

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

AND

IN THE MATTER of Plan Change 9 to the Hamilton City District Plan.

JOINT WITNESS STATEMENT (JWS) IN RELATION TO:

PLANNING (1)

20th March 2023

Expert Conferencing Held on: 20th March 2023

Venue: Online

Independent Facilitator: Marlene Oliver

Admin Support: Cassidy Armishaw

1 Attendance:

1.1 The list of participants is included in the schedule at the end of this Statement.

2 Basis of Attendance and Environment Court Practice Note 2023

2.1 All participants agree to the following:

- (a) The Environment Court Practice Note 2023 provides relevant guidance and protocols for the expert conferencing session;
- (b) They will comply with the relevant provisions of the Environment Court Practice Note 2023;
- (c) They will make themselves available to appear before the Panel;
- (d) This statement is to be filed with the Panel and posted on the Council's website.

3 Matters considered at Conferencing – Agenda and Outcomes

3.1 Introductions

3.2 Code of Conduct

3.3 Discussion of points arising from Ecology and Planning Conferencing Session 14th March 2023

3.3.1 Fonterra Te Rapa site – Northern and Southern gullies not to be identified as an SNA. Diagram showing the area to be deleted from SNA C59. Emily to ensure s42A recommendation reflects this outcome.

3.3.1.1 No further discussion. The above agreement to be reflected in the s42A Report.

3.3.2 To provide for pruning in proximity to existing buildings. Emily provided draft wording: “The pruning or maintenance work is within 1m of an existing lawfully established building and is necessary for access and maintenance.”

3.3.2.1 Michael Campbell and Emily Buckingham agree this permitted activity subclause 20.3(a)v to read “The pruning or maintenance work is within 1m of an existing lawfully established building”. The above agreement to be reflected in the s42A Report.

3.3.3 Further consideration on the rules/standards applying to foliage and vegetation removal as they are quite complex.

3.3.3.1 The experts for WRC (Hannah Craven and Paul Dutton) have reviewed rules 20.3-20.5 and identified that only rule 20.5.1 relates to the threshold for foliage removal. They agree that the rule 20.5.1 can remain the same as in the notified version of PC9.

3.3.4 Amendment to the definition of pest control to ‘Means any activity undertaken for the management of a nuisance plant or animal species that is impacting on the ecological values of a site or area.’

3.3.4.1 Emily Buckingham and Laura Galt propose the above is amended definition of “Pest Control”. They further propose that the permitted activity rule relating to pest control be amended to read “rule 20.3b *Removal or management of flora and fauna pest species associated with, including pest control where Standard 20.5.6(c) is complied with*”. Ben Inger raised that it is unclear whether standard 20.5.6(c) is intended to apply to just cSNAs, noting that the standard has a heading limiting it to cSNAs. Emily will review the wording and present a position in the s42A Report.

3.3.4.2 Michael Campbell considers that the words “that is impacting on the ecological values of a site or area” in the definition of pest control unnecessary and introduced uncertainty and as such should be deleted from the definition. Emily Buckingham accepts Michael’s position from a planning perspective but wishes to discuss with the HCC ecologist.

3.3.5 Wording of rule 25.2.3k be amended.

3.3.5.1 “Pruning and maintenance of the canopy of a tree located within and overhanging the boundary of a Significant Natural Area, provided that Standard 25.2.4.3(b) is complied with”. Emily Buckingham, Laura Galt and Michael Campbell agree to this amended wording.

3.3.6 One objective and three policies to be included in chapter 20: Natural Environments. To give recognition to the city wide nature of providing for long tailed bats.

3.3.6.1 Ben Inger proposed the following wording:

Objective 20.2.3:

Significant habitat for long-tailed bats is protected and enhanced.

Policy 20.2.3a:

Avoid adverse effects on long-tailed bat habitat within Significant Natural Areas in preference to mitigation. Unavoidable adverse effects shall be mitigated and more than minor residual adverse effects shall be compensated to achieve no net loss.

Policy 20.2.3b:

Restore and enhance Significant Natural Areas to improve habitat for long-tailed bats.

Policy 20.2.3c:

Establish a City-wide 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.

3.3.6.2 Emily Buckingham, Ashiley Sycamore and Hannah Craven support the intention of these statements subject to the opportunity to review them for consistency with the existing objectives and policies in chapter 20, the plan and the WRPS.

3.3.7 Agreement yet to be reached regarding the Department of Conservation seeking specific reference as an affected party for purposes of notification.

3.3.7.1 Ashiley Sycamore (for DOC) advised that the submission was to amend figure 1.1.9a in chapter 1 of the HCC district plan to include reference to the Department of Conservation but she was not able to provide the specific text of the amendment being sought.

Ben Inger, Emily Buckingham, Michael Campbell and Laura Galt advised that they do not agree with the DOC request and consider that the usual RMA notification provisions should apply.

3.3.8 Copied from JWS Ecology and Planning 1 (dated 14th March 2023). Amend Appendix 1.2 (1.2.1(h) - part iii to address effects on indigenous fauna, which is a requirement in other parts of the plan.

Change the wording to:

Effects of the proposal on the natural environment (including existing vegetation and natural land form, and indigenous fauna such as (but not limited to) long-tailed bats and lizards), neighbourhood amenity, and infrastructure.

Emily Buckingham, Laura Galt and Hannah Craven agree to this amended wording.

3.3.9 Copied from JWS Ecology and Planning 1 (dated 14th March 2023).

A) Biodiversity compensation - the word 'aquatic' should be replaced to allow for a wider range of scenarios. (DOC)

Emily Buckingham considers that the word 'aquatic' could be deleted. Ashiley Sycamore agrees.

