

**IN THE ENVIRONMENT COURT
AT AUCKLAND**

**I TE KŌTI TAIAO O AOTEAROA
KI TĀMAKI MAKĀURAU**

Decision [2024] NZEnvC 107

IN THE MATTER OF an appeal under clause 14 of the First
Schedule of the Resource Management
Act 1991

BETWEEN ROYAL FOREST AND BIRD
PROTECTION SOCIETY OF NEW
ZEALAND INCORPORATED
(ENV-2023-AKL-000143)

Appellant

AND WAIPĀ DISTRICT COUNCIL
Respondent

AND RUKUHIA PROPERTIES LIMITED
TITANIUM PARK LIMITED
Applicants

Court: Environment Judge S M Tepania sitting alone under s 279 of the
Act

Last case event: 1 May 2024

Date of Order: 10 May 2024

Date of Issue: 10 May 2024

CONSENT ORDER

Royal Forest and Bird Protection Society of New Zealand Incorporated v Waipā District
Council



A: Under section 279(1)(b) of the Resource Management Act 1991 (**RMA**), the Environment Court, by consent, orders that:

- (1) The Waipā District Plan is amended in accordance with **Annexure A** (insertions from the Waipā District Council's decision on PC20 are shown in underline and deletions are shown in ~~striketrough~~); and
- (2) The appeal by Royal Forest and Bird Protection Society Incorporated is otherwise dismissed.

B: Under section 285 of the Resource Management Act 1991, there is no order as to costs.

REASONS

Introduction

[1] This consent order relates to the appeal by Royal Forest and Bird Protection Society Inc (**Forest and Bird**) against the decision by Waipā District Council (the **Council Decision**) to approve Private Plan Change 20 to the Waipā District Plan (**PC20**).

[2] PC20 seeks to enable the co-ordinated expansion of the Northern Precinct of the Airport Business Zone (the **ABZ**). The ABZ is an existing zone in the Waipā District Plan which extends over land which is largely developed for industrial activities around the southern and eastern parts of Hamilton Airport, as well as the airport terminal and car park. The ABZ is divided into various precincts. PC20 relates solely to the Northern Precinct. 41ha of the Northern Precinct is already zoned ABZ, and PC20 seeks to extend the ABZ over land currently zoned Rural by an additional 89ha. PC20 provisions would apply to the 130ha of ABZ land within the area to be known as the Northern Precinct.

[3] PC20 achieves this principally through amendments to Sections 10, 15, 21 and Appendix S10 of the Waipā District Plan.

[4] As outlined below, through Court-assisted mediation and direct discussions the parties have agreed amendments to PC20 (from the Council Decision version) that address the concerns of all parties.

Background

[5] PC20 is a private plan change request made jointly by Titanium Park Limited and Rukuhia Properties Limited.

[6] Forest and Bird made a submission and further submission on PC20. Forest and Bird's submission opposed PC20 and in the alternative sought amendments to the PC20 provisions relating to long-tailed bats/pekapeka. The Director-General for Conservation and Waikato Regional Council made submissions (and the Director-General for Conservation also made further submissions, while Waikato Regional Airport Limited filed further submissions only).

[7] On 22 June 2023, the Hearings Panel for the Respondent issued the Council Decision approving PC20, materially as sought by the Applicants.

[8] On 4 August 2023, Forest and Bird filed an appeal against the Council Decision seeking that PC20 be declined. The appeal was limited to long-tailed bats.

[9] Section 274 notices were subsequently filed by the Director-General of Conservation, Waikato Regional Council, and Waikato Regional Airport Limited.

Agreement reached

[10] Since the appeal was filed, the parties have engaged in direct discussions and all parties have participated in Court-assisted mediation. The parties have reached agreement on changes that will resolve the appeal in its entirety.

[11] To resolve the appeal, the parties have agreed to the deletion of Bat Habitat Areas, as shown in the Decision Version of the Airport Business Structure Plan, and related provisions. The parties have instead agreed to the acquisition by the Applicants of a 4.1ha compensation site located within proximity to the PC20 site which is to be protected, enhanced, and transferred to a charitable trust. This site is additional to a 11ha compensation site that had already been acquired by the Applicants as

biodiversity compensation for residual effects on long-tailed bats. The two compensation sites are identified in the agreed PC20 provisions, and details of the habitat enhancement outcomes, planting and maintenance specifications are required to be detailed in a Bat Management Plan.¹ The agreed substitution of Bat Habitat Areas within the Northern Precinct for biodiversity off-site compensation results in a number of consequential changes to the provisions. In addition, the Parties have agreed to changes relating to long-tailed bats including:

- (a) Amending Resource Management Issue 10.2.3A to require biodiversity compensation off-site to read:

Development within the Northern Precinct of the Airport Business Zone has the potential to adversely affect habitat of the threatened, nationally critical long-tailed bat. The provisions for development of the Northern Precinct ~~must recognise and provide for protection of identified areas of bat habitat~~ require biodiversity compensation off-site to address the loss of long-tailed bat habitat values within the Northern Precinct.

