

**BEFORE THE ENVIRONMENT COURT**

**ENV - 2022**

**TĀMAKI MAKĀURAU**

**IN THE MATTER**

of an appeal under Clause 14  
of the First Schedule of the  
Resource Management Act  
1991

**BETWEEN**

**DIRECTOR-GENERAL OF  
CONSERVATION**

*Appellant*

**AND**

**WAIKATO DISTRICT COUNCIL**

*Respondent*

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**NOTICE OF APPEAL BY THE DIRECTOR-GENERAL OF CONSERVATION AGAINST  
DECISIONS ON PROPOSED WAIKATO DISTRICT PLAN**

**DATED 1 MARCH 2022**

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Counsel acting: Troy Ulrich

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Private Bag 3072

Waikato Mail Centre

Kirikiroa 3204

**To:** the Registrar  
Environment Court  
Tāmaki Makaurau

**And to:** the Respondent

**Appeal**

1. I, Penny Nelson appeal against part of a decision of the Respondent on the Proposed Waikato District Plan (**Proposed Plan**).
2. I made a submission and a further submission on the Proposed Plan on around 8 October 2018 (**Original Submission**, #535) and 16 July 2019 (**Further Submission**) respectively.
3. My Original Submission and Further Submission addressed several matters. They sought:
  - a. new objectives, policies and rules to address the control and management of kauri dieback, particularly with respect to earthworks and measures to prevent the spread of the disease;
  - b. to ensure that any area that meets the significant natural area criteria in 11A Waikato Regional Policy Statement is managed as such, even where that area is not mapped;
  - c. provisions to protect significant natural areas within or adjacent to plantation forestry;
  - d. provisions to protect native and exotic trees that are habitat for threatened indigenous fauna;
  - e. provisions to ensure appropriate management of indigenous biodiversity, particularly with respect to the maintenance, enhancement and / or protection of indigenous vegetation and habitat for indigenous fauna;
  - f. amendments to require appropriate offset of significant residual adverse effects;
  - g. inclusion of provisions that allow for appropriate compensation, following avoidance, mitigation, remediation and offsetting measures;

- h. such further or alternative relief to address matters raised in my Original Submission and Further Submission, including consequential amendments.
- 4. I am not a trade competitor for the purposes of section 308D Resource Management Act 1991 (**RMA**).
- 5. I received notice of the Decision on 17 January 2022.<sup>1</sup>
- 6. The Decision was made by the Respondent.
- 7. I appeal the parts of the Decision relating to the Original Submission and Further Submission points identified at paragraph 3 above, to the extent that the Decision does not provide for the relief sought or otherwise adequately address the issues raised.

#### **Reasons for Appeal**

- 8. The reasons that I am appealing the Decision to the extent identified above include that it:
  - a. does not achieve the RMA's purpose. The Decision does not promote sustainable management, including that it does not enable resources to be managed in a manner that safeguards the life-supporting capacity of soil and ecosystems;
  - b. fails to give substance to Part 2 RMA, particularly in relation to protecting significant indigenous vegetation and habitat of indigenous fauna, the intrinsic values of ecosystems, maintaining and enhancing the quality of the environment and the finite characteristics of natural and physical resources;
  - c. is inconsistent with or contrary to other RMA provisions. The Decision does not achieve functions prescribed to the Respondent under section 31 RMA, including its function of controlling actual or potential effects of the use, development or protection of land for the purposes of:

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<sup>1</sup> The notice pertained to stage 1 and 2, excluding the parts of the Proposed Plan concerning Raglan Navigation Beacon and Ohinewai Rezoning and Development provisions, which were respectively notified on 31 July 2020 and 24 May 2021.

- i. preventing or mitigating adverse effects associated with contaminated land;
  - ii. maintaining indigenous biological diversity;
- d. fails to give effect to and is inconsistent with or contrary to higher order planning instruments, including provisions contained in the Waikato Regional Policy Statement and Plan;
- e. such further or alternative relief to address matters raised in my Original Submission and Further Submission, including consequential amendments.

**Relief**

9. I seek the following relief:
- a. new and / or stronger objectives, policies and rules to control potential effects of the use, development or protection of land for the purpose of preventing any adverse effects associated with the spread of kauri dieback. In particular, provisions that control activities such as earthworks, gardening, cultivation and disturbance of land for the installation of fence posts within the kauri root zone;
  - b. amend the definition of “Significant Natural Area” to include unmapped areas that meet the criteria identified in Appendix 2 of the Proposed Plan;
  - c. amend Part 2 ECO to include recognition, provision and protection of the “habitat” of indigenous fauna, rather than “indigenous fauna”;
  - d. amend ECO-R7 and ECO-R14 and insert new provisions to provide for protection of exotic trees, where those trees qualify as significant habitat for indigenous species;
  - e. amend Appendix 2 to provide for the significant natural area criteria to apply to plantation forestry;
  - f. amend ECO-P2(1)(c) to require offsetting of residual adverse effects, rather than effects that are more than minor;

- g. amend ECO-P3(1) to allow for biodiversity offsetting following avoidance, mitigation and remediation, where an activity will result in residual adverse effects on any significant natural area;
- h. amend Appendix 3 to require a quantitative assessment of biodiversity losses and gains rather than a qualitative assessment;
- i. amend ECO-P2 to recognise that there are limits to the appropriate use of compensation;
- j. such further, consequential or alternative relief as may be necessary to address the matters raised in my Original Submission and Further Submission and to better achieve the RMA's purpose and principles and to ensure the proper exercise of the Respondent's functions;
- k. costs.

#### **Attachments**

10. I **attach** copies the following documents to my notice:
- a. my Original Submission and Further Submission;
  - b. relevant parts of the Decision;
  - c. a list of names and addresses of persons to be served with a copy of my notice.

**Dated** 1 March 2022



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Natasha Ryburn

Director Planning Permissions and Land

Acting pursuant to delegated authority on behalf of Penny Nelson, Director-General of Conservation.

**Address for service**

C/- Troy Ulrich

Private Bag 3072

Waikato Mail Centre

Kirikiroa 3204

[tulich@doc.govt.nz](mailto:tulich@doc.govt.nz)

## **Advice to recipients of copy of notice of appeal**

### ***How to become party to proceedings***

You may be a party to the appeal if you made a submission or a further submission on the matter of this appeal.

To become a party to the appeal, you must:

- within 15 working days after the period for lodging a notice of appeal ends, lodge a notice of your wish to be a party to the proceedings (in [form 33](#)) with the Environment Court and serve copies of your notice on the relevant local authority and the appellant; and
- within 20 working days after the period for lodging a notice of appeal ends, serve copies of your notice on all other parties.

Your right to be a party to the proceedings in the court may be limited by the trade competition provisions in [section 274\(1\)](#) and [Part 11A](#) RMA.

You may apply to the Environment Court under [section 281](#) RMA for a waiver of the above timing or service requirements (see [form 38](#)).

### ***Advice***

If you have any questions about this notice, contact the Environment Court in Tāmaki Makaurau.

Schedule 1 form 7: replaced, on 3 September 2020, by [regulation 7\(3\)](#) of the Resource Management (Forms, Fees, and Procedure) Amendment Regulations 2020 (LI 2020/180).



Department of Conservation  
*Te Papa Atawhai*

8th October 2018

Waikato District Council  
Private Bag 544  
Ngaruawahia 3742  
New Zealand

Dear Sir or Madam

**SUBMISSION ON THE PROPOSED WAIKATO DISTRICT PLAN**

Please find attached a submission on behalf of the Director-General of Conservation in respect of the Proposed Waikato District Plan.

If you have any questions or would like to discuss this submission, please contact Maggie Burns on 0276322961 or [mburns@doc.govt.nz](mailto:mburns@doc.govt.nz).

Yours sincerely

A handwritten signature in blue ink, reading "Lucy Roberts".

Lucy Roberts  
Operations Manager  
Waikato District  
Department of Conservation



## RESOURCE MANAGEMENT ACT 1991

### SUBMISSION ON PUBLICLY NOTIFIED PROPOSAL FOR A PROPOSED DISTRICT PLAN

**TO:** Waikato District Council

**SUBMISSION:** Proposed Waikato District Plan

**NAME:** Lou Sanson  
Director General of Conservation

**ADDRESS:** Shared Service Centre Hamilton  
Department of Conservation - Te Papa Atawhai  
Level 3, 73 Rostrevor Street, Hamilton

### STATEMENT OF SUBMISSION BY THE DIRECTOR GENERAL OF CONSERVATION

Pursuant to Clause 6 of the First Schedule, Resource Management Act 1991 (RMA), I, Ray Scrimgeour, Operations Manager, Waikato District, submit the following on behalf of the Director-General of Conservation:

1. The Director-General of Conservation ('the Director-General') has all the powers reasonably necessary to enable the Department of Conservation ('the Department') to perform its functions. A function of the Department is to advocate the conservation of natural and historic resources generally. Section 2 of the Conservation Act 1987 defines 'conservation' to mean *'the preservation and protection of natural and historic resources for the purpose of maintaining their intrinsic values, providing for their appreciation and recreational enjoyment by the public, and safeguarding the options of future generation'*.
2. This is a submission on the Proposed Waikato District Plan (the Proposed Plan).
3. I could not gain an advantage in trade competition through this Submission
4. The specific provisions of the Proposed Plan that my submission relates to, together with the submission and decisions which I seek from Waikato District Council (The Council) are set out in Attachment 1.
5. The decisions sought in this submission are required to ensure that the Proposed Plan:
  - promotes the sustainable management of natural and physical resources in the Waikato District as required by Part 2 of the Resource Management Act 1991 (RMA);
  - provides for the preservation of the natural character of the wetlands, lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development as required by section 6(a) of the RMA;

- provides for the protection of outstanding natural features and landscapes from inappropriate subdivision, use and development as required by section 6 (b) of the RMA;
- provides for the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna as required by section 6 (c) of the RMA;
- is otherwise consistent with Part 2 of the RMA;
- gives effect to the New Zealand Coastal Policy Statement 2010 and the Waikato Regional Policy Statement as required by section 75(3) of the Resource Management Act 1991.

6. I seek the following from Council:

6.1 That the particular provisions of the Proposed District Plan that I support, as identified in Attachment 1, be retained.

6.2 That the amendments, additions and deletions to the Proposed District Plan sought in Attachment 1 are made.

6.3 Further or alternative relief to like effect to that sought in paragraphs 4.1-4.2 above, and any consequential amendments required as a result of such amendments.

7. I **do** wish to be heard in support of my submission. If others make a similar submission, I will consider presenting a joint case with them at a hearing.

DATED AT HAMILTON THIS 8th DAY OF OCTOBER 2018



Lucy Roberts  
Operations Manager  
Waikato District

Acting pursuant to delegated authority  
on behalf of Lou Sanson  
Director-General of Conservation

Address for Service:  
Maggie Burns  
Shared Services Centre Hamilton  
Department of Conservation  
73 Rostrevor Street  
Hamilton  
Ph: 027 632 2961  
Email: [mburns@doc.govt.nz](mailto:mburns@doc.govt.nz)

A copy of the Instrument of Delegation may be inspected at the Office of the Director-General of Conservation.

Provision	Comment		Relief Sought
	Support/ Oppose	Reasons:	
General – Plan-wide Provisions			
Introductions and zone descriptions	Oppose	<p>The Director-General of Conservation (the Director-General) understands that there is a move to reduce the amount of information in the Waikato District Plan but views the lack of introductions and zone descriptions as not providing adequate information to plan users.</p> <p>Particularly Chapter 3 requires a good overview of the indigenous biodiversity of the Waikato District, the loss of indigenous vegetation and ecosystems over time, its significance now and therefore the issues relating to biodiversity in the area.</p>	Include introductions and zone descriptions at the beginning of each chapter to provide more guidance on the plan’s structure to plan users.
Kauri Dieback	Oppose	Kauri Dieback is caused by a pathogen that is easily spread through soil movements, including when it is carried on footwear, equipment and vehicles. The disease is threatening Kauri with functional extinction and requires collaborative work to manage the disease and control any further spread. Any land disturbance works within three times the radius of the canopy of the dripline of New Zealand Kauri Tree (“the kauri hygiene zone”) can cause potential contamination of an uninfected site and spread the disease.	Include objectives, policies and rules to address the management of kauri dieback, particularly around earthworks and measures to prevent spread of the disease.

		The Director-General is currently involved in Environment Court proceedings for the Thames Coromandel District Plan. When the final decision is released and confirmed by Environment Court, the Director-General considers that provisions of Thames Coromandel District Plan, as they relate to the management of Kauri Dieback disease, should be adopted into the Proposed Plan, where appropriate.	
Coastal Environment Line	Oppose	The Director-General supports the mapping of the coastal environment line in the district, however, requests reassessment of a discrepancy.	Reassess and remap the coastal environment line at Port Waikato to take into account the position of the coastal marine area boundary as shown in the Waikato Regional Coastal Plan.  Any further relevant amendments as required
Significant Natural Area mapping and criteria	Oppose	The Director-General supports mapping of Significant Natural Areas (SNAs) but also requests provisions to ensure unmapped areas that meet SNA criteria are managed appropriately.	Amend the plan to manage areas that are not mapped but meet the criteria for SNAs stated in the Waikato RPS
Outstanding Natural Features and Outstanding Natural Landscapes	Oppose	The Director-General requests the reintroduction of schedules for Outstanding Natural Features and Landscapes to better recognise the individual attributes that make specific areas outstanding.	Include a schedule for ONFs and ONLs.
Clearance and management of manuka and kanuka	Oppose	With the advent of myrtle rust all <i>Kunzea</i> and <i>Leptospermum</i> taxa are now considered threatened ( <a href="https://www.doc.govt.nz/Documents/science-and-technical/nztcs22entire.pdf">https://www.doc.govt.nz/Documents/science-and-technical/nztcs22entire.pdf</a> ).  The taxonomy and current threatened status of manuka and kanuka must be reflected and managed appropriately through objectives, policies and rules in the proposed plan.	Amend objectives, policies and rules as appropriate to recognise and implement measures to address and manage the revised conservation status of <i>Kunzea</i> and <i>Leptospermum</i> taxa.
Inclusion of bat zones and tree protection rules	Oppose	The Director-General highlights that both exotic and native trees provide important habitat for native and threatened bats.	Include mapping, objectives, policies and rules which recognize bat zones and tree protection. For example, wording as follows (from Draft Timaru District Plan):

		<p>The removal of such trees on a fragmented landscape will impact on the native species habitat and survival.</p> <p>Mapping bat zones will provide protection for important bat nesting and roosting areas</p>	<p><i>For All Zones</i></p> <p><i>Activity Status: RD</i></p> <p><i>Where:</i></p> <ol style="list-style-type: none"> <li><i>1 Removal of any tree within the long-tailed bat protection area, including the river bed, shown on the planning maps, is</i> <ol style="list-style-type: none"> <li><i>A. a native tree with a trunk diameter at breast height greater than 10cm</i></li> <li><i>B. an exotic tree with a trunk diameter at breast height greater than 20cm</i></li> </ol> </li> </ol> <p><i>Except: The following activities are exempt from this rule</i></p> <ol style="list-style-type: none"> <li><i>1 removal of trees planted for timber production (plantation forest and woodlots) or trees planted within domestic gardens</i></li> </ol> <p><i>Matters of discretion are restricted to:</i></p> <ol style="list-style-type: none"> <li><i>1 whether, upon specialist assessment (which may only be carried out during October to April when bats are not hibernating), the tree/s proposed to be removed are currently providing roost site for long-tailed bats</i></li> <li><i>2 the extent to which the removal of tree/s would impact on the ability of the long-tailed bat protection area to provide for the needs of the bats</i></li> <li><i>3 the extent to which the long-tailed bat protection area has been previously modified by the removal of bat habitat</i></li> </ol>
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Submission points by chapter			
Objective 3.1.1	Support	The Director-General supports this objective as consistent with Section 6(c) RMA.	Retain as notified
Policy 3.1.2 (a) (i)	Oppose	<p>The Director-General requests recognition of potential initiatives to reintroduce fauna as components of habitats.</p> <p>Ecosourcing refers to plants grown from seeds or propagules collected from the naturally occurring vegetation close to the restoration site. Applying ecosourcing principles is important for the following reasons: species are often adapted to local conditions. Certain plant species show marked genetic variation between populations (e.g. kanuka, manuka and kowhai). To avoid plant species not native to Waikato District becoming invasive and impacting on the local native vegetation eco sourced indigenous plants should be used.</p>	<p>Change the wording to:</p> <p>Enable activities that maintain or enhance indigenous biodiversity including:</p> <ul style="list-style-type: none"> <li>i. planting and <u>reintroducing eco-sourced</u> indigenous species suitable to the habitat;</li> </ul>
Policy 3.1.2 (a) (iii)	Oppose	Plant diseases such as kauri dieback and myrtle rust present immediate threats to indigenous species. Amendment to recognise plant diseases will provide better acknowledgement of the potential risks from these diseases.	<p>Change the wording to:</p> <p>Enable activities that maintain or enhance indigenous biodiversity including:</p> <p>...</p> <ul style="list-style-type: none"> <li>iii. biosecurity works <u>including management of plant diseases</u></li> </ul>
Policy 3.1.2 (b)	Oppose	The Director-General supports the intent of this provision to avoid, remedy or mitigate adverse effects on indigenous biodiversity, however, the current wording of this policy does not allow for consideration of aspects of indigenous biodiversity outside of those listed.	<p>Change the wording to:</p> <p><del>Consider the following when avoiding, remedying or mitigating adverse effects on indigenous biodiversity</del> <u>including by considering:</u></p> <ul style="list-style-type: none"> <li>i. the required range of natural food sources;</li> </ul>

		Policy 11.1 of the WRPS indicates focus on particular aspects of biodiversity but does not limit consideration to this list. Amendment of this policy will give effect to the WRPS.	<ul style="list-style-type: none"> <li>ii. habitats of threatened and at-risk species;</li> <li>iii. ecological processes and corridors</li> <li>iv. ecological sequences;</li> <li>v. migratory pathways;</li> <li>vi. pest plants and pest animals;</li> <li>vii. the Waikato river and its catchment;</li> <li>viii. natural character and landscape values of the area;</li> <li>ix. natural waterway habitats and hydrology;</li> <li>x. ecological corridors, natural processes and buffer areas;</li> <li>xi. legal and physical protection of existing habitat;</li> </ul>
Policy 3.1.2 (c)	Oppose	Under the 2017 assessment of the conservation status of plants, all species of <i>Kunzea</i> and <i>Leptospermum</i> are assessed as threatened, due to the threat posed by Myrtle Rust.	Amend as appropriate to recognise and implement measures to address and manage <i>Kunzea</i> and <i>Leptospermum</i> taxa in light of their re-assessed conservation status.
3.2.1 Objective – Significant Natural Areas	Support	The Director-General supports this objective.	Retain as notified
3.2.2 Policy – Identify and Recognise	Support	The Director-General supports this policy.	Retain as notified
3.2.3 Policy – Management Hierarchy	Oppose	<p>The Director-General generally supports Policy 3.2.3, however requests amendments to ensure the policy gives effect to the RPS and is consistent with Guidance for Biodiversity Offsetting.</p> <p>Avoidance of adverse effects should apply to all activities before other measures are considered.</p>	<p>(a) Recognise and protect indigenous biodiversity within Significant Natural Areas by:</p> <ul style="list-style-type: none"> <li>i. avoiding the significant adverse effects of vegetation clearance and the disturbance of habitats <del>unless specific activities need to be enabled</del>; <u>as a preference</u></li> </ul>
3.2.4 Policy – Biodiversity Offsetting	Oppose	The Director-General supports the inclusion of a policy to address biodiversity offsets, however, requests amendment to better reflect the management hierarchy in 3.2.4 above.	<p>Change the wording to:</p> <p>(b) Within a Significant Natural Area, a biodiversity offset will only be considered appropriate where adverse effects</p>

		<p>Environmental compensation should be provided for in cases where it is demonstrated that biodiversity offsetting cannot achieve its no net loss goal. This should be reflected in an additional point (3.2.4(c)).</p> <p>This gives effect to Section 104 (ab) RMA.</p>	<p>have been <u>preferentially</u> avoided, <u>then</u> remedied or mitigated in accordance with the hierarchy established in Policy 3.2.3; and</p> <p>...</p> <p>Include an additional bullet point which provides for consideration of environmental compensation in cases where biodiversity offsetting cannot be reasonably achieved as to address environmental effects that cannot be avoided, remedied or mitigated.</p>
3.2.5 Policy – Biodiversity in the coastal environment	Oppose	<p>The Director-General requests amendments to this policy to ensure it covers all of the coastal environment in the district, not just those in Significant Natural Areas.</p> <p>Policy 11 of the NZCPS requires protection of indigenous biological diversity in all areas of the coastal environment.</p>	<p>Move the policy to section 3.1 and amend the wording as follows:</p> <p>3.2.5 Policy - Biodiversity in the coastal environment (a) Avoid the adverse effects of subdivision use and development <del>within Significant Natural Areas</del> of the coastal environment on:</p>
3.2.6 Policy – Providing for vegetation clearance	Oppose	<p>Policy 3.2.6 provides for vegetation clearance for building platforms, services access, vehicle parking and firewood. The Director-General considers that this policy is too permissive for vegetation clearance in Significant Natural Areas.</p>	<p>Delete 3.2.6 (a) (iv) and 3.2.6 (b)</p>
3.5.1 Objectives – Natural Character	Oppose	<p>Section 6(a) of the RMA and Policy 13 of the NZCPS requires consideration of all natural character in the coastal environment, not just high and outstanding.</p>	<p>a) The <del>high and Outstanding</del> Natural Character of the coastal environment is protected from inappropriate subdivision, use and development.</p>
3.5.3 Policy – protecting the natural character qualities of the	Oppose	<p>Part of the functioning of coastal dune systems involves a level of instability. The Director-General considers that this policy should reflect this aspect of the natural processes associated with coastal dune systems.</p>	<p>Change the wording to:</p> <p>(a) Protect the qualities of outstanding and high natural character areas in the coastal environment from inappropriate subdivision, use and development by:</p>



coastal environment		The Director-General understands that coastal dune systems have been mapped in the proposed district plan, however, requests that all dune systems are covered and not just those identified, to ensure protection for any which may have been overlooked during mapping.	(iv) avoiding activities that damage the <del>stability</del> <u>functioning</u> of identified coastal dune systems;
5.3.5 – Policies – Earthworks	Oppose	<p>Kauri Dieback is caused by a pathogen that is easily spread through soil movements, including when it is carried on footwear, equipment and vehicles. The disease is threatening Kauri with functional extinction and requires collaborative work to manage the disease and control any further spread. Any land disturbance works within three times the radius of the canopy of the dripline of New Zealand Kauri Tree (“the kauri hygiene zone”) can cause potential contamination of an uninfected site and spread the disease.</p> <p>The Director-General is currently involved in Environment Court proceedings for the Thames Coromandel District Plan. When the final decision is released and confirmed by Environment Court, the Director-General considers that provisions of Thames Coromandel District Plan, as they relate to the management of Kauri Dieback disease, should be adopted into the Proposed Plan, where appropriate.</p>	Amend this policy to address the management of kauri dieback and measures to prevent spread of the disease.
5.3.13 Policy – Waste Management Activities	Oppose	The Director-General considers that waste management facilities should not be located within the identified outstanding landscape or natural character areas and significant natural areas.	Delete 5.3.13 (c)
5.6.7 – Policies – Earthworks	Oppose	Kauri Dieback is caused by a pathogen that is easily spread through soil movements, including when it is carried on footwear, equipment and vehicles. The disease is threatening Kauri with functional extinction and requires collaborative work to manage the disease and control any further spread. Any land disturbance works within three times the radius of the	Amend this policy to address the management of kauri dieback and measures to prevent spread of the disease.

		<p>canopy of the dripline of New Zealand Kauri Tree (“the kauri hygiene zone”) can cause potential contamination of an uninfected site and spread the disease.</p> <p>The Director-General is currently involved in Environment Court proceedings for the Thames Coromandel District Plan. When the final decision is released and confirmed by Environment Court, the Director-General considers that provisions of Thames Coromandel District Plan, as they relate to the management of Kauri Dieback disease, should be adopted into the Proposed Plan, where appropriate.</p>	
22.1.2 Permitted Activities	Oppose	<p>Without any permitted activity conditions for forestry activities, the National Environmental Standards for Plantation Forestry (NESPf) apply.</p> <p>Under Reg6(2)(b) of the NESPf, a rule in a district plan may be more stringent than the regulations if the rule recognises and provides for the protection of significant natural areas.</p> <p>The Director-General considers it necessary for the plan to recognise and provide for the protection of SNAs within or adjacent to plantation forest.</p>	Amend forestry provisions in plan to afford greater protection to indigenous vegetation and SNAs.
New Definition	Oppose	The Director-General requests the addition of a definition for biodiversity offsetting to reflect the Guidance for Biodiversity Offsetting in New Zealand	<p>Include a definition of biodiversity offset as below:</p> <p><u><i>Biodiversity offsets are measurable conservation outcomes resulting from actions designed to compensate for significant residual adverse biodiversity impacts arising from project development after appropriate prevention and mitigation measures have been taken. The goal of biodiversity offsets is to achieve no net loss and preferably a net gain of biodiversity on the ground.</i></u></p>

New Definition	Oppose	The Director-General requests the addition of a definition for environmental compensation to reflect Guidance on biodiversity offsetting in New Zealand	<p>Include a definition of environmental compensation as below:</p> <p><i><u>Environmental compensation comprises actions offered as a means to address residual adverse effects on the environment arising from project development that are not intended to result in no net loss or a net gain of biodiversity on the ground.</u></i></p>
14.6.2 Restricted Discretionary Activities  Small-scale and community-scale wind farms		Wind farms, even those of smaller-scale, have the potential to have significant ecological impacts, particularly on avifauna and bats. Additional matters of discretion are requested to address these impacts for small-scale and community-scale electricity generation.	Include additional matters of discretion to address any adverse effects to the environment associated with the construction, operation and decommissioning of small-scale and community-scale electricity generation projects.
14.6.3 Discretionary Activities	Support	The Director-General supports the discretionary activity status for large-scale wind farms located within the rural zone.	Retain as notified
14.6.3 Non-complying Activities	Support	The Director-General supports the non-complying activity status of large-scale wind farms located outside the rural zone, including in identified areas.	Retain as notified
Indigenous Vegetation Clearance Rules	Oppose	The Director-General acknowledges the need to provide for indigenous vegetation clearance in some circumstances, however, the current rules for vegetation clearance within	Amend indigenous vegetation clearance rules in all zones, including the following changes:

<p>Inside Significant Natural Areas</p> <p>Residential: 16.2.8 Business Zone: 17.2.9 Industrial Zone: 20.2.9 Industrial Zone Heavy: 21.2.9 Rural Zone: 22.2.7 Country Living Zone: 23.3.9 Village Zone: 24.2.8 Reserve Zone: 25.8 Rangitahi Peninsula Zone: 28.2.8</p> <p>And any other relevant rules in other zones</p>		<p>significant natural areas fail to adequately protect or manage biodiversity values present in these areas. It is important to appropriately manage indigenous vegetation clearance to prevent further fragmentation and loss in the Waikato District.</p> <p>P2 describes a maximum volume of manuka and kanuka that may be removed per 12 months outside of the coastal environment (5m<sup>3</sup>). A volume of timber is dependent on the size of trees and their density where 5m<sup>3</sup> may be clearance of an area of a few m<sup>2</sup>, where a few large trees are harvested, to an area of several hundred m<sup>2</sup> when small trees are harvested. An area limit is more suitable to ensure consistency of removal.</p>	<p>Include a maximum vegetation clearance permitted activity rule for all purposes.</p> <p>Include a minimum setback distance from water bodies for all purposes.</p> <p>Change P2 to a maximum area of clearance and not a maximum volume.</p> <p>Any other relevant amendments as required</p>
<p>Indigenous vegetation clearance rules</p> <p>Residential: 16.2.8 Business Zone: 17.2.9 Industrial Zone: 20.2.9</p>	Support	<p>The Director-General supports vegetation clearance outside permitted activity standards becoming a discretionary activity</p>	<p>Retain as notified</p>

<p>Industrial Zone Heavy: 21.2.9 Rural Zone: 22.2.7 Country Living Zone:23.3.9 Village Zone: 24.2.8 Reserve Zone: 25.8 Rangitahi Peninsula Zone: 28.2.8</p> <p>And any other relevant rules in other zones</p>			
<p>Indigenous vegetation clearance rules</p> <p>Residential: 16.2.8 Business Zone: 17.2.9 Industrial Zone: 20.2.9 Industrial Zone Heavy: 21.2.9 Rural Zone: 22.2.7 Country Living Zone:23.3.9 Village Zone: 24.2.8 Reserve Zone: 25.8</p>	Support	The Director-General supports vegetation clearance outside permitted activity standards becoming a discretionary activity	Retain as notified

Rangitahi Peninsula Zone: 28.2.8			
And any other relevant rules in other zones			
Appendix 6: Biodiversity Offsetting		<p>The Director-General generally supports Appendix 6, however, requests amendment to better reflect Guidance on Biodiversity Offsetting (<a href="https://www.doc.govt.nz/about-us/our-policies-and-plans/guidance-on-biodiversity-offsetting/">https://www.doc.govt.nz/about-us/our-policies-and-plans/guidance-on-biodiversity-offsetting/</a>)</p>	<p>Make the following amendments to Appendix 6: In the introduction include the following statement.</p> <p><i><u>The following sets out a framework for the use of biodiversity offsets. It should be read in conjunction with the New Zealand government Guidance on Good Practice Biodiversity Offsetting in New Zealand, New Zealand Government et al., August 2014 (or any successor document).</u></i></p> <p>2. A proposed biodiversity offset will contain an <u>quantitative</u> assessment of losses and gains commensurate with the scale of effects of the activity, and should demonstrate the manner in which no net loss can be achieved.</p> <p>Amend bullet point 8 to ensure that any offset not replacing biodiversity on a like for like basis should not 'trade up' from already threatened or at-risk biodiversity.</p>



Department of Conservation  
*Te Papa Atawhai*

DOCDM-6007337

16 July 2019

Waikato District Council  
Private Bag 544  
Ngaruawahia 3742

Dear Sir/Madam,

**FURTHER SUBMISSION ON THE PROPOSED WAIKATO DISTRICT PLAN**

Please find enclosed the further submission by the Director-General of Conservation in respect of the Proposed Waikato District Plan.

Please contact Maggie Burns in the first instance if you wish to discuss any of the matters raised in this further submission on 0276322961 or [mburns@doc.govt.nz](mailto:mburns@doc.govt.nz).

Yours sincerely

A handwritten signature in blue ink, appearing to read 'M. Burns'.

Ray Scrimgeour  
Operations Manager  
Waikato

**FURTHER SUBMISSION IN SUPPORT OR OPPOSITION TO, SUBMISSION ON PUBLICLY  
NOTIFIED  
PROPOSED WAIKATO DISTRICT PLAN**

Clause 8 of Schedule 1, Resource Management Act 1991

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**TO:**               **The Waikato District Council**

**NAME:**           **Director-General of Conservation**

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1. This is a further submission in support of and in opposition to submissions on the following proposed district plan:
  - 1.1. Proposed Waikato District Plan
2. I am a person representing a relevant aspect of the public interest for the following reason:
  - 2.1. I have delegated authority in relation to the Director-General of Conservation's statutory responsibilities under the Resource Management Act 1991.
3. I support or oppose the submissions of those persons and/ or organisations listed in the second column headed "Submitter Name" of Table 1 attached.
4. The particular parts of the submission I support or oppose are identified in the third column headed "Submission" of Table 1.
5. The reasons for my support or opposition are set out under the fifth column headed "Reasons" of Table 1.
6. In relation to those submissions I support I seek that that submission is allowed.
7. In relation to those submissions I oppose I seek that the part of the submission I oppose is disallowed.
8. I wish to be heard in support of my further submission.
9. If others make similar submissions, I will consider presenting a joint case with them at the hearing.



