

**Before Hearings Commissioners**  
**Appointed by Hamilton City Council**

**UNDER** the Resource Management  
Act 1991

**AND**

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

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Statement of Evidence of

**Rachel Claire Dimery**

on behalf of Cordyline Holdings Limited

Dated: 16 September 2022

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## **INTRODUCTION**

### **Qualifications and Experience**

1. My full name is Rachel Claire Dimery.
2. I hold a Master of Planning Practice (Honours) and Bachelor of Arts (Geography), both from the University of Auckland. I am a full member of the New Zealand Planning Institute.
3. I am the director of Dimery Consulting Limited, a planning consultancy I established in 2015. I am a qualified planner with 22 years' experience. During this time I have held positions in both local government and as a consultant planner.
4. I have a wide range of experience in planning matters under the Resource Management Act (**RMA**), including plan preparation, resource consents and notices of requirement for designation. I have appeared as an expert witness at hearings before councils and the Environment Court. I am also an accredited hearings commissioner (chair endorsed).
5. My experience that is relevant to this plan change includes providing planning advice and sitting as a hearings commissioner on plan changes seeking the rezoning of greenfield land for urban development and the rezoning of existing urban areas for more intensive urban development. Most recently this includes rezoning proposals in Pōkeno, Wānaka and Whangārei. Between 2011 and 2016 I had extensive involvement in the Auckland Unitary Plan, both as an author and later, as an independent peer reviewer. My involvement in the Auckland Unitary Plan included the greenfield areas at Hobsonville, Westgate, Kumeu, Babich, Clevedon, Takanini and Mangere Gateway.
6. Other relevant experience includes my role as subdivision team leader in the resource consents department at Waitākere City Council.

### **Background and Involvement**

7. I have provided planning advice to the submitter, Cordyline Holdings Limited (**Cordyline**) in respect of its property on Peacocke Road, (legally described as Lots 1, 6, 8-9 Deposited Plan 408579 and Lot 3 Deposited Plan South Auckland 45202) since October 2021.

8. I prepared a submission and further submission on Proposed Plan Change 5 on behalf of Cordyline. I have also been involved in providing planning advice to Cordyline in respect of the construction of Whatukooruru Drive, part of the Southern Links project; the construction of which is partly on land that was acquired from Cordyline.
9. I participated in expert conferencing on planning and transport and signed the joint witness statement produced at the expert conference sessions on 18 and 19 August 2022. I was unable to attend the planning expert conference session on 26 August 2022.

### **Code of Conduct for Expert Witnesses**

10. While this is not an Environment Court hearing, I have read and agree to comply with the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2014. This evidence is within my area of expertise, except where I state that I am relying on material produced by another person. I have not omitted to consider material facts known to me that might alter or detract from the opinion expressed in my evidence.

### **SCOPE OF EVIDENCE**

11. My evidence is focused on the following three matters:
  - a. the location of indicative roads; including new 'indicative key local road' on land to the north (owned by Adare Company Limited);
  - b. the Seismic Stability Areas and 6m setback from gully areas for buildings and swimming pools; and
  - c. the discretionary activity status for subdivision of land that contains a Significant Natural Area.

12. I have read the Section 42A Report and evidence for Plan Change 5. I refer to this report and evidence where relevant in my evidence.

### **EXECUTIVE SUMMARY**

13. I support Plan Change 5. In my opinion, the provisions which will be introduced with the rezoning of the land, are generally appropriate to manage effects and ensure integration of future land use and/or subdivision. Moreover, I consider that the broad outcomes that will be enabled by Plan Change 5 to be more efficient and effective than those provided by the Peacocke Structure Plan provisions in the Operative District Plan.

