

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1 Rule LCZ-PREC1-PSP: R12, using numbering in s.42A report.

2 Rule NCZ-PREC1-PSP: R13, using numbering in s.42A report.

that Kainga Ora's submission does not make this distinction and seeks that "offices" less than 250m<sup>2</sup> GFA be permitted, with discretionary status for larger offices. Adare supports this in its further submission. I note that the Hamilton City District Plan (**district plan**) has a definition of "office" that refers to, and includes examples of, administrative offices, commercial offices and professional offices. At present in PC5, offices <250m<sup>2</sup> GFA are discretionary activities and larger ones are non-complying activities.<sup>3</sup> Relevant objectives and policies are:

*A distribution of locally based centres that provide services and health-care services capable of meeting the day-to-day needs of their immediate neighbourhoods.*<sup>4</sup>

*Activities within neighbourhood centres principally serve their immediate neighbourhood.*<sup>5</sup>

6. I support Ms Tait's view as I consider that the above outcomes can still be achieved if offices (as permitted activities) are limited to those with GFA less than 250m<sup>2</sup>. Any larger offices (as discretionary activities) would require assessment against objectives and policies. However, I disagree in one respect. As the terms "commercial offices" and "professional offices" are not separately defined in the district plan, I consider it best for the rule to refer just to "offices", as the rule does now and, noting that the standard of GFA <250m<sup>2</sup> is already in Rule NCZ-OREC1-PSP-R30, I would just change the activity status to permitted and discretionary respectively (where the standard is met/not met).
7. My opinion on the activity status for offices in Neighbourhood Centre Zones is, however, subject to those activities needing to be included within the GFA caps under Rule NCZ-PREC1-PSP: R45, as Mr Richard Bowker and I have recommended in our EIC<sup>6</sup>.

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3 Rule NCZ-PREC1-PSP: R30, using numbering in s.42A report.

4 NCZ-PREC1-PSP: O1.

5 NCZ-PREC1-PSP: P1.

6 Refer to paragraph 148 of my EIC.

*Local Centre Design Guide*

8. In paragraph 40 of her evidence, Ms Tait notes her opinion that any Design Guide should “*sit outside the district plan (and be incorporated by way of reference) so that the guidance can be updated to truly reflect best practice*”.
9. There is only one Design Guide in PC5 at present, that is the Local Centre Design Guide which is proposed to be included as new section 1.4.11 in Appendix 1, section 1.4 Design Guides. I note that sections 1.4.1 to 1.4.10 – all outside the scope of PC5 – contain various other Design Guides. While I can understand Ms Tait’s preference for flexibility to update Design Guides outside of RMA Schedule 1 processes, the other side of that coin is that any Design Guide can be changed without third party (i.e. landowners/community) involvement, review or sense-check. If the Design Guide is “incorporated by way of reference” into assessment criteria or similar, then that potentially creates uncertainty issues for those affected by Design Guide changes which have not been scrutinised. I do not dismiss the concept of non-regulatory Design Guides as I believe they can have their place too. However, in this case, I consider that the Local Centre Design Guide should remain alongside the other Design Guides in the district plan that are outside the scope of PC5.
10. As to Ms Tait’s suggestion that the various Chapter 3A “Components of the Peacocke Structure Plan” can be removed from Chapter 3A and instead incorporated into a new Design Guide outside the District Plan, I also disagree. I support the proposed simplification of Chapter 3A by removing unnecessary information and by relocating various elements that better belong elsewhere, as proposed by the s.42A report. If those changes are accepted by the Panel, then I consider that that the explanatory content in the “Components of the Peacocke Structure Plan” section can remain. I agree with Ms Tait that they have no particular statutory weight. However, the explanatory information does provide context for the Chapter 3A objectives and policies and they do help explain the features of the structure plan in Appendix 2 (at least they do now that some of the confusion is proposed to be removed).

11. I note that the district plan's other "structure plan chapters" also contain sections that outline "structure plan components"<sup>7</sup>.
12. For the above reasons, I consider it better for PC5 to remain aligned with the established structure of the district plan and for the simplified Chapter 3A to remain.

*Comprehensive planning document with land use applications*

13. In paragraphs 43 to 46 of her evidence, Ms Tait discusses Kainga Ora's submission that seeks that a Comprehensive Development Plan (or similar) be prepared for all subdivision and land use applications. Adare opposed this in its further submission. Ms Tait acknowledges that section 1.2.2.2.1 of the district plan (as amended by PC5) does require all subdivision applications in Peacocke to be supported by comprehensive planning documents. The district plan calls these "subdivision concept plans" and I discuss these in my EIC.<sup>8</sup> Ms Tait's concern is that there is no equivalent information requirement for land use applications and in her paragraph 45 she notes her particular concern for the development of any superlots if they were to be developed first and then unit titled afterwards.
14. I do not share this concern as the creation of the superlots in the first place requires a subdivision consent process, and the associated subdivision concept plan would ensure that the subdivision layout (including road locations and block depths) both is consistent, and enables subsequent development that will be consistent, with the PSP. Furthermore, 4 or more residential units on a site is a restricted discretionary activity with one of the matters of discretion being the Peacocke Structure Plan.<sup>9</sup>

*Bat protection*

15. In paragraph 58 of her evidence, Ms Tait makes the following comment:

*From a planning perspective, I consider that any bat related provisions should be cognisant of the medium to higher density outcomes planned*

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7 Refer to section 3.5.2 (Rototuna Structure Plan Components), section 3.6.2 (Rotokauri Structure Plan Components); section 3.7.1 (Ruakura Structure Plan Components) and section 3.8.2 (Te Awa Structure Plan Components).

