

**Before Kaipara District Council**

**In the Matter** of the Resource Management Act 1991 (**RMA**)

**And**

**In the Matter** of an application for Private Plan Change 84 (**PC84**) by **MANGAWHAI HILLS LIMITED** to rezone 218.3 ha of land between Tara Road, Cove Road, Moir Road and Old Waipu Road, Mangawhai from Rural Zone to the Mangawhai Hills Development Area.

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**Summary of Evidence of Evelyn Alisa Neal and Melissa Ivy McGrath  
on behalf of Mangawhai Hills Limited**

**(Planning)**

**Dated 27 May 2024**

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### ***Introduction***

1. We are Evelyn Alisa Neal and Melissa Ivy McGrath. Our qualifications and experience are set out in our Evidence in Chief (“EiC”) dated 21 July 2023.
2. We confirm that we have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2023 and we agree to comply with it. In that we regard we confirm that this evidence is within our sphere of expertise and we have not omitted to consider material facts known to us that might alter or detract from the opinions we express.

### ***Summary of Proposal***

3. PC84 seeks to rezone the Plan Change Area to the ‘Mangawhai Hills Development Area’ (“MHDA”) and introduce a suite of objectives, policies, and rules which guide development. The MHDA has been informed by, and is consistent with, the Mangawhai Hills Structure Plan (“MHSP”) which has been prepared to illustrate intended spatial outcomes of the plan change area, and inform the spatial pattern of land use and subdivision within the MHDA.
4. The intended use and development of spatial areas within the MHSP is reflected in the development area provisions, being large lot residential and commercial hubs. Areas of protection and enhancement are the landscape protection area, existing vegetation areas, native revegetation areas, indicative wetland and stream areas and indicative linear open space areas.
5. The MHDA provisions are standalone from the existing zone and harbour overlay provisions in the KDP. The chapter has been designed and structured to reflect the requirements of the National Planning Standards, following the format of the draft District Plan and is intended to sit within the Operative District Plan with a roll over to the future District Plan.
6. The MHDA objectives and policies seek to:
  - a. Manage ecological, landscape, amenity, servicing and transportation effects whilst enabling sustainable and environmentally conscious residential living opportunities.

- b. Comprehensively design subdivision and development, promoting high quality urban design and open space networks responding positively to the local context and outcomes anticipated with a large lot residential housing density.
  - c. Provide a connected, legible and safe multi-modal transport network.
  - d. Identify, protect and promote the restoration and enhancement of indigenous biodiversity.
  - e. Ensure subdivision and development are undertaken in a manner that adopts an integrated approach to the effects of land use and development on freshwater values.
  - f. Ensure that non-residential activities are compatible with the character and amenity of the MHDA, and do not have any significant adverse effects on the role and function of commercial zones in Mangawhai.
7. The proposed MHDA methods are tailored to achieve the spatial outcomes of the MHSP, with higher level of protection and enhancement within the ecological and landscape protection areas and the enablement of residential and commercial development.
- a. The land use rules and standards are structured to manage built form, activities and environmental effects.
  - b. Subdivision rules and standards ensure ecological areas are protected and enhanced, key roading connections are established and infrastructure is provided at time of subdivision.
  - c. Information requirements are proposed to specifying minimum requirements applying to subdivision and land use applications applying to stormwater management, integrated transport assessment, ecological assessment and landscape protection.
8. In response to the s42A and submissions, the expert team have recommended a number of changes to the MHSP and we have recommended a number of changes to the MHDA provisions. These seek to:

- a. Promote the establishment of open space networks as part of comprehensive designed subdivision and development, removal of identified active open space areas from the MHSP being replaced by a standard to require provision of active open space with flexibility of location;
- b. Clarify the spatial location and scale of community hubs, strengthening of provisions providing for Commercial Activities, Community Facilities and Educational Facilities;
- c. Increase the spatial extent and strengthening of the Landscape Protection Area provisions;
- d. Limitation of residential development to a single residential unit per site;
- e. Identification of flood risk areas and the introduction of land use rules to locate built form outside of flood risk and moderate to high instability areas;
- f. Identification of land instability risk within the MHSP and the introduction of a subdivision rule to require planting of un-vegetated areas, limitation of built form and information requirement; and
- g. Strengthening and clarification of the road, vehicle access, pedestrian walkways and cycleway standards, and the information requirements.