- (b) Insertion of a new Objective (Objective 10.3.4) to read:

Objective 10.3.4 – Long-Tailed Bats – Northern Precinct

To ensure that development of the Northern Precinct achieves no net loss of long-tailed bat habitat values.

- (c) Deletion of Policy 10.3.2.2A and its replacement with three tailored and strengthened policies which read:

Policies – Long-Tailed Bats – Northern Precinct

10.3.4.1

To address loss of long-tailed bat habitat values within the Northern Precinct through off-site biodiversity compensation that contributes to enhancing and protecting habitat and habitat connectivity for long-tailed bats in the surrounding area.

10.3.4.2

To minimise the risk of harm to long-tailed bats during any removal of confirmed or potential bat roost trees within the Northern Precinct.

¹ Rule 10.4(a)(iii).

10.3.4.3

To require any removal of confirmed or potential bat roost trees within the Northern Precinct and enhancement and protection of biodiversity compensation areas to be undertaken in accordance with an approved Ecological Management Plan

- (d) Amendments to Rule 10.4.2.22 which deals with matters to be included in a required Ecological Management Plan which must include a Bat Management Plan. Amendments include a requirement to specify in the Bat Management Plan details of the enhancement to and protection of Compensation Sites 1 and 2. This provides certainty of outcome at the resource consent stage. Amendments to Rule 10.4.2.22 read:

The earlier of the first land use consent application, or the first subdivision consent application (excluding boundary adjustments) for the Northern Precinct must be accompanied by an Ecological Management Plan for the entire Northern Precinct which must contain:

- (a) A Bat Management Plan prepared by a suitably experienced bat ecologist that includes:

~~i. Includes planting specifications, drawings and an implementation programme for habitat enhancement within Bat Habitat Areas, including a 50m wide bat corridor in general accordance with Figures 1 and 2 in Appendix S10. The implementation programme shall ensure that habitat enhancement occurs as early as practicable;~~

~~ii. Provides details of how planting and light spill will be managed where transport corridors are proposed to cross Bat Habitat Areas;~~

~~iii. i. Identifies Identification of all confirmed or potential bat roost trees within the Northern Precinct based on presence of roosting features and any other relevant information which is available;~~

~~iv. Provides an assessment of whether retention of any tree or trees which are confirmed, or potential bat roost trees is practicable and appropriate, having regard to:~~

~~A. The assessed values, including whether the tree is a confirmed bat roost tree, and whether it is known to be a solitary or communal roost; and~~

~~B. Whether the tree is in close proximity to any Bat Habitat Area and could continue to be used as a bat roost within an otherwise urban context; and~~

~~C. Any earthworks that will be required to enable urban development.~~

~~v. ii. Proposed Tree removal methodology and timing for all confirmed or potential bat roost trees which are proposed to be removed, with regard to the Department of Conservation 'Protocols for minimising the Risk of Felling Bat Roosts' (Version 2: October 2021);~~

~~vi. Where more than minor adverse effects are unable to be avoided or mitigated such that there will be more than minor residual effects on long-~~

~~tailed bat habitat values (including any roosting, commuting and foraging); the Bat Management Plan shall include details of proposed offset or compensation measures (which may include habitat enhancement and/or pest control) to contribute to a no net loss outcome. Where off-site measures are proposed they shall preferentially be within the known home range of the local long-tailed bat population. Connectivity with features in the wider landscape and potential opportunities for co-ordination with other habitat enhancement initiatives shall be considered;~~

iii. Details of proposed biodiversity compensation to ensure that development of the Northern Precinct achieves a no net loss outcome for long-tailed bat habitat values. This shall include:

- Enhancement and protection of habitat for long-tailed bats within Compensation Area 1 (Lot 1 DP 569208 - 11ha) and Compensation Area 2 (Lot 1 DPS 10973 - 4.1ha);
- Drawings showing the habitat enhancement outcomes;
- Planting and maintenance specifications;
- An implementation programme for the habitat enhancement; and
- A methodology and programme for pre and post-development monitoring of the use of the biodiversity compensation areas by long-tailed bats.

~~vii-iv. The legal mechanisms proposed for to ensure the ongoing protection of Compensation Area 1 (Lot 1 DP 569208 - 11ha) and Compensation Area 2 (Lot 1 DPS 10973 - 4.1ha) in perpetuity; Bat Habitat Areas and any other long-tailed bat habitat which is proposed to be created or retained;~~

~~viii. Details pre and post development monitoring for long-tailed bats, including how the monitoring could be co-ordinated with other monitoring occurring within the known home range of the local long-tailed bat population;~~

~~ix-v. Identifies p~~ Procedures for reviewing and amending (if necessary) the Bat Management Plan.