14. For the reasons set out in my evidence below, I consider that amendments should be made to the provisions in respect of indicative local roads, the provisions relating to natural hazards (seismic setbacks and stability sensitive areas) and the status of subdivision in a significant natural area. These amendments are as follows:

- a. Deletion of the proposed local road on Figures 2.1 and 2.2 of the Peacocke Structure shown on the Adare land. I consider it unnecessary to show the alignment of local roads on a structure plan. In my opinion, the alignment of local roads is a matter that is best dealt with at the time of subdivision, as there are a significant number of variables that can influence the final layout and design of a subdivision.
- b. Deletion of the Seismic Setback Line (recommended in the Section 42A Report to be renamed the Seismic Investigation Area) and deletion of clause (7) from the setback rule in Chapter 4A (MRZ-PREC1-PSP:R39, renumbered MRZ-PREC1-PSP:R38 in the Section 42A Report). I consider that it is more efficient and effective for natural hazards to be considered on site specific basis at the time of subdivision.
- c. Providing for the subdivision of land that results in the vesting of a Significant Natural Area as open space as a restricted discretionary activity. In my opinion, the use of a Significant Natural Area for open space is unlikely to impact on the values of the area and is in my view a compatible use of land.

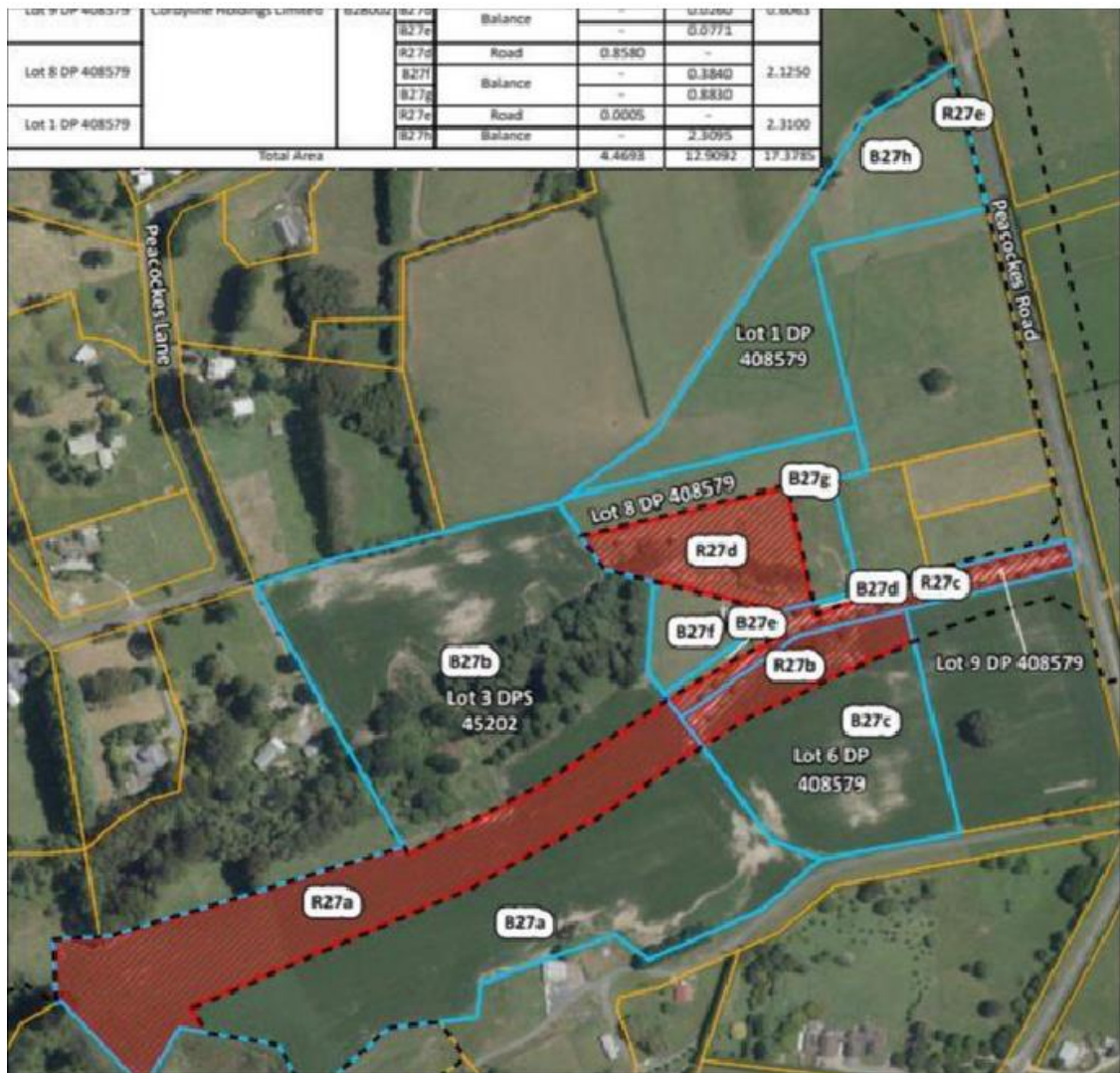
## **BACKGROUND**

### **Cordyline Property**

15. Hamilton City Council (**Council**) acquired land from Cordyline by agreement under the Public Works Act for Whatukooruru Drive and associated infrastructure.

16. Figure 1 below depicts the Cordyline land and area acquired by Council. As can be seen in Figure 1, Whatukooruru Drive bisects the original Cordyline land holding.

17. I understand that construction of Whatukooruru Drive is to commence in October this year. Cordyline is currently in discussion with Council in relation to the potential construction of collector road intersections on Whatukooruru Drive. I expect to be able to update the Hearings Panel on the outcome of these discussions at the hearing.