8 Refer to paragraph 119 of my EIC.

9 Rule MRZ-PREC1-PSP: R15, using numbering in s.42A report.

*for Peacocke, do not unnecessarily result in an inefficient use of land and lastly, ensure a balance of outcomes (both landuse and ecological) in the Peacocke Precinct. I understand that there was general agreement amongst the experts that attended conferencing on the 24th of August, that a wider landscape approach should be adopted for bat management. If this approach results in a more efficient use of land in Peacocke, then I would support this approach.*

16. I concur with this statement and note that it aligns well with similar opinions that I expressed in my EIC. In particular, we both seem to support:
- a) achieving a good balance of land use and ecological outcomes within the PSP;
  - b) taking a wider landscape approach to bat management; and
  - c) enabling efficient use of land outside of defined protection areas (which are the Natural Open Space areas).

*Extension of Increased Height Overlay*

17. In paragraphs 69 and 70 of her evidence, Ms Tait supports the extension of the Increased Height Overlay to the south-east of the Local Centre Zone, across the gully (onto "The Island" as it is referred to in my EIC and that of Mr Bredemeijer). She considers that this would better give effect to the National Policy Statement for Urban Development (**NPS-UD**), the Waikato Regional Policy Statement (**WRPS**) and objective MRZ-PREC-PSP: O4 and policy MRZ-PREC-PSP: P1 of PC5's Medium Density Residential Zone.
18. I agree that the provisions referred to in Ms Tait's evidence do generally promote and enable higher densities close to local centres. The difference between us is that I read those various provisions, firstly in the context of PC5 when viewed as a whole, and secondly from a practical perspective which seeks to enable and encourage the landowner in this case, who has an existing subdivision consent in place, to work with that consent (i.e. amend it) to achieve higher densities even when it could choose not to.
19. With regard the first point, PC5 does substantially enable and require higher densities in many areas close to and around the Local and Neighbourhood Centres and, in my opinion, it does give effect to both the

NPS-UD and WRPS. Those same provisions that enable higher densities around centres also promote a range of other outcomes that, together, achieve well-functioning urban environments and a variety of housing forms to meet the needs of different households. My EIC discusses these aspects of the NPS-UD objectives and policies.

20. With regard to the second point, I have nothing new to add that is not already expressed in my EIC.

*Density in the Medium Density Residential Zone*

21. In paragraphs 73 to 77 of her evidence, Ms Tait discusses the minimum overall net density to be achieved within the Medium Density Residential Zone, preferring 35 dwellings per hectare, not the 30 dwellings per hectare supported by the s.42A report and by myself. I have covered this in my EIC. The only points of rebuttal would be to query the statement in paragraph 73(i) that *"medium density housing is typically in the order of 50 dwellings per hectare"*. That statement does not take into account the nature of the land in Peacocke, specifically its topography and many constraints and ecological considerations. My opinion draws upon the masterplanning work and urban design evidence discussed in my EIC and in that of Mr Bredemeijer. I consider it more important for PC5 to "raise the bar" considerably from traditional densities (noting the current WRPS Policy 6.15 only requires 16 dwellings per hectare in Peacocke) but still express minimum densities in a manner that are practical and enable "reach" beyond the minimum figures expressed in policy and rules. Applicants want to be able to demonstrate compliance with objectives and policies, not to fall short of them because they are expressed in overly-aspirational terms.

**RESPONSE TO HANNAH CRAVEN (WAIKATO REGIONAL COUNCIL)**

*Activity status for single dwellings in Increased Height Overlay area*

22. In paragraph 23 of her evidence, Ms Craven considers that there is a disconnect between policies DEV01-PSP-P8; DEV01-PSP-P9 and MRZ-PREC1-PSP-R3 (permitted activity rule for "one, two, or three residential units on a site"). I have listed the above two policies in full below.

DEV01-PSP-P8 (s.42A version) - *Development of the Peacocke Structure Plan area should aim to achieve a minimum overall net*

*residential density (excludes roads and open space) of 30 dwellings per hectare other than in the Increased Height Overlay area which, in recognition of the additional height enabled, should aim to achieve a minimum overall net residential density of 45 dwellings per hectare.*

*DEV01-PSP-P9 (PC5 notified version, unchanged by s.42A report) - Avoid compromising the future delivery of high-density residential activity around the local centre and identified public transport routes with low density development.*

23. In paragraph 31, Ms Craven states that she agrees that PC5 “enables medium and high-density development” but she considers it also “does very little to prevent low density development”. Based on this, in her paragraph 33, she recommends discretionary activity status for single dwellings in the Increased Height Overlay area.
24. I disagree that PC5 does little to prevent low density development. Such a statement ignores the fact that:
- (a) all subdivisions within the PSPA (for single or staged subdivision creating more than 10 additional lots) have to be accompanied by a subdivision concept plan that demonstrates how the proposal is in accordance with the PSP and how the objectives and policies of the Structure Plan are able to be met (sections 1.2.2.2 and 1.2.2.2.1);
  - (b) four or more residential units on a site is a restricted discretionary activity;<sup>10</sup>
  - (c) subdivision associated with a concurrent land use consent is a controlled activity<sup>11</sup> (but the land use component is a restricted discretionary activity – see above point);
  - (d) subdivision that creates vacant lots is a restricted discretionary activity;<sup>12</sup>

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10 Rule MRZ-PREC1-PSP: R15, using numbering in s.42A report.