.....

Ray Scrimgeour  
Operations Manager  
Waikato



Acting pursuant to delegated authority  
on behalf of Lou Sanson  
Director-General of Conservation

Date: 22 July 2016

Note: A copy of the Instrument of Delegation may be inspected at the Director-General's office at Conservation House Whare Kaupapa Atawhai, 18/32 Manners Street, Wellington 6011.

**Address for service of person making further submission:**

Department of Conservation  
Hamilton Shared Services  
Private Bay 3072  
Hamilton 3240

Contact person: Maggie Burns  
Telephone: 027 632 2961  
email: [mburns@doc.govt.nz](mailto:mburns@doc.govt.nz)

**Table 1: Director-General of Conservation Further Submission Points:**

<b>Plan Reference</b>	<b>Submitter Name</b>	<b>No.</b>	<b>Decision Sought</b>	<b>Support/Oppose</b>	<b>Reasons</b>	<b>Relief Sought</b>
Maps	Schedule of submitters in Schedule One	Schedule One	Delete Significant Natural areas from properties. Individual submitters detailed in Schedule One.	Oppose	<p>A number of submitters have requested removal of Significant Natural Areas from their properties.</p> <p>Mapping of Significant Natural Areas is based on criteria in Section 11A of the WRPS. Removal of these Significant Natural Areas would not provide an adequate level of protection for areas with significant value for indigenous biodiversity.</p> <p>The Director-General does not object to removal or amendment to significant Natural Areas where there is a mapping error. It is also noted that the identification of Significant Natural Areas was a desktop exercise and accuracy would be increased by ground truthing.</p>	I seek that these submission points are disallowed
Section D appendices and schedules: 30 Schedules	Geoscience Society of NZ	8	Add a new Schedule to Section D Appendices and Schedules, entitled "Important Geological Sites and Landforms", and include the following sites (from the Waikato District Plan - Franklin Section, Part 5, Schedule 5B) in the schedule.	Support	The Director-General supports the addition of the proposed sites from Geoscience NZ to ensure these sites are afforded adequate protection under the plan.	I seek that this submission point is allowed
Section D appendices and schedules: 30 Schedules	Geoscience Society of NZ	8	Add the following additional Outstanding Natural Features (i.e. geological sites and landforms) as recorded in the NZ Geopreservation Inventory to a	Support	The Director-General supports the addition of the proposed sites from Geoscience NZ to ensure these sites are afforded adequate protection under the plan.	I seek that this submission point is allowed

			new schedule of Outstanding Natural Features as follows:			
General Plan	Geoscience Society of NZ	8	Add more policies and rules to protect Outstanding Natural Features and provide criteria for the potential identification of others.	Support	The Director-General supports further protection of Outstanding Natural Features and criteria for additional identification of additional ONFs.	I seek that this submission point is allowed
Section B Objectives and policies	Geoscience Society of NZ	8	Add into Section 3.3 Outstanding Natural Features, criteria for identifying Outstanding Natural Features, similar to that in the Auckland Unitary Plan, Northland Regional Plan and other local districts:	Support	The Director-General supports this as providing further protection to outstanding natural features .	I seek that this submission point is allowed
Section 2.10 Iwi Environmental Plans	Maniapoto Maori Trust Board	44	<p>Amend clause (c) in Section 2.10 Iwi Management Plans, as follows:</p> <p>2.10 Iwi Management Plans: The Waikato-Tainui Environmental Plan and the Maniapoto Iwi Management Plans are redress instruments of Treaty settlements. AND</p> <p><u>(1) A local authority served under section 15(a) preparing, reviewing, or changing a Resource Management Act 1991 planning document must recognise the environmental plan in the same manner as would be required under the Resource Management Act 1991 for any planning document recognised by an iwi authority.</u></p>	Support	The Director-General supports further detail in the plan with regard to Iwi Management Plans and how they are addressed throughout the proposed plan.	I seek that this submission point is allowed

			<p><u>(2) A consent authority considering an application for a resource consent under section 104 of the Resource Management Act 1991 must have regard to the environmental plan, if it considers that section 104(1)(c) applies to the plan.</u></p> <p><u>(3) A person carrying out functions or exercising powers under sections 12 to 14 of the Fisheries Act 1996 must recognise and provide for the environmental plan to the extent to which its contents relate to the functions or powers.</u></p> <p><u>(4) A person carrying out functions or exercising powers under the conservation legislation in relation to the Waipa River and its catchment must have particular regard to the environmental plan to the extent to which its contents relate to the functions or powers.</u></p> <p><u>NOTE: It is Council's responsibility to show HOW it gives EFFECT to the Iwi Management Plans and how the Iwi Management Plan is APPLIED within the context of the Proposed District Plan and ALL of its chapters.</u></p>			
General Plan	Waikato Regional Council	81	Amend each zone chapter to provide details on the purpose and anticipated outcomes of the corresponding zone or subzone	Support	The Director-General agrees that further detail in each zone chapter would provide important clarity.	I seek that this submission point is allowed

<p>All zones</p> <p>Permitted activity earthworks</p> <p>E.g. including but not limited to 16.2.4.1, 20.2.5.1, 21.2.5.1, 22.2.3.1 etc</p>	<p>Waikato Regional Council</p>	<p>81</p>	<p>Amend Permitted Activity standards for all zones for earthworks to provide for a minimum 5 metre distance from any waterbody or overland flow path, example of which is as follows:</p> <p>P16.2.4.1 (a)(i) Be located more than <del>1.5 m</del> <u>5.0 m</u> horizontally from any waterway, open drain or overland flow path</p>	<p>Support in part</p>	<p>The Director-General considers that an increased setback would support better practice earthworks management, however, notes a 10m would be more appropriate.</p>	<p>I seek that the setback distances are increased to 10m</p>
<p>All zones:</p> <p>Providing for low impact design approach to stormwater</p> <p>e.g. Policy 3.5.3, 3.5.4, 4.7.2, 8.1.2, Rule 19.1.2 RD1, 24.4.1, 24.4.2, 28.2.4.1 and similar</p>	<p>Waikato Regional Council</p>	<p>81</p>	<p>Amend provisions to support the use of low impact design principles for stormwater management (in particular consider for RDA criteria and permitted activity standards</p>	<p>Support</p>	<p>The Director-General supports the inclusion of low impact design which is important to limit impervious surface which can adversely affect the hydrology of a catchment.</p>	<p>I seek that this submission point is allowed</p>
<p>All zones:</p> <p>Building setbacks for waterbodies</p>	<p>Waikato Regional Council</p>	<p>81</p>	<p>Amend setbacks from the banks of a perennial or intermittent stream to provide for a minimum 10m setback.</p>	<p>Support</p>	<p>The Director-General supports larger setbacks from the banks of perennial or intermittent streams to ensure potential adverse effects on biodiversity values in small waterways are managed appropriately.</p>	<p>I seek that this submission point is allowed</p>

All zones: Building setbacks for waterbodies	Waikato Regional Council	81	Retain setbacks from waterbodies that are larger than 10m.	Support	The Director-General supports the current setbacks to ensure appropriate distance of buildings from waterbodies	I seek that this submission point is allowed.
Natural Character assessment, mapping and rules	Waikato Regional Council	81	Undertake a natural character assessment for wetlands, lakes, rivers and their margins.  Amend the provisions to ensure natural character is managed in accordance with Policy 12.2 and Implementation Method 12.2.1 of the WRPS	Support	The Director-General supports the undertaking of a natural character assessment for wetlands, lakes, rivers and their margins to give effect to section 6(a).	I seek that this submission point is allowed
Objectives, policies and rules relating to natural character	Waikato Regional Council	81	Amend provisions throughout the plan that relate to natural character to recognise that a different approach is required to high and outstanding natural character to give effect to Policy 12.2 and Implementation method 12.2.1 of the WRPS	Support	The Director-General agrees that amendments to recognise a different approach to high and outstanding natural character would give effect to Policy 12.2 and Implementation method 12.2.1 of the WRPS.	I seek that this submission point is allowed
Whole of Plan  Significant habitats of indigenous fauna	Waikato Regional Council	81	Amend the proposed plan to take into account activities that may impact on the significant habitats of indigenous fauna that have been identified and mapped.	Support	The Director-General supports the consideration of provisions are adequate to ensure that significant habitats are protected. This would ensure the proposed plan gives effect to Section 6(c) and Chapter 11A of the WRPS.	I seek that this submission point is allowed
Indigenous vegetation clearance – outside a Significant Natural Area 22.2.8 23.2.9	Waikato Regional Council	81	Amend P1 (a) (ii) and P2 (a) (ii) to exclude clearance in wetlands	Support	The Waikato district has a significant proportion of indigenous wetlands in the district. The Director-General considers that the proposed amendment identifies a practical intervention to protect values of wetlands	I seek that this submission point is allowed

Indigenous vegetation clearance – inside a Significant Natural Area	Waikato Regional Council	81	<p>Amend Rule 16.2.8 P3 Indigenous vegetation clearance inside a Significant Natural Area by giving it restricted discretionary activity status.</p> <p>AND/OR</p> <p>Amend to provide tighter thresholds/ activity status in the Coastal Environment.</p>	Support	The Director-General considers that providing tighter controls in the coastal environment will give better effect to the NZCPS.	I seek that this submission point is allowed
Indigenous vegetation clearance – inside a significant natural area	Waikato Regional Council	81	<p>AMEND P4 to a restricted discretionary activity.</p> <p>AND/OR</p> <p>AMEND P4 to assign a lower threshold than clearance off indigenous vegetation outside of SNA for the same activity.</p> <p>AND/OR</p> <p>AMEND P4 to provide an overall cap on clearance as a permitted activity.</p> <p>AND/OR</p> <p>CLARIFY the location and extent of areas that might be subject to this rule in order to determine if it is likely to have a significant effect on indigenous biodiversity.</p> <p>AND/OR</p>	Support	The Director-General agrees that as currently drafted the rule could provide a mechanism for a large loss of significant indigenous vegetation clearance and does not give effect to the 'avoid' direction in the NZCPS and Policy 11.4 RPS for the coastal environment	I seek that this submission point is allowed

			AMEND to provide tighter thresholds/ activity status in the Coastal Environment.			
Earthworks Rules	Waikato-Tainui	286	Amend the Proposed District Plan to provide for earthworks in Significant Natural Areas that are for the establishment of marae, papakaainga, dwellings and associated access, parking and manoeuvring as a permitted activity.	Oppose	<p>The Director-General considers that earthworks in significant natural areas as a permitted activity would have potentially inappropriate levels of effects without consideration of how effects will be avoided, remedied or mitigated. Further clarification on the intent of this point would also be appreciated.</p> <p>The Department of Conservation has a duty to ensure indigenous biodiversity is protected.</p> <p>The requested amendments do not currently contain sufficient linkage with the Waikato-Tainui Iwi Environmental Plan and working towards environmental enhancement.</p>	I seek that this submission point is disallowed
Outstanding Natural Features and Landscapes	Waikato-Tainui	286	<p>Amend the Proposed District Plan to include the Waikato River in its entirety as both an Outstanding Natural Feature and an Outstanding Natural Landscape</p> <p>AND</p> <p>Amend the Proposed District Plan maps to include the Waikato River in its entirety as both an Outstanding Natural Feature and an Outstanding Natural Landscape.</p>	Support	The Director-General supports the intent of this submission point and appropriate mapping of the Waikato River as an Outstanding Natural Feature and Outstanding Natural Landscape to afford it adequate protection under the plan.	I seek that this submission point is allowed



Natural Character	Waikato-Tainui	286	Amend the Proposed District Plan after undertaking a natural character assessment for the Waikato River to determine if there are any areas of high or outstanding natural character.	Support	The Director-General supports the undertaking of a natural character assessment for wetlands, lakes, rivers and their margins to give effect to section 6(a).	I seek that this submission point is allowed
Earthworks Setbacks Rules	Waikato-Tainui	286	Amend the Proposed District Plan to provide setbacks from the waterways that are consistent with Proposed Plan Change 1 to the Waikato Regional Council and gives effect to the Vision and Strategy for the Waikato River and the Waikato-Tainui Environmental Plan	Support	The Director-General supports consistency with Proposed Plan Change 1, the Vision and Strategy for the Waikato River and the Waikato-Tainui Environmental Plan	I seek that this submission point is allowed
Maps	TGH Ltd	341	<p>Add a new Ruakura Industrial Zone as follows:</p> <p>Add a new set of objectives and policies to Section 9 Specific Zones as Section 9.5 for Ruakura Industrial Zone and that these be based on the existing objectives and policies for the Ruakura Logistics and Ruakura Industrial Park zones contained within Sections 10.2 and 11.2 of the Operative Hamilton City District Plan.</p> <p>AND</p> <p>Add a set of rules to Chapter 29 Appendices that give effect to the requested objectives and policies for Ruakura Industrial Zone based on existing objectives and policies</p>	Oppose in part	<p>The Director-General does not necessarily oppose a new set of objectives for the Ruakura Industrial Zone development in principle but considers that this needs to be comprehensively reviewed to ensure conflict with biodiversity values, particularly bats, is avoided.</p> <p>The requested amendments do not currently contain sufficient linkage with the Waikato-Tainui Iwi Environmental Plan and working towards environmental enhancement.</p> <p>If the above issues are clarified and concerns addressed, the Director-General will reconsider our position on this submission point.</p>	I seek that this submission point is disallowed, unless further detail is provided.

			<p>for the Ruakura Logistics and Ruakura Industrial Park Zones contained within Sections 10.2 and 11.2 of the Operative Hamilton City District Plan.</p> <p>AND</p> <p>Add any consequential amendments and refinements to the Proposed District Plan as appropriate in order to allow a new Ruakura Industrial Zone to apply at Tainui Group Holdings Ltd land in Ruakura.</p> <p>AND</p> <p>Amend the Proposed District Plan to make consequential amendments as necessary to give effect to the matters raised in the submission.</p>			
General Plan	Ngati Haua Iwi Trust	379	<p>Amend the Proposed District Plan to ensure:</p> <ul style="list-style-type: none"> <li>a) Ngati Haua Iwi Trust's role as kaitiaki within the Waikato District is recognised; and</li> <li>b) The aspirations and priorities for Ngati Haua Iwi Trust, as set out in the Ngati Haua Environmental Management Plan, are taken into account within</li> </ul>	Support	The Director General supports the recognition of Ngati Haua as kaitiaki within the Waikato District and further consideration of the Ngati Haua Iwi Environmental Plan throughout the plan.	I seek that this submission point is allowed

			<p>the provisions of the Proposed Plan.</p> <p>AND</p> <p>Amend the Proposed District Plan, including Section C (Rules) to make consequential amendments to give effect to the matters raised in the submission and relief sought.</p>			
Chapter 2 Tangata Whenua	Ngati Haua Iwi Trust	379	<p>Amend Chapter 2 Tangata Whenua, to include specific reference to the Ngati Haua Environmental Management Plan.</p> <p>AND</p> <p>Amend the Proposed District Plan, including Section C (Rules) to make consequential amendments to give effect to the matters raised in the submission and relief sought.</p>	Support	The Director General supports the recognition of Ngati Haua as kaitiaki within the Waikato District and further consideration of the Ngati Haua Environmental Plan throughout the plan.	I seek that this submission point is allowed
Maps	Planning Focus Ltd	383	<p>Amend the zoning of the following properties in Ohinewai from Rural Zone to Industrial Zone:</p> <p>52 Lumsden Road (Lot 3 Deposited Plan 474347)</p> <p>56 Lumsden Road (Lot 2 Deposited Plan 474347)</p> <p>58 Lumsden Road (Lot 1 Deposited Plan 474347)</p>	Oppose	<p>The Director-General considers that this change in zoning would be inappropriate due to the property's proximity to lakes and the potential flood hazard risk. We note that flood hazards have not yet been mapped by the Waikato District Council.</p> <p>These areas flow into Lake Waikare and into Whangamarino wetland which is a significant RAMSAR wetland site. The Director-General objects to a change in zoning which may cause an increase in</p>	I seek that this submission point is disallowed

			<p>109 Tahuna Road (Part Allotment 436A Parish of Whangamarino)</p> <p>147 Ohinewai South Road(Lot 1-3 Deposited Plan 15270) Ohinewai South Road; (Part Allotment 36 Parish of Taupiri) 159 Ohinewai South Road; (Lot 1 Deposited Plan 63073) 181 Ohinewai South Road; (Part Allotment 36 Parish of Taupiri) AND Amend the zoning the following properties from Country Living Zone to Industrial Zone: 123 Ohinewai South Road, Ohinewai 101 Ohinewai South Road, Ohinewai 117 Ohinewai South Road, Ohinewai 183 Ohinewai South Road; (Part Lot 1 Deposited Plan 90412 and Allotment 816 Taupiri Parish and Part Allotment 817 Taupiri Parish)</p>		industrial contaminants and other adverse effects for the catchment.	
Maps	Peter Ward	385	Seeking rezoning of land at Island Block Road from rural to industrial.	Oppose	<p>The Director-General considers that this change in zoning would be inappropriate due to the property's proximity to lakes and the potential flood hazard risk. We note that flood hazards have not yet been mapped by the Waikato District Council.</p> <p>These areas flow into Lake Waikare and into Whangamarino wetland which is a significant RAMSAR wetland site. The Director-General objects to a change in zoning which may cause an increase in industrial contaminants and other adverse effects for the catchment.</p>	I seek that this submission point is disallowed

Maps	David Peacocke	428	Amend the Proposed District Plan to include a growth area at Ohinewai in accordance with the plan attached to the submission.	Oppose	<p>The Director-General considers that this change in zoning would be inappropriate due to the property's proximity to lakes and the potential flood hazard risk. We note that flood hazards have not yet been mapped by the Waikato District Council.</p> <p>These areas flow into Lake Waikare and into Whangamarino wetland which is a significant RAMSAR wetland site. The Director-General objects to a change in zoning which may cause an increase in industrial contaminants and other adverse effects for the catchment.</p>	I seek that this submission point is disallowed
5.3.5 Policy – Earthworks activities	Fish and Game	433	<p>Amend policy as follows:</p> <p>a) Provide for earthworks where they support rural activities <u>or are for ecosystem protection, rehabilitation or restoration works</u>, including:</p> <p>Ancillary rural earthworks and farm quarries;</p> <p>i. The importation of fill material to a site;</p> <p>ii. Use of cleanfill where it assists the rehabilitation of quarries.</p> <p>iii. <u>wetland enhancement work</u></p> <p>b) Manage the effects of earthworks to ensure that:</p> <p>i) Erosion and sediment loss are</p>	Support	<p>The Waikato district has a significant proportion of indigenous wetlands in the district. The Director-General considers that the proposed amendment identifies a practical intervention to restore values of wetlands.</p> <p>The Director-General also undertakes a variety of protection works at lakes and track maintenance for the purpose of ecosystem protection, rehabilitation and restoration. This amendment would ensure this is accounted for.</p>	I seek that this submission point is allowed

			<p>avoided or mitigated;</p> <p>ii) The ground is geotechnically sound and remains safe and stable for the duration of the intended land use;</p> <p>iii) Changes to natural water flows and established drainage paths are avoided or mitigated;</p> <p>a) Adjoining properties and public services are protected.”</p>			
22.2.3.1 Earthworks General – R1	Fish and Game	433	<p>Amend the rule as follows:</p> <p>“(a) Earthworks for:</p> <p>i. Ancillary rural earthworks;</p> <p>ii. Farm quarry where the volume of aggregate does not exceed 1000m<sup>3</sup> per single consecutive 12 month period;</p> <p>iii. Construction and/or maintenance of tracks, fences or drains;</p> <p>iv. A building platform for a residential activity, including accessory buildings.</p>	Support	<p>The Waikato district has a significant proportion of indigenous wetlands in the district. The Director-General considers that the proposed amendment identifies a practical intervention to restore values of wetlands.</p> <p>The Director-General also undertakes a variety of protection works at lakes and track maintenance for the purpose of ecosystem protection, rehabilitation and restoration. This amendment would ensure this is accounted for.</p>	I seek that this submission point is allowed

			v. <u>Ecosystem protection, restoration or enhancement (e.g. conservation covenants, works involved with wetland enhancement).</u> “			
22.2.3.1 Earthworks – General – P2	Fish and Game	433	<p>Amend the rule as follows: “(a)Earthworks within a site must meet all of the following conditions:</p> <p>i. Do not exceed a volume of more than 1000m<sup>3</sup> and an area of more than 2000m<sup>2</sup> over any single consecutive 12 month period;</p> <p>ii. The total depth of any excavation or filling does not exceed 3m above or below ground level with a maximum slope of 1:2 (1 vertical to 2 horizontal);</p> <p>iii. Earthworks are setback 1.5m from all boundaries;</p> <p>iv. Areas exposed by earthworks are re-vegetated to achieve 80% ground cover within 6 months of the commencement of the earthworks;</p>	Support	The Director-General agrees that the proposed rule includes provisions that are part of the regional council function and are not appropriate in a district plan.	I seek that this submission point is allowed

			<p>v. <del>Sediment resulting from the earthworks is retained on the site through implementation and maintenance of erosion and sediment controls;</del></p> <p>vi. <del>Do not divert or change the nature of natural water flows, water bodies or established drainage paths</del></p>			
22.2.3.1 Earthworks – General – RD1	Fish and Game	433	<p>Amend Rule 22.2.3.1 RD1</p> <p>b) Earthworks - General, as follows: ...</p> <p>v) location of the earthworks to <del>waterways,</del> significant indigenous vegetation and habitat ...</p> <p>x) flood risk, <del>including natural water flows and established drainage paths;</del> ...</p> <p>AND/OR</p> <p>Any alternative relief to address the issues and</p>	Support	The Director-General agrees that the proposed rule includes provisions that are part of the regional council function and are not appropriate in a district plan.	I seek that this submission point is allowed



			concerns raised in the submission.			
4.1.12 Policy – Te Kauwhata	Fish and Game	433	<p>Retain 4.1.12(a)(ii) and amend 4.1.12 (a) to include the following provisions:</p> <p>iv. <u>Development is avoided where it cannot demonstrate adequate capacity within the wastewater and stormwater networks proposed or available to ensure the development does not contribute to additional contaminant loading to Lake Waikare and Whangamarino wetland.</u></p> <p>v. <u>The effects of development on biological diversity, including avian biological diversity, are had regard to and avoided, remedied or mitigated.</u></p> <p>Amend 4.1.12 (b) as follows:</p> <p>ii. Manages the balance between creating areas for growth and open space, and retaining an appropriate size and capacity flood plain, <u>ensuring no further reduction of existing flood capacity, and no further</u></p>	Support	The Director-General supports further consideration on development in the Te Kauwhata area as a means to ensure development does not have adverse effects on biodiversity, particularly freshwater values.	I seek that this submission point is allowed

			<p><u>drainage</u> to assist flood management within the Waikato River System.</p> <p>Include an additional provision in Policy 4.1.12 (b):</p> <p>vii. <u>Recognises and provides for existing recreational use of the Lake Waikare and its margins, including gamebird hunting, and manages the balance between these and increased settlement and access for walking and cycling, including avoiding and mitigating reverse sensitivity effects on hunting activities.</u></p> <p>Any further amendments required to give effect to the provisions and reasons raised.</p>			
Chapter 13 - Definitions	Fish and Game	433	<p>Add a definition for "maimai" to Chapter 13: Definitions as follows:</p> <p><u>Maimai - game bird shooting shelter structures.</u></p> <p>AND/OR</p> <p>Any alternative relief to address the issues and concerns raised in the submission</p>	Support in part	The Director-General supports the inclusion of a definition of a maimai, however, requests further parameters to ensure maimai structures do not create significant adverse effects on waterbodies, including, but not limited to size restrictions.	I seek that this submission point is allowed in part

Policy 3.2.2 (b)	Fulton Hogan	575	<p>Retain Policy 3.2.2 (b) Identify and Recognise, except for the amendments sought below.</p> <p>AND</p> <p>Amend Policy 3.2.2 (b) Identify and Recognise, as follows (or words to similar effect):</p> <p>(b) Recognise and protect Significant Natural Areas by ensuring the characteristics that contribute to their significance are not adversely affected <u>by activities other than mineral and aggregate extraction.</u></p>	Oppose	The Director-General considers that the proposed amendments are too permissive for significant natural areas and allowing this point would be contrary to the purpose of the act and section 6(c)	I seek that the submission point is disallowed
Policy 3.2.3	Fulton Hogan	575	<p>Retain Policy 3.2.3 Management hierarchy, except for the amendments sought below.</p> <p>AND</p> <p>Amend Policy 3.2.3 Management hierarchy, as follows:</p> <p>(i) avoiding the significant adverse effects of vegetation clearance and the disturbance of habitats unless specific activities need to be</p>	Oppose	The Director-General considers that the proposed amendments are too permissive for significant natural areas and allowing this point would be contrary to the purpose of the act and section 6(c)	I seek that this submission point is disallowed

			enabled <u>such as mineral and aggregate extraction activities;</u>			
Policy 3.2.7	Fulton Hogan	575	<p>Retain Policy 3.2.7 Managing Significant Natural Areas, except for the amendments sought below.</p> <p>AND</p> <p>Amend Policy 3.2.7 (a)(v) Managing Significant Natural Areas, as follows (or words to similar effect):</p> <p>(v) avoiding <del>physical and</del> legal fragmentation</p> <p>AND</p> <p>Amend the Proposed District Plan to make consequential and additional amendments as necessary to give effect to the matters raised in the submission.</p>	Oppose	The Director-General considers that the proposed amendments are too permissive for significant natural areas and allowing this point would be contrary to the purpose of the act and section 6(c).	I seek that this submission point is disallowed.
General Plan	Waikato River Authority	642	Add a section to the Proposed District Plan dedicated to the Vision and Strategy, including its objectives and strategies, and relationship to the District Plan	Support	The Director-General supports the inclusion of the Vision and Strategy to the district plan to ensure it is given effect to as required by the WRPS.	I seek that this submission point is allowed.
General Plan	Waikato River Authority	642	Retain the Taangata Whenua chapter to better express and give effect to the relationship between River Iwi, Hapuu and Marae, to the Waikato River and all it embraces.	Support	The Vision and Strategy identifies iwi connection to the river. This chapter ensures that the vision and strategy is given effect to.	I seek that this submission point is allowed.
Rule 14.10.1.6 P8 (ii)	Spark	644	Delete activity specific condition Rule 14.10.1.6 P8 (ii) that relates to Identified Areas.	Oppose	The Director-General considers that the restrictions on small cell units in identified areas should remain to ensure	I seek that this submission point is disallowed.

					these areas are adequately protected from inappropriate activities and adverse effects are appropriately avoided, remedied or mitigated	
Section 1.5.7 (a)	Federated Farmers	680	<p>Delete Section 1.5.7(a) Natural environment</p> <p>OR</p> <p>Amend Section 1.5.7(a) Natural environment as follows</p> <p>The Council will ensure that adjoining authorities <del>and the regional council</del> are informed of <u>any</u> <del>all</del> resource consent applications received for vegetation clearance <u>located on the district boundary</u>. The location of indigenous vegetation...</p> <p>AND</p> <p>Any consequential changes needed to give effect to this relief.</p>	Oppose	Any significant vegetation clearance should consider cross-boundary effects, particularly with fragmentation of significant habitats in the district.	I seek that this submission point is disallowed.
Section 1.5.7	Federated Farmers	680	<p><u>Add to Section 1.5.7 Natural environment new provisions as follows:</u></p> <p><u>(#) Reconciling the tension between the private cost and public benefit of protecting and managing the District's natural environment.</u></p> <p><u>(##) Increase public recognition and understanding of the District's</u></p>	Oppose	While non-regulatory methods can provide some benefit to management of indigenous vegetation and habitats, they need to be backed up by regulatory methods. The Director-General considers that the proposed policy would be an inappropriate mechanism within the district plan framework.	I seek that this submission point is disallowed.

			<p><u>natural environment, the associated values and the respective responsibility that the public and private landowners assume in its ongoing management and protection.</u></p> <p><u>(###) Develop a range of non-regulatory mechanisms that encourage, assist and facilitate the protection, maintenance or enhancement of the District's Significant Natural Areas and Outstanding Natural Landscapes.</u></p> <p><u>AND</u></p> <p><u>Any consequential changes needed to give effect to this relief</u></p>			
New Policy – Section 3.1	Federated Farmers	680	<p>Add new policy to Section 3.1 Indigenous Vegetation and Habitats as follows:</p> <p>(a) <u>The Council recognises landowners' stewardship of the land and will work with landowners to promote the use of non-regulatory methods; including assistance with the establishment of protective covenants, service delivery, education, and other incentives in protecting and enhancing ecological sites, geological features,</u></p>	Oppose	While non-regulatory methods can provide some benefit to management of indigenous vegetation and habitats, they need to be backed up by regulatory methods. The Director-General considers that the proposed policy would be an inappropriate mechanism within the district plan framework.	I seek that this submission point is disallowed.

			<p><u>and the values of outstanding natural features and landscapes; and ensure current land management practices help achieve this.</u></p> <p>AND</p> <p>Any consequential changes needed to give effect to this relief</p>			
Policy 3.1.2	Federated Farmers	680	<p>Amend Policy 3.1.2 (a) Policies as follows:</p> <p>(a) <del>Enable</del> <u>Incentivise</u> activities that maintain or enhance indigenous biodiversity including:</p> <ul style="list-style-type: none"> <li>i) planting using indigenous species suitable to the habitat;</li> <li>ii) the removal or management of pest plant and animal species; Proposed Waikato District Plan (Stage 1) Summary of Submissions by Submitter Page 837</li> <li>iii) biosecurity works.</li> </ul> <p>AND</p> <p>Add to Policy 3.1.2 (a) Policies as follows:</p> <ul style="list-style-type: none"> <li>iv) <u>Encouraging voluntary planting of indigenous</u></li> </ul>	Oppose	<p>The Director-General considers that the proposed amendment would be inappropriate.</p> <p>While non-regulatory methods can provide some benefit to management of indigenous vegetation and habitats, they need to be backed up by regulatory methods. The Director-General considers that the proposed policy would be an inappropriate mechanism within the district plan framework.</p>	I seek that this submission point is disallowed.

