BEFORE THE HEARING PANEL

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of Plan Change 9 – Heritage and Natural Environments – to the Operative Hamilton City District Plan

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SUPPLEMENTARY STATEMENT OF EVIDENCE OF HAMISH DEAN

(ECOLOGY – NPS-IB)

Dated 1 September 2023

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INTRODUCTION

1. My full name is Hamish Alston Dean. My qualifications and experience are as set out in paragraphs two to four of my primary statement of evidence dated 14 April 2023 (**primary evidence**).

CODE OF CONDUCT

2. I reconfirm that I am familiar with the Code of Conduct for Expert Witnesses (Environment Court Practice Note 2023) and although I note this is a Council hearing, I agree to comply with this code.

SCOPE OF EVIDENCE

3. This evidence relates primarily to the impact of the National Policy Statement for Indigenous Biodiversity (**NPS-IB**) on Plan Change 9 (**PC9**), and specifically on whether the process and site assessment methodologies used to identify Significant Natural Areas (**SNAs**) for PC9, are consistent with the NPS-IB.

4. This evidence includes commentary on provisions in the NPS-IB relevant to the ecological assessment, and the SNA identification methodology and assessment criteria included in the NPS-IB.

5. Ms Emily Buckingham's evidence deals with the alignment of SNA related plan provisions with those required under the NPS-IB.

SUMMARY OF EVIDENCE

6. The procedure followed to identify SNAs in Hamilton for the PC9 process and the provisions in PC9 for managing effects on SNAs are largely consistent with those of the NPS-IB.

7. The site identification methodology used for PC9 is aligned with the principles in Clause 3.8 of the NPS-IB except that not all sites were visited during the process.

8. Only four significance assessment criteria are included in the NPS-IB compared with eleven in the WRPS but despite the difference in how these two criteria sets split the ecological values to be assessed, they essentially assess the same things and are well aligned.

9. The most notable difference between the two is that the WRPS includes two criteria specific to aquatic habitats which are expressly excluded from the NPS-IB.

10. Provisions relating to the management of adverse effects on SNA are consistent with those in PC9 in general, although there may be some temporary loss of extent associated with maintenance of existing infrastructure.

11. The highly mobile fauna requirements in the NPS-IB will provide additional protection to species such as long-tailed bat when they are implemented, but they do not preclude sites important to this fauna from being scheduled as SNA, provided they meet the significance criteria.

12. The PC9 provisions relating to restoration and increasing indigenous vegetation cover are generally consistent with the requirements of the NPS-IB although additional provisions and incentives could be added in future plan changes.

SNA IDENTIFICATION APPROACH

13. Clauses 3.8 and 3.9 of the NPS-IB outline the approach to be taken by territorial authorities when assessing areas that qualify as SNA and identifying them in district plans. In this section I review the approach in

the NPS-IB and compare it with the approach taken when identifying SNA for PC9. A review of the site assessment criteria is included later in this evidence.

14. The NPS-IB requires that SNA are identified in accordance with the criteria in Appendix 1 of the NPS-IB and in accordance with the principles of partnership, transparency, quality, access, consistency and boundaries which are set out and defined at section 3.8(2) of the NPS-IB.

15. In terms of partnership and transparency (Clause 3.8(2)(a) and (b)) I note that Hamilton City Council (**HCC**) communicated to landowners who were potentially affected by SNAs very early and encouraged feedback and offered site visits by the ecologists. More than 1700 letters were sent, and 384 electronic feedback forms were received in response, which resulted in 188 additions of data to the master dataset. Draft information and assessments were also made available to stakeholders prior to notification.

16. The principle of quality (Clause 3.8(2)I) requires that wherever practical, territorial authorities verify information on SNAs through a physical inspection. The identification of SNA for PC9 was a largely desktop-based assessment with some site visits to validate data and to respond to landowner feedback or formal submissions.

17. Prior to notification, a total of 39 properties affected by corridor SNAs (cSNAs) were visited, along with 13 flora SNAs (fSNAs) on private land and an additional 8 fSNAs on public land. Another 90 properties were visited in response to submissions.

18. Visits to SNAs were largely focussed at the property scale rather than the site scale and by no means were all sites comprehensively assessed on the ground.

