

**BEFORE THE HEARING PANEL**

**IN THE MATTER** of the Resource Management Act 1991

**AND**

**IN THE MATTER** of a Notice of Requirement to alter a designation for  
the HCC Central City Reservoir – Ruakiwi Road

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**OPENING LEGAL SUBMISSIONS ON BEHALF OF HAMILTON CITY COUNCIL AS  
REQUIRING AUTHORITY**

**Dated 20 February 2026**

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## MAY IT PLEASE THE HEARING PANEL

### INTRODUCTION

1. These opening legal submissions are presented on behalf of Hamilton City Council (**Council**) in its capacity as a requiring authority (**Requiring Authority**), which has issued a notice of requirement (**NOR**) to alter a designation within its own territorial boundary under s 181 of the Resource Management Act 1991 (**RMA**), as well as an Outline Plan Waiver application under s 176A of the RMA.
2. The NOR was lodged with Council, which is the responsible territorial authority (**Territorial Authority**), on 22 August 2025 and then publicly notified by Council in its capacity as Territorial Authority on 23 September 2025. The submission period closed on 22 October 2025. Six submissions were received.
3. The Territorial Authority has delegated to you, as independent hearing commissioners, the authority to decide whether to decline, modify or confirm the alteration to the designation subject to conditions pursuant to s 168A(4) of the RMA.
4. For the reasons set out in these opening legal submissions and the evidence to be presented by the Requiring Authority, it is submitted that the NOR should be confirmed subject to the conditions recommended by the Requiring Authority, and that the designation should be included within the ODP.

### DESIGNATION ALTERATION PROPOSAL

5. The designation that Council seeks to be altered is designation number A67 in Schedule 26.3 of the Hamilton Operative District Plan (**ODP**). The designation is referred to in the ODP as 'Water Reservoir (Ruakiwi Road)'. Council is listed as the Requiring Authority. The purpose of the

designation is described as 'water storage and supply'. The nature of the alteration is a change to the boundary of the designation to enable expansion of that core purpose.

6. That expanded purpose of the designation is for a public work, in particular, to enable the construction, operation and maintenance of the Central City Reservoir Project (**Project**) within Hamilton to ensure the sufficient supply of water to meet population needs in the central city. Specifically, the Project has four key components:
  - a) Two 25 megalitre water reservoirs are to be located at 18 Ruakiwi Road. Development of each reservoir is to be staged with the first reservoir to be delivered by 2028 and the second to be delivered circa 2040.
  - b) A 420 m<sup>2</sup> valve chamber will be located between the two reservoirs.
  - c) Ancillary pipelines including a clean water scour/stormwater discharge pipeline to Lake Rotoroa and connections to public three waters systems.
  - d) A booster pump station will be located at 139 Clarence Street. A separate land use consent has been granted by the Territorial Authority for the pump station and it is not the subject of the NOR.<sup>1</sup>
7. The Requiring Authority's objectives for which the designation alteration is sought are described in Section 5.1 of the NOR as follows:
  - a) Construct a treated water storage reservoir and pumping station, for enabling new housing development (4,140 new

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<sup>1</sup> Primary evidence of Chris Dawson on behalf of the Requiring Authority, Attachment B.

dwellings) within the Hamilton Central city area by 30 June 2028.

- b) Ensure existing infrastructure (reservoir and pipe infrastructure) and cultural values are protected.
  - c) Identify suitable locations for future treated water infrastructure to meet projected water demand.
8. The Project objectives are expanded with reference to the Project outcomes which are as follows:
- a) Support an increasing number of people to live in central Hamilton.
  - b) Provide an increased level of resilience and reliability of waters infrastructure in central Hamilton.
  - c) Enable economic growth in central Hamilton arising from the provision of new treated water capacity.
  - d) Provide a fit for purpose water asset that meets the operational and maintenance needs of Council and where the whole of asset lifecycle cost is considered.
  - e) Ensure the security of the water supply and associated assets are maintained and meet the expectations of the Water Regulator (currently HCC, but IAWAI from July 2026).
9. If confirmed, the designation will be included in the ODP (its extent, purpose and duration) and shown on the ODP Planning Maps. The designation will provide certainty for ODP users that the land is to be used for this purpose.

## STRATEGIC IMPORTANCE OF THE DESIGNATION

10. The proposed designation alteration and infrastructure upgrades are directly linked to Council's broader urban growth strategy and the implementation of Plan Change 12 – Enabling Housing Supply (**PC12**). PC12 became operative in December 2024 and introduces planning provisions to support housing intensification across the city. The ODP now identifies the central city and an 800-metre walkable catchment as priority areas for high-density development, including buildings of six storeys or more. The Stage 1 development area, which includes the central city and surrounding corridors, is projected to accommodate up to 10,800 additional residents by 2035.
11. Central Government launched its Infrastructure Acceleration Fund (**IAF**) in June 2021 as a \$1 billion fund to support new or upgraded bulk infrastructure – including roading, three waters and flood management – to enable new homes to be built in areas of high housing need. Administered by Kāinga Ora, the IAF is designed to help increase the pace and scale of housing delivery by funding critical infrastructure needed for these developments.
12. HCC secured IAF funding of \$150.6 million to support intensification of Hamilton's central city, representing a strategic investment in the city's future growth and liveability. This funding is critical for several reasons: it enables Hamilton to meet its obligations under the National Policy Statement on Urban Development to provide sufficient development capacity; it addresses existing infrastructure constraints that would otherwise prevent intensification in the most efficient location (the city centre, where infrastructure networks already exist); and it supports the Government's broader urban development objectives by enabling housing supply in areas with established employment, education and transport connections.

13. The funding has been confirmed for critical infrastructure projects to facilitate further development in the area – including a new water reservoir and pump station and local waters upgrades and improvements. The funding is expected to support up to 4,000 new homes located close to employment, education and transport, enabling a ‘20-minute city’ where people can live, work and play in the same space and reduce their need for travel. The Project aims to meet the commitments of the IAF funding programme by providing sufficient drinking water supply to service the growing population within the city centre. Without this infrastructure investment, planned intensification would be constrained by inadequate water supply capacity. The funding is contingent on delivering the required assets by the end of June 2028. Reservoir 1 meets this funding milestone. Reservoir 2 is contingent on demand but is forecast to be constructed 8 to 10 years after the completion of Reservoir 1.