			<p><u>plant specimens suitable to each habitat, whilst anticipating flexibility to appropriately manage planted vegetation in a way that is integrated with other land management practices.</u></p> <p>AND</p> <p><u>Add to Policy 3.1.2 new Policies as follows:</u></p> <p><u>(d) Council will coordinate with other agencies and organisations in identifying risks, requirements, opportunities and effective methods for maintaining and enhancing Waikato's biodiversity and will support landowners with a range of regulatory and non-regulatory initiatives to maintain and enhance biodiversity.</u></p> <p><u>(e) Consider additional subdivision opportunities where significant biodiversity gains can be achieved in the following priority areas or locations:</u></p> <p>i) <u>Peat lakes and rivers: by permanently providing significant buffer areas around</u></p>			
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			<p> <u>peat lakes and rivers;</u>  <u>or</u>            ii) <u>Wetlands, kahikatea</u>  <u>stands, riparian</u>  <u>margins and bush</u>  <u>stands on the low</u>  <u>lands, by providing</u>  <u>permanent protection;</u>  <u>or</u>            iii) <u>Significant natural</u>  <u>areas being</u>  <u>aggregated to form</u>  <u>one large more</u>  <u>ecologically</u>  <u>sustainable area and</u>  <u>being permanently</u>  <u>protected; or</u>            iv) <u>Biodiversity corridors:</u>  <u>by the permanent</u>  <u>protection of</u>  <u>significant areas of</u>  <u>indigenous forest</u>  <u>within biodiversity</u>  <u>(indigenous forest)</u>  <u>corridors; or</u>            v) <u>Biodiversity corridors:</u>  <u>by permanently</u>  <u>protecting significant</u>  <u>riparian or wetland</u>  <u>areas within identified</u>  <u>biodiversity (river or</u>  <u>stream) corridors.</u> </p> <p>AND</p> <p>Any consequential amendments needed to give effect to this relief.</p>			
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General Plan	Mercury NZ Ltd	730	<p>Withdraw all Stage 1 of the Proposed Waikato District Plan and re-notify Stage 1 together with Stage 2 once a thorough flood analysis has been undertaken and consulted on.</p> <p>OR</p> <p>Review all of the Stage 1 provisions for urban growth and land use intensification (objectives, policies, methods and rules) in order to manage flood hazard risk at Stage 2 and hear submissions for both stages together.</p>	Support	The Director-General agrees that the plan would be more cohesive if Stage 1 and 2 were to be notified together, alongside analysis of flood hazard risk in the district to ensure development is not occurring within potential flood risk areas.	I seek that this submission point is allowed
Maps	Shand Properties Limited	738	Amend the zoning of approximately 61ha of land adjacent to Ohinewai North Road, as depicted in Appendix A of the submission, from Rural Zone to Country Living Zone	Oppose	The Director-General considers the rezoning of this land would be inappropriate to the potential flood hazard risk in this area. We note that a flood hazard assessment has not been completed in the district.	I seek that this submission point is disallowed

Policy 3.2.4	NZTA	742	<p>Amend Policy 3.2.4</p> <p>(a) Allow for a biodiversity offset to be offered <del>by a resource consent applicant</del> where an activity...</p> <p>(b) (ii) the biodiversity <u>is enhanced or maintained, working towards achieving biodiversity offset can strives to</u> achieve no net loss of indigenous biodiversity <u>at a regional scale</u></p> <p>AND</p> <p>Request any consequential changes necessary to give effect to the relief sought in the submission</p>	Oppose	<p>The Director- General does not support deletion of “by a resource consent applicant” from the policy. Inclusion of this wording in 3.2.4 (a) clarifies that biodiversity offsets are to be considered at the resource consent for each individual activity.</p> <p>The Director-General requests that the original wording of 3.2.4(b)(ii) is retained. Biodiversity offsets need to be achieved at the resource consent/individual activity level. This offset should preferably occur within the SNA, or if beyond the SNA then within the ecological district, and this is reflected by 3.2.4(b)(ii), as well as the biodiversity offset principles in Appendix 6.</p>	I seek that this submission point is disallowed
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Policy 3.2.5 (a)	NZTA	742	<p>Retain Policy 3.2.5(a) Biodiversity, except for the amendments sought below</p> <p>AND</p> <p>Amend Policy 3.2.5(a) Biodiversity in the coastal environment as follows:  <i>Avoid the adverse effects of subdivision use and development within Significant Natural Areas of the coastal environment <u>except where there is a need for regionally significant infrastructure to be located in the coastal environment</u> on: ...</i></p> <p>AND</p> <p>Request any consequential changes necessary to give effect to the relief sought in the submission.</p>	Oppose	The Director-General considers that this policy would be contrary to Policy 11 of the NZCPS.	I seek that this submission point is disallowed.
Policy 3.2.6 (a)	NZTA	742	<p>Providing for vegetation clearance</p> <p>Add new sub-clauses to Policy 3.2.6(a) Providing for vegetation clearance as follows:  <u>(v) operating maintaining or upgrading existing infrastructure</u>  <u>(vi) the construction and operation of new regionally significant infrastructure where there is a need for that infrastructure to be located</u></p>	Oppose	The Director General considers that this policy and requested amendments are too permissive for vegetation clearance in Significant Natural Areas.	I seek that this submission point is disallowed.

			<u>within the Significant Natural Area</u>			
Maps	NZTA	742	<p>Retain the Significant Natural Area overlay, except for the amendments sought below</p> <p>AND</p> <p>Amend the Significant Natural Area (SNA) overlay by reviewing and removing any such areas from existing New Zealand Transport Agency designations.</p>	Oppose	<p>SNAs are identified for their biodiversity values (which meet a list of criteria identified in Section 11A of the WRPS). This is not influenced by the existence of a designation.</p> <p>The Director-General opposes reviewing the SNA overlay to remove designations. NZTA designations can be broad and have a large impact on SNAs.</p> <p>However, the Director-General is not opposed to the removal of SNAs where there is a mapping error.</p>	I seek that this submission point is disallowed
Maps	NZTA	742	<p>Retain the Outstanding Natural Feature overlay, except for the amendments sought below</p> <p>AND</p> <p>Amend the Outstanding Natural Features overlay by reviewing and removing any such areas from existing New Zealand Transport Agency designations.</p> <p>AND</p> <p>Request any consequential changes necessary to give effect to the relief sought in the submission.</p>	Oppose	<p>Outstanding Natural Features are identified as having specific values. This is not influenced by the existence of a designation.</p> <p>The Director-General opposes reviewing the ONF overlays to remove designations. NZTA designations can be broad and have a large impact on ONFs.</p>	I seek that this submission point is disallowed

Maps	NZTA	742	<p>Retain the Outstanding Natural Landscapes overlay, except for the amendments sought below</p> <p>AND</p> <p>Amend the Outstanding Natural Landscapes overlay by reviewing and removing any such areas from existing New Zealand Transport Agency designations.</p> <p>AND</p> <p>Request any consequential changes necessary to give effect to the relief sought in the submission.</p>	Oppose	<p>Outstanding Natural Features are identified as having specific values. This is not influenced by the existence of a designation.</p> <p>The Director-General opposes reviewing the ONL overlays to remove designations. NZTA designations can be broad and have a large impact on ONLs.</p>	I seek that this submission point is disallowed
Maps	NZTA	742	<p>Retain the Outstanding Natural Character overlay, except for the amendments sought below</p> <p>AND</p> <p>Amend the Outstanding Natural Character overlay by reviewing and removing any such areas from existing New Zealand Transport Agency designations.</p> <p>AND</p> <p>Request any consequential changes necessary to give effect to the relief sought in the submission.</p>	Oppose	<p>Outstanding Natural Character areas are identified as having specific values. This is not influenced by the existence of a designation.</p> <p>The Director-General opposes reviewing the ONC overlays to remove designations. NZTA designations can be broad and have a large impact on ONCs.</p>	I seek that this submission point is disallowed

Maps	NZTA	742	<p>Retain Hamilton Basin Ecological Management Area, except for the amendments sought below</p> <p>AND</p> <p>Clarify the purpose of the Hamilton Basin Ecological Management Area in District Plan provisions</p> <p>AND</p> <p>Delete the Hamilton Basin Ecological Management Area overlay from existing New Zealand Transport Agency designations.</p> <p>AND</p> <p>Request any consequential changes necessary to give effect to the relief sought in the submission.</p>	Oppose in part	The Director-General agrees that the purpose of the Hamilton Basin Ecological Management Area should be clarified in the District Plan provisions. However, the Director-General does not support the removal of NZTA designations from the overlay if there are values worth protecting that apply within the designation.	Clarify the purpose of the Hamilton Basin Ecological Management Area but seek that other parts of the submission point are disallowed.
Policy 5.2.3 (b)	The Surveying Company	746	<p>Amend Policy 5.2.3 (b)- Effects of subdivision and development on soils as follows:</p> <p>Subdivision which provides a range of lifestyle options is directed away from high class soils and/or where indigenous biodiversity is being protected, enhanced, and/or restored (with plantings).</p>	Support	DOC supports the addition to this policy as it benefits indigenous biodiversity that may not be identified but is still important.	I seek that this submission point is allowed

Chapter 13: Definitions	The Surveying Company	746	Amend the definition of "Significant Natural Area" in Chapter 13: Definitions as follows: <i>Means an area of significant indigenous biodiversity that is identified as a Significant Natural Area on the planning maps or <u>has been assessed as meeting one or more of the Criteria for Determining Significance of Indigenous Biodiversity (Appendix 2) by a suitably qualified Ecologist.</u></i>	Support	The addition to this policy allows for protection of SNA sites that may meet SNA criteria but are not on planning maps. Planning maps may not be updated at a rate that allows for new worthy SNAs to be protected.	I seek that this submission point is allowed
Rule 22.4.1.6 RD1	The Surveying Company	746	Amend Rule 22.4.1.6 RD1- Conservation lot subdivision as follows:  <i>(i) The lot must contain: A. a contiguous area of existing Significant Natural Area either as shown on the planning maps, <u>and/ or</u> B. a contiguous area, to be <u>enhanced and/or restored;</u> as determined by an experienced and suitably qualified ecologist in accordance with the table below...: (ii) The area of Significant Natural Area, <u>and/or area to be enhanced and/or restored,</u> is assessed by a suitably qualified person as satisfying at least one criteria in Appendix 2 (Criteria for Determining Significance of Indigenous Biodiversity); (iii) The Significant Natural Area <u>or area to be restored is not already subject to legal protection</u> &amp;</i>	Support	Occasionally restored or enhanced vegetation may meet the threshold level to be considered an SNA. The suggested changes will allow for protection on indigenous vegetation that may not be mapped as a Significant Natural Area but do meet SNA criteria.	I seek that this submission point is allowed



			<p><del>conservation covenant pursuant to the Reserves Act 1977 or the Queen Elizabeth II National Trust Act.</del></p> <p>(iv) The subdivision proposes to legally protect all areas of Significant Natural Area <u>and/or area to be restored</u> <del>by way of a conservation covenant pursuant to the Reserves Act 1977 or the Queen Elizabeth Natural Trust Act</del></p> <p>(v) An ecological management plan is prepared to address the ongoing management of the <del>covenant</del> <u>protected</u> area to ensure that the <del>Significant Natural Area</del> <u>area to be protected</u> is a self-sustaining and that plan:</p> <p>A. Addresses fencing requirement for the <del>covenant</del> <u>protected</u> area;</p> <p>B. Addresses ongoing pest plan and animal control;</p> <p>C. Identifies any enhancement <u>and/or restoration</u> or edge planting required within the <del>covenant area</del> <u>to be protected</u>.</p> <p>...</p> <p>(b) Council's discretion is restricted to the following matters:</p> <p>(i) Subdivision layout and proximity of building platforms to <del>Significant Natural Area</del> <u>area to be protected</u>;</p> <p>(ii) Matters contained in an ecological management plan for the <del>covenant</del> <u>protected</u> area;</p>		
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			<p>(iii) <i>Effects of the subdivision on <u>localised</u> rural character and amenity values;</i></p> <p>(iv) <i>Extent of earthworks including earthworks for the location of building platform and access ways;</i></p> <p>(v) <i>Mechanism of legal protection for the area to be protected.</i></p>			
Chapter 13 Definitions	Housing New Zealand	749	<p>Amend the definition of "Vegetation clearance" to include exclusions and method of measurements.</p> <p>AND</p> <p>Amend the Proposed District Plan as consequential or additional relief as necessary to address the matters raised in the submission as necessary.</p>	Oppose in part	<p>The Director-General believes the current rules for vegetation clearance fail to adequately protect or manage biodiversity values present in these areas. It is important to appropriately protect or manage indigenous vegetation clearance to prevent further fragmentation and loss in the Waikato District.</p> <p>The Director-General supports that a method of measurement would allow the effects of vegetation clearance to be managed more appropriately. This would be appropriate as a maximum vegetation permitted activity rule under P1.</p> <p>The Director-General opposes further exclusions in the definition for vegetation clearance. "Exclusions", or where vegetation clearance is appropriate, have been covered by the permitted activity standards.</p>	I seek that this submission point is disallowed in part
Rule 16.2.4.1 P1 (a)	Housing New Zealand	749	<p>Amending earthworks rule 16.2.4.1 PI (a) Earthworks – General as follows:</p> <p>(a) Earthworks (excluding the importation of fill material) within</p>	Oppose	<p>The Director-General opposes an increase to permitted activity standards for earthworks. Earthworks increases the amount of sediment entering waterways, impacting on waterways, estuaries and the coast.</p>	I seek that this submission point is disallowed

			<p>a site must meet all of the following conditions:</p> <p>(i) Be located more than 1.5 m horizontally from any waterway, open drain or overland flow path:</p> <p>(ii) Not exceed a volume of <del>250m3</del> <u>1000m3</u>:</p> <p>(iii) Not exceed an area of <del>1000m2</del> <u>1ha</u> over any consecutive 12 month period: (iv) The total depth of any excavation or filling does not exceed 1.5m above or below ground level....</p> <p>(vi) Earthworks are set back 1.5m from all boundaries</p>			
Earthworks rules	Housing New Zealand	749	Amend earthworks – landscape and natural character areas - to a larger area and volume.	Oppose	<p>The Director-General opposes an increase to permitted activity standards for earthworks. Earthworks increases the amount of sediment entering waterways, impacting on waterways, estuaries and the coast.</p> <p>Earthworks can have also have visual amenity effects. The Director-General opposes an increase in permitted earthworks area and volume in landscape and natural character areas which have identified values that require protecting and can be easily adversely impacted by earthworks.</p>	I seek that this submission point is disallowed
Maps	Whaingaroa Environmental Defence Incorporation	780	Add to the planning maps areas such as Haurua Bay and other sites of indigenous vegetation, as recorded in Estuarine vegetation survey - Raglan (Whaingaroa) Harbour.	Support	DOC supports the inclusion of sites of indigenous vegetation where they meet the RPS identification criteria.	I seek that the submission point is allowed

General Plan	Ngati Te Ata	797	No specific decision sought, but submission opposes the inclusion of land in Pokeno that can impact on the Whangamarino wetland RAMSAR site or any other significant ecological area.	Support in part	<p>The submission is unclear as to where it opposes the inclusion of land in Pokeno that can impact on the Whangamarino wetland.</p> <p>However, the Director-General supports consideration of this submission point to ensure impacts on the Whangamarino wetland RAMSAR site or any other significant ecological area are considered in the proposed district plan</p>	I seek that this submission point is allowed, provided it does not cause significant effects for the wetland.
Maps	KiwiRail	835	Delete the Significant Natural Areas overlay from KiwiRail's designations. Decision Reasons: Significant Natural Areas apply to protect and enhance indigenous biodiversity. Land transport corridors, such as KiwiRail's designations are highly modified areas and therefore do not meet the identity and management hierarchy requirements for Significant Natural Areas.	Oppose	<p>SNAs are identified for their biodiversity values (which meet a list of criteria identified in Section 11A of the WRPS). This is not influenced by the existence of a designation.</p> <p>The Director-General opposes reviewing the SNA overlay to remove designations. KiwiRail designations can be broad and have a large impact on SNAs.</p> <p>However, the Director-General is not opposed to the removal of SNAs where there is a mapping error.</p>	I seek that this submission point is disallowed
Maps	KiwiRail	835	Delete Outstanding Natural Features overlays from KiwiRail's designations. Decision Reasons: The objective of identifying Outstanding Natural Features and Landscapes is to ensure that these landscapes and their attributes are recognised and protected from inappropriate subdivision, use and development. The benefits of infrastructure are provided	Oppose	<p>Outstanding Natural Features are identified as having specific values. This is not influenced by the existence of a designation.</p> <p>The Director-General opposes reviewing the ONF overlays to remove designations. KiwiRail designations can be broad and have a large impact on ONFs.</p>	I seek that this submission point is disallowed

			irrespective of location. Designated land transport corridors are highly modified areas.			
Maps	Kiwirail	835	Delete Outstanding Natural Character overlay from KiwiRail's designations. Decision Reasons: The objective of identifying Outstanding Natural Character is to protect the natural character of the coastal environment and waterways from inappropriate subdivision, use and development. The benefits of infrastructure are provided irrespective of location. Designated land transport corridors are generally highly modified areas.	Oppose	<p>Outstanding Natural Character areas are identified as having specific values. This is not influenced by the existence of a designation.</p> <p>The Director-General opposes reviewing the ONC overlays to remove designations. KiwiRail designations can be broad and have a large impact on ONC areas.</p>	I seek that this submission point is disallowed
Policy 6.1.10	Powerco	836	<p>Retain Policy 6.1.10 Infrastructure in identified areas, except for the amendments sought below</p> <p>AND</p> <p>Amend Policy 6.1.10 Infrastructure in identified areas as follows:</p> <p>(a) <u>Where possible and taking into account the lineal needs of infrastructure, and that the form and function of utilities is generally consistent irrespective of the zone, infrastructure must</u></p> <p>Ensure consideration of the values, qualities and characteristics of Significant</p>	Oppose	The Director-General considers that this amendment would be too permissive inside identified areas.	I seek that this submission point is disallowed

			Natural Areas, Landscape and Natural Character Areas and Heritage Items when proposing new infrastructure or undertaking significant upgrades to existing infrastructure.			
Rule 14.2.3 D1	Powerco	836	<p>Rule 14.2.3 D1 Discretionary Activities so that Infrastructure in identified areas is a Discretionary activity rather than non-complying:</p> <p><i>Any infrastructure not specifically listed within Chapter 14, including associated earthworks, <del>not located</del> and those within an Identified Area.</i></p>	Oppose	The Director-General considers a non-complying activity status for earthworks with significant adverse effects on identified areas is too permissive.	I seek that this submission point is disallowed
Policy 3.2.6	Genesis Energy	924.10	<p>Add clause (v) to Policy 3.2.6- Providing for Vegetation Clearance by including the following (or wording to similar effect):</p> <p><u>(v) The vegetation is impinging on adjacent existing activities.</u></p>	Oppose	The Director-General opposes the addition of this clause as it would be too permissive for vegetation clearance in Significant Natural Areas.	I seek that this submission point is disallowed

**Schedule One: Submitters requesting removal of or amendments to Significant Natural Areas from properties**

<b>Submitter Number</b>	<b>Submitter Name</b>	<b>Property</b>
6	Rodney Ranstead	149 Cogswell Road, Raglan
11	Jihong Chen	996 Te Papatapu Road, Raglan
20	Glenn Morse	63 Parker Lane, Pukekohe
21	Anthony Hutt	154 Orini Road, Taupiri
30	Henk Ensing	383 Karakariki Road, Hamilton
46	Marc ter Beek	49 Swallow Lane, Tamahere
53	Ollie Kesting	#2003926 at Old Mountain Road, Waitetuna
75	Mark Emms	126C Woodcock Road, Tamahere
77	Colette Hanrahan	126B Woodcock Road, Tamahere
78	David Lawrie	52B Mill Road, Pukekohe
80	Dean Van Ingen	384A Karakariki Road, Hamilton
90	Kevin Vickers	38 Hermitage Road, Waiuku
99	Peter Roberts	87 Rataroa Road, Miranda
100	Medihah Bardsley	31 Birchwood Lane, Tamahere
101	Martin Bloxam	13 Te Awa Lane, Tamahere
104	Tim Newton	1665 Whaanga Road, Raglan
113	Dianne Murdoch	60 Kidd Road, Waiuku
125	Guy Rathbone	5254 Highway 22, Waingaro
126	Bonita Dean	523 Waingaro Road, Ngaruawahia.
132	Brett Harvey	B & A Limited Properties, Te Kauwhata
135	John & Roselei Holland	368 Riverview Road, Huntly
153	Michael Shen	68 Brown Road, Tuakau
160	Anthony Armstrong	2018784, Kakakariki Road, Hamilton
176	Isobel Waitere	511 Wharf Road, Te Akau South
240	Steve Kirkbride	35 Kakarariki Valley Road
268	Warwick Cheyne	property number 1003679
278	Simpson Trevor	properties owned by Simpsons Farms Ltd
282	Diane Emms	126C Woodcock Road, Tamahere
301	Lizbeth Hughes	17 Calvert Road, Raglan.
327	Jon Harris	140B Woodcock Road, Tamahere
331	Roderick MacRae	142 Woodcock Road, Tamahere
340	Stuart Jefferis	Jefferis Road, Waerenga

349	Kim Robinson	316 Allen and Eyre Road, Onewhero
352	Terence Denton	40 Cameron Town Road, Pukekohe
358	Caroline Swann	1384 Whaanga Road, Raglan
359	Phillip Swann	1665 Whaanga Road, Raglan
394	Gwenith Sophie Francis	312 Parker Lane, Buckland
400	Andrew Kerr	862B Waikare Road, Waeranga
410	Trevor Weaver	Te Onetea Road, Rangiriri, east of Lake Kopuera
437	KCH Trust	170 Port Waikato-Waikaretu Road, Tuakau
484	Rudy Van Spreeuwel	189 Settlement Road, Pukekohe
494	Derek Tate	72 James Road, Huntly and 185B Hakiramata Road, Ngaruawahia
495	Norris Peart	274 Okete Road, Raglan
501	John Swann	65 Karioi Road, Raglan
506	Dean Hansen	83 Paulsen Road, Waerenga.
510	Bob Carter	57 Upper Wainui Road, Raglan.
548	Murray & Cathy McWatt	62 Bluff Road, Pokeno,
575	Fulton Hogan Limited	1500 Tauhei Road, Tuakau and Waingaro quarry land
579	Simon Ash	lake edge within the Lakeside Developments 2017 Limited property
591	Stevenson Waikato Ltd	300 River Road, Huntly
601	Robert Limmer	596 Waikare Road, Te Kauwhata and 209 Whangamarino Road, Te Kauwhata
623	Paul Hoogeveen	156 Paddy Road, Te Kauwhata
643	Peter & Dianne Bullock	40B Cameron Town Road, Pukekohe
669	Bernard Brown	759 Wainui Road, Raglan
677	Arthur Raymond Wright	314 Murray Road, Pukekawa
691	McPherson Resources Limited	<ul style="list-style-type: none"> <li>• CT NA2D/412 (comprising Allot 22 PSH of Mangatawhiri, Allot 139 and 140 PSH of Mangatawhiri, Allot 161 and 163 PSH of Mangatawhiri)</li> <li>• CT NA2D/497 (comprising Allot 162 PSH)</li> <li>• CT NA2D/961 (Allot 164 PSH)</li> </ul>
701	Steven & Theresa Stark	747 Rutherfurd Road, Ohinewai.
703	Sara Brown	538 Te Papatapu Road, Te Mata,
718	Helen Gray	69 Morrison Road, Pukekawa
719	Rob Waddell	102 Hooker Road, Tamahere
723	Tyler Sharrat	Meremere Quarry
728	Seumas MacDonald	658 Te Akau South Road, Te Akau
731	Jean Tregidga	Lyons Road, Mangatawhiri, being Lots 3,4, and 5 DP 62084.
737	Ronald Rumbal	1807 Whaanga Road, Ruapuke



745	Brian Butt and Sheryl Kruger	399 Bedford Road, Te Kowhai
747	Ryburn Lagoon Trust Limited	Lot 4, DP 182809 on Certificate of Title NA113D/782
760	Patrick Day	656 Wainui Road, Raglan
771	Alison Brown	Rotowaro coal mining licence 37 355, ancillary coal mining licence 37 155/01, mining permit 60 422, exploration permits 40 698 and 56 220 and the extended Rotowaro coalfield areas.
815	Louise Milne	442 Waikare Road, Ohinewai
827	New Zealand Steel Holdings Ltd	Waikato North Head site
834	Marshall & Kristine Stead	703B Te Kowhai Road, Te Kowhai
844	Brett McDougall	980 Churchill Road, Otuiti, Pukekawa
855	Peter Buckley	1036 Island Block Road, Te Kauwhata
862	Havelock Village Limited	88 and 242 Bluff Road
924	Alice Barnett	Huntly Power Station site and 'Scott Farm,' Te Ohaki Road, Huntly
944	Janet Evans	849 Matahuru Road, Matahuru.
964	Marcus Ralph	260 Ralph Road, Huntly.

# **WAIKATO DISTRICT COUNCIL**

## **Hearings of Submissions on the Proposed Waikato District Plan**

### **Report and Decisions of Independent Commissioners**

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#### **Decision Report 9: Significant Natural Areas**

**17 January 2022**

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#### **Commissioners**

Dr Phil Mitchell (Chair)

Mr Paul Cooney (Deputy Chair)

Ms Janet Gibb

Ms Jan Sedgwick

Mr Weo Maag

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## **1 Introduction**

- 1.1 Hearing 21A related to all the submissions received by the Waikato District Council (Council) on the provisions within the Waikato Proposed District Plan (PDP) relating to indigenous vegetation and habitats. In particular, the hearing related to objectives and policies in Chapter 3 Natural Environment on biodiversity, and the rules in each of the zone chapter relating to clearance of indigenous vegetation. The PDP provisions for the natural environment are not just limited to identified Significant Natural Areas (SNAs). The plan also includes policies which apply to biodiversity offsetting, biodiversity in the coastal environment and rules for indigenous vegetation that is outside an SNA.
- 1.2 Council is required to control any actual or potential effects of the use, development, or protection of land, including for the purpose of the maintenance of indigenous biological diversity by section 31(1)(b)(iii) of the Resource Management Act 1991(RMA). Part 2 of the RMA requires that “the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna” are recognised and provided for as a matter of national importance.<sup>1</sup> In addition, the RMA requires particular regard be given to the “maintenance and enhancement of the quality of the environment”<sup>2</sup> and “intrinsic value of ecosystems”.<sup>3</sup>
- 1.3 The largest tracts of indigenous vegetation in Waikato District are in the Rural Zone. SNAs are protected by mechanisms outside the PDP such as indigenous vegetation that is protected by private covenants or public ownership. Of these, the Queen Elizabeth II National Trust protects approximately 10,000 hectares and the Department of Conservation manages approximately 23,000 hectares. Approximately 37,000 hectares is, however, held in private ownership, such that a district plan plays a pivotal role in its management.
- 1.4 The main threats to indigenous biodiversity are vegetation clearance, the effects of browsing stock in unfenced areas and degradation from pest animal and plant species.

## **2 Hearing Arrangement**

- 2.1 Hearing 21A was held on Friday 20 November 2020 and Tuesday 24 November 2020 via Zoom. All of the relevant information pertaining to this hearing (i.e., section 42A report, legal submissions and evidence) is contained on Council’s website.
- 2.2 The Panel heard from the following parties on the SNAs provisions of the PDP:

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<sup>1</sup> Section 6(c) of the Resource Management Act 1991.

<sup>2</sup> Ibid s7(f).

<sup>3</sup> Ibid s7(d).

Submitter organisation	Attendee at the hearing
Council	Susan Chibnall (author of section 42A Report) John Turner (Ecologist)
Waikato Regional Council	Miffy Foley (planning) Yanbin Deng (terrestrial ecologist)
Genesis Energy Ltd	Richard Matthews
Derek Tate	In person
Director-General of Conservation	Troy Ulrich (legal counsel) Andrew Riddell Ilse Corkery Tony Beauchamp Tertia Thurley
Federated Farmers of New Zealand	Hilary Walker Philippa Rawlinson
Bruce Cameron	In person
Grace Wilcock	In person
Hynds Pipes Systems and Hynds Foundation	Dharmesh Chhima Mark Bellington
Collett Hanrahan	In person
Marc ter Beck	In person
Warwick Cheyne	In person

Hill Countries Farming Group	Bruce and Kirstie Hill
Phil Swann	In person
The Surveying Company	Sarah Nairn
Mark Mathers	In person
Steven and Theresa Stark	In person
Bathurst Resources Limited and BT Mining Limited	Joshua Leckie (legal counsel) Kelsey Barry (legal counsel) Craig Pilcher
Tainui o Tainui	Angeline Greensill
Transpower New Zealand Ltd	Pauline Whitney
First Rock Consultancy	Andy Loader
KHC Trust	Dave Serjeant
Terence Denton	In person
Norris and Janet Peart	In person
Waka Kotahi New Zealand Transport Agency	Michael Wood
Lochiel Farms	Kim Robinson
Tata Valley Ltd	Chris Scrafton
Tim Newton	In person
Jean Tregidga	In person

Dilworth Trust Board	Mark Arbuthnot
Dermot Murphy	William Murphy
Kiana Lace	Brian Butt and Sheryl Kruger

2.3 Although these parties did not attend the hearing, evidence was also filed by:

- a. Delta Property Group;
- b. Pam Butler on behalf of KiwiRail Holdings Limited;
- c. Christine Foster on behalf of Meridian Energy Limited; and
- d. Lynette Wharfe on behalf of Horticulture New Zealand.

### **3 Overview of issues raised in Submissions**

3.1 In the section 42A report, Ms Susan Chibnall set out the full list of submissions received pertaining to the protection and management of indigenous biodiversity. In summary, the key matters addressed by submitters included:

- a. Significant Natural Areas classification should be removed from certain specified sites;
- b. The accuracy of the mapping of Significant Natural Areas;
- c. Inclusion of objectives and policies to address kauri dieback;
- d. Recognition of *Kunzea* and *Leptospermum* (kanuka and manuka) and the revised conservation status of these species;
- e. More permissive rules enabling the removal of manuka or kanuka for domestic firewood purposes as well as maintaining productive pasture;
- f. Inclusion of objective, policies and rules to protect the habitat of long-tailed bats;
- g. Inclusion of policies and rules to encourage restoration/offsetting or rehabilitation;
- h. Policies which establish a framework for environmental compensation;
- i. Increased areas for the clearance of indigenous vegetation as a permitted activity; and

- j. Increased area permitted for earthworks within an SNA.
- 3.2 The issue that received the most submissions and evidence was the question of whether to map SNAs or not, given the inaccuracies of the data provided to Council from Waikato Regional Council (WRC). In response to these concerns, Ms Chibnall originally recommended amending the definition of an SNA so that it applied to any area of indigenous vegetation that met the criteria in Appendix 2 Criteria for Determining Significant Indigenous Vegetation, regardless of whether it was mapped. We are aware that this is a similar approach to that of the Operative District Plan. However, after hearing the evidence, Ms Chibnall changed her recommendation in her closing statement so that the basis of SNAs was the identification of them on the planning maps.
- 3.3 Ms Chibnall and Mr Turner (ecologist) undertook a large number of site visits (where submitters allowed access to their site) to verify the extent and adherence to the criteria contained in Appendix 2 Criteria for Determining Significant Indigenous Vegetation. This resulted in Ms Chibnall recommending the removal or modification of the SNA from a number of properties.

