

**Plan Change 9 Speaking Notes**  
**Ben Inger (Planning) for The Adare Company Limited**  
**25 May 2023**

1. I provided Evidence in Chief (EIC) dated 28 April 2023 and Evidence in Reply (EIR) dated 12 May 2023. I summarise below the key points addressed in my statements, including any changes in my opinions following my review of evidence in reply which has been filed by others.
2. Many of the issues addressed in Adare's submission and further submission have been satisfactorily addressed in the recommendations in the Section 42A Report.

**Explanation to Objectives and Policies for the Long-tailed Bat**

3. I identified in my EIC that there was an explanation missing in the recommended provisions in the Section 42A Report after the new Objective 20.2.2 and the associated policies which relate to the long-tailed bat. My EIC included proposed wording which Ms Galt has suggested minor changes to in her EIR for Hamilton City Council (HCC). I agree with and support the changes that Ms Galt has suggested.

**Reference to Eurobats Guideline**

4. The Section 42A Report recommends that a new reference to the Eurobats Guideline (Eurobats) be included in the explanation that follows Objective 25.6.2.1 and Policy 25.6.2.1a which relate to lighting and glare. In my opinion, the reference to Eurobats is inappropriate from a planning perspective: Eurobats is not referenced in the objectives and policies (or in any other provisions in the Plan). Further, adding reference to one possible source of guidance in the explanation is likely to result in it being treated as a de facto standard, rather than an explanation.

**Best Practice Guidance for Offsetting and Compensation**

5. The Section 42A Report recommends that a new information requirement be included (Appendix 1.2.2.X) for any activity requiring resource consent relating to a SNA where biodiversity offset or compensation measures are proposed. For those applications, Appendix 1.2.2.X would require an assessment against Policies 20.2.1d and 20.2.1e as well as "*... the most recent best practice guidelines on offsetting and compensation*". I consider that the reference to "most recent best practice guidance" is unclear as

opposed to an explicit reference to avoid uncertainty and ambiguity. Practical issues may occur where there are multiple sources of best practice guidance (e.g., in the NPS-IB, MfE guidance, DOC guidance or other guidance). The proposed wording suggests it would be the most recent guidance that prevails, which may not be appropriate. For example, any requirements in a national policy statement would need to prevail over any subsequent non-statutory guidance.

6. I suggested deleting Appendix 1.2.2.X altogether in my EIC. An alternative would be to amend the information requirement to require assessment against the principles for biodiversity offsetting and compensation in the most recent of the two guidelines which are cited, which is the Biodiversity Offsetting under the Resource Management Act: A guidance document, prepared for the Biodiversity Working Group on behalf of the BioManagers Group, 2018 or any principles for offsetting and compensation in an applicable national policy statement (see **Attachment 1**).

#### **Lighting and Glare**

7. Ms Sycamore's EIC for the Department of Conservation (DOC) suggests changes to lighting and glare provisions in Rule 25.6.4.X. That rule does not apply to activities in the Peacocke Precinct so the changes would not affect Adare's landholdings. It is unclear, however, whether Ms Sycamore intended that buffer planting provisions that she has also suggested to manage lighting effects on SNAs would apply in the Peacocke Precinct because no specific details have been provided. I do not support buffer planting provisions applying in the Peacocke Precinct. Lighting and glare effects were considered and comprehensively addressed through PC5 and it is not appropriate to add to or amend the standards for the Peacocke Precinct through this Plan Change.

#### **Noise**

8. Ms Sycamore's EIC for DOC suggests that a new policy should be included in Chapter 25.8 (Noise and Vibration) to manage potential adverse effects of noise on indigenous biodiversity within SNAs. I consider the policy to be inappropriate and unnecessary because:
  - a. There are no rules in Chapter 25.8 or elsewhere in the Plan which limit noise specifically in relation to SNAs;
  - b. The objective which the proposed policy would relate to is focused on amenity values, not ecological values. In terms of section 32AA, the policy would not be the most appropriate way of achieving that objective;

- c. The purpose statement in Chapter 25.8 similarly refers to adverse effects of noise and vibration on amenity values, not ecological values; and
- d. The effects of urban development on long-tailed bats was considered extensively through the recent PC5 process. No objectives, policies, or rules were imposed for managing noise in relation to SNAs or SBHAs within the Peacocke Precinct.

### **Unmapped SNAs**

9. Ms Sycamore's EIC for DOC suggests amending PC9 so that any area within Hamilton City that meets the significance criteria in APP5 of the Waikato Regional Policy Statement (WRPS) would be treated as a SNA, despite not being mapped in the District Plan. She has specified some, but not all, of the changes that she considers would be required to the PC9 provisions to achieve this.
10. I address in my EIR why I consider DOC's suggested changes are inappropriate, however in summary:
  - a. I consider HCC's approach to identification of SNAs has been robust and appropriate;
  - b. Ms Sycamore's proposed changes would result in significant uncertainty and administrative difficulty. The changes would mean that Plan users would be unable to identify from the face of the Plan when/if the SNA rules might apply to an area, and therefore whether a permitted activity could be undertaken. Further, it is not clear from Ms Sycamore's evidence how the assessment against APP5 of the WRPS would be made, when it would be done, and by whom; and
  - c. No analysis of the costs and benefits of DOC's proposed approach has been provided. Without such information, I cannot see how such a significant change to the scheme of the Plan can be justified.
11. The legal submissions for DOC suggest that without Ms Sycamore's changes, there is a gap in the Plan with respect to the protection of unmapped areas of significant indigenous vegetation or significant habitats of indigenous fauna. Chapter 20 is limited to SNAs, Notable Trees, peat lakes, wetlands and peat lake catchments, but that is not to say that other areas of the city with ecological values do not have any form of protection. For example, there is an overarching objective and policy for the natural environment in Chapter 2 (Strategic Framework) of the Plan which is:

**Objective 2.2.12**

*Protect and enhance natural character, natural features and landscapes, ecosystems and indigenous biodiversity.*

**Policy 2.2.12a**

*Land use and development protects natural character, natural features and landscapes and ecosystems and promotes positive outcomes for indigenous biodiversity in the Waikato region.*

**Policy 2.2.12b**

*Land use and development maintains the extent and, where, possible, enhances ecological corridors.*

12. Finally, I note that Ms Galt, in her EIR for HCC, also does not support Ms Sycamore's proposed changes. I agree with Ms Galt's evidence in this regard.

## Attachment 1: Suggested Alternative Wording for Appendix 1.2.2.X

Alternative changes suggested in **green** text (deletions shown in ~~strikethrough~~ and additions shown underlined)

### 1.2.2.X Significant Natural Areas – Biodiversity offsetting and biodiversity compensation

Any activity requiring a resource consent relating to Significant Natural Areas and proposing biodiversity offset or biodiversity compensation measures shall include as part of the resource consent application:

- a. Assessment of the proposal against the effects hierarchy in Policy 20.2.1d and whether the proposal is appropriate under Policy 20.2.1e.
- b. Assessment of the proposal against the ~~most recent best practice guidelines on principles for~~ offsetting and compensation. ~~Note: Current guidance documents include Department of Conservation's Guidance on Good Practice Biodiversity Offsetting in New Zealand, published August 2014, and in~~ Biodiversity Offsetting under the Resource Management Act: A guidance document, prepared for the Biodiversity Working Group on behalf of the BioManagers Group, 2018 or any principles for offsetting and compensation in an applicable national policy statement.

