



Waipā District Plan Private Plan Change 20 Further Submission Form

Form 6

Clause 8 of the First Schedule to the Resource Management Act 1991

To: Waipā District Council, Private Bag 2402, Te Awamutu 3840 | Phone: 0800 924 723
| Online: www.waipadc.govt.nz/planchanges | Email: districtplan@waipadc.govt.nz

Please attach additional sheets if there is not enough space for your submissions. If you do not wish to use this form, please ensure that the same information required by this form is covered in your submission.

Note: You must fill in **ALL** sections of this form.
Submissions close **5pm Friday, 25th November 2022**

| COUNCIL USE ONLY | |
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| Date received | |
| Document ref: | |

1. Submitter details

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| Full name of submitter: | GHA Kessels |
| Contact name if different from above: | |
| Contact phone number(s) | Gerry Kessels |
| Email address: | gerrytepahu@gmail.com |
| Postal address: (required if no email address is provided) | |

2. In accordance with clause 8(1) of the First Schedule of the Resource Management Act (select one of the following):

I represent a relevant aspect of the public interest.

I have an interest in the proposed plan change greater than the interest that the general public has.

My reason(s) are:

As a Matter of National Importance, Section 6(c) of the Resource Management Act 1991 (RMA) requires protection of significant areas of indigenous fauna. Criterion 3¹ and Criterion 11² of the Waikato Regional Policy Statement (WRPS) criteria for determining significance of indigenous biodiversity (Part B, Chapter 11A, Table 11-1) are triggered by evidence presented by the applicant showing regular utilisation of pasture, treeland habitats by long-tailed bats within the Plan Change area.

The ecological effects assessment supporting the proposed Plan Change does not address effects of the loss of commuting or foraging habitats for the critically endangered long-tailed bat within the proposed Plan Change area, nor does it assess the cumulative and indirect effects of the loss of these habitats for this species.

The policies, objectives and rules in the plan change do not address the loss of these habitats and is uncertain how the loss of potential and actual occupied roost trees will be avoided, remedied or mitigated through the proposed Plan Change provisions. Therefore the proposed Plan Change is not consistent with the protection requirements of section 6c RMA, and does not address section 7d of the RMA in terms of having particular regard to the intrinsic values of ecosystems (*intrinsic values in relation to ecosystems, means those aspects of ecosystems and their constituent parts which have value in their own right, including— (a) their biological and genetic diversity; and (b) the essential characteristics that determine an ecosystem's integrity, form, functioning, and resilience.* Part 1, RMA.). It is also not consistent with section 11 of the WRPS including the following (relevant matters have been highlighted):

Section 11.1.2 Adverse effects on indigenous biodiversity

Regional and district plans shall recognise that adverse effects on indigenous

¹ It is vegetation or habitat that is currently habitat for indigenous species or associations of indigenous species that are:
• classed as threatened or at risk, or • **endemic** to the Waikato region, or • at the limit of their natural range.

² It is an area of indigenous vegetation or habitat for indigenous species (which habitat is either naturally occurring or has been established as a mitigation measure) that forms, either on its own or in combination with other similar areas, an ecological buffer, linkage or corridor and which is necessary to protect any site identified as significant under criteria 1-10 from external adverse effects.

biodiversity within terrestrial, freshwater and coastal environments are cumulative and may include:

- a) **fragmentation and isolation of indigenous ecosystems and habitats;**
- b) **reduction in the extent and quality of indigenous ecosystems and habitats;**
- c) **loss of corridors or connections linking indigenous ecosystems and habitat fragments or between ecosystems and habitats;**
- d) the loss of ecological sequences;
- e) **loss or disruption to migratory pathways in water, land or air;**
- f) effects of changes to hydrological flows, water levels, and water quality on ecosystems;
- g) loss of buffering of indigenous ecosystems;
- h) loss of ecosystem services;
- i) loss, damage or disruption to ecological processes, functions and ecological integrity;
- j) changes resulting in an increased threat from animal and plant pests;
- k) **effects which contribute to a cumulative loss or degradation of indigenous habitats and ecosystems;**
- l) **noise, visual and physical disturbance on indigenous species, particularly within the coastal environment; and**
- m) **loss of habitat that supports or provides a key life-cycle function for indigenous species listed as 'Threatened' or 'At Risk' in the New Zealand Threat Classification System lists.**

