

# **SECTION 42A REPORT**

Report on submissions and further submissions on the  
Proposed Waikato District Plan - Stage 1

## **Hearing 21A: Natural Environments - Indigenous Vegetation and Habitats s42A report**

Report prepared by: Susan Chibnall

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### **Part 2 - Rules**



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## 19 Land Use - Rules

### 19.1 Introduction

370. There are fundamentally three rules that manage significant natural areas and appear in Chapter 16: Residential Zone, Chapter 17: Business Zone, Chapter 20: Industrial Zone, Chapter 21: Industrial Zone Heavy, Chapter 22: Rural Zone, Chapter 23: Country Living Zone, Chapter 24: Village Zone and Chapter 25: Reserve Zone. These rules seek to manage earthworks and vegetation clearance. The vegetation clearance rules, and earthworks rules are consistent throughout the zones except for the Rural Zone chapter which has an additional rule for managing vegetation clearance outside of a SNA and the earthworks rule has additional considerations. The rules are as follows:

- a. Earthworks – Significant Natural Areas
- b. Indigenous vegetation clearance inside a Significant Natural Area
- c. Indigenous vegetation clearance outside a Significant Natural Area (Rural Zone and Country Living Zone only)

371. The subdivision rules that affect SNAs are being dealt with in the relevant zone hearing.

Permitted activity	Non compliance with any of the standards
<b>Earthworks inside a SNA</b>	
Earthworks for the maintenance of tracks, fences or drains  Standards: <ul style="list-style-type: none"> <li>– Maximum 250m<sup>2</sup> in a single 12-month period</li> <li>– Maximum 50m<sup>3</sup> in a single 12-month period</li> <li>– Depth must not exceed 1.5m above or below ground level with a maximum slope of 1:2</li> <li>– 1.5m from all boundaries</li> <li>– Areas exposed by earthworks are revegetated to achieve 80% ground cover within 6 months of the commencement of the earthworks</li> <li>– Sediment resulting from the earthworks is retained on the site through implementation and maintenance of erosion and sediment controls</li> <li>– Do not divert or change the nature of natural water flows, water bodies or established drainage paths</li> </ul>	Restricted Discretionary Activity  Matters of discretion: <ul style="list-style-type: none"> <li>– The location of earthworks in relation to waterways, significant indigenous vegetation or habitat;</li> <li>– The protection of adverse effects on the Significant Natural Area values.</li> </ul>
<b>Vegetation Clearance Inside a SNA (all zones)</b>	
For the following purposes <ul style="list-style-type: none"> <li>– Removing vegetation that endangers human life or existing buildings or structures</li> <li>– Conservation fencing to exclude stock or pests</li> <li>– Maintaining existing farm drains</li> <li>– Maintaining existing tracks and fences</li> <li>– Gathering plants in accordance with Maaori customs and values</li> </ul>	Discretionary Activity

<p>Indigenous vegetation clearance for building, access, parking and manoeuvring areas</p> <p>Standards:</p> <ul style="list-style-type: none"> <li>- There is no alternative development area on the site outside the Significant Natural Area and</li> <li>- The total indigenous vegetation clearance does not exceed 250m<sup>2</sup>.</li> </ul>	<p>Discretionary Activity</p>
<p>Removal of up to 5m<sup>2</sup> of manuka and/or kanuka outside of the Coastal Environment per year per property for domestic firewood purposes and arts or crafts</p> <p>Standards:</p> <ul style="list-style-type: none"> <li>- the removal will not directly result in the death, destruction or irreparable damage of any other tree, bush or plant.</li> </ul>	<p>Discretionary Activity</p>
<p>On Maaori Freehold Land or Maaori Customary Land</p> <p>Standards:</p> <ul style="list-style-type: none"> <li>- There is no practical development area on the site outside the Significant Natural Area</li> <li>- The following total areas are not exceeded: <ul style="list-style-type: none"> <li>A. 1500m<sup>2</sup> for a marae complex, including areas associated with access parking and manoeuvring; and</li> <li>B. 500m<sup>2</sup> per dwelling, including areas associated with access parking and manoeuvring; and</li> <li>C. 500m<sup>2</sup> for a papakaainga building including areas associated with access parking and manoeuvring.</li> </ul> </li> </ul>	<p>Discretionary Activity</p>
<p>Vegetation clearance outside a SNA (Rural Zone only)</p>	
<p>For the following purposes</p> <ul style="list-style-type: none"> <li>- Removing vegetation that endangers human life or existing buildings or structures</li> <li>- Removal of up to 1000m<sup>2</sup> per single consecutive 12-month period of manuka and/or kanuka for pasture</li> <li>- Conservation fencing to exclude stock or pests</li> <li>- Maintaining existing farm drains</li> <li>- Maintaining existing tracks and fences;</li> <li>- Gathering plants in accordance with Maaori customs and values</li> <li>- 500m<sup>2</sup> for a building platform and associated access, parking and manoeuvring</li> </ul>	<p>Restricted Discretionary Activity</p> <p>Matters of discretion</p> <ul style="list-style-type: none"> <li>- the extent to which the clearance will result in the fragmentation and isolation of indigenous ecosystems and habitats, including the loss of corridors or connections that link indigenous ecosystems and habitat and the loss of buffering of indigenous ecosystems</li> <li>- 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>- the extent to which cumulative effects have been considered and addressed</li> <li>- the extent to which the clearance affects tangata whenua relationships with indigenous biodiversity on the site</li> </ul>

	<ul style="list-style-type: none"> <li>– 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.</li> </ul>
<p>On Maaori Freehold Land or Maaori Customary Land</p> <p>Standards:</p> <ul style="list-style-type: none"> <li>– Removing vegetation that endangers human life or existing buildings or structures</li> <li>– Removal of up to 1000m<sup>2</sup> per single consecutive 12-month period of manuka and/or kanuka for pasture</li> <li>– Conservation fencing to exclude stock or pests</li> <li>– Maintaining existing farm drains</li> <li>– Maintaining existing tracks and fences</li> <li>– Gathering plants in accordance with Maaori customs and values</li> </ul>	<p>Restricted Discretionary Activity</p> <p>Matters of discretion</p> <ul style="list-style-type: none"> <li>– the extent to which the clearance will result in the fragmentation and isolation of indigenous</li> <li>– ecosystems and habitats, including the loss of corridors or connections that link indigenous</li> <li>– ecosystems and habitat and the loss of buffering of indigenous ecosystems</li> <li>– 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>– the extent to which cumulative effects have been considered and addressed</li> <li>– the extent to which the clearance affects Tangata Whenua relationships with indigenous biodiversity on the site</li> <li>– 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.</li> </ul>
<p>On Maaori Freehold Land or Maaori Customary Land</p> <p>Standards:</p> <ul style="list-style-type: none"> <li>– There is no practical development area on the site outside the Significant Natural Area</li> <li>– The following total areas are not exceeded: <ul style="list-style-type: none"> <li>A. 1500m<sup>2</sup> for a marae complex, including areas associated with access parking and manoeuvring; and</li> <li>B. 500m<sup>2</sup> per dwelling, including areas associated with access parking and manoeuvring; and</li> <li>C. 500m<sup>2</sup> for a papakaainga building including areas associated with access parking and manoeuvring.</li> </ul> </li> </ul>	<p>Restricted Discretionary Activity</p> <p>Matters of discretion</p> <ul style="list-style-type: none"> <li>– the extent to which the clearance will result in the fragmentation and isolation of indigenous ecosystems and habitats, including the loss of corridors or connections that link indigenous ecosystems and habitat and the loss of buffering of indigenous ecosystems</li> <li>– 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>– the extent to which cumulative effects have been considered and addressed</li> </ul>

	<ul style="list-style-type: none"> <li>– the extent to which the clearance affects tangata whenua relationships with indigenous biodiversity on the site</li> <li>– 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.</li> </ul>
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## 19.2 General submissions

372. The approach of the Proposed District Plan is that there is no over-arching activity status for an activity that is not specifically listed in the Proposed District Plan. This is quite likely an oversight, but the consequence is that any activity that is not listed would be classed as a discretionary activity in accordance with the RMA which covers this scenario. When analysing a submission from Bob Carter who sought to change the heading to the indigenous vegetation clearance rule that is outside a SNA, it became apparent to me that the notified rule framework only allows for vegetation clearance for specific activities that are more related to the farming industry (such as maintenance of pasture, fence lines, tracks etc). Because of this focus on vegetation clearance for specific activities, there is no accompanying rule that enables vegetation clearance (indigenous or otherwise) outside a SNA for the purpose of gardening. There are also no rules regarding clearance of non-indigenous vegetation, either within or outside a SNA. This approach will have the rather perverse outcome of not allowing the removal of weed species from a SNA and is an unintended consequence of the overall approach of the Proposed District Plan for activities not listed.
373. Although there is no specific submission seeking correction of this oversight, I recommend the Hearings Panel address it. The solution for this depends on where the Hearings Panel lands on the default activity status for an activity not listed. If the Hearings Panel inserts a Plan-wide rule classifying activities not listed as permitted, then there is no issue. However, if the default activity status for an activity not listed is something other than permitted, then a rule will need to be inserted to enable vegetation clearance for the purposes of gardening. Although 'gardening' is not a defined term, I note this term is used in the National Planning Standards definition of 'earthworks' as an exemption. Similarly a rule would be required to enable clearance of non-indigenous vegetation, either within or outside a SNA.
374. A suggested set of permitted rules could be something such as:

Zones	Inside a SNA	Outside a SNA
Rural Zone	Clearance of non-indigenous vegetation (permitted)	All other vegetation clearance not otherwise listed (consent required)  Vegetation clearance associated with gardening (permitted)
Country Living Zone	Clearance of non-indigenous vegetation (permitted)	All other vegetation clearance not otherwise listed (consent required)

		Vegetation clearance associated with gardening (permitted)
All other zones	Clearance of non-indigenous vegetation (permitted)	Clearance of indigenous and non-indigenous vegetation (permitted)

## 20 Land use – Earthworks – Significant Natural Area

### 20.1 Introduction

375. The earthworks rules set parameters for the maintenance of existing tracks and fences. The rules are fundamentally the same in each zone where a SNA has been identified and with the added exception of the Rural Zone where there are additional criteria which relate to: depth, slope, setbacks, revegetating, sediment controls and changes in relation to natural waterflows. If the permitted rules are exceeded the activity status becomes a restricted discretionary activity. I have organised the analysis of the submissions as follows; P1, P2 and RD1 and D1.

### 20.2 Submissions

376. A total of 64 primary submissions were received. The submissions are generally seeking to amend the rule regarding the area and volume limits that support the earthworks being a permitted activity.

Submission point	Submitter	Decision requested
697.109	Waikato District Council	Amend Rule 16.2.4.3 P1(a) Earthworks-Significant Natural Areas to read as follows: ( <ul style="list-style-type: none"> <li>a) Earthworks <u>are</u> for the maintenance of existing tracks, fences or drains within an identified Significant Natural Area and must meet all of the following conditions: <ul style="list-style-type: none"> <li>(i) <del>Maximum</del> <u>Do not exceed a</u> volume of 50m<sup>3</sup> in a single consecutive 12 month period;</li> <li>(ii) <del>Maximum</del> <u>Do not exceed an</u> area of 250m<sup>2</sup> in a single consecutive 12 month period; and</li> <li>(iii) <u>Do Not</u> include the importation<u>ing of</u> any fill material.</li> <li>(iv) <u>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);</u></li> <li>(v) <u>Earthworks are setback at least 1.5m from all boundaries;</u></li> <li>(vi) <u>Areas exposed by earthworks are re-vegetated to achieve 80% ground cover within 6 months of the commencement of the earthworks;</u> (vii) <u>Sediment resulting from the earthworks is retained on the site through implementation and maintenance of erosion and sediment controls;</u></li> <li>(viii) <u>Do not divert or change the nature of natural water</u></li> </ul> </li> </ul>
FS1340.116	TaTa Valley Limited	Opposes
FS1377.205	Havelock Village Limited	Opposes
FS1291.4	Havelock Village Limited	Opposes

466.66	Balle Bros Group Limited	Amend Rule 16.2.4.3 Earthworks - Significant Natural Area to remove the 1.5m setback for earthworks, provided all effects be mitigated.
466.7	Balle Bros Group Limited	Amend Rule 16.2.4.3 Earthworks - Significant Natural Area to allow for ground truthing of all Significant Natural Areas prior to inclusion as a property record and on planning maps.
FSI 388.402	Mercury NZ Limited for Mercury E	Opposes
FSI 345.106	Genesis Energy Limited	Supports
942.79	Angeline Greensill for Tainui o Tainui	Amend Rule 16.4.2.3 Earthworks - Significant Natural Areas to limit the extent of earthworks and vegetation clearance to minimise the negative impacts to the environment and to ensure the values of the site are protected.
697.111	Waikato District Council	Delete Rule 16.2.4.3 DI Earthworks- Significant Natural Areas.
FSI 340.118	TaTa Valley Limited	Supports 697.111
FSI 291.6	Havelock Village Limited	Supports 697.111
FSI 377.207	Havelock Village Limited	Supports 697.111
697.110	Waikato District Council	Amend Rule 16.2.4.3 RDI Earthworks-Significant Natural Areas to read as follows: (a) Earthworks that do not comply with Rule 16.2.4.3 PI. (b) Council's discretion shall be restricted to the following matters: (i) The location of earthworks <del>in relation</del> <u>taking into account</u> <del>to</del> waterways, significant indigenous vegetation or habitat; (ii) The <del>protection of</del> <u>adverse</u> effects on the Significant Natural Area <del>values</del> .
FSI 377.206	Havelock Village Limited	Supports 697.110
FSI 340.117	TaTa Valley Limited	Supports 697.110
81.39	Waikato Regional Council	Amend to clarify the application of the earthworks rule (Rule 16.2.4.3) in terms of whether it includes indigenous biodiversity vegetation clearance.
FSI 377.4	Havelock Village Limited	Supports 81.39
697.183	Waikato District Council	Amend Rule 17.2.5.3 PI Earthworks - within Significant Natural Areas, as follows: PI (a) Earthworks <u>are</u> for the maintenance of existing tracks, fences or drains within an identified Significant Natural Area <u>and</u> must meet all of the following conditions.... AND Delete Rule 17.2.5.3 DI Earthworks - within Significant Natural Area.
697.626	Waikato District Council	Amend Rule 20.2.5.2 PI Earthworks - within Significant Natural Areas, as follows: (i) Earthworks <u>are</u> for the maintenance of existing tracks, fences or drains within an identified Significant Natural Area and must meet all of the following conditions: (ii) <i>Maximum volume of 50m3 in a single</i>

		<p><i>consecutive 12 month period; (iii) Maximum area of 250m<sup>2</sup> in a single consecutive 12 month period; and (iv) Not include importing any fill material. (v) <u>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);</u></i></p> <p><i><u>(vi) Earthworks are setback at least 1.5m from all boundaries;</u></i></p> <p><i><u>(vii) Areas exposed by earthworks are re-vegetated to achieve 80% ground cover within 6 months of the commencement of the earthworks;</u></i></p> <p><i><u>(viii) Sediment resulting from the earthworks is retained on the site through implementation and maintenance of erosion and sediment controls;</u></i></p> <p><i><u>(ix) Do not divert or change the nature of natural water flows, water bodies or established drainage paths.</u></i></p>
697.699	Waikato District Council	<p>Amend Rule 21.2.5.2 Earthworks - Significant Natural areas heading, as follows;  <i>Earthworks - <u>within</u> Significant Natural Areas</i></p>
697.700	Waikato District Council	<p>Amend Rule 21.2.5.2 P1(a) Earthworks - Significant Natural Areas, as follows:  <i>(a) Earthworks <u>are</u> for the maintenance of existing tracks, fences or drains within an identified Significant Natural Area and must meet all of the following conditions:</i></p> <p><i>(i) Maximum volume of 50m<sup>3</sup> in a single consecutive 12 month period;</i></p> <p><i>(ii) Maximum area of 250m<sup>2</sup> in a single consecutive 12 month period; and</i></p> <p><i>(iii) Not include importing any fill material.</i></p> <p><i><u>(iv) 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);</u></i></p> <p><i><u>(v) Earthworks are setback at least 1.5m from all boundaries;</u></i></p> <p><i><u>(vi) Areas exposed by earthworks are re-vegetated to achieve 80% ground cover within 6 months of the commencement of the earthworks;</u></i></p> <p><i><u>(vii) Sediment resulting from the earthworks is retained on the site through implementation and maintenance of erosion and sediment controls;</u></i></p> <p><i><u>(viii) Do not divert or change the nature of natural water flows, water bodies or established drainage paths.</u></i></p>
924.40	Genesis Energy Limited	<p>No specific decision sought, but submission is neutral in terms of Rule 21.2.5.2-Earthworks- Significant Natural Areas as this rule has implications for the requested deletion of the Significant Natural Areas on the Huntly Power Station and Scott Farm.</p>
697.701	Waikato District Council	<p>Delete Rule 21.2.5.2 D1 Earthworks - Significant Natural Areas.</p>
482.9	Kirstie Hill on behalf of Hill Country Farmers Group	<p>Delete the proposed limit of 20m<sup>3</sup> for fill in Rule 22.2.3.3 P2 Earthworks - Significant Natural Areas.</p>

591.2	Stevenson Waikato Ltd	Add a new permitted activity rule within Rule 22.2.3.3 Earthworks - Significant Natural Areas, as follows: <i>P3 Earthworks for extractive industry within the Aggregate Extraction Areas and Aggregate Resource Areas shown on the planning maps provided that sediment resulting from the earthworks is retained on the site through implementation and maintenance of erosion and sediment controls.</i>
<i>FSI 377.173</i>	<i>Havelock Village Limited</i>	<i>Support</i>
<i>FSI 319.16</i>	<i>New Zealand Steel Holdings Limited</i>	<i>Support</i>
<i>FSI 334.79</i>	<i>Fulton Hogan Limited</i>	<i>Support</i>
<i>FSI 292.76</i>	<i>McPherson Resources Limited</i>	<i>Support</i>
<i>FSI 146.15</i>	<i>Gleeson Quarries Huntly Limited on behalf of</i>	<i>Support</i>
680.206	Federated Farmers of New Zealand	Amend Rule 22.2.3.3 RDI (b) (ii) Earthworks - Significant Natural Areas, as follows: <i>(b) Councils discretion is restricted to the following matters: (i) <del>The location of earthworks taking into account waterways, significant indigenous vegetation or habitat</del> (ii) <u>The effects on the values and integrity of the Significant Natural Area.</u></i> AND Add a new clause to Rule 22.2.3.3 RDI (b) Earthworks - Significant Natural Areas <i>(iii) The purpose and functional need of the earthworks</i> AND Any consequential changes needed to give effect to this relief. AND Any consequential amendments to Chapter 23: Country Living Zone to address areas of existing farmland zoned as Country Living Zone.
<i>FSI 139.60</i>	<i>Turangawaewae Trust Board</i>	<i>Opposes</i>
<i>FSI 108.69</i>	<i>Te Whakakitenga o Waikato Incorporated (Waikato-Tainui)</i>	<i>Opposes</i>
706.3	Francis and Susan Turton	No specific decision sought, but the submission opposes Rule 22.2.3.3 PI (a) Earthworks - Significant Natural Areas, in respect to the proposed limits, including 50m <sup>3</sup> volume and the 1.5m boundary setback and limits on imported fill.
<i>FSI 007.8</i>	<i>Phillip John Swann</i>	<i>Supports</i>
349.13	Lochiel Farmlands Limited	Delete from Rule 22.2.3.3 Earthworks in Significant Natural Areas, the earthworks controls on cultivation and pasture maintenance.
437.6	KCH Trust	Retain Rule 22.2.3.3 Earthworks - Significant Natural Areas.
501.2	John Swann	Amend Rule 22.2.3.3 Earthworks - Significant Natural Areas, to permit earthworks to construct new tracks through Significant Natural Areas.