19. Although not all sites were visited, our approach utilised a range of data sources which included Waikato Regional Council's Biodiversity Inventory which I understand has been ground-truthed.

20. In total, 136 candidate sites were assessed (65 fSNAs and 71 cSNAs) and while a comprehensive site visit and survey would have been ideal it would have taken well over 100 days of field time and considerable expense to do so.

21. The principle of access (Clause 3.8(2)(d)) was consistently applied during the process. No property was accessed without first gaining permission from the landowner, except for public land.

22. The principle of consistency (Clause 3.8(2)(e) requires that criteria are applied consistently, regardless of who owns the land. I discuss the alignment of the two significance criteria sets later in this brief, but the ecological assessment against the criteria that were used was applied regardless of land tenure.

23. The final principle of boundaries (Clause 3.8(2)(f)), requires that non-natural boundaries such as property are disregarded when undertaking SNA assessments.

24. During the first stages of the HCC SNA process, a minimum mapping unit of 0.05ha (500m^2) was adopted, meaning that patches of vegetation smaller than 0.05 ha were excluded from the initial assessment unless they had a significance level of at least 'Regional'. In addition, very small slivers of potential SNA polygons which extended onto neighbouring properties were removed, but these were only a matter of a few square meters at most.

25. Very small areas of forest and scrub vegetation are often not ecologically viable except in certain circumstances, and this minimum mapping unit is consistent with other SNA surveys undertaken in the Waikato Region, although I note that no minimum size is specified for SNA in the NPS-IB.

26. The purpose of the removal of very small slivers on neighbouring properties was to prevent properties with one or two square metres of vegetation from being encumbered with an SNA when they otherwise wouldn't be.

27. With regard to the principle of boundaries in the NPS-IB, our approach was inconsistent to a small degree but in my opinion the ecological impacts of these actions are negligible.

28. Clause 3.8(3) of the NPS-IB requires local authorities to undertake a physical inspection of a proposed SNA if the values or extent of the SNA are disputed by the landowner. The approach taken during the Hamilton SNA project was to visit properties of those landowners who requested a visit during the pre-notification consultation period, and all of the properties which were the subject of formal submissions and where owners gave permission. This approach is consistent with the NPS-IB requirement.

SITE SIGNIFICANCE CRITERIA

29. The NPS-IB in Appendix 1 gives direction on what qualifies as an SNA and provides criteria for assessment. It also excludes sites from being designated an SNA if they qualify solely on the grounds that they provide habitat for a single At Risk (declining) fauna species (Clause 1(2)) or one or more At Risk or Threatened flora species (Clause 1(3)), with some exceptions. None of the SNA identified through the PC9 process meet these exclusions.

30. The SNA identification process used for PC9 uses the same context for assessment as that specified by the NPS-IB in Appendix 1 Clause 2, which is the ecological district, and ecological district, region and nationally for rarity assessments.

31. Direction is provided in Appendix 1 Clause 3(1) on what must be included in an SNA site assessment. All the listed items were part of the SNA assessment methodology for PC9. The only exception being the requirement to include the conservation management strategy or plan for any publicly owned area designated SNA without going through the normal process, but this is not relevant to PC9 as this approach was not taken for any sites.

32. Table 1 includes a comparison of the Waikato Regional Policy Statement (**WRPS**) criteria for determining significance of indigenous biodiversity[1] which were used to identify SNAs for the PC9 process, with those in the NPS-IB. I note that the WRPS guidance document[2] includes the draft NPS-IB criteria as guidance so the two sets are well aligned.

[1] Waikato Regional Council. 2016. Regional Policy Statement – Chapter 11A. Criteria for determining significance of indigenous biodiversity and guidelines for interpretation.

[2] Waikato Regional Council & Wildland Consultants. 2022. Updated guidelines for determining areas of significant indigenous vegetation and habitats of indigenous fauna in the Waikato Region. Waikato Regional Council Technical Report.

Table 1: Comparison of NPS-IB and WRPS significance criteria.