11 Rule SUB-PREC1-PSP: R5, using numbering in s.42A report.

12 Rule SUB-PREC1-PSP: R7, using numbering in s.42A report.



- (e) All restricted discretionary activities are subject to matters of discretion related to design and layout and the PSP. Furthermore, the assessment criteria in Section 1.3, Appendix 1 of the district plan (specifically P3 and P5 criteria) provide ample ability to decline proposals that are not consistent with the PSP and its associated objectives and policies; and
  - (f) There are several objectives and policies in Chapter 3A (Peacocke Structure Plan) and also Chapter 23A (Subdivision; Peacocke Precinct) that emphasise the medium density outcomes both sought and, in my view, effectively required.
25. I consider there is little risk of low density development being achieved despite the existence of MRZ-PREC1-PSP-R3 (permitted activity rule for “one, two, or three residential units on a site”). Furthermore, I do not consider that amending this rule so that single dwellings in the Increased Height Overlay area are a discretionary activity, as proposed by Ms Craven, would be permissible under Schedule 3A of the RMA. Clauses 2 and 10 of Schedule 3A state respectively:

**2 Permitted activities**

- (1) *It is a permitted activity to construct or use a building if it complies with the density standards in the district plan (once incorporated as required by section 77G).*
- (2) *There must be no other density standards included in a district plan additional to those set out in Part 2 of this schedule relating to a permitted activity for a residential unit or building.*

**10. Number of residential units per site**

*There must be no more than 3 residential units per site.*

26. As a result, I support MRZ-PREC1-PSP-R3 without change in this respect.

## RESPONSE TO JESSE GOODING (DIRECTOR-GENERAL OF CONSERVATION)

### *Part 2 RMA*

27. In paragraph 5.2 of his evidence, Mr Gooding notes the tension between the need for PC5 to provide for housing development and the requirement to protect indigenous biodiversity. He states that guidance on how to resolve that tension can be found by way of reference to Part 2 of the RMA, Council's functions under s31 RMA, national policy statements, the WRPS (including Vision and Strategy) and the ODP's own policy guidance. I agree with this. However, as I set out below, I disagree with the way that Mr Gooding interprets several of these provisions and, as a result, with his view of the guidance provided.
28. In paragraph 5.9 of his evidence, Mr Gooding states that there are "four objectives" within s.5(2) of the RMA that must be achieved but he does not then explain what they are. Instead, he notes the particular relevance of s.5(2)(b) with an emphasis on "ecosystems".
29. I agree that s.5(2)(b) is relevant. However, I consider that it is better to view s.5 holistically so as to also point out the enabling component of the RMA's purpose (as shown in bold emphasis below) as well as the important bottom lines in clauses (a), (b) and (c).

*In this Act, sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a rate, **which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while—***

- (a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- (b) safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
- (c) avoiding, remedying, or mitigating any adverse effects of activities on the environment.*

### *Waikato Regional Policy Statement*

30. In various paragraphs of his evidence, Mr Gooding refers to relevant objectives, policies and methods in the WRPS and I agree that these are

relevant<sup>13</sup>. I wish to comment on some of his subsequent interpretations of those provisions and to do so, it is useful to view the full text of the provisions. For this reason, I have **attached** to this rebuttal a list of provisions in the WRPS that are relevant for the consideration of bat ecology issues.

31. In paragraph 5.65 of his evidence, Mr Gooding states that *“the prime biodiversity issue, as already stated by way of reference to Part 2 is whether significant vegetation and the habitat of significant fauna are protected in PC5”*.
32. To restate the above in my own words so as to be consistent with section 6(c) of the RMA, and with the various WRPS objectives and policies, I consider that *“the prime biodiversity issue ... is whether significant **indigenous** vegetation and **significant** habitats of indigenous fauna are protected in PC5”*.
33. In my opinion, PC5 does achieve this through mapping of SNA and SBHA areas and zoning them as Natural Open Space Zone with associated rules to protect them and their characteristics and associated fauna. The proposed creation and enhancement of SBHAs, together with other PC5 provisions, helps to give effect to WRPS Objectives 3.4, 3.8, 3.12, 3.19 and Policy 4.1 (and Methods 4.1.11 and 4.2.11), Policy 11.1 (and Methods 11.1.1, 11.1.2 and 11.1.3) and Policy 11.2 (and Method 11.2.2).
34. In paragraph 5.65 of his evidence, Mr Gooding then proceeds to refer to a secondary matter being the “management of residual effects”. On the basis that some 143 hectares of land within the PSPA will be protected (including all the mapped SNAs and proposed SBHAs), then the matter of residual effects really relates to the remaining areas intended for development (mainly the Medium Density Residential Zone, Local Centre Zone and Neighbourhood Centre Zones).

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13 For example, in Mr Gooding’s evidence, refer paragraphs 5.44 to 5.47 (re. objectives), paragraphs 5.48 to 5.51 (re built environment policies and development principles in Schedule 6A), paragraph 5.53 to 5.62 (re. indigenous biodiversity policies and methods).