#### **4 Overview of evidence**

- 4.1 Ms Miffy Foley presented evidence on behalf of WRC and focused on the following matters:
- a. Removal of SNAs that have not been mapped;
  - b. Significant habitats of indigenous fauna;
  - c. Removal of policy 3.2.2 Identify and recognise;
  - d. Inclusion of environmental compensation in Policy 3.2.3 management hierarchy; and
  - e. Policy 3.2.6 Providing for vegetation clearance.
- 4.2 Ms Foley did not support Ms Chibnall's recommendation to remove the majority of the SNA mapping and rely on the criteria in Appendix 2. While she accepted that this was maintaining the status quo approach of the Operative District Plan, she did not consider it gives effect to section 11 of the Waikato Regional Policy Statement (RPS). She considered that plan mapping is a representation of reality rather than a confirmation of the exact location of an area on the ground.<sup>4</sup> She considered that the implications of having an SNA inaccurately identified on a property are minor or could be mitigated to an extent by permitted activity standards. Ms Foley sought to retain the SNA map overlay and include a mechanism to manage areas that meet the 11A criteria of the RPS and have not been identified and mapped in the PDP.

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<sup>4</sup> Evidence in Chief of Miffy Foley on behalf of Waikato Regional Council, Paragraph 3.4, dated 29 October 2020.



- 4.3 Ms Foley considered there is an opportunity to include additional matters of control and matters of discretion to ensure that habitat which meets criterion 3 of Appendix 2 are considered when activities are proposed to be undertaken, especially in relation to long-tailed bats.<sup>5</sup> Ms Foley also sought amendments to Policy 3.2.6 - Providing for vegetation clearance, to recognise that only clearance with minor adverse effects on indigenous biodiversity will be enabled as a permitted activity and that the specific reference to an identified SNA should be removed to recognise that it also applies to other indigenous vegetation outside SNAs. Regarding environmental compensation, Ms Foley considered more work needs to be undertaken in this area but supported including a definition that supports the concept of environmental compensation in the PDP to provide context and parameters around its use.
- 4.4 Dr Yanbin Deng presented ecological evidence on behalf of WRC. She expressed concerns that the SNA assessments undertaken by Mr Turner were conducted as a property-level approach and should have been at the scale of an SNA-ecological unit. Dr Deng considered that mapping only a small number of verified sites as recommended by Ms Chibnall in her section 42A report represents a lack of protection. Dr Deng also stated that the 40 mapped properties only cover 0.5 per cent of the provisional SNA area.<sup>6</sup> She supported the retention of mapping of the 23,000-hectare SNA on land held by the Department of Conservation. She also provided examples of where Mr Turner's recommendation to delete SNAs was flawed, in her opinion, particularly where the SNA comprised of kanuka and manuka.
- 4.5 Mr Richard Matthews gave planning evidence on behalf of Genesis Energy Ltd (Genesis), generally supporting Ms Chibnall's recommendation to remove mapping of SNAs that had not been verified, but not the replacement approach to rely on Appendix 2: Criteria for Determining Significant Indigenous Vegetation. Mr Matthews considered that if the criteria in Appendix 2 were to apply, then landscaped areas which Genesis had planted may be determined to meet the criteria. He believed these areas should not be regarded as SNAs as they are not "natural".
- 4.6 Mr Matthews also expressed concern that when applying the criteria, any species in an area of vegetation that are classified as 'at risk' (one of the criteria) would mean that the area is automatically an SNA. He considered the most appropriate way to protect SNAs is to ensure that mapped areas are significant and this needs to be undertaken by an ecologist.
- 4.7 Mr Matthews sought a management hierarchy in Policy 3.2.3 to protect SNAs by using the effects management methods. He considered that environmental compensation (not just economic compensation) should be recognised in a meaningful way that enables

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<sup>5</sup> Ibid Paragraph 3.10.

<sup>6</sup> Statement in Chief of Dr Yanbin Deng on behalf of Waikato Regional Council, Paragraph 3.5, dated 29 October 2020.

positive environmental biodiversity outcomes. Mr Matthews did not agree with Mr Riddell (on behalf of the Director-General of Conservation) that environmental compensation intrinsically results in a reduction in the values and attributes that make an area significant and used the example of the Genesis Whio (blue duck) National Recovery.

- 4.8 He considered that Policy 3.1.2A should seek to maintain indigenous biodiversity outside of SNAs by considering the effects management methods. He saw the key difference between Policies 3.1.2A and 3.2.3 is that offsetting and compensation are considered at the same “tier” as each other in Policy 3.1.2A, and that Policy 3.1.2A should focus on avoiding “significant” adverse effects where practicable.<sup>7</sup>
- 4.9 Mr Matthews did not agree with Ms Foley in terms of the indicative nature of mapping of SNAs and believed she overstated the contribution that consultation has made in identifying and mapping SNAs. Ms Foley considered that a comprehensive consultation process as per Schedule 1 of the RMA provided multiple opportunities for landowners to be involved and landowners would have said if there were inaccuracies. Mr Matthews did not consider that the Schedule 1 process could be relied upon to the degree Ms Foley suggested, to justify the retention of the SNA mapping.
- 4.10 Mr Matthews also considered that Ms Foley understated the effect of an inaccurate map and the value of a site assessment before confirming an area is significant. He considered that the effect of incorrectly mapping an area as SNA means that before any activity can occur an assessment by an expert must be undertaken to prove the area is not significant, when a simple site assessment at the outset could address the issue. He agreed with Ms Chibnall that the SNA mapping is too inaccurate to rely on, and accurate mapping is essential to provide more certainty.<sup>8</sup>
- 4.11 Mr Matthews disagreed with Mr Riddell and Ms Corkery (representing the Director-General of Conservation) with the suggestion that the SNA mapping is retained as an information layer, especially where 75 per cent of the mapping is inaccurate. Mr Matthew considered the information could be retained as a guideline but not be afforded any statutory weight.<sup>9</sup>
- 4.12 Mr Matthews disagreed with Ms Foley’s position that an activity which cannot avoid, remedy or mitigate its effects, and offsetting is not feasible, should not be consented. Mr Matthews considered there will be situations where it is not always possible and there is no other practicable option, or there may be a functional need to locate in an SNA and

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<sup>7</sup> Evidence in Chief of Richard Matthews on behalf of Genesis Energy Limited, Paragraph 9, dated 29 October 2020.

<sup>8</sup> Rebuttal Statement of Evidence by Richard Matthews on behalf of Genesis Energy Limited, Paragraphs 9 and 10, dated 5 November 2020.

<sup>9</sup> Ibid Paragraph 19.

agreed with Mr Scrafton on behalf of TaTa Valley Ltd in this regard.<sup>10</sup> Mr Matthews considered Policy 3.2.3 must provide for activities to occur if there is no other practicable option.

- 4.13 Mr Derek Tate attended the hearing and discussed the flaws in the methodology of the mapping. He disagreed with Mr Turner's assessment of 72 James Road, Huntly and considered that none of the section 11A criteria of the RPS are applicable. He also addressed the property at 185 Hakarimata Road and considered that an SNA on the property would place more specific and onerous regulations on the property, as well as devaluing the property. He suggested that if an SNA were to be identified on the property, then the boundary of the SNA should be taken back to the upper slopes where Mr Tate considered the vegetation met the criteria.
- 4.14 Ms Troy Ulrich filed legal submissions on behalf of the Director-General of Conservation covering kauri dieback, long-tailed bat protection and offsetting. She acknowledged the complexities of establishing and implementing comprehensive kauri dieback controls but considered this does not relieve Council from its functions. She outlined concerns that the PDP does not provide adequate protection of the habitat of threatened bats. The original submission from the Director-General of Conservation sought the inclusion of a definition for 'Biodiversity offset' and suggested wording that reflected the Guidance for Biodiversity Offsetting. While Ms Chibnall recommended accepting this wording, the evidence now sought to include wording that reflects an updated version of Biodiversity Offsetting Under the Resource Management Act (BOURMA) where the key difference is the addressing of "residual adverse biodiversity effects" and includes offsetting principles, whereas previous guidance documents address "significant residual adverse biodiversity effects" and does not reference offsetting principles.<sup>11</sup>
- 4.15 Mr John Riddell presented planning evidence on behalf the Director-General of Conservation. His evidence addressed the following provisions:
- a. Amend Objective 3.1.1 to include additional wording 'attributes', and 'functioning'. The evidence also sought to rearrange the wording of Policy 3.1.2, so the consideration of effects is not limited to those listed in the policy;<sup>12</sup>
  - b. Revision of Policy 3.2.2 to better reflect the approach to unmapped SNAs recommended in the 21A Hearing Report;
  - c. Adding further performance standards and/or matters of control or discretion on activities within SNAs, proximity to a kauri root zone, and long-tailed bats to land use and subdivision rules;

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<sup>10</sup> Ibid Paragraphs 13 and 14.

<sup>11</sup> Legal submissions on behalf of the Director-General of Conservation, dated 16 November 2020.

<sup>12</sup> Evidence in Chief of John Riddell for the Director-General of Conservation, Paragraph 253, dated 29 October 2021.

- d. Using the most recent definitions of 'biodiversity offset' and 'environmental compensation';
- e. Amending Policy 3.2.6 on vegetation clearance within SNAs to better implement the higher order indigenous biodiversity policy guidance; and
- f. Adding permitted activity clearance limits to the vegetation clearance rules.<sup>13</sup>

4.16 Mr Riddell generally supported the recommended approach in respect of the SNA mapping as recommended in the section 42A report. He sought to amend Policy 3.2.2 to acknowledge Appendix 2, recognise that SNAs include sites identified in the Planning maps as well as sites that are not recorded on the Planning maps, and to ensure values and attributes are not reduced but preferably enhanced.<sup>14</sup> Mr Riddell recommended to retain the SNA mapping as an information layer.

4.17 Mr Riddell sought more stringent controls on earthwork to manage Kauri Dieback through restrictions on earthworks in the vicinity of kauri. In this regard, he considered that earthworks near kauri should not be permitted and that the recommended amendments are insufficient. The evidence sought to amend the earthworks rules to be more in line with Thames Coromandel District Plan's approach to kauri dieback.<sup>15</sup>

4.18 Mr Riddell sought additional mapping, objectives, policies, and rules which recognise bat zones and tree protection. Mr Riddell considered that long-tailed bat habitat meets the criteria in Appendix 2 and therefore the plan needs to recognise and provide for protection inclusive of bat habitat, even if it includes exotic vegetation.<sup>16</sup> The definition of "Indigenous Vegetation" currently excludes domestic or ornamental/landscape planting or planted shelter belts but Mr Riddell suggests these aspects should be included where long-tailed bats are present.

4.19 Mr Riddell sought the following amendments to the policies:

- a. Policy 3.2.3 to delete the clause that provides for offsetting;<sup>17</sup>
- b. Policy 3.2.4 to add 'to the extent practicable', require offsetting to result preferably in a net gain and recognise the limits of offsetting;<sup>18</sup>
- c. Policy 3.2.6 to include assurance that values and attributes of SNAs are not reduced and to provide for only limited clearance of indigenous vegetation, recognising existing infrastructure.

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<sup>13</sup> Ibid.

<sup>14</sup> Ibid Paragraph 108.

<sup>15</sup> Ibid Paragraphs 168, 169, 174,189.

<sup>16</sup> Ibid Paragraphs 195-196.

<sup>17</sup> Ibid Paragraph 224.

<sup>18</sup> Ibid Paragraph 234.

- 4.20 Ms Tertia Thurley presented technical evidence on bats and explained that long-tailed bats have the highest threat classification, being Nationally Critical. She stated that Waikato District holds several known long-tailed bat populations and are present in both urban and rural landscapes. She advised that roost trees have very specific thermal requirements, and if loss of these trees continues, she expects bat populations will not persist in Waikato District. She considered that the recorded bat activity could be used as a basis for protecting bat habitats through bat zones, buffered by 7.3 kilometres, which is the longest known bat range span in Waikato.<sup>19</sup>
- 4.21 Dr Tony Beauchamp provided technical evidence on kauri dieback and explained why kauri dieback is such a significant threat to kauri. While he acknowledged there are no known positive sites within Council's district boundary, he observed that contaminated material may be transported through Waikato District to landfills. He did not agree with using the rural landowners' guide for protecting kauri as he considered the guide was inadequate. He considered that kauri dieback management needs to be part of the PDP to prevent the district's kauri from being contaminated.
- 4.22 Ms Ilse Corkery provided evidence on offsetting and compensation and considered it is important that the PDP acknowledges there are limits to offsetting and environmental compensation. She sought inclusion of a new definition for "Biodiversity offset" and "Environmental compensation", and amendments to Appendix 6 to support those new definitions.
- 4.23 Ms Hilary Walker presented evidence on behalf of Federated Farmers of New Zealand (Federated Farmers) and addressed a number of matters associated with SNAs. She did not support the recommended inclusion of 3.1.2A Policy-Management hierarchy or 3.1.2B Policy Biodiversity offsetting which seek to manage areas outside an SNA as she considered the RMA does not require protection of all areas of indigenous flora and fauna. She considered that a 'protect' policy for all indigenous biodiversity will not achieve sustainable management of resources.
- 4.24 Ms Walker's evidence sought to amend the overarching Objective to refer to regulatory and non-regulatory methods and supported the inclusion of non-regulatory Policy 3.1.2C in which Council will work with landowners. Ms Walker also considered that Policy 3.2.2 Identify and Recognise is sound and considered amendments to help improve the purpose of the policy.
- 4.25 Ms Walker supported the removal of SNA mapping and raised concerns regarding the transition period between notification of the proposed plan and the decision. She expressed concern that landowners may end up in a 'no-mans-land,' as Ms Chibnall's recommendation to amend the definition of SNA elevates all indigenous vegetation to a

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<sup>19</sup> Evidence in Chief of Tertia Thurley for the Director-General of Conservation, Paragraphs 244 and 245, dated 29 October 2021.

significant threshold until proven otherwise. She outlined the following as alternative approaches:

- a. Retain the mapped SNA sites in the planning maps only where Council is certain of the extent and quality of the indigenous vegetation as a result of ground-truthing;
- b. Amend all other areas to a reduced 'alert' layer status with an advice note concerning the situation where a proposed activity requires a resource consent solely as a result of an area being identified as an SNA and the site has not been ground-truthed; in which case, Council would meet the costs of the ground-truthing assessment to confirm the status and boundaries of the SNA;
- c. Remove all SNA sites from the planning maps that have not been ground-truthed and amend the SNA provisions to include a general clearance rule supported by methods to identify the ecological significance of indigenous biodiversity on an application basis; and
- d. Introduce a plan change to reintroduce the full mapping concept back into the PDP and amend associated implementation methods in accordance with the proposed National Policy Statement for Indigenous Biodiversity identification process and timelines, once gazetted and operative.<sup>20</sup>

4.26 In terms of kauri dieback, Ms Walker did not support the inclusion of provisions and considered that the issue should be dealt with at a national and regional level.<sup>21</sup> She supported the use of voluntary methods until both an appropriate risk assessment and consultation with affected landowners are undertaken. With regards to manuka and kanuka, Ms Walker considered the permitted activity standard thresholds are unduly onerous and that these areas should not be identified as SNAs.<sup>22</sup>

4.27 Ms Walker then addressed the provisions relating to earthworks in an SNA. She supported amendments to Rule 22.2.3.3 P1 to decouple earthworks for existing farm infrastructure from the standards and to also extend the rule so it applied to new farm infrastructure. She considered that the standards did not make sense in the context of existing infrastructure and did not enable actions to improve biodiversity outcomes such as new fencing for stock exclusion and new tracks for improved access for pest management purposes. She suggested a compromise to the earthworks rule to include conservation activities and water reticulation in the new permitted activity rule and although this may have interim adverse effects, she considered that this will be consistent with RPS 11.1.4 (c).<sup>23</sup> While earthworks associated with fencing, tracking and

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<sup>20</sup> Statement of Evidence of Hillary Walker on behalf of Federated Farmers of New Zealand, dated 29 October 2020.

<sup>21</sup> Ibid Paragraphs 46-51.

<sup>22</sup> Ibid Paragraphs 52-56.

<sup>23</sup> Ibid Paragraphs 57-68.

water reticulation have been recognised as being reasonable, she expressed concern that vegetation clearance associated with the earthworks is not recognised or enabled and would therefore require consent.

4.28 Ms Walker addressed the rules regarding clearance of indigenous vegetation and made the following comments:

- a. Supported the inclusion of conservation activities in a new P1(a)(vi);
- b. Supported the clarification that non-indigenous species in an SNA can be cleared (new P9);
- c. Supported the new permitted activity for clearance of manuka and kanuka to maintain productive pasture subject to conditions (P7), although she considered that the new rule also needs to apply to the rule framework of 22.2.8 Indigenous Vegetation clearance outside an SNA;
- d. Did not support the 10-metre setback from waterbodies on the basis that it is impractical to impose a setback which applies to the maintenance of existing infrastructure;
- e. Supported the removal of the volume threshold in P2 but sought deletion of the condition which requires the removal of kanuka or manuka to not directly result in the death, destruction, or damage of any other tree, bush or plant. She considered that the literal interpretation of this condition extends protection to both indigenous and exotic vegetation including pest plants. She considered it also sets a very high and unreasonable bar and would be difficult to monitor and enforce; and
- f. Did not support the recommended inclusion of two new discretionary activities D2 and D3, as she considered the references to Appendix 2 would add confusion and create uncertainty.

4.29 Ms Walker sought amendments to Rule 22.2.8 relating to clearance outside an SNA. She considered the relief sought was practical, would provide more certainty, avoid duplication and ensure Council continues to meet its obligations under the RMA. Ms Walker's concerns were that the thresholds will have a limiting effect on farming practice.<sup>24</sup> Ms Walker expressed concern that there was little distinction made between provisions for earthworks and vegetation clearance activities that apply inside or outside SNAs.

4.30 Mr Bruce Cameron presented from a farming perspective and considered that the stewardship by the landowners of indigenous bush has been good, especially illustrated by the maps shared by WRC of indigenous bush lines from 1974 to 2017. Mr Cameron emphasised the need for indigenous vegetation to be considered an asset, not a liability due to the rules in a district plan. He considered there had to be an incentive for the farmers to protect these areas from livestock as the fencing costs are significant. He

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<sup>24</sup> Ibid Paragraphs 69-73.

expressed concern about the practicality of managing earthworks near kauri, especially where cultivation is being undertaken.

- 4.31 Ms Grace Wilcock attended the hearing and outlined her concerns that a large farm cannot be managed in the same way as a lifestyle block in terms of indigenous vegetation. She expressed concern about the imposition of more stringent rules that prevent landowners managing their vegetation, particularly where the ecological values have been compromised by the expressway through Tamahere.
- 4.32 Mr Dharmesh Chhima presented planning evidence on behalf of Hynds Pipes Systems and Hynds Foundation (collectively, Hynds). Mr Chhima questioned Ms Chibnall's recommendation to amend the definition of an SNA. Mr Chhima considered the recommended definition of SNA will create uncertainty for landowners seeking to use or develop land that has indigenous vegetation, and it is important that all parties having a clear understanding on whether an activity is permitted or not. He considered that Ms Chibnall's recommended amendments to the definition would not provide certainty. He did however support Ms Chibnall's recommendation to remove the northern SNA on the site at 62 Bluff Road, Pokeno from the planning maps.<sup>25</sup>
- 4.33 Dr Mark Bellington presented ecological evidence also on behalf of Hynds, which assessed the SNA identified on Hynds' site. He advised that the area is not a natural ecosystem nor a wetland under the RMA, the National Policy Statement for Freshwater Management or the National Environment Standards for Freshwater Management; therefore, it does not meet the criteria for an SNA.<sup>26</sup>
- 4.34 Ms Collette Hanrahan presented at the hearing and expressed her opposition to the mapping of SNAs. Ms Hanrahan stated her support for WRC's submission to amend the definition of 'Conservation activity' to exclude establishment of walkways, cycleways and accessory buildings.
- 4.35 Mr Marc ter Beek provided evidence that expressed concern at the incorrect mapping of the SNA boundary on his property at 49 Swallow Lane, Tamahere, particularly since the species are exotic she-oaks.
- 4.36 Mr Warwick Cheyne provided evidence and appeared at the hearing. His evidence sought to defer implementing SNAs for three years and if this was not an option, then requested removal of the SNA from the property at 648 Waipuna Road and from all privately-owned properties.
- 4.37 Bruce and Kirstie Hill presented evidence on behalf of the Hill Countries Farming Group and supported the removal of SNA mapping, particularly given the inaccuracy. They

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<sup>25</sup> Summary of Evidence by Dharmesh Chhima, dated October 2020.

<sup>26</sup> Statement of Evidence of Dr Mark Bellingham, Paragraphs 26-27, dated October 2020.



explained that SNAs exist in a stable equilibrium with current land use and suggested that ground-truthing could be deferred until prompted by a change in status or land use. They considered that importing fill to SNAs is no threat to indigenous biodiversity in the context of tracks.<sup>27</sup>

- 4.38 The evidence explained that the nature of fencing and tracking projects may be large yet happen infrequently. They considered that volume and area limits for earthworks for the purpose of constructing or maintaining tracks, fences or drains over a 12-month period is inappropriate and instead suggested a rolling average is applied.<sup>28</sup> They expressed concern that manuka and kanuka meet the criterion to be an SNA and these species (as well as totara) are invasive and persistent species that effect pasture maintenance.<sup>29</sup> The evidence expressed concern at the lack of compensation for the good efforts already put in by landowners and considered that at the very least rates rebate pro-rata for land designated SNA should be provided. They believed the quality of an SNA is more important than the quantity.
- 4.39 Mr Phil Swann supported the removal of SNA mapping from 1384/12665 Whaanga Coast Road. He expressed concern that the PDP does not allow the harvesting of kanuka or manuka for firewood, and if they cannot manage these species the farm will revert to being covered in this species. He highlighted the need to maintain the grass area as productive land.
- 4.40 Ms Sarah Nairn presented evidence on behalf of The Surveying Company and while she supported Ms Chibnall's recommendation to remove SNAs that have not been ground-truthed, she did not support the recommended amendment to the definition of an SNA (which adds reference to Appendix 2). Ms Nairn considered this will create a lack of transparency as provisions need to be clear as to when and where they apply.<sup>30</sup>
- 4.41 Mr Mark Mathers described the property at 536 Wainui Road, Raglan and expressed concern at being restricted as a result of their own plantings. He also was concerned that the identification of SNA affects his ability to develop the site for housing for his family. Some of the areas identified as SNA included a commercial woodlot.
- 4.42 Mr Steven and Mrs Theresa Stark described their steep hill country farm and sought the ability to maintain productive pasture by removing invasive regenerating manuka, kanuka and totara. They explained that they have a kauri tree located right next to an existing access track and considered that getting a consent for any earthworks near is

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<sup>27</sup> Summary of presentation of Hill Country Farmers Group, Paragraphs 9-11, 20 November 2020.

<sup>28</sup> Ibid Paragraphs 13-15.

<sup>29</sup> Ibid Paragraph 18-20.

<sup>30</sup> Statement of Evidence of Sarah Nairn on behalf of The Surveying Company, dated 29 October 2020.

not logical. They also expressed concern that the rules regarding outside an SNA are more stringent than inside an SNA.

4.43 Mr Craig Pilcher presented evidence on behalf of Bathurst Resources Limited and BT Mining Limited. The evidence from Mr Pilcher covered the following aspects:<sup>31</sup>

- a. Functional need – he observed that because a coal deposit is fixed at a specific location, it must be extracted at that location. He considered that coal mining has a functional need to be located where the coal deposits are, and it is also more efficient to establish new coal mining in locations that can utilise existing infrastructure;
- b. Identification of an SNA – he supported the removal of SNA mapping, especially given that mapping was undertaken without ground-truthing. He expressed concerns that constraints are to be imposed based upon a high-level, untested desktop review. Mr Pilcher provided insight into the assessments undertaken by AECOM ecologists of areas they could access safely and recommended the boundaries of the SNAs be reduced as they do not meet the criteria of the RPS. Mr Pilcher also queried the application of the Appendix 11A of the RPS and stated it is not possible to identify SNAs without proper ecological assessment; and
- c. Future resource consent applications and assessment – he sought amendments to ensure that mining operations and development are not unduly restricted by the proposed SNA regime. He explained that the rehabilitation of mining areas are also subject to conditions of a coalmining license or coal mining permits.

4.44 Mr Joshua Leckie and Ms Kelsey Barry presented legal submissions on behalf of Bathurst Resources Limited and BT Mining Limited generally supporting the SNA framework. They sought minor amendments: to ensure that the functional need of some activities to locate within SNAs is recognised; to ensure appropriate provision for offsetting and environmental compensation; and to ensure that the ‘no net loss’ requirement for offsetting does not result in a ‘no adverse effects’ application. The evidence addressed the following specific provisions:<sup>32</sup>

- a. Support for Ms Chibnall’s recommended deletion of Rule 22.2.3.3 and replacement of Rule 22.2.3.3 RD1 with Rule 22.2.3.1 RD2. They also expressed support for new matter of discretion (iii) relating to the functional and operational need for the earthworks;

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<sup>31</sup> Statement of Evidence of Craig Pilcher for Bathurst Resources Limited and BT Mining Limited, Paragraphs 8 and 10, dated 29 October 2020.

<sup>32</sup> Legal submissions of behalf of Bathurst Resources Limited and BT Mining Limited, dated 16 November 2020.

- b. Support for Ms Chibnall's recommendation to extend Rules 22.2.7 and 22.2.8 to apply to all vegetation, not only indigenous vegetation, and the related permitted activity status for clearance of non-indigenous species inside an SNA (Rule 22.2.7 P9) and outside an SNA (Rule 22.2.8 P5);
- c. Retain notified Rule 22.2.7 D1 and reject proposed Rules 22.2.7 D2 and D3 on the basis that they effectively duplicate catchall rule D1;
- d. Consequentially amend notified Rule 22.2.8 RD1 to apply in the instance that Rules 22.2.8 P1 – P5 are not triggered;
- e. Consequently reject Ms Chibnall's proposed Rule 22.2.8 RD2 because it effectively duplicates catchall Rule 22.2.8 RD1;
- f. Include a functional and operational matter of discretion in Rule 22.2.8 RD1 (and RD2 if retained), like that recommended by Ms Chibnall in 22.2.3.1 RD2; and
- g. Include an 'offsetting matter of discretion' in 22.2.3.1 RD2 like that proposed at Rules 22.2.8 RD1(b)(vi) and RD2(b)(vi).

4.45 Ms Angeline Greensill presented evidence on behalf of Tainui o Tainui and echoed many of the other submitters that kanuka, manuka and totara are not valued because they are growing in the wrong place on pasture. She observed that Tainui o Tainui have little land left, and there are a number of overlays which constrain the potential to develop. She expressed a desire to be able to utilise their land. She considered that they have the capability to take care of their land, in the same manner as other farmers.

4.46 Ms Pauline Whitney presented evidence on behalf of Transpower New Zealand Ltd (Transpower) addressing the relationship between Chapter 3 Natural Environment and Chapter 6 Infrastructure. She addressed Ms Chibnall's recommended amendment to the definition of SNA and highlighted the challenges of unidentified SNAs for a linear asset such as the National Grid. Ms Whitney addressed specific provisions as follows:<sup>33</sup>

- a. She supported the submission of Meridian Energy Limited to remove the word 'enhance' from Objective 3.2.1 for SNAs, as the RMA requires 'protection' not 'enhancement';
- b. However, she opposed replacing 'and' with 'or' in Objective 3.2.1;
- c. She supported the recommended amendment to Policy 3.2.3, however should further changes be made to Section 6.2, would seek an amendment to Policy 3.2.3 to give effect to the National Policy Statement for Electricity Transmission;
- d. She supported minor amendments to the wording of the Funding Policy;
- e. With regards to Policy 3.2.3 Management Hierarchy Ms Whitney suggested amending the policy to use the wording 'more than minor' in clauses (i) and (ii) and in clause (iv) to insert the word 'consider';

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<sup>33</sup> Summary of Evidence (Highlight Package ) of Pauline Whitney of behalf of Transpower New Zealand Ltd dated 17 November 2020.

- f. She supported the new Policy 3.2.3 Functional requirement but recommended the policy also refers to 'operational need'; and
- g. She supported Ms Chibnall's section 42A recommendations for Policy 3.2.4 Biodiversity Offsetting and Policy 3.2.6 Providing for vegetation clearance.

- 4.47 Mr Andy Loader appeared on behalf of First Rock Consultancy and considered that the SNAs should be able to be contested by landowners and only mapped as an SNA after the vegetation has been verified by an ecologist.
- 4.48 Mr David Serjeant presented evidence on behalf of KHC Trust and expressed support for the general approach of ground-truthing prior to mapping. He clarified that deletion of the SNA from the property at 170 Port Waikato-Waikaretu Road was not sought, and as a result of discussions between the parties, the mapping has been recommended by Ms Chibnall to be retained on this property. Mr Serjeant supported Ms Chibnall's recommended amendment to the definition of SNA to refer to Appendix 2.
- 4.49 Mr Terence Denton provided evidence addressing the SNA on the property at 40 Cameron Town Road, Pukekohe. His evidence showed how the SNA mapping had captured the garden area on the property which includes vegetation that is not indigenous. He expressed concern that Ms Chibnall's recommended amendments to the definition of SNA would unintentionally capture garden areas and therefore the rule framework would apply.<sup>34</sup>
- 4.50 Mr Norris Peart sought that the SNA be reduced on his property at 274 Okete Road and flexibility to be able to use the land. He explained that some of the vegetation that has been mapped as SNA has pasture underneath, and areas of open grass that are grazed.
- 4.51 Mr Michael Wood appeared on behalf of Waka Kotahi New Zealand Transport Agency (Waka Kotahi). Mr Wood largely expressed support for the section 42A report recommendations in terms of Waka Kotahi's designations and the recommended addition to Policy 3.2.6 (providing for vegetation clearance). While the original submission sought to delete the SNA mapped on existing Waka Kotahi's designations, Mr Wood reconsidered this position and advised that he does not seek the total removal of SNAs from the designations. He outlined his support for the use of SNAs as a tool to protect ecological areas providing these areas do not unduly impact on the maintenance or minor upgrades of the highway network and have been mapped on the basis of ground-truthing. He provided maps which provided insight to the modification of SNAs on the Huntly Bypass of the Waikato Expressway.<sup>35</sup>

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<sup>34</sup> Statement of Evidence of Terence Denton and Bernardina Van Loon, dated 29 October 2020.

<sup>35</sup> Statement of evidence of Mike Wood on behalf of Waka Kotahi NZ Transport Agency, dated 22 October 2020.