FS1276.66	Whaingaroa Environmental Defence Inc. Society	Opposes 501.2
577.4	Dilworth Trust Board	Amend Rule 22.2.3.3 P1 (a) Earthworks - Significant Natural Areas, as follows:(a) <u>Earthworks for the maintenance of existing tracks, fences or drains, and for the purpose of remediation and stabilisation of banks of a stream, river or other water body</u> , within an identified Significant Natural Area must meet all of the following conditions:.. AND Amend the Proposed District Plan for any further or other consequential relief required to give effect to the relief sought in this submission.
680.205	Federated Farmers of New Zealand	Amend Rule 22.2.3.3 P1 Earthworks-Significant Natural Areas, as follows:(a) <del>Earthworks for the maintenance of existing tracks, fences or drains within an identified Significant Natural Area must meet all of the following conditions:</del> <u>(a) Earthworks for farming within an identified Significant Natural Area. Activity-specific conditions: Nil</u> <u>(b) Earthworks, other than for farming, within an identified Significant Natural Area must meet all of the following conditions:</u> <u>(i) The earthworks must not exceed a volume of 50m3 in a single consecutive 12 month period; and</u> <u>(ii) The earthworks must not exceed an area of 250m2 in a single consecutive 12 month period;</u> <u>(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);</u> <u>(iv) Earthworks are setback 1.5m from all boundaries;</u> <u>(v) Areas exposed by earthworks are revegetated to achieve 80% ground cover within 6 months of the commencement of the earthworks;</u> <u>(vi) Sediment resulting from the earthworks is retained on the site through implementation and maintenance of erosion and sediment controls;</u> <del>(vii) Do not divert or change the nature of natural water flows, water bodies or established drainage paths.</del> AND Any consequential changes needed to give effect to this relief. AND Any consequential amendments to Chapter 23: Country Living Zone to address areas of existing farmland zoned as Country Living Zone.
FS1108.68	Te Whakakitenga o Waikato Incorporated (Waikato-Tainui)	Opposes
FS1139.59	Turangawaewae Trust Board	Opposes
FS1315.8	Lochiel Farmlands Limited	Supports
731.3	Jean Tregidga	Amend Rule 22.2.3.3 Earthworks - Significant Natural Area, by permitting earthworks for new tracks within Significant Natural Areas.

FSI 180.3	Jean Tregidga	Supports.
481.5	Culverden Farm	Delete the limits on volume, area and cut in Rule 22.2.3.3 PI Earthworks- Significant Natural Areas where the purpose is to maintain existing farming infrastructure. AND Amend Rule 22.2.3.3 PI Earthworks- Significant Natural Areas, to allow earthworks for new farming infrastructure including fencing, tracks and drains. AND No specific decision sought but submission opposes limits on earthworks within 1.5m of boundaries in Rule 22.2.3.3 PI Earthworks- Significant Natural Areas.
797.26	Fonterra Limited	Retain Rule 22.2.3.3 Earthworks in Significant Natural Areas except for the amendments sought below. AND Delete Rule 22.2.3.3 PI (a)(i) Earthworks in Significant Natural Areas. AND Any consequential amendments or further relief to give effect to the concerns raised in the submission.
FSI 139.31	Turangawaewae Trust Board	Oppose.
FSI 108.32	Te Whakakitenga o Waikato Incorporated (Waikato-Tainui)	Opposes
482.8	Kirstie Hill on behalf of Hill Country Farmers Group	Delete limits on area, and cut in Rule 22.2.3.3 PI Earthworks - Significant Natural Area where the prupose is to maintain existing farm infrastructure. AND Amend Rule 22.2.3.3 PI Earthworks - Significant Natural Areas, to allow earthworks for new farming infrastructure including fencing, tracks and drains. AND No specific decision sought, but submission opposes limits on earthworks within 1.5m of boundaries in Rule 22.2.3.3 PI Earthworks - Significant Natural Areas.
697.773	Waikato District Council	Amend Rule 22.2.3.3 PI (a) Earthworks – Significant Natural Areas, as follows: (a) Earthworks <u>are</u> for the maintenance of existing tracks, fences or drains within an identified Significant Natural Area must meet all of the following conditions: (i) <del>The earthworks must do not</del> exceed a volume of 50m <sup>3</sup> in a single consecutive 12 month period; and (ii) <del>The earthworks must do not</del> exceed an area of 250m <sup>2</sup> in a single consecutive 12 month period;
466.16	Balle Bros Group Limited	Amend Rule 22.2.3.3 PI Earthworks - Significant Natural Area to allow for ground truthing of all Significant Natural Areas prior to inclusion as a property record and on planning maps.
701.4	Steven & Theresa Stark	Amend Rule 22.2.3.3 Earthworks - Significant Natural Areas, as follows: <u>PI (a) Earthworks for the maintenance or upgrade of existing tracks, fences or drains within an identified Significant Natural Area must meet all of the following conditions are permitted.</u>

		<p>AND Delete Rule 22.2.3.3 P1 (a) (i)-(vii) Earthworks - Significant Natural Areas;</p> <p>AND Delete Rule 22.2.3.3 P2 Earthworks - Significant Natural Areas, and replace with the following: <u>P2 (a) Earthworks within a site must meet all of the following conditions:</u> <u>(i) Do not exceed a volume of more than 1000m3 and an area of more than 2000m3 over any single consecutive 12-month period on a property</u> <u>(ii) Do not exceed a volume of more than 3000m3 and an area of more than 6000m2 over any single consecutive 12-month period on a property ≥40ha.</u></p> <p>AND Delete Rule 22.2.3.3 RD1 Earthworks- Significant Natural Areas.</p>
273.8	Russell Luders	No specific decision sought, but submission opposes Rule 22.2.3.3 P2 Earthworks - Significant Natural Area and the limits on imported fill.
349.32	Lochiel Farmlands Limited	Delete from Rule 22.2.3.3P2 Earthworks - Significant Natural Areas, the maximum volume control of 200m3 for imported fill.
273.2	Russell Luders	No specific decision sought, but submission opposes Rule 22.2.3.3 P1 (a) Earthworks - Significant Natural Areas.
268.1	Warwick Cheyne	Delete Rule 22.3.3.3 Earthworks- Significant Natural Areas.
104.5	Tim Newton	Amend Rule 22.2.3.3 Earthworks - Significant Natural Areas, to permit earthworks to construct new tracks through Significant Natural Areas.
<i>FS1007.1</i>	<i>Phillip John Swann</i>	<i>Supports</i>
433.52	Auckland Waikato Fish and Game Council	<p>Delete Rule 22.2.3.3 P1 (a)(vii) Earthworks - Significant Natural Area</p> <p>AND Add new note to Rule 22.2.3.3 Earthworks - Significant Natural Area, as follows: <i>Note: Where earthworks are specifically for ecosystem protection, restoration or enhancement (e.g. conservation covenants, works involved with wetland enhance) then P1, P2 and RD1 do not apply.</i></p> <p>AND/OR Any alternative relief to address the issues and concerns raised in the submission.</p>
<i>FS1083.19</i>	<i>Ryburn Lagoon Trust Limited</i>	<i>Supports</i>
<i>FS1340.70</i>	<i>TaTa Valley Limited</i>	<i>Supports</i>
695.207	Sharp Planning Solutions Ltd	Retain a maximum area of earthworks in Rule 22.2.3.3 P1 Earthworks - Significant Natural Areas.
704.3	The C. Alma Baker Trust	No specific decision sought, but the submission opposes the volume limit and time limit in Rule 22.2.3.3 Earthworks - Significant Natural Areas.
697.774	Waikato District Council	<p>Amend Rule 22.2.3.3 P1(a)(iv) Earthworks - Significant Natural Areas, as follows:</p> <p><i>(iv) Earthworks are setback at least 1.5m from all boundaries;</i></p>

102.3	Waiawa Downs Ltd	Amend the thresholds for earthworks within a Significant Natural Area in Rule 22.2.3 P1 (i) and (ii) Earthworks - Significant Natural area, to 200m <sup>3</sup> volume and 800m <sup>2</sup> area.
697.775	Waikato District Council	Amend Rule 22.2.3.3 P2 Earthworks - Significant Natural Areas, as follows: <i>Filling within a significant natural area</i> using imported fill must not exceed a volume of 20m <sup>3</sup> and a depth of 1.5m.
81.40	Waikato Regional Council	Amend to clarify the application of the earthworks rule (Rule 22.2.3.3) in terms of whether it includes indigenous biodiversity vegetation clearance.
349.31	Lochiel Farmlands Limited	Delete from Rule 22.2.3.3 Earthworks - Significant Natural Areas, the earthworks controls on new fencing.
330.83	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 22.2.3.3 Earthworks - Significant Natural Areas.
695.206	Sharp Planning Solutions Ltd	Amend Rule 22.2.3.3 P1 and P2 Earthworks - Significant Natural Areas so that earthworks are based on the site area i.e. a 1:1 ratio so a 450m <sup>2</sup> site would provide 450m <sup>3</sup> of earthworks.
481.15	Culverden Farm	Delete the limit of 20m <sup>3</sup> for fill in Rule 22.2.3.3 P2 Earthworks - Significant Natural Areas.
352.2	Terence Denton & Bernardina van Loon	No specific decision sought, but submission opposes Rule 22.2.3.3 P1 (a), P2 and RDI Earthworks - Significant Natural Areas.
466.68	Balle Bros Group Limited	Amend Rule 22.2.3.3 P1 Earthworks - Significant Natural Area to remove the 1.5m setback for earthworks, provided all effects be mitigated.
747.4	Ryburn Lagoon Trust Limited	Delete Rule 22.2.3.3 P1 (a)(i)-(iv) Earthworks - Significant Natural Areas AND Delete Rule 22.2.3.3 P2 Earthworks - Significant Natural Areas. AND Amend the Proposed District Plan to provide other such relief and consequential amendments as to give effect to the relief sought in the submissions.
<i>FS1045.14</i>	<i>Auckland/Waikato Fish and Game Council</i>	<i>Supports</i>
<i>FS1007.10</i>	<i>Phillip John Swann</i>	<i>Supports</i>
678.2	Madsen & Holmes	Amend Rule 22.2.3.3 Earthworks - Significant Natural Areas, to permit the removal of accumulated silt to maintain open water for water birds.
737.2	Ronald Rumbal and Catherine Evison	Amend Rule 22.2.3.3 Earthworks - Significant Natural Areas, to retain the amount of earthworks contained in the Operative District Plan.
<i>FS1007.9</i>	<i>Phillip John Swann</i>	<i>Supports</i>
349.12	Lochiel Farmlands Limited	Delete from Rule 22.2.3.3 Earthworks in Significant Natural Areas, the earthworks controls relating to maintenance of existing tracks, fences or drains.

359.4	Phillip Swann	Amend Rule 22.2.3.3 Earthworks – Significant Natural Areas to permit earthworks, to construct new tracks through Significant Natural Areas.
481.10	Culverden Farm	Delete the proposed limit of 20m <sup>3</sup> for fill in Rule 22.2.3.3 P2 Earthworks- Significant Natural Areas.
695.109	Sharp Planning Solutions Ltd	Amend Rule 23.2.3.3 P1(a)(i) Earthworks – Significant Natural Areas, to change the suffix from 50m <sup>2</sup> to 50m <sup>3</sup> .
697.868	Waikato District Council	Delete Rule 23.2.3.3 D1 Earthworks – Significant Natural Areas.
697.867	Waikato District Council	Amend Rule 22.2.3.3 P1(a) Earthworks – Significant Natural Areas, as follows: <u>(a) Earthworks are for the maintenance of existing tracks, fences or drains within an identified Significant Natural Area that meet all of the following conditions:</u> <u>(i) Maximum volume of 50m<sup>3</sup> in any single consecutive 12 month period;</u> <u>(ii) Maximum area of 250m<sup>2</sup> in any single consecutive 12 month period;</u> <del>and</del> <u>(iii) Not include importing any fill material; and</u> <u>(iv) 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);</u> <u>(v) Earthworks are setback at least 1.5m from all boundaries;</u> <u>(vi) Areas exposed by earthworks are re-vegetated to achieve 80% ground cover within 6 months of the commencement of the earthworks;</u> <u>(vii) Sediment resulting from the earthworks is retained on the site through implementation and maintenance of erosion and sediment controls;</u> <u>(viii) Do not divert or change the nature of natural water flows, water bodies or established drainage paths.</u>
697.956	Waikato District Council	Amend Rule 24.2.4.3 P1 Earthworks – within Significant Natural Areas, as follows: <u>(a) Earthworks are for the maintenance of existing tracks, fences or drains within an identified Significant Natural Area must not:</u> <u>(i) Exceed a volume of 50m<sup>3</sup> in a single calendar-year consecutive 12-month period;</u> <u>(ii) Exceed an area of 250m<sup>2</sup> in a single calendar-year consecutive 12-month period; and</u> <u>(iii) Import any fill material.</u> <u>(iv) 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);</u> <u>(v) Earthworks are setback at least 1.5m from all boundaries;</u> <u>(vi) Areas exposed by earthworks are re-vegetated to achieve 80% ground cover within 6 months of the commencement of the earthworks;</u> <u>(vii) Sediment resulting from the earthworks is retained on the site through implementation and maintenance of erosion and sediment controls;</u>

		<u>(viii) Do not divert</u> or change the nature of natural water flows, water bodies or established drainage paths.
697.957	Waikato District Council	Amend Rule 24.2.4.3 DI Earthworks – within Significant Natural Areas to be Restricted Discretionary rather than Discretionary.
697.1029	Waikato District Council	Amend Rule 25.2.4.3 Earthworks - within Significant Natural Areas, as follows: <u>PI (a) Earthworks are for the maintenance of existing tracks, fences or drains within an identified Significant Natural Area and must not meet all of the following conditions: (i) Do not exceed a volume of 50m<sup>3</sup> in a single consecutive 12 month period; (ii) Do not exceed an area of 250m<sup>2</sup> in a single consecutive 12 month period; (iii) Do not include the importation of any fill material; (iv) 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); (v) Earthworks are set back at least 1.5m from all boundaries;(vi) Area exposed by earthworks are revegetated to achieve 80% ground cover within 6 months of the commencement of the earthworks; (vii) Sediment resulting from the earthworks is retained onsite through implementation and maintenance of erosion and sediment controls (viii) Do not divert or change the nature of natural water flows, water bodies or established drainage paths.</u>
731.7	Jean Tregidga	Delete all rules in Section C relating to indigenous vegetation and habitats.
<i>FS1180.7</i>	<i>Jean Tregidga</i>	<i>Supports</i>
<i>FS1387.809</i>	<i>Mercury NZ Limited for Mercury D</i>	<i>Opposes</i>
984.14	Trustee Turangawaewae Trust Board	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.
493.15	Jackie Colliar	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.
<i>FS1035.68</i>	<i>Pareoranga Te Kata</i>	<i>Supports</i>
286.30	Waikato-Tainui	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.
<i>FS1035.36</i>	<i>Pareoranga Te Kata</i>	<i>Supports</i>
<i>FS1293.17</i>	<i>Department of Conservation</i>	<i>Opposes</i>
380.5	Waahi Whaanui Trust	No reasons provided.