(b) Measures to avoid, remedy, mitigate, offset or compensate for any adverse effects which are more than minor on habitats of indigenous fauna including birds and lizards.

All subsequent land use and/or subdivision consent applications shall be consistent with the Ecological Management Plan that was approved as part of the first land use or subdivision resource consent, or any variation thereof approved by way of a subsequent resource consent.

Activities that require and provide an Ecological Management Plan which addresses the requirements in Rule 10.4.2.22 will require a resource consent for a restricted discretionary activity with the discretion being restricted over:

- Ecology (Northern Precinct)

These matters will be considered in accordance with the assessment criteria in Section 21.

Activities that fail to comply with this rule will require a resource consent as a Discretionary Activity.

- (e) Deletion of criteria 21.1.10.19 and criteria 21.1.10.23, and replacement with the following new assessment criteria. The changes are aimed at ensuring resource consent applications provide for measures to minimise risk of harm to long-tailed bats, and also include specific reference for biodiversity compensation to be provided at Compensation Sites 1 and 2. The changes increase the certainty of outcome at the resource consenting stage and read:

(a) Where any confirmed or potential bat roost trees are proposed to be removed, the extent to which the proposal incorporates tree felling measures to minimise the risk of harm to long-tailed bats with regard to the Department of Conservation 'Protocols for minimising the Risk of Felling Bat Roosts' (Version 2: October 2021).

(b) The extent to which biodiversity compensation is proposed, including habitat enhancement and protection within Compensation Area 1 (Lot 1 DP 569208) and Compensation Area 2 (Lot 1 DPS 10973), to address adverse effects on long-tailed bats and to ensure that the development of the Northern Precinct achieves no net loss of long-tailed bat habitat values.

- (f) Amendment of Appendix S10 – Airport Business Zone Structure Plan S10.2.5 and S10.3.13 to remove reference to Bat Habitat Areas and instead provide for off-site biodiversity compensation which enhances and protects habitat and habitat connectivity for long-tailed bats in the surrounding area:

Amend S10.2.5 to read:

Development of the Northern Precinct will occur in a way that ~~protects identified Bat Habitat Areas and~~ maintains or enhances long-tailed bat habitat values through off-site biodiversity compensation.

Replace S10.3.13 to read:

For the Northern Precinct, loss of long-tailed bat habitat values within the site will be addressed through off-site biodiversity compensation which enhances and protects habitat and habitat connectivity for long-tailed bats in the surrounding area.

- (g) Amendments to the Airport Business Zone Structure Plan figures in Appendix S10 – Airport Business Zone Structure Plan to remove Bat Habitat Areas, delete the Bat Habitat Areas (Corridor) figure and amend indicative roading layouts and the Northern Precinct Hub as a consequence of removal of the Bat Habitat Areas.

[12] All agreed changes are shown in **Annexure A**.

National Policy Statement on Indigenous Biodiversity

[13] On 7 July 2023, the Minister for the Environment published under s 54 of the RMA, the National Policy Statement for Indigenous Biodiversity (**NPSIB**). The NPSIB commenced after the Council Decision on or about 4 August 2023. The Parties agree that the amended PC20 provisions give effect to the NPSIB by inter alia including a requirement for a no net loss outcome for long-tailed bat habitat values, and that any adverse effects on long-tailed bat habitat values must be compensated by off-site enhancement and protection which will achieve positive effects.

Section 32AA evaluation

[14] Section 32AA of the RMA requires a further evaluation for any changes to a proposal since the initial s 32 evaluation report.

[15] The parties provided a s 32AA evaluation regarding the agreed amendments. In summary, the parties identify the following:

- (a) The agreed provisions include a new “no net loss” objective, as well as new policies which require loss of long-tailed bat habitat values within the Northern Precinct to be addressed through off-site biodiversity compensation, that the risk of harm to long-tailed bats during any roost tree removal is minimised, and that roost tree removal and enhancement and protection is undertaken in accordance with an approved Ecological Management Plan. The amendments reflect that off-site biodiversity compensation and tree removal protocols are the most appropriate way of achieving the sustainable management purpose of the RMA and for

recognising and providing for the protection of areas of significant habitats of indigenous fauna (long-tailed bats);

- (b) The agreed provisions are the most appropriate way to achieve the objectives (including with respect to other reasonably practicable options; and the efficiency and effectiveness of the provisions, including their costs and benefits);
- (c) The agreed provisions are the most efficient and effective option as they:
 - (i) improve the ecological connectivity and functionality of the local long-tailed bat habitat values by the protection of areas of significant habitat of indigenous fauna (long-tailed bats);
 - (ii) allow for the land suitable for urban development to be utilised; and
 - (iii) do not give rise to additional costs because land that was going to be set aside for Bat Habitat Areas has effectively been replaced with off-site biodiversity compensation.
- (d) The agreed provisions satisfy the concerns raised in the appeal and in the s 274 notices.