35. I draw the Panel's attention to Method 11.1.3 of the WRPS (which relates to non-significant vegetation and non-significant habitats), and specifically to clause a)ii) which states that regional and district plans:

*should promote biodiversity offsets as a means to achieve no net loss of indigenous biodiversity where **significant residual adverse effects** are unable to be avoided, remedied or mitigated.*

36. I consider that my suggested amendments to proposed Rule 25.2.5.2 (Vegetation clearance in the Peacocke Structure Plan Area), along with suggested amendments to the corresponding information requirements and assessment criteria – all as set out in Attachment 1 to my EIC – do adequately address the above method, as well as the other relevant objectives and policies.

*Chapter 20, Natural Environments, operative Hamilton City District Plan*

37. In paragraphs 5.70 to 5.77, Mr Gooding refers to:
- Objective 20.2.1 - *Significant Natural Areas are protected, maintained, restored and enhanced*; and
  - Policies 20.2.1(a) to (p)
38. In paragraph 5.7.2 he considers that the Policies in 20.2.1 “*apply everywhere significant vegetation and the habitat that supports indigenous fauna is found, whether mapped and scheduled as SNA or not*”. This is not correct.
39. The very first sentence in Chapter 20 states that the purpose of the chapter relates to Significant Natural Areas (and significant trees or groups of trees, peat lakes and wetland, all of which are scheduled). Refer section 20.1 Purpose. Furthermore, in section 20.2 (Objectives and policies: Natural Environments), the table is headed “Significant Natural Areas”. All the policies (20.2.1a to 20.2.1p) are there to achieve Objective 20.2.1 which, as noted above, is that *Significant Natural Areas are protected, maintained, restored and enhanced*. The “avoid policies” that Mr Gooding refers to several times, relate to the mapped SNA areas. They do not relate to the SBHA areas which are not SNAs. In this regard, the SBHA's provide a buffer and linking corridors to ensure that adverse effects on the SNAs are avoided. Not only do the above policies not apply

in the SBHAs (outside SNAs) but they certainly do not apply in the development areas of the PSPA. Finally, I would also point out that the district plan has to be read as a whole and the objectives and policies considered together in that context.

40. It follows from the above, that I disagree with Mr Gooding's comment in his paragraph 5.77 about the "disconnect" between his (perceived) avoidance directive in the ODP and "the broad application of the effects management hierarchy to all areas outside of the SBHA in PC5". In my opinion, there is no disconnect at all.

*Lighting policies*

41. In paragraphs 6.21 to 6.23 of his evidence, and also in paragraph 8.16, Mr Gooding considers proposed new "lighting and glare" policies 25.6.2.2a and 25.6.2.2b, and the s.42A report's proposed additions in regard to safety matters. He does not support the proposed additions but notes that, if the Panel is minded to include these qualifiers, the terms "safety on adjoining properties" and "safe public realm" should be defined. I disagree that they need a definition and suggest that common sense interpretation will be quite sufficient. These are, after all, policies, not rules.

*Assessment criteria*

42. Turning now to the assessment criteria, and paragraphs 8.1 to 8.7 of Mr Gooding's evidence, I note that my EIC<sup>14</sup> proposes alternative amendments to the criteria in P3 and P5 that I consider are more appropriate to give effect to the relevant national and regional policy statement and to Part 2 RMA itself.

*SBHA widths and qualifying matters*

43. On the matter of minimum widths of SBHAs, and paragraphs 8.8 to 8.15 of Mr Gooding's evidence, I disagree that a minimum 100m should be specified. Clearly section 6(c) matters, and also Vision and Strategy matters, are valid qualifying matters (which have been used in PC5 to

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14 Refer my suggested changes 52 and 54 in Attachment 1 of my EIC.

support the SBHAs themselves, as buffers and linking corridors to SNAs, as well as the 5m setback within other zones to all SBHA boundaries). However, I fail to see the connection between that acceptance and Mr Gooding's proposed 100m minimum width for SBHAs. I consider that setting a minimum 100m width would be an inefficient use of land that is needed to achieve other PC5 objectives. Further, the evidence in reply of Mr Blayney for Adare addresses the ecological basis for the widths of created corridors and concludes that 50m is sufficient to create functional habitat.

*Ecological Rehabilitation and Management Plans*

44. In paragraphs 8.18 to 8.21 of his evidence, Mr Gooding suggests that an objective should be added to the ERMP information requirements. I agree with Mr Gooding that, where Management Plans are required, they should have a clear objective. Incidentally, Mr Gooding's suggested objective makes it clear that the objective would relate to SBHAs and other areas of natural open space. In my EIC,<sup>15</sup> I also suggested amendments to section 1.2.2.26 to make it clear that these areas are the focus of this particular management plan information requirement.

*Bat Management Plan*

45. Turning now to the proposed Bat Management Plan, and paragraphs 8.22 and 8.23 of Mr Gooding's evidence, I note that my EIC<sup>16</sup> proposes alternative amendments to the Bat Management Plan information requirements that I consider are more appropriate to give effect to the relevant national and regional policy statement and to Part 2 of the RMA. For development and subdivision outside Natural Open Space Zone areas, I propose comprehensive ecological assessments by suitably qualified bat ecologists instead of requiring multiple landowners and developers to prepare separate Bat Management Plans. My EIC sets out the reasons at length and, for this rebuttal, I simply note that if my changes are implemented, no objective would be needed as it would not be a

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15 Refer paragraph 158 and also to my suggested change 49 in Attachment 1 of my EIC.