#### **SITE DESCRIPTION AND EXISTING ENVIRONMENT**

14. The subject site is located in the northeastern part of Hamilton Lake Domain Reserve, above Lake Domain Drive with direct frontage to Ruakiwi Road. It sits approximately 700 metres southwest of the Hamilton Central Business District (**CBD**). The surrounding area is characterised by established residential and recreational land uses, with emerging intensification consistent with central Hamilton’s urban character.
15. Hamilton Lake (Lake Rotoroa) lies to the west, bordered by open parkland, sports fields, and recreational facilities including public playgrounds. The eastern side of the site adjoins Ruakiwi Road, which is lined with high-density residential properties. Further east, beyond Pembroke Street, the land transitions to commercial uses (Business Zone 4), while north of Thackeray Street lies the Central City Zone –

Precinct 2 (City Living). The site's immediate surroundings comprise undulating grassed open space interspersed with mature macrocarpa trees and younger plantings. The steep southwestern slopes are predominantly vegetated with native species. A heritage-listed water tower occupies a prominent position on the ridgetop within the existing designation area.<sup>2</sup> The heritage reservoir has a current capacity of 15 megalitres (15ML) and services the Ruakiwi Water Supply Zone, which includes the central city area. This structure is planned to be decommissioned and retained following completion of the first reservoir. Ruakiwi Road and Clarence Street serve as key transport corridors, with Ruakiwi Road functioning as a minor arterial route connecting the Domain to surrounding residential and commercial precincts.

16. The site is zoned primarily for open space purposes, reflecting its recreational and environmental significance. It is also subject to Designation A67 – Water Reservoir (Ruakiwi Road), which encompasses the existing heritage water tower and associated infrastructure, reflecting the site's long-standing role in the city's water supply network. Several overlays and features affect the site, acknowledging its ecological, heritage, and landscape values. These planning layers are summarised in the NOR.<sup>3</sup>

## **LEGAL AND PLANNING FRAMEWORK**

17. Under s 181 of the RMA, as a Requiring Authority, Council may notify a requirement for the alteration of a designation at any time. As this alteration does not involve a minor change, it is to be assessed as if it is a new requirement for a designation.<sup>4</sup> Accordingly s 168A, which sets out the procedure for a territorial authority's requirement for a

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<sup>2</sup> ODP, Schedule 8A, Built Heritage Item H27.

<sup>3</sup> NOR, Section 2.2.

<sup>4</sup> RMA, s 181(2)-(3).

designation in its own district, applies to this NOR.<sup>5</sup> It provides (relevantly):

**168A Notice of requirement by territorial authority**

- ...
- (2A) When considering a requirement and any submissions received, a territorial authority must not have regard to trade competition or the effects of trade competition.
- (3) When considering a requirement and any submissions received, a territorial authority must, subject to Part 2, consider the effects on the environment of allowing the requirement, having particular regard to—
- (a) any relevant provisions of—
    - (i) a national policy statement:
    - (ii) a New Zealand coastal policy statement:
    - (iii) a regional policy statement or proposed regional policy statement:
    - (iiia) an infrastructure design solution:
    - (iv) a plan or proposed plan; and
  - (b) if the requiring authority does not have an interest in the land sufficient for undertaking the work,—
    - (i) whether adequate consideration has been given to any alternative sites, routes, or methods of undertaking the work; and
    - (ii) whether the work and designation are reasonably necessary for achieving the objectives of the requiring authority for which the designation is sought; and
  - (c) *[Repealed]*
  - (d) any other matter the territorial authority considers reasonably necessary in order to make a decision on the requirement.
- (3A) The effects to be considered under subsection (3) may include any positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from the activity enabled by the requirement, as long as those effects result from measures proposed or agreed to by the requiring authority.
- (4) The territorial authority may decide to—**
- (a) confirm the requirement:**
  - (b) modify the requirement:**
  - (c) impose conditions:**
  - (d) withdraw the requirement.**
- (5) Sections 173, 174, and 175 apply, with all necessary modifications, in respect of a decision made under subsection (4).

18. Notably, s 168A(3)(b) was amended and s 168A(3)(c) was repealed under the Resource Management (Consenting and Other System Changes) Amendment Act 2025 commencing 21 August 2025.

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<sup>5</sup> RMA, s 181(2).

19. Under the amendments, for notices of requirement given after 21 August 2025, the presence of significant adverse effects no longer triggers a requirement to consider the adequacy of the Requiring Authority's assessment of alternatives. Further, an assessment of alternatives, and whether the work and designation are reasonably necessary for achieving the Requiring Authority's objectives need only be considered where the Requiring Authority does not hold a sufficient interest in the land to undertake the work.
20. The NOR was lodged with the Territorial Authority on 22 August 2025. Given the amendments only came into force the day prior to lodgement, in preparing the NOR, a comprehensive assessment of alternatives was undertaken and provided as part of the NOR material, formulated on the basis of the provisions applying before the Amendment Act came into force.<sup>6</sup> The NOR also addresses the 'reasonably necessary' test.<sup>7</sup> However, as the subject site is owned in its entirety by the Requiring Authority, these are now not relevant considerations for this Panel and are accordingly not addressed in these submissions.
21. The matters set out in s 168A(3)(a) to (d) (as amended) are not criteria or "tests" that must be met. Rather, they are matters the Hearing Panel must consider or which it must have "particular regard to" leading to a decision in respect of the NOR to confirm, reject, or modify the requirement.
22. That evaluation calls for consideration of the effects on the environment of allowing the requirement. That consideration is subject to the provisions of Part 2 of the RMA and requires having particular regard, in this case, to the relevant provisions of a national policy statement, a regional policy statement, and a plan. These broader policy factors assist by framing the effects assessment.

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<sup>6</sup> NOR, Section 13.3, Appendix D.

<sup>7</sup> NOR, Section 13.4.

23. In terms of the effects assessment, the RMA makes express provision for the consideration of positive effects which offset or compensate for any adverse effects which might arise as a consequence of the works enabled. This recognises that for significant infrastructure works which are typically designated, adverse effects are likely to arise, some of which cannot be directly mitigated, in which case offset mitigation measures offered up as consent conditions will be relevant to the overall evaluation. So too will the positive effects arising from enabling the intended work, such as in this case, critical water supply infrastructure necessary to service growth.
24. That overall consideration of both positive and adverse effects must be framed, first, as being subject to Part 2 of the RMA, and next by having particular regard to the relevant prescribed planning instruments.
25. Concerning the role of Part 2, the High Court said in *Queenstown Airport Corporation Ltd v Queenstown Lakes District Council*:<sup>8</sup>

[68] It will be seen that the focal point of the assessment is, subject to Part 2, consideration of the effects of allowing the requirement having particular regard to the stated matters. **The import of this is that the purpose, policies and directions in Part 2 set the frame for the consideration of the effects on the environment of allowing the requirement. Indeed, in the event of conflict with the directions in s 171, Part 2 matters override them.** Paramount in this regard is s 5 dealing with the purpose of the Act, namely to promote sustainable management of natural and physical resources.

[69] Part 2 also requires that in achieving the sustainable management purpose, all persons exercising functions shall recognise and provide for identified matters of national importance; shall have regard to other matters specified in s 7 and shall take into account the principles of the Treaty of Waitangi.

[70] The reference at s 171(1)(d) to “any other matter” is qualified by the words “reasonably necessary”. Given the Act’s overarching purpose, however, the scope of the matters that may legitimately be considered as part of the effects assessment must be broad and consistent with securing the attainment of that purpose.

