

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

BY

Hamilton City Council

STATEMENT OF EVIDENCE OF ASHLEY SYCAMORE

ON BEHALF OF

THE DIRECTOR-GENERAL OF CONSERVATION / TUMUAKI AHUREI

SUBMITTER NUMBER #425

PLANNING – SIGNIFICANT NATURAL AREAS

28 APRIL 2023

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INTRODUCTION

1. My name is Ashiley Sycamore.
2. I hold the qualification of Bachelor of Social Sciences majoring in Environment Planning from the University of Waikato. I am an associate member of the New Zealand Planning Institute.

Experience

3. I hold the position of Resource Management Act Planner at the Department of Conservation (**the Department**). I have been in this position since May 2022.
4. Before working for the Department, I was employed as a Planner at Hamilton City Council for approximately three years. I was predominantly tasked with processing subdivision and land use resource consent applications. Prior to this, I worked at the Bay of Plenty Regional Council as a Planning Intern for two consecutive summers.
5. My experience at the Department includes interpreting Council plans, policy statements and assessing various publicly and limited notified resource consent applications. Through my participation in various planning processes, I have developed a good understanding of resource management best practice, including in relation to indigenous biodiversity matters.

Code of Conduct

6. 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. The evidence I will present is within my area of expertise, except where I state that I am relying on information provided by another party. I have not knowingly omitted facts or information that might alter or detract from opinions I express.

SCOPE

7. I have been asked by the Director-General of Conservation (**the Director-General**) to provide evidence in regard to the

Director-General's submissions and further submissions on Proposed Plan Change 9 (**PC9**) to the Hamilton City Operative District Plan 2017 (**ODP**).

8. I understand the Director-General's submission is primarily concerned with:
 - a) ensuring that the most appropriate provisions are in place to protect, restore, and enhance Significant Natural Areas (**SNAs**), in particular, the actual and potential habitat of the 'Nationally Critical – Threatened' long-tailed bats; and
 - b) whether PC9 recognises and provides for the relevant matters of national importance in Part 2 of the Act and 'gives effect' to the relevant higher order policy framework.
9. I attended expert conferencing for the Planning session on 20 March 2023 and signed the joint witness statement (**JWS**) produced in that session. I was unable to attend the Ecology and Planning session on 14 March 2023.
10. Dr Kerry Borkin, Department of Conservation Science Advisor, outlines long-tailed bat ecology in her evidence, particularly in regard to their needs around noise, light, tree felling/removal/trimming, and other proposed rules affecting long-tailed bats and the functionality of SNAs.
11. I have read and rely, in part, on the evidence of Dr Kerry Borkin.
12. In preparing my evidence, I have read and considered the following reports and evidence:
 - a) The evidence of Dr Hannah Mueller, Ecology – Significant Natural Areas, dated 14 April 2023¹
 - b) The evidence of John Mckensey, Lighting – Significant Natural Areas, dated 14 April 2023²

¹ Mueller, H. 2023. STATEMENT OF EVIDENCE OF DR HANNAH MUELLER (Ecology - Significant Natural Areas) 14 April 2023, IN THE MATTER of Proposed Plan Change 9 to the Operative Hamilton City District Plan.

² Mckensey JK. 2023. STATEMENT OF EVIDENCE OF JOHN KINROSS MCKENSEY (Lighting – Significant Natural Areas) 14 April 2023, IN THE MATTER of Proposed Plan Change 9 to the Operative Hamilton City District Plan.