### ***Statutory Framework/Analysis***

9. We have comprehensively addressed the Statutory Framework and Analysis in paragraphs 28 – 100 of our EiC.
10. With respect to Part 2 of the RMA, in our opinion the proposed plan change is consistent with section 5, recognising and providing for relevant section 6 matters, having particular regard to relevant section 7 matters and taking into account the Treaty of Waitangi under section 8. Including:
  - a. Provision of large lot residential living, commercial and community facilities on land adjacent to existing Residential Zoning and in proximity to central business area and community services;
  - b. Co-ordinated delivery of infrastructure;

- c. Management of potential effects on the transport network;
  - d. Protection and enhancement of ecological and landscape features;
  - e. Provision of open space to support the wellbeing of residents; and
  - f. Provision of the relationship of mana whenua with their culture and traditions.
11. Several National Policy Statements, including NZCPS, NPS-FW and NPS-IB in our opinion will be given effect to via recommended provisions. The NPS-HPL in our opinion does not apply to the plan change area and NPS-UD provides useful direction with respect to well-functioning urban environment.
  12. National Environmental Standard for Assessing and Managing Contaminants in soil to Protect Human Health and National Environmental Standard for Managing Freshwater are relevant and will be appropriately assessed at time of future development.
  13. The plan change gives effect to the Northland Regional Policy Statement, is consistent with the Proposed Regional Plan.
  14. The plan change is consistent with and higher order objectives and policies in the Operative District Plan.
  15. The plan change is consistent with Te Uri o Hau Kaitiakitanga o Te Taiao environmental management plan, and the applicant has obtained a CIA from Te Uri o Hau.
  16. The plan change is aligned with the key outcomes of the Mangawhai Spatial Plan.

***Assessment of Environmental Effects and Section 32 Evaluation***

17. Assessment of environmental effects and section 32 evaluation were comprehensively addressed in the original application. We have provided further section 32 evaluation in support of any recommendation's accordance with section 32AA.
18. The revised provisions and precinct MHDA have, where appropriate, been detailed and compared above against viable alternatives in terms of their costs, benefits, efficiency and effectiveness and risk in accordance with the relevant clauses of s32AA. Overall, we consider that the objectives of the plan change are the most appropriate way to achieve the purpose of the RMA, and that the revised provisions (in this case the zoning, objectives,

policies and rules) are the most appropriate way to achieve these objectives and other higher order objectives in the KDP.

### ***Section 42A Report***

19. Having considered the submissions, and the original Council s42A report from the Reporting Planner Mr Clease. The S42A identified 'information gaps' being:
- (a) Extent and management of natural hazard risk;
  - (b) Sensitivity testing of transport modelling and external connection scenarios; and
  - (c) Further assessment of extent of wetlands.
20. The applicant's evidence has addressed these matters in evidence and we have recommended a number of amendments (as previously summarised) to the plan change provisions and the structure plan since notification. These are discussed and detailed our EIC and Supplementary Evidence.

### ***Council Rebuttal Evidence***

21. We have reviewed the rebuttal evidence issued from Kaipara District Council on 13 May 2023. Mr Clease confirms that the issues identified in his S42A Report have substantively been addressed. Mr Clease has identified a number of refinements to provisions and the structure plan which we summarise below, and will address in right of reply:

#### ***Geotechnical hazards***

- a. Mr Clease considers that the amended rule package provided in Attachment 3 of our EIC is sufficient to address land instability natural hazards at time of resource consent. However, Mr Clease recommends an amendment to Policy DEV1-P6 as follows:
  - i. Residential units with the area identified as the moderate to high risk instability area on the Mangawhai Hills Structure Plan is avoided.
- b. We agree that it is appropriate to include policy direction for development in the moderate to high risk instability area however consider that this would be better addressed by the following amendment to DEV1-P6(2):

DEV1-P6.2 Inappropriate new development in the moderate to high-risk instability area, 10- and 100-year flood hazard areas and coastal hazard areas is avoided.