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<sup>8</sup> [2013] NZHC 2347 (HC).

[emphasis added].

26. In considering the effects of the NOR and making a decision whether to confirm it, this directive requires the Hearing Panel to be satisfied that it achieves the sustainable management purpose of the RMA and that the matters in ss 6 – 8 have been given appropriate consideration and recognition.
27. Regarding Part 2, in the Final Report and Decision of the Board of Inquiry into the *Basin Bridge Project*, the Board observed that the reference being ‘subject to Part 2’ did not entitle it to ask whether some other project alignment or design better meets the requirements of Part 2, as the Act does not direct a particular use or require the best use of resources. All that is required is a careful assessment of the Project in and of itself to determine whether it achieves the RMA’s purpose.<sup>9</sup>
28. A Part 2 analysis has been undertaken in the NOR<sup>10</sup> and its requirements are met. The Project achieves the principle of sustainable management under s 5, does not run counter to any of the matters in ss 6-8, and provides for appropriate and efficient use of resources subject to the conditions proposed by the Requiring Authority. The Central City Reservoir Project promotes sustainable management under s 5 by enabling efficient infrastructure development to meet the needs of future generations, enabling residents to provide for their social, economic and cultural well-being and health and safety, while incorporating comprehensive environmental protection measures. The Project recognises and provides for matters of national importance under s 6, including preserving Lake Rotoroa’s natural character, protecting the ecological values of the Significant Natural Area (**SNA**) on the site, SNA C31, and long-tailed bat habitat through staged vegetation

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<sup>9</sup> Final Report and Decision of the Board of Inquiry into the Basin Bridge Project, Ministry for the Environment, Board of Inquiry at [174].

<sup>10</sup> NOR, Section 13.5.

removal and a planting and restoration programme, acknowledging Māori cultural relationships through ongoing tangata whenua engagement, and safeguarding the existing heritage-listed Ruakiwi Water Tower by designing infrastructure to avoid impacts on its heritage values.

29. As confirmed in the evidence of Ms Kukutai and Mr Hill, the Project also demonstrates particular regard for s 7 matters by reflecting kaitiakitanga principles through iwi engagement and alignment with Te Ture Whaimana<sup>11</sup>, ensuring efficient resource use through optimised site selection and energy-efficient design, maintaining amenity values via landscape integration and public access improvements, protecting ecosystem intrinsic values and environmental quality through best practice erosion control and ecological management, and enhancing climate resilience by providing gravity-fed supply to reduce energy dependence during extreme weather events. Section 8 Treaty principles have been meaningfully incorporated through partnership with mana whenua, commissioning Cultural Impact Assessments from THAWK and Ngaati Wairere, embedding mātauranga Māori into design, and providing for cultural monitoring, site blessings, and bilingual interpretation, demonstrating active protection and participation throughout the Project lifecycle. As Mr Hill will acknowledge in his evidence, although there remain some differences between mana whenua on the final design of cultural expressions to be incorporated within the built form, these are matters that will be resolved via the designation conditions, particularly the Cultural Effects Management Plan (**CEMP**).
30. In terms of the relevant higher order planning instruments, these too are consistent with the Project outcomes. Relevantly:<sup>12</sup>

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<sup>11</sup> Evidence of Ms Kukutai; Evidence of Mr Hill on behalf of the Requiring Authority.

<sup>12</sup> NOR, Section 13.2.

*National Policy Statement on Urban Development*

- a) The Ruakiwi Reservoir Project directly supports the National Policy Statement on Urban Development (**NPS-UD**) objectives for well-functioning urban environments and infrastructure provision. The Project enables the implementation of PC12's intensification provisions, particularly the 800-metre walkable catchment around Hamilton's central city, supporting the development of a compact, connected, and liveable urban form. By providing essential water infrastructure capacity for up to 4,000 new homes in the central city, the Project ensures sufficient development capacity to meet community needs. The Project was developed in partnership with Mana Whenua, aligning with the NPS-UD's requirements for Treaty of Waitangi recognition and Māori involvement in planning processes. The infrastructure investment will contribute to urban development benefits while supporting Hamilton's growth as a Tier 1 local authority.

*National Policy Statement on Indigenous Biodiversity*

- b) The Project is consistent with the National Policy Statement on Indigenous Biodiversity (**NPS-IB**) objective of maintaining indigenous biodiversity to achieve at least no overall loss. While the Project will result in the removal of vegetation within SNA C31 which provides habitat for long-tailed bats (Threatened – Nationally Critical) and native bird species, comprehensive ecological mitigation and compensation measures have been designed to achieve no net loss of biodiversity values. The Project incorporates staged vegetation removal under arboricultural oversight to minimise impacts on fauna habitat, particularly for bats. Ecological compensation includes 0.58 hectares of native restoration planting with 144 replacement trees, pest mammal control programmes, protection and enhancement of bat roost features, and establishment of “no mow” grassland areas to

enhance habitat connectivity. The Ecological and Landscape Management Plan will ensure restoration planting contributes to local biodiversity and ecological connectivity within the Hamilton Lake Domain. These measures protect, restore and nurture indigenous biodiversity while enabling essential infrastructure to provide for the social, economic and cultural wellbeing of Hamilton's growing central city community.

*National Policy Statement for Freshwater Management*

- c) The Project is consistent with the National Policy Statement for Freshwater Management (**NPS-FM**) hierarchy that prioritises freshwater ecosystem health, followed by human health needs, and then social, economic and cultural wellbeing. All stormwater discharges from the reservoir site will receive appropriate treatment through raingardens before reaching Lake Rotoroa, protecting water quality. The Project incorporates a low-profile discharge structure designed to prevent erosion and protect the lakebed ecosystem. Best practice erosion and sediment control measures will be implemented during construction to avoid impacts on water quality. Dechlorination protocols will ensure that any water releases from the reservoirs do not adversely affect the lake's ecological values. The comprehensive stormwater management approach demonstrates commitment to maintaining and enhancing freshwater ecosystem health while delivering essential infrastructure.

*National Policy Statement for Infrastructure*

- d) The Ruakiwi Reservoir Project strongly aligns with the National Policy Statement for Infrastructure (**NPS-I**) by enabling essential water infrastructure to support PC12's housing intensification in central Hamilton (addressing up to 4,000 additional dwellings by 2035), which fulfils the objective of supporting urban

development to meet changing community needs. The Project demonstrates operational and functional need through its optimal siting at the highest elevation point in central Hamilton, enabling gravity-fed supply to 70% of the area with 10% lower operational costs and enhanced resilience during power outages, while efficiently utilising existing infrastructure networks. Through comprehensive multi-criteria analysis of 30 sites, meaningful mana whenua engagement with cultural design integration, and proportionate conditions managing effects on landscape, noise and visual amenity, the Project delivers timely, energy-efficient and resilient infrastructure that balances national and regional benefits against localised effects in accordance with the NPS-I's policy framework.