- c) The evidence of Hamish Dean, dated 14 April 2023 including the 4Sight Technical Ecology Report³
- d) The evidence of Laura Galt, Planning – Significant Natural Areas, 14 April 2023⁴
- e) Plan Change 9 Historic Heritage and Natural Environment – Planning Report and Recommendations, Hearing Session 1: Historic Heritage; Significant Natural Areas; and Notable Trees, 6 April 2023 (**s42A report**)⁵

APPROACH TAKEN IN EVIDENCE

13. This evidence covers the following matters under consideration in PC9 – Historic Heritage and Natural Environment:
 - Lighting and glare;
 - Noise;
 - Biodiversity offsetting and compensation;
 - National Policy Statement for Indigenous Biodiversity;
 - SNA mapping;
 - SNA criteria;
 - Notification/non-notification rules
14. Following the matters above is an assessment of other submissions points by the Director-General under the section headings “Policies”.
15. In this statement, I use the wording and numbering from the recommendations version of PC9 unless noted otherwise.
16. Where I show provisions that I propose to be amended I use the recommendations version of PC9 in clean text and add **green strike-throughs and underlining** to show changes that I recommend.

³ Dean HA. 2023. STATEMENT OF EVIDENCE OF HAMISH ALSTON DEAN (Ecology - Significant Natural Areas) 14 April 2023, IN THE MATTER of Proposed Plan Change 9 to the Operative Hamilton City District Plan.

⁴ Galt L. 2023. STATEMENT OF EVIDENCE OF LAURA GALT (Planning - Significant Natural Areas) 14 April 2023, IN THE MATTER of Proposed Plan Change 9 to the Operative Hamilton City District Plan.

⁵ [Hearing-Session-1-Planning-Report-Plan-Change-9-Final.pdf \(storage.googleapis.com\)](https://storage.googleapis.com/Planning-Session-1-Planning-Report-Plan-Change-9-Final.pdf)

EXECUTIVE SUMMARY

17. Hamilton City's boundaries contain long-tailed bats (*Nationally Critical – Threatened*)⁶ and their habitat. This population faces increased fragmentation of its habitat from planned and proposed development.
18. There is tension between enabling provisions regarding development and the requirement to recognise and provide for section 6(c) of the RMA and give effect to the Waikato Regional Policy Statement (**WRPS**) 'avoid' and 'no net loss' of indigenous biodiversity policies.
19. I have proposed changes to the District Plan provisions in regard to lighting and glare, noise, unmapped SNAs, and notification rules. It is my opinion that these recommendations assist in achieving the intent of PC9.

LIGHTING AND GLARE

20. The Director-General's PC9 submission requested an additional lighting policy and standard to mitigate adverse effects on indigenous fauna such as the long-tailed bat. Rule 25.6.4.X is a new standard proposed under the recommendations version of PC9 in response to the Director-General's submission points.
21. I have reviewed the s42A authors' recommendations in regard to the new lighting standard and while I support the new Rule 25.6.4.X for sites adjacent to or within SNAs (excluding Peacocke Precinct), I request two amendments to this standard in line with the evidence of Dr Kerry Borkin.
22. I consider the following amendments to Rule 25.6.4.X are necessary to:
 - minimise the effects of lighting on indigenous biodiversity including the long-tailed bat;
 - provide for the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna as required by section 6(c) of RMA; and

⁶ [NZTCS](#)

- implement the best practice guidance document, EUROBATS 8⁷, as recommended in the evidence of Dr Hannah Mueller and Dr Kerry Borkin.
23. A punctuation error is also requested to be changed at the end of point b of Rule 25.6.4.X, being to replace a full stop (.) with a colon (:).
24. I consider the following amendments are necessary for Rule 25.6.4.X:
- 25.6.4.X Sites adjacent to or within Significant Natural Areas (excluding Peacocke Precinct)
- a. Any part of a new or extended building that is located on a site adjacent to an SNA shall have no light emitting apertures facing the SNA if located within the following setbacks from the SNA boundary:
 - i. For a ground level building – 5m from the SNA boundary
 - ii. For each level of a two level building – 7.5m from the SNA boundary
 - iii. For each level of a three or more level building – 10m from the SNA boundary.
 - b. Additional artificial outdoor lighting installed within 20m of a SNA must:
 - i. Emit zero upward light;
 - ii. Be installed with the light emitting surface facing directly down and mounted as low as practical,
 - iii. Be white LED with a maximum colour temperature of ~~3000K~~ 2700K, and
 - iv. In the case of exterior security lighting, be controlled by a motion sensor with a short duration timer (~~5 minutes~~ 1 minute).
 - c. Additional artificial outdoor lighting within an SNA is only permitted for the express use of providing emergency lighting for an essential public service that could require unavoidable maintenance at night – e.g. a waste water pumping station. The lighting must be white LED with a maximum 2700K colour temperature, installed with the light