- 4.52 Mr Kim Robinson filed a statement of evidence on behalf of Lochiel Farms; however Ms Pervinder Kaur attended the hearing. Mr Robinson's evidence addressed Rule 22.2.7 Indigenous vegetation clearance inside an SNA where he sought to include "repairing or reinstating" in terms of an existing track. He did not agree that "maintaining" covered repairs. Mr Robinson provided an example of a slip and reinstating the track. Regarding Rule 22.2.8 Indigenous vegetation clearance outside an SNA, Mr Robinson considered all controls should be removed so pasture maintenance can occur and in respect of this activity that section 10 of the RMA should apply.<sup>36</sup>
- 4.53 Mr Christopher Scafton presented evidence on behalf of TaTa Valley Ltd (TaTa Valley) and expressed concerns over Ms Chibnall's recommended amendment to the definition for an SNA to include reference to meeting the criteria of Appendix 2: Criteria for Determining Significance of Indigenous Biodiversity. Mr Scafton sought amendments to the following specific provisions:<sup>37</sup>
- a. Objective 3.2.1 Significant Natural Areas to read '*protected or enhanced*' to better reflect Policy 11.1 of the RPS which is to maintain or enhance indigenous biodiversity;
  - b. Policy 3.2.3 sets out the effects management hierarchy but is overly restrictive. He made the point that while avoidance is generally preferred it is not always practicable and that the policy should also consider the values of indigenous vegetation;
  - c. He preferred the use of "more than minor" in Policy 3.2.4 Biodiversity offsetting;
  - d. He supported a new clause recognising the operating, maintaining or upgrading of existing infrastructure in Policy 3.2.6 but sought that clause (i) be relocated to be under (a) rather than Policy 3.2.6 (b);
  - e. Inclusion of a new policy regarding functional requirements to recognise activities like infrastructure and conservation activities;
  - f. Inclusion of a new policy to set out the effects management hierarchy for indigenous vegetation outside of an SNA; and
  - g. If Policy 3.2.2 is retained, he sought amendments to clause (b) to ensure the characteristics that contribute to their significance are not adversely affected by following the effects management hierarchy in Policy 3.2.3.
- 4.54 Mr Scafton considered that the protection of indigenous biodiversity within SNAs should be focused on protection of values as opposed to SNA area. Mr Scafton did not agree with the evidence of Ms Foley on behalf of WRC, who contended that plan mapping should automatically be accepted as a representation of reality in all cases and that the implications of having an SNA inaccurately identified on a property are minor. He did not

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<sup>36</sup> Statement of Evidence of Kim Robinson on behalf of Lochiel Farmlands Limited, dated 28 October 2020.

<sup>37</sup> Statement of Evidence of Christopher Scafton on behalf of Tata Valley Ltd, dated 29 October 2020.

consider that including SNA mapping in the PDP will ensure that SNAs are identified as per the RPS.<sup>38</sup> He considered that SNA provisions should utilise mapping of areas that qualify where there is a high degree of confidence and recognise the limitations of SNA mapping.

- 4.55 Mr Tim Newton spoke about the property at 1665 Whaanga Road and the rules regarding activities in an SNA. He considered that SNAs need to be properly (and accurately) defined, and the rules need to enable the existing farming operation.
- 4.56 Ms Jean Tregidga attended the hearing and sought removal of the three SNA blocks from her property. She expressed concern regarding the restriction of activities in the SNAs.
- 4.57 Mr Mark Arbuthnot presented evidence while Mr Anthony Blomfield filed evidence on behalf of Dilworth Trust Board. Both sought to amend indigenous vegetation clearance rules outside of an SNA for the purpose of remediation and stabilisation of the banks of a stream, river, or other water body. Mr Arbuthnot considered that the activity would be consistent with Policy 11.1.4 of the RPS which directs district plans to include permitted activities in relation to the maintenance or protection of indigenous biodiversity where the effects of the activity will have minor adverse effects on the vegetation. Mr Arbuthnot considered there should be a permitted activity rule in the PDP to facilitate this, which should also equally apply to the removal of vegetation to the banks of water bodies for undertaking remediation and stabilisation works to protect property from serious damage. He also sought a new policy that provides for vegetation clearance outside of an SNA.<sup>39</sup>
- 4.58 Mr William Murphy presented evidence on behalf of Dermot Murphy and addressed 82 hectares of SNA and Significant Amenity Landscape on the site at 243 Frost Road. He explained that the soil makeup of the land makes it very valuable for a wide range of uses due to the fertile topsoil and underlying sand. He stated that he would be happy to legally covenant the 25-hectare area at the southern end of the property which would meet the criteria in Appendix 2 but maintained that the balance of the alder forest is not an SNA. He considered that having an SNA could restrict cattle from grazing the area, which is a significant part of the farming operation during the dry months.
- 4.59 Mr Brian Butt presented evidence on behalf of his family trust Kiana Lace with regards to the property at 399 Bedford Road, Te Kowhai. He explained that while he initially sought removal of the SNA from the rear portion of the property, he expressed support

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<sup>38</sup> Rebuttal Evidence of Christopher Scafton on behalf of Tata Valley Limited, Section 2, dated 5 November 2020.

<sup>39</sup> Summary Statement of Evidence of Mark Arbuthnot on behalf of Dilworth Trust Board, dated 17 November 2020.

for the recommendations of Ms Chibnall and Mr Turner to amend the extent of the SNA to only that area which has significant indigenous vegetation.

- 4.60 Mr Sam Shears filed evidence on behalf of Delta Property Group that generally supported Council's introduction of the ability to restore and enhance existing areas of SNAs that may not currently meet the minimum area for conservation lot subdivision, and Ms Chibnall's recommended amendments to Policy 3.2.8 Incentivise Subdivision.
- 4.61 Ms Pam Butler filed evidence on behalf of KiwiRail Holdings Limited in respect of Chapter 3 and the Planning Maps. The letter generally accepted the recommendations in the section 42A report in response to the KiwiRail's submission points.
- 4.62 Ms Christine Foster filed evidence on behalf of Meridian Energy Limited (Meridian) and concurred with Ms Whitney on behalf of Transpower by opposing the use of the term "enhancement" in Objective 3.2.1. Ms Foster also addressed Policy 3.2.3 Management Hierarchy where she considered that the word "significant" should remain in the policy in preference to "more than minor". She considered that in a mitigation hierarchy, avoidance should be reserved for significant adverse effects, not all effects or effects that are close to minor.<sup>40</sup>
- 4.63 Ms Lynette Wharfe tabled evidence on behalf of Horticulture New Zealand. She did not agree with the section 42A report and considered that adding various exclusions as sought in the submission of Horticulture New Zealand would be appropriate (regarding the definition for vegetation clearance, and not including reference to amongst other things, unwanted organisms). Her evidence set out amendments to the definition of vegetation clearance, and Rules 22.2.7 P1 and 22.2.8 P1 to enable response and disposal to an incursion of an unwanted organism under the Biosecurity Act 1993.<sup>41</sup>

## **5 Panel Decisions**

- 5.1 We note that 623 primary submission points were received on the Natural Environments provisions and these were considered in a comprehensive section 42A report, rebuttal and closing statement prepared by Ms Chibnall who recommended a number of changes. We have structured our decision into sections which largely reflect the key matters raised in submissions and evidence, followed by our findings on the remaining provisions. Given the sheer volume of submissions, we do not attempt to address every submission point but focus on the key changes and our reasons for each section.

### *Definition of an SNA*

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<sup>40</sup> Statement of Evidence of Christine Foster on behalf of Meridian Energy Limited, Paragraph 12, dated 29 October 2020.

<sup>41</sup> Statement of Evidence of Lynette Wharfe on behalf of Horticulture New Zealand, Paragraph 8.1, dated 29 October 2020.

- 5.2 Central to this topic is the definition of a “Significant Natural Area” and whether it is limited to those areas identified as an SNA on the district plan maps, or whether it should include any indigenous vegetation that meets the criteria in Appendix 2: Criteria for Determining Significance of Indigenous Biodiversity, regardless of whether or not it is mapped.
- 5.3 We support the identification of SNAs on planning maps and that the rules for SNAs should relate explicitly to those mapped sites. While we understand the challenges faced by Council in having to: rely on region-wide data provided by WRC (some of which is not accurate); access sites; identify the attributes; and accurately map the SNAs on private property, we consider that this approach provides far more certainty for landowners, network utility operators and Council. We note this is the approach favoured by the draft National Policy Statement on Indigenous Biodiversity. This is also preferable to relying instead on the criteria which would lead to the perverse outcome where a single tree in a garden (or indeed a paddock) could well be deemed to be an SNA. Having carefully considered the costs and benefits of the various options suggested by Ms Chibnall and submitters such as Ms Walker, we consider this approach to be the most effective and efficient in achieving the objectives in Chapter 3 Natural Environments.

#### *Mapping of SNA sites*

- 5.4 It was apparent to us that the data that informed the mapping of SNAs in the PDP was inaccurate. For this reason, we have deleted all the SNAs from the planning maps, except for the following:
- a. Those that have been visited and verified (in terms of consistency with Appendix 2 criteria and spatial extent) by Ms Chibnall and Mr Turner;
  - b. Submitters that have appeared at the hearing with clear photographs and evidence of their properties;
  - c. Sites in public ownership such as Department of Conservation, WRC and Council; or
  - d. QEII National Trust-covenanted sites.
- 5.5 We accept the proposition advanced by farmers at the hearing that on the whole, farmers are excellent stewards of the land generally, and indigenous vegetation specifically. We also accept that the existence of SNAs on privately-owned farmland today is due to the care that past landowners and farmers have taken of the indigenous vegetation. We are also aware that the National Policy Statement for Indigenous Biodiversity is likely to be released shortly and the draft versions have indicated that councils will be required to map and assess all of the indigenous vegetation in their districts in some detail. For all these reasons, we consider that there is a low risk of landowners taking advantage of a lack of interim protection of indigenous vegetation. Given all the options available to us, we consider it would be inappropriate to retain mapping where it has not been verified by Ms Chibnall or Mr Turner, and would likely



result in resource consent applications being required for disturbance of vegetation that do not meet the Appendix 2 criteria and should not be an SNA.

5.6 Based on our consideration of the issues, we have grouped submissions into the following four categories:

- a. Retained the SNA as notified where land is in public ownership or is already protected by a conservation protection mechanism (such as QEII National Trust covenant);
- b. Retained the SNA as notified where it has been verified by Mr Turner and Ms Chibnall as being mapped correctly;
- c. Amended the geographical extent of the SNA as a result of the evidence presented to us, either by/on behalf of the landowner and/or because it has been verified by Mr Turner and Ms Chibnall; and
- d. Deletion of the SNA.

5.7 While we have amended the planning maps accordingly, we have only inserted the maps in this decision where we have amended the geographical extent of the SNA.

*Retain SNA as notified*

Submitter	Address
Colette Hanrahan [77.3]	126B Woodcock Road, Tamahere
Mark Emms [75.1] Diane Emms [282.1]	126C Woodcock Road, Tamahere
Jon Harris [327.1]	140B Woodcock Road, Tamahere
Roderick MacRae [331.1]	142 Woodcock Road, Tamahere
The Bardsley No. 1 Family Trust [100.1]	31 Birchwood Lane, Tamahere
Riverdale Group Ltd [719.3]	102 Hooker Road, Tamahere
John and Roselei Holland [135.1]	368 Riverview Road, Huntly
Seumas MacDonald [728.2]	658 Te Akau South Road
S, J and Z Ifwersen [437.1]	170 Port Waikato Waikaretu Road







Jean Tregidga [731.13]	Lyons Road, Mangatawhiri
Jianjun Li [394.26]	312 Parker Lane, Buckland
K Dooley [90.1]	38 Hermitage Road, Waiuku
F & S Turton [706.1]	616 Matahuru Road, Matahuru
R Luders [273.9]	635 Mangapiko Road, Waiterimu
C & E Barakat [268.4]	648 Waipuna Road, Waerenga
J Holland [591.13]	300 River Road, Huntly
B & A Harvey Limited [132.1]	Balemi Road, Ohinewai

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*Amended geographical extent*







Note: Yellow delineates property boundary

Address/Legal/ Sub No.	Notified Map (Green line indicates extent of SNA)	Decision Map (Red line indicates SNA to be removed) (Lime green indicates SNA to be added)
<p>P Bullock and D Capstick</p> <p>40B Cameron Town Road, PUKEKOHE</p> <p>LOT 1 DP 120337</p> <p>Sub[643.1]</p>		
<p>Terence Stephen Allan Denton</p> <p>40 Cameron Town Road, PUKEKOHE</p> <p>LOT 3 DP 120337</p> <p>Sub[352.1]</p>		
<p>G And S Morse</p> <p>63 Parker Lane PUKEKOHE</p> <p>LOT 1 DP 122885</p> <p>Sub[20.2]</p>		



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<p>D and L Lawrie 52 B Mill Road, BOMBAY</p> <p>PT LOT 2 DP 52223 SUBJ TO QEII COV</p> <p>Sub[78.1]</p>		
<p>Kyung Koo Han and Sun Kyung Kang</p> <p>7C Ridge Road, TUAKAU</p> <p>LOT 4 DP 133049</p> <p>Sub[961.1]</p>		
<p>McPherson and Co 47 McPherson Road, MANGATAWHIRI</p> <p>MANGATAWHIRI ALLOTS 161-164 MANGATAWHIRI PSH ALLOTS 22 139 SEC 1 MANGATAW HIRI PSH</p> <p>Sub[691.16]</p>		



*Decision Report 9: Significant Natural Areas*

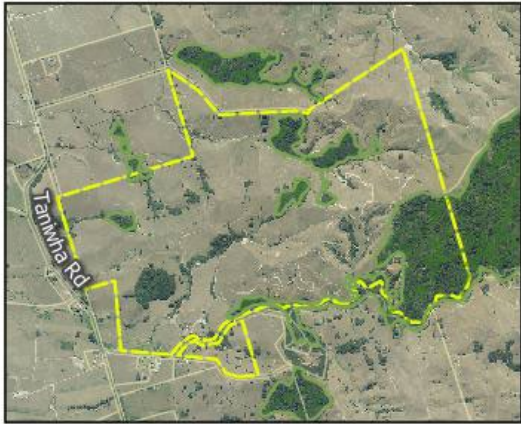
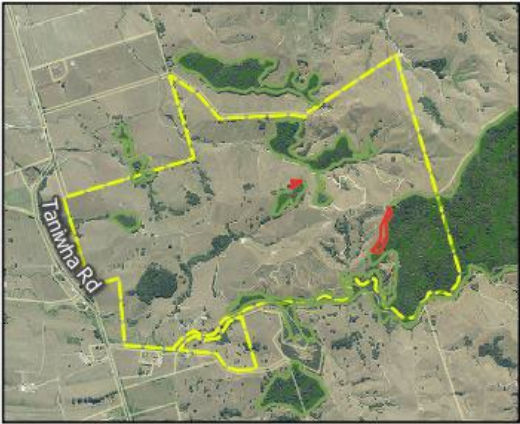
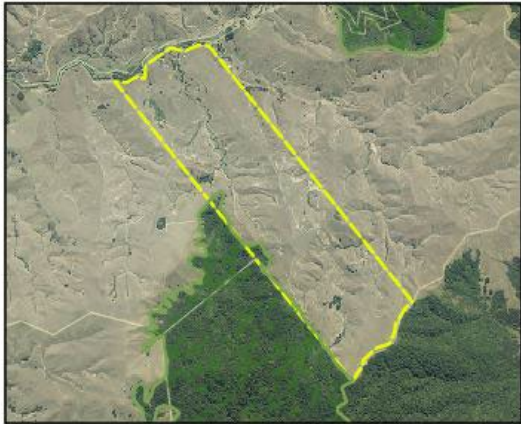
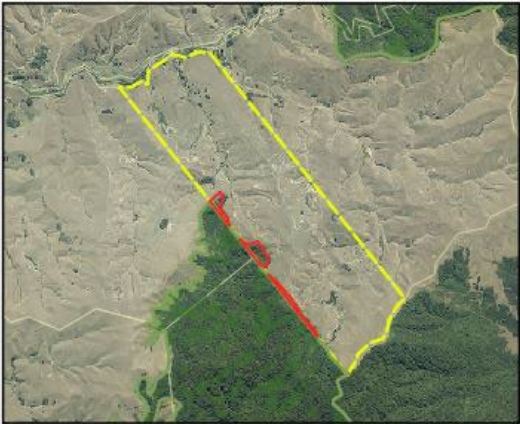

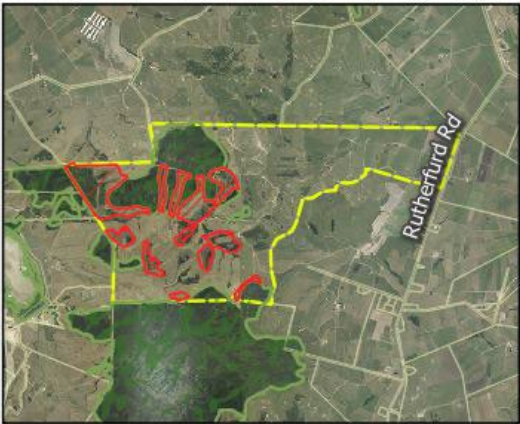
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<p>Ryburn LagoonTrust</p> <p>159 Serpell Road, POKENO</p> <p>LOT 4 DP 182809</p> <p>Sub[747.1]</p>		
<p>Selwyn Taylor</p> <p>Morrison Road, TUAKAU</p> <p>PT LOT 1 DPS 34002</p> <p>Sub[718.1]</p>		
<p>McDougall and co</p> <p>980 Churchill Road, TUAKAU</p> <p>LOT 3 DPS 27386 LOT 2 DPS 27385 SUBJ TO LAND COV DP 471622</p> <p>Sub[844.1]</p>		



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<p>S and D Gibberd</p> <p>53 B McGovern Road WAERENGA</p> <p>ALLOTS 472A 473A PT 426 WHANGAMARINO PSH BLK XIV PIAKO SD</p> <p>Sub[611.1]</p>		
<p>Redoubt Trustees Limited</p> <p>758 Mangapiko Valley Road WAITERIMU</p> <p>ALLOT 487 TAUPIRI PSH BLK III HAPUAKOHE SD</p> <p>Sub[235.2]</p>		
<p>S and T Stark</p> <p>785 Rutherford Road, TAUPIRI</p> <p>PT ALLOT 739 TAUPIRI PSH BLK IX HAPUAKOHE SD</p> <p>Sub[701.1]</p>		



*Decision Report 9: Significant Natural Areas*

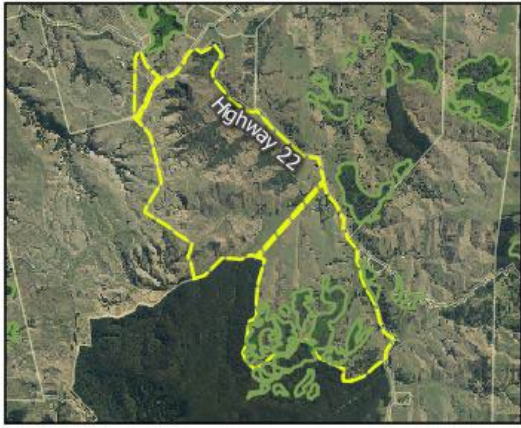
*Report and Decisions of the Waikato District Plan Hearings Panel*

<p>J and D Tate 72 James Road HUNTLY</p> <p>LOT 2 DP 366514 BLK XII RANGIRIRI SD INT IN ESMT</p> <p>Sub[494.2]</p>		
<p>M and K Stead 703 B Te Kowhai Road, TE KOWHAI</p> <p>LOT 2 DPS 37883 LOT 1 DPS 83067 BLK XV NEWCASTLE SD</p> <p>Sub[834.1]</p>		
<p>A and D Hutt 154 Orini Road, TAUPIRI</p> <p>ALL DP 19970 BLK XVI RANGIRIRI SD BLK IV NEWCASTLE SD</p> <p>Sub[21.1]</p>		



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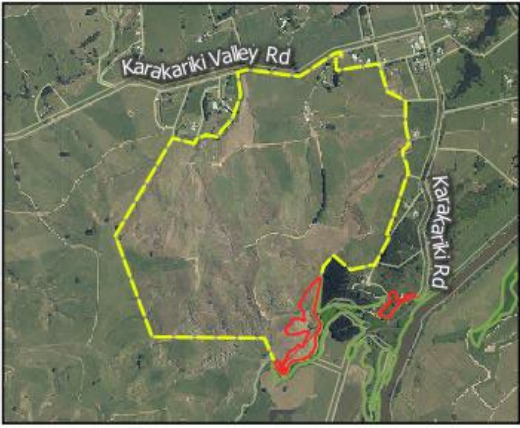


*Report and Decisions of the Waikato District Plan Hearings Panel*

<p>Elvin Priest and Co 29 Kendrick Lane, TAMAHERE</p> <p>LOT 4 DPS 4591 BLK III HAMILTON S D</p> <p>Sub[9.1]</p>		
<p>Guy Rathbone 5254 Highway 22 NGARUAWAHIA</p> <p>LOT 5 PT 3 4 DP 33080 ALLOTS 422-425 427 PT ALLOT 213 PEPEPE PSH BLK IV WHAINGAROA SD</p> <p>Sub[125.1]</p>		
<p>J and D Tate 185B Hakarimata Road, NGARUAWAHIA</p> <p>PT ALLOTS 122 123 127 PEPEPE PSH BLKS III VII NEWCASTLE SD P T SEC 6 SO 52669 LOT 1 DPS 67131 SUBJ TO ESMT DP 474562</p> <p>Sub[494.4]</p>		



*Decision Report 9: Significant Natural Areas*




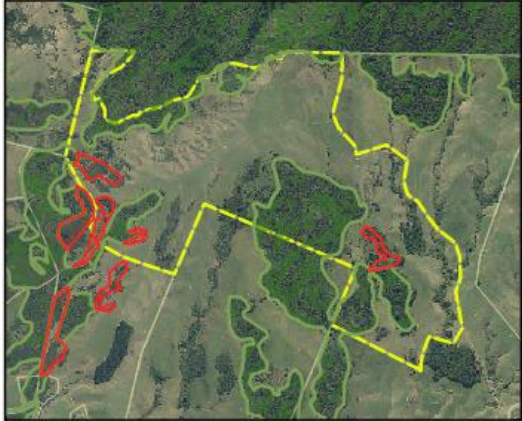


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<p>J and H Ensing 383 Karakariki Road, KARAKARIKI</p> <p>LOT 2 DPS 58980</p> <p>Sub[30.1]</p>		
<p>G Kirkbride and co 35 Karakariki Road, KARAKARIKI</p> <p>LOT 2 DPS 30291 LOT 1 DPS 58059 LOT 2 DP 337077 LOT 3 DPS 85 856 BLKS XIV XV NEWCASTLE SD SUBJ TO ESMTS</p> <p>Sub[240.1]</p>		
<p>L Hughes 17 Calvert Road Whale Bay, RAGLAN</p> <p>LOT 2 DPS 16189 BLK IV KARIOI SD</p> <p>Sub[301.2]</p>		



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<p>Bernard Brown 759 Wainui Road, RAGLAN</p> <p>WHAANGA 1B2B1A BLK IV KARIOI SD</p> <p>Sub[669.7]</p>	 
<p>65 Karioi Road, RUAPUKE</p> <p>LOT 6 DP 359810 BLK VIII KARIOI SD SUBJ TO &amp; INT IN ESMTS</p> <p>Sub[501.1]</p>	 
<p>S and M Mathers</p> <p>536 Wainui Road, RAGLAN</p> <p>LOT 1 DPS 83978</p> <p>Sub[232.1]</p>	 



*Decision Report 9: Significant Natural Areas*

*Report and Decisions of the Waikato District Plan Hearings Panel*


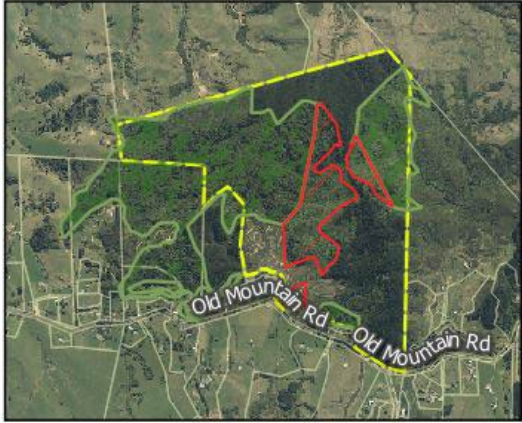


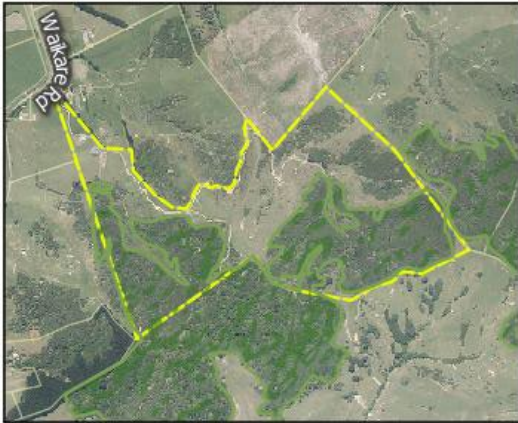
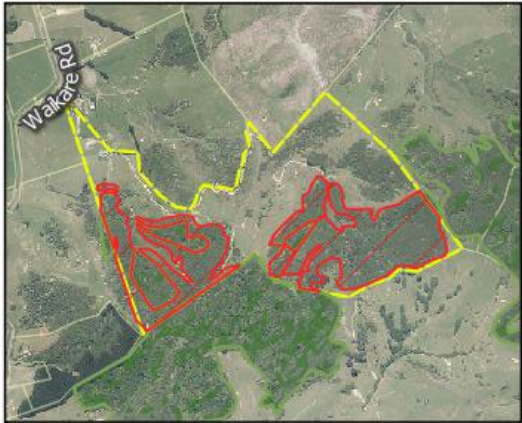
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<p>Robert Morton Jones</p> <p>35 A Norrie Avenue RAGLAN</p> <p>LOT 2 DPS 58813</p> <p>Sub[346.1]</p>		
<p>Martin Bloxham</p> <p>13 Te Awa Lane, TAMAHERE</p> <p>LOT 1 DPS 66958 LOT 3 DP 328563 BLK VII HAMILTON SD</p> <p>Sub[101.1]</p>		
<p>2003906 Isobel Margaret Waitere</p> <p>Te Akau Wharf Road, TE AKAU SOUTH</p> <p>LOT 3 DPS 46556-OPEN SPACE COVENANT</p> <p>Sub[176.1]</p>		



*Decision Report 9: Significant Natural Areas*




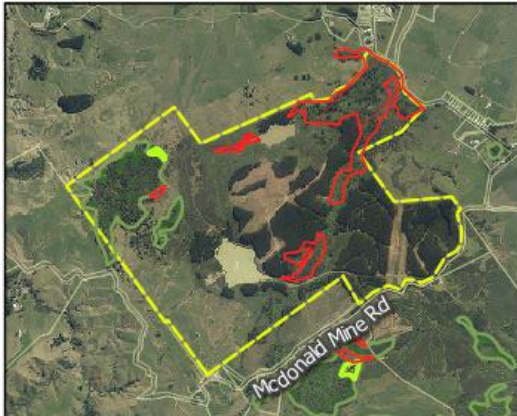


*Report and Decisions of the Waikato District Plan Hearings Panel*

<p>Oliver Keesing</p> <p>Old Mountain Road WAITETUNA</p> <p>PT ALLOT 214 KARAMU PSH BLKS V VI ALEXANDRA SD TNA SUBJ TO O PEN SPACE COVENANT</p> <p>Sub[53.2]</p>	 
<p>Bonita Dean</p> <p>523 Waingaro Road NGARUAWAHIA</p> <p>LOT 4 DPS 85265</p> <p>Sub[126.1]</p>	 
<p>L and A Kerr</p> <p>862 B Waikare Road WAERENGA</p> <p>LOT 2 DPS 86230 BLK XIII PIAKO SD BLK I HAPUAKOHE SD SUBJ TO CONSERVATION COVENANT</p> <p>Sub[400.2]</p>	 



*Decision Report 9: Significant Natural Areas*


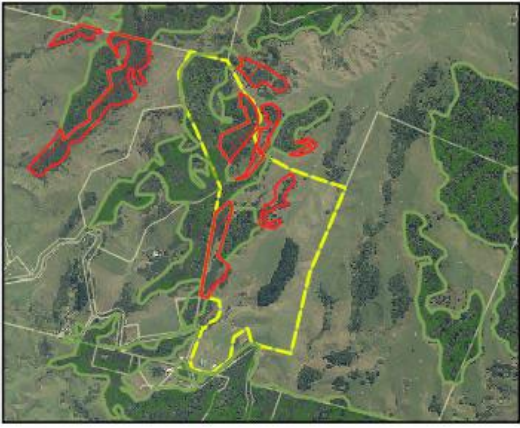




*Report and Decisions of the Waikato District Plan Hearings Panel*

<p>R, R And M McLean</p> <p>ALLOTS 260 364 WAIPA PSH BLK VII NEWCASTLE SD Waingaro Road NGARUAWAHIA</p> <p>Sub[575.24]</p>	 
<p>(Bathurst Mining)</p> <p>Te Whakakitenga o Waikato Incorporated</p> <p>Waikokowai Road, ROTOWARO</p> <p>PT LOT 1 DPS 87641 LOT 1 DPS 89649 SEC 1 SO 61417 SECS 1 3 S O 61368 BLKS XIII XIV RANGIRIRI SD</p> <p>Sub[771.7]</p>	 
<p>R Carter</p> <p>57 Upper Wainui Road, RAGLAN</p> <p>LOT 3 DP 335063</p> <p>Sub[510.1]</p>	 



*Decision Report 9: Significant Natural Areas*







*Report and Decisions of the Waikato District Plan Hearings Panel*

<p>Tibet Farm Ltd 1665 Whaanga Road, RAGLAN</p> <p>LOT 3 DP 352682 BLK VIII KARIOI SD</p> <p>Sub[104.1]</p>		
<p>P McCallum and M Wilcox 996 Te Papatapu Road, TE MATA</p> <p>LOT 4 DP 411951 BLK XIII KARIOI SD SUBJ TO &amp; INT IN ESMTS</p> <p>Sub[11.1]</p>		
<p>R and C Rumble</p> <p>1807 Whaanga Road, RAGLAN</p> <p>LOT 3 DP 415659 BLK VIII KARIOI SD SUBJ TO OPEN SPACE COVENA NT DPS 68067</p> <p>Sub[737.1]</p>		



*Decision Report 9: Significant Natural Areas*

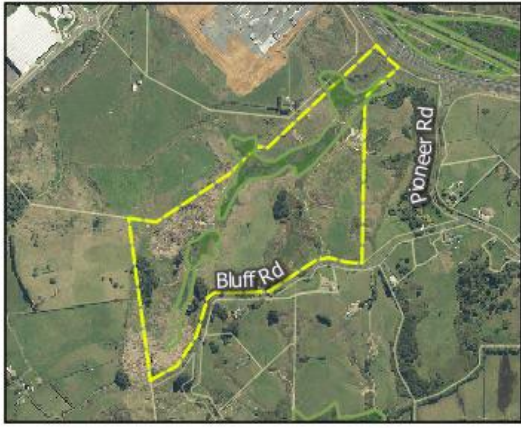




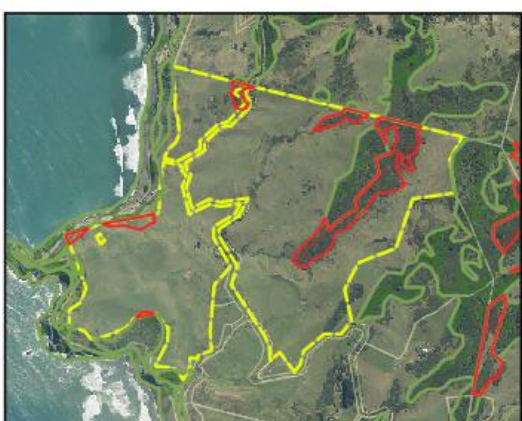
*Report and Decisions of the Waikato District Plan Hearings Panel*

<p>Zeehaen Limited 49 Swallow Lane, TAMAHERE</p> <p>LOT 8 DP 429829 BLK III HAMILTON SD SUBJ TO ESMTS</p> <p>Sub[46.3]</p>		
<p>D and J Colgan 181 Settlement Road, PUKEKOHE</p> <p>LOT 2 DP 451093 SUBJ TO ESMT</p> <p>Sub[484.1]</p>		
<p>Enza Zaden (Australia) Pty Limited</p> <p>189 Settlement Road, PUKEKOHE</p> <p>LOT 1 DP 451093 INT IN ESMT</p> <p>Sub[484.1]</p>		