**Figure 1:** Cordyline land (shown with light blue border) and land acquired by Hamilton City Council (shown with red hatching)

**SUPPORT FOR PLAN CHANGE 5**

18. I agree with the conclusions of the Section 42A Report and the planning evidence prepared by Mr Sirl that the proposed rezoning of the Plan Change 5 land in the Peacock growth cell is appropriate and that the plan change should be approved.

19. In particular, I agree with the planning experts for Hamilton City Council that Plan Change 5:

- a. Will assist the Council in achieving the overall purpose of the RMA;

- b. Will give effect to the relevant National Policy Statements and Waikato Regional Policy Statement; and
- c. Will be consistent with the relevant non-statutory documents including the Future Proof Strategy and Hamilton-Waikato Metropolitan Spatial Plan.

20. Without repeating the detail of the very comprehensive assessment in Mr Sirl's planning evidence, my own summary and reasons for supporting Plan Change 5 are:

- a. There is a relatively scarce urban land resource in Hamilton to deliver additional housing for projected high growth rates. The proximity of the Peacocke area to the city centre makes it desirable for higher density development than was envisaged in the Operative District Plan provisions.
- b. Technical assessments prepared by Council have shown the suitability of the land for urbanisation.
- c. The provisions in Plan Change 5 will ensure protection of long-tailed bat habitat areas.
- d. Plan Change 5 will give effect to the National Policy Statement on Urban Development 2020 (**NPS-UD**), as it will provide for a well-functioning urban environment, will leverage the infrastructure investment made by Council in the Peacocke area and will provide for housing supply to be expedited.

### **Cordyline submissions**

21. The submission and further submission by Cordyline supported Plan Change 5, subject to amendments. The requested amendments included clarifying inconsistencies in the location of certain features shown on the Structure Plan maps, providing flexibility for the location of indicative features shown on the structure plan maps, the activity status of subdivision in a significant natural area and the approach to natural hazards (the seismic setbacks and stability sensitive areas).