Consideration

[16] In making this order the Court has read and considered the appeal dated 4 August 2023, the s 274 notices, and the parties' memorandum dated 1 May 2024.

[17] The Court is making this order under s 279(1) of the Act, such order being by consent, rather than representing a decision or determination on the merits. The Court understands for present purposes that:

- (a) All parties to the proceedings have executed the memorandum requesting this order;
- (b) All parties agree that the agreed amendments resolve the Forest and Bird appeal in full; and

- (c) All parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction and conform to the relevant requirements and objectives of the Act including, in particular, Part 2.

[18] The Court is satisfied that the changes sought are within the scope of Forest and Bird's submission and appeal.

Orders

[19] Therefore the Court orders, by consent, that:

- (a) The appeal is allowed subject to the agreed amendments set out in **Annexure A** (insertions from the Waipā District Council's decision on PC20 are shown in underline and deletions are shown in strikethrough); and
- (b) The appeal is otherwise dismissed.

[20] Under s285 of the Resource Management Act 1991, there is no order as to costs.



S M Tepania
Environment Judge



ANNEXURE A – TRACKED CHANGES OF AMENDMENTS TO PC20

Section 10 – Airport Business Zone

10.2 Resource Management Issues

Amend 10.2.3A to read:

Development within the Northern Precinct of the Airport Business Zone has the potential to adversely affect habitat of the threatened, nationally critical long-tailed bat. The provisions for development of the Northern Precinct ~~must recognise and provide for protection of identified areas of bat habitat~~ require biodiversity compensation off-site to address the loss of long-tailed bat habitat values within the Northern Precinct.

Section 10 – Airport Business Zone

10.3 Objectives and Policies

Delete policy 10.3.2.2A and replace it with the following new objective 10.3.4 and new policies 10.3.4.1, 10.3.4.2 and 10.3.4.3:

~~Policy – Northern Precinct~~

~~10.3.2.2A~~

~~To maintain or enhance long-tailed bat habitat values by:~~

- ~~(a) Providing Bat Habitat Areas for long-tailed bats within the Northern Precinct;~~
- ~~(b) Controlling the location of buildings adjacent to Bat Habitat Areas;~~
- ~~(c) Minimising light spill into Bat Habitat Areas;~~
- ~~(d) Requiring the preparation and implementation of an Ecological Management Plan as part of development to:
 - ~~(i) Avoid more than minor adverse effects on long-tailed bat habitat values within Bat Habitat Areas; and~~
 - ~~(ii) Avoid or mitigate more than minor adverse effects on long-tailed bat habitat values outside of Bat Habitat Areas; and~~
 - ~~(iii) Where any effects on long-tailed bat habitat values are unable to be avoided or mitigated, ensure that any more than minor residual effects are offset or compensated to achieve no net loss.~~~~

~~(Note: Policy 10.3.2.3 Implements Objective 24.3.1 within Section 24 – Indigenous Biodiversity).~~

Objective – Long-Tailed Bats – Northern Precinct

10.3.4

To ensure that development of the Northern Precinct achieves no net loss of long-tailed bat habitat values.

Policies – Long-Tailed Bats – Northern Precinct

10.3.4.1

To address loss of long-tailed bat habitat values within the Northern Precinct through off-site biodiversity compensation that contributes to enhancing and protecting habitat and habitat connectivity for long-tailed bats in the surrounding area.

10.3.4.2

To minimise the risk of harm to long-tailed bats during any removal of confirmed or potential bat roost trees within the Northern Precinct.

10.3.4.3

To require any removal of confirmed or potential bat roost trees within the Northern Precinct and enhancement and protection of biodiversity compensation areas to be undertaken in accordance with an approved Ecological Management Plan.

Section 10 – Airport Business Zone

10.4 Rules

1. For the permitted activities in Activity Status Table 10.4.1, delete Rules 10.4.1.1 (bb) and (dd) and amend Rule 10.4.1.1 (cc) to read:

~~(bb) Trimming or pruning of vegetation or trees within the Northern Precinct outside a Bat Habitat Area.~~

~~(ccbb) Removal of vegetation or trees within the Northern Precinct outside a Bat Habitat Area, subject to Rule 10.4.2.24.~~

~~(dd) Trimming, pruning or removal of vegetation or trees within the Northern Precinct inside a Bat Habitat Area, subject to Rule 10.4.2.25.~~

Section 10 – Airport Business Zone

10.4 Rules

Delete Rule 10.4.2.4:

~~Rule – Minimum building setback from Bat Habitat Area~~

~~Buildings shall be setback a minimum of 5m from the boundary of a Bat Habitat Area.~~

~~Activities that fail to comply with Rule 10.4.2.4 will require a resource consent for a restricted discretionary activity with the discretion being restricted over:~~

- ~~• Ecology (Northern precinct)~~

~~These matters will be considered in accordance with the assessment criteria in Section 21.~~

Section 10 – Airport Business Zone

10.4 Rules

Amend Rule 10.4.2.22 to read:

Rules – Ecology

The earlier of the first land use consent application, or the first subdivision consent application (excluding boundary adjustments) for the Northern Precinct must be accompanied by an Ecological Management Plan for the entire Northern Precinct which must contain:

- (a) A Bat Management Plan prepared by a suitably experienced bat ecologist that includes:
 - ~~i. Includes planting specifications, drawings and an implementation programme for habitat enhancement within Bat Habitat Areas, including a 50m wide bat corridor in~~

- general accordance with Figures 1 and 2 in Appendix S10. The implementation programme shall ensure that habitat enhancement occurs as early as practicable;
- ii. ~~Provides details of how planting and light spill will be managed where transport corridors are proposed to cross Bat Habitat Areas;~~
 - iii-i. ~~Identifies Identification of all confirmed or potential bat roost trees within the Northern Precinct based on presence of roosting features and any other relevant information which is available;~~
 - iv. ~~Provides an assessment of whether retention of any tree or trees which are confirmed, or potential bat roost trees is practicable and appropriate, having regard to:

 - A. ~~The assessed values, including whether the tree is a confirmed bat roost tree, and whether it is known to be a solitary or communal roost; and~~
 - B. ~~Whether the tree is in close proximity to any Bat Habitat Area and could continue to be used as a bat roost within an otherwise urban context; and~~
 - C. ~~Any earthworks that will be required to enable urban development.~~~~
 - v-ii. ~~Proposed Tree removal methodology and timing for all confirmed or potential bat roost trees which are proposed to be removed, with regard to the Department of Conservation 'Protocols for minimising the Risk of Felling Bat Roosts' (Version 2: October 2021);~~
 - vi. ~~Where more than minor adverse effects are unable to be avoided or mitigated such that there will be more than minor residual effects on long-tailed bat habitat values (including any roosting, commuting and foraging), the Bat Management Plan shall include details of proposed offset or compensation measures (which may include habitat enhancement and/or pest control) to contribute to a no net loss outcome. Where off-site measures are proposed they shall preferentially be within the known home range of the local long-tailed bat population. Connectivity with features in the wider landscape and potential opportunities for co-ordination with other habitat enhancement initiatives shall be considered;~~
 - iii. Details of proposed biodiversity compensation to ensure that development of the Northern Precinct achieves a no net loss outcome for long-tailed bat habitat values. This shall include:
 - Enhancement and protection of habitat for long-tailed bats within Compensation Area 1 (Lot 1 DP 569208 - 11ha) and Compensation Area 2 (Lot 1 DPS 10973 - 4.1ha);
 - Drawings showing the habitat enhancement outcomes;
 - Planting and maintenance specifications;
 - An implementation programme for the habitat enhancement; and
 - A methodology and programme for pre and post-development monitoring of the use of the biodiversity compensation areas by long-tailed bats.
 - vii-iv. ~~The legal mechanisms proposed for to ensure the ongoing protection of Compensation Area 1 (Lot 1 DP 569208 - 11ha) and Compensation Area 2 (Lot 1 DPS 10973 - 4.1ha) in perpetuity; Bat Habitat Areas and any other long-tailed bat habitat which is proposed to be created or retained;~~
 - viii. ~~Details pre and post development monitoring for long-tailed bats, including how the monitoring could be co-ordinated with other monitoring occurring within the known home range of the local long-tailed bat population;~~

~~ix-v. Identifies procedures for reviewing and amending (if necessary) the Bat Management Plan.~~

- (b) Measures to avoid, remedy, mitigate, offset or compensate for any adverse effects which are more than minor on habitats of indigenous fauna including birds and lizards.

All subsequent land use and/or subdivision consent applications shall be consistent with the Ecological Management Plan that was approved as part of the first land use or subdivision resource consent, or any variation thereof approved by way of a subsequent resource consent.

Activities that require and provide an Ecological Management Plan which addresses the requirements in Rule 10.4.2.22 will require a resource consent for a restricted discretionary activity with the discretion being restricted over:

- Ecology (Northern Precinct)

These matters will be considered in accordance with the assessment criteria in Section 21.

Activities that fail to comply with this rule will require a resource consent as a Discretionary Activity.