*Decision Report 9: Significant Natural Areas*







*Report and Decisions of the Waikato District Plan Hearings Panel*

<p>Hynds Foundation</p> <p>62 Bluff Road, POKENO</p> <p>LOT 2 DP 463893</p> <p>Sub[548.2]</p>		
<p>B And P Day</p> <p>656 Wainui Road, RAGLAN</p> <p>LOT 1 DP 463845</p> <p>Sub[760.2]</p>		
<p>Caroline Margaret Swann</p> <p>1384 Whaanga Road, RAGLAN</p> <p>PT ALLOT 113 KARIOI PSH SO 1301 PT ALLOT 113 KARIOI PSH SO 1301 and 6 more</p> <p>Sub[358.3]</p>		



*Decision Report 9: Significant Natural Areas*

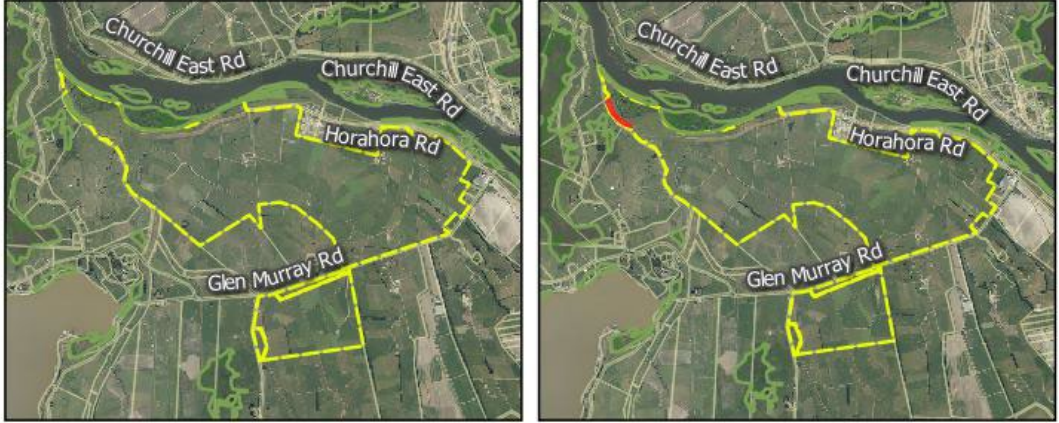

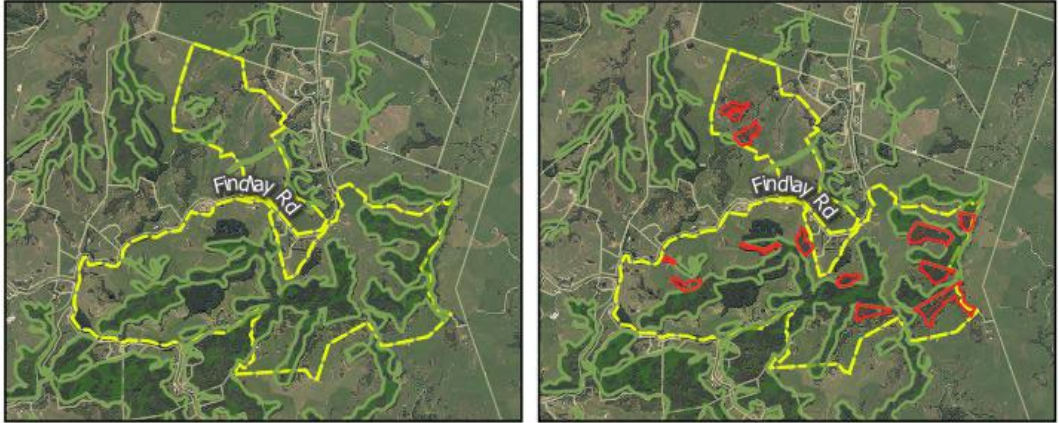
*Report and Decisions of the Waikato District Plan Hearings Panel*

<p>Fletcher Concrete and Infrastructure Limited</p> <p>988 Falls Road, WAERENGA</p> <p>LOT 1 DP 359351 BLK VIII MARAMARUA SD LOT 1 DP 472905</p> <p>Sub[723.2]</p>		
<p>Ohinewai Heights Limited</p> <p>260 Ralph Road, HUNTLY</p> <p>LOT 2 DPS 10295 PT LOTS 2 LOTS 1 3 -6 DP 16055</p> <p>Sub[964.1]</p>		
<p>Hoogeveen Farms Limited</p> <p>156 Paddy Road, TE KAUWHATA</p> <p>SEC 26-30 SO 17959 SEC 82-83 SO 17959 BLK XV MARAMARUA SD</p> <p>Sub[623.1]</p>		



*Decision Report 9: Significant Natural Areas*

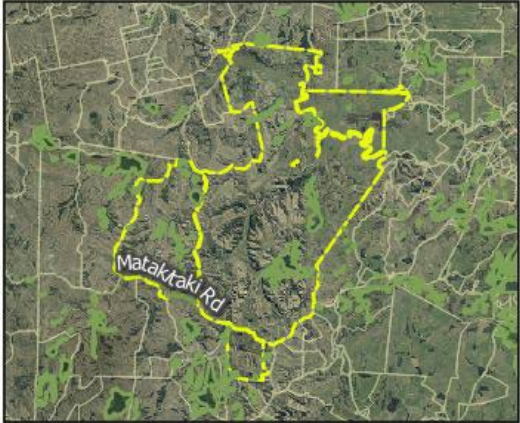
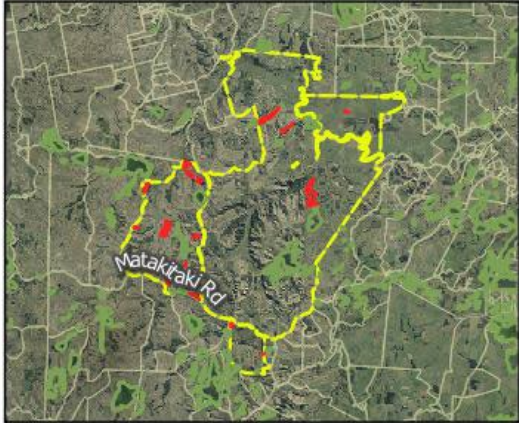
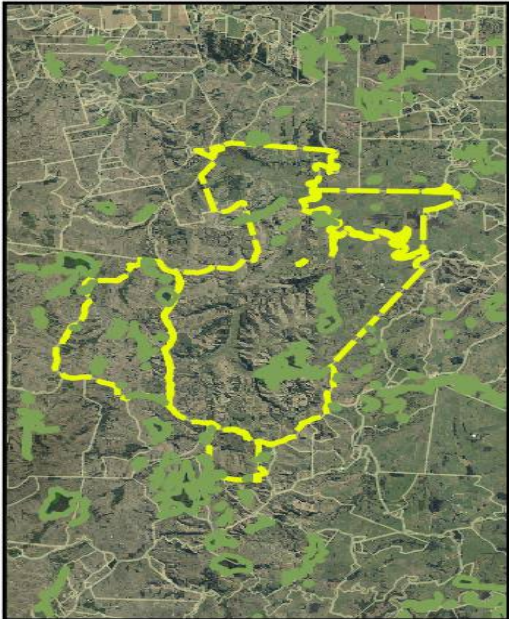
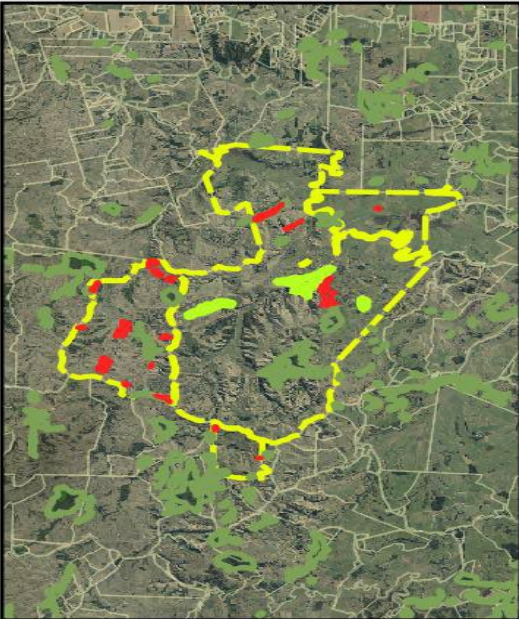


*Report and Decisions of the Waikato District Plan Hearings Panel*

<p>Simpsons Farms Ltd 184 A Glen Murray Road, RANGIRIRI</p> <p>LOT 1 DPS 14848 LOT 2 DP 402762 LOT 2 DPS 14848 LOT 2 DPS 26 95 LOT 6-7 DP 12275 PT LOT 1-2 DP 31608 PT LOT 3-4 DP 34206</p> <p>Sub[278.2]</p>	
<p>Alston Property Group Limited</p> <p>274 Okete Road, OKETE</p> <p>PT ALLOT 97 WHAINGAROA PSH SO 1437 LOT 2 DPS 89529</p> <p>Sub[495.3]</p>	
<p>Peter Roberts 87 Rataroa Road, MARAMARUA</p> <p>LOT 2 DPS 80477 PT LOT 3 DPS 90669 LOTS 6 8 10 11 PT LOT 9 DP 306638 LOT 4 LOT 5 DP 390303 SUBJ TO ESMTS</p> <p>Sub[99.1]</p>	



*Decision Report 9: Significant Natural Areas*

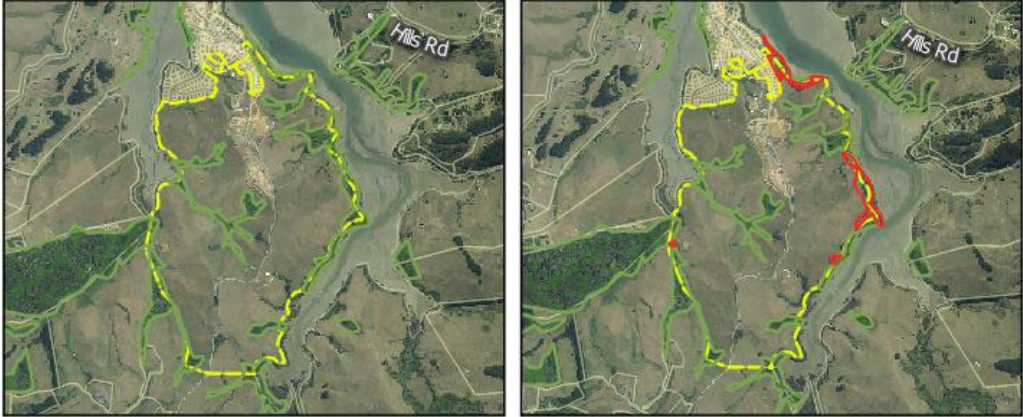
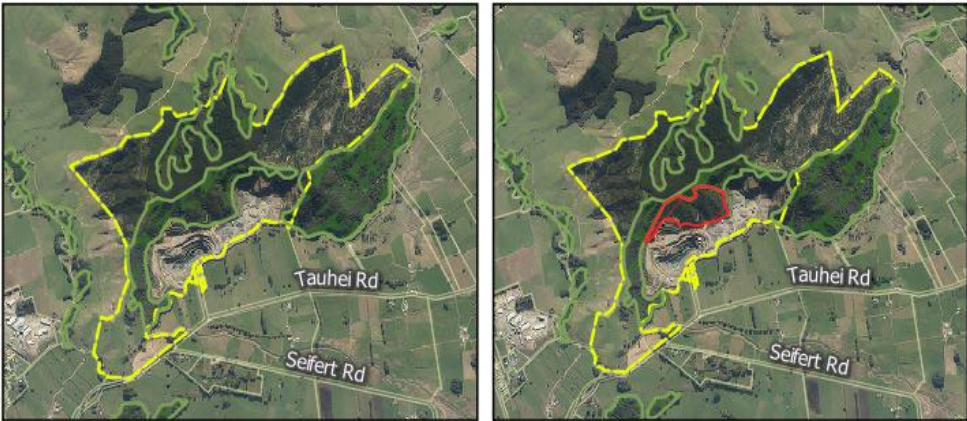
*Report and Decisions of the Waikato District Plan Hearings Panel*

<p>Lochiel Farmlands Limited</p> <p>316 Allen And Eyre Road, TUAKAU</p> <p>ALLTS 91 134 261 262 PT ALLTS 113 121 146 190 191 Whangape S D PT 4 BLK 4 No 45 No 50 No 49B1 No49B2 3D3B 51B Opuatia S</p> <p>Sub[349.3]</p>	 
<p>Lochiel Farmlands Limited (additions to SNA)</p> <p>316 Allen And Eyre Road, TUAKAU</p> <p>ALLTS 91 134 261 262 PT ALLTS 113 121 146 190 191 Whangape S D PT 4 BLK 4 No 45 No 50 No 49B1 No49B2 3D3B 51B Opuatia S</p> <p>Sub[349.3]</p>	 
<p>Arthur Raymond Wright</p> <p>314 Murray Road, TUAKAU</p> <p>LOT 1 3 DP 527033 PT ALLT 16 ONEWHERE SD PT ALLT 163 ONEWHERE O SD LOT 1 DPS 54104 ALLT 145 ONEWHERE SD LOT 2 DP 423968</p>	 



*Decision Report 9: Significant Natural Areas*

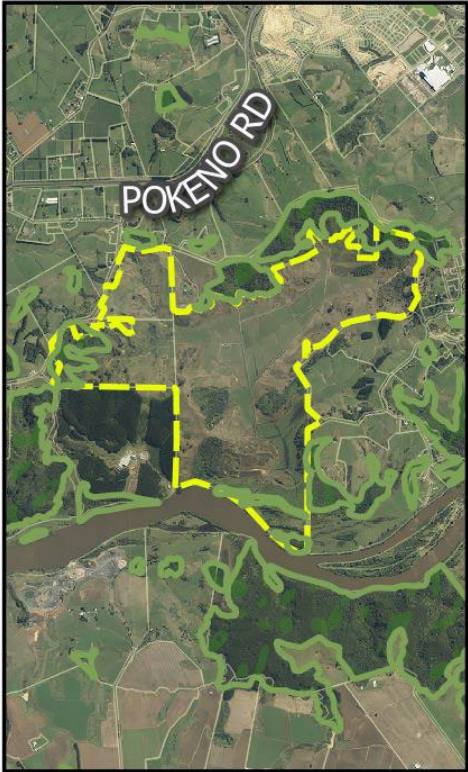
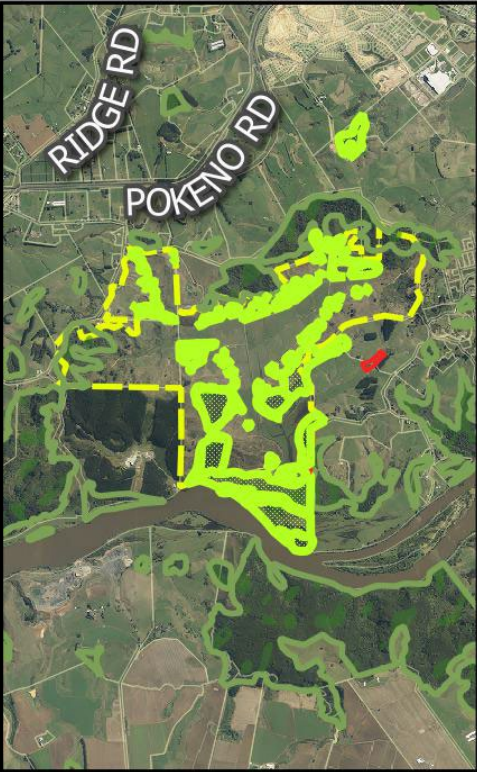




*Report and Decisions of the Waikato District Plan Hearings Panel*

<p>Sub[677.1]</p> <p>Rangitahi Limited Opotoru Road, RAGLAN</p> <p>LOT 900 DP 548916</p> <p>SubN/A</p>	
<p>Stevenson Aggregates Limited</p> <p>1542 Tauhei Road, TAUHEI</p> <p>LOT 1 2 DP 12708 LOT 1 DPS 7853 LOT 3 DP 11885 LOT 1 DP 3552 0 LOT 1 3 DP 417722 SUBJ TO CONS COV</p> <p>Sub[575.23]</p>	



*Decision Report 9: Significant Natural Areas*







*Report and Decisions of the Waikato District Plan Hearings Panel*

<p>TaTa Valley</p> <p>New Zealand Health Food Park Limited</p> <p>242 Bluff Road, POKENO</p> <p>LOT 4 DP 202491 LOT 2 DP 40F1106</p> <p>Sub N/A</p>		
<p>D Libre</p> <p>60 Yumelody Lane, TAMAHERE</p> <p>LOT 11 DP 439571</p> <p>Sub [363.4]</p>		
<p>607 Pencarrow Road, TAMAHERE</p> <p>LOT 2 DP 389202 BLK VII HAMILTON SD SUBJ TO ESMTS ON DPS 915 98</p> <p>Sub [724.16]</p>		



*Decision Report 9: Significant Natural Areas*

*Report and Decisions of the Waikato District Plan Hearings Panel*

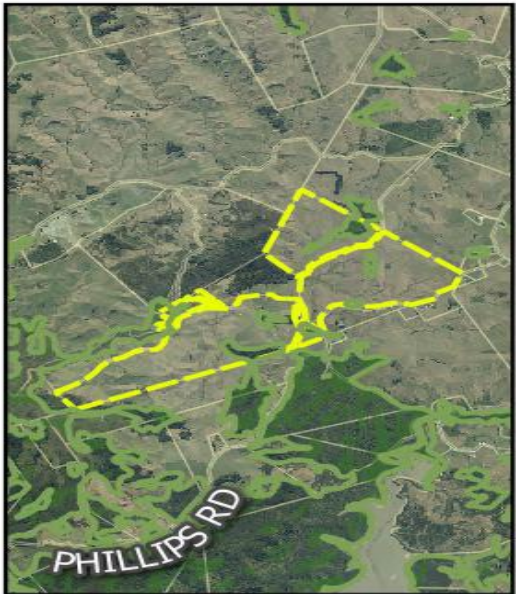
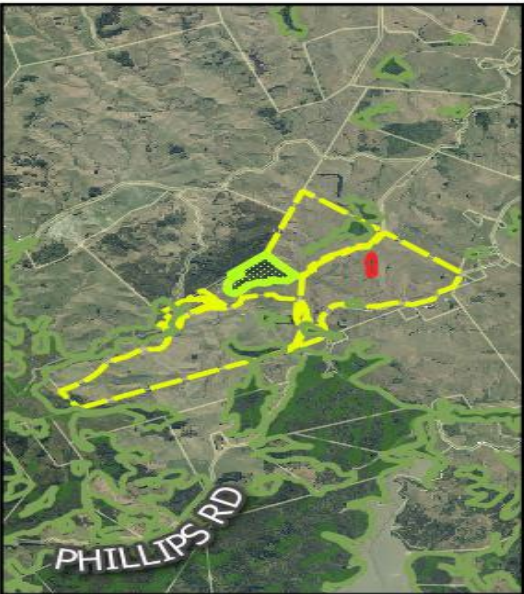
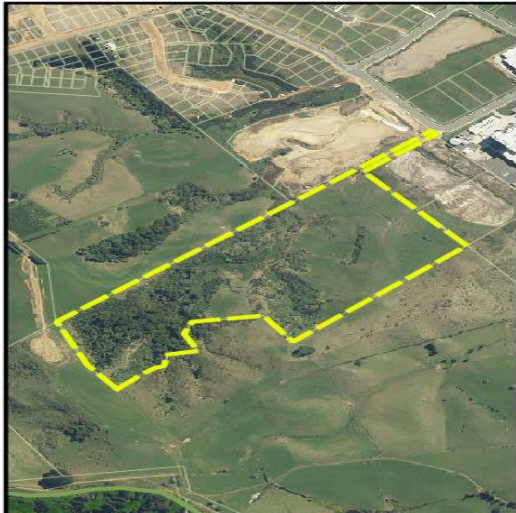

<p>Kiana Lace Limited</p> <p>399 Bedford Road, TE KOWHAI</p> <p>LOT 3 DP 320268 BLKS XI XV NEWCASTLE SD SUBJ TO ESMT ON DP 3 58884 &amp; DP 537907</p> <p>Sub [745.2]</p>		
<p>A Armstrong</p> <p>Karakariki Road, KARAKARIKI</p> <p>Sub[160.1][</p>		
<p>Lakeside Development</p> <p>LOT 1 DP 35516 LOT 2505 DP 542256 and 3 more</p> <p>Sub[579.45]</p>		



*Decision Report 9: Significant Natural Areas*

*Report and Decisions of the Waikato District Plan Hearings Panel*

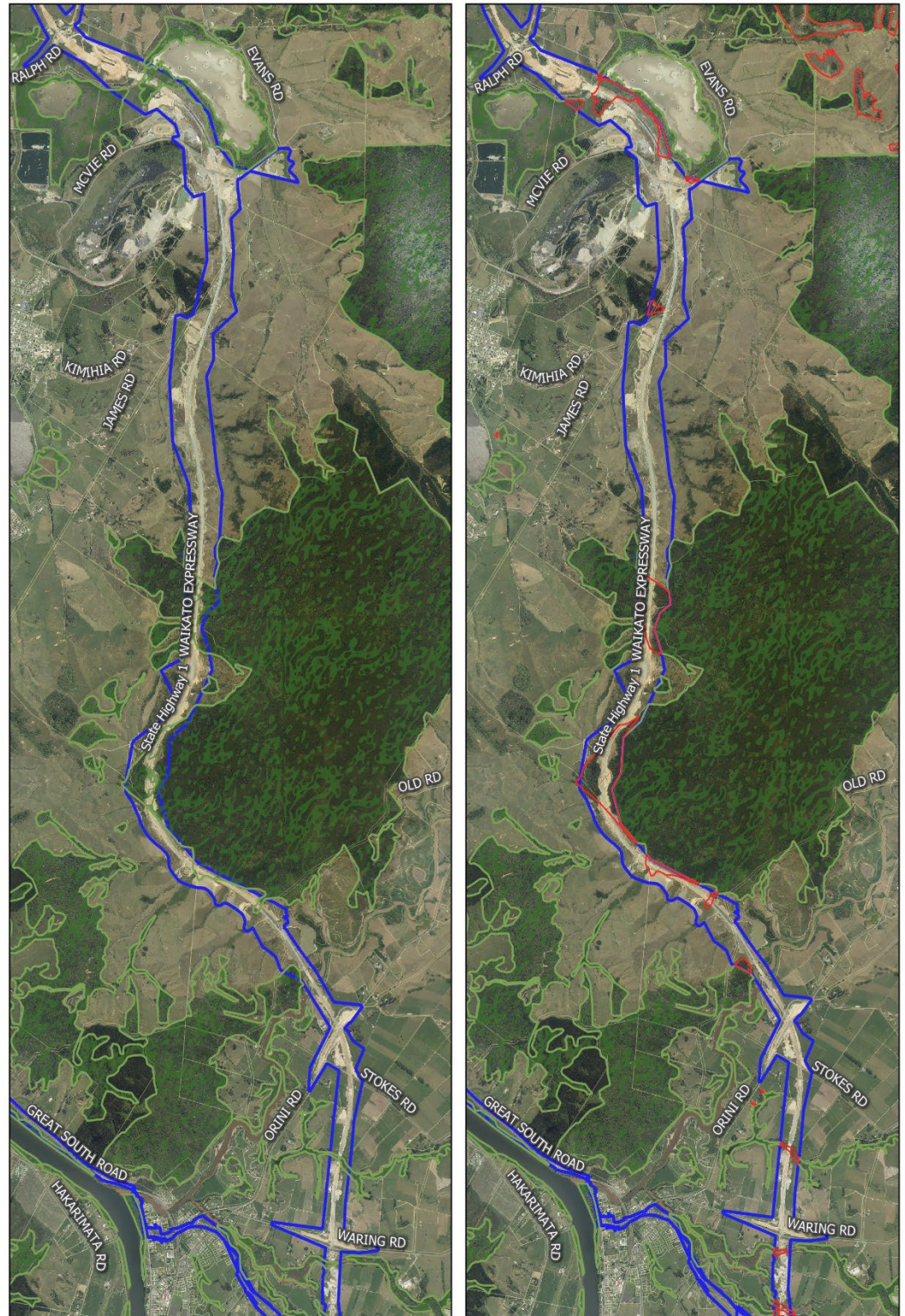
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<p>Brown and Granville 534 Te Papatapu Road</p> <p>ALLOTS 182-184 260 PT ALLOT 113 WHAINGAROA PSH LOT 1 PT LOT 2 DPS 87118 PT SEC 2 SO 309276 BLKS IX XII XIII KARIOI SD</p> <p>Sub[703.1]</p>		
<p>Havelock Village Limited</p> <p>5 Yashili Drive, POKENO</p> <p>LOT 2 DP 199997</p> <p>Sub[862.1]</p>		



Waka Kotahi -  
Huntly Bypass

Sub[742.185]





*Deletion of the SNA*

Submitter	Address
D Limmer Limited [601.1]	209 Whangamarino Road, Te Kauwhata
D Limmer Limited [601.1]	596 Waikare Road, Waerenga
H & P Fyers Limited [815.1]	442 Waikare Road, Wairenga
B & A Harvey Limited [132.1]	35 Owen Road, Te Kauwhata
Simpson Farms [278.2]	1675 Ohautira Road, Waingaro
D Hansen [506.2]	83A Paulsen Road, Waerenga
Malcom Jackson [104.6]	1109 Whaanga Road, Raglan
Trever Weaver [410.2]	Te Onetea Road, Rangiriri
Ruakiwi Graziers Ltd [340.2]	343 Jefferis Road, Waerenga
Zhou Wei Shen [153.1]	68 Brown Road
Genesis Energy [924.7]	Genesis Energy

*No SNA was identified on the property so no changes are necessary*

Submitter	Address
R & R Ranstead [6.1]	149 Cogswell Road, Waitetuna
D Saxton [412.2]	254 Hall Road (113 Hampton Downs Springhill Prison)

Broderick Farms [944.1]	849 Matahuru Road
R Luders [273.9]	280 Mangapiko Road
P Buckley [855.1]	1036 Island Block Road, Meremere
Havelock Village Limited [862.33]	278 Bluff Road, Pokeno
Middlemiss Farm Holdings [794.29]	95 Jericho Road, Harrisville

### Bats

- 5.8 The evidence of Ms Thurley on behalf of Director-General of Conservation in relation to long-tailed bats stated that much of Waikato District has not been surveyed for the presence of this species of bats. While we understand that the Department of Conservation has a statutory obligation under the Wildlife Act 1953 to protect long-tailed bats, we agree with Ms Chibnall that there is insufficient data to support protection measures being mandated through the PDP.<sup>42</sup> We do not consider it practical to establish SNAs in a 7.2-kilometre radius around each site where long-tailed bats have been confirmed as present, as sought by Mr Riddell, especially given the species is highly mobile.<sup>43</sup> We are also aware from Ms Thurley that bat habitats are not restricted to areas of indigenous vegetation.
- 5.9 We consider that in the absence of thorough and robust information, the rules managing indigenous vegetation clearance both inside and outside an SNA are appropriate to assist in protecting habitats of long-tailed bats. Where clearance of indigenous vegetation is of such a scale or reason to require resource consent, we consider there are appropriate policies and matters of discretion to consider the effects on bats. For example, we note that Policy 3.1.2(b)(ii) requires consideration of the habitats of threatened and at-risk species. We do not consider it necessary to include policies in the PDP for a single species which is highly transient and where there is a paucity of information.
- 5.10 Ms Chibnall recommended including a non-regulatory policy regarding bats which had two parts to it:

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<sup>42</sup> Closing statement of Susan Chibnall, Paragraph 66, dated August 2021.

<sup>43</sup> Evidence in Chief of Andrew Riddell on behalf of the Director-General of Conservation, Paragraph 198, dated 29 October 2020.

- a. Council will support the provision of biodiversity advice and information to landowners; and
- b. Incorporating reference to long-tailed bats in Council's Conservation Strategy.

We have not included the first limb of the policy as we consider this role is most appropriately fulfilled by the Department of Conservation. We consider the acknowledgement of bats in Council's Conservation Strategy is appropriate and have retained this part of Ms Chibnall's additional Policy 3.1.2E.

#### *Kauri dieback*

- 5.11 While we understand that kauri dieback is a significant issue for this iconic New Zealand species, we consider the suite of provisions proposed by Mr Riddell to be impossible to implement in practice. While we are aware that the Thames-Coromandel District Plan contains rules addressing kauri dieback, we consider that these are highly complex. Having said that, we understand that the Coromandel area has a substantially higher population of kauri than Waikato District and therefore the consequences of the disease are greater in the Coromandel. We are also mindful of Mr Turner's advice that there are many other means by which the disease can be spread other than via earthworks. We accept Ms Ulrich's legal submission that addressing kauri dieback falls within the scope of a district council's functions. We also consider that voluntary and/or educational measures, as proposed by Ms Chibnall and Ms Walker's rebuttal evidence, are inconsistent with the direction from the Environment Court as well as Council's core functions.
- 5.12 We agree with Ms Chibnall's recommendations to explicitly include reference to kauri dieback disease in Policy 3.1.2; its acknowledgement in Council's Conservation Strategy; and highlighting where guidance on kauri dieback can be found as set out in additional Policy 3.1.2E. We also agree with Ms Chibnall's recommendation to insert in all the permitted earthworks rules a requirement for earthworks to be outside a kauri root zone, as we heard from Mr Riddell that earthworks are the key method for transferring kauri dieback disease. It seems to us that such an approach necessitates a definition for "kauri root zone" to provide clarity on what this is. Mr Riddell sought inclusion of a definition that is an area three times the radius of the dripline, and while this seems very onerous to us, we did not receive any other evidence on what an appropriate area is. We therefore have included a definition for "kauri root zone" to provide clarity of interpretation of the rules for earthworks.
- 5.13 We have also added a matter of discretion requiring the risk of earthworks exacerbating Kauri dieback disease where earthworks requires a resource consent (which applies to earthworks either within or outside an SNA).