### 20.3 Analysis

377. When considering the earthworks rules for inside a SNA it has become apparent to me that that it is not necessary to specifically address earthworks within a SNA separately from the general earthworks rule. The permitted activities of the two rules inside or outside a SNA are practically identical in the Rural Zone except for the activity status cascades to discretionary inside a SNA and cascades to restricted discretionary outside a SNA. The Rural Zone earthworks rule for inside SNAs has additional clauses which are also captured within the general earthworks rule for that zone, however these clauses do not form part of the same rule in the other zones. I note the Waikato District Council submission is seeking to amend this by adding all the standards similar to that in the Rural Zone to add to all zones.
378. The purpose of the earthworks within the SNA rule is specifically for the maintenance of existing tracks, fences or drains and sets the standards of 50m<sup>3</sup> and 250m<sup>2</sup> in a single 12-month period. There are a large number of submissions seeking to delete the various standards, or have more enabling standards. It is difficult to assign a numerical value on volume and area on this activity as there will be great variance between properties that contain a SNA. I have considered what would be the effect to the SNA of deleting the standards for earthworks associated with maintenance of existing tracks, fences or drains but came to the conclusion that it is the vegetation that is significant in a SNA and that should be the focus. Given that the rule is for existing farm infrastructure, in my view there is no need for the rule to have any standards. It would be extremely difficult for significant earthworks to be undertaken without incurring the rule regarding clearance of vegetation. I consider that there would be very little adverse effects on the SNA vegetation associated with earthworks for the maintenance of existing farm infrastructure and therefore standards for this activity are not necessary.
379. With regards to criteria in Table I I A of the WRPS, if the area is already an existing track it is likely to have limited value in terms of a SNA for the extent/width of that track. I consider that the rule can not only be simplified by deletion of the standards, but also be relocated into the general earthworks rule for simplicity. I recommend that earthworks for any other reason in a SNA should be a restricted discretionary activity. I am mindful that earthworks in a SNA is likely to require clearance of vegetation and would be captured by the appropriate rule, but for completeness I consider there needs to be a rule for earthworks for other purposes. This is a problem I identified in the notified Plan where it was not clear what the activity status would be for earthworks in a SNA that is not for the purposes of the maintenance of existing tracks, fences or drains. A new rule would read as follows:

PX

Earthworks for the maintenance of existing tracks, fences or drains within a Significant Natural Area

RD2

Earthworks in a Significant Natural Area for purposes other than the maintenance of existing tracks, fences or drains

Council's discretion is restricted to the following matters:

- (i) The effects on the Significant Natural Area
- (ii) Land instability, erosion and sedimentation
- (iii) The functional and operational need for the earthworks
- (iv) Volume, extent and depth of earthworks

380. I have recommended in response to submissions to remove this standard and suggest, to be consistent, that this is applied to all zones that have been identified with a SNA which are: Residential Zone, Business Zone, Industrial Zone, Industrial Zone Heavy, Rural Zone, Country Living Zone Village Zone, Reserve Zone and Rangitahi Peninsula Zone.
381. Balle Bros Group Limited [466.7] [466.16] has submitted on the Earthworks rule to allow for ground truthing of SNAs. Further submitters Genesis Energy Limited [FS/345.106] supports the submission. I do not consider it appropriate to include a ground truthing aspect in a rule for earthworks as the rule is specifically for the management of earthworks and not mapping. However, this submission clearly addresses the wider issue of whether SNAs should be mapped and the ground truthing of any mapping which I have discussed in Part 4 of this report. I recommend the panel accept in part the submissions from Balle Bros Group Limited [466.7] and [466.16] due to my recommended approach to the mapping of SNAs.
382. Submissions from Genesis Energy Limited [924.40], Francis and Susan Turton [706.3], Russell Luders [273.8] and [273.2], Margaret Millard for the C. Alma Baker Trust [704.3], Andrew and Christine Gore [330.83] and Terence Denton and Bernadina van Loon [352.2], all seek no specific decision which makes it difficult to meaningfully assess these submissions. Further submitter Phillip Swan [1007.8] supports submission [706.3]. However, the submissions are generally opposed to the setbacks and the proposed volumes, and I recommend the panel accept these submissions given my recommendation to delete the standards.
383. The Tainui o Tainui [942.79] submission seeks to limit the extent of earthworks and vegetation clearance to minimise the negative impacts to the environment and ensure the values of the site are protected. Rule 16.4.2.3 only manages earthworks and not vegetation clearance, and in my opinion the rule is achieving what the submitter is seeking. The rule sets limitations on volume and area of earthwork within SNAs, and only for the purpose of specific activities. However, in response to the submission from Waikato District Council I have recommended to delete this rule and relocate to the general earthworks rule. I recommend the panel reject the submission from Tainui o Tainui [942.79].
384. The Waikato Regional Council submissions [81.39] and [81.40] are seeking to clarify whether vegetation clearance is included in the rule regarding earthworks within a Earthworks – Significant Natural Areas rule. Havelock Village Limited [FS/377.4] has supported the submission. I can see Waikato Regional Council's point that it is not clear how vegetation clearance is affected by this rule. However, the earthworks rule is specifically for the maintenance of 'existing' tracks, fences, or drains. As these features are existing, there would presumably be little need for vegetation clearance, or if there was it would be very minor in nature. I recommend the panel reject the submissions from Waikato Regional Council [81.39] and [81.40].
385. The submissions from John Swan [501.2], Jean Tregidga [731.3], Tim Newton [104.5], Phillip Swan [359.4], Hill Country Farmers Group [482.8], Lochiel Farmlands Limited [349.31] and Culverden Farm [481.5] are seeking to amend Rule 22.2.3.3 Earthworks to allow for the construction of new tracks within a SNA or to delete the limits on area and cut. A further submission from Jean Tregidga [FS/180.3] supports submission [731.3] and Phillip Swan [FS/1007.1] supports submission [104.5]. A further submission from Whaingaroa Defence Inc. Society [FS/276.66] opposes the submission.
386. I do not agree with this approach proposed by the submitters. This rule acknowledges that there are already tracks within some SNAs that maintain the ability for farming practices to continue, for example, the movement of stock to grazing areas that may be separated by a SNA, or providing access to other parts of the farm. The rule framework allows for the

maintenance of these tracks as it is considered the effects of the maintenance will likely be less than minor. This approach is further supported by the Regional Policy Statement, where in the implementation methods in 11.1.4 b) the RPS recognises existing land uses that are the same or similar in intensity and scale. In my view, the construction of a new track will likely have adverse effects on SNAs, and it is appropriate that a consenting process is entered into to ensure mitigation occurs. Earthworks for the purposes of creating a new track would be a restricted discretionary activity in most zones, and such an activity would be a discretionary activity in terms of clearance of a portion of the SNA. I recommend the panel reject the submissions from John Swan [501.2], Jean Tregidga [731.3], Tim Newton [104.5], Phillip Swan [359.4], Hill Country Farmers Group [482.8], Lochiel Farmlands Limited [349.31] and Culverden Farm [481.5].

387. The submission from Auckland Waikato Fish and Game [433.52] seeks to delete Rule 22.2.3.3 Earthworks P1 (a) (vii) which is regarding natural waterflows, water bodies or established drainage. Further submissions from Ryburn Lagoon Trust [FS1083.19] and TaTa Valley Limited [FS1340.70] support the submission. The submission also seeks to add a new rule which provides for earthworks specifically for ecosystem protection, restoration or enhancement and gave the example of conservation covenants. The submitter considers the rules to be too restrictive for the activities that are carried out by their organisation in regard to work carried out in wetlands. I have recommended to delete the rule for earthworks in SNAs and relocate in a simpler format within the earthworks general rule. On this basis I recommend the panel accept in part the submission from Auckland Waikato Fish and Game [433.52].
388. Federated Farmers [680.205] are seeking to amend Rule 22.2.3.3 Earthworks by removing referral to existing tracks, fences or drains and replacing this with no conditions for earthworks that relate to farming within SNAs, and deleting clause (vii) which refers to not diverting natural water flows, water bodies or established drainage paths. Further submissions from Waikato Tainui [FS1108.68] and Turangawaewae Trust Board [FS1139.59] have opposed the submission. Further submitter Lochiel Farmlands Limited [FS1315.8] supports the submission. I can appreciate the need for farming practices to be enabled and this is reflected in the permitted earthworks rules for the maintenance of existing tracks, fences or drains within a SNA. In the reasons provided by Federated Farmers they refer to the need to have the ability to create alternative tracks if one becomes impassable, the purpose being to ensure the movement and safety of stock. If the situation requires immediate attention, it may be that section 330 of the RMA – Emergency works and power to take preventative or remedial action – would allow such action to occur and consent for any works that were outside the permitted baseline considered as a Restricted Discretionary activity on its merits. As per the discussion in relation to the deleting and relocation of this rule into a simpler format within the earthworks general rule, I believe that this will help ensure the day to day farming activities can occur and enable maintenance of existing farm infrastructure. On this basis I recommend the panel accept in part Federated Farmers’ submission [680.205].
389. A submission from Dilworth Trust Board [577.4] is seeking additional wording to manage the remediation and stabilisation of banks of streams, rivers, and water bodies. I consider that this would not be a district council’s concern but rather fall under the jurisdiction of Waikato Regional Council as the activity will potentially have an effect on these water bodies. However, the submission from Madson and Holmes [678.2] seeks to amend the rules to permit the removal of accumulated silt to maintain open water for water birds. I consider that this would not be a district council’s concern but rather fall under the jurisdiction of Waikato Regional Council as the activity will potentially affect these water bodies. I note that the recently gazetted National Environmental Standards for Freshwater Management also contains rules for wetlands. However as I have recommended the rule for Earthworks – Significant Natural Areas be deleted and relocated in a simpler format to Earthworks – General I recommend

the panel accept in part the submissions from Madson and Holmes [678.2] and Dilworth Trust Board [577.4].

390. A submission from Jean Tregidga [731.7] seeks to delete all the rules in Section C relating to vegetation and habitats. Jean Tregidga [FS1180.7] also further submits to support her submission. I consider deletion of the rules for SNAs would not give effect to the Regional Policy Statement. However, as I have recommended the Rule for earthworks-significant Natural Areas be deleted and relocated in a simpler format to Earthworks -General I recommend the panel reject the submission from Jean Tregidga [731.7].
391. Submissions from Turangawaewae Trust Board [984.14], Jackie Colliar [493.15], Waahi Whaanui Trust [380.5] and Waikato-Tainui [286.30] are all seeking to amend the plan to provide for earthworks in SNAs for marae, papakainga and associated parking etc for these activities. Further submissions from Pareoranga Te Kata [FS1035.68] and [FS1035.36] support these submissions. A further submission from Department of Conservation [FS1293.17] opposes the submission. I agree with a more lenient approach as both are section 6 (s6) matters which require balancing. Both s6(c) and 6(e) shall recognise and provide for, areas of significant indigenous vegetation and habitats and, the relationship of Maori and their culture and tradition. Within the Proposed Plan there are rules for indigenous vegetation clearance within a SNA on Maori Freehold Land or Maori Customary Land for the development of marae and Papakainga. The Proposed Plan is seeking to enable the development of Maori Freehold and Maori Customary land. It would make sense to allow for a higher threshold for earthworks to accommodate this. These provisions recognise enabling marae and papakainga to achieve s6(e) of the RMA and as well as WRPS i Policies 6.4 Marae and Papakainga. Determining the appropriate level of earthworks that should be permitted is challenging, however I consider that the areas be similar to that for vegetation clearance and the volumes set as per the operative plan (500m<sup>3</sup>). To the best of my knowledge, this level has been sufficient to facilitate development on areas within the Whaanga Coast which are located in the Landscape Policy Area of the Operative District Plan. I recommend the rule would therefore be amended and located within the general earthworks rule as follows;

#### PI

- (a) On Maori Freehold Land or Maori Customary land, earthworks for a Marae Complex or Papakainga housing within a Significant Natural Area where:
- (i) there is no alternative development area on the site outside of the significant natural area; and
  - (ii) The earthworks do not exceed a volume of 500m<sup>3</sup> in a single consecutive 12-month period; and
  - (iii) The earthworks do not exceed an area of 1500m<sup>2</sup> in a single consecutive 12-month period; and
  - (iv) Sediment resulting from the earthworks is retained on the site through implementation and maintenance of erosion and sediment controls;
  - (i) The earthworks do not divert or change the nature of natural water flows, water bodies or established drainage paths.

#### RDI

- (a) Earthworks that do not comply with Rule xxxxx PI
- (b) Council's discretion is restricted to the following matters:
- (i) The effects on the Significant Natural Area
  - (ii) Land instability, erosion and sedimentation.
  - (iii) The functional and operational need for the earthworks
  - (iv) Volume, extent and depth of earthworks

392. Consequently I recommend the panel accept the submissions from Turangawaewae Trust Board [984.14], Jackie Colliar [493.15], Waahi Whaanui Trust [380.5] and Waikato Tainui [286.30].
393. A submission from Stevenson Waikato Ltd [591.2] is seeking to add a new permitted activity rule that would allow extractive industry within the Aggregate Extraction Areas to be a permitted activity. Further submissions from Havelock Village Limited [FS/377.173], New Zealand Steel Holdings Limited [FS/319.16], Fulton Hogan Limited [FS/334.79], McPherson Resources Limited [FS/292.76] and Gleeson Quarries Huntly Limited [FS/146.15] have all supported the submission. Reasons provided by the submitter are that the amendment will allow for earthworks that are ancillary to extraction activities and will support the continuous and sustainable management of extractive industries. I consider the approach suggested by Stevenson will not give effect to policies in the Regional Policy Statement, particularly Policy 11.1 a) where there is a requirement to work towards achieving no net loss of indigenous biodiversity. The activities that are undertaken by aggregate and mineral extraction can have significant adverse effects on areas of indigenous vegetation and the suite of policies in both the Regional Policy Statement and the Proposed District Plan are explicitly crafted to ensure that areas of indigenous vegetation are not adversely affected by any activity, including mining and extraction. However, as I have recommended the Rule for Earthworks – Significant Natural Areas is deleted and relocated in a simpler format to Earthworks – General, such an earthworks activity would be classified as a restricted discretionary activity with discretion restricted to the effect on the Significant Natural Area. I recommend the panel reject the submission from Stevenson Waikato Ltd [591.2].
394. The submission from Federated Farmers [680.206] seeks to amend RDI Rule 22.2.3.3 Earthworks clause (b)(i) and (ii) which relates to the assessment criteria and to add a new clause (iii) to recognise the ‘the purpose and function of the earthworks’. Further submissions from Turangawaewae Trust Board [FS/139.60] and Waikato–Tainui [FS/108.9] opposed the submission. I consider that the discretion should be focused on the effects on the Significant Natural Area, but accept that the functional and operational need for the earthworks should be a consideration and therefore recommend accepting Federated Farmers [680.206].

## 20.4 Recommendations

395. For the reasons above I recommend:
- a. **Accept in part** Waikato District Council [697.109], [697.700], [697.626], [697.867], [697.956] and [697.1029], TaTa Valley Limited [FS/340.116] and Havelock Village Limited [FS/377.205] and [FS/291.4].
  - b. **Accept** Genesis Energy Limited [924.40], Francis and Susan Turton [706.3], Russell Luders [273.8] and [273.2], Margaret Millard for the C. Alma Baker Trust [704.3], Andrew and Christine Gore [330.83], Terence Denton and Bernadina van Loon [352.2] and Phillip Swan [FS/007.8].
  - c. **Accept in part** Balle Bros Group Limited [466.66].
  - d. **Accept in part** Balle Bros Group Limited [466.7] Mercury Energy Limited [FS/388.402] and Genesis Energy Limited [FS/345.106].
  - e. **Reject** Tainui o Tainui [942.79].
  - f. **Accept** Waikato District Council [697.111], TaTa Valley [FS/340.118] and Havelock Village Limited [FS/291.6] and [FS/377.207].
  - g. **Accept** Waikato District Council [697.110], Havelock Village Limited [FS/377.206] and TaTa Valley Limited [FS/340.117].
  - h. **Reject** Waikato Regional Council [81.39] and Havelock Village Limited [1377.4].

- i. **Accept** Waikato District Council [697.183].
- j. **Accept** Waikato District Council [697.699].
- k. **Accept** Waikato District Council [697.701].
- l. **Accept in part** KCH Trust [437.6].
- m. **Accept in part** Sharp Planning Solutions [695.207].
- n. **Accept in part** Waikato District Council [697.773].
- o. **Reject** Waikato Regional Council [81.40].
- p. **Reject** John Swan [501.2], Jean Tregidga [731.3], Tim Newton [104.5], Phillip Swan [359.4], Culverden Farm [481.5], Phillip Swan [FS1007.1] and Jean Tregidga [FS1180.3].  
**Accept** Whaingaroa Defence Inc. Society [FS1276.66].
- q. **Accept** Lochiel Farmlands Limited [349.31].
- r. **Accept in part** Lochiel Farmlands Limited [349.12].
- s. **Accept in part** Auckland Waikato Fish and Game [433.52]. **Reject** Ryburn Lagoon Trust [FS1083.19] and TaTa Valley Limited [FS1340.70].
- t. **Accept in part** Federated Farmers [680.205], Lochiel Farmlands Limited [FS1315.8], Waikato Tainui [FS1108.68] and Turangawaewae Trust Board [FS1139.59].
- u. **Accept in part** Steven and Theresa Stark [701.4], Ryburn Lagoon Trust Limited [747.4] Fonterra Limited [797.26], Hill Country Farmers Group [482.8], Waiawa Downs Ltd [102.3], Auckland Waikato Fish and Game Council [FS1045.14], Phillip Swan [FS1007.10], Turangawaewae Trust Board [FS1139.31] and Waikato–Tainui [FS1108.32].
- v. **Accept** Hill Country Farmers Group [482.9], Culverden Farm [481.15] and [481.10] Lochiel Farmlands Limited [349.32].
- w. **Accept in part** Waikato District Council [697.775].
- x. **Reject** Ronald Rumbal and Catherine Evison [737.2].
- y. **Reject** Phillip Swan [FS1007.9].
- z. **Accept in part** Dilworth Trust Board [577.4].
- aa. **Accept in part** Sharp Planning Solutions [695.206].
- bb. **Accept in part** Balle Bros Group Limited [466.68].
- cc. **Accept in part** Balle Bros Group Limited [466.16].
- dd. **Accept in part** Lochiel Farmlands Limited [349.13].
- ee. **Accept in part** Madson and Holmes [678.2].
- ff. **Accept** Warwick Cheyne [268.1].
- gg. **Accept in part** Waikato District Council [697.774].
- hh. **Reject** Jean Tregidga [731.7] and Jean Tregidga [FS1180.7]. **Accept** Mercury Energy Limited [FS1387.809].
- ii. **Accept in part** Turangawaewae Trust Board [984.14], Jackie Colliar [493.15], Waikato–Tainui [286.30], Pareoranga Te Kata [FS1035.68] and [FS1035.36], and Department of Conservation [FS1293.17].