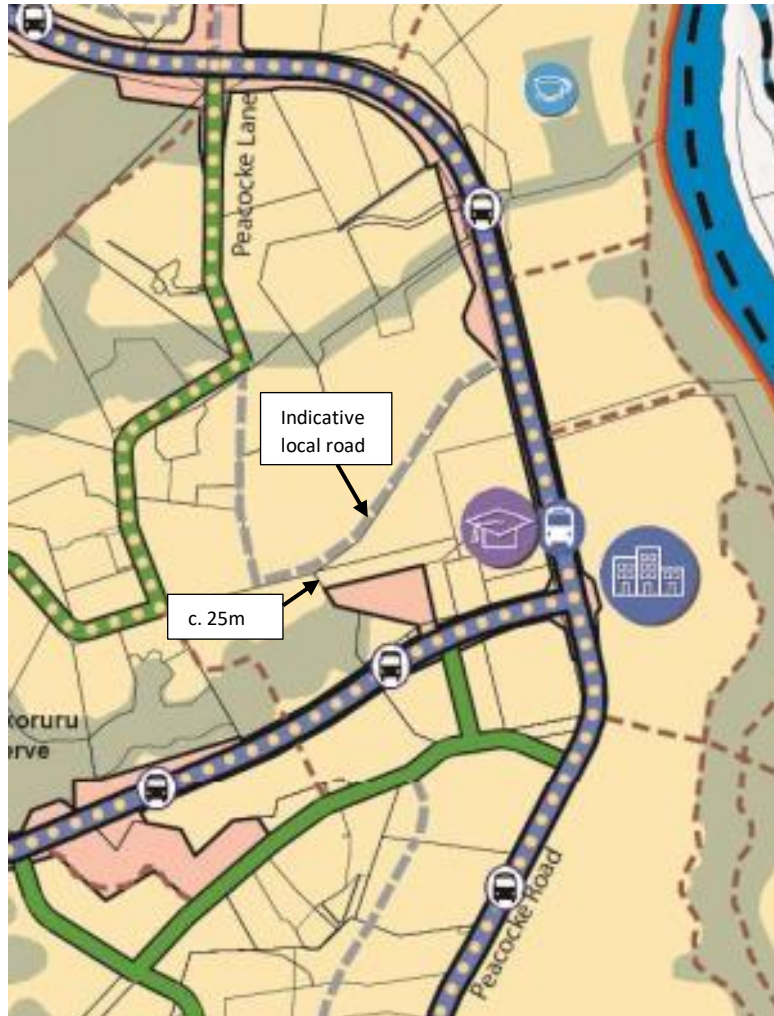
22. My evidence is focussed on the recommendations in the Section 42A Report in respect of indicative local roads, the provisions relating to natural hazards (seismic setbacks and stability sensitive areas) and the status of subdivision in a significant natural area.

## INDICATIVE ROADS

23. As set out in the Joint Witness Statement of 19 August, the experts for the Council, Adare and Cordyline agreed that additional access from Peacocke Road and Whatukooruru Road will be required. The outstanding area of disagreement relates to the inclusion of a new indicative local road on Adare's land to the north of Cordyline's land.
24. I understand that Adare wish to have the location of the local road shown in order to provide certainty that a new intersection may be constructed on Peacocke Road, which is a minor arterial road. However, neither the Adare submission, nor Mr Black's report<sup>1</sup> attached to his evidence in chief (**EiC**) provide reasoning for the proposed alignment. The alignment in part follows the boundary between Adare's land and adjacent Cordyline land to the south.
25. In my experience, aligning roads to follow existing property boundaries is unlikely to result in the most efficient subdivision layout. As shown in Figure 2 below, there is a pinch point of approximately 25m between the northern boundary of Cordyline's land, which adjoins the Adare land and the designation for Whatukooruru Drive. The location and alignment of the local road at this point may not result in the most efficient layout of future development on Cordyline's land.

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<sup>1</sup> Mr A Black, EiC, Attachment 1: Review of Transport Submissions, Section 5.6 at page 27