11.1.3 Avoidance, remediation, mitigation and offsetting (for indigenous biodiversity that is not significant)

Regional and district plans:

a) for non-significant indigenous vegetation and non-significant habitats of indigenous fauna (excluding activities pursuant to 11.1.4):

i) shall require that where loss or degradation of indigenous biodiversity is authorised adverse effects are avoided, remedied or mitigated (whether by onsite or offsite methods).

ii) should promote biodiversity offsets as a means to achieve no net loss of indigenous biodiversity where significant residual adverse effects are unable to be avoided, remedied or mitigated.

iii) when considering remediation, mitigation or offsetting, methods may include the following:

i. replacing the indigenous biodiversity that has been lost or degraded;

i. replacing like-for-like habitats or ecosystems (including being of at least equivalent size or ecological value);

ii. the legal and physical protection of existing habitat;

iii. the re-creation of habitat; or

iv. replacing habitats or ecosystems with indigenous biodiversity of greater ecological value.

b) for significant indigenous vegetation and significant habitats of indigenous fauna Method 11.2.2 applies

Therefore, Waipa District Council is required to ensure that if the adverse effects of Plan Change 20 on roosting, foraging or commuting habitats of long-tailed bats cannot be avoided, remedied or mitigated, including indirect and cumulative adverse effects, then policies, objectives and rules will be required to offset or compensate for any residual adverse effects. The proposed Plan Change 20 provisions do not adequately address these RMA and WRPS matters.

3. Attendance at Council hearing

(a) I wish to be heard (attend and speak at the Council hearing) in support of my submission.

(b) If others make a similar submission, I will consider presenting a joint case with them at the hearing.

Yes OR No

4. Signature of submitter (note: a signature is not required if you make your submission by electronic means, however please type your name below)

GHA (Gerry) Kessels

Signature of agent:

(or person authorised to sign on behalf of submitter)



Dated: 25 November 2022

Note to person making submission

A copy of your further submission must be served on the original submitter within 5 working days after it is served on the Council.

Please note that your submission (or part of your submission) may be struck out if the consent authority is satisfied that at least 1 of the following applies to the submission (or part of the submission):

- It is frivolous or vexatious;
- It discloses no reasonable or relevant case;
- It would be an abuse of the hearing process to allow the submission (or the part) to be taken further;
- It contains offensive language;
- It is supported only by material that purports to be independent expert evidence, but has been prepared by a person who is not independent or who does not have sufficient specialised knowledge or skill to give expert advice on the matter.

Personal Information

The information requested on this form, including your contact details, is required by the Resource Management Act 1991. The information will be held by the Council, and you may ask to check and correct any personal information that we hold about you.

Your submission, including your name and contact details, will be made available for inspection at all Council service centres and libraries in accordance with the requirements of the Act. It may also be made available on the Council's website. A document summarising all submissions, including names and contact details of submitters will be posted on the Council's website.

If you believe there are compelling reasons why your contact details should be kept confidential please contact the processing planner for this application.