*Hamilton City Operative District Plan*

- e) The NOR is consistent with the majority of the ODP objectives and policies across multiple chapters. As explained in Mr Dawson's planning evidence, the Project aligns with Chapter 15 (Open Space Zones) by integrating essential three waters infrastructure within the Lake Domain while enhancing public access, amenity and ecological outcomes through extensive landscape mitigation, native planting, elevated walkways, seating and interpretive signage. Consistent with Chapter 19 (Historic Heritage) provisions, it retains and protects the Category A heritage water tower through careful offset placement of the reservoirs, maintaining appropriate visual separation, and incorporating measures to restore the tower's setting.
  
- f) The Project aligns with Chapter 25 provisions relating to development suitability, landscaping and screening, noise and vibration management, public art, and three waters infrastructure, with comprehensive management plans

addressing construction effects and stormwater treatment protecting Lake Rotoroa ecological values. However, Mr Dawson identifies one area of inconsistency: the Project will not fully achieve Policy 15.2.3b, which requires that buildings be of a design, bulk and scale compatible with the open space and surrounding environment. While the reservoirs have been carefully designed with architectural treatments including corten steel cladding, textured concrete walls, and landscape integration to minimise visual impacts, the substantial built form will occupy a significant portion of the Lake Domain and alter its open space character. Despite this, Mr Dawson concludes that the architectural and landscape design approach achieves a considered balance between critical infrastructure requirements and the Domain's open space character and function, thereby mitigating any policy inconsistency. Accordingly, this issue does not alter his overall opinion that the alteration to designation should be confirmed subject to comprehensive conditions.

## **REGIONAL CONSENTS**

31. Consents required under the Waikato Regional Plan for the Project were sought through a separate application to Waikato Regional Council (**WRC**). The suite of consents were granted by WRC on 13 February 2026. The consents authorise the following activities:
  - a) Construction and operation of a stormwater discharge outfall structure in the bed of Lake Rotoroa;
  - b) Earthworks and cleanfill discharge and temporary cleanfill for preloading a building platform; and
  - c) Diversion and discharge of treated stormwater.

## TE TURE WHAIMANA

32. As confirmed in the evidence of Ms Kukutai and Mr Hill, the Project aligns with Te Ture Whaimana, the primary direction-setting document for the Waikato River and catchment, which holds precedence over other RMA planning instruments.<sup>13</sup> The Requiring Authority engaged proactively and comprehensively with iwi throughout project development, including design workshops, monthly update meetings, site walkovers, and condition workshops, ensuring tangata whenua were fully informed and involved as true project partners. The Project incorporates measures to avoid further degradation of the river system, including robust erosion and sediment control, stormwater treatment prior to discharge, and landscape integration sensitive to cultural values. Cultural design elements, mātauranga Māori, bilingual signage, and cultural markers developed in partnership with mana whenua are embedded throughout the Project. The CEMP conditions ensure ongoing meaningful partnership throughout the project lifecycle, giving effect to Treaty principles and kaitiakitanga obligations.

## RESERVE RECLASSIFICATION

33. Council is undertaking a separate statutory process under the Reserves Act 1977 (**Reserves Act**) to reclassify from Recreation Reserve to Local Purpose Reserve (Water Infrastructure) that portion of reserve land subject to the altered designation. This process reflects that the proposed water reservoir infrastructure is inconsistent with the land's recreation reserve classification. The Reserves Act process involves statutory consultation and, ultimately, revocation of the reserve status for the affected area to reflect its use for water supply infrastructure purposes.

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<sup>13</sup> Evidence of Ms Kukutai; Evidence of Mr Hill on behalf of the Requiring Authority.

34. The reserve reclassification process is running in parallel with this designation process under the RMA. While both processes relate to the same physical land and overall project, they are separate statutory processes under different legislation, each with their own requirements and timelines. The Reserves Act process addresses the land classification, while the RMA process addresses the environmental effects and planning considerations of the proposed designation.
35. There is no legal bar to confirming an NOR or an alteration to a designation over reserve land, even where reserve reclassification is underway but not yet concluded. The RMA and the Reserves Act operate independently, and compliance with one statute is not a prerequisite for decision-making under the other. The question of whether the land has suitable status under the Reserves Act does not affect the Panel's ability to make a decision on the NOR.
36. Council is actively progressing both processes and expects the reserve reclassification to be completed by mid-2026. However, the timing of that separate statutory process should not prevent or delay the determination of this notice of requirement on its merits under the RMA.

#### **OUTLINE PLAN WAIVER**

37. Under s 176A of the RMA, a Requiring Authority must ordinarily submit an Outline Plan of Works to the Territorial Authority before beginning construction. However, this requirement can be waived where the details of the proposed works are already sufficiently incorporated into the designation itself. HCC has applied for such a waiver in relation to Reservoir One, on the basis that the designation conditions, which specifically reference the technical detail contained within the NOR and supporting evidence, already contain enough detail about that stage of the Project to make a separate Outline Plan redundant.

38. As recorded in the s 42A report, because the waiver cannot formally be issued until after the designation decision has been made, a practical solution has been built into the recommended conditions by way of an advisory note.<sup>14</sup> That note records that once the designation is confirmed, Council will issue the waiver under s 176A(2)(b), treating the Reservoir One details embedded in the designation as sufficient. For Reservoir Two, no waiver is sought — a full Outline Plan of Works will be required before that stage proceeds, and the conditions reflect this by also requiring updated geotechnical investigations and revised or new management plans to accompany it.<sup>15</sup>

#### **ASSESSMENT OF ENVIRONMENTAL EFFECTS**

39. Once framed by the Part 2 RMA and higher order policy considerations, the effects of allowing the designation must be assessed.<sup>16</sup> Critically, the RMA does not call for a ‘no effects’ outcome, nor for an outcome which ensures adverse effects are controlled so that they are *minor, or less than minor*. Indeed, many designation projects are confirmed where, even once conditions are imposed, significant residual adverse effects remain. However this is not the case here.
40. An assessment of environmental effects of the proposed designation has been undertaken and is set out in Section 10 of the NOR. The key conclusions from the assessment are as follows:

##### *Positive Effects and Strategic Advantages*

- a) The Project delivers significant positive effects through the strategic use of the existing designated Ruakiwi site for water infrastructure. The site’s natural elevation enables gravity-fed

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<sup>14</sup> Section 42A report, section 4.11.

<sup>15</sup> Condition 82.

<sup>16</sup> RMA, s 168A(3).

supply to 70% of the central city, reducing both the visual bulk of the structure and long-term operational costs through minimised pumping requirements. Public amenity will be substantially enhanced through new pathways, elevated walkways offering panoramic views to Pirongia, Karioi, and Te Kawa, seating areas, and interpretive signage incorporating cultural markers and educational content. The site's separation from residential properties and sufficient space for construction staging help contain impacts within a defined footprint while operational efficiency is improved through proximity to existing bulk water supply networks.