- jj. **Reject** Stevenson Waikato Ltd [591.2], Havelock Village Limited [FS/377.173], New Zealand Steel Holdings Limited [FS/319.16], Fulton Hogan Limited [FS/334.79], McPherson Resources Limited [FS/292.76] and Gleeson Quarries Huntly Limited [FS/146.15].
- kk. **Accept in part** Federated Farmers [680.206], Turangawaewae Trust Board [FS/139.60] and Waikato Tainui [FS/108.9].
- ll. **Accept in part** Sharp Planning Solutions [695.109].
- mm. **Accept** Waikato District Council [697.868].
- nn. **Accept in part** Waikato District Council [697.957].

## 20.5 Recommended amendments

396. The following amendments are recommended:

397. Delete the following rules: Rule 16.2.4.3, Rule 17.2.5.3, Rule 20.2.5.2, Rule 21.2.5.2 Rule 23.2.3.3, Rule 25.2.4.3 and Rule 28.2.4.3

### ~~20.5.1.1 Earthworks – Significant Natural Areas~~

<del>PI</del>	<del>(a) Earthworks for the maintenance of existing tracks, fences or drains within an identified Significant Natural Area that meet all of the following conditions: (i) Maximum volume of 50m<sup>3</sup> in a 12 month period; (ii) Maximum area of 250m<sup>2</sup> in a 12 month period; and (iii) Not include importing any fill material.—</del>
<del>RDI</del>	<del>(a) Earthworks that do not comply with Rule 23.2.3.3 PI. (b) Council's discretion is restricted to the following matters: (i) The location of earthworks in relation to waterways, significant indigenous vegetation or habitat; (ii) The protection of adverse effects on the Significant Natural Area values.</del>
<del>DI</del>	<del>Earthworks that do not comply with Rule 23.2.3.3 PI or RDI.</del>

398. Due to a slight variation to Chapter 24: Village Zone, this rule has been separated out. Therefore, delete Rule 24.2.4.3 Earthworks – within Significant Natural Areas in accordance with the analysis.

<del>PI</del>	<del>(a) Earthworks for the maintenance of existing tracks, fences or drains within an identified Significant Natural Area must not: (i) Exceed a volume of 50m<sup>3</sup> in a single calendar year; (ii) Exceed an area of 250m<sup>2</sup> in a single calendar year; and (iii) Import any fill material.</del>
<del>DI</del>	<del>(a) Earthworks that do not comply with one or more conditions of Rule 24.2.4.3 PI. (b) Council's discretion is restricted to the following matters: (i) the location of earthworks, taking into account waterways, significant indigenous vegetation or habitat</del>

399. Delete Rule 22.2.3.3 Earthworks – Significant Natural Areas from the Rural Zone.

P1	<p><del>(a) Earthworks for the maintenance of existing tracks, fences or drains within an identified Significant Natural Area must meet all of the following conditions:</del></p> <ul style="list-style-type: none"> <li><del>(i) The earthworks must not exceed a volume of 50m<sup>3</sup> in a single consecutive 12-month period; and</del></li> <li><del>(ii) The earthworks must not exceed an area of 250m<sup>2</sup> in a single consecutive 12-month period;</del></li> <li><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></li> <li><del>(iv) Earthworks are setback 1.5m from all boundaries;</del></li> <li><del>(v) Areas exposed by earthworks are re-vegetated to achieve 80% ground cover within 6 months of the commencement of the earthworks;</del></li> <li><del>(vi) Sediment resulting from the earthworks is retained on the site through implementation and maintenance of erosion and sediment controls;</del></li> <li><del>(vii) Do not divert or change the nature of natural water flows, water bodies or established drainage paths.</del></li> </ul>
P2	<p><del>Filling using imported fill must not exceed a volume of 20m<sup>3</sup> and a depth of 1.5m.</del></p>
RD1	<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> <ul style="list-style-type: none"> <li><del>(i) The location of earthworks, taking into account waterways, significant indigenous vegetation or habitat;</del></li> <li><del>(ii) The effects on the Significant Natural Area.</del></li> </ul>

400. Add to Chapter 16: Residential Zone – Earthworks General a new Rule P4, P5, RD2 and RD3 to Rule 16.2.4.1.

P1	<p>(a) Earthworks (excluding the importation of fill material) within a site must meet all of the following conditions:</p> <ul style="list-style-type: none"> <li>(i) Be located more than 1.5 m horizontally from any waterway, open drain or overland flow path;</li> <li>(ii) Not exceed a volume of 250m<sup>3</sup>;</li> <li>(iii) Not exceed an area of 1000m<sup>2</sup> over any consecutive 12-month period;</li> <li>(iv) The total depth of any excavation or filling does not exceed 1.5m above or below ground level;</li> <li>(v) The slope of the resulting cut, filled areas or fill batter face in stable ground, does not exceed a maximum of 1:2 (1 vertical to 2 horizontal);</li> <li>(vi) Earthworks are set back 1.5m from all boundaries;</li> <li>(vii) Areas exposed by earthworks are revegetated to achieve 80% ground cover within 6 months of the commencement of the earthworks;</li> <li>(viii) Sediment resulting from the earthworks is retained on the site through implementation and maintenance of erosion and sediment controls;</li> <li>(ix) Do not divert or change the nature of natural water flows, water bodies or established drainage paths.</li> </ul>
P2	<p>Earthworks for the purpose of creating a building platform for residential purposes within a site, using imported fill material must meet the following condition:</p> <ul style="list-style-type: none"> <li>(a) Be carried out in accordance with NZS 4431:1989 Code of Practice for Earth Fill for Residential Development.</li> </ul>

P3	<p>(a) Earthworks for purposes other than creating a building platform for residential purposes within a site, using imported fill material must meet all of the following conditions:</p> <ul style="list-style-type: none"> <li>(i) Not exceed a total volume of 20m<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;</li> <li>(vii) Do not divert or change the nature of natural water flows, water bodies or established drainage paths.</li> </ul>
<u>P4</u>	<p>(a) <u>Earthworks for the maintenance of existing tracks, fences or drains within a Significant Natural Area</u></p>
<u>P5</u>	<p>(a) <u>On Maaori Freehold Land or Maaori Customary land, within a Significant Natural Area, earthworks for a marae complex or papakainga 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; and</u></li> <li>(iv) <u>sediment resulting from the earthworks is retained on the site through implementation and maintenance of erosion and sediment controls;</u></li> <li>(ii) <u>The nature of natural water flows, water bodies or established drainage paths is not diverted or changed . . .</u></li> </ul>
RD1	<p>(a) Earthworks that do not comply with Rule xx.2.4.1 P1, P2, P3, or P4</p> <p>(b) The <u>Council's</u> discretion shall be restricted to the following matters:</p> <ul style="list-style-type: none"> <li>(i) Amenity values and landscape effects;</li> <li>(ii) Volume, extent and depth of earthworks;</li> <li>(iii) Nature of fill material;</li> <li>(iv) Contamination of fill material;</li> <li>(v) Location of the earthworks in relation to waterways, significant indigenous vegetation and habitat;</li> <li>(vi) Compaction of the fill material;</li> <li>(vii) Volume and depth of fill material;</li> <li>(viii) Protection of the Hauraki Gulf Catchment Area;</li> <li>(ix) Geotechnical stability;</li> <li>(x) Flood risk, including natural water flows and established drainage paths; and</li> <li>(xi) Land instability, erosion and sedimentation.</li> </ul>
<u>RD2</u>	<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> <ul style="list-style-type: none"> <li><u>(i) The effects on the Significant Natural Area</u></li> <li><u>(ii) Land instability, erosion and sedimentation</u></li> <li><u>(iii) The functional and operational need for the earthworks</u></li> <li><u>(iv) Volume, extent and depth of earthworks.</u></li> </ul>
<u>RD3</u>	<p><u>Earthworks on Maaori Freehold Land or Maaori Customary Land that does not comply with Rule 16.2.2.4.1 P5</u></p> <p><u>Council's discretion is restricted to the following matters:</u></p>

	<p><u>(i) The effects on the Significant Natural Area</u></p> <p><u>(ii) Land instability, erosion and sedimentation</u></p> <p><u>(iii) Volume, extent and depth of earthworks.</u></p>
NCI	Earthworks including the importation of cleanfill to a site.

401. Add to Chapter 17: Business Zone a new rule P3 into Rule 17.2.5.1 Earthworks General.

P1	<p>(a) Earthworks within a site must meet the following conditions:</p> <p>(i) Be located more than 1.5m from a public sewer, open drain, overland flow path or other service pipe;</p> <p>(ii) Not exceed a volume of more than 250m<sup>3</sup> and an area of more than 1,000m<sup>2</sup> within a site;</p> <p>(iii) The height of the resulting cut, filled areas or fill batter face in stable ground, not including any surcharge, does not exceed 1.5m, with a maximum slope of 1:2 (1 vertical to 2 horizontal);</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> <p>(v) Sediment resulting from the earthworks is retained on the site through implementation and maintenance of erosion and sediment controls;</p> <p>(vi) Do not divert or change the nature of natural water flows, water bodies or established drainage paths. ;</p>
P2	<p>(a) The importation of fill material to a site must meet all of the following conditions in addition to Rule 17.2.4 P1:</p> <p>(i) Does not exceed a total volume of 500m<sup>3</sup> per site and a depth of 1m;</p> <p>(ii) Is fit for compaction;</p> <p>(iii) The height of the resulting batter face in stable ground must not exceed 1.5m with a maximum slope of 1:2 (1m vertical to 2m horizontal);</p> <p>(iv) Does not restrict the ability for land to drain;</p> <p>(v) Is not located within 1.5m of public sewers, utility services or manholes;</p> <p>(vi) The sediment from fill material is retained on the site.</p>
<u>P3</u>	<u>(a) Earthworks for the maintenance of existing tracks, fences or drains within Significant Natural Areas</u>
<u>P4</u>	<p><u>(a) On Maaori Freehold Land or Maaori Customary land within a Significant Natural Area, earthworks for a marae complex or papakaainga housing where:</u></p> <p><u>(i) there is no alternative development area on the site outside of the significant natural area; and</u></p> <p><u>(ii) the earthworks do not exceed a volume of 500m<sup>3</sup> in a single consecutive 12-month period; and</u></p> <p><u>(iii) the earthworks do not exceed an area of 1500m<sup>2</sup> in a single consecutive 12-month period; and</u></p> <p><u>(iv) sediment resulting from the earthworks is retained on the site through implementation and maintenance of erosion and sediment controls;</u></p> <p><u>(v) The nature of natural water flows, water bodies or established drainage paths is not diverted or changed.</u></p>
RD1	<p>(a) Earthworks that do not comply with Rule 17.2.4.1 P1, P2 or P3</p> <p>(b) Council's discretion is limited to the following matters:</p> <p>(i) Amenity values and landscape effects;</p>

	<ul style="list-style-type: none"> <li>(ii) Volume, extent and depth of earthworks;</li> <li>(iii) Nature of fill material;</li> <li>(iv) Contamination of fill material;</li> <li>(v) Location of the earthworks to waterways, significant indigenous vegetation and habitat;</li> <li>(vi) Compaction of the fill material;</li> <li>(vii) Volume and depth of fill material;</li> <li>(viii) Protection of the Hauraki Gulf Catchment Area;</li> <li>(ix) Geotechnical stability;</li> <li>(x) Flood risk, including natural water flows and established drainage paths</li> <li>(xi) Land instability, erosion and sedimentation; and</li> <li>(xii) Proximity to underground services and service connections.</li> </ul>
<u>RD2</u>	<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> <ul style="list-style-type: none"> <li><u>(i) The effects on the Significant Natural Area</u></li> <li><u>(ii) Land instability, erosion and sedimentation</u></li> <li><u>(iii) The functional and operational need for the earthworks</u></li> <li><u>(iv) Volume, extent and depth of earthworks.</u></li> </ul>
<u>RD3</u>	<p><u>Earthworks on Maaori Freehold Land or Maaori Customary land that does not comply with Rule 17.2.5.1 P4</u></p> <p><u>Council's discretion is restricted to the following matters:</u></p> <ul style="list-style-type: none"> <li><u>(i) The effects on the Significant Natural Area</u></li> <li><u>(ii) Land instability, erosion and sedimentation</u></li> <li><u>(iii) Volume, extent and depth of earthworks.</u></li> </ul>

402. Add to Chapter 20: Industrial Zone and Chapter 21: Industrial Zone Heavy a new rule P4 into Rule 20.2.5.1 and Rule 21.2.5.1 Earthworks General.

PI	<p>(a) Earthworks (excluding the importation of fill material) within a site must meet all of the following conditions:</p> <ul style="list-style-type: none"> <li>(i) be located more than 1.5 m horizontally from any waterway, open drain or overland flow path;</li> <li>(ii) not exceed a volume of more than 250m<sup>3</sup>;</li> <li>(iii) not exceed an area of more than 1000m<sup>2</sup> over any consecutive 12-month period;</li> <li>(iv) the total depth of any excavation or filling does not exceed 1.5m above or below ground level;</li> <li>(v) the slope of the resulting cut, filled areas or fill batter face in stable ground, does not exceed a maximum of 1:2 (1 vertical to 2 horizontal);</li> <li>(vi) earthworks are set back 1.5m from all boundaries;</li> <li>(vii) areas exposed by earthworks are revegetated to achieve 80% ground cover within 6 months of the commencement of the earthworks;</li> <li>(viii) sediment resulting from the earthworks is retained on the site through implementation and maintenance of erosion and sediment controls; and</li> </ul>
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	(ix) do not divert or change the nature of natural water flows, water bodies or established drainage paths.
P2	(a) Earthworks for the purpose of creating a building platform for residential purposes within a site, using imported fill material must meet the following condition: (b) be carried out in accordance with NZS 4431:1989 Code of Practice for Earth Fill for Residential Development.
P3	(a) Earthworks for purposes other than creating a building platform for residential purposes within a site, using imported fill material (excluding cleanfill) must meet all of the following conditions: (i) not exceed a total volume of 500m <sup>3</sup> ; (ii) not exceed a depth of 1m; (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); (iv) fill material is setback 1.5m from all boundaries; (v) areas exposed by filling are revegetated to achieve 80% ground cover within 6 months of the commencement of the earthworks; (vi) sediment resulting from the filling is retained on the site through implementation and maintenance of erosion and sediment controls; and (vii) do not divert or change the nature of natural water flows, water bodies or established drainage paths.
<b>P4</b>	<b><u>(a) Earthworks for the maintenance of existing tracks, fences or drains within Significant Natural Area</u></b>
RD1	(c) Earthworks that do not comply with Rule 20.2.5.1 P1, P2, P3 or P4 (d) Council's discretion shall be restricted to the following matters: (i) amenity values and landscape effects; (ii) volume, extent and depth of earthworks; (iii) nature of fill material; (iv) contamination of fill material; (v) location of the earthworks in relation to waterways, significant indigenous vegetation and habitat; (vi) compaction of the fill material; (vii) volume and depth of fill material; (viii) protection of the Hauraki Gulf Catchment Area; (ix) geotechnical stability; (x) flood risk, including natural water flows and established drainage paths; and (xi) land instability, erosion and sedimentation.
<b>RD2</b>	<b><u>Earthworks in a Significant Natural Area for purposes other than the maintenance of existing tracks, fences or drains</u></b>  <b><u>Council's discretion is restricted to the following matters:</u></b> <b><u>(i) The effects on the Significant Natural Area</u></b> <b><u>(ii) Land instability, erosion and sedimentation.</u></b> <b><u>(iii) The functional and operational need for the earthworks</u></b> <b><u>(iv) Volume, extent and depth of earthworks.</u></b>

403. Add to Chapter 22: Rural Zone – Earthworks General a new rule P5 to, Rule 22.2.3.1.

### 20.5.2 22.2.3.1 Earthworks – General

PI	(a) Earthworks for: (i) Ancillary rural earthworks; (ii) Farm quarry where the volume of aggregate does not exceed 1000m <sup>3</sup> per single consecutive 12 month period; (iii) Construction and/or maintenance of tracks, fences or drains;
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	(iv) A building platform for a residential activity, including accessory buildings.
P2	(a) Earthworks within a site must meet all of the following conditions: (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; (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); (iii) Earthworks are setback 1.5m from all boundaries; (iv) Areas exposed by earthworks are revegetated to achieve 80% ground cover within 6 months of the commencement of the earthworks; (v) Sediment resulting from the earthworks is retained on the site through implementation and maintenance of erosion and sediment controls; (vi) Do not divert or change the nature of natural water flows, water bodies or established drainage paths.
P3	(a) Earthworks for the purpose of creating a building platform for residential purposes within a site, using imported fill material must meet the following condition: (i) Be carried out in accordance with NZS 4431:1989 Code of Practice for Earth Fill for Residential Development.
P4	(a) Earthworks for purposes other than creating a building platform for residential purposes within a site, using imported fill material or cleanfill must meet all of the following conditions: (i) not exceed a total volume of 200m <sup>3</sup> ; (ii) not exceed a depth of 1m; (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); (iv) fill material is setback 1.5m from all boundaries; (v) areas exposed by filling are revegetated to achieve 80% ground cover within 6 months of the commencement of the earthworks; (vi) sediment resulting from the filling is retained on the site through implementation and maintenance of erosion and sediment controls; (vii) does not divert or change the nature of natural water flows, water bodies or established drainage paths.
P5	(a) <u>Earthworks for the maintenance of existing tracks, fences or drains within a Significant Natural Area</u>
P6	(a) <u>On Maaori Freehold Land or Maaori Customary land, within a Significant Natural Area, earthworks for a marae complex or papakainga housing where:</u> (i) <u>there is no alternative development area on the site outside of the significant natural area; and</u> (ii) <u>the earthworks do not exceed a volume of 500m<sup>3</sup> in a single consecutive 12 month period; and</u> (iii) <u>the earthworks do not exceed an area of 1500m<sup>2</sup> in a single consecutive 12 month period; and</u> (iv) <u>sediment resulting from the earthworks is retained on the site through implementation and maintenance of erosion and sediment controls;</u> (v) <u>Do not divert or change the nature of natural water flows, water bodies or established drainage paths..</u>
RD1	(a) Earthworks that do not comply with Rule 22.2.3.1 P1, P2, P3 P4 or P5 (b) Council's discretion shall be limited to the following matters: (i) amenity values and landscape effects; (ii) volume, extent and depth of earthworks; (iii) nature of fill material; (iv) contamination of fill material or cleanfill; (v) location of the earthworks to waterways, significant indigenous vegetation and habitat; (vi) compaction of the fill material; (vii) volume and depth of fill material;

