

**BEFORE**

the Independent Hearing Panel appointed by  
the Hamilton City Council

**UNDER**

the Resource Management Act 1991 (the Act)

**And**

**IN THE MATTER OF**

Proposed Plan Change 9 – Historic Heritage  
and Natural Environment (Session 2 – NPS-IB  
Topic)

**BY**

Hamilton City Council

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**SUPPLEMENTARY STATEMENT OF EVIDENCE OF ASHLEY SYCAMORE**

**ON BEHALF OF THE DIRECTOR-GENERAL OF CONSERVATION**

**SUBMITTER NUMBER #425**

**PLANNING – NPS-IB**

**22 SEPTEMBER 2023**

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## **Introduction**

1. My full name is Ashiley Sycamore.
2. I have been asked by the Director-General of Conservation (D-G) to provide planning evidence on the Plan Change 9 (PC9) to the Hamilton City Operative District Plan 2017.
3. I have previously provided evidence on the Significant Natural Area (SNA) topic of PC9 (dated 28 April 2023; referred to throughout this supplementary statement as EIC) and I presented at the PC9 Session 1 hearing on 24 May 2023.
4. This supplementary statement of evidence specifically addresses the implications of the recent gazettal of the National Policy Statement on Indigenous Biodiversity (NPS-IB) in relation to the SNA topic of PC9.
5. My qualification and experience are as set out in paragraphs 2 to 5 of my EIC.
6. I note if there are any areas where the Panel considers that further assessment or review would assist, I remain available.

## **Code of conduct**

7. 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.

## **Material considered**

8. In addition to the material considered for my EIC, in preparing this supplementary evidence I have also considered:
  - a. The National Policy Statement for Indigenous Biodiversity 2023 (NPS-IB);
  - b. The supplementary statement of evidence of Emily Buckingham (Planning – NPS-IB) dated 1 September 2023;
  - c. The supplementary statement of evidence of Hamish Dean (Ecology – NPS-IB) dated 1 September 2023.

9. In general, I consider that Ms Buckingham's supplementary evidence provides an accurate assessment of the implications of the NPS-IB and appropriate recommendations (refer to paragraph 11 below for supported points) but I do note that there are some additional implications.
10. I therefore have only provided an assessment for areas where I have something additional to bring before the Panel.

### **Overall response to Ms Buckingham's recommendations**

11. Overall, I support most of Ms Buckingham's recommendations and considerations, and therefore do not provide specific evidence on those points. For clarification, this includes:
  - a. The proposed amendments to Policy 20.2.1d which sets out an effects management hierarchy.<sup>1</sup>
  - b. The assessment in relation to restoration and increasing indigenous vegetation cover (relates to Policy 20.2.1i).<sup>2</sup>
  - c. The proposed amendments to the definitions of 'biodiversity offsetting' and 'biodiversity compensation'.<sup>3</sup>
  - d. The proposed amendments to Appendix 1.2.2.X being the information requirement for activities within SNAs that are proposing biodiversity offset or biodiversity compensation measures.<sup>4</sup>

### **SNA Mapping**

12. Paragraphs 42-49 of my EIC discussed how to deal with unmapped areas within Hamilton City that meet SNA criteria.
13. Paragraph 42 stated that the D-G's submission sought additional provisions in PC9 to protect unmapped areas within Hamilton City that meet SNA criteria for 'significance' under the Waikato Regional Policy Statement, as required by section 6(c) of the RMA. The habitats of black mudfish (At Risk – Declining)

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<sup>1</sup> Supplementary statement of evidence of Emily Buckingham (Planning – NPS-IB), dated 1 September 2023, paragraphs 28-33 and Appendix 1.

<sup>2</sup> Supplementary statement of evidence of Emily Buckingham, paragraphs 49-50.

<sup>3</sup> Supplementary statement of evidence of Emily Buckingham, paragraph 53 and Appendix 1.

<sup>4</sup> Supplementary statement of evidence of Emily Buckingham, paragraph 54 and Appendix 1.

was mentioned as an example of unmapped areas that meet SNA criteria under the WRPS.

14. The wording of two potential policies that could seek to achieve the above if inserted in Chapter 20 were provided under Paragraph 48 (see below).

Policy 20.2.1X: Identify areas of significant indigenous vegetation and significant habitats of indigenous fauna as being any area that meets one or more of the criteria in APP5 of the Waikato Regional Policy Statement.

Policy 20.2.1X: Recognise that areas of significant indigenous vegetation and significant habitats of indigenous fauna within Hamilton City includes:

– sites scheduled in Appendix 9C and identified in the planning maps as Significant Natural Areas; and

– sites that are not identified on the planning maps but that meet one or more of the criteria in APP5 of the Waikato Regional Policy Statement.

15. Under the NPS-IB, the definition of an SNA is limited to those areas notified or included in a District Plan following an assessment of the area in accordance with Appendix 1: Criteria for identifying areas that qualify as SNAs.