#### *Heritage, Cultural and Ecological Effects*

- b) The Project will retain and protect the heritage-listed water tower, with offset reservoir placement preserving its visual prominence. A Detailed Seismic Assessment has identified strengthening requirements to address earthquake vulnerability, with future adaptive reuse options under consideration. Archaeological and cultural assessments indicate potential for buried cultural material, requiring precautionary measures including Heritage New Zealand authority and an Accidental Discovery Protocol. Cultural Impact Assessments from Te Hā o te Whenua o Kirikiriroa and Ngaati Wairere emphasise the site's ancestral significance and recommend comprehensive cultural monitoring, stormwater management aligned with lake restoration, and integration of mātauranga Māori through cultural markers, bilingual signage, and legacy initiatives. While final agreement on these cultural markers, which are to be incorporated into the design has not been reached, the CEMP and associated designation conditions will facilitate resolution.

- c) Ecologically, the removal of 0.58 hectares of treeland and 14 trees with bat roosting features represents a moderate effect on long-tailed bats (Nationally Critical), to be addressed through 144 replacement trees, 0.58 hectares of native planting, 7.4 hectares of pest control, and installation of artificial roost boxes and features.

*Landscape and visual amenity effects*

- d) The introduction of two 62-metre diameter, 10.2-metre-high reservoirs will alter the Domain's character, with removal of up to 72 trees changing the ridgeline's treed skyline. Visual effects will be most pronounced for Ruakiwi Road residential properties (moderate to high adverse), while effects from Hamilton Lake and the Domain will be low to moderate, and effects from Clarence Street and the CBD will be moderate to low or negligible. Mitigation includes corten steel cladding and textured concrete retaining walls to reduce visual bulk, staged tree removal coordinated with reservoir construction to reduce immediate visual impact, strategic retention of mature oak trees as visual screening for adjacent residential properties, and comprehensive landscape planting of 144 replacement trees including 35 large-grade specimens. Over time, these architectural and landscape design measures are expected to help the reservoirs be perceived as positively integrated civic infrastructure rather than intrusive elements.

*Construction Effects - Noise, Vibration and Traffic*

- e) Construction noise effects will be temporary and manageable through a Construction Noise Management Plan, though specific activities including vibratory sheet piling (10-15 days, exceeding limits by up to 10dB) and early morning concrete pours starting at

5:00am will exceed noise limits for short durations at nearby receivers. Vibration effects from all construction activities including sheet piling and compaction are predicted to remain below cosmetic damage thresholds and the amenity threshold of 2mm/s peak particle velocity. Construction traffic will generate up to 80 vehicle movements per day during peak periods, representing a minor 0.55-1.0% increase on Ruakiwi Road's existing 7,280 vehicles per day, which remains well within network capacity. Two site access points will accommodate construction vehicles including 19.45-metre high productivity motor vehicles, with comprehensive traffic management including barrier-protected pedestrian paths, marshals at access points during high-traffic periods, temporary removal of approximately six on-street parking spaces, and Site Specific Traffic Management Plans for each construction phase.

#### **MATTERS RAISED BY SUBMITTERS**

41. A total of six submissions were received on the NOR.

#### **Ernest Ross Needham**

42. Mr Needham resides at 1/17 Ruakiwi Road, located immediately adjacent to the Project site. Mr Needham seeks that Designation A67 not be altered for the proposed Water Reservoirs. He further seeks that Council not change the reserve classification. As stated earlier in these submissions, the reserve reclassification is a separate statutory process under the Reserves Act that is occurring in parallel to this NOR process and the Panel has no jurisdiction to grant any relief in respect of it.
43. Mr Needham raises concerns about inadequate consultation, noting that he was not initially consulted despite being the most impacted residence, and that his property was excluded from the landscape

assessment viewpoints documented in the NOR. He objects to the landscape and visual impacts of the proposal, submitting that the two large Corten steel reservoir structures are out of character with the lake park environment and will cause a significant change to the outlook and amenity from his property. Mr Needham opposes the removal of Trees 30 and 30a, which he believes should be retained as buffers, and submits that the new structures do not reflect the scale or character of the existing heritage water tower.

44. Mr Needham expresses concern about construction effects, particularly that construction phase noise levels will exceed standards, that piling techniques will cause significant vibration potentially compromising the structural integrity of his home, and that heavy vehicle traffic will create safety risks for Hamilton West School pupils who pass the site twice daily. He questions the need for both reservoirs and suggests the project is driven by funding windows rather than merit, proposing as an alternative that the reservoir furthest away be constructed first to provide an adequate buffer from residential properties. Mr Needham submits that there has been no peer review of supplementary reports and that he has no confidence in the enforcement of Construction Management Plans.
45. Mr Needham maintains complete opposition to the alteration, submitting that nothing provided to date has demonstrated that the effects individually and cumulatively will be mitigated in any meaningful way, and requesting that the application be rejected until these matters can be addressed.

*Requiring Authority response*

46. The Requiring Authority acknowledges that the Project will introduce substantial built form into the Lake Domain but emphasises that the design aims to integrate the reservoirs through sensitive architectural treatments and landscape mitigation to preserve and enhance the

area's character and amenity.<sup>17</sup> The Requiring Authority confirms the Project is critical to enable up to 4,000 additional homes in central Hamilton, with Reservoir 1 needed by late 2028 to meet projected water demand following the implementation of PC12 in December 2024.<sup>18</sup> Regarding the omission of images showing views from the submitter's private property from the NOR material, these were not included in public presentations as only views from public locations were shared publicly, though multiple meetings were held at the submitter's home to understand impacts on his property views.<sup>19</sup> The landscape assessment confirms there will be moderate to high adverse visual effects from the submitter's balcony during construction and for five to seven years after completion, though effects from first-floor living areas will be less significant as views are primarily directed toward neighbouring properties and the heritage tower.<sup>20</sup>

47. The Requiring Authority's evidence addresses specific concerns including tree removal, noise, vibration, and traffic management through detailed technical responses and proposed conditions. Trees 30 and 30a will be removed due to potential impacts on the heritage water tower foundations, with new screening trees to be planted in more suitable locations following completion of Reservoir 1 and reshaping of the ground around the heritage tower.<sup>21</sup> Construction noise and vibration will be managed through a Construction Noise and Vibration Management Plan including a 2.4 metre acoustic fence, careful scheduling of high-noise activities, and monitoring by an independent acoustic engineer, with all vibration activities expected to comply with German standard cosmetic damage thresholds.<sup>22</sup> Construction traffic will be controlled through a certified Construction Traffic Management Plan including route planning to avoid peak hours and clear signage,

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<sup>17</sup> Evidence of Mr White and Mr Morton on behalf of the Requiring Authority.