| 5. The specific submission(s) on the Proposed Plan Change to the Waipa District Plan that this further submission relates to is/are as follows: | | | | | |
|---|-----------------------|--------------|-------------|---|--|
| Submission Point (e.g. 20/1) | Name of Submitter | Support ✓ | Oppose ✓ | Reason: (Tell us <u>WHY</u> you support or oppose this submission. These reasons will help us to understand your further submission.) | I/We seek the following decision(s) from the Council: |
| 07.2, 07.2 | Royal Forest and Bird | ✓ | | <p>I would support Plan Change 5 if it provides the amendments to the proposed provisions as detailed in the submissions of these parties or alternative provisions which are generally consistent with RMA s6c, 7d and WRPS section 11, in line with those proposed for Plan Change 5 – Hamilton City.</p> <p>I consider Rule Rule 10.4.2.14A(a) is insufficient to ensure thorough assessment and protection of bats and bat habitat. The Assessment of Ecological Effects acknowledges that the plan change area is used for bat roosting and foraging, so it is unclear why the BMP is only required to cover roost trees. I recommend assessment needs to extend to all functional bat habitat areas.</p> <p>The Current wording of Rule 10.4.2.14A(a) is framed in a way that does not prioritise avoidance of bat habitat removal, and already implies that trees will need to be removed.</p> <p>It is unclear why Rule 10.4.2.14A(b) sets out a 20m buffer around the perimeter of the precinct but no other buffers are proposed within the structure plan area. Buffers around bat habitat areas are a useful tool to manage potential</p> | <p>Insert the following or words to the like effect: Protection of long-tailed bats and their habitat 10.2.5 Development within the Airport Business Zone has the potential to adversely affect the habitat and survival of the threatened, nationally critical longtailed bat. The relevant provisions must recognise and provide for the identification and protection of significant bat habitat, in addition consideration must be given to (but not limited to) the potential impact of lighting effects, noise and habitat loss on long-tailed bats.</p> <p><u>Section 10.2 Resource Management Issues</u></p> <p>A new paragraph is added to 10.2 specifying that any development does not negatively impact on longtailed bats being able to persist in this area, including cumulative impacts.</p> <p>10.3.2.2A To achieve maintenance, restoration and enhancement of bat habitat in the Northern Precinct by: a) Linking core bat habitat with corridors of natural open space b) Buffering sensitive sites such as bat habitat and corridors from intensive land use, development and subdivision. c) Ensuring habitat for at-risk and threatened indigenous species is maintained,</p> |

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| | | | <p>adverse effects on bats and I recommend they are also considered in the EMP.</p> <p>Insert a method to ensure proposals for biodiversity offsetting and biodiversity compensation are in accordance with appropriate criteria.</p> <p>I suggest the applicant’s independent expert ecologists and planners read and reflect on Proposed Plan Change 5 – Peacocke Structure Plan (Hamilton City Council) provisions and supporting technical reports and evidence, to allow them to provide a greater level of evidence -based policy direction to their clients than is provided in the existing technical reports supporting Proposed Plan Change 5 in relation to protecting significant habitats for long-tailed bats and avoiding, remediating or mitigating any residual adverse effects (including cumulative and indirect effects) on these habitats: https://hamilton.govt.nz/property-rates-and-building/district-plan/plan-changes/plan-change-5/</p> | <p>restored and enhanced.</p> <p><u>Section 10.2 Resource Management Issues</u> Amend the first sentence to: Require the preparation of an Ecological Management Plan to protect roosting, foraging and commuting habitat for long-tailed bats and to ensure overall ecological values are enhanced.</p> <p><u>Rule/s 10.4.2.14A A Lighting Management Plan</u> be applied to on lot development within a 20m corridor applied from identified external boundary extents of the precinct and within the Hub. The Lighting Management Plan shall establish a dark zone within this area for the purpose of contributing to the long-tailed bat flyway network, and provide lighting outcomes (which could include, but are not limited to, specifying low light levels / directional lighting) that any lots within these dark areas must comply with</p> <p>Reword Rule 10.4.2.14A(a) to prioritise avoidance of bat habitat removal and protect all functional bat habitat areas, not just roost trees.</p> <p>Amend Policy 10.3.2.2A as follows:</p> <ul style="list-style-type: none"> • Where any effects on longtailed bats are unable to be avoided or mitigated, ensure that any more than minor residual effects are offset or compensated to achieve no net loss. <p>Amend Rule 10.4.2.14A(a) as follows:</p> <ul style="list-style-type: none"> • Specifies best practice tree removal protocols and mitigation for any potential roost trees that |
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| | | | | | have been identified as needing to be removed, and methods to mitigate associated ecological effects. Where any ecological effects are unable to be mitigated, the Bat Management Plan shall set out methods to ensure that any more than minor residual ecological effects are offset or compensated to achieve a no net loss outcome. |
| 11.3 | Waikato Regional Council | ✓ | | | |
| 20.1 | Director General of Conservation /Department of Conservation | ✓ | | | |
| 23.10 | Hamilton City Council | ✓ | | | |

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