*Moir Street additional road connection*

- c. Mr Clease supports an amendment to the MHSP to illustrate a third road connection onto Moir Street. It is noted that this amendment was in response to the evidence provided in support of submission 4 which has now been withdrawn. Notwithstanding this, we have considered the need for an alternative southern roading connection to be illustrated on the MHSP and remain of the opinion that this is not necessary. We consider that the provisions as proposed will enable alternative road connections to be established at time of resource consent in a manner that achieves key transportation connectivity outcomes.

*Wider network road, pedestrian and cycle infrastructure upgrades*

- d. Mr Clease recommends that the MHSP is revised to illustrate a shared path link and road crossing facilities between Moir Street, along Tara Road to the sites primary road intersections. Mr Clease also recommends that Old Waipu Road is extended to Cove Road, and that this is illustrated on the MHSP to provide clear direction as to the upgrades that will be necessary. We do not agree with these recommendations and remain of the view that the recommended Precinct Provisions are appropriate to ensure that potential effects on the wider transportation network are appropriately mitigated through necessary roading and footpath upgrades at the time of development.

*Shared access*

- e. Mr Clease recommends that Rule DEV1-S13A(1)(iv-v) and associated Table DEV1.1 is amended to align with the Operative District Plan rule that limits the number of lots that can be serviced via a private access to no more than seven. We do not agree with this suggested amendment and have not seen any evidence that would support such a change.

*Ecology*

- f. Mr Clease recommends that there should be a specific requirement added to DEV1-REQ6 which requires a bat survey to be undertaken at time of any subdivision within the MHSP. Mr Clease also recommends changes to the provisions that relate to vegetation clearance for the formation of walking tracks. We do not agree and remain of the view that the recommended Precinct Provisions are appropriate to manage potential effects resulting from the non mechanical clearance of vegetation for the formation of walking tracks.

#### *Three waters*

- g. Mr Clease recommends an amendment to the title of the water supply table to better reflect its purpose. We agree with this recommended amendment.
- h. Mr Clease recommends a minimum 3000m<sup>2</sup> lot size where lots are not connected to a reticulated wastewater network, as well as amendments to policy DEV1-P5. Relying on the evidence of Mr Rankin, we remain of the view that recommended amendments to the standard reference to 'AS/NZS 1547:2012' is more appropriate to effectively manage onsite wastewater design in accordance with the current New Zealand Standard, and that the provisions as proposed will implement DEV1-P5.4.

#### *Community Hubs*

- i. Mr Clease recommends amendments to the provisions relating to Community Hubs, notably the inclusion of Community Hub area D, and refinement to the provision wording to more clearly indicate the maximum net floor area thresholds within each community hub area. We agree with Mr Clease and recommend that the suggested changes be made.
- j. As we have been reviewing the provisions it has come to our attention that the recommendation to include the property at 104 Moir Street as part of 'Community Hub Area D' has unintentionally resulted in a recommendation to zone a property that is situated outside of the proposed plan change area, whereby the property at 104 Moir Street is located within the Operative Residential Zone and is not within the PC84 plan change area boundary. This does not change our primary position that it is appropriate that the property at 110 Moir Street is identified as 'Community Hub Area D'. We therefore recommend that the structure is updated

to clearly identify the property at 104 Moir Street as being outside of the plan change area.

*Rule mechanics*

- k. Mr Clease has identified that DEV1-R1 as recommended includes reference to a flood map in figure 1, and notes that this figure is not included in the latest set of provisions. We agree and have included this map in the latest set of recommended provisions for completeness.
  - l. Mr Clease recommends amendments to the site coverage standard (DEV1-S1) to ensure that large building coverage is not enabled on larger lot sizes as a result of applying a percentage only. We agree that this amendment will more appropriately implement policy DEV1-P8.
  - m. Mr Clease recommends an amendment to DEV1-S2 (Height) to remove ambiguity around the implementation of the standard. We agree that this amendment will remove ambiguity and more appropriately implement policy DEV1-P8.
  - n. Mr Clease recommends that all five sheets that were prepared to support the structure plan should be included within the District plan. We note that the MHDA provisions specifically apply to the overarching structure plan map and therefore do not agree that all five sheets should be included.
22. Overall, after carefully considering the relevant statutory documents, the submissions and further submissions received and assessment undertaken in the s42A, we recommend that PPC84 be approved with modifications.