	<ul style="list-style-type: none"> <li>(viii) protection of the Hauraki Gulf Catchment Area;</li> <li>(ix) geotechnical stability;</li> <li>(x) flood risk, including natural water flows and established drainage paths;</li> <li>(xi) land instability, erosion and sedimentation.</li> </ul>
<u>RD2</u>	<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> <ul style="list-style-type: none"> <li><u>(i) The effects on the Significant Natural Area</u></li> <li><u>(ii) Land instability, erosion and sedimentation</u></li> <li><u>(iii) The functional and operational need for the earthworks</u></li> <li><u>(iv) Volume, extent and depth of earthworks.</u></li> </ul>
<u>RD3</u>	<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> <ul style="list-style-type: none"> <li><u>(i) The effects on the Significant Natural Area</u></li> <li><u>(ii) Land instability, erosion and sedimentation</u></li> <li><u>(iii) Volume, extent and depth of earthworks.</u></li> </ul>

404. Add to Chapter 23: Country Living Zone – Earthworks General a new rule P5 to, Rule 23.2.3.1.

P1	<ul style="list-style-type: none"> <li>(a) Earthworks within a site for: <ul style="list-style-type: none"> <li>(i) Ancillary rural earthworks; or</li> <li>(ii) Construction and/or maintenance of tracks, fences or drains; or</li> <li>(iii) A building platform for a residential activity including an accessory building.</li> </ul> </li> </ul>
P2	<ul style="list-style-type: none"> <li>(a) Earthworks within a site for purposes other those contained in P1 (excluding the importation of fill material) must meet all of the following conditions: <ul style="list-style-type: none"> <li>(i) Do not exceed a volume of more than 250m<sup>3</sup> and an area of more than 1000m<sup>2</sup> within a site over any single 12-month period;</li> <li>(ii) The total depth of any excavation or filling does not exceed 1.5m above or below ground level;</li> <li>(iii) Earthworks are set back 1.5m from any boundary;</li> <li>(iv) Areas exposed by earthworks are revegetated 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;</li> <li>(vi) Do not divert or change the nature of natural water flows, water bodies or established drainage paths.</li> </ul> </li> </ul>
P3	<ul style="list-style-type: none"> <li>(a) Earthworks for the purpose of creating a building platform for residential purposes within a site, using imported fill material must meet the following condition: <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> </li> </ul>
P4	<ul style="list-style-type: none"> <li>(a) Earthworks for purposes other than creating a building platform for residential purposes within a site, using imported fill material must meet all of the following conditions: <ul style="list-style-type: none"> <li>(viii) Not exceed a total volume of 20m<sup>3</sup>;</li> <li>(ix) Not exceed a depth of 1m;</li> <li>(x) 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>(xi) Fill material is set back 1.5m from all boundaries;</li> <li>(xii) Areas exposed by filling are revegetated to achieve 80% ground cover within 6 months of the commencement of the earthworks;</li> <li>(xiii) Sediment resulting from the filling is retained on the site through implementation and maintenance of erosion and sediment controls;</li> </ul> </li> </ul>

	(xiv) Do not divert or change the nature of natural water flows, water bodies or established drainage paths.
<b>P5</b>	<u>(a) Earthworks for the maintenance of existing tracks, fences or drains within Significant Natural Area</u>
<b>RD1</b>	(a) Earthworks that do not comply with Rule 23.2.3.1 P1, P2, P3 ,P4 or P5 (b) Council's discretion is restricted to the following matters: (i) Amenity values and landscape effects; (ii) Volume, extent and depth of earthworks; (iii) Nature of fill material; (iv) Contamination of fill material; (v) Location of the earthworks to waterways, significant indigenous vegetation and habitat; (vi) Compaction of the fill material; (vii) Volume and depth of fill material; (viii) Protection of the Hauraki Gulf Catchment Area; (ix) Geotechnical stability; (x) Flood risk, including natural water flows and established drainage paths; (xi) Land instability, erosion and sedimentation.
<b>RD2</b>	<u>Earthworks in a Significant Natural Area for purposes other than the maintenance of existing tracks, fences or drains.</u>  <u>Council's discretion is restricted to the following matters:</u> <u>(i) The effects on the Significant Natural Area</u> <u>(ii) Land instability, erosion and sedimentation</u> <u>(iii) The functional and operational need for the earthworks</u> <u>(iv) Volume, extent and depth of earthworks.</u>
<b>NCI</b>	Earthworks including the importation of cleanfill to a site.

405. Add to Chapter 25: Reserve Zone – Earthworks General a new rule P5 to, Rule 25.2.4.1:

<b>P1</b>	(a) Earthworks within a site must meet all of the following: (i) Be located more than 1.5m from a public sewer, open drain, overland flow path or other service pipe; (ii) Not exceed a volume of more than 250m <sup>3</sup> and an area of more than 1,000m <sup>2</sup> within a site; (iii) The height of the resulting cut, filled areas or fill batter face in stable ground, not including any surcharge, does not exceed 1.5m, with a maximum slope of 1:2 (1 vertical to 2 horizontal); (iv) Areas exposed by earthworks are re-vegetated to achieve 80% ground cover within 6 months of the commencement of the earthworks; (v) Sediment resulting from the earthworks is retained on the site through implementation and maintenance of erosion and sediment controls; (vi) Do not divert or change the nature of natural water flows, water bodies or established drainage paths; and (vii) Do not result in the site being unable to be serviced by gravity sewers.
<b>P2</b>	(a) The importation of fill material to a site must meet all of the following conditions, in addition to the conditions in P1. (i) Does not exceed a total volume of 500m <sup>3</sup> per site and a depth of 1m; (ii) Is fit for compaction;

	<ul style="list-style-type: none"> <li>(iii) The height of the resulting batter face in stable ground does not exceed 1.5m with a maximum slope of 1:2 (1m vertical to 2m horizontal);</li> <li>(iv) Does not restrict the ability for land to drain;</li> <li>(v) Is not located within 3m of a property boundary, with the exception of the following: <ul style="list-style-type: none"> <li>A. Landscaping bunds;</li> </ul> </li> </ul> <p>(b) Where a retaining wall exists, the fill is placed to the same level as the retaining wall.</p>
<u>P3</u>	<u>(a) Earthworks for the maintenance of existing tracks, fences or drains within Significant Natural Area.</u>
RD1	<ul style="list-style-type: none"> <li>(a) Earthworks that do not comply with Rule 25.2.4.1 P1, P2 or P3</li> <li>(b) Council's discretion is restricted to the following matters: <ul style="list-style-type: none"> <li>(i) Amenity values and landscape effects;</li> <li>(ii) Volume, extent and depth of earthworks;</li> <li>(iii) Nature of fill material;</li> <li>(iv) Contamination of fill material;</li> <li>(v) Location of the earthworks to waterways, significant indigenous vegetation and habitat;</li> <li>(vi) Compaction of the fill material;</li> <li>(vii) Volume and depth of fill material;</li> <li>(viii) Protection of the Hauraki Gulf Catchment Area;</li> <li>(ix) Geotechnical stability;</li> <li>(x) Flood risk, including natural water flows and established drainage paths</li> <li>(xi) Land instability, erosion and sedimentation;</li> <li>(xii) Proximity to underground services and service connections.</li> </ul> </li> </ul>
<u>RD2</u>	<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> <ul style="list-style-type: none"> <li><u>(i) The effects on the Significant Natural Area</u></li> <li><u>(ii) Land instability, erosion and sedimentation</u></li> <li><u>(iii) The functional and operational need for the earthworks</u></li> <li><u>(iv) Volume, extent and depth of earthworks.</u></li> </ul>

## 20.6 Section 32AA evaluation

406. The earthworks rules apply to the maintenance of existing tracks, fences or drains within a significant natural area. The recommended deletion of the rule for Earthworks – Within Significant Natural Areas and relocating of the rule to the general earthworks rule are to ensure consistency across the zones and to provide more a practical approach to managing the scale of earthworks within a Significant Natural Area, while still giving effect to Objective 3.1 Biodiversity and Ecosystems.

407. In respect to the additional rules for Maaori Freehold/Customary Land, the amendments recognise s6(e) of the Resource Management Act and the Waikato Regional Policy Statement when managing tangata whenua issues.

*Other reasonably-practicable options*

408. One option is to make no changes to the notified version, However, there are several aspects in the rule that have been identified as needing amending such as the volume and area. In this regard the notified version does not recognise that the tracks, fences or drains must be already existing in order for the rule to apply. Another option is to relocate the rule as a clause in Earthworks – General.
409. In terms of Maaori Freehold/Customary Land one option would be to have no specific rule for Maaori Freehold/Customary Land. This option would not recognise the issues facing tangata whenua when managing land that has multiple owners, as well as the development of marae and papakaainga.

*Effectiveness and efficiency*

410. The recommended amendments to the earthworks rules still give effect to the policies in Chapter 3: Indigenous Biodiversity and the Regional Policy Statement regarding indigenous biodiversity to ensure that the adverse effects are minimised. Removal of the area and volume will allow a property owner to maintain tracks, etc that will provide for better management of access through a SNA.
411. In terms of Maaori Freehold/Customary Land, the amendments improve the effectiveness of Policies 3.2.6 and 3.2.7 in providing for the role of mana whenua as kaitiaki.

*Costs and benefits*

412. There are no additional costs. There are benefits for the environment with the revised policy as it is clearer about how the effects will be managed for maintaining existing tracks, fences or drains. Other benefits are clearer guidance to plan users regarding the maintenance of existing farm infrastructure in a SNA. The recommended amendments to the earthworks rule will allow for a more flexible approach to the maintenance of existing tracks within a SNA without having to engage with the consenting process, and appropriately recognise that this is existing farm infrastructure.

*Risk of acting or not acting*

413. There are no additional risks in not acting. There is sufficient information on the costs to the environment, and benefits to people and communities to justify the amendment to the earthworks rule.

*Decision about most appropriate option*

414. The amendment is considered to be more appropriate in achieving the purpose of the RMA than the notified version regarding earthworks within SNAs.

## 21 Indigenous vegetation clearance inside a SNA

### 21.1 Introduction

415. The rules provide a permitted activity for the clearance of vegetation for the purposes of maintenance of drains, fences and tracks. This rule matches the companion permitted activity for earthworks within a SNA. The rule also permits removal of vegetation that endangers

human life, buildings and structures or the gathering of plants in accordance with Maaori customs, clearance of vegetation for building development and for the development of Maaori Freehold/Customary Land and lastly for the removal of a very limited amount of manuka or kanuka for domestic firewood. The rules are consistent across the zones.

## 21.2 SNAs within the coastal environment

416. Before getting into the detail of individual rules, I would like to discuss the submissions from Waikato Regional Council and the Department of Conservation which both consider that the SNA rules do not give effect to the New Zealand Coastal Policy Statement. These submissions have caused me to consider more closely whether there should be a difference in the management of a SNA in the coastal environment versus outside the coastal environment. I am mindful of Part 5 of the RMA which promotes sustainable management, which means managing the use, development etc., in a way or at a rate which enables people to provide for their social economic and cultural well-being, and I believe the rules as notified recognise this.
417. However, I am also aware of Policy 11 of the New Zealand Coastal Policy Statement, and the directive to 'avoid' adverse effects particularly in Policy 11(a) which is not tempered by any other language. As set out in Section 12 of this report, there is a high degree of alignment between the sub-clauses in Policy 11(a) of the New Zealand Coastal Policy Statement and Appendix 2 of the Proposed District Plan. Therefore, in order to give effect to Policy 11(a) of the New Zealand Coastal Policy Statement and its 'avoid' directive, I consider there should be a separate rule for indigenous vegetation clearance in a SNA that is located in the coastal environment. As I will discuss later, I find this extremely disappointing, particularly in terms of the Maaori Freehold Land or Customary Land where Council is trying to enable development by removing unreasonable constraints. However, due to Policy 11(a) of the New Zealand Coastal Policy Statement I am left with no option. Thus, I recommend inclusion of the following rule in the rule relating to 'Indigenous vegetation clearance inside a Significant Natural Area':

### D2 Indigenous vegetation clearance within the coastal environment

418. Consequential amendments may be required to rules P1–P6 to make it clear that the permitted rule does not apply in the coastal environment.

## 21.3 Section 32AA evaluation

419. The recommended additional wording to the rule to manage Indigenous vegetation in the coastal environment is to acknowledge the NZCPS.

### *Other reasonably-practicable options*

420. One option is to make no changes to the notified version. However, this would not be giving effect to Policy 11(a) of the NZCPS and the proposed policy 3.2.5 clause (i) indigenous species that are listed as threatened or at risk in the New Zealand Classification System.

### *Effectiveness and efficiency*

421. The recommended amendments will give effect to the Regional Policy Statement regarding indigenous biodiversity to ensure the adverse effects on SNAs are avoided by excluding them from being able to be removed as a permitted activity in the coastal environment.
422. The amendment improves the effectiveness of Policy 3.2.5 to avoid adverse effects on species listed as threatened or at risk as per the New Zealand Classification System.

### Costs and benefits

423. There will be additional costs when undertaking a building development in the coastal environment if there is a need to remove this species. There will be a benefit to the environment as these species will be managed in accordance with their status of being either at risk or threatened.

### Risk of acting or not acting

424. There is sufficient information on the costs to the environment, and benefits to people and communities to justify the amendment to the rule.

### Decision about most appropriate option

425. The amendment is considered to be more appropriate in achieving the purpose of the RMA and Objective 3.2.1 than the notified version regarding indigenous vegetation within the coastal environment.

## 21.4 Rule PI

426. A total of 63 primary submissions were received. These either seek to delete the rules or to amend the area that can be removed.

### 21.4.1 Submissions

Submission point	Submitter	Decision requested
466.67	Balle Bros Group Limited	Add a new clause (vi) to Rule 16.2.8 PI Indigenous vegetation clearance inside a Significant Natural Area as follows: (vi) <i>removal of vegetation for pest management and biosecurity works.</i>
FS1377.113	Havelock Village Limited	Supports 466.67
FS1340.77	TaTa Valley Limited	Supports 466.67
697.124	Waikato District Council	Add Rule 16.2.8 PI(a) (vi) Indigenous vegetation clearance inside a Significant Natural Area as follows: <u>Removing vegetation for conservation activities.</u>
FS1291.7	Havelock Village Limited	Supports 697.124
FS1377.208	Havelock Village Limited	Supports 697.124
FS1340.120	TaTa Valley Limited	Supports 697.124
697.123	Waikato District Council	Amend Rule 16.2.8 Indigenous vegetation clearance inside a Significant Natural Area heading to read as follows: Indigenous vegetation clearance <del>inside</del> <u>within</u> a Significant Natural Area
466.8	Balle Bros Group Limited	Amend Rule 16.2.8 PI Indigenous vegetation clearance inside a Significant Natural Area PI to allow for ground truthing of all Significant Natural Areas prior to inclusion as a property record and on planning maps.
FS1377.111	Havelock Village Limited	Supports 466.8
831.57	Gabrielle Parson on behalf of Raglan Naturally	Delete Rule 16.2.8 Indigenous vegetation clearance inside a Significant Natural Area AND Add provisions that will increase natural habitats.