16 Refer my suggested change 51 in Attachment 1 of my EIC.

“management plan” being prepared. For the same reasons, I also do not support Mr Gooding’s other proposed changes to section 1.2.2.28.

*Effects management hierarchy and offsetting/compensation principles*

46. In paragraphs 8.24 to 8.27 of his evidence, Mr Gooding suggests that it is necessary to add several pages of “biodiversity offsetting” and “biodiversity compensation” principles into PC5. I am familiar with the respective offsetting and compensation principles in the NPS-FM and in the proposed NPS-IB (noting they are very similar but they do differ in some respects). I consider that as the NPS-IB is not yet gazetted, his suggestion amounts to “jumping the gun” and risks PC5 incorporating wording that does not reflect the final NPS-IB. Also, I query whether PC5 really needs to list these principles when the respective NPS’s apply anyway (once gazetted in the case of the NPS-IB), and the principles can (and will) be able to be found there. I am not opposed to the proposed content as such (and I support the effects management hierarchy approach too) but I do favour plan drafting that is efficient and not unduly wordy. On balance, I do not consider these additions are necessary or appropriate.

**RESPONSE TO PHILLIP BROWN (WOOLWORTHS)**

*Local centre location and extent*

47. In paragraphs 3.6 and 3.7 of his evidence (including his Figure 2), Mr Brown notes that the masterplan that accompanied the Amberfield subdivision application showed a Local Centre on both sides of Peacockes Road. He then proceeds to state that “it is clear from this background that considerable planning and design work has been undertaken” (with regards to a local centre on both sides of Peacockes Road) and that the Amberfield masterplan also envisaged this.
48. Mr Brown is correct that the Amberfield consent was accompanied by a masterplan that showed a potential Local Centre on both sides of Peacockes Road. However, the application simply proposed super lots on the Amberfield site in locations which demonstrated consistency with the PSP *as it existed at the time of lodgement (May 2018)*. I was not involved in the Amberfield subdivision consent process, but I am advised

by those who were closely involved that it did not involve any detailed planning for the Local Centre.

49. In paragraph 4.5 of his evidence, Mr Brown comments on Objective LCZ-PREC1-PSP: O1 observing that it seeks to ensure that the Local Centre provides a mixed-use environment (and goods, services and employment) “at a scale appropriate to suburban catchments, while not undermining the primacy, function, vitality, amenity or viability of the Central City”. I agree with Mr Brown’s interpretation of this objective as seeking to ensure that the local centre (as there is only one Local Centre within the PSPA) is not disproportionately large within the retail hierarchy, to avoid potential adverse retail distribution effects on the retail hierarchy.
50. In paragraph 5.3 of his evidence, Mr Brown considers that the Local Centre should “straddle the intersection” of Peacockes Road and the proposed east-west minor arterial road, as proposed in the Council’s original structure planning for the Peacocke area. I note that the PSP for the Peacocke Special Character Zone was created in 2007 and reviewed again in 2012. Then, since 2018, work started on preparation of PC5 in order to amend the PSP, update the district plan provisions for the area, and update the zoning of the area. The appropriate location, extent and concept design for the Local Centre has been reconsidered (and widely consulted on) since 2018, ultimately leading to the notified PC5 and Figures 2-1 to 2-3 of the PSP in Appendix 2, and the Local Centre Zone as shown in the planning maps.
51. For reasons recorded in my EIC,<sup>17</sup> I support the current extent of the Local Centre and its location on just the eastern side of Peacockes Road, as per notified PC5. I disagree with Mr Brown’s view, in his paragraph 5.3, that there should be “*a separation of the retail uses so that the finer-grained retail, office and entertainment activities are focused on the eastern side of Peacockes Road and the larger format supermarket can utilise the regular-shaped and flat land at the WWNZ site*”. The rebuttal evidence of Mr Bredemeijer, Mr Bowker and Mr Penny respectively set out all the reasons why this would not be an appropriate outcome from an urban design, retail economics and transport perspective. My planning

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17 Refer paragraphs 129 to 135 of my EIC.



opinion is largely derived from their collective evidence, just as Mr Brown's opinions draw from the opinions of the various experts whose evidence he relies on.

52. I note that the concept plan attached to the JWS Retail and Urban Design (Local Centre), and the concept plans attached to the EIC of Mr Bredemeijer are just concept plans and there will be ample opportunity for detailed design consideration and refinements before, and as part of, any future Local Centre master plan and consenting process. I understand that there is ample zoned land within the Local Centre Zone to cater for the maximum 20,000m<sup>2</sup> GFA cap now proposed in the s.42A report (likely with room to spare). I consider that extending the Local Centre onto the western side of Peacockes Road would lead to less than optimum design and amenity outcomes (based on the evidence of Messrs Bredemeijer, Bowker and Penny). Furthermore, assuming the proposed overall GFA cap of 20,000m<sup>2</sup> is accepted (as I believe it should be, to avoid the kinds of adverse retail distribution effects on the retail hierarchy as discussed in paragraph 49 above) then any extension of the Local Centre to the western side would simply dilute the GFA distribution across a larger area and, with that, dilute the amenity and vibrancy of the Local Centre. Mr Brown's evidence does not address the matter of the proposed overall GFA cap of 20,000m<sup>2</sup>.
53. In paragraph 5.12 of his evidence, Mr Brown states "successful local centres are often located on intersections of main roads in traditional high-street environs. I can think of "high street environments". I can think of "high street environments" where this is the case, but the proposed Peacockes Road and East-West Arterials are not such "high street environments".
54. In paragraph 5.12 of his evidence, Mr Brown considers that "*a better approach is to locate the supermarket on a site where it can operate effectively while also integrating appropriately with the rest of the centre*". My view, again drawing from the evidence of Messrs Bredemeijer, Bowker and Penny, is that a supermarket *can* operate effectively on the eastern side of Peacockes Road and, if located there, will integrate considerably better with the rest of the centre than if located on the western side of Peacockes Road.