**Figure 2: Indicative Road on Adare land**

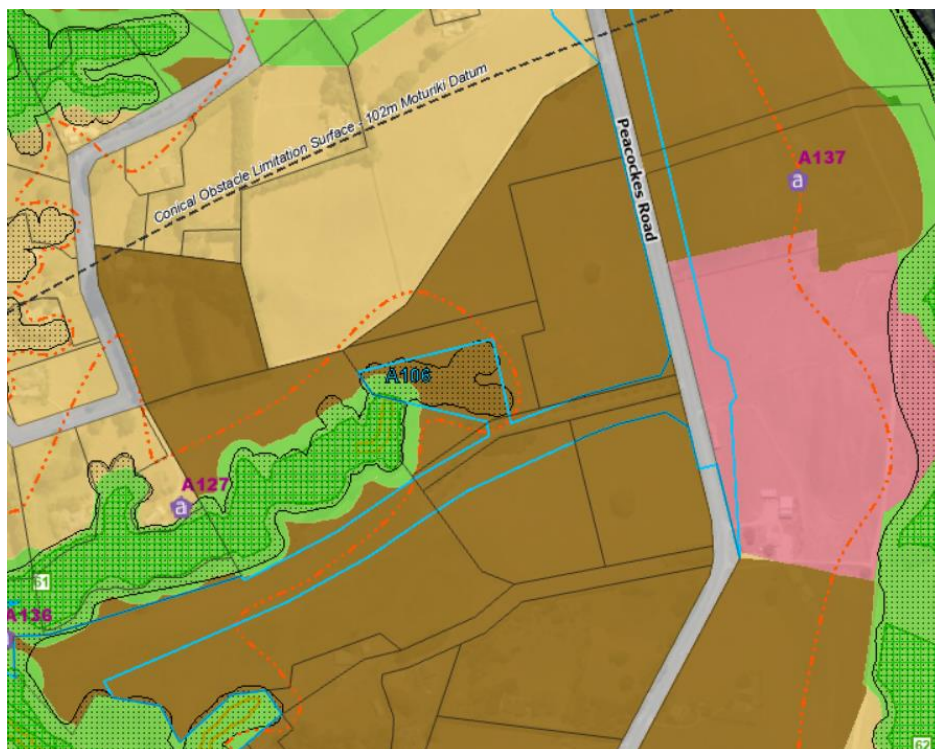
26. In my experience, arterial roads and collector roads are often shown on structure plan maps, however local roads are not generally shown. The reason for this is that there are many variables that can influence the design and layout of a subdivision and the ultimate location of roads to be vested. These variables include the assembly of land, timing and readiness of land for development (based on servicing, market demand and landowner imperatives), site-specific characteristics (which may include topography, geology, hydrology, ecology, contamination, natural features and cultural or archaeological features) and the planning provisions themselves which guide the overall density and layout of development. These variables can result in a multitude of potential different layouts for any given subdivision. In my experience, the design process to devise the final subdivision layout is necessarily iterative due to the need to respond to these variables. For these reasons, I consider it unnecessary to show the alignment of local roads on a structure plan. In my opinion, the alignment of local roads is a matter that is best dealt with at the time of subdivision.



27. Taking into account the concerns raised at the expert conferencing in relation to the need for certainty that intersections will be allowed on arterial roads; I consider there may be merit in showing the indicative location of intersections on arterial roads. The indicative locations will need to be determined by a traffic engineer to take into account safety and the efficiency of the road network. Again, these matters are in my opinion best determined at the time of application for subdivision. However, from a planning perspective, I would support the amendment of Figures 2.1 and 2.3 of the structure plan maps to include indicative intersection locations on arterial roads, such as Whatukooruru Drive and Peacockes Road if there was traffic engineering evidence to support this. This could be achieved by amending Figure 2.2 to insert a symbol with an 'I' in a circle or similar, to show indicative locations for intersections.

## NATURAL HAZARDS

28. Plan Change 5 as notified included Seismic Setback Lines and the Waikato River and Gully Hazard Overlay. Figure 3 below shows the Seismic Setback Line, which is now recommended in the Section 42A Report to be renamed the Seismic Investigation Area.<sup>2</sup>