<i>FS1377.279</i>	<i>Havelock Village Limited</i>	<i>Opposes 831.57</i>
585.15	Department of Conservation	Amend Rule 16.2.8 Indigenous vegetation clearance inside a Significant Natural Area as follows: <ul style="list-style-type: none"> <li>• <i>Include a maximum vegetation clearance permitted activity rule for all purposes; and</i></li> <li>• <i>Include a minimum setback distance from water bodies for all purposes; and</i></li> <li>• <i>Change P2 to a maximum area of clearance rather than a maximum volume; and</i></li> <li>• <i>Any other relevant amendments.</i></li> </ul>
<i>FS1377.161</i>	<i>Havelock Village Limited</i>	<i>Opposes 585.15</i>
697.197	Waikato District Council	Amend Rule 17.2.9 PI (a) Indigenous vegetation clearance inside a Significant Natural Area, to add new rule (vi) to read as follows: <u>(vi) Removing vegetation for conservation activities.</u>
697.196	Waikato District Council	Amend Rule 17.2.9 Indigenous vegetation clearance inside a Significant Natural Area heading, as follows: <i>17.2.9 Indigenous vegetation clearance <del>inside</del> <u>within</u> a Significant Natural Area</i>
831.58	Gabrielle Parson on behalf of Raglan Naturally	Delete Rule 17.2.9 Indigenous vegetation clearance inside a Significant Natural Area AND Add provisions that will increase natural habitats.
585.16	Department of Conservation	Amend Rule 17.2.9 Indigenous vegetation clearance inside a Significant Natural Area as follows: <ul style="list-style-type: none"> <li>• <i>Include a maximum vegetation clearance permitted activity rule for all purposes; and</i></li> <li>• <i>Include a minimum setback distance from water bodies for all purposes; and</i></li> <li>• <i>Change P2 to a maximum area of clearance rather than a maximum volume; and</i></li> <li>• <i>Any other relevant amendments.</i></li> </ul>
543.13	Fellrock Developments Limited and TTT Products Limited	Retain Rule 20.2.9 Indigenous vegetation clearance inside a Significant Natural Area.
697.635	Waikato District Council	Amend Rule 20.2.9 Indigenous vegetation clearance inside a Significant Natural Area heading, as follows: <i>Indigenous vegetation clearance <del>inside</del> <u>within</u> a Significant Natural Area</i>
697.636	Waikato District Council	Add to Rule 20.2.9 PI (a) Indigenous vegetation clearance inside a Significant Natural Area, as follows: <u>(vi) Removing vegetation for conservation activities.</u>
585.17	Department of Conservation	Amend Rule 20.2.9 Indigenous vegetation clearance inside a Significant Natural Area as follows: <ul style="list-style-type: none"> <li>• <i>Include a maximum vegetation clearance permitted activity rule for all purposes; and</i></li> <li>• <i>Include a minimum setback distance from water bodies for all purposes; and</i></li> </ul>

		<ul style="list-style-type: none"> <li>• Change P2 to a maximum area of clearance rather than a maximum volume; and</li> <li>• Any other relevant amendments.</li> </ul>
<i>FS1345.11</i>	<i>Genesis Energy Limited</i>	<i>Opposes 585.17</i>
831.59	Gabrielle Parson on behalf of Raglan Naturally	Delete Rule 20.2.9 Indigenous vegetation clearance inside a Significant Natural Area AND Add provisions that will increase natural habitats.
<i>FS1345.122</i>	<i>Genesis Energy Limited</i>	<i>Opposes 831.59</i>
585.18	Department of Conservation	Amend Rule 21.2.9 Indigenous vegetation clearance inside a Significant Natural Area as follows: <ul style="list-style-type: none"> <li>• Include a maximum vegetation clearance permitted activity rule for all purposes; and</li> <li>• Include a minimum setback distance from water bodies for all purposes; and</li> <li>• Change P2 to a maximum area of clearance rather than a maximum volume; and</li> <li>• Any other relevant amendments.</li> </ul>
<i>FS1345.12</i>	<i>Genesis Energy Limited</i>	<i>Opposes 585.18</i>
678.1	Madsen & Holmes	Amend Rule 21.2.9 Indigenous vegetation clearance inside a Significant Natural Area, to permit the removal of invasive weeds to maintain open water for birds.
697.712	Waikato District Council	Add to Rule 21.2.9 PI (a) Indigenous vegetation clearance in a Significant Natural Area, as follows: <u>(vi) Removing vegetation for conservation activities.</u>
697.711	Waikato District Council	Amend Rule 21.2.9 Indigenous vegetation clearance inside a Significant Natural Area heading, as follows: <i>Indigenous vegetation clearance</i> <del>inside</del> <u>within</u> a Significant Natural Area
<i>FS1345.81</i>	<i>Genesis Energy Limited</i>	<i>Supports 697.711</i>
831.60	Gabrielle Parson on behalf of Raglan Naturally	Delete Rule 22.2.7 Indigenous vegetation clearance inside a Significant Natural Area AND Add provisions that will increase natural habitats.
<i>FS1340.147</i>	<i>TaTa Valley Limited</i>	<i>Opposes 831.60</i>
<i>FS1377.280</i>	<i>Havelock Village Limited</i>	<i>Opposes 831.60</i>
831.61	Gabrielle Parson on behalf of Raglan Naturally	Delete Rule 23.2.8 Indigenous vegetation clearance inside a Significant Natural Area AND Add provisions that will increase natural habitats.
330.88	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 22.2.7 Indigenous vegetation clearance inside a Significant Natural Area.
349.33	Lochiel Farmlands Limited	Amend Rule 22.2.7PI (a)(iv) Indigenous vegetation clearance inside a Significant Natural Area as follows: <u>Maintaining, repairing or reinstating</u> existing tracks and fences; or
577.5	Dilworth Trust Board	Amend Rule 22.2.7 PI (a) Indigenous vegetation clearance inside a Significant Natural Area, as follows:

		<p>(i) <u>Gathering plants in accordance with Maaori customs and values; or ...</u></p> <p>(vi) <u>Remediating or stabilising the banks of a stream, river or other water body.</u></p> <p>AND</p> <p>Amend the Proposed District Plan for any further or other consequential relief required to give effect to the relief sought in this submission</p>
827.3	New Zealand Steel Holdings Ltd	<p>Add a new clause to Rule 22.2.7 PI Indigenous vegetation clearance inside a Significant Natural Area as follows (or words to similar effects):</p> <p><i>PI (a) 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:</i></p> <p><u>(ia) Removing vegetation within the Aggregate Extraction Area at Waikato North Head;</u></p> <p><i>(i) Removing vegetation that endangers human life or existing buildings or structures; ...</i></p>
419.23	Horticulture New Zealand	<p>Retain Rule 22.2.7PI Indigenous vegetation clearance inside a Significant Natural Area, as notified</p> <p>OR</p> <p>Add a new clause (vi) to Rule 22.2.7</p> <p>PI (a) Indigenous vegetation clearance inside a Significant Natural Area, as follows:<i>(a) 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: ...</i></p> <p><u>(vi) removal of vegetation for pest management and biosecurity works</u></p> <p>AND</p> <p>Any consequential or additional amendments as a result of changes sought in the submission.</p>
<i>FS1171.18</i>	<i>T&amp;G Global</i>	<i>Supports 419.23</i>
<i>FS1340.50</i>	<i>TaTa Valley Limited</i>	<i>Supports 419.23</i>
<i>FS1345.98</i>	<i>Genesis Energy Limited</i>	<i>Supports 419.23</i>
<i>FS1377.86</i>	<i>Havelock Village Limited</i>	<i>Supports 419.23</i>
466.69	Balle Bros Group Limited	<p>Add a new clause (vi) to Rule 22.2.7 PI Indigenous vegetation clearance inside a Significant Natural Area as follows:<u>(vi) removal of vegetation for pest management and biosecurity works.</u></p>
<i>FS1168.71</i>	<i>Horticulture New Zealand</i>	<i>Supports 466.69</i>
<i>FS1377.114</i>	<i>Havelock Village Limited</i>	<i>Supports 466.69</i>
585.19	Department of Conservation	<p>Amend Rule 22.2.7 Indigenous vegetation clearance inside a Significant Natural Area as follows:</p> <ul style="list-style-type: none"> <li>• <i>Include a maximum vegetation clearance permitted activity rule for all purposes; and</i></li> <li>• <i>Include a minimum setback distance from water bodies for all purposes; and</i></li> <li>• <i>Change P2 to a maximum area of clearance rather than a maximum volume; and</i></li> </ul>

		<ul style="list-style-type: none"> <li>Any other relevant amendments.</li> </ul>
FSI342.156	Federated Farmers	Opposes 585.19
FSI345.13	Genesis Energy Limited	Opposes 585.19
FSI340.94	TaTa Valley Limited	Opposes 585.19
FSI315.9	Lochiel Farmlands Limited	Opposes 585.19
466.18	Balle Bros Group Limited	Amend Rule 22.2.7 P1 Indigenous vegetation clearance inside a Significant Natural Area to allow for ground truthing of all Significant Natural Areas prior to inclusion as a property record and on planning maps.
FSI377.112	Havelock Village Limited	Supports 466.18
FSI340.76	TaTa Valley Limited	Supports 466.18
433.56	Auckland Waikato Fish and Game Council	Retain Rule 22.2.7 Indigenous vegetation clearance inside a Significant Natural Area, as notified.
352.3	Terence Denton & Bernardina van Loon	No specific decision sought, but submission opposes Rule 22.2.7 P1 (a), P3(a) and D1 Indigenous vegetation clearance inside a Significant Natural Area.
268.3	Warwick Cheyne	Delete Rule 22.2.7 Indigenous vegetation clearance inside a Significant Natural Area.
FSI340.35	TaTa Valley Limited	Opposes 268.3
697.786	Waikato District Council	Amend Rule 22.2.7 Indigenous vegetation heading, as follows: <i>Indigenous vegetation clearance inside within a Significant Natural Area</i>
697.787	Waikato District Council	Amend Rule 22.2.7 Indigenous vegetation inside an Significant Natural Area, as follows: <i>P1 (a) Indigenous vegetation clearance in a Significant Natural Area identified on the planning maps <del>or in Schedule 30.5 (Urban Allotment Significant Natural Areas)</del> for the following purposes...</i> <i>P3 (a) Indigenous vegetation clearance for building, access, parking and manoeuvring areas in a Significant Natural Area identified on the planning maps <del>or in Schedule 30.5 (Urban Allotment Significant Natural Areas)</del> must comply with all of the following conditions....</i> <i>P4 (a) On Maaori Freehold Land or Maaori Customary Land, indigenous vegetation clearance in a Significant Natural Area identified on the planning maps <del>or in Schedule 30.5 (Urban Allotment Significant Natural Areas)</del> where...</i> <i>P5 (a) On Maaori Freehold Land or Maaori Customary Land, indigenous vegetation clearance in a Significant Natural Area identified on the planning maps <del>or in Schedule 30.5 (Urban Allotment Significant Natural Areas)</del> for the following purposes:</i> <i>D1 Indigenous vegetation clearance in a Significant Natural Area identified on the planning maps <del>or in Schedule 5 (Urban Allotment Significant Natural Areas)</del> that does not comply with one or more conditions in Rule 22.2.7 P1, P2, P3, P4, P5 or P6.</i>
697.788	Waikato District Council	Add a new condition (vii) to Rule 22.2.7(a) Indigenous vegetation clearance inside a Significant Natural Area, as

		follows: <u>(vii) Removing vegetation for conservation activities.</u>
FSI 340.133	TaTa Valley Limited	Supports 697.788
FSI 291.29	Havelock Village Limited	Supports 697.788
FSI 377.230	Havelock Village Limited	Supports 697.788
747.8	Ryburn Lagoon Trust Limited	Amend Rule 22.2.7 Indigenous vegetation clearance inside a Significant Natural Area, to provide for the following additional permitted activity: <i>Indigenous vegetation clearance in a Significant Natural Area for the purposes of ecosystem protection, rehabilitation or restoration works.</i> AND Amend the Proposed District Plan to provide other such relief and consequential amendments as to give effect to the relief sought in the submissions.
FSI 340.142	TaTa Valley Limited	Supports 747.8
FSI 377.258	Havelock Village Limited	Supports 747.8
FSI 045.15	Auckland/Waikato Fish and Game Council	Supports 747.8
731.9	Jean Tregidga	Amend Rule 22.2.7 Indigenous vegetation clearance inside a Significant Natural Area, to permit active management of indigenous vegetation including thinning and pruning in order to maintain and enhance indigenous biodiversity.
FSI 377.238	Havelock Village Limited	Supports 731.9
FSI 180.9	Jean Tregidga	Supports 731.9
747.10	Ryburn Lagoon Trust Limited	Amend Rule 22.2.7 Indigenous vegetation clearance inside a Significant Natural Area to ensure the link from the term "Indigenous vegetation clearance" does not go to the more generally defined "vegetation clearance" and that the rule only limits the clearance of indigenous vegetation. AND Add an additional definition of "Indigenous vegetation clearance" if necessary to achieve the relief sought in the submission. AND Amend the Proposed District Plan to provide other such relief and consequential amendments as to give effect to the relief sought in the submissions.
797.28	Fonterra Limited	Retain Rule 22.2.7 Indigenous Vegetation Clearance within a Significant Natural Area as notified.
731.8	Jean Tregidga	Add to Rule 22.2.7 PI (a) Indigenous vegetation clearance inside a Significant Natural Area, a new sub-clause (vi) as follows: <i>(vi) gathering and re-potting plants for indigenous nursery.</i>
FSI 180.8	Jean Tregidga	Supports 731.8
400.3	Andrew Kerr	Amend Rule 22.2.7 Indigenous vegetation clearance inside a Significant Natural Area, to enable clearance of vegetation for maintenance of fence lines, new fence lines,

		clearing of wind damage and increased amount of firewood.
680.211	Federated Farmers of New Zealand	<p>Amend Rule 22.2.7 PI Indigenous vegetation clearance inside a Significant Natural Area, as follows:</p> <p>(a) <i>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:</i></p> <p>(i) <i>Removing vegetation that endangers human life or existing buildings or structures <u>or to manage fire risk;</u></i></p> <p>(ii) <u>Construction of conservation-fencing to exclude stock and tracks for pest management;</u></p> <p>(iii) <i>Maintaining existing farm drains;</i></p> <p>(iv) <i>Maintaining existing tracks and fences; or</i></p> <p>(v) <i>Gathering plants in accordance with Maaori customs and values.</i></p> <p><u>(vi) The removal of broken branches, deadwood or diseased vegetation; (vii) To give effect to a Sustainable Forest Management Plan or Permit as approved under the Forests Act 1949 prior to 16 September 2010;</u></p> <p><u>(viii) Activities are carried out subject to and in accordance with any specific covenants or other legal agreements entered into with the District Council, or Waikato Regional Council, or Department of Conservation, or QEII Trust;</u></p> <p>AND</p> <p>Any consequential changes needed to give effect to this relief.</p> <p>AND</p> <p>Any consequential amendments to Chapter 23: Country Living Zone to address areas of existing farmland zoned as Country Living Zone.</p>
FS1340.109	TaTa Valley Limited	Supports 680.211
FS1377.191	Havelock Village Limited	Supports 680.211
FS1114.23	Fire and Emergency New Zealand	Supports 680.211
437.7	KCH Trust	Retain Rule 22.2.7 Indigenous vegetation clearance inside a Significant Natural Area.
697.972	Waikato District Council	<p>Add to Rule 24.2.8 PI (a) Indigenous vegetation clearance inside a Significant Natural Area a new clause (vi), as follows:</p> <p><u>(vi) Removing vegetation for conservation activities.</u></p>
697.971	Waikato District Council	Amend Rule 24.2.8 Indigenous vegetation clearance inside a Significant Natural Area heading, as follows: <i>Indigenous vegetation clearance <del>inside</del> within a Significant Natural Area</i>
553.32	Malibu Hamilton	Retain Rule 24.2.8 PI (a)(v), P4, P5, and P6 Indigenous vegetation clearance inside a Significant Natural Area.
831.62	Gabrielle Parson on behalf of Raglan Naturally	<p>Delete Rule 24.2.8 Indigenous vegetation clearance inside a Significant Natural Area</p> <p>AND</p> <p>Add provisions that will increase natural habitats.</p>

585.21	Department of Conservation	Amend Rule 24.2.8 Indigenous vegetation clearance inside a Significant Natural Area as follows: <ul style="list-style-type: none"> <li>• <i>Include a maximum vegetation clearance permitted activity rule for all purposes; and</i></li> <li>• <i>Include a minimum setback distance from water bodies for all purposes; and</i></li> <li>• <i>Change P2 to a maximum area of clearance rather than a maximum volume; and</i></li> <li>• <i>Any other relevant amendments.</i></li> </ul>
831.63	Gabrielle Parson on behalf of Raglan Naturally	Delete Rule 25.2.8 Indigenous vegetation clearance in a Significant Natural Area AND Add provisions that will increase natural habitats.
585.22	Department of Conservation	Amend Rule 25.2.8 Indigenous vegetation clearance inside a Significant Natural Area as follows: <ul style="list-style-type: none"> <li>• <i>Include a maximum vegetation clearance permitted activity rule for all purposes; and</i></li> <li>• <i>Include a minimum setback distance from water bodies for all purposes; and</i></li> <li>• <i>Change P2 to a maximum area of clearance rather than a maximum volume; and</i></li> <li>• <i>Any other relevant amendments.</i></li> </ul>
697.402	Waikato District Council	Amend Rule 25.2.8 Indigenous vegetation clearance in a Significant Natural Area heading, as follows: <i>Indigenous vegetation clearance in <del>in</del> within a Significant Natural Area.</i>
697.403	Waikato District Council	Amend Rule 25.2.8 Indigenous vegetation clearance in a Significant Natural Area, as follows: <i>(a) 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:</i> <i>(i) Removing vegetation that endangers human life or existing buildings or structures;</i> <i>(ii) Conservation fencing to exclude stock or pests;</i> <i>(iii) Maintaining existing farm drains;</i> <i>(iv) Maintaining existing tracks and fences;</i> <i>(v) Gathering plants in accordance with Maaori customs and values.</i> <i>(vi) Removing vegetation for conservation activities</i>
831.64	Gabrielle Parson on behalf of Raglan Naturally	Delete Rule 28.2.8 Indigenous vegetation clearance inside a Significant Natural Area AND Add provisions that will increase natural habitats.
585.23	Department of Conservation	Amend Rule 28.2.8 Indigenous vegetation clearance inside a Significant Natural Area as follows: <ul style="list-style-type: none"> <li>• <i>Include a maximum vegetation clearance permitted activity rule for all purposes; and</i></li> <li>• <i>Include a minimum setback distance from water bodies for all purposes; and</i></li> </ul>

		<ul style="list-style-type: none"> <li>• <i>Change P2 to a maximum area of clearance rather than a maximum volume; and</i></li> <li>• <i>Any other relevant amendments.</i></li> </ul>
697.882	Waikato District Council	Amend Rule 23.2.8 Indigenous vegetation clearance inside a Significant Natural Area heading, as follows: <i>Indigenous vegetation clearance inside</i> <del>inside</del> <u>within</u> a Significant Natural Area
585.20	Department of Conservation	Amend Rule 23.2.8 Indigenous vegetation clearance inside a Significant Natural Area as follows: <ul style="list-style-type: none"> <li>• <i>Include a maximum vegetation clearance permitted activity rule for all purposes; and</i></li> <li>• <i>Include a minimum setback distance from water bodies for all purposes; and</i></li> <li>• <i>Change P2 to a maximum area of clearance rather than a maximum volume;</i></li> </ul> AND Any other relevant amendments.
330.103	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 23.2.8 Indigenous vegetation clearance inside a Significant Natural Area.
697.883	Waikato District Council	Add a new clause (vi) to Rule 23.2.8 PI (a) Indigenous vegetation clearance inside a Significant Natural Area, as follows: <u>(vi) Removing vegetation for conservation activities.</u>
286.29	Waikato-Tainui	Retain the activity status and clearance thresholds for indigenous vegetation clearance for marae, dwellings and papakainga on Maori Freehold Land or Maaori Customary Land.
<i>FS1035.35</i>	<i>Pareoranga Te Kata</i>	<i>Supports 286.29</i>
286.31	Waikato-Tainui	Retain the permitted activity provisions for indigenous vegetation clearance associated with the gathering of plants in accordance with Maori customs and values.
<i>FS1035.37</i>	<i>Pareoranga Te Kata</i>	<i>Supports 286.31</i>
724.18	Sue Robertson for Tamahere Community Committee	Retain the rules regarding Indigenous vegetation clearance inside a Significant Natural Area, which applies to gullies identified as Significant Natural Areas.
<i>FS1387.808</i>	<i>Mercury NZ Limited for Mercury D</i>	<i>Opposes 724.18</i>
585.24	Department of Conservation	Add rules for Indigenous vegetation clearance inside a Significant Natural Area in all Zones as follows: <i>Include a maximum vegetation clearance permitted activity rule for all purposes; and</i> <ul style="list-style-type: none"> <li>• <i>Include a minimum setback distance from water bodies for all purposes; and</i></li> <li>• <i>Include a maximum area of clearance rather than a maximum volume; and</i></li> <li>• <i>Any other relevant amendments.</i></li> </ul>
<i>FS1345.14</i>	<i>Genesis Energy Limited</i>	<i>Opposes</i>
<i>FS1342.155</i>	<i>Federated Farmers</i>	<i>Opposes</i>

FS1340.95	TaTa Valley Limited	Opposes
FS1377.162	Havelock Village Limited	Opposes
81.60	Waikato Regional Council	Delete duplicate provisions for the indigenous vegetation clearance inside a Significant Natural Area rules in any chapters not covered in previous submissions.
697.309	Waikato District Council	Add a rule that will allow for the trimming of Significant Natural Areas across all of the zone chapters.