⁷ Voigt CC, Azam C, Dekker J, Ferguson J, Fritze M, Gazaryan S, Hölker F, Jones G, Leader N, Lewanzik D, Limpens HJGA, Mathews F, Rydell J, Schofield H, Spoelstra K, Zagmajster M. 2018. Guidelines for consideration of bats in lighting projects. EUROBATS Publication Series No. 8. UNEP/EUROBATS Secretariat, Bonn, Germany, 62 pp
https://www.eurobats.org/sites/default/files/documents/publications/publication_series/WEB_EUROBATS_08_ENGL_NVK_19092018.pdf

emitting surface facing directly down, emit zero direct upward light and be mounted as low as practical.

Notes:

1. The term “light emitting apertures” means windows, doors, skylights, translucent roofing or similar which emit light.
2. The term “additional” with respect to lighting in this context, means additional to lighting that was existing and legitimate when this rule took effect.

[333, 425, 326]

25. If the wording proposed above is not supported, other provisions that minimise the effects of lighting on indigenous biodiversity could be included in PC9. Dr Kerry Borkin’s evidence details other methods of managing the effects of lighting on long-tailed bats. Potential measures include increased building setbacks for lighting standard 25.6.4.X and/or additional planting between SNA boundaries and proposed buildings/additions as a buffer to manage the amount of light reaching bat habitat.

NOISE

26. The Director-General’s PC9 submission requested an additional building setback standard to minimise adverse effects on indigenous biodiversity resulting from development within proximity to SNAs. The s42A report did not recommend the addition of a new building setback standard to address this submission point, though as noted above a new lighting standard was proposed.
27. As detailed further within Dr Kerry Borkin’s evidence, lighting is one adverse effect on indigenous biodiversity as a result of development in proximity to SNAs. Another adverse effect is noise.
28. In lieu of a setback provision being included in PC9 to minimise adverse effects resulting from development on indigenous biodiversity such as the long-tailed bat, I recommend that additional provisions for noise be added to Chapter 25.8 (Noise and Vibration) of the District Plan.
29. I recommend that the following new noise policy be included in Chapter 25.8:

Policy 25.8.2.1X: Ensure that noise does not adversely affect indigenous fauna in a Significant Natural Area.

BIODIVERSITY OFFSETTING AND COMPENSATION

30. Point 425.4 of the Director-General's submission requested that PC9 provides clearer guidance on the use of offsetting and compensation as part of any ecological effects assessments and management for resource consent applications that have the potential to adversely affect SNAs.
31. I agree that there should be clear guidance on biodiversity offsetting and compensation as part of PC9. The s42A report recommended an additional information requirement in response to the Director-General's submission point.
32. I have reviewed the new information requirement under 1.2.2.X Significant Natural Areas – Biodiversity offsetting and biodiversity compensation within the recommendations version of PC9.
33. The new information requirement 1.2.2.X references the current best practice guidance documents including the Department of Conservation's Guidance on Good Practice Biodiversity Offsetting in New Zealand, published August 2014, and Biodiversity Offsetting under the Resource Management Act: A guidance document, prepared for the Biodiversity Working Group on behalf of the BioManagers Group, 2018. Point b of 1.2.2.X ensures that any assessment in line with this standard would be required against the best practice guidelines on offsetting and compensation, which is important if in the future there are new or updated best practice documents.
34. I agree with the recommendation in the s42A report to add an additional information requirement. I recommend that the proposed information requirement 1.2.2.X be retained as notified in the recommendations version of PC9.