#### *Kanuka and manuka*

- 5.14 We understand the complexity of managing kanuka and manuka in Waikato District, especially given their inclusion in the Conservation Status of New Zealand Indigenous Vascular Plants 2017 as being either a threatened or at-risk species. The consequence of this is that every individual specimen now meets the criteria in RPS Appendix 11A Table 11-1: Criteria for determining significance of indigenous biodiversity, and therefore is deemed to be significant indigenous biodiversity. We understand from Ms Chibnall that these species are not threatened due to numbers but rather potentially threatened by myrtle rust (a fungal disease) that may or may not affect them.<sup>44</sup>
- 5.15 The notified PDP included rules enabling removal of up to 5 cubic metres of manuka and/or kanuka in an SNA outside of the Coastal Environment per single consecutive 12-month period per property for specific purposes. Outside of an SNA, this limit increased to 1000 square metres for trees less than 4 metres in height. Despite this classification, we have considerable sympathy with the farming community who described their attempts to keep these species (and totara) from colonising pasture. It seems to us that there are three scenarios:
- a. Within an SNA but not located in the Coastal Environment;
  - b. Outside an SNA but not located in the Coastal Environment; and
  - c. Within the Coastal Environment.
- 5.16 We are well aware of Policy 11(a)(i) of the New Zealand Coastal Policy Statement (NZCPS) and its directive to avoid adverse effects on indigenous taxa that are listed as threatened or at risk in the New Zealand Threat Classification System lists. We asked Ms Bridget Parham (counsel for Council), to provide us with a legal opinion on the interpretation and application of NZCPS Policy 11(a) in the context of manuka and kanuka in the coastal environment within Waikato District. Ms Parham considered that Policy 11(a)(i) does not require all adverse effects to be avoided. She advised that it may be acceptable to allow activities that have minor or transitory adverse effects and still give effect to the policy where the avoidance is not necessary or relevant to protect the indigenous biological diversity in the coastal environment. She also considered that the scale at which Policy 11(a)(i) applies depends on the circumstances of the particular threatened or at risk species.<sup>45</sup> In that regard, Mr Turner's assessment is that manuka and kanuka is widespread and prevalent.<sup>46</sup> Thus, we consider it is not necessary to protect every individual kanuka or manuka in the coastal environment.
- 5.17 We considered whether kanuka and manuka clearance was appropriate in an SNA, but given that it is within an SNA, we consider that the notified limits and reasons for clearance is appropriate. That is, clearance of up to 5 cubic metres of manuka and/or

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<sup>44</sup> Section 42A report by Susan Chibnall, Paragraph 321, dated November 2021.

<sup>45</sup> Legal opinion on Hearing 21A: SNA's - Application of Policy 11 NZCPS, Paragraphs 3-4, dated 21 December 2020.

<sup>46</sup> Ibid Paragraph 67.

kanuka outside of a wetland, per single consecutive 12-month period, per property, for domestic firewood purposes and arts or crafts. We considered whether there was a way to make sure that the firewood was used for domestic purposes rather than commercial sale but concluded that the maximum volume somewhat limits the use to domestic purposes. We cannot perceive a situation where kanuka and manuka would need to be cleared within an SNA for the maintenance of pasture given that pasture would not be included in the mapped SNA, and therefore have not included a rule for clearance of kanuka and manuka for pasture maintenance within a SNA.

5.18 We considered whether there should be a limit on clearance of kanuka and manuka outside of an SNA. We have sympathy for the farming community who need to keep clearing the species to maintain pasture, but as the species is currently classified as threatened, we do not feel an unlimited level of clearance is appropriate at this time. We considered that matching the amount of clearance allowed in the Operative District Plan is appropriate given that this does not appear to have caused issues. We do not see any need to distinguish between areas inside or outside the coastal environment and therefore have set a maximum 3000-square metre limit per year per property for both situations.

5.19 We therefore have included the following limits on clearance of kanuka and manuka as a permitted activity:

- a. Indigenous vegetation clearance within a Significant Natural Area – Clearance of up to 5 cubic metres outside of a wetland per single consecutive 12-month period per property for domestic firewood purposes and arts or crafts; and
- b. Rule 22.2.8 Indigenous vegetation clearance outside a Significant Natural Area – 3000 square metres per single consecutive 12-month period for trees less than 4 metres high to maintain productive pasture or for domestic firewood.

5.20 Ms Chibnall also recommended a corresponding recognition in Policy 3.2.6 of the need to remove kanuka and manuka for pasture maintenance and we agree that this complements Policy 3.1.2(c) which provides for the removal of manuka or kanuka on a sustainable basis. We consider this framework of policies and rules strikes an appropriate balance that recognises the conservation status of these species, while enabling the productive potential of established pasture. We consider this to be an effective and efficient way to achieve Objectives 3.1.1 and 3.2.1, as well as Objective 5.1.1 which supports productive rural activities.

#### *Earthworks and tracks*

5.21 A number of submitters sought inclusion of more lenient rules for routine farming activities and explained why they considered it necessary to enable clearance of indigenous vegetation to create new tracks, as well as maintain existing and relocate tracks that had been damaged by natural hazard events such as landslips and floods. With regards to maintaining tracks, we consider this is logical and have retained specific

mention of this in Policy 3.2.6 and enabled this as a permitted activity both inside and outside an SNA in Rules 22.2.7 and 22.2.8. While Rule 22.2.3.3, as notified, sets out maximum volumes and other requirements for earthworks within an SNA for the maintenance of existing tracks, fences or drains, we have deleted these as they are unreasonable given that the track, fence or drain is already existing.

- 5.22 With regards to the disturbance of indigenous vegetation for new tracks and relocation of an existing track within an SNA, we consider that these should be assessed through a resource consent process. This activity would require resource consent as a discretionary activity for new tracks within an SNA (Rule 22.2.7 D2) and a restricted discretionary activity for new tracks outside an SNA (Rule 22.2.8 RD2). Creation of a new track within an SNA that necessitated earthworks is a restricted discretionary activity (Rule 22.2.3.1 RD2).
- 5.23 In accordance with the evaluation required by section 32AA of the RMA, we consider this to be an effective and efficient way to achieve Objectives 3.1.1 and 3.2.1, as well as Objective 5.1.1 which supports productive rural activities.

*Provisions focused on biodiversity in general and outside SNAs*

- 5.24 From paragraphs 5.24 to 5.40 we have set out our decisions on the objectives and policies which relate to biodiversity in general, and the rules for the disturbance of indigenous vegetation outside an SNA.

Objective 3.1.1. Biodiversity and ecosystems

- 5.25 Objective 3.1.1 is the overarching objective which applies to all biodiversity and ecosystems. There was considerable support in the submissions for Objective 3.1.1 and the only change we have made is to delete the word “values”, as the RPS provisions in Chapter 11 do not use this term and we consider it is not needed.
- 5.26 Also, we do not agree with the inclusion of “in order to work towards achieving a no net loss of biodiversity” as requested by WRC. We consider that if the indigenous ecosystems are maintained or enhanced as sought by Objective 3.1.1, then by virtue there will be no net-loss of biodiversity. We do not agree with the submission from Middlemiss Farm Holdings Limited that an additional clause is needed for new areas of indigenous biodiversity to be established. We consider this concept is better reflected in the policies as being a method for achieving the outcome stated in the objective.

Policy 3.1.2

- 5.27 Policy 3.1.2 is the key policy to achieve Objective 3.1.1 and relates generally to indigenous biodiversity, rather than SNAs. Of the submissions seeking changes to Policy 3.1.2: three sought to add incentivising subdivision or planting of indigenous vegetation; one sought to include eco-sourcing; and one sought explicit recognition of

plant diseases. In terms of incentivising subdivision, we have deleted the mechanism from the Rural Zone rules on the basis that there is a clear obligation on landowners to appropriately manage areas of high ecological value through the National Policy Statement for Freshwater Management 2020 (NPS-FM) in terms of waterways and wetlands, as well as the rules in this PDP for SNAs. For this reason, we have not included incentives in Policy 3.1.2 and have deleted Policy 3.2.8 Incentivise Subdivision which we discuss later in this decision.

- 5.28 Turning to eco-sourcing, we agree with Ms Chibnall's assessment that eco-sourced species are likely to have the best chance of survival but may not always be readily available.<sup>47</sup> For this reason we have included "eco-sourcing where practical" in Policy 3.1.2(a)(i). We do not see the need to add references to plant diseases and consider that the current reference to "biosecurity works" in Policy 3.1.2(a)(iii) to be adequate.
- 5.29 We have made other amendments to ensure the policy reads clearly, avoids duplication and effectively and efficiently achieves Objective 3.1.1. We have also included a new Policy 3.1.2(a) to clarify that the identification of SNAs is the principle means of achieving Objective 3.1.1. We have deleted Policy 3.1.2(b)(vii) and (viii) as these are more effectively addressed by other sections of the PDP and have limited applicability to indigenous vegetation and habitats.
- 5.30 Federated Farmers sought inclusion of additional clauses to recognise a landowner's stewardship and that Council will work with landowners. We agree with Ms Walker that the best biodiversity outcomes are achieved when councils have a good understanding of the issues facing landowners and acknowledge the public good aspect which is being provided.<sup>48</sup> We agree with Ms Chibnall's recommendation to include a new non-regulatory Policy 3.1.2C which identifies methods to achieve Objective 3.1.1 that are outside of the PDP. We consider this policy will be effective in supporting the maintenance of existing indigenous biodiversity as well as encouraging enhancement and therefore achieve Objective 3.1.1.

#### Management Hierarchy

- 5.31 WRC sought inclusion of a mitigation hierarchy for indigenous biodiversity where it is located outside of an SNA. While there is already such a policy for vegetation within SNAs, we agree with Ms Chibnall that there is value in establishing a similar approach for outside SNAs. We are aware that there are rules for indigenous vegetation clearance outside an SNA within the Rural Zone. Although these areas may not be deemed significant, they still may have some ecological value, and in the event of the permitted

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<sup>47</sup> Section 42A report: Natural Environments 1- Indigenous Vegetation and Habitats by Susan Chibnall, Paragraph 124, dated November 2020.

<sup>48</sup> Evidence in chief of Hilary Walker on behalf of Federated Farmers of New Zealand, Paragraph 29 dated 29 October 2020.

level of clearance being breached and land use consent being required, we consider this policy would provide helpful guidance for applicants as well as staff assessing resource consents. We note that RPS Method 11.1.3 requires district councils to ensure remediation, mitigation or offsetting relates to the indigenous vegetation being lost and not just SNAs. On this basis we have included a new Policy 3.1.2A and consider this will be an effective and efficient way of achieving Objective 3.1.1.

- 5.32 Following on from this, WRC also sought inclusion of a policy to provide for biodiversity offsetting where the indigenous vegetation or habitat is not an SNA. Given our inclusion of a policy setting out a management hierarchy for areas outside an SNA, we consider it would be helpful to provide a policy providing guidance for biodiversity offsetting. We have therefore included a new Policy 3.1.2B and consider this will not only support Policy 3.1.2A but be effective in achieving Objective 3.1.1.

#### New policy for clearance of indigenous vegetation outside an SNA

- 5.33 In our consideration of the rules allowing clearance of indigenous vegetation outside SNA, we became aware that there is no policy basis in the PDP for allowing a certain level of clearance outside a SNA. We are aware that RPS Method 11.4.1 provides for activities having minor adverse effects on indigenous biodiversity. We have therefore added Policy 3.1.3 which provides for clearance of indigenous vegetation outside SNAs where it will have minor adverse effects in relation to the maintenance or protection of indigenous biodiversity. We consider this is an efficient way to give effect to the RPS as sought by Ms Foley, but also will assist in achieving Objective 3.1.1.

#### Rules for vegetation clearance outside an SNA

- 5.34 While we have determined that the basis for rules inside an SNA will apply to areas mapped in the district plan maps, we are aware that there may be areas of indigenous vegetation that are valuable but have not been identified through this district plan review process. Given the objectives and policies in the RPS to maintain or enhance indigenous biodiversity, we consider it is important that the PDP contains rules to manage clearance of indigenous vegetation outside SNAs, albeit that the rules are more permissive outside an SNA. Rule 22.2.8 sets limits for the clearance of indigenous vegetation outside an SNA in the Rural Zone, although our findings on this rule will be rolled out to the similar rule that appears in other zones. A large number of submissions were received on this rule, and for this reason we have focused our decision on the amendments we have made. All other submissions we have rejected on the basis that they are not the most appropriate way to achieve Objective 3.1.1 in accordance with section 32AA of the RMA.
- 5.35 We agree with WRC's request for Rule 22.2.28 P1(a)(vii) to only enable clearance for a building platform where there is no practicable alternative on the site. We have added this requirement to Rule 22.2.8 P3 also. We considered what is the most appropriate area to allow clearance for building activities but given the directive of the RPS, we



consider 500 square metres is appropriate as a permitted activity and note that this is twice the amount allowed inside an SNA.

5.36 In response to the submissions and evidence of the aggregate extraction companies, we agree with Ms Chibnall that 2000 square metres is an appropriate limit per year. In reaching this finding we are particularly aware that there is no choice as to where mineral resources are located and there is a functional and operational need for those activities to be located where the mineral resources are.

5.37 We have included conservation activities, as due to their definition they are likely to result in increases in biodiversity and therefore will be effective in achieving Objective 3.1.1.

5.38 We have deleted Rule 22.2.8 P2 as it duplicates P1.

5.39 When Ms Chibnall was considering this rule, she recommended a new rule for indigenous vegetation clearance that was associated with gardening. The PDP takes the approach that activities not otherwise listed in the plan are non-complying activities (although we have amended this to be the less stringent discretionary activity). Because of this approach, if innocuous activities, including gardening, are not listed a resource consent would be required. This is non-sensical. Although it seems intuitive, we agree that a specific permitted activity rule for gardening needs to be inserted and have done so. Similarly, we have also inserted a rule permitting the removal of non-indigenous vegetation, in order to prevent interpretation issues with the PDP in the future. Ms Chibnall also recommended including a new restricted discretionary activity rule to cover the scenario where indigenous vegetation is for a reason other than those listed in the permitted activities. We agree this is necessary to complete the package of rules.

5.40 We agree with Ms Chibnall's recommended amendments to the matters of discretion in Rule 22.2.8 RD1 and consider that they will more fully enable the effects to be considered and better achieve Objective 3.1.1. For similar reasons we have included Rule 22.2.8 RD2 to complete the activity cascade and capture clearance of indigenous vegetation for reasons that are not listed in rules P1, P3, P4, or P6.

#### *Provisions for indigenous vegetation within the Coastal Environment and within SNAs*

5.41 From paragraphs 5.41 to 5.73 we have set out our decisions on the objectives, policies and rules relating to the disturbance of indigenous vegetation inside SNAs, as well as the disturbance of vegetation in the Coastal Environment (either within or outside an SNA).

#### Objective 3.2.1 Significant Natural Areas

5.42 Objective 3.2.1 is the key objective specifically relating to SNAs. We note that RPS Policy 11.1 seeks to maintain or enhance indigenous biodiversity and we agree with Mr

Scrafton that changing from “and” to “or” better reflects the RPS. We agree with Mr Scrafton that indigenous biodiversity in SNAs does not need to achieve both protection and enhancement, and we consider this minor change will still achieve the purpose of the RMA, particularly section 6(b). We do not consider that the objective should include the word “restored” as sought by Ryburn Lagoon Trust as there is uncertainty as to what level or point in time the indigenous biodiversity is to be restored to.

#### Policy 3.2.2 Identify and recognise

- 5.43 Policy 3.2.2 relates to the SNA definition and identifies the mapping of SNA as a method for achieving Objective 3.2.1. We consider that Policy 3.2.2 is important given that the basis for the SNA rules is the identification of them on the planning maps. But we do not consider that the policy needs to, nor should it, specifically refer to the RPS. We have therefore reworded clause (a) to reflect the criteria in Appendix 2 of this PDP rather than cross-referencing the RPS. We have also deleted clause (b) and amended the title of the policy as these introduce a management approach into the policy rather than simply focusing on the identification of SNAs.

#### Policy 3.2.3 Management hierarchy

- 5.44 Meridian Energy Limited and Genesis Energy Limited sought inclusion of environmental compensation as the last step in the management hierarchy. Despite it not being included in the RPS, we agree that compensation is a well-established mitigation method used to complement other mitigation methods. We also agree that environmental compensation can be considered, but only as a last option. We have therefore added in an additional clause that addresses compensation. We note that the Director General of Conservation sought inclusion of compensation in Policy 3.2.4, but we consider including compensation in Policy 3.2.3 is both appropriate and sufficient.
- 5.45 Submissions from Fulton Hogan Limited and McPherson Resources Limited sought to exclude mineral and aggregate extraction activities from the policy. While we accept that the locations of mineral resources are fixed by the underlying geology, we do not consider there should be exemptions in this policy for mineral and aggregate extraction activities, but, as we address later in this decision, we have inserted a new policy that recognises operational and functional requirements. In a similar vein, Mr Scrafton suggested that avoiding, remedying or mitigating be required “as far as practicable”. We note that the RPS is not helpful in this regard, as on the one hand it seeks to “protect” significant indigenous vegetation and significant habitats of indigenous fauna (Policy 11.2), but on the other hand, Policy 11.2.2(c) requires that unavoidable adverse effects be remedied or mitigated. As pointed out by Mr Scrafton, RPS Policy 11.2.2(g) acknowledges that there may be a need for activities to be located in or near areas of significant indigenous vegetation and significant habitats of indigenous fauna where no reasonably practicable alternative location exists. We note that Mr Riddell considered that the policy should emphasise that the first step is to avoid adverse effects to the

fullest extent practicable. We have included “as far as practicable” in terms of avoiding adverse effects, but have not included it in the mitigate or remedy clauses.

- 5.46 We agree with Mr Scrafton that the policy should be focused on the “values” present rather than the SNA as a whole. Policy 11.2 of the RPS is clear that it is the characteristics (values and attributes) that make an area “significant” that are not to be reduced.
- 5.47 We considered whether the offsetting should be applied to “significant” adverse effects, which would align with the Guidance on Good Practice Biodiversity Offsetting in New Zealand,<sup>49</sup> or “more than minor” adverse effects, which would align with RPS Policy 11.2.2(d). Given that the PDP must give effect to the RPS, we prefer “more than minor” and have made the amendment accordingly.
- 5.48 We have also included new definitions for “biodiversity offsetting” and “environmental compensation” to assist with interpretation of this policy.
- 5.49 Having considered all the options available to us and the costs and benefits as required by section 32AA, we consider that the amended policy will more appropriately achieve Objective 3.2.1 than the various other alternatives raised with us.

#### Policy 3.2.4 Biodiversity offsetting

- 5.50 A number of submitters sought inclusion of compensation into Policy 3.2.4. We consider it is more appropriate that this policy focuses upon biodiversity offsetting, while Policy 3.2.3 contains the complete management hierarchy, including compensation. For this reason, we have retained the focus of Policy 3.2.4 on offsetting and its recognition of Appendix 6 Biodiversity Offsetting.
- 5.51 The submission received from McPherson Resources Limited sought to exclude mineral or aggregate extraction from Policy 3.2.4. While RPS Policy 6.8 addresses access to minerals, we do not consider it appropriate to provide exemptions in this policy, and instead have inserted a new policy which recognises the operational and functional requirements of activities.
- 5.52 The Director-General of Conservation sought additional wording in Policy 3.2.4(b) to ensure that biodiversity offsetting will only be considered appropriate if effects are preferentially avoided in the first place, then remedied or mitigated. We consider that Policy 3.2.3 is the appropriate location to spell out the management hierarchy rather than this policy.

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<sup>49</sup> Guidance on Good Practice Biodiversity Offsetting in New Zealand, NZ Government et al, August 2014.

- 5.53 We have amended the wording from “significant residual adverse effects” to “more than minor adverse effects” to give effect to RPS Policy 11.2.2(d) and agree with Mr Scafton in this respect.
- 5.54 Mr Riddell sought changes to clause (b) to reflect that ‘avoidance’ is to be attained to the fullest extent practicable. This was also to clarify that it is not just relate to no net loss, but preferably to a net gain. We agree that this amendment will better reflect the RPS. Mr Riddell also sought inclusion of a new clause at the end of the policy that recognises limits to the use of biodiversity offsetting, including because of the irreplaceability or vulnerability of the biodiversity affected. We consider that this approach is appropriate and reflects the Guidance on Good Practice Biodiversity Offsetting in New Zealand.
- 5.55 We consider that our amendments to Policy 3.2.4 gives effect to RPS and are more appropriate in achieving Objective 3.1.1 than the notified version.

#### Policy 3.2.5 Biodiversity in the coastal environment

- 5.56 Overall, there was a high level of support by submitters for Policy 3.2.5 which largely replicates NZCPS Policy 11(a). The only change we have made is to not confine it to SNAs in the coastal environment as it is possible that there are areas which have not been identified as an SNA and yet meet the criteria of NZCPS Policy 11(a). In this regard we accept the evidence of Mr Riddell.<sup>50</sup> It is for this same reason that we reject the submission from Waka Kotahi who sought that regionally significant infrastructure be excluded from the “avoid adverse effects” directive in this policy.

#### Policy 3.2.6 Providing for vegetation clearance

- 5.57 A consistent theme in the submissions and evidence was a need to enable clearance of SNAs for the operation, maintenance or upgrading of existing infrastructure.<sup>51</sup> Method 11.1.4 a) of the RPS recognises the maintenance, operation and upgrading of lawfully established infrastructure, while Objective 3.12 e) recognises and protects regionally significant infrastructure. We agree that recognising existing infrastructure in Policy 3.2.6 is warranted. We are also aware that Chapter 14: Infrastructure enables the maintaining or upgrading of existing infrastructure as a permitted activity. We consider that the inclusion of a new clause in Policy 3.2.6 that provides for the clearance of indigenous vegetation, where required for the operation, maintenance or upgrading of existing infrastructure, is an effective way of achieving Objective 6.1.1.

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<sup>50</sup> Evidence in chief of Andrew Riddell on behalf of the Director-General for Conservation, 29 October 2020, paragraph 285

<sup>51</sup> KiwiRail New Zealand Ltd, Transpower New Zealand Ltd, Waka Kotahi New Zealand Transport Agency and Genesis Energy Ltd

- 5.58 Submissions sought to exclude mineral or aggregate extraction from the policy. As we have outlined previously in this decision, we do not consider it appropriate to provide exemptions for mineral or aggregate extraction in this policy, and instead have inserted a new policy which recognises the operational and functional requirements of activities.

#### Policy 3.2.7 Managing Significant Natural Areas

- 5.59 Having considered all the submissions on this policy, we somewhat agree with the assessment of Ms Chibnall<sup>52</sup> but have made minor amendments to give effect to the RPS. In response to the submission from Federated Farmers and the evidence of Ms Walker, we have inserted a new policy which outlines ways in which the protection of indigenous vegetation can be encouraged outside of the PDP.

#### Policy 3.2.8 Incentivise subdivision

- 5.60 In terms of incentivising subdivision, we have deleted the mechanism from the Rural Zone rules on the basis that there is a clear obligation on landowners to appropriately manage areas of high ecological value through the NPS-FM in terms of waterways and wetlands, as well as the rules in this PDP for SNAs. It appears to us that the conservation lot concept serves to simply reward landowners for doing what they typically undertake voluntarily, and are nevertheless required to be doing anyway, in terms of fencing off waterways, maintaining wetlands, and managing SNAs. As a consequential amendment to the subdivision rules in the Rural Zone, we have therefore deleted Policy 3.2.8.

#### New policy: operational and functional requirement

- 5.61 A common issue raised by submitters and in evidence was the need to enable the disturbance of indigenous vegetation where there was a functional or operational need for an activity to be sited in that particular location. Mr Scrafton in his evidence on behalf of TaTa Valley Ltd suggested a new policy to address the gap he perceived in the PDP and to give effect to the RPS Policy 11.2.2(g). He explained that the policy does not exempt plan users from other provisions that apply to SNAs, and further integrates with the proposed amendments to Policy 3.2.3 Management Hierarchy. Mr Blomfield (Dilworth Trust) raised similar issues in his evidence. While Ms Foley had a different interpretation of the RPS policy, we agree with Mr Scrafton that the policies in Chapter 3 of the PDP do not explicitly address this aspect of the RPS, and there is, therefore, a gap. We have included a new Policy 3.29 which states that activities having a functional or operational requirement to traverse or locate within an SNA can do so, provided there is where no reasonably practicable alternative location. We were cautious about enabling limitless activities and have therefore limited the policy to infrastructure and quarrying given the RPS directives regarding these two activities.

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<sup>52</sup> Section 42A report: Natural Environments 1 - Indigenous Vegetation and Habitats by Susan Chibnall, Section 14, dated November 2020.

- 5.62 We consider that the new policy will give effect to section 11 of the RPS. The amendment will assist in achieving Objective 3.1.1 and provide suitable guidance to plan users for the assessment of activities that affect indigenous biodiversity. In addition, we consider that the new policy will achieve Objective 6.1.1.

#### Earthworks within an SNA

- 5.63 As outlined earlier in this decision, we have deleted the standards in the notified PDP which applied to the maintenance of existing tracks, fences or drains. In response to the concerns raised by Ms Walker and Mr and Mrs Hill, we have also enabled earthworks in an SNA for the purpose of conservation activities and water reticulation for farming purposes. We consider that the disturbance of indigenous vegetation associated with these activities will be minimal, and, in the case of conservation activities, will increase biodiversity values. Earthworks in an SNA for any other reason is a restricted discretionary activity.
- 5.64 We have also enabled earthworks in an SNA on Maaori Freehold Land or Maaori Customary land for a Marae Complex or Papakaainga but have inserted standards limiting the volume per year and the requirement that there are no alternative development areas elsewhere on the site. We consider this approach strikes a balance of protecting the SNA while enabling development on Maaori land where a large proportion of such land is SNAs. We consider this is the most appropriate way to achieve Objectives 3.1.1 and 3.2.1 as well as the objectives in the new Maaori Land Chapter.

#### Rules for vegetation clearance inside an SNA

- 5.65 Rule 22.2.7 is the principal rule in the Rural Zone for managing indigenous vegetation clearance inside an SNA and we received a large number of submissions on it. We have made a number of amendments to this rule, although our findings on it will be rolled out to the similar rule that appears in other zones. For succinctness, we have focused on our reasons for making the amendments, noting that we have rejected all other submissions on the basis that they are not the most appropriate way to achieve Objective 3.1.1 in accordance with section 32AA of the RMA.
- 5.66 Firstly, we have allowed vegetation clearance for the purposes of conservation activities as a permitted activity. The definition of “conservation activities” is quite limited and will not result in wholesale disturbance of indigenous vegetation. In any event, the activities included in the definition of “conservation activities” are likely to result in increases in biodiversity and therefore will be effective in achieving Objective 3.1.1.
- 5.67 As notified, clearance of indigenous vegetation for building, access, parking and manoeuvring areas was a permitted activity. Given the direction of RPS Policy 11.1 to maintain or enhance indigenous biodiversity, we agree with Ms Chibnall that permitted activity status for a building development may risk compromising an SNA if not managed

appropriately.<sup>53</sup> We are also aware that there are properties which are completely covered by SNA or where topography limits the options for siting buildings, and where section 85(3B) of the RMA will apply.<sup>54</sup> We consider that a controlled activity status provides certainty for the landowner but allows the effects of vegetation clearance to be considered. We consider that a limit of 250-square metres for building, access, parking and manoeuvring areas as a controlled activity to be appropriate, and that any greater clearance should be a discretionary activity.

5.68 The submission from the Director-General of Conservation sought amendments to the rule for indigenous vegetation clearance to include a minimum setback from water bodies. We agree that this would be beneficial for indigenous vegetation adjacent to waterbodies. We agree with Ms Chibnall that a 10-metre setback aligns with the National Environmental Standard for Freshwater Management and have therefore included this as a standard in various rules where we consider such a standard is appropriate.

5.69 We have deleted P5 as it duplicates P1, and P6 as it duplicates P2.

5.70 The focus of the rules as notified was on clearance of indigenous vegetation, but Ms Chibnall recommended inclusion of a rule to allow trimming or pruning in response to the submission from WRC. We agree that such an addition is appropriate. Mr Riddell considered that this activity was already sufficiently provided for by Rule P1, but we disagree as Rule P1 only relates to “clearance” rather than trimming or pruning. We have added trimming or pruning to Rule P1 so that it limits the reasons why trimming or pruning can occur.

5.71 In Ms Chibnall’s consideration of Rule 22.2.7, she noted that there was no clarity on what the activity status is for the clearance of non-indigenous vegetation and recommended including a permitted activity rule to make the activity status explicit. We are aware that the PDP takes the approach that any activity not listed is a non-complying activity (although we have made changes to lessen the activity status to discretionary). Although it seems logical that removing non-indigenous vegetation in an SNA would be a permitted activity, we have included a permitted activity rule to this effect to avoid plan interpretation issues in the future. Similarly, Ms Chibnall noticed that there was no clear activity status if the clearance of indigenous vegetation was for a reason other than those listed in the permitted and controlled rules, i.e.:

- a. Protect human life or existing buildings or structures;
- b. Conservation fencing to exclude stock or pests;
- c. Maintaining existing farm drains;

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<sup>53</sup> Closing Statement Hearing 21A: Natural Environment 1- Indigenous Vegetation and Habitats, Susan Chibnall, Paragraph 25, dated August 2021.

<sup>54</sup> The Environment Court may direct a local authority to change provisions in a plan or proposed plan if it makes any land incapable of reasonable use, and places an unfair and unreasonable burden on any person who has an interest in the land.

- d. Maintaining existing tracks and fences;
- e. Gathering plants in accordance with Maaori customs and values;
- f. Conservation activities;
- g. Kanuka and manuka for domestic firewood purposes and arts or crafts;
- h. Papakaainga or marae complex;
- i. Kanuka or manuka to maintain productive pasture; or
- j. Building, access, parking and manoeuvring areas.

5.72 Ms Chibnall recommended a discretionary activity rule be included to cover this gap in the Plan and we agree that it will complete the rule cascade.

5.73 Given Policy 11(a) of the NZCPS, Ms Chibnall recommended inclusion of a new provision in Rule 22.2.7 which effectively trumped all the other rules and made the clearance of indigenous vegetation from all SNAs in the coastal environment a discretionary activity. We consider that clearance of indigenous vegetation for the reasons listed in P1, P2 and P4 should remain as permitted activities in the coastal environment, but clearance of indigenous vegetation for any other reason in the coastal environment should be discretionary. We consider this approach gives effect to the NZCPS.

#### Urban Allotment SNA

5.74 WRC sought to retain Schedule 30.5 Urban Allotment which relates SNAs containing groups of trees which are located on urban environment allotments. We agree with Ms Chibnall's assessment that the SNA spatial data has too many inaccuracies to safely include these on the planning maps (including those listed in Schedule 30.5). On this basis we have deleted Schedule 30.5 (and any reference to it in the rules) and have deleted this layer from the planning maps.<sup>55</sup>

## **6 Conclusion**

- 6.1 We accept and/or reject the section 42A report and the evidence filed by the submitters, collectively forming the section 32AA assessment informing this Decision.
- 6.2 Overall, we are satisfied that the natural environment provisions (including SNAs) as amended will provide a suitable framework for protecting the indigenous biodiversity while providing enabling activities that have negligible adverse effects.

### **For the Hearings Panel**

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<sup>55</sup> Section 42A report Hearing 28: Other Matters, Susan Chibnall, Paragraphs 153-160, dated June 2021.





**Dr Phil Mitchell, Chair**

**Dated: 17 January 2022**

## Chapter 3: Natural Environment

### **Introduction**

Biological diversity, or biodiversity, describes the variety and diversity of all life forms and the ecosystems they inhabit. Indigenous biodiversity is biodiversity that is native to New Zealand and relates to individual birds, plants, insects and other species and also includes the ecosystems where these species live.

The largest tracts of indigenous vegetation in the Waikato District are in the General Rural Zone.

The Resource Management Act 1991 (RMA) requires the Council to manage indigenous biodiversity in two particular ways. Firstly, the Council has the ability to control any actual or potential effects of the use, development, or protection of land for the purpose of maintaining indigenous biodiversity. Secondly, the Council is required to recognise and provide for the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna.

The District Plan achieves this by identifying and mapping Significant Natural Areas and applying rules which control the clearance of indigenous vegetation in these areas. There are rules that apply to the clearance of indigenous vegetation outside significant natural areas as well but these are more permissive. A District Plan user should refer to the planning maps for the location of Significant Natural Areas.