### 21.4.2 Analysis

427. Submissions from Andrew and Christine Gore [330.88] and [330.103] and Terence Denton and Bernardina van Loon [352.3], seek no specific decision and it is difficult to meaningfully assess the submission. However, the van Loon submission opposes the Rule 22.2.7 PI (a), P3 (a) and DI. I recommend the panel rejects these submissions.
428. A submission from Waikato District Council [697.309] seeks to add to zone chapters to allow for the trimming of a SNA. This appears to be an oversight in the notified Plan. While the focus of the notified rules is on clearance of indigenous vegetation, there are no rules which address trimming or pruning. I recommend a new rule be included in all zones with identified SNAs as follows;
- The trimming or pruning of indigenous vegetation in a Significant Natural Area which will not directly result in the death, destruction, or irreparable damage of the vegetation*
429. I have only accepted this submission in part as there are no SNA areas identified in the following chapters; Chapter 18: Business Town Centre, Chapter 19: Business Zone Tamahere, Chapter 26: Hampton Downs Motorsport and Recreation Zone, and Chapter 27: Te Kowhai Airport Zone. The rule would serve no purpose within these zones. In regard to the other zones, I consider the approach to trimming to be a practical activity to provide for as there can be instances when there is a need to remove dead or diseased branches or when branches may be encroaching on buildings/driveways etc. I recommend the panel accept in part the submission from Waikato District Council.
430. Submissions from Fellrock Developments and TTT products Limited [543.13], Auckland Waikato Fish and Game Council [433.56], Fonterra Limited [797.28], KCH Trust [437.7], Malibu Hamilton [553.32], Tamahere Community Committee [724.18], and Waikato–Tainui [286.29] and [286.31] have sought to retain the rule as notified. Further submissions from Pareoranga Te Kata [FS1035.35] and [FS1035.37] have supported the Waikato–Tainui submission. Rule 20.2.9 provides for vegetation clearance which provides flexibility for property owners when undertaking certain activities. However, I have accepted these submissions only in part as I have recommended amendments to the rule in response to other submissions.
431. Waikato Regional Council [81.60] seeks to delete duplicate provisions within the rule framework. I agree with this approach as this would provide clarity for the plan user. I will address this with through my analysis of the submissions on the rules. I recommend the panel accept Waikato Regional Council’s submission [81.60].
432. The submission from the Department of Conservation [585.24] is a generic submission that seeks additional restrictions in all zones. It is seeking to amend the rule for indigenous vegetation clearance to include a maximum amount of clearance for all purposes, include a minimum setback from water bodies and change Rule P2 which relates to manuka to be a maximum area rather than a volume. The other submissions from the Department of Conservation [585.15], [585.16] 585.17]. [585.18], [585.19], [585.20] [585.21] [585.22],

[585.23] are for the specific zones and seeks the rule is added to all zones. Further submissions from Genesis Energy, Federated Farmers, TaTa Valley Limited and Havelock Village Lochiel Farmlands Limited have opposed the submission.

433. In respect of including a minimum setback to waterbodies, I agree that this would be beneficial as indigenous vegetation adjacent to waterbodies provides an important role for protection and habitat for indigenous fauna in a waterbody. However, I do not agree that this should necessarily be for any activity. For example, Rule P1 provides for vegetation clearance for specific activities such as conservation fencing, existing drains, tracks and fences and it would be impractical to impose a setback in regard to these activities. I do agree, however, that a setback to water bodies for P3 which relates to clearance for building, parking, and manoeuvring would be sensible. The submitter has not provided any guidance as to what an appropriate setback would be, and in this regard, I recommend a setback of 10m from any waterbody. This seems appropriate and this matches the approach in regards to wetlands in the National Environmental Standard for Freshwater Management. I recommend an additional clause to Rule P3 as follows;

The vegetation clearance is at least 10m from a natural waterbody

434. In respect of the former aspect of this submission where the submitter is seeking a maximum amount of clearance for any activity, in my opinion it would be difficult to set an amount that would suffice. I am uncertain as to what the submitter is trying to achieve by setting an area for clearance rather than a volume. It is more likely that manuka and kanuka would be selectively removed and not necessarily from one area. I would suggest that imposing an area may have more effect on a SNA than just selective removal. I invite the submitter to further clarify their rationale in this regard.
435. I consider a permitted activity status for (amongst other things) removing vegetation that endangers humans or buildings, maintenance of farm drains and gathering of plants for Maaori customs is appropriate as these activities would amount to very little loss of SNA. To set a maximum amount would not only be logistically difficult to monitor but unnecessary as the effects would be less than minor. In the instance of conservation fencing, this is one of the best tools for the protection of SNAs and is likely to be around the perimeter of an SNA rather than through the middle. This approach is supported by the fact that the rules for conservation lot subdivision requires all SNAs on the property to be protected, therefore it will be the perimeters that are fenced. For the ongoing maintenance of existing tracks and fencing, these areas are likely to contain little vegetation, and the track may be anything from a few metres to much more. I have had discussions with farmers in this regard and the ability to maintain existing tracks is a very important aspect of the running of a farm when moving stock, without the expense of a land use consent nor the time it takes to obtain one. I note that this permitted activity applies to existing tracks, fences and drains rather than new ones.
436. The Operative Plan Waikato Section has a permitted rule that allows for the maintenance of tracks. During my time as a monitoring officer, the maintenance of tracks did not create any issues, however in saying this, the Council would possibly not know when this was occurring. A farmer is not likely to undertake works when maintaining a track that go beyond what is necessary to move stock or provide access to other parts of the farm. Although the short-term impact may seem great, the long-term impact of maintenance of a track would be less than minor. I have examined Thames Coromandel and Hauraki District plans provisions, and they also have a permitted rule for these activities. I see no reason for the Proposed Waikato District Plan to take an alternative approach and this will provide for some consistency within the region. On the basis of the above analysis, I recommend the panel accept in part the

- submissions from the Department of Conservation [585.15], [585.15], [585.16], [585.17], [585.18], [585.19], [585.20], [585.21], [585.22] and [585.23].
437. The submitter has suggested the same approach for all zones, however the following zones: Chapter 18: Business Town Centre Zone, Chapter 19: Business Zone Tamahere, Chapter 26 Hampton Down Motorsport and Recreation Zone and Chapter 27: Te Kowhai Airpark Zone do not have vegetation clearance rules as there are no SNA areas within these zones. Therefore, the rule is not required within these zones I recommend the panel accept in part the submission from the Department of Conservation [585.24] in respect of the other zones where SNAs have been identified.
438. Waikato District Council [697.123], [697.635], [697.711], [697.786] and [697.196] seeks minor changes to the wording in the heading of the rule for indigenous vegetation clearance, that will improve the clarity of the rule. A further submission from Genesis Energy Limited [FS1345.81] supports submission [697.711]. I recommend the panel accepts Waikato District Council's submissions [697.123], [697.635], [697.711], [697.786] and [697.196].
439. The submissions from Waikato District Council [697.402], [697.971] and [697.882] seek some minor amendments to the wording of Rule 24.2.8 that will improve the clarity of the rule. I recommend the panel accept Waikato District Council's submissions [697.402], [697.971] and [697.882].
440. Waikato District Council [697.403] seeks some minor amendments to include references to *Schedule 30.5 (Urban Allotment Significant Natural Areas)* in Rule 25.2.8. I recommend the panel accept the submission from Waikato District Council [697.403].
441. Submissions from Balle Bros Group Limited [466.8] and [466.18] seek changes to Rule 16.2.8 and Rule 22.2.7 Indigenous vegetation clearance PI to allow for ground truthing of SNA. Havelock Village Limited [FS1377.111] supports the submission. I do not consider it appropriate to include a ground truthing aspect in a rule for indigenous vegetation clearance, however this is part of a broader issue being the mapping and ground truthing of SNAs. While the rule is specifically for the management of vegetation clearance and not mapping, I have addressed the mapping of SNAs in Section 4 of this report. I recommend the panel accept in part the submissions from Balle Bros Group Limited [466.68] and [466.18] due to my recommended approach to the ground truthing/mapping issue.
442. Raglan Naturally [831.57], [831.58], [831.59], [831.60], [831.61], [831.62], [831.63] and [831.64] is seeking to delete the rule for indigenous vegetation clearance and add provisions that will increase natural habitats. Further submitters Havelock Village Limited, Genesis Energy Limited and TaTa Valley Limited have opposed the submission. The latter part of this submission has already been accommodated in the suite of policies relating to this topic. These will assist in achieving Objective 3.1 where the aim is to maintain or enhance indigenous biodiversity and the supporting policies which speak to offsetting. As to the deletion of the rule, this approach would not meet the Regional Policy Statement, which in Policy 11.1.4 provides for some vegetation clearance. I understand that the submitter wishes to include encouraging rules, however the SNA rules are drafted to manage adverse effects. I recommend the panel reject Raglan Naturally's submissions.
443. Waikato District Council [697.124], [697.197], [697.636], [697.712], [697.788],[697.883] and [697.972] is seeking an additional clause to the rule that will enable the removal of vegetation for conservation activities. Further submissions from Havelock Village Limited and TaTa Valley support this approach. The reasons provided by Waikato District Council are that the addition will ensure this activity can occur. The Proposed Plan includes a definition for conservation activities in Chapter 13, which is as follows:

*“Means activities associated with indigenous habitat, wetlands and wildlife management and restoration that fundamentally benefit indigenous biodiversity or raise public awareness of indigenous biodiversity values. This includes stock exclusion, 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.”*

444. The additional clause would allow clearance for conservation activities to be undertaken and this will help enhance biodiversity as set out in the policies of the WRPS. I recommend the panel accept Waikato District Council’s submissions [697.124].
445. The submission from Balle Bros Group Limited [466.67] seeks an additional clause to enable the removal of vegetation for pest management and biosecurity works. Further submissions from Havelock Village Limited [FS1377.113] and TaTa Valley Limited [FS1340.77] have supported the submission. I believe these kind of activities are covered by the definition of ‘conservation activities’ and therefore do not need to be specifically listed. I recommend the panel accept in part the submission from Balle Bros Group Limited [466.67].
446. The submission from Madsen and Holmes [678.1] seeks to amend Rule 21.2.9 to permit the removal of invasive weeds to maintain open water for birds. As this request would involve works within a waterbody, I would suggest this is a Waikato Regional Council matter and not the jurisdiction of a district council. Further to this, if the area to be cleared of invasive species is not within a waterbody, then the activity of conservation activity works would allow this as a permitted activity anyway. I am also aware of the National Environmental Standard for Freshwater Management and that this contains rules pertaining to wetlands. I recommend the panel reject the submission from Madsen and Holmes [678.1].
447. A submission from Warwick Cheyne [268.3] seeks to delete Rule 22.2.7. A further submission from TaTa Valley Limited [FS1340.35] has opposed the submission. As to the deletion of the rule, I consider this approach would not meet Part 5 of the RMA, which requires enabling people and communities to provide for their social, economic, and cultural well-being and for their health and safety. I note the Regional Policy Statement, which in Policy 11.1.4 seeks to provide for some vegetation clearance. I recommend the panel reject Warwick Cheyne’s submission [268.3].
448. Lochiel Farmlands Limited [349.33] seeks additional wording to Rule 22.2.7 PI to enable repairing or reinstating existing tracks. I see this as an unnecessary addition as the rule as notified allows for the maintenance of existing tracks. The term maintenance would allow for repairs. In respect of ‘reinstating’ an existing track, this may be outside the realm of maintenance and the activity of reinstating has potential to create adverse effects on the SNA. It does somewhat depend on the length of time that the track has been unused. For example a track that has not been used for a year would look completely different to one that has remain unused for 30 years. I do not consider the relief sought would align with Policy 11.1.1 of the Regional Policy Statement where there is a requirement to maintain indigenous biodiversity. I consider this activity may need to be assessed through a consenting process. I recommend the panel reject the submission from Lochiel Farmlands Limited [349.33].
449. The submission from Dilworth Trust Board [577.5] is seeking an additional clause to enable the remedying or stabilising the banks of water bodies. I suggest this activity would be a regional council consideration and not the jurisdiction of district councils. I recommend the panel reject the Dilworth Trust Board submission [577.5].
450. Horticulture New Zealand [419.23] and Balle Bros Group Limited [466.69] are seeking an additional clause to enable vegetation removal for pest management and biosecurity works.

Further submissions from T & G Global [FS1171.18], TaTa Valley Limited [FS1340.50], Genesis Energy Limited [FS1345.98] and Havelock Village Limited [FS1377.86] all support the submission from Horticulture New Zealand Limited. Further submissions from Horticulture New Zealand Limited [FS1168.71] and Havelock Village Limited [FS1377.114] have supported the Balle Bros Group submission. I consider that the additional words are not necessary as I have recommended in the previous submission from Waikato District Council to add a clause to enable some 'conservation activities'. I believe the definition of 'conservation activities' would encompass the activities being sought by the submissions. In addition, in Section 18 I have discussed the fact that the Proposed District Plan does not explicitly enable removal of non-indigenous vegetation from a SNA and have suggested some solutions. I recommend the panel accept in part Horticulture New Zealand's submission [419.23].

451. Waikato District Council [697.787] seeks deletion of the references to 'Schedule 5 Urban Allotment Significant Natural Area' from Rule 22.2.7 as it is not likely to apply to any sites zoned Rural. I recommend the panel accept Waikato District Council's submission [697.787].
452. Ryburn Lagoon Trust Limited [747.8] is seeking to amend Rule 22.2.7 by including an additional clause that provides for vegetation clearance for the purpose of ecosystem protection, rehabilitation or restoration works. A similar submission was received from Jean Tregidga [731.9]. Further submissions from TaTa Valley Limited [FS1340.142], Havelock Village Limited [FS1377.258] and Auckland/Waikato Fish and Game [FS1045.15] have supported the submission. Further submissions from Havelock Village Limited [FS1377.238] and Jean Tregidga [FS1180.9] have supported submission [731.9]. Similar relief was discussed in paragraph 443-444 where I have recommended to include a new clause to provide for conservation activities. I consider the definition of 'conservation activities' which would allow for all of these activities to occur. I recommend the panel accept in part the submission from Ryburn Lagoon Trust Limited [747.8].
453. A submission from Ryburn Lagoon Trust Limited [747.10] is seeking to amend Rule 22.2.7 to ensure the link in the rule takes the plan user to the correct definition. The submission also seeks an additional definition for indigenous vegetation clearance. I note the rule in the Proposed Plan shows a link to 'indigenous vegetation clearance' of which there is no specific definition for this. The definition within the proposed plan for vegetation clearance is as follows:
- Vegetation clearance*
- "Includes the modification, burning, cutting, crushing, spraying and removal by physical, mechanical, chemical or other means, of all forms of vegetation, including indigenous, and may include exotic plants. It does not include vegetation clearance relating to routine cultivation or grazing."*
454. In respect of this definition, it is generic in approach and simply reflects the activity of clearance as opposed to what is being cleared. However, I agree with the submitter that this is not clear in the rule and I suggest that a simple solution is for the hyperlink to only reflect 'vegetation clearance' as this would still apply to indigenous vegetation. On this basis I recommend the panel accept in part the submission from Ryburn Lagoon Trust Limited [747.10].
455. Jean Tregidga [731.8] seeks an additional clause to Rule 22.2.7 PI to enable gathering and repotting for indigenous nursery. A further submission from Jean Tregidga [FS1180.8] has supported the submission. I would suggest that the inclusion of the term 'conservation activities' will encompass this activity. However, if the gathering and repotting was for the purposes of selling this may be considered a commercial activity. It is unclear to what scale and intensity Ms Tregidga has in mind and I invite her to further clarify at the hearing in this

regard. Until more information is provided, I recommend the panel accept in part Jean Tregidga's submission [731.8] to the extent that the gathered plants are for the SNA from which they have come.