16. Subpart 2, Clause 3.8(6) of the NPS-IB states that:

- (6) If a territorial authority becomes aware (as a result of a resource consent application, notice of requirement or any other means) that an area may be an area of significant indigenous vegetation or significant habitat of indigenous fauna that qualifies as an SNA, the territorial authority must:
- (a) conduct an assessment of the area in accordance with subclause (2) as soon as practicable; and
  - (b) if a new SNA is identified as a result, include it in the next appropriate plan or plan change notified by the territorial authority.

17. I consider that it would be appropriate to include a new Policy within Chapter 20 that details the process for assessing unmapped areas that meet the criteria of a SNA at resource consent or designation stage. This would allow Council to have a clear mechanism to ensure Clause 3.8(6) is met if they become aware of an area that qualifies as an SNA through a resource consent application, notice of requirement or by any other means (e.g. as a result of a pre-application meeting).

18. I consider that when an area is identified as qualifying as an SNA through assessment in accordance with Appendix 1, although it is not technically an

SNA under the definition of the NPS-IB (being that it is not included within the plan), it is considered consistently with the policy direction outlined within the District Plan and NPS-IB until such time as that the area can be added to the plan.

19. If an area that meets the criteria of a SNA is not able to be assessed under the relevant SNA provisions within the District Plan, this could result in the loss of significant indigenous vegetation and/or significant habitats of indigenous fauna (e.g. if resource consent was granted for an activity that was contrary to Chapter 20, as the area was not able to be considered as a SNA). This may create a perverse incentive to clear areas known to have significant value before they can be added to the Plan. This outcome would also be contrary to the objective of the NPS-IB which states: “to maintain indigenous biodiversity across Aotearoa New Zealand so that there is at least no overall loss in indigenous biodiversity after the commencement date”.
20. It is noted that these areas will likely only be detected when an ecological assessment is required, which will most likely occur through a resource consent or designation process.
21. In line with the above assessment, I recommend the following amendments to the two policies I proposed in my EIC, in line with Clause 3.8(6):

Policy 20.2.1X: Identify areas of significant indigenous vegetation and significant habitats of indigenous fauna as being any area that meets one or more of the criteria in APP5 of the Waikato Regional Policy Statement.

Policy 20.2.1X: Recognise that areas of significant indigenous vegetation and significant habitats of indigenous fauna within Hamilton City includes:

– sites scheduled in Appendix 9C and identified in the planning maps as Significant Natural Areas; and

– sites that are not identified on the planning maps but meet the criteria for identifying areas that qualify as Significant Natural Areas under Appendix 1 of the NPS-IB after an assessment is completed as a result of a resource consent application, a notice of requirement or any other means that meet one or more of the criteria in APP5 of the Waikato Regional Policy Statement.

22. In addition to my above assessment, I consider that this approach would be consistent with the below policies of the NPS-IB:

**Policy 3:** *A precautionary approach is adopted when considering adverse effects on indigenous biodiversity.*

**Policy 6:** *Significant indigenous vegetation and significant habitats of indigenous fauna are identified as SNAs using a consistent approach.*

**Policy 7:** *SNAs are protected by avoiding or managing adverse effects from new subdivision, use and development.*

**Policy 8:** *The importance of maintaining indigenous biodiversity outside SNAs is recognised and provided for.*

23. I further note that Section 6(c) of the RMA is applicable whether a significant site is mapped or not.

### **Indigenous biodiversity outside SNAs**

24. I note that Subpart 2, Clause 3.16 of the NPS-IB details how to deal with indigenous biodiversity outside of SNAs (see below).

#### **3.16 Indigenous biodiversity outside SNAs**

- (1) If a new subdivision, use, or development is outside an SNA and not on specified Māori land, any significant adverse effects of the new subdivision, use, or development on indigenous biodiversity outside the SNA must be managed by applying the effects management hierarchy.
- (2) All other adverse effects of any activities that may adversely affect indigenous biodiversity that is outside an SNA (other than indigenous biodiversity on specified Māori land (see clause 3.18)), must be managed to give effect to the objective and policies of this National Policy Statement.
- (3) Every local authority must make or change its policy statements and plans to be consistent with the requirements of this clause.

25. I consider that it is important to note the specific wording of Clause 3.16 states “indigenous biodiversity” and does not state significant indigenous biodiversity. Therefore, Clause 3.16 is detailing a different scenario to the one outlined above in relation to unmapped areas that meet SNA criteria (and as such link to s6(c) of the RMA which applies to significant indigenous vegetation and significant habitats of indigenous fauna).
26. Clause 3.16 directs local authorities to apply the effects management hierarchy in relation to any significant adverse effects of a new subdivision, use or development on indigenous biodiversity outside an SNA. The recommendations version of PC9 includes policies on the effects

management hierarchy in relation to long-tailed bats and SNAs, however I consider these policies do not cover the full range of scenarios described in Clause 3.16.

27. PC9 provides an opportunity to address Clause 3.16 in the District Plan, therefore I recommend an additional provision be included to ensure an effects management hierarchy is applied to any significant adverse effects on indigenous biodiversity outside an SNA.
28. As a suggestion, this could be achieved by copying the wording of Policy 20.2.1d from the evidence of Ms Buckingham and amending the wording to create a new policy that gives effect to Clause 3.16.