55. In paragraph 5.27 of his evidence, Mr Brown refers to various constraints on the eastern side of Peacockes Road. Much of the land within the 'potential constraints' identified by Brown comprises the archaeological site. In response, I note that an Archaeological Authority has been granted for the destruction of that site. The other constraints are all straightforward matters to address through the detailed design and construction phases. In my view, there is nothing that poses any threat to the suitability of the land within the Local Centre Zone.

**Dated this 21<sup>st</sup> day of September 2022**



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**Andrew Collins**

## Attachment to Collins rebuttal

**Extracts from Waikato Regional Policy Statement relevant to indigenous biodiversity** (bold emphasis added)

### Chapter 3 Objectives

#### **3.4 Health and wellbeing of the Waikato River**

*The health and wellbeing of the Waikato River is restored and protected and Te Ture Whaimana o Te Awa o Waikato (the Vision and Strategy for the Waikato River) is achieved.*

#### **3.8 Ecosystem services**

*The range of ecosystem services associated with natural resources are recognised and maintained or enhanced to enable their ongoing contribution to regional wellbeing.*

#### **3.12 Built environment**

*Development of the built environment (including transport and other infrastructure) and associated land use occurs in an **integrated, sustainable and planned manner which enables positive environmental, social, cultural and economic outcomes**, including by:*

- a) **promoting positive indigenous biodiversity outcomes;**
- b) *preserving and protecting natural character, and protecting outstanding natural features and landscapes from inappropriate subdivision, use, and development;*
- c) *integrating land use and infrastructure planning, including by ensuring that development of the built environment does not compromise the safe, efficient and effective operation of infrastructure corridors;*
- d) *integrating land use and water planning, including to ensure that sufficient water is available to support future planned growth;*
- e) *recognising and protecting the value and long-term benefits of regionally significant infrastructure;*
- f) *protecting access to identified significant mineral resources;*

- g) *minimising land use conflicts, including minimising potential for reverse sensitivity;*
- h) *anticipating and responding to changing land use pressures outside the Waikato region which may impact on the built environment within the region;*
- i) *providing for the development, operation, maintenance and upgrading of new and existing electricity transmission and renewable electricity generation activities including small and community scale generation;*
- j) *promoting a viable and vibrant central business district in Hamilton city, with a supporting network of sub-regional and town centres; and*
- k) *providing for a range of commercial development to support the social and economic wellbeing of the region.*

### **3.19 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.*

### **3.27 Housing bottom lines for Future Proof area**

*The housing bottom lines for feasible, reasonably expected to be realised development capacity for housing in the Future Proof area are met, in accordance with the requirements of the National Policy Statement on Urban Development (NPS UD) 2020.*

[the above objective is followed by a table, not reproduced here, which shows 43,100 dwellings required in Hamilton within 30 years (by 2050)].

## **Chapter 4 Integrated Management**

### ***Policy 4.1 Integrated approach***

*An integrated approach to resource management will be adopted that:*

- a) *recognises the inter-connected nature of natural and physical resources (including spatially and temporally) and the benefits of aligning the decisions of relevant management agencies across boundaries;*
- b) *maximises the benefits and efficiencies of working together ;*
- c) *recognises the multiple values of natural and physical resources including **ecosystem services**;*

- d) *responds to the nature and values of the resource and the diversity of effects (including cumulative effects) that can occur;*
- e) ***maximises opportunities to achieve multiple objectives;***
- f) ***takes a long-term strategic approach which recognises the changing environment and changing resource use pressures and trends;***
- g) *applies consistent and best practice standards and processes to decision making; and*
- h) *establishes, where appropriate, a planning framework which sets clear limits and thresholds for resource use.*

#### **Method 4.1.11 Offsite mitigation of adverse effects**

*Local authorities should consider the following priorities (not listed in order of importance) for restoration or enhancement as possible alternatives to onsite mitigation **in situations where it is not appropriate or practical to mitigate the adverse effects of an activity on site:***

- a) *public access to and along the coastal marine area and land adjacent to the coast and inland water bodies;*
- b) *health and wellbeing of the Waikato River and its catchment;*
- c) *functioning and stability of natural physical processes (including by retirement of land along the coastal margin, retirement of steep land from production, and enhancement of riparian areas);*
- d) ***indigenous biodiversity (including creation, restoration and enhancement of wetlands and corridors);***
- e) *degraded geothermal features/characteristics; and*
- f) *natural character of the coastal environment, wetlands, and lakes and rivers and their margins*