NATIONAL POLICY STATEMENT FOR INDIGENOUS BIODIVERSITY

35. The Director-General's submission referenced the National Policy Statement for Indigenous Biodiversity (**NPS-IB**) exposure draft and

requested that the provisions of PC9 be updated to align with the NPS-IB.

36. At the time of the Director-General's submission the NPS-IB was expected to come into effect in late 2022, prior to the PC9 hearing process.
37. At the time of this statement, the Ministry for the Environment anticipates that the NPS-IB will be gazetted in 2023⁸.
38. I agree with the s42A report that any required adjustments to the PC9 provisions should be considered and made if the NPS-IB is gazetted before decisions are made on PC9.

SNA CRITERIA

39. The purpose of SNAs under 20.1c of the recommendations version of PC9 states that "The sites were assessed using the criteria for determining significant indigenous biodiversity contained in section 11A of the Waikato Regional Policy Statement (May, 2016)".
40. PC9 should ensure that SNAs are identified in accordance with the latest version of the WRPS which lists the criteria for determining significance of indigenous biodiversity under APP5, rather than section 11A.
41. I recommend that the wording of 20.1c be updated to reference the latest version of the WRPS. Additionally, it should be ensured that the sites identified on the Planning Maps and listed in Schedule 9C: Significant Natural Areas in Volume 2, Appendix 9 have been identified in accordance with APP5 of the WRPS.

SNA MAPPING

42. Point 425.3 of the Director-General's submission sought additional provisions in PC9 to protect unmapped areas within Hamilton City that meet SNA criteria for 'significance' under the WRPS, as required by section 6(c) of the RMA. Within this submission point, the habitats of

⁸ [Proposed national policy statement for indigenous biodiversity | Ministry for the Environment](#)

black mudfish (*At Risk – Declining*)⁹ was mentioned as an example of unmapped areas that meet SNA criteria under the WRPS.

43. The s42A report acknowledged that the Director-General seeks recognition of areas that are not mapped but meet the criteria for SNAs, e.g. the habitats of black mudfish. The remainder of the assessment in the s42A report focussed on mudfish habitat protection and did not reference the main point of the submission which was to update the District Plan to include provisions for the protection of unmapped areas that meet the WRPS criteria (being APP5 – Criteria for determining significance of indigenous biodiversity) for an SNA.
44. The evidence of Laura Galt, Dr Hannah Mueller, and Hamish Dean, and the PC9 Technical Ecology Report also focussed on whether black mudfish habitat should be protected, rather than considering the boarder submission point.
45. The s42A report recommended to not include additional SNAs specifically for black mudfish in PC9. There was no mention of including additional provisions in PC9 to protect unmapped areas that meet SNA criteria.
46. Taking into account the above, I consider that it is necessary to amend PC9 in order to ensure unmapped areas within Hamilton City that meet SNA criteria for 'significance' under APP5 of the WRPS are protected, as required by section 6(c) of the RMA.
47. I recommended new policies be included in Chapter 20 of PC9 to identify and recognise areas of significant indigenous vegetation and significant habitats of indigenous fauna. The policies should seek to properly account for unmapped areas of significant indigenous biodiversity and give effect to APP5 of the WRPS.
48. Below are two proposed policies that would, in my opinion, achieve the relief sought in submission point 425.3. The wording could be inserted as two new policies within Chapter 20. Alternatively, the wording of Policy 20.2.1a and Policy 20.2.1b could be amended, provided the wording is similar to the proposed policies below:

⁹ [NZTCS](#)

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.

49. It is noted that the purpose of SNAs under 20.1 of Chapter 20 and the wording within Schedule 9C would also need to be amended if the policies recommended above were included in the District Plan.