Section 10 – Airport Business Zone

10.4 Rules

Delete Rule 10.4.2.23:

~~Rule – Lighting in the Northern Precinct~~

~~In addition to Rule 20.4.2.2 – Lighting and Glare, the following lighting standards shall apply in the Northern Precinct:~~

- ~~(a) Added illuminance from fixed artificial lighting (indoor and outdoor) shall not exceed 0.3 lux (horizontal and vertical) at any height at the external boundary of the Bat Habitat Area.~~
- ~~(b) Where it is within 100m of a Bat Habitat Area, fixed artificial outdoor lighting must:~~
- ~~i. Emit zero direct upward light.~~
 - ~~ii. Be installed with the light emitting surface facing directly down and be mounted as low as practical.~~
 - ~~iii. Be white LED with a maximum colour temperature of 2700K.~~
 - ~~iv. In the case of exterior security lighting, be controlled by a motion sensor with a short duration timer (5 minutes).~~
- ~~(c) Fixed artificial lighting shall not be located within a Bat Habitat Area except where it is for the express purpose of providing lighting for emergency works related to infrastructure operated by an entity that is defined as a lifeline utility under the Civil Defence Emergency Act 2002. The lighting must be white LED with a maximum colour temperature of 2700K, installed with the light emitting surface facing directly down, emit zero direct upward light and be mounted as low as practical.~~
- ~~(d) The standards in Rule 10.4.2.23 do not apply to vehicle headlights or to lighting associated with aviation requirements for Hamilton Airport.~~

~~Activities that fail to comply with Rule 10.4.2.23 will require a resource consent for a restricted discretionary activity with the discretion being restricted over:~~

- ~~• Ecology (Northern Precinct)~~

~~These matters will be considered in accordance with the assessment criteria in Section 21.~~

Section 10 – Airport Business Zone

10.4 Rules

Amend Rule 10.4.2.24 to read:

Rules – Tree and Vegetation Removal

The removal of any tree or vegetation within the Northern Precinct ~~outside a Bat Habitat Area~~ is a permitted activity where:

- (a) It has a diameter less than 150mm measured at 1.4m in height above ground level;
or
- (b) It has a diameter of 150mm or more measured at 1.4m in height above ground level and:
 - i. A report is provided by a suitably experienced bat ecologist demonstrating that, following an assessment of the tree, the tree is not a confirmed or potential bat roost tree. Identification of potential bat roost trees shall be in accordance with the Department of Conservation ‘Protocols for Minimising the Risk of Felling Bat Roosts’ (Version 2: October 2021); and
 - ii. The above report is provided to Waipā District Council at least 5 working days prior to the removal of the tree(s); or
- (c) The vegetation removal is authorised by an existing subdivision or land use resource consent.

Activities that fail to comply with Rule 10.4.2.24 will require a resource consent for a restricted discretionary activity with the discretion being restricted over:

- Ecology (Northern Precinct)

These matters will be considered in accordance with the assessment criteria in Section 21.

Section 10 – Airport Business Zone

10.4 Rules

Delete Rule 10.4.2.25:

~~Rule – Tree and Vegetation Removal~~

~~The trimming, pruning or removal of any tree or vegetation within the Northern Precinct inside a Bat Habitat Area is a permitted activity where:~~

- ~~(a) It has a diameter less than 150mm measured at 1.4m in height above ground level; or~~
- ~~(b) The vegetation removal is authorised by an existing subdivision or land use resource consent.~~

~~Activities that fail to comply with Rule 10.4.2.25 will require a resource consent as a discretionary activity.~~

Section 21 – Assessment Criteria

21.1.10 Airport Business Zone

Amend 21.1.10.19 to read:

Ecology (Northern Precinct)

- ~~(a) — The extent to which the proposal avoids, remedies or mitigates the effects of development on Bat Habitat Areas and other habitat values within the Northern Precinct. This may include legal protection and enhancement of Bat Habitat Areas, protection of confirmed or potential bat roost trees outside Bat Habitat Area (subject to recommendations in the assessment required by Rule 10.4.2.22(a)(iii)), pest control and measures to minimise light spill into Bat Habitat Areas.~~
- ~~(b) — The extent to which transport corridors are located and designed to avoid or minimise effects of roadside lights and vehicle headlights on nearby Bat Habitat Area and the bat population within those areas. Where transport corridors are proposed to cross Bat Habitat Areas they should take the shortest route practicable (provided that is the route most likely to minimise impacts), be aligned and designed to minimise the number of existing trees that are required to be removed, ensure lighting is designed to maintain the role and function of the Bat Habitat Area and be designed to enable bats to continue to access the remaining Bat Habitat Areas.~~
- ~~(c) — The extent to which the proposal addresses more than minor residual adverse effects to achieve no net loss for long-tailed bat habitat values through off-site measures. This may include legal protection of bat habitat, pest control and the provision of a monetary payment or land to be used for measures such as habitat enhancement or pest control.~~
- (a) Where any confirmed or potential bat roost trees are proposed to be removed, the extent to which the proposal incorporates tree felling measures to minimise the risk of harm to long-tailed bats with regard to the Department of Conservation 'Protocols for minimising the Risk of Felling Bat Roosts' (Version 2: October 2021).
- (b) The extent to which biodiversity compensation is proposed, including habitat enhancement and protection within Compensation Area 1 (Lot 1 DP 569208) and Compensation Area 2 (Lot 1 DPS 10973), to address adverse effects on long-tailed bats and to ensure that the development of the Northern Precinct achieves no net loss of long-tailed bat habitat values.