### **Noise effects on long-tailed bats**

29. The evidence of Dr Borkin dated 28 April 2023 (bat ecology in relation to SNAs) detailed that noise can have adverse effects on long-tailed bats as roosts and habitat can lose their functionality due to urbanisation including traffic and increases in housing density, and when exposed to noise, light, or tree loss due to felling/removal or trimming<sup>5</sup>.
30. There are currently no proposed noise provisions to protect the function of SNAs for long-tailed bats. Dr Borkin's evidence stated that "provisions focused on noise reduction in SNA should be considered to support connectivity and persistence by long-tailed bats"<sup>6</sup>.
31. In my EIC, I recommended the following policy be included in Chapter 25.8 (Noise and Vibration) of the District Plan:  
  
[Policy 25.8.2.1X: Ensure that noise does not adversely affect indigenous fauna in a Significant Natural Area.](#)
32. Following the gazettal of the NPS-IB, I reaffirm my consideration that noise provisions should be incorporated into PC9 to give effect to the NPS-IB.

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<sup>5</sup> Dr Borkin EIC, paragraph 6.2: [Department-of-Conservation-K-Borkin-Evidence-PC9-April-2023-DOC-7322063-4-002.pdf \(storage.googleapis.com\)](#)

<sup>6</sup> Dr Borkin EIC, paragraph 13.6: [Department-of-Conservation-K-Borkin-Evidence-PC9-April-2023-DOC-7322063-4-002.pdf \(storage.googleapis.com\)](#)

33. Subpart 2, Clause 3.7 of the NPS-IB details in which circumstances local authorities must adopt a precautionary approach (see below).

### **3.7 Precautionary approach**

- (1) Local authorities must adopt a precautionary approach toward proposed activities where:
- (a) the effects on indigenous biodiversity are uncertain, unknown, or little understood; but
  - (b) those effects could cause significant or irreversible damage to indigenous biodiversity.
34. Dr Borkin's evidence considers that whilst there is international research that shows adverse effects on bats due to noise, there has been little research until very recently on the effect of noise on long-tailed bat activity. Dr Borkin's evidence further details the research that has occurred surrounding long-tailed bats and noise effects at the time her evidence was finalised<sup>7</sup>. As such, it could be considered that noise effects on bats are little understood.
35. Long-tailed bats are ranked as 'Threatened-Nationally Critical' which is the highest threat ranking in the Department of Conservation's threat classification system and they are therefore vulnerable to extinction. The loss of functionality for long-tailed bat roosts and habitat could cause significant and irreversible damage, particularly if this contributed towards the extinction of this species.
36. I consider that Clause 3.7, being a precautionary approach, applies to noise effects on long-tailed bats and therefore I recommend appropriate noise provisions be included in the District Plan to give effect to the NPS-IB.
37. The wording of proposed Policy 25.8.2.1X could be amended to specifically consider noise effects in relation to long-tailed bats. I note that Dr Borkin's evidence also detailed potential mitigation strategies to address the effects of noise on bats including noise barriers, substrate alterations and speed limits on roads. Other measures could include restrictions on events and their

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<sup>7</sup> Dr Borkin EIC, paragraph 13.1: [Department-of-Conservation-K-Borkin-Evidence-PC9-April-2023-DOC-7322063-4-002.pdf \(storage.googleapis.com\)](https://storage.googleapis.com/Department-of-Conservation-K-Borkin-Evidence-PC9-April-2023-DOC-7322063-4-002.pdf)



locations, particularly near areas known or suspected to have roosts or those areas identified as bat corridors or SNAs.

### **Lighting and glare effects on long-tailed bats**

38. Ms Buckingham's evidence<sup>8</sup> supports the recommended lighting rules in Chapter 25 and does not consider any changes are required to these provisions following the gazettal of the NPS-IB. In principle, I agree with this section of Ms Buckingham's evidence, however as my EIC covers this topic I have provided an additional assessment below.
39. As noted in my EIC and based on Dr Borkin's evidence, I consider that two amendments to Rule 25.6.4.X are necessary for the reasons listed within paragraph 22<sup>9</sup>. These amendments included to reduce the maximum colour temperatures of white LEDs and to reduce the duration timer of motion sensors associated with exterior security lighting.
40. I still consider that these amendments are required as detailed within my EIC.
41. Following the gazettal of the NPS-IB, I further consider that the amendments to Rule 25.6.4.X proposed within my EIC<sup>10</sup> are supported and required by Clause 3.10(2).



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Ashiley Sycamore  
22 September 2023

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<sup>8</sup> Supplementary statement of evidence of Emily Buckingham, paragraphs 51 & 52.

<sup>9</sup> Ms Sycamore EIC, paragraph 22: [Department-of-Conservation-Ashiley-Sycamore-Statement-of-Evidence-Significant-Natural-Areas.pdf \(storage.googleapis.com\)](#)

<sup>10</sup> Ms Sycamore EIC, paragraphs 20-25: [Department-of-Conservation-Ashiley-Sycamore-Statement-of-Evidence-Significant-Natural-Areas.pdf \(storage.googleapis.com\)](#)