<sup>18</sup> Evidence of Mr Brooke and Mr Dawson on behalf of the Requiring Authority.

<sup>19</sup> Primary evidence of Mr Dawson on behalf of the Requiring Authority, Appendix C, page 2.

<sup>20</sup> Evidence of Mr Morton on behalf of the Requiring Authority.

<sup>21</sup> Evidence of Ms Hailwood on behalf of the Requiring Authority.

<sup>22</sup> Evidence of Mr Cottle on behalf of the Requiring Authority.

with the Territorial Authority required to enforce consent conditions in the same manner as for any other developer.<sup>23</sup> Reservoir 1 will be constructed first as it requires less preloading, has a shorter construction programme, is more constructable for installing pipework, retains a more compact site footprint for 8-10 years before Reservoir 2 is needed, and enables tree removal in two progressive stages from Ruakiwi Road.

### **Glenda Morrissey**

48. Ms Morrissey's primary request is that Council not proceed with the construction of new water towers on the current reserve land. Instead, she requests that Council pursue the alternative site at Peacock Reserve, which she considers to better align with community needs and environmental sustainability principles. In the event that construction does proceed as proposed, she seeks further conversations to mitigate issues relating to loss of view from her residence (particularly from the higher ridge across the lake toward the western horizon), as well as negative effects throughout the construction period including noise, vibration, and traffic disruption.
49. Ms Morrissey raises concerns that the proposed reclassification conflicts with the Hamilton Lake Domain Management Plan and the principles of the Reserves Act. She argues that the Ruakiwi Road site is unsuitable given its location on a key transport corridor, and that the proposal is inconsistent with the domain's recreational character. She expresses concern about the anticipated 30-month construction period and contends that the AEE inadequately addresses the noise, vibration, and traffic effects.
50. Ms Morrissey objects to the environmental impacts of the proposal, including the removal or relocation of approximately 55 mature trees

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<sup>23</sup> Evidence of Ms Mariti on behalf of the Requiring Authority.

and the permanent loss of over 15,000 square metres of reserve land, which she argues runs counter to Council's sustainability, tree retention, and climate resilience strategies. She questions the transparency of the site selection process, noting that the alternative Peacock Reserve site (Option 2) rated more favourably in terms of community impact but was not pursued further. The submission alleges that community engagement has been inadequate and that feedback reports have understated the extent of public opposition. She also raises concerns about impacts on the Category A heritage water tower's visual integrity and cultural significance.

51. Finally, Ms Morrissey contends that the proposal is inconsistent with several key Council strategies including the Infrastructure Strategy 2024-54, the Long-Term Plan 2024/25, and PC12, all of which emphasise protection and enhancement of green spaces and sustainable development.

*Requiring Authority response*

52. The Requiring Authority's evidence responds to concerns about location and zoning by confirming that the Ruakiwi Road site is the preferred option due to its elevated position enabling the lowest operational costs, significant capital cost deferral through use of the existing reservoir inlet filling pipeline, and ability to balance water supply needs with positive outcomes for the Lake Domain through proposed mitigation and offset measures.<sup>24</sup> While acknowledging the Project will result in a small reduction in open space within the Lake Domain area, the Requiring Authority emphasises the design carefully balances functional requirements with protection and enhancement of cultural, visual, and community values through comprehensive landscape mitigation including 144 new specimen trees, 500 square metres of

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<sup>24</sup> Evidence of Mr Hardy on behalf of the Requiring Authority, paragraphs 36-39.

native and stormwater garden areas, and 0.58 hectares of native restoration offset planting.<sup>25</sup> The Multi-Criteria Analysis process is explained in the evidence of Mr Chris Hardy, who tested sensitivity by adjusting weighting percentages allocated to technical, environmental, and social factors, concluding that the Ruakiwi site remained the preferred site even under alternative weighting scenarios that increased environmental and social considerations.<sup>26</sup>

53. The Requiring Authority addresses construction impacts, ecological concerns, adequacy of engagement, and strategic alignment through detailed technical responses and condition frameworks. Construction traffic and noise will be managed through certified Construction Traffic Management Plans and Construction Noise and Vibration Management Plans with specific mitigation measures including acoustic fencing, scheduling controls, and monitoring requirements. The Requiring Authority considers that the level of stakeholder engagement has been appropriate, with the Requiring Authority developing a working plan before community consultation, supported by multiple public drop-in sessions and in-home meetings with closest residents are conducted.<sup>27</sup>
54. The Project is confirmed as consistent with Council's 2024-2054 Infrastructure Strategy, Long Term Plan 2024/25, and PC12, all of which prioritize central city intensification requiring the water infrastructure this Project delivers.<sup>28</sup> The existing heritage water tower cannot be reused as it lacks sufficient capacity for forecast population growth (requiring 40-60 million litres), requires higher pumping costs, and the design appropriately integrates new structures into the reserve while preserving the tower's heritage value through setbacks, corten steel screening, sensitive landscape planting, and removal of accessory buildings to open views from Ruakiwi Road and across the lake.

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<sup>25</sup> Evidence of Mr White on behalf of the Requiring Authority, paragraph 36; Evidence of Ms Hailwood on behalf of the Requiring Authority, paragraph 11.

<sup>26</sup> Evidence of Mr Hardy on behalf of the Requiring Authority, paragraph 18.

<sup>27</sup> Primary evidence of Mr Dawson on behalf of the Requiring Authority, Appendix C, page 8.

<sup>28</sup> Primary evidence of Mr Dawson on behalf of the Requiring Authority, Appendix C, page 9.

**James and Jill McCulloch**

55. The McCulloch's own 2/17 Ruakiwi Road. Their primary concern is the reclassification of reserve land to facilitate construction of the reservoirs. They are particularly worried about the impact on the surrounding area and residents during what they anticipate will be a lengthy construction period.
56. The submitters oppose the NOR and request that the status quo be maintained. They seek a decision from Council to not change the classification of the reserve.

*Requiring Authority response*

57. The relief sought by the McCulloch's is directed to the Reserves Act reclassification process, rather than this RMA designation process. Consequently, the relief sought cannot be granted through these proceedings. However, their concerns about construction effects and the impact of the Project on the site's surroundings have been comprehensively addressed in the proposed mitigation measures in the designation conditions as addressed earlier in these submissions.

**Department of Conservation**

58. The Department of Conservation (**DOC**) raises concerns regarding the ecological impacts of the proposed reservoir development on long-tailed bats (pekapeka), which hold a threat classification of Nationally Critical under the New Zealand Threat Classification System. DOC contends that the Ecological Impact Assessment has undervalued the extent of bat habitat at the site by only considering treeland (0.58 ha) and dismissing exotic grassland as having negligible ecological value, arguing that bats also utilise the mosaic of treeland and grassland for roosting and foraging. DOC emphasises that the application should take a precautionary approach given this uncertainty and consider effects on

the entire habitat mosaic, not just individual roosting trees. Further, DOC's submission expresses concern that the proposed Bat Management Plan lacks clear objectives, does not address management of retained roost trees during construction, and contains no monitoring requirements to identify and report effects during vegetation clearance.