NPS-IB Criteria	Consistency with WRPS
A. Representativeness The extent to which the indigenous vegetation or habitat of indigenous fauna in an area is typical or characteristic of the indigenous biodiversity of the relevant ecological district.	Criterion 9 in the WRPS is similar to the representativeness criteria in the NPS-IB with only subtle differences. The focus in the NPS-IB is on how representative an area is of the ecosystem in the present-day environment and allows for degraded habitats and even exotic habitats for indigenous fauna if that is typical of the current day habitat in the Ecological District (ED). The RPS criterion and guidance is virtually identical except that the allowance to include degraded sites is not explicitly stated. In my opinion the subtle difference would make no material difference in the Hamilton City context.
B. Diversity and pattern The extent to which the expected range of diversity and pattern of biological and physical components within the relevant ecological district is present in an area.	The diversity component of the NPS-IB criterion is covered in part by WRPS Criterion 7 (large, diverse sites) and by Criterion 9 (representative examples). WRPS Criterion 7 is specific to large sites whereas the NPS-IB criterion does not necessarily relate to size, although diversity can sometimes be correlated with size to some extent. Although smaller, highly diverse sites may not be picked up by Criterion 7 in some parts of the region, in the Hamilton ED even moderately diverse natural areas would likely meet Criterion 9 or Criterion 4 (under-represented vegetation, habitats or ecosystems). The pattern part of the NPS-IB criterion is covered in part by WRPS by Criterion 10 although that criterion expressly requires an ecological sequence to be rare in the Waikato Region, whereas the NPS-IB criterion requires only the presence of indigenous ecotones, or complete or partial gradients or sequences.
C. *Rarity and distinctiveness* Rarity and distinctiveness is the presence of rare or distinctive	The criterion is covered in the WRPS by Criteria 3, 4, 5 & 6 which all relate to rarity of species or ecosystems.

indigenous taxa, habitats of indigenous fauna, indigenous vegetation or ecosystems.	WRPS Criterion 3 covers Threatened and At Risk species and those that are endemic to the Waikato or are at their natural range limit. This directly relates to rarity and distinctiveness of species. Criterion 4 covers rarity and distinctiveness of vegetation, habitat or ecosystems and has the same 20% threshold as the NPS-IB. Criterion 5 covers naturally rare ecosystems which are specifically included in the NPS-IB rarity and distinctiveness criterion. Criterion 6 specifically covers wetland habitat with the rationale that wetlands have been severely depleted nationally and are therefore a threatened habitat type. The NPS-IB does not cover wetland areas and excludes them from the SNA identification process except where they are part of a larger SNA, but it is my understanding that this does not preclude HCC from scheduling these sites as part of PC9. The exclusion of wetlands would affect the Lake Rotokauri Margins site (c30) which is entirely wetland but other sites that trigger Criterion 6 are part of larger SNA.
D. Ecological context The extent to which the size, shape, and configuration of an area within the wider surrounding landscape contributes to its ability to maintain indigenous biodiversity or affects the ability of the surrounding landscape to maintain its indigenous biodiversity.	The ecological context criterion is covered in the WRPS by Criterion 11. However, a significant difference is that the WRPS criterion requires that the buffering or linkage function provided by a site must be "necessary to protect" another significant site from adverse effects. The NPS-IB criterion is focussed on a site's ability to maintain its own indigenous biodiversity in the context of the wider landscape or its contribution to maintaining indigenous biodiversity in the wider landscape. Sites that form linkages between other important sites trigger this NPS-IB criterion, but they don't need to be 'necessary to protect' the site from adverse effects. Despite this difference I do not believe that any additional sites would have been identified as meeting the NPS-IB Ecological Context criterion than have been through the PC9 process.

33. Three other criteria in the WRPS are not directly represented in the NPS-IB criteria set: Criterion 1 it is a secondary criterion in the WRPS which only applies if one of the other criteria are satisfied so is not a significance criterion in its own right. Criterion 2 relates to sites in the Coastal Marine Area and is therefore not relevant to the Hamilton context and Criterion 8 relates to aquatic habitats which are not technically covered by the NPS-IB.

34. No sites within Hamilton were identified as SNA based solely on Criterion 8. However, the Waikato River site (c64) is a wholly aquatic site, and the Lake Rotoroa site (c31) is in large part aquatic. Nevertheless, my understanding is that although the NPS-IB SNA identification process does not cover aquatic habitat, it does not preclude HCC from including these sites in the SNA schedule in PC9.