NOTIFICATION/NON-NOTIFICATION RULES

50. The Director-General's submission sought that the flowchart under Figure 1.1.9a be updated to allow for a potential scenario where the Department of Conservation should be considered as an affected party during a resource consent process and notified on a limited basis.
51. Other parties that feature in the flowchart under Figure 1.1.9a as potential parties to be notified on a limited basis in certain circumstances include the New Zealand Transport Agency (Waka Kotahi), KiwiRail, the operator of Hamilton Airport, and Heritage New Zealand.
52. As documented within point 3.3.7.1 of the JWS from Session 4 on 20 March 2023¹⁰, some parties noted their disagreement with this submission by the Director-General and raised that the usual RMA provisions should apply instead.
53. As the Department of Conservation's interests include indigenous flora and fauna, I consider that it would be appropriate to update Figure 1.1.9a to allow limited notification to the Department of Conservation

¹⁰ [Session-4-JWS-HCC-PC9.pdf \(storage.googleapis.com\)](https://storage.googleapis.com/session-4-jws-hcc-pc9.pdf)

where an activity causes minor or more than minor adverse effects on long-tailed bats or any other Threatened or At Risk indigenous fauna.

54. I recommend that Figure 1.1.9a be amended to include the following wording, or wording to like effect:

Does the activity fail Rule 20.5.6 and/or Rule 20.5.7 for the reason that a suitably qualified person has confirmed that there is a medium or high potential for a tree proposed to be removed to be used as habitat for either bats or any other Threatened or At Risk indigenous fauna? [To be added to the fourth chart on the left].

If yes, then does the activity cause minor or more than minor adverse effects on bats or any other Threatened or At Risk indigenous fauna?

If yes then, the Department of Conservation / Te Papa Atawhai will be considered an affected party on a limited basis.

POLICIES

Policy 20.2.1f

55. The Director-General supported the proposed amendments to Policy 20.2.1f in the notified version of PC9.
56. As a result of a submission point from Waikato Regional Council, the s42A report recommended that the word “naturally” be removed from the description of a floristic SNA (fSNA) in Policy 20.2.1f.
57. I consider that removing the word “naturally” assists in strengthening Policy 20.2.1f.
58. I agree with the amendment to Policy 20.2.1f as considered in the s42A report and I recommend that Policy 20.2.1f be retained as notified in the recommendations version of PC9.

Policy 20.2.1g

59. The Director-General opposed the proposed amendments to Policy 20.2.1g in the notified version of PC9 and requested that the proposed policy be deleted in its entirety.

60. The s42A report recommended that Policy 20.2.1g be amended to 'provide for' rather than 'enable' infrastructure and public walkways/cycleways in SNAs.
61. I agree with the amendment to Policy 20.2.1g as considered in the s42A report and I recommend that Policy 20.2.1g be retained as notified in the recommendations version of PC9.

Policy 20.2.1k

62. The Director-General opposed in part the proposed amendments to Policy 20.2.1k in the notified version of PC9 and requested the wording be amended to include the words "protected" and "enhanced" in relation to SNAs.
63. The s42A report considered that the notified policy is supported as being consistent with Policy ECO-P1/Method ECO-M1 of the WRPS and therefore the wording of Policy 20.2.1k was not recommended to be changed.
64. It is noted that Objective 20.2.1 in the notified version of PC9 states that "Significant Natural Areas are protected, maintained, restored and enhanced", which in my opinion is consistent with Policy ECO-P1 and Policy ECO-P2 of the WRPS.
65. Given the wording of Objective 20.2.1 already contains the words "protected" and "enhanced" in relation to SNAs, I agree with the s42A report recommendation to not alter the wording of Policy 20.2.1k.
66. I note that the recommendations version of PC9 has changed the numbering of Policy 20.2.1k to Policy 20.2.3a as it was considered in the s42A report to be a better fit in this location.



Ashiley Sycamore

28 April 2023