#### **Policy 4.2 Collaborative approach**

*Waikato Regional Council will:*

- a) *recognise and provide for the unique role that territorial authorities have in the implementation of the provisions of the Waikato Regional Policy Statement; and*
- b) ***encourage collaboration, participation and information sharing between resource management agencies, tāngata whenua and relevant stakeholders, particularly where there are shared or overlapping responsibilities or functions for issues or resources, and including when resources or issues cross boundaries.***

#### **Method 4.2.11 Indigenous biodiversity**

*In carrying out their resource management functions, local authorities shall maintain or enhance indigenous biodiversity. **Territorial authorities shall be responsible for the control of the use of land to maintain indigenous biodiversity**, excluding land in the coastal marine area and the beds of lakes and rivers, which shall be the responsibility of the Waikato Regional Council.*

### **Chapter 6 Built Environment**

#### **Policy 6.1 Planned and co-ordinated subdivision, use and development**

*Subdivision, use and development of the built environment, including transport, occurs in a planned and co-ordinated manner which:*

- a) **has regard to the principles in section 6A;**
- b) *recognises and addresses potential cumulative effects of subdivision, use and development;*
- c) *is based on sufficient information to allow assessment of the potential long-term effects of subdivision, use and development; and*
- d) *has regard to the existing built environment.*

#### **Policy 6.3 Co-ordinating growth and infrastructure**

[relevant but not reproduced here]

#### **Policy 6.14 Adopting Future Proof land use pattern**

[relevant but not reproduced here]

#### **Policy 6.15 Density targets for Future Proof area**

[relevant but not reproduced here]

### **6A Development principles**

[several relevant but only those relevant to indigenous biodiversity stated here]

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

- r) *support the Vision and Strategy for the Waikato River in the Waikato River catchment*
- t) *recognise and maintain or enhance ecosystem services.*

The explanation that follows the Methods states:

*Section 6A includes a set of principles to guide future development of the built environment within the Waikato region. These principles are not absolutes and it is recognised that some developments will be able to support certain principles more than others. In some cases, certain principles may need to be traded off against others. It is important, however, that all principles are appropriately considered when councils are managing the built environment. The principles are supported by Methods 6.1.1, 6.1.2, 6.1.3 and 6.1.4.*

## **Chapter 11 Indigenous biodiversity**

### ***Policy 11.1 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:*

- a) *working towards achieving no net loss of indigenous biodiversity **at a regional scale**;*
- b) *the continued functioning of ecological processes;*
- c) ***the re-creation and restoration of habitats and connectivity between habitats**;*
- d) *supporting (buffering and/or linking) ecosystems, habitats and areas identified as significant indigenous vegetation and **significant habitats** of indigenous fauna;*
- e) *providing ecosystem services;*
- f) *the health and wellbeing of the Waikato River and its catchment;*
- g) *contribution to natural character and amenity values;*
- h) *tāngata whenua relationships with indigenous biodiversity including their holistic view of ecosystems and the environment;*
- i) *managing the density, range and viability of indigenous flora and fauna; and*
- j) *the consideration and application of biodiversity offsets.*

#### ***Method 11.1.1 Maintain or enhance indigenous biodiversity***

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

- a) *providing for positive indigenous biodiversity outcomes when managing activities including subdivision and land use change;*
- b) *having regard to any local indigenous biodiversity strategies developed under Method 11.1.11; and*
- c) *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.*

#### **Method 11.1.2 Adverse effects on indigenous biodiversity**

*Regional and district plans shall recognise that adverse effects on indigenous biodiversity within terrestrial, freshwater and coastal environments are cumulative and may include:*

- a) *fragmentation and isolation of indigenous ecosystems and habitats;*
- b) *reduction in the extent and quality of indigenous ecosystems and habitats;*
- c) *loss of corridors or connections linking indigenous ecosystems and habitat fragments or between ecosystems and habitats;*
- d) *the loss of ecological sequences;*
- e) *loss or disruption to migratory pathways in water, land or air;*
- f) *effects of changes to hydrological flows, water levels, and water quality on ecosystems;*
- g) *loss of buffering of indigenous ecosystems;*
- h) *loss of ecosystem services;*
- i) *loss, damage or disruption to ecological processes, functions and ecological integrity;*
- j) *changes resulting in an increased threat from animal and plant pests;*
- k) *effects which contribute to a cumulative loss or degradation of indigenous habitats and ecosystems;*
- l) *noise, visual and physical disturbance on indigenous species, particularly within the coastal environment; and*
- m) ***loss of habitat that supports or provides a key life-cycle function for indigenous species listed as ‘Threatened’ or ‘At Risk’ in the New Zealand Threat Classification System lists***



**Method 11.1.3 Avoidance, remediation, mitigation and offsetting (for indigenous biodiversity that is not significant)**

*Regional and district plans:*

- a) *for non-significant indigenous vegetation and non-significant habitats of indigenous fauna (excluding activities pursuant to 11.1.4):*
- i) *shall require that where loss or degradation of indigenous biodiversity is authorised adverse effects are **avoided, remedied or mitigated (whether by onsite or offsite methods)**.*
  - ii) *should promote biodiversity offsets as a means to achieve no net loss of indigenous biodiversity where **significant residual adverse effects** are unable to be avoided, remedied or mitigated.*
  - iii) *when considering remediation, mitigation or offsetting, methods may include the following:*
    - i. *replacing the indigenous biodiversity that has been lost or degraded;*
    - i. *replacing like-for-like habitats or ecosystems (including being of **at least equivalent** size or ecological value);*
    - ii. *the legal and physical protection of existing habitat;*
    - iii. *the re-creation of habitat; or*
    - iv. *replacing habitats or ecosystems with indigenous biodiversity of greater ecological value.*
- b) *for significant indigenous vegetation and significant habitats of indigenous fauna Method 11.2.2 applies.*