**Figure 3: Seismic Investigation Area (shown by red dashed line)**

<sup>2</sup> Section 42A Report at paragraph 7.128

29. The setback rule in Chapter 4A (MRZ-PREC1-PSP:R39, renumbered MRZ-PREC1-PSP:R38) specifies a minimum setback distance of 6m for buildings and swimming pools from the Waikato Riverbank and Gully. I infer this to mean the Waikato Riverbank and Gully Hazard Overlay.
30. No changes are recommended in the Section 42A Report to the extent of the Seismic Investigation Area. Mr Sirl's EIC at paragraph 129 states that the inclusion of the seismic buffer was intended for information purposes only and no provision associated with the buffer was introduced. I cannot find any detail on how the 6m setback from the Waikato Riverbank and Gully Hazard Overlay was determined.
31. In my opinion, the provisions of section 106 of the RMA and subdivision plan provisions are sufficient to address the suitability of land for subsequent development and enable consideration of potential natural hazards. Site suitability from a geotechnical point of view is a core consideration for any subdivision, which is why section 106 makes provision to refuse a subdivision consent where there is a significant risk of natural hazards.
32. In my experience, the imposition of building restriction lines in relation to natural hazards arising from proximity to features such as gullies and escarpments, and conditions as to the location of building platforms, are commonly contained in consent notices imposed in respect of subdivision proposals. These measures are imposed based on site specific investigations as to the suitability of the proposed lots for the intended development. In support of this observation, I note that the Section 42A Report at paragraph 7.132 recommends amendments to the Waikato River and Gully Hazard Overlay in respect of the Adare land. The reason provided is that this reflects the detailed assessment undertaken by Adare, including as part of a recent consent process. In my opinion, this confirms the importance of site-specific investigations and the limitations of high level, structure plan scale investigations such as those undertaken as part of the Mangakootukutuku Integrated Catchment Management Plan.
33. I further note that Appendix 1, clause 1.2.2.10 Site Management Plan (Waikato Riverbank and Gully Hazard Area), applies to any application for resource consent for subdivision within the Waikato Riverbank and Gully Hazard Area. The management plan is required to address land stability and other natural hazards.

34. I do not agree that mapping of the Seismic Investigation Area (renamed the Seismic Investigation Area), nor the 6m setback standard to be efficient or effective, in light of the ability to address geotechnical matters at the time of subdivision. Overall, it is my opinion that the existing provisions in the District Plan, together with consideration of future subdivision applications under Section 106 will enable the assessment of natural hazards and imposition of any necessary restrictions on the future development of land.

### **SUBDIVISION IN A SIGNIFICANT NATURAL AREA**

35. Subdivision rule SUB-PREC1-PSP:R9 (renumbered as SUB-PREC-PSP-R13 in the recommended amendments in the Section 42A Report) classifies subdivision of an allotment in the Peacocke Precinct containing a Significant Natural Area as a discretionary activity.

36. Cordyline's submission sought that where an allotment is proposed to be created that contains a Significant Natural Area and which is to be vested as open space, that this be classified as a restricted discretionary activity. The Section 42A Report recommends that this submission point is rejected.<sup>3</sup>

37. In my opinion, the creation of lots intended for residential or commercial use and that contain a Significant Natural Area should be classified as a discretionary activity. The reason for my view is that these types of uses are likely to require vegetation clearance and the construction of buildings, which may come into direct conflict with the values of a Significant Natural Area. However, where the intended use of the proposed allotment is for public open space, then in my opinion, it is appropriate for this to be provided for as a restricted discretionary activity. The use of a Significant Natural Area for open space is unlikely to impact on the values of the area and is in my view a compatible use of land. As such, it is more efficient and appropriate to provide for such subdivision as a restricted discretionary activity.

### **CONCLUSIONS**

38. Plan Change 5 is the most appropriate outcome in terms of section 32 of the RMA and will give effect to the NPS-UD by creating a well-functioning urban environment. I consider that the broad outcomes that will be enabled by Plan Change 5 to be more

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<sup>3</sup> Submission point 44.38

efficient and effective than those provided by the Peacocke Structure Plan provisions in the Operative District Plan.

39. Generally, the Peacocke Precinct provisions, coupled with other existing provisions in the Operative District Plan:

- a. Are appropriate to manage the effects arising from subdivision and development;
- b. Will assist the Council in achieving the overall purpose of the RMA; and
- c. Will give effect to the relevant National Policy Statements and the Waikato Regional Policy Statement.

40. The exceptions are the identification of indicative local roads, subdivisions that result in Significant Natural Areas being vested as open space and consideration of natural hazards. In respect of these matters, I consider that amendments as set out in my evidence are the most appropriate way to achieve the objectives for the Peacocke Structure Plan.

**Rachel Claire Dimery**

**16 September 2022**