Significant Natural Areas are also protected by mechanisms outside the District Plan such as indigenous vegetation that is protected by private covenants or public ownership. Of these, the Queen Elizabeth II National Trust protects approximately 10,000ha and the Department of Conservation manages approximately 23,000ha. Approximately 37,000 hectares is, however, held in private hands, such that the District Plan plays a pivotal role in its management.

### **3.2 Significant Natural Areas**

#### **3.2.1 Objective – Significant Natural Areas**

- (a) Indigenous biodiversity in Significant Natural Areas is protected ~~and~~ or enhanced.

#### **3.2.2 Policy - Identify and Recognise**

- (a) ~~Identify and map areas of significant indigenous vegetation and habitats of indigenous fauna where it meets one or more criteria in Appendix 2: Criteria for Determining Significance of Indigenous Biodiversity, in accordance with the Waikato Regional Policy Statement and identify as Significant Natural Areas~~
- (b) ~~Recognise and protect Significant Natural Areas by ensuring the characteristics that contribute to their significance are not adversely affected.~~

#### **3.2.3 Policy - Management hierarchy**

- (a) Recognise and protect the values of indigenous biodiversity within Significant Natural Areas by:
- (i) ~~avoiding the significant~~ adverse effects of vegetation clearance and the disturbance of habitats ~~in the first instance as far as practicable unless specific activities need to be enabled~~
  - (ii) remedying and/or mitigating any effects that cannot be avoided; then
  - (iii) ~~mitigating any effects that cannot be remedied; and~~

- (iv) after remediation or mitigation has been undertaken, offset any significant more than minor residual adverse effects in accordance with Policy 3.2.4.
- (v) If offsetting of any significant residual adverse effects in accordance with Policy 3.2.4. is not feasible then environmental compensation may be considered.

### 3.2.4 Policy – Biodiversity Offsetting

- (a) ~~Allow for a biodiversity offsetting to be offered by a resource consent applicant where an activity will result in significant more than minor residual adverse effects on a Significant Natural Area, provided that, or on indigenous biodiversity outside such Significant Natural Areas.~~ Within a Significant Natural Area, a biodiversity offset will only be considered appropriate where adverse effects have been avoided, to the extent practicable, and then remedied or mitigated in accordance with the hierarchy established in Policy 3.2.3; and
  - (i) the biodiversity offset is consistent with the framework detailed in Appendix 6 Biodiversity Offsetting; and
  - (ii) the biodiversity offset can achieve no net loss, and preferably a net gain, of indigenous biodiversity:
    - A. preferably in the affected area of Significant Natural Area; or
    - B. where that is not practicable, in the ecological district in which the affected area of Significant Natural Area is located; and
  - (iii) recognising that there are limits to the appropriate use of biodiversity offsetting, including because of the irreplaceability or vulnerability of the biodiversity affected.

### 3.2.5 Policy - Biodiversity in the coastal environment

- (a) ~~Avoid the adverse effects of subdivision use and development within Significant Natural Areas of the coastal environment on:~~
  - (i) indigenous species that are listed as threatened or at risk in the New Zealand Threat Classification System lists;
  - (ii) habitats of indigenous species where the species are listed as threatened or at risk, are at the limit of their natural range, or are naturally rare;
  - (iii) areas containing nationally-significant examples of indigenous community types;
  - (iv) indigenous ecosystems and vegetation types that are threatened in the coastal environment, or are naturally rare; and
  - (v) areas set aside for full or partial protection of indigenous biological diversity under legislation.

### 3.2.6 Policy-~~Providing for~~ Vegetation clearance in Significant Natural Areas

- (a) ~~Provide for~~ Allow the clearance of indigenous vegetation in Significant Natural Areas when:
  - (i) maintaining tracks, fences and farm drains;
  - (ii) avoiding loss of life injury or damage to property;
  - (iii) collecting material to maintain traditional Maaori cultural practices;
  - (iv) ~~collecting~~ removing manuka and kanuka for domestic firewood for domestic use (non-commercial);
  - (v) operating, maintaining or upgrading existing infrastructure;
  - (vi) providing for the removal of manuka and kanuka for pasture maintenance; and
- (b) Provide for the clearance of indigenous vegetation in Significant Natural Areas for the construction of building platforms, services, access, vehicle parking and on-site manoeuvring and for the development of Maaori Freehold Land by:
  - (i) using any existing cleared areas on a site that are suitable to accommodate new development in the first instance;
  - (ii) using any practicable alternative locations that would reduce the need for vegetation removal; and

- (iii) retaining indigenous vegetation which contributes to the ecological significance of a site, taking into account any loss that may be unavoidable to create a building platform, services, access, vehicle parking and manoeuvring on a site,
- ~~(iv) Firewood.~~

### 3.2.7 Policy - Managing Significant Natural Areas

- (a) ~~Promote the management of~~ Manage Significant Natural Areas in a way that protects their long-term ecological functioning and indigenous biodiversity ~~values~~, through such means as:
  - (i) permanently excluding stock through voluntary covenants ~~and conservation subdivisions~~;
  - (ii) undertaking plant and animal pest control;
  - (iii) retaining and enhancing indigenous vegetation cover;
  - (iv) maintaining and restoring natural wetland hydrology;
  - (v) avoiding physical and legal fragmentation;
  - (vi) legal protection of Significant Natural Areas through conservation covenants or similar mechanisms; and
  - (vii) providing for the role of Mana Whenua as kaitiaki and for the practical exercise of kaitiakitanga in restoring, protecting and enhancing areas.

### ~~3.2.8 Policy – Incentivise subdivision~~

- ~~(a) Incentivise subdivision in the Rural Zone when there is the legal and physical protection of Significant Natural Areas, provided the areas are of a suitable size and quality to achieve a functioning ecosystem.~~

### **Policy 3.2.9 Operational and Functional Requirement**

- (a) Recognise that infrastructure and quarrying activities may have a functional or operational requirement to traverse or locate within a Significant Natural Area where no reasonably practicable alternative location exists.

## 3.1 Indigenous Vegetation and Habitats

### 3.1.1 Objective – Biodiversity and ecosystems

- (a) Indigenous biodiversity ~~values~~ and the life-supporting capacity of indigenous ecosystems are maintained or enhanced.

### 3.1.2 Policies – **Maintaining and enhancing biodiversity**

- (a) Identify and protect indigenous vegetation and fauna in Significant Natural Areas as the principle means of achieving Objective 3.1.1.
- (b) ~~(a)~~ Enable activities that maintain or enhance indigenous biodiversity including:
  - (i) Planting using indigenous species suitable to the habitat and eco-sourcing these where practical;
  - (ii) the removal or management of pest plant and animal species; and
  - (iii) biosecurity works.
- (c) ~~(b)~~ Consider the following when avoiding ~~Avoid~~, remedying or mitigating adverse effects on indigenous biodiversity, including by considering:
  - (i) the ~~required~~ range of natural food sources required to sustain indigenous fauna;
  - (ii) habitats of threatened and at risk species;
  - ~~(iii) ecological processes and corridors;~~
  - (iii) ecological sequences;

- (iv) migratory pathways;
  - (v) pest plants and pest animals;
  - ~~(vi) the Waikato river and its catchment;~~
  - ~~(vii) natural character and landscape values of the area;~~
  - (vi) natural waterway habitats and hydrology;
  - (vii) ecological corridors, natural processes and buffer areas;
  - (viii) legal and physical protection of existing habitat; and
  - (ix) the risk of earthworks exacerbating Kauri dieback disease.
- (d) ~~(c)~~ Provide for the removal of manuka or kanuka on a sustainable basis.

### **3.1.2A Policy -Management hierarchy**

(a) Recognise and protect indigenous biodiversity outside Significant Natural Areas using the following hierarchy by:

- (i) avoiding the significant adverse effects of vegetation clearance and the disturbance of habitats in the first instance;
- (ii) remedying any effects that cannot be avoided; then
- (iii) mitigating any effects that cannot be remedied; and
- (iv) after remediation or mitigation has been undertaken, offset any significant residual adverse effects in accordance with Policy 3.1.2B.

### **3.1.2B Policies-Biodiversity Offsetting**

(a) Allow for a biodiversity offset to be offered by a resource consent applicant where:

- (i) an activity will result in significant residual adverse effects to indigenous vegetation or habitat outside a Significant Natural Area; and
- (ii) the biodiversity offset is consistent with the framework detailed in Appendix 6 Biodiversity Offsetting.

### **3.1.2C Non- Regulatory Policy**

The Council will work with landowners to promote the use of non-regulatory methods, including assistance with the establishment of protective covenants, service delivery, education, and other incentives in protecting and enhancing ecological sites.

### **3.1.2D Policy Significant Natural Area Assessment Funding**

Council in joint responsibility with Waikato Regional Council will meet the costs of an ecological assessment that shows the area which meets one or more of the criteria in Appendix 2: Criteria for Determining the Significance of Indigenous Biodiversity

### **3.1.2E Policy - Non-regulatory**

(a) The Council will incorporate the following information in their Conservation Strategy:

- (i) Kauri Dieback, including reference to the Kauri Dieback Programme; and
- (ii) Long-Tailed Bats.

(b) Guidance on Kauri Die Back can be found in the Protecting Kauri: A Rural Landowner's Guide produced by Waikato Regional Council and endorsed by Ministry for Primary Industries.

### **Policy 3.1.3 Clearance of vegetation outside Significant Natural Areas**

Provide for clearance of indigenous vegetation outside Significant Natural Areas where it will have minor adverse effects in relation to the maintenance or protection of indigenous biodiversity.

## **Chapter 13: Definitions**

### **Significant Natural Area**

Means an area ~~of significant indigenous biodiversity~~ that is identified as a Significant Natural Area on the planning maps.

### **Biodiversity offsetting**

Biodiversity offsets are measurable conservation outcomes resulting from actions designed to compensate for significant residual adverse biodiversity effects arising from project development after appropriate prevention and mitigation measures have been taken.

### **Environmental Compensation**

Environmental compensation comprises actions offered as a means to address residual adverse effects on the environment arising from a project development.

### **Conservation activity**

Means activities associated with managing or restoring indigenous habitat, including wetlands, ~~and wildlife management and restoration that fundamentally benefit~~ maintains or enhances indigenous biodiversity or raises public awareness of indigenous biodiversity values. This includes stock exclusion (inclusive of fencing), research and monitoring, the ~~establishment~~, maintenance or upgrading of public walking or cycle tracks, interpretive and directional signs, accessory buildings including those for tourism, interpretation or education purposes and the provision of access for plant or animal pest management.

## Kauri root zone

Means the area within three times the maximum radius of the drip line of the New Zealand kauri tree.

## Rules

*Note: These amendments to rules for Significant Natural Areas will apply to Chapters 16, 18, 20, 21, 22, 23, 24, 25 and 28, as well as any new zones or overlays.*

### Advice Note

The Waikato Regional Council has a Waikato Pest Management Plan that provides guidance when undertaking activities such as earthworks.

## 22 General Rural Zone

### 22.2.3.1 Earthworks – General

P1	<p>(a) Earthworks <del>for</del>:</p> <ul style="list-style-type: none"> <li>(i) <del>Defined as</del> Ancillary rural earthworks;</li> <li>(ii) <del>For a f</del> Farm quarry where the volume of aggregate does not exceed 1000m<sup>3</sup> per single consecutive 12 month period;</li> <li>(iii) <del>For C</del> Construction and/or maintenance of tracks, fences or drains;</li> <li>(iv) <del>For Aa</del> building platform for a residential activity, including accessory buildings, <u>provided they are not within a kauri root zone.</u></li> </ul>
P2	<p>(a) Earthworks within a site must meet all of the following <del>conditions</del> <u>standards</u>:</p> <ul style="list-style-type: none"> <li>(i) Do not exceed a volume of more than 1000m<sup>3</sup> and an area of more than 2000m<sup>2</sup> over any single consecutive 12 month period;</li> <li>(ii) The total depth of any excavation or filling does not exceed 3m above or below ground level with a maximum slope of 1:2 (1 vertical to 2 horizontal);</li> <li>(iii) Earthworks are setback 1.5m from all boundaries;</li> <li>(iv) Areas exposed by earthworks are re-vegetated to achieve 80% ground cover within 6 months of the commencement of the earthworks;</li> <li>(v) Sediment resulting from the earthworks is retained on the site through implementation and maintenance of erosion and sediment controls; <u>and</u></li> <li>(vi) Do not divert or change the nature of natural water flows, water bodies or established drainage paths</li> </ul> <p><u>provided they are not within a kauri root zone.</u></p>
P3	<p>(a) <del>Earthworks for the purpose of to creating</del> a building platform for residential purposes within a site, using imported fill material must meet the following <del>condition</del> <u>standard</u>:</p> <ul style="list-style-type: none"> <li>(i) Be carried out in accordance with NZS 4431:1989 Code of Practice for Earth Fill for Residential Development</li> </ul> <p><u>provided they are not within a kauri root zone.</u></p>

P4	<p>(a) <del>Except where permitted by Rule 22.2.3.1 (P3), Earthworks for purposes other than creating a building platform for residential purposes within a site, using imported fill material or cleanfill must that</del> meets all of the following <del>conditions</del> <u>standards</u>:</p> <ul style="list-style-type: none"> <li>(i) not exceed a total volume of 200m<sup>3</sup>;</li> <li>(ii) not exceed a depth of 1m;</li> <li>(iii) the slope of the resulting filled area in stable ground must not exceed a maximum slope of 1:2 (1 vertical to 2 horizontal);</li> <li>(iv) fill material is setback 1.5m from all boundaries;</li> <li>(v) areas exposed by filling are revegetated to achieve 80% ground cover within 6 months of the commencement of the earthworks;</li> <li>(vi) sediment resulting from the filling is retained on the site through implementation and maintenance of erosion and sediment controls; <u>and</u></li> <li>(vii) does not divert or change the nature of natural water flows, water bodies or established drainage paths</li> </ul> <p><u>provided they are not within a kauri root zone.</u></p>
P5	<p>(a) <u>Earthworks for conservation activities, water reticulation for farming purposes or the maintenance of existing tracks, fences or drains within a Significant Natural Area provided they are not within a kauri root zone.</u></p>
P6	<p>(a) <u>On Maaori Freehold Land or Maaori Customary land within a Significant Natural Area, earthworks for a Marae Complex or Papakaainga housing where:</u></p> <ul style="list-style-type: none"> <li>(i) <u>there is no alternative development area on the site outside of the significant natural area; and</u></li> <li>(ii) <u>The earthworks do not exceed a volume of 500m<sup>3</sup> in a single consecutive 12 month period; and</u></li> <li>(iii) <u>The earthworks do not exceed an area of 1500m<sup>2</sup> in a single consecutive 12 month period;</u></li> <li>(iv) <u>Sediment resulting from the earthworks is retained on the site through implementation and maintenance of erosion and sediment controls; and</u></li> <li>(v) <u>Do not divert or change the nature of natural water flows, water bodies or established drainage paths</u></li> </ul> <p><u>provided they are not within a kauri root zone.</u></p>
RD1	<p>(a) Earthworks that do not comply with Rule 22.2.3.1 P1, P2, P3 P4 or P5.</p> <p>(b) Council's discretion shall be limited to the following matters:</p> <ul style="list-style-type: none"> <li><del>(i) amenity values and landscape effects;</del></li> <li>(i) volume, extent and depth of earthworks;</li> <li>(ii) nature of fill material;</li> <li>(iii) contamination of fill material or cleanfill;</li> <li>(iv) location of the earthworks to waterways, significant indigenous vegetation and habitat;</li> <li>(v) compaction of the fill material;</li> <li>(vi) volume and depth of fill material;</li> <li>(vii) protection of the Hauraki Gulf Catchment Area;</li> <li>(viii) geotechnical stability;</li> <li><del>(ix) flood risk, including natural water flows and established drainage paths;</del></li> <li>(ix) land instability, erosion and sedimentation; <u>and</u></li> <li>(x) <u>the risk of earthworks exacerbating Kauri dieback disease.</u></li> </ul>
RD2	<p><u>Earthworks in a Significant Natural Area for purposes other than the maintenance of existing tracks, fences or drains.</u></p> <p><u>Council's discretion is restricted to the following matters:</u></p>



	<p><u>(i) The effects on indigenous vegetation and fauna;</u></p> <p><u>(ii) Land instability, erosion and sedimentation; and</u></p> <p><u>(iii) Volume, extent and depth of earthworks.</u></p>
RD3	<p><u>Earthworks on Maaori Freehold Land or Maaori Customary land that does not comply with Rule 22.2.3.1 P6.</u></p> <p><u>Council's discretion is restricted to the following matters:</u></p> <p><u>(i) The effects on the indigenous vegetation and fauna;</u></p> <p><u>(ii) Land instability, erosion and sedimentation; and</u></p> <p><u>(iii) Volume, extent and depth of earthworks.</u></p>

### 22.2.3.3 Earthworks – Significant Natural Areas

P1	<p>a) Earthworks for the maintenance of existing tracks, fences or drains within an identified Significant Natural Area must meet all of the following conditions:</p> <p><del>(i) The earthworks must not exceed a volume of 50m<sup>3</sup> in a single consecutive 12 month period; and</del></p> <p><del>(ii) The earthworks must not exceed an area of 250m<sup>2</sup> in a single consecutive 12 month period;</del></p> <p><del>(iii) The total depth of any excavation or filling does not exceed 1.5m above or below ground level with a maximum slope of 1:2 (1 vertical to 2 horizontal);</del></p> <p><del>(iv) Earthworks are setback 1.5m from all boundaries;</del></p> <p><del>(v) Areas exposed by earthworks are re-vegetated to achieve 80% ground cover within 6 months of the commencement of the earthworks;</del></p> <p><del>(vi) Sediment resulting from the earthworks is retained on the site through implementation and maintenance of erosion and sediment controls;</del></p> <p><del>(vii) Do not divert or change the nature of natural water flows, water bodies or established drainage paths</del></p>
P2	<p>Filling using imported fill must not exceed a volume of 20m<sup>3</sup> and a depth of 1.5m.</p>
P3	<p><del>(a) Earthworks that do not comply with Rule 22.2.3.3 P1 or P2.</del></p> <p><del>(b) Council's discretion is restricted to the following matters:</del></p> <p><del>(i) The location of earthworks, taking into account waterways, significant indigenous vegetation or habitat;</del></p> <p><del>(ii) The effects on the Significant Natural Area</del></p>

### 22.2.7 Indigenous ~~v~~Vegetation clearance inside within a Significant Natural Area

P1	<p>(a) Indigenous vegetation clearance, <u>trimming or pruning of indigenous vegetation in a Significant Natural Area</u> in a Significant Natural Area <del>identified on the planning maps or in Schedule 30.5 (Urban Allotment Significant Natural Areas)</del> for the following purposes:</p> <p>(i) Removing vegetation that endangers human life or existing buildings or structures;</p> <p>(ii) Conservation fencing to exclude stock or pests;</p> <p>(iii) Maintaining existing farm drains;</p> <p>(iv) Maintaining existing tracks and fences; <del>or</del></p> <p>(v) Gathering plants in accordance with Maaori customs and values; <u>or</u></p> <p>(vi) <u>Conservation activities.</u></p>
P2	<p><u>Removal Clearance</u> of up to 5m<sup>3</sup> manuka and/or kanuka outside of the Coastal Environment <del>a</del> <u>wetland</u> per single consecutive 12 month period per property for domestic firewood purposes and arts or crafts provided the removal will not directly result in the death, destruction or irreparable damage of any other tree, bush or plant.</p>

P3	<del>(a) Indigenous vegetation clearance for building, access, parking and manoeuvring areas in a Significant Natural Area identified on the planning maps or in Schedule 30.5 (Urban Allotment Significant Natural Areas) must comply with all of the following conditions:</del> (i) <del>There is no practicable alternative development area on the site outside the Significant Natural Area; and</del> (ii) <del>The total indigenous vegetation clearance does not exceed 250m<sup>2</sup>.</del>
P4	(a) On Maaori Freehold Land or Maaori Customary Land, indigenous vegetation clearance in a Significant Natural Area <u>for the purposes of development</u> <del>identified on the planning maps or in Schedule 30.5 (Urban Allotment Significant Natural Areas)</del> where: (i) There is no <u>other practicable</u> alternative development area on the site outside the Significant Natural Area; <u>and</u> (ii) The following total areas are not exceeded: A. 1500m <sup>2</sup> for a Marae complex, including areas associated with access, parking and manoeuvring; B. 500m <sup>2</sup> per dwelling, including areas associated with access, parking and manoeuvring; and C. 500m <sup>2</sup> for a papakainga building including areas associated with access, parking and manoeuvring.
P5	<del>(a) On Maaori Freehold Land or Maaori Customary Land indigenous vegetation clearance in a Significant Natural Area identified on the planning maps or in Schedule 30.5 (Urban Allotment Significant Natural Areas) for the following purposes:</del> (i) <del>Removing vegetation that endangers human life or existing buildings or structures;</del> (ii) <del>Conservation fencing to exclude stock or pests;</del> (iii) <del>Maintaining existing farm drains;</del> (iv) <del>Maintaining existing tracks and fences; or</del> (v) <del>Gathering plants in accordance with Maaori customs and values.</del>
P6	<del>Removal of up to 5m<sup>3</sup> of manuka and/or kanuka outside of the Coastal Environment per single consecutive 12 month period per property for domestic firewood purposes and arts or crafts provided the removal will not directly result in the death, destruction or irreparable damage of any other tree, bush or plant</del>
P7	<u>Vegetation clearance of non-indigenous species in a Significant Natural Area.</u>
C1	(a) <u>Indigenous vegetation clearance for building, access, parking and manoeuvring areas in a Significant Natural Area identified on the planning maps must comply with all of the following standards:</u> (i) <u>There is no practicable alternative development area on the site outside the Significant Natural Area; and</u> (ii) <u>The total indigenous vegetation clearance does not exceed 250m<sup>2</sup>; and</u> (iii) <u>The vegetation clearance is at least 10m from a natural waterbody.</u>
D1	<del>Indigenous vegetation clearance in a Significant Natural Area identified on the planning maps or in Schedule 5 (Urban Allotment Significant Natural Areas) that does not comply with one or more conditions</del> <u>standards in Rule 22.2.7 P1, P2, P3, P4, P5, P7 or P6.</u> <del>or C1.</del>
D2	<u>Indigenous vegetation clearance in a Significant Natural Area other than for purposes listed in P1-P4.</u>
D3	<u>Indigenous vegetation clearance inside a Significant Natural Area other than listed in P1-P4 where this is inside the coastal environment</u>

## 22.2.8 Indigenous ~~v~~Vegetation clearance - outside a Significant Natural Area

P1	(a) Indigenous vegetation clearance outside a Significant Natural Area <del>identified on the planning maps or in Schedule 30.5 (Urban Allotment Significant Natural Areas)</del> must be for the following purposes: (i) Removing vegetation that endangers human life or existing buildings or structures;
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	<p>(ii) <del>Maintaining productive pasture through the removal of up to 1000m<sup>2</sup> per single consecutive 12 month period of manuka and/or kanuka that is more than 10m from a waterbody, and less than 4m in height;</del></p> <p>(ii) Maintaining existing tracks and fences;</p> <p>(iii) Maintaining existing farm drains;</p> <p>(iv) Conservation fencing to exclude stock or pests;</p> <p>(v) Gathering of plants in accordance with Maaori custom and values; or</p> <p>(vi) A building platform and associated access, parking and manoeuvring up to a total of 500m<sup>2</sup> clearance of indigenous vegetation <u>and there is no practicable alternative development area on the site outside of the area of indigenous vegetation clearance;</u></p> <p>(vii) <u>In the Aggregate Extraction Areas, a maximum of 2000m<sup>2</sup> in a single consecutive 12 month period per record of title; or</u></p> <p>(viii) <u>Conservation activities.</u></p>
P2	<p><del>(a) On Maaori Freehold Land or Maaori Customary Land, indigenous vegetation clearance outside a Significant Natural Area identified on the planning maps or in Schedule 30.5 (Urban Allotment Significant Natural Areas) must be for the following purposes:</del></p> <p><del>(i) Removing vegetation that endangers human life or existing buildings or structures;</del></p> <p><del>(ii) Maintaining productive pasture through the removal of up to 1000m<sup>2</sup> per single consecutive 12 month period of manuka and/or kanuka that is more than 10m from a waterbody, and less than 4m in height;</del></p> <p><del>(iii) Maintaining existing tracks and fences;</del></p> <p><del>(iv) Maintaining existing farm drains;</del></p> <p><del>(v) Conservation fencing to exclude stock or pests; or</del></p> <p><del>(vi) Gathering of plants in accordance with Maaori custom and values.</del></p>
P3	<p>(a) On Maaori Freehold Land or Maaori Customary Land, the clearance of indigenous vegetation clearance outside a Significant Natural Area <del>identified on the planning maps or in Schedule 30.5 (Urban Allotment Significant Natural Areas)</del> must not exceed:</p> <p>(i) 1500m<sup>2</sup> for a Marae complex including associated access, parking and manoeuvring;</p> <p>(ii) 500m<sup>2</sup> per dwelling including associated access, parking and manoeuvring; <del>and</del></p> <p>(iii) 500m<sup>2</sup> for a papakainga building including associated access, parking and manoeuvring; <u>and</u></p> <p>(iv) <u>And there is no practicable alternative development area on the site outside of the area of indigenous vegetation clearance.</u></p>
P4	<u>Outside a Significant Natural Area, indigenous vegetation clearance associated with gardening.</u>
P5	<u>Vegetation clearance of non-indigenous species outside a Significant Natural Area.</u>
P6	<p><u>Removal of manuka and/or kanuka to maintain productive pasture or for domestic firewood purposes complying with the following:</u></p> <p><u>(i) up to 3000m<sup>2</sup> per single consecutive 12 month period per site; and</u></p> <p><u>(ii) plants are less than 4m in height; and</u></p> <p><u>(iii) outside a wetland; and</u></p> <p><u>(iv) more than 10m from a waterbody.</u></p>
RD1	<p>(a) <u>Outside a Significant Natural Area, Indigenous Vegetation clearance outside a Significant Natural Area identified on the planning maps or in Schedule 30.5 (Urban Allotment Significant Natural Areas) that does not comply with one or more conditions standards of Rule 22.2.8 P1, P2 or P3 or P6.</u></p> <p>(b) Council's discretion is restricted to the following matters:</p> <p>(i) the extent to which the clearance will result in the fragmentation and isolation of indigenous ecosystems and habitats, <del>including the loss of corridors or connections that link indigenous ecosystems and habitat and the loss of buffering of indigenous ecosystems;</del></p>

	<ul style="list-style-type: none"> <li>(ii) the extent to which the clearance will result in loss, damage or disruption to ecological processes, functions and ecological integrity, including ecosystem services;</li> <li><del>(iii) the extent to which cumulative effects of the vegetation clearance; have been considered and addressed;</del></li> <li>(iv) the extent to which the clearance affects Tangata Whenua relationships with indigenous biodiversity on the site;</li> <li>(v) the extent to which the indigenous biodiversity contributes to natural character and landscape values, including in areas of outstanding natural character, outstanding natural features, outstanding natural landscapes and significant amenity landscapes; and</li> <li>(vi) <u>The extent to which adverse effects have been avoided, remedied, mitigated or if this is unable to be achieved, the extent of offsetting on significant residual adverse effects.</u></li> </ul>
<u>RD2</u>	<ul style="list-style-type: none"> <li>(a) <u>Indigenous vegetation clearance outside a Significant Natural Area for any reason not specified in P1-P5.</u></li> <li>(b) <u>Council's discretion is restricted to the following matters:</u> <ul style="list-style-type: none"> <li>(i) <u>the extent to which the clearance will result in the fragmentation and isolation of indigenous ecosystems and habitats;</u></li> <li>(ii) <u>the extent to which the clearance will result in loss, damage or disruption to ecological processes, functions and ecological integrity, including ecosystem services;</u></li> <li>(iii) <u>the cumulative effects of the vegetation clearance;</u></li> <li>(iv) <u>the extent to which the clearance affects Tangata Whenua relationships with indigenous biodiversity on the site;</u></li> <li>(v) <u>the extent to which the indigenous biodiversity contributes to natural character and landscape values, including in areas of outstanding natural character, outstanding natural features, outstanding natural landscapes and significant amenity landscapes; and</u></li> <li>(vi) <u>The extent to which adverse effects have been avoided, remedied, mitigated or if this is unable to be achieved, the extent of offsetting on significant residual adverse effects.</u></li> </ul> </li> </ul>

## Appendix 2 Criteria for Determining Significance of Indigenous Biodiversity

Add the following:

The Appendix does not apply to plantation forestry.

## Appendix 6: Biodiversity Offsetting

### Introduction

The following sets out a framework for the use of biodiversity offsets. Any biodiversity offset is to be consistent with this framework.

### Biodiversity offsetting framework

1. Restoration, enhancement and protection actions offered by an applicant will only be considered a biodiversity offset where they are used to offset the ~~anticipated~~ reasonably measureable residual effects of activities that are likely to remain after appropriate avoidance, remediation and mitigation measures ~~actions have been applied~~ ~~occurred~~ in accordance with Policy 3.2.3 (i.e., not in situations where they are used to mitigate the adverse effects of activities).
2. A proposed biodiversity offset will contain an qualitative assessment of losses and gains commensurate to the scale of effects the activity, and should demonstrate the manner in which no net loss can be achieved.
3. A biodiversity offset will recognise the limits to offsets due to irreplaceable and vulnerable biodiversity (including effects that must be avoided in accordance with Policy 11(a) of the New Zealand Coastal Policy Statement 2010), and its design and implementation will include provisions for addressing sources of uncertainty and risk of failure of the delivery of no net loss.
4. Restoration, enhancement and protection actions undertaken as a biodiversity offset are demonstrably additional to what otherwise would occur, including that they are additional to any remediation or mitigation undertaken in relation to the adverse effects of the activity.
5. In relation to an SNA, offset actions will be undertaken within the SNA as a first priority, or where this is not practicable, as close as possible to the location of development within the same ecological district as a second priority.
6. Offset actions will prioritise protection and enhancement of existing areas of biodiversity where those actions produce additional biodiversity gains commensurate with the biodiversity values lost.

7. The values to be lost through the activity to which the offset applies are counterbalanced by the proposed offsetting activity which is at least commensurate with the residual adverse effects on indigenous biodiversity, so that the overall result is no net loss.
8. The offset will be applied so that the ecological values being achieved through the offset are the same or similar to those being lost, unless an alternative ecosystem or habitat will provide a net gain for indigenous biodiversity, and the values lost are not irreplaceable or highly vulnerable.
9. There is a strong likelihood that the positive ecological outcomes of the offset last at least as long as the impact of the activity, and preferably in perpetuity. Adaptive management responses should be incorporated into the design of the biodiversity offset, as required to ensure that the positive ecological outcomes are maintained over time.
10. The biodiversity offset will be designed and implemented in a landscape context – i.e., with an understanding of both the donor and recipient sites' roles, or potential roles, in the ecological context of the area.
11. Any application that intends to utilise a biodiversity offset will include a biodiversity offset management plan that:
  - a. sets out baseline information on indigenous biodiversity that is potentially impacted by the proposal at both the donor and recipient sites;
  - b. demonstrates how the requirements of the framework set out in this appendix will be addressed; and
  - c. identifies the monitoring approach that will be used to demonstrate how the matters set out in this framework have been addressed, over an appropriate timeframe.

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