**Method 11.1.7 Threatened species information**

*Local authorities should liaise with the Department of Conservation and other relevant agencies to ensure location and distribution data for species listed as 'Threatened' or 'At Risk' in the New Zealand Threat Classification System lists are available when preparing and implementing regional or district plans.*

**Method 11.1.8 Plan development**

*Local authorities should consider (including when developing regional and district plans):*

- a) *offering incentives for indigenous biodiversity enhancements or protection; and*

- b) *using financial contributions and other economic instruments to maintain or enhance indigenous biodiversity.*

#### **Method 11.1.9 Pest management**

*When preparing any Regional Pest Management Strategy and prioritising pest management activities, Waikato Regional Council will have regard to indigenous biodiversity values, including any areas of significant indigenous vegetation and significant habitats of indigenous fauna, and any local indigenous biodiversity strategies.*

#### **Method 11.1.10 Funding and assistance**

*When preparing long-term plans and annual plans, **local authorities should ensure that appropriate funding is provided** for the protection and enhancement of indigenous biodiversity. This could include provision for:*

- a) *developing and implementing complementary biodiversity advocacy and protection programmes (including the development of on-site biodiversity plans) focused on landowner liaison and community partnership;*
- b) *the promotion of voluntary legal protection, restoration or enhancement of indigenous biodiversity, including through the operation of contestable funds, incentives, rates relief and grants;*
- c) *land acquisition; and*
- d) *biodiversity restoration and enhancement on public land such as local purpose reserves.*

#### **Method 11.1.11 Local indigenous biodiversity strategies**

*Waikato Regional Council will assist territorial authorities to develop local indigenous biodiversity strategies. These strategies will be developed at a district scale and will:*

- a) *use the information produced under Methods 11.1.5 and 11.2.1;*
- b) *establish indigenous biodiversity targets to enable local authorities to prioritise resourcing, track progress and monitor effectiveness in achieving indigenous biodiversity objectives;*
- c) *identify:*
  - i) *opportunities and priorities for re-creating habitat;*
  - ii) *opportunities and priorities for restoring, enhancing or re-creating buffers, linkages and corridors; and*

- iii) *important threats to indigenous biodiversity;*
- d) *identify areas or sites:*
  - i) *of indigenous biodiversity value;*
  - ii) *that may require protection; and*
  - iii) *that may require enhancement;*
- e) *involve working with tāngata whenua, affected landowners and resource managers, and other key stakeholders; and*
- f) *assist in determining the regulatory and non-regulatory framework, including how territorial authorities will contribute to working towards achieving no net loss at a regional scale to maintain or enhance indigenous biodiversity.*

*Local authorities should have regard to these strategies when considering the most appropriate combination of regulatory and non-regulatory methods for each district.*

***Policy 11.2 Protect significant indigenous vegetation and significant habitats of indigenous fauna***

*Significant indigenous vegetation and the significant habitats of indigenous fauna shall be protected by ensuring the characteristics that contribute to its significance are not adversely affected to the extent that the significance of the vegetation or habitat is reduced.*

***Method 11.2.2 Protect areas of significant indigenous vegetation and significant habitats of indigenous fauna***

*Regional and district plans shall (excluding activities pursuant to 11.1.4):*

- a) *protect areas of significant indigenous vegetation and **significant habitats** of indigenous fauna;*
- b) *require that activities avoid the loss or degradation of areas of significant indigenous vegetation and **significant habitats** of indigenous fauna in preference to remediation or mitigation;*
- c) *require that any **unavoidable** adverse effects on areas of significant indigenous vegetation and **significant habitats** of indigenous fauna are remedied or mitigated;*
- d) *where any adverse effects are unable to be avoided, remedied or mitigated in accordance with (b) and (c), **more than minor** residual adverse effects shall be offset to achieve no net loss; and*

- e) *ensure that remediation, mitigation or offsetting as a first priority relates to the indigenous biodiversity that has been lost or degraded (whether by on-site or off site methods). Methods may include the following:*
  - i) *replace like-for-like habitats or ecosystems (including being of at least equivalent size or ecological value);*
  - ii) *involve the re-creation of habitat;*
  - iii) *develop or enhance areas of alternative habitat supporting similar ecology/significance; or*
  - iv) *involve the legal and physical protection of existing habitat;*
- f) *recognise that remediation, mitigation and offsetting may not be appropriate where the indigenous biodiversity is rare, at risk, threatened or irreplaceable; and*
- g) *have regard to the functional necessity of activities being located in or near areas of significant indigenous vegetation and significant habitats of indigenous fauna where no reasonably practicable alternative location exists.*

### ***Policy 11.3 Collaborative management***

*Maintaining and enhancing indigenous biodiversity shall be promoted in an integrated and efficient manner including by working collaboratively with landowners, resource managers, tāngata whenua and other stakeholders*