Section 21 – Assessment Criteria

21.1.10 Airport Business Zone

Delete 21.1.10.23:

~~Trimming, pruning or removal of trees or vegetation inside Bat Habitat Areas~~

- ~~(a) — The extent to which the removal of the tree(s):
 - ~~(i) — Will avoid serious damage to structures, property and infrastructure; and/or~~
 - ~~(ii) — Is necessary for saving or protecting human life or health.~~~~
- ~~(b) — Whether alternatives which would avoid the need to remove the tree(s) have been adequately considered, including trimming or pruning.~~
- ~~(c) — The ecological values of the tree(s) which are proposed to be removed and the associated effects.~~
- ~~(d) — Whether the trimming, pruning or removal of the tree(s) is proposed to be undertaken in accordance with best practice methods.~~
- ~~(e) — The suitability of any proposed replacement planting.~~

Appendix S10 – Airport Business Zone Structure Plan

S10.2 Northern Precinct

Amend S10.2.5 to read:

Development of the Northern Precinct will occur in a way that ~~protects identified Bat Habitat Areas and~~ maintains or enhances long-tailed bat habitat values through off-site biodiversity compensation.

Appendix S10 – Airport Business Zone Structure Plan

S10.3 Principles

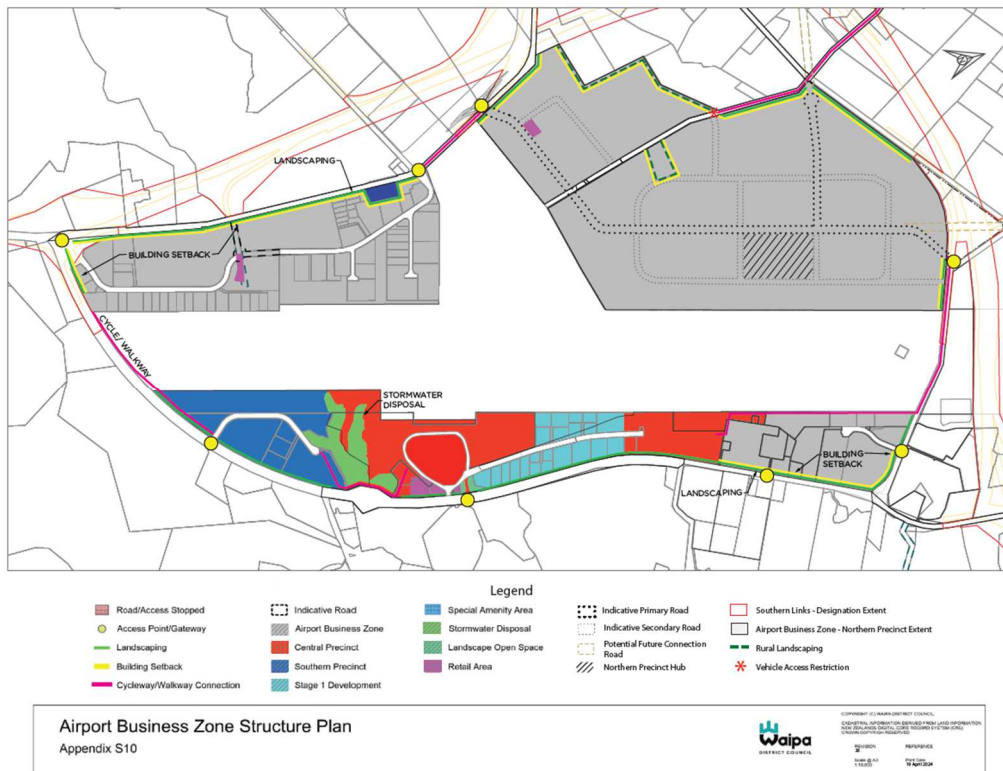
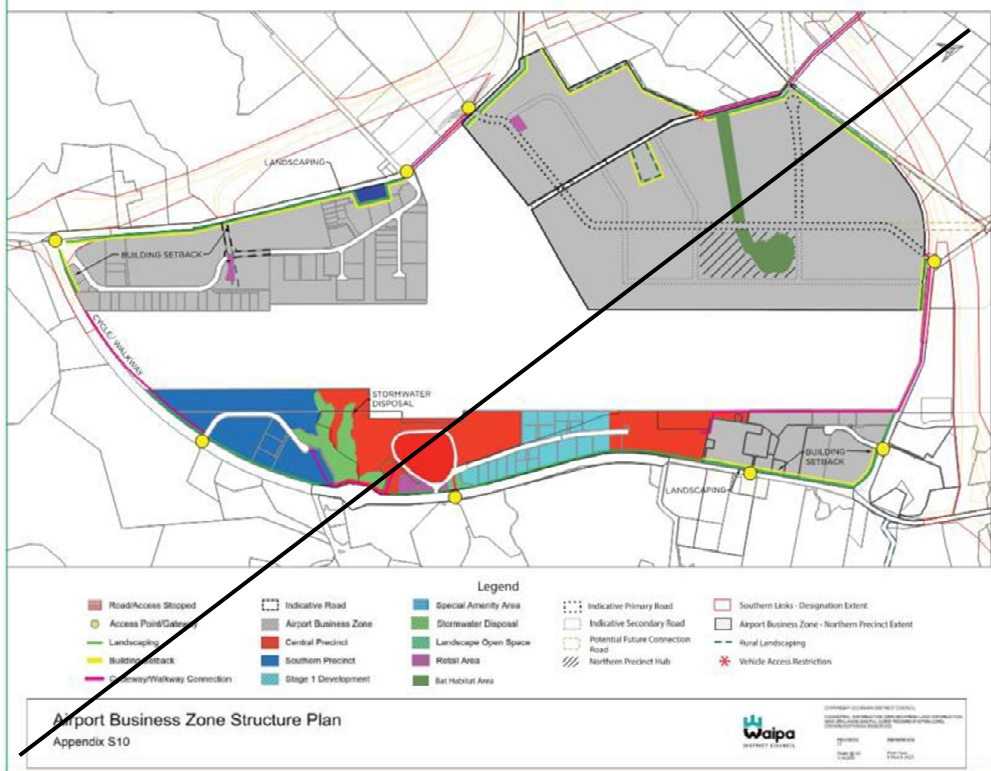
Amend S10.3.13 to read:

~~For the Northern Precinct, the areas which are identified as Bat Habitat Areas are to be protected and enhanced as bat habitat. Enhancement of the corridor which forms part of the Bat Habitat Areas will occur in general accordance with Figures 1 and 2. Multi-functional use of the Bat Habitat Areas involving stormwater networks is anticipated and provided for to enable efficient use of the land where the activities do not adversely affect use of the areas by long-tailed bats to a more than minor extent.~~

For the Northern Precinct, loss of long-tailed bat habitat values within the site will be addressed through off-site biodiversity compensation which enhances and protects habitat and habitat connectivity for long-tailed bats in the surrounding area.

Appendix S10 – Airport Business Zone Structure Plan

Amend the Airport Business Zone Structure Plan figure by deleting the Bat Habitat Areas and by making consequential amendments to the Indicative Primary Roads, Indicative Secondary Roads and the Northern Precinct Hub.



Appendix S10 – Airport Business Zone Structure Plan

Delete the Bat Habitat Areas (Corridor) figure.

BAT HABITAT AREAS (CORRIDOR)

FIG 1 Bat Habitat Areas (Corridor) -
Typical Cross Section @ 1:500
-A4

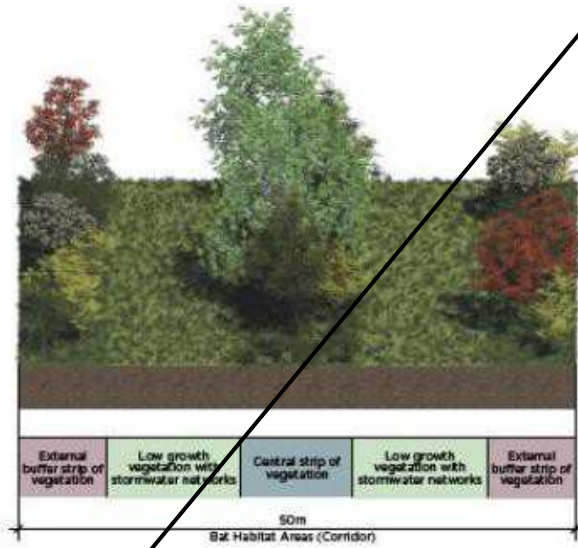
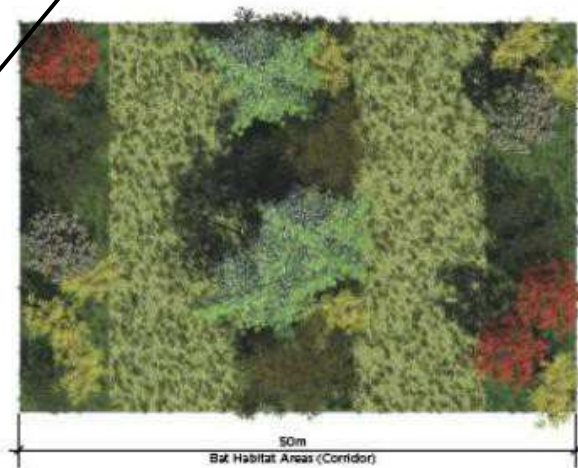


FIG 2 Bat Habitat Areas (Corridor) -
Typical Plan Layout @ 1:500
-A4



Appendix S10 – Airport Business Zone Structure Plan

Amend the locations of the Indicative Primary Roads and Indicative Secondary Roads on the Primary and Secondary Road Indicative Layouts figure (insets) to be consistent with the amended Airport Business Zone Structure Plan figure.