59. Regarding the proposed compensation package, DOC submits that the measures are inadequate. The 1:1 compensation planting ratio will improve existing habitat rather than create new habitat, resulting in permanent overall habitat loss and a time-lag before newly planted trees develop roost features. DOC is critical of the proposed artificial bat boxes and roost features. DOC argues the proposed 7.4ha pest control area lacks essential detail regarding target species, control thresholds, timing, methodology, and duration, and fails to account for the need for a buffer zone to prevent pest reinvasion. DOC's submission seeks that conditions ensure all management plans follow best practice, compensation aligns with the effects management hierarchy, predator control measures are clearly defined, and robust monitoring and compliance measures are imposed to ensure the compensation package is effectively delivered.
60. Despite raising these concerns in its submission and seeking to be heard, by letter dated 19 January 2026, DOC withdrew its right to be heard at the hearing, following successful pre-hearing consultation with the Requiring Authority that addressed DOC's concerns. The letter records that the amendments to designation conditions 42, 43, 51, and 78—detailed in the Council's expert planning evidence—now adequately address DOC's requirements for bat roost protection, pest control, restoration planting, monitoring protocols, and lighting design, though DOC maintains one remaining concern about limiting artificial roost box maintenance to only 10 years when boxes that are used by bats should be maintained longer-term. DOC proposes a minor further amendment to consolidate habitat protection and restoration objectives under

condition 41, and considers that with these changes, effects on Long-tailed Bats will be appropriately managed.

61. In its submission, DOC raised concerns about permanent loss of terrestrial habitats and adverse effects on native species, particularly long-tailed bats, contending that the importance of bat habitat including grassland has been undervalued and that the affected area should include all areas covered by artificial surfaces and affected by light. In response, the Requiring Authority's ecologist Jamie MacKay confirms that a Biodiversity Compensation Model was used to determine compensation actions achieving a net gain target of 27% (exceeding the minimum 20% requirement) through provision of 0.58 hectares of indigenous planting, 7.4 hectares of pest mammal control, 1.0 hectare of "no mow" grassland, protection and/or relocation of 19 existing roost features, and installation of 23 artificial roost boxes. All compensation measures will occur within Hamilton Lake Domain to ensure compensation is provided as close to the impact location as possible, with planting monitored for five years and pest mammal control, "no mow" grassland provision, and roost monitoring and maintenance undertaken for ten years.<sup>29</sup>
62. The Requiring Authority confirms that specific recommendations have been incorporated into proposed conditions to address DOC's concerns about the Bat Management Plan, lighting controls, artificial bat boxes, and pest control monitoring. Draft conditions include clear objectives to avoid or minimise adverse effects on bat habitat, roosts, foraging and commuting areas during vegetation removal and construction, along with management of effects on trees with potential roosts to remain and reporting requirements to Council. Specific lighting controls following NZ DOC Bat Recovery Group practice lighting design principles have been included in conditions 76-79, and monitoring requirements

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<sup>29</sup> Primary evidence of Dr MacKay on behalf of the Requiring Authority, paragraph 81.

for all compensation measures have been incorporated into condition 42(d). Dr McKay concludes that provided the recommendations to minimise risk to indigenous fauna during vegetation clearance and the compensation package are fully implemented, the Project will result in a net gain in biodiversity values within Hamilton Lake Domain.<sup>30</sup>

63. Relying on Dr MacKay's rebuttal evidence that bat activity at the site is consistently low due to its proximity to Ruakiwi Road and existing predation pressure, and that the artificial roost boxes form one component of a broader compensation package to enhance long-tailed bat activity, Mr Dawson maintains that the proposed 10-year monitoring period is appropriate and proportionate to the predicted level of effect. He considers this approach consistent with Policy 7(1)(e) of the NPS-I, which requires mitigation measures to be proportionate to the scale of adverse effects of infrastructure activities, and therefore does not support a monitoring period in perpetuity as requested by DOC, though he does accept DOC's request for amendments to condition 41 to clarify implementation requirements for the bat roost features, albeit with slightly different wording.<sup>31</sup>

### **Submissions in support**

64. Two submissions in support of the NOR were lodged by Mr Lyall Duffus and Mr Phil Evans.

### **ENGAGEMENT WITH SUBMITTERS**

65. Council undertook community engagement across two phases between February and July 2025. Phase One (18 February - 18 March) received 94 responses following website information, drop-in sessions, and a targeted workshop on 27 May for Ruakiwi Road residents closest to the

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<sup>30</sup> Primary evidence of Dr MacKay on behalf of the Requiring Authority, paragraphs 61-62, 81.

<sup>31</sup> Rebuttal evidence of Mr Dawson on behalf of the Requiring Authority.

site. Phase Two (26 June - 13 July) focused on design elements and received 117 responses. Community feedback revealed general support for corten weathering steel screening, public viewing paths, and native planting, though there were mixed views on additional walking paths and play elements. Closest residents expressed concerns about loss of views and construction impacts, which Council addressed through direct engagement, visualisations, and explanation of mitigation measures.

66. Council engaged proactively with tangata whenua through briefing meetings with THAWK and Ngāti Wairere to establish review processes and integrate cultural design principles. Both iwi reviewed technical reports and provided recommendations that Council has committed to implementing, including cultural blessings and inductions, cultural monitoring during earthworks, appropriate accidental discovery protocols, stormwater management using rain gardens, native species replanting with iwi input, ecological offset and compensation planning, and incorporating traditional cultural designs. Ngāti Wairere completed a Cultural Impact Assessment emphasising the values of wai as a key theme, and Council has committed to ongoing relationships with both THAWK and Ngāti Wairere through proffered conditions and long-term relationship agreements.

#### **Submitter evidence**

67. No submitter has filed expert evidence in response to the Requiring Authority's case, nor has any expert evidence been presented that contradicts or challenges the technical assessments provided.

#### **RESPONSE TO SECTION 42A REPORT**

68. The s 42A report, prepared by Laura Galt (Senior Planner for Council), recommends that the requirement be confirmed subject to conditions. The report emphasises that the Project's disruption during construction

can be managed through comprehensive management plans, and that the designation will deliver positive environmental, social and cultural effects by enabling critical water infrastructure for central city housing development while protecting the existing heritage water tower and ecological values through compensation measures. Ms Galt concludes that the proposed designation alteration will have adverse environmental effects that are no more than minor, provided construction and operation are managed through appropriate designation conditions.