35. Although there are differences in how the two criteria sets split up the ecological values that need to be assessed when identifying SNAs, and subtle differences in the assessment principles of the criteria themselves, the two sets generally align and result in the same outcome, at least in the Hamilton context. The most significant difference is the exclusion of non-terrestrial habitats from the NPS-IB SNA identification process.

36. Despite the small differences between the two criteria sets, I believe that the SNAs identified in PC9 would all meet at least one of the NPS-IB criteria for significance.

ADVERSE EFFECTS ON SNA

37. Clause 3.10(2) of the NPS-IB identifies a number of adverse effects on SNAs that are to be avoided. I have reviewed the list of permitted activities under PC9 to consider whether they avoid these effects. In my opinion, allowing minor structures in cSNAs (retaining walls, fences, access tracks, ancillary

structures such as clothes lines and garden structures) subject to the proposed limitations on the sizes of branches and roots that can be cut, will avoid reducing the function and extent of SNAs as required by Clause 3.10(2).

38. I have also reviewed the rules for vegetation removal to facilitate the maintenance of existing infrastructure against the requirements of Clause 3.15 of the NPS-IB. PC9 allows for 100m^2 removal per year, with size restrictions in place preventing removal of larger trees. Any cleared vegetation must be replanted within 12 months if the cleared area is not required for ongoing access. In my view, the permanent clearance of access areas would represent a loss of SNA extent that is not consistent with Clause 3.15 of the NPS-IB. However, for any areas that are replanted, I consider that the loss of SNA extent would be temporary, and its ecological integrity will not be degraded over time.

39. Policy 3 of the NPS-IB requires that a precautionary approach is adopted when considering adverse effects on indigenous biodiversity. Although this was our approach when identifying SNAs and in responding to submissions, it emphasises the need to avoid fragmentation of sites or exclusion of areas that provide marginal habitat for threatened species.

HIGHLY MOBILE FAUNA

40. Under the NPS-IB, provisions must be included in local authority plans to manage adverse effects 'on highly mobile fauna' areas, in order to maintain viable populations of specified highly mobile fauna across their natural range'. Highly mobile fauna includes long-tailed bat (*Chalinolobus tuberculatus*), along with other Threatened and At Risk species recorded in Hamilton such as kaka (*Nestor meridionalis meridionalis*), New Zealand falcon (*Falco novaeseelandiae ferox*) and Caspian tern (*Hydroprogne caspia*).

41. The highly mobile fauna provisions in the NPS-IB (Clause 3.20) are designed to protect this fauna outside of the SNA network and do not preclude sites that provide habitat for specified fauna from being identified as SNA, provided they meet the significance criteria.

42. In the Hamilton instance, sites that are important to highly mobile fauna meet either NPS-IB Criteria C or D and therefore it remains appropriate to include them as SNAs.

RESTORATION AND INDIGENOUS VEGETATION COVER

43. The restoration section of the NPS-IB (Clause 3.21) requires local authorities to promote the restoration of indigenous biodiversity through inclusion of objectives, policies and methods in their various plans and provides direction on how to prioritise restoration work.

44. PC9 complies to some extent with this direction as it includes provisions that are intended to be permissive of restoration within SNAs, and particularly those that 'provide important connectivity and buffering functions' (NPS-IB 3.21(2)(c)) which includes the majority of cSNAs.

45. Additional provisions to promote and incentivise restoration could be introduced in later plan changes.

46. The NPS-IB in Clause 3.22(4) directs local authorities to promote the increase of indigenous vegetation cover to meet any targets set by the Regional Council under 3.22(3) which must be at least 10% of an urban area. PC9 already includes a policy (20.2.1i) to promote an increase in the extent of indigenous vegetation cover to 10% so is consistent with this requirement.

CONCLUSION

47. In conclusion, the procedure followed to identify SNAs in Hamilton for the PC9 process and the provisions in PC9 for managing effects on SNAs are largely consistent with those of the NPS-IB. In light of the NPS-IB I do not consider there to be any necessary changes to my previous recommendations regarding the identification and mapping of SNAs within Hamilton.

Hamish Alston Dean

1 September 2023