

BEFORE THE HEARING PANEL APPOINTED BY KAIPARA DISTRICT COUNCIL

IN THE MATTER OF the Resource Management Act 1991 (**RMA**)

AND

IN THE MATTER OF the hearing of submissions on Proposed Private Plan
Change 84 by Mangawhai Hills Limited

**MEMORANDUM ON BEHALF OF KAIPARA DISTRICT COUNCIL RE
SURVEY METHODOLOGY FOR LONG-TAILED BATS**

DATED 31 MAY 2024

**SIMPSON
GRIERSON**

Warren Bangma

T: +64-9-358 2222

warren.bangma@simpsongrierson.com

Private Bag 92518 Auckland

MAY IT PLEASE THE HEARING PANEL:

INTRODUCTION

1. On the second and final day of the Hearing, the Hearing Panel requested Dr Brown provide the Panel with further information regarding:
 - 1.1 The methodology that he recommends be used in surveys to determine whether any Long-Tailed Bats are present on the site; and
 - 1.2 Whether the scope of such surveys could potentially be narrowed so that such surveys are only undertaken when, for example, removal of trees over a certain size or height is contemplated.
2. Dr Brown has prepared a memorandum outlining the decision pathway for determining how and when a bat survey should be undertaken. This memorandum is **attached**.

THE PLANNING PROVISIONS

3. To assist the Hearing Panel I have liaised with the reporting planner, Mr Clease. Mr Clease does not consider any changes are required to the PPC84 provisions, in response to Dr Brown's memorandum.
4. In particular, with respect to the consideration of ecological matters under the rule framework for PPC84, it is noted that:
 - 4.1 Subdivision is a restricted discretionary activity under rule DEV1-R19.
 - 4.2 Any subdivision application is required to be supported by an ecological assessment prepared by a suitably qualified ecologist under DEV1-REQ6 (Information requirements).
 - 4.3 As outlined in his rebuttal evidence, Mr Clease recommends an additional line item be added to the matters that must be considered in that ecological assessment, so that this includes '(xvi) A bat survey and management plan'. This is essentially to ensure that there is visibility in relation to this, and assessment of effects on Long-Tailed Bats is not overlooked.

- 4.4** REQ6 does not prescribe the methodology by which more detailed assessments of any effects on ecological values (including in relation to Long-Tailed Bats) is to occur. However, the requirement that the assessment be undertaken by a suitably qualified ecologist means it is implicit that the assessment will be undertaken in a professional manner and in accordance with industry accepted good practice. As with any information provided in support of a resource consent application, the Council will have the ability to commission peer reviews of the effects assessments provided to the Council to ensure it has sufficient information in relation to the proposal's effects (including its ecological effects).
- 4.5** Accordingly, overall, provided the information requirements are amended as sought by Mr Cleese (to include a requirement for 'a bat survey and management plan'), it is considered there can be confidence that ecological effects (including in relation to Long-Tailed Bats) will be appropriately addressed.
- 5.** During the course of the hearing, the Hearing Panel also posed questions relating to how, in practice, a survey for Long-Tailed Bats might be commissioned by an applicant. In particular, whether there might be one survey undertaken for the whole site; or smaller surveys in response to specific applications involving subdivision of only part of the site.
- 6.** In relation to this, the Council considers that:
- 6.1** It is possible that, in relation to Long-Tailed Bats, an initial more detailed survey of the wider plan change area could be undertaken. This report could then form the information base such that subsequent smaller staged subdivision applications simply refer back to the base report, with if need be a more focussed addendum on the subdivision stage under consideration.
- 6.2** However, ultimately this is a matter for the applicant to determine. This issue equally arises in respect of all other ecological matters (e.g. wetland extent, lizards etc).

7. Overall, in relation to this issue of survey methodology for Long-Tailed Bats, and whether any changes are required to the PPC84 provisions, the Council section 42A team considers that:
- 7.1 Dr Brown's memorandum provides helpful direction on the process for undertaking bat surveys. However, for the reasons outlined above, it is not considered necessary to include such methodological detail in the District Plan. Nor does Dr Brown's memorandum support a limitation so that the survey is only necessary when removal of trees over a certain height/ trunk diameter;
- 7.2 Overall, it continues to support the provisions outlined in Mr Clease's rebuttal evidence and considers these provisions will allow ecological effects (including any effects on Long-Tailed Bats) to be appropriately addressed.
8. Lastly, the section 42A records that, as indicated at the hearing, to the extent that the applicant wishes to engage on any refinements to the drafting of the PPC84 provisions, Mr Clease confirms his availability and willingness to participate in such discussions.



Warren Bangma
Counsel for the Kaipara District Council
31 May 2024