B) Restoration - amend to specify that restoration must be carried out in accordance with the NES for Freshwater and Hamilton City Council's Gully Restoration Guide. (DOC)

Ben Inger, Emily Buckingham, Sarah Flynn and Hamish Dean do not consider it would be appropriate to amend the definition for restoration so that it is required to be carried out in accordance with NES for Freshwater and Hamilton City Council's Gully Restoration Guide. Ashiley Sycamore agrees.

C) Ecological district – need clarification on what it is. (DOC)

Emily Buckingham agrees that this could read Hamilton Ecological District. Ashiley Sycamore agrees.

3.3.10 Clarification added to make clear that the specific rules for the Peacocke Precinct apply rather than the city wide rules. Suggested adding note following table 20.3

3.3.10.1 Ben Inger suggested that a new note 5 is added following Table 20.3 to read:

5. Rules 20.3(gb) and (gc) apply in the Peacocke Precinct instead of Rules 20.3(l) and (n).

If the numbering of these rules changes or if a new city-wide rule is added for Park Furniture then the note will need to be amended accordingly.

Emily Buckingham and Laura Galt agree to the above.

3.3.11 Rule 25.2.3k cover scenario where landowner adjoins but is not within a SNA.

3.3.11.1 With regards to the Mistrys' submission (point 4), Emily Buckingham advised that Rule 25.2.3k would cover the scenario where a landowner adjoins but is not within a SNA (such as the Mistrys) – not Rule 20.3a(iii). Rule 25.2.3k isn't limited to where there's a fence and can be used by property owners to maintain their boundaries. Emily does not see any need for objective 20.2(1) and policy 20.2.1(h) to better account for the upkeep of a private boundary edge.

Fraser McNutt agrees that rule 25.2.3k would address the mechanism to manage works on the property boundary adjoining an SNA but considers that further policy provisions are required to assist in the processing of any resource consents relating to works on the boundary adjoining an SNA. Fraser to provide some suggested text which Emily Buckingham will respond to in the s42A Report.

3.4 Discussion of points arising from Arboriculture & Planning 15th March 2023

3.4.1 With reference to the JWS (15th March 2023) Fraser McNutt has read and agrees with the statements in paragraphs 3.5.1 and 3.5.3.

3.4.2 In response to JWS (15th March 2023) paragraph 3.5.2 – Fraser McNutt will provide some suggested wording to policy 20.2.3(a). May Soe to consider this and respond in the s42A Report.

In response to JWS (15th March 2023) paragraph 3.6.2 – Fraser McNutt will provide some suggested wording in relation to rule 20.3w. May Soe to consider this and respond in the s42A Report.

3.4.3 Laura Galt to directly contact the Waikato Heritage Group for clarification of trees to be considered.

3.5 JWS Heritage & Planning 17th March 2023

3.5.1 Michael Campbell (expert for Kainga Ora) and Fraser McNutt (expert for several submitters) advised that they had read the heritage and planning JWS and awaits the additional information to be provided by HCCs experts before being able to respond.

3.5.2 In relation to the JWS (17th March 2023) paragraphs 3.5.5 and 3.5.5.1 – Fraser McNutt records his support for removing HHA 31 from the property at 320 Victoria Street.

3.5.3 In relation to the JWS (17th March 2023) paragraphs 3.5.6 and 3.5.6.1 – Fraser McNutt does not support including reference to the external ICOMOS document.

3.5.4 In relation to the JWS (17th March 2023) paragraphs 3.12 – Michael Campbell supports in principle fences in front of heritage buildings up to the height of 1.2m as permitted activities and fences above that height as RDA.

4 PARTICIPANTS TO JOINT WITNESS STATEMENT

4.1 The participants to this Joint Witness Statement, as listed below, confirm that:

- (a) They agree that the outcome(s) of the expert conferencing are as recorded in this statement; and
- (b) They have read the Environment Court’s Practice Note 2023 and agree to comply with it; and
- (c) The matters addressed in this statement are within their area of expertise; and
- (d) As this session was held online, in the interests of efficiency, it was agreed that each expert would verbally confirm their position to the Independent Facilitator and this is recorded in the schedule below.

Confirmed online 20th March 2023

EXPERT'S NAME & EXPERTISE	PARTY	EXPERT'S CONFIRMATION REFER PARA 4.1
Laura Galt – Planning	Hamilton City Council	Yes – participated in items 3.1 to 3.4.3
Emily Buckingham – Planning	Hamilton City Council	Yes – participated in items 3.1 to 3.3.11.1
May Soe – Planning	Hamilton City Council	Yes – participated in item 3.4
Va Mauala – Planning	Hamilton City Council	Yes – participated in item 3.5
Craig Sharman – Planning	Hamilton City Council	Yes
Michael Campbell – Planning	Kainga Ora	Yes
Ashley Sycamore – Planning	Department of Conservation	Yes – participated in items 3.1 to 3.3.11.1
Fraser McNutt – Planning	Giulie & Pat Garvey; Sky City Hamilton Limited; The Lawrenson Group; AW King & AM King; Pragma Commercial Limited; Sanjil & Sonal Mistry; Hillsborough Properties Limited; Rentrezi Limited; Ming Tang.	Yes
Hannah Craven – Planning	Waikato Regional Council	Yes – participated in items 3.1 to 3.3.11.1
Ben Inger – Planning	The Adare Company Limited	Yes – participated in items 3.1 to 3.3.11.1