69. Ms Galt further concludes that the Project is in general accordance with relevant planning instruments and statutory requirements. The report identifies that specialist assessments across all technical disciplines - including landscape, heritage, ecology, noise and vibration, traffic, and lighting – generally support her conclusion. Ms Galt notes that recommended conditions in Appendix A to the NOR were reviewed and agreed with, with the exception of the final wording of the proposed Architectural and Landscaping conditions.<sup>32</sup>
70. Turning to the specialist assessments, heritage expert Carolyn O’Neil concludes that the proposed works for which the designation is sought is supportable from a built heritage perspective. Adverse effects on the heritage values have been kept to a minimum and are appropriately managed by the designation conditions. On structural engineering and stormwater and civil engineering, Simon Edmonds and Paul Avery confirm that the proposed works can be managed by appropriate conditions and no changes to the Requiring Authority’s proposed conditions are recommended. Kenneth Read recommended changes to conditions for further ground investigation prior to detailed design for Reservoir 2 and further analysis of slope stability and settlement for the final location of Reservoir 2. Harshad Phadnis recommended these and

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<sup>32</sup> Section 42A report, paragraph 2.3.

additional amendments to the geotechnical conditions all of which are reflected in the updated set of conditions.

71. Will Gumbley's landscape assessment concludes that, overall, the Project's effects can be appropriately mitigated through designation conditions and proposed various amendments to the Architectural and Landscaping conditions. Mr Morton considered those amendments and, as confirmed in his evidence, has accepted them, except for Mr Gumbley's recommendation to include a condition requiring that timber from the removed mature trees be recycled for use in architectural elements on the basis that it is an impractical, costly and unnecessary exercise.<sup>33</sup> The Requiring Authority understands that Mr Gumbley does not intend to pursue the inclusion of this condition in the condition set.
72. Emily Lion-Cachet identified that while the Ecological Impact Assessment addressed roosting habitat, it inadequately considered foraging grassland habitat in the Biodiversity Compensation Model. DOC's submission raised concerns about compensation measures, questioning the effectiveness of artificial bat roosts (lacking evidence of success), requesting predator control details including targeted species and control thresholds, and seeking robust monitoring requirements with reports to the consent authority. The s 42A team recommends enhanced conditions requiring an Incidental Discovery Protocol for lizards, minor amendments to the Ecological, Cultural and Landscape Management Plan conditions, and specific lighting controls to minimise bat habitat disturbance. These are reflected in the agreed conditions.
73. Peter McGregor concluded construction noise and vibration effects would be adequately managed through the Construction Noise and Vibration Management Plan, though he recommended minor amendments for clarity and to require pre- and post-construction

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<sup>33</sup> Primary evidence of Mr Morton on behalf of the Requiring Authority, paragraphs 116-119.

building condition assessments to address submitter concerns about structural integrity impacts from piling vibration. Traffic expert Yrish Estoce recommended amendments to conditions, including to strengthen protections around pedestrian safety, particularly for Hamilton West School students, recommending prohibitions on heavy vehicle movements during school start/finish times and requiring workplace travel plans within the Construction Traffic Management Plan. Additional conditions were recommended for a complaints/incidents register and community liaison contact during working hours. The construction duration and hours of operation remain concerns requiring clear management through updated conditions addressing heavy vehicle routes and timing restrictions. Again, these recommendations are incorporated in the agreed conditions.

74. Martin Granese assessed lighting effects as no more than minor with appropriate conditions. Mr Granese recommended an amendment to the conditions to specify that lighting onto the reservoir enclosure be dimmable. He also proposed using grazing light with minimal forward throw. Mr McKensey agrees with these recommendations, and they are reflected in the updated conditions. Mr McKensey does not agree with Mr Granese's recommendations to limit outdoor functional lighting to entry and egress areas nor reducing the 5-minute timer to 2 minutes. The Requiring Authority understands that Mr Granese does not intend to pursue these matters further.
75. The s 42A report notes that at the time of writing, the CEMP conditions were the subject of ongoing consultation with Ngāti Wairere, THaWK and Waikato Tainui. The s 42A report emphasises that while both Cultural Impact Assessments support the Project subject to recommendations, proper implementation and evidence of consultation must be secured through conditions. As recorded in Mr Dawson's primary evidence, Mana Whenua requested that condition

36(c) be amended to refer to the methods by which Mana Whenua will be engaged in delivering the cultural elements of the Project. The evidence of Ms Kukutai and Mr Hill confirms that Mana Whenua are supportive of the updated designation conditions.

76. The Requiring Authority understands that, having reviewed the Requiring Authority's evidence in support of the NOR:

- a) The s 42A officer, and her team of technical specialists, accept the Requiring Authority's updated proposed designation conditions appended to Mr Dawson's rebuttal evidence; and
- b) There are no remaining issues of contention between the s 42A author and her expert team and the RA's experts.

77. A clean copy of the Requiring Authority's updated proposed designation conditions are appended to these submissions in **Attachment A**.

#### **REQUIRING AUTHORITY EVIDENCE**

78. Evidence has been filed on behalf of the Requiring Authority in support of the NOR by:

- a) Jonathon Brooke (Project Sponsor);
- b) Chris Hardy (Alternatives Assessment);
- c) Brian White (Architecture);
- d) Norman Hill (Cultural);
- e) Adam Wild (Heritage);
- f) Thato Mariti (Transport);

- g) Mathew Cottle (Acoustic);
  - h) Dr Jamie MacKay (Ecology);
  - i) Georgina Hailwood (Landscape Architecture – Trees);
  - j) Adrian Morton (Landscape Architecture);
  - k) Sian Keith (Archaeology);
  - l) Harshad Sham Phadnis (Geotechnical);
  - m) Christopher Lenssen (Structural Engineering);
  - n) John McKensey (Lighting); and
  - o) Chris Dawson (Planning).
79. Prior to the hearing, the Panel agreed the evidence of Sian Keith (Archaeology), Harshad Sham Phadnis (Geotechnical), Christopher Lenssen (Structural Engineering), and John McKensey (Lighting) should be taken as read and those witnesses excused from the hearing on the basis that there are no issues in contention in relation to their evidence.<sup>34</sup>
80. The Requiring Authority submits that the Panel should give full weight to the expert evidence filed by the Requiring Authority. In these circumstances, and noting that the Requiring Authority has discharged its obligation under s 168A(3) to provide an assessment of environmental effects supported by appropriately qualified experts, the Panel can properly place considerable reliance on the uncontested expert evidence before it. The Requiring Authority acknowledges that

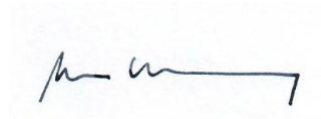
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<sup>34</sup> Panel Direction #2.

submitters have raised legitimate concerns from their perspective as affected parties, but these concerns have been carefully considered by the Requiring Authority's experts in their evidence and addressed in the recommended designation conditions.

81. On this basis, the Panel can confidently confirm the designation subject to the conditions in **Attachment A**.

Dated 20 February 2026



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**L F Muldowney / S K Thomas**  
Counsel for Hamilton City Council

## ATTACHMENT A