456. The submission from Andrew Kerr [400.3] seeks to enable clearance for maintenance of fence lines, new fence lines, the clearing of wind damage and to increase the amount of firewood. The former part of this submission (maintenance of fence lines) is permitted by the notified rule. A new fence line would be permitted if for the purposes of a covenant or to enable the protection of the SNA in the form of stock exclusion. If the fence was for any other purpose, then this has potential for adverse effects to occur through requiring clearance of vegetation. It would be useful to understand why a new fence line would be required within a SNA and I invite the submitter to further clarify. In respect of clearing of wind damage, if the damage was compromising a fence or an existing track, then this would be considered a permitted activity as the rules allow for the maintenance of such. Regarding the volume of firewood, this has been discussed in Section 18 in relation to manuka and kanuka. I recommend the panel accept in part Andrew Kerr's submission [400.3] to the extent that the volume for firewood has been recommended to be amended.
457. A submission from Federated Farmers [680.211] seeks to amend Rule 22.2.7 PI to enable more activities to occur as a permitted activity such as to manage fire risk, the removal of dead or diseased wood and to give effect to a Sustainable Forest Management Plan or permit, and to enable activities that are subject to legal protection such as that provided by QEII, councils (district and regional) or the Department of Conservation. Tata Valley Limited [FS1340.109], Havelock Village Limited [FS1377.191] and Fire and Emergency New Zealand [FS1114.23] have supported the submission.
458. In respect of acknowledging a Sustainable Forest Management Plan, I note this is included within the Operative Waikato District Plan. However, The Forest Act 1949 controls the cutting of indigenous forests for timber. It does not apply to tree felling, for example, for the development of farmland, if the timber cleared is not milled (i.e. burnt off and left to waste). However, the cutting and milling of indigenous timber cleared to create farmland or for any other purpose is managed under this Act. Landowners are required to submit and comply with a Sustainable Forest Management Plan or permit and Section 67V of the Act requires the owner to obtain a resource consent if district plan rules require so. In this regard I see no purpose in including reference to a Sustainable Forest Management Plan, as resource consent will be required anyway.
459. In respect to the activity of the removal of diseased vegetation, I consider this would be permitted by the inclusion of the additional clause sought for 'conservation activities' as I have discussed in paragraph 443 the definition of conservation activity, which is:
- “Means activities associated with indigenous habitat, wetlands and wildlife management and restoration that **fundamentally benefit indigenous biodiversity** or raise public awareness of indigenous biodiversity values. This includes stock exclusion, 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.” [emphasis added]*
460. In respect of the management of a fire risk, I believe this would be permitted under PI (a) (i) which is as follows; “(i) Removing vegetation that endangers human life or existing buildings or structures. “

461. Finally, the last part of this submission relates to areas that have some form of legal protection on them. In this regard I do not agree with the submitter. Although a covenant is binding and for perpetuity, they can be altered with the agreement of both parties. Using QEII as an example, if a covenant holder has a desire to build a cabin or create a cycle track, it is common for these activities to be written into the covenant conditions. In my view this should not exempt the property owner from complying with a district plan, as these activities have potential to have adverse effects on a SNA. Exempting them from the RMA would not be giving effect to Part 2 of the Act nor would it be in accordance with the Policies within Section 11 of the Regional Policy Statement. On this basis I recommend the panel reject Federated Farmers' submission [680.211].
462. In my consideration of the rules and submissions, it became apparent to me that the rule is not clear what the activity status is when vegetation clearance is proposed for an activity other than those listed in Rules P1–5. To clarify this situation, I recommend inclusion of an additional discretionary activity:

[D2 Indigenous vegetation clearance in a Significant Natural Area other than for the purposes listed in P1–P5.](#)

[Indigenous vegetation clearance in a Significant Natural Area other than for the purposes listed in P1–P5.](#)

### 21.4.3 Recommendations

463. For the reasons above I recommend:

#### General

- a. **Accept in part** Waikato District Council [697.309]. **Reject** Andrew and Christine Gore [330.88] and [330.103] and Terence Denton and Bernadina van Loon [352.3].
- b. **Accept in part** Fellrock Developments and TTT Products Limited [543.13], Auckland Waikato Fish and Game Council [433.56], Fonterra Limited [797.28], KCH Trust [437.7], Malibu Hamilton [553.32], Tamahere Community Committee [724.18] and Waikato–Tainui [286.29] and [286.31].
- c. **Accept in part** Mercury Energy [FS1387.808] and Pareoranga Te Kata [FS1035.35] and [FS1035.37].
- d. **Accept in part** Department of Conservation [585.24] to the extent the submission applies to zones with SNAs.
- e. **Accept in part** Genesis Energy [FS1345.14], Federated Farmers [FS1342.155], TaTa Valley Limited [FS1340.95] and Havelock Village Limited [FS1377.162].
- f. **Accept** Waikato Regional Council [81.60].

#### Chapter 16: Residential Zone

- g. **Accept** Waikato District Council [697.123].
- h. **Reject** Balle Bros Group Limited [466.8] and Havelock Village Limited [FS1377.111].
- i. **Reject** Raglan Naturally [831.57].
- j. **Accept** Havelock Village Limited [FS1377.279].
- k. **Reject** Department of Conservation [585.15].
- l. **Accept** Havelock Village Limited [FS1377.161].

- m. **Accept** Waikato District Council [697.124].
- n. **Accept** Havelock Village Limited [FS/377.208] and [FS/291.7] and TaTa Valley [FS/340.120].
- o. **Accept** Balle Bros Group Limited [466.67], Havelock Village Limited [FS/377.113] and TaTa Valley Limited [FS/340.77].

### Chapter 17: Business Zone

- p. **Accept** Waikato District Council [697.196].
- q. **Reject** Raglan Naturally [831.58].
- r. **Reject** Department of Conservation [585.16].
- s. **Accept** Waikato District Council [697.197].

### Chapter 20: Industrial Zone

- t. **Accept** Waikato District Council [697.635].
- u. **Reject** Raglan Naturally [831.59].
- v. **Accept** Genesis Energy Limited [FS/345.122].
- w. **Reject** Department of Conservation [585.17].
- x. **Accept** Genesis Energy Limited [FS/345.11].
- y. **Accept** Waikato District Council [697.636].

### Chapter 21: Industrial Zone Heavy

- z. **Accept** Waikato District Council [697.711] and Genesis Energy Limited [FS/345.81].
- aa. **Reject** Department of Conservation [585.18].
- bb. **Accept** Genesis Energy Limited [FS/345.12].
- cc. **Accept** Waikato District Council [697.712].
- dd. **Reject** Madsen and Holmes [678.1].

### Chapter 22: Rural Zone

- ee. **Reject** Raglan Naturally [831.60].
- ff. **Accept** TaTa Valley Limited [FS/340.147] and Havelock Village Limited [FS/377.280].
- gg. **Reject** Balle Bros Group Limited [466.18], Havelock Village Limited [FS/377.112] and TaTa Valley Limited [FS/340.76].
- hh. **Reject** Warwick Cheyne [268.3].
- ii. **Accept** TaTa Valley Limited [FS/340.35].
- jj. **Accept** Waikato District Council [697.786].
- kk. **Accept** Waikato District Council [697.788].
- ll. **Accept** TaTa Valley Limited [FS/340.133] and Havelock Village Limited [FS/291.29] and [FS/377.230].
- mm. **Reject** Lochiel Farmlands Limited [349.33].
- nn. **Reject** Dilworth Trust Board [577.5].
- oo. **Reject** Horticulture New Zealand [419.23] and Balle Bros Group Limited [466.69].
- pp. **Reject** T & G Global [FS/171.18], TaTa Valley Limited [FS/340.50], Genesis Energy Limited [FS/345.98] and Havelock Village Limited [FS/377.86].

- qq. **Reject** Horticulture New Zealand Limited [FS1168.71] and Havelock Village Limited [FS1377.114].
- rr. **Accept in part** Department of Conservation [585.19].
- ss. **Accept in part** Federated Farmers [FS1342.156], Genesis Energy Limited [FS1345.13], TaTa Valley Limited [FS1340.94] and Lochiel Farmland Limited [FS1315.9].
- tt. **Accept** Waikato District Council [697.787].
- uu. **Accept in part** Ryburn Lagoon Trust Limited [747.8] and Jean Tregidga [731.9].
- vv. **Accept in part** TaTa Valley Limited [FS1340.142], Havelock Village Limited [FS1377.258] and Auckland/Waikato Fish and Game [FS1045.15], Havelock Village Limited [FS1377.238] and Jean Tregidga [FS1180.9].
- ww. **Accept in part** Ryburn Lagoon Trust Limited [747.10].
- xx. **Accept in part** Jean Tregidga [731.8] and Jean Tregidga [FS1180.8].
- yy. **Accept in part** Andrew Kerr [400.3].
- zz. **Reject** Federated Farmers [680.211].
- aaa. **Reject** Tata Valley Limited [FS1340.109], Havelock Village Limited [FS1377.191] and Fire and Emergency New Zealand [FS1114.23].

### Chapter 23: Country Living Zone

- bbb. **Accept** Waikato District Council [697.882].
- ccc. **Accept** Waikato District Council [697.883].
- ddd. **Accept in part** Department of Conservation [585.20].
- eee. **Reject** Raglan Naturally [831.61].

### Chapter 24: Village Zone

- fff. **Accept** Waikato District Council [697.971].
- ggg. **Accept** Waikato District Council [697.972].
- hhh. **Reject** Raglan Naturally [831.62].
- iii. **Accept in part** Department of Conservation [585.21].

### Chapter 25: Reserve Zone

- jjj. **Reject** Raglan Naturally [831.63].
- kkk. **Accept in part** Department of Conservation [585.22].
- lll. **Accept** Waikato District Council [697.402].
- mmm. **Accept** Waikato District Council [697.403].

### Chapter 28: Rangitahi Peninsula

- nnn. **Reject** Raglan Naturally [831.64].
- ooo. **Accept in part** Department of Conservation [585.23].

## 21.4.4 Recommended amendments

464. The following amendments are recommended to be included in the following rules.

Insert the following rule into all zones with an identified SNA:

<b>PXX</b>	(a) <i>The trimming or pruning of indigenous vegetation in a Significant Natural Area which will not directly result in the death, destruction, or irreparable damage of the vegetation</i>
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Rule 22.2.7 **Indigenous** vegetation inside a Significant Natural Area,

P1	<p>(a) Indigenous vegetation clearance 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> <ul style="list-style-type: none"> <li>(i) Removing vegetation that endangers human life or existing buildings or structures;</li> <li>(ii) Conservation fencing to exclude stock or pests;</li> <li>(iii) Maintaining existing farm drains;</li> <li>(iv) Maintaining existing tracks and fences;</li> <li>(v) Gathering plants in accordance with Maori customs and values; or</li> <li><u>(vi) Conservation activities.</u></li> </ul>
P3	<p>a) Indigenous vegetation clearance for building, access, parking and manoeuvring areas in a Significant Natural Area <del>identified on the planning maps or in Schedule 30.5 (Urban Allotment Significant Natural Areas)</del> must comply with all of the following conditions</p> <ul style="list-style-type: none"> <li>(i) There is no alternative development area on the site outside the Significant Natural Area; and</li> <li>(ii) The total indigenous vegetation clearance does not exceed 250m<sup>2</sup>.</li> <li>(iii) <u>The vegetation clearance is at least 10m from a natural waterbody</u></li> </ul>
P4	<p>On Maori Freehold Land or Maaori Customary Land, indigenous vegetation clearance in a Significant Natural Area <del>identified on the planning maps or in Schedule 30.5 (Urban Allotment Significant Natural Areas)</del> where:</p> <ul style="list-style-type: none"> <li>(i) There is no alternative development area on the site outside the Significant Natural Area;</li> <li>(ii) The following total areas are not exceeded: <ul style="list-style-type: none"> <li>A. 1500m<sup>2</sup> for a Marae complex, including areas associated with access, parking and manoeuvring;</li> <li>B. 500m<sup>2</sup> per dwelling, including areas associated with access, parking and manoeuvring; and</li> <li>C. 500m<sup>2</sup> for a papakaainga building including areas associated with access, parking and manoeuvring.</li> </ul> </li> </ul>
P5	<p>On Maaori Freehold Land or Maaori Customary Land, indigenous vegetation clearance in a Significant Natural <del>Area identified on the planning maps or in Schedule 30.5 (Urban Allotment Significant Natural Areas)</del> for the following purposes:</p> <ul style="list-style-type: none"> <li>(i) Removing vegetation that endangers human life or existing buildings or structures;</li> <li>(ii) Conservation fencing to exclude stock or pests;</li> <li>(iii) Maintaining existing farm drains;</li> <li>(iv) Maintaining existing tracks and fences;</li> <li>(v) Gathering plants in accordance with Maaori customs and values; or</li> <li><u>(vi) Conservation activities.</u></li> </ul>
P6	<p><del>1. Removal of up to 5m<sup>3</sup> of manuka and/or kanuka outside of the Coastal Environment per single</del>  <del>2. consecutive 12 month period per property for domestic firewood purposes and arts or crafts</del>  <del>3. provided the removal will not directly result in the death, destruction or irreparable damage of any</del></p>

	<del>other tree, bush or plant</del>
D1	Indigenous vegetation clearance in a Significant Natural Area <del>identified on the planning maps or in Schedule 5 (Urban Allotment Significant Natural Areas)</del> that does not comply with one or more conditions in Rule 22.2.7 P1, P2, P3, P4, <u>or P5 or P6.</u>
<u>D2</u>	<u>Indigenous vegetation clearance in a Significant Natural Area</u>

Rule 16.2.8 P1 (a), Rule 17.2.9 P1(a), Rule 20.2.9 P1(a), Rule 21.2.9 P1(a), Rule 22.2.7 P1(a), Rule 23.2.8 P1(a), Rule 24.2.8 P1(a),

P1	(a) Indigenous vegetation clearance in a Significant Natural Area <del>identified on the planning maps</del> or in Schedule 30.5 (Urban Allotment Significant Natural Areas) for the following purposes: (i) Removing vegetation that endangers human life or any existing building or structure; (ii) Conservation fencing to exclude stock or pests; (iii) Maintaining existing farm drains; (iv) Maintaining existing tracks and fences; (v) Gathering plants in accordance with Maaori customs and values. <u><sup>1</sup>(vi) Conservation activities.</u>
<u>D2</u>	<u>Indigenous vegetation clearance in a Significant Natural Area other than for the purposes listed in P1-P4.</u>

Rule 16.2.8 P3, 17.2.9 P3, 20.2.9 P3, 21.2.9 P3, 22.2.7 P3, 23.2.8 P3, 24.2.8 P3 28.2.8 P3  
 Indigenous vegetation clearance inside a Significant natural Area.

P3	(a) Indigenous vegetation clearance for building, access, parking and manoeuvring areas in a Significant Natural Area <del>identified on the planning maps</del> or in Schedule 30.5 (Urban Allotment Significant Natural Areas) must comply with the following conditions: (i) there is no alternative development area on the site outside the Significant Natural Area; and (i) the total indigenous vegetation clearance does not exceed 250m <sup>2</sup> (ii) <u><sup>2</sup>The vegetation clearance is at least 10m from a waterbody</u>
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25.2.8 Indigenous vegetation clearance inside a Significant natural Area.

P1	(a) Indigenous vegetation clearance in a Significant Natural Area <del>identified on the planning maps</del> <sup>3</sup> <u>or in Schedule 30.5 (Urban Allotment Significant Natural Areas)</u> for the following purposes: (i) Removing vegetation that endangers human life or existing buildings or structures; (ii) Conservation fencing to exclude stock or pests; (iii) Maintaining existing farm drains; (iv) Maintaining existing tracks and fences;
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<sup>1</sup> Waikato District Council

<sup>2</sup> Department of Conservation [585.24], [585.17], [585.18], [585.19], [585.20], [585.21] [585.23] [585.16] [585.15]

<sup>3</sup> Waikato District Council [697.403]

	(v) Gathering plants in accordance with Maaori customs and values; <u>(vi) Conservation activities.</u>
<u>D2</u>	<u>Indigenous vegetation clearance in a Significant Natural Area other than for the purposes listed in P1-P2.</u>

### 21.4.5 Section 32AA evaluation

465. The recommended additional clause will enable as a permitted activity the pruning of vegetation in a SNA.
466. The inclusion of additional clauses to the rules managing indigenous vegetation clearance provide for better management of SNA areas in terms of setback to waterbodies. Enabling conservation activities will benefit the values of the SNA. The inclusions will be an effective way to achieve Objective 3.1 Biodiversity and Ecosystems where the goal is to maintain or enhance indigenous biodiversity.
467. The addition to Rule 25.2.8 provides for consistency across the zones where Schedule 30.5 (Urban Allotment Significant Natural Areas) occurs. In this regard the planning outcome has not been significantly altered and a s32aa analysis is not required.

#### *Other reasonably-practicable options*

468. An option is to maintain the notified version of the rule; however, this would not acknowledge the effects of vegetation clearance on waterbodies or enable beneficial conservation activities that may need to occur within a SNA.

#### *Effectiveness and efficiency*

469. The additional clause for trimming recognises that this may need to occur when managing vegetation that has grown too close to buildings and/or infrastructure and that does not necessarily need to be remove but trimmed. The additional wording will help give suitable guidance to plan users for the assessment of activities that affect indigenous vegetation while still supporting the objectives and policies
470. The recommended amendments to the rule managing indigenous vegetation clearance will be effective in ensuring the health and value of SNAs. The amendments provide suitable guidance to plan users for the assessment of activities that affect the natural values and management of SNAs.

#### *Costs and benefits*

471. There may be perceived costs with the imposing of restrictions on setbacks to waterbodies, in that property owners will be restricted to where the clearance can occur. However, there are significant benefits for the environment with the revised rules as they allow for activities that will benefit SNAs.

#### *Risk of acting or not acting*

472. There are no additional risks in not acting. There is sufficient information on the costs to the environment, and benefits to people and communities to justify the amendment to the policy.

#### *Decision about most appropriate option*

473. The amendments are considered to be more appropriate in achieving the purpose of the Regional Policy Statement, Objective 3.1, and therefore the RMA. than the notified version.

## 21.5 P3 Indigenous vegetation clearance for building, access, parking and manoeuvring

474. Fifteen primary submissions were received. These range from amending the activity status to amending the area that can be cleared.
475. Rule P3 provides for vegetation clearance associated with a building development and is consistent across the zones.

Submission point	Submitter	Decision requested
81.61	Waikato Regional Council	Amend Rule 16.2.8 P3 Indigenous vegetation clearance inside a Significant Natural Area by giving it restricted discretionary activity status. AND/OR Amend to provide tighter thresholds/ activity status in the Coastal Environment.
<i>FS1377.7</i>	<i>Havelock Village Limited</i>	<i>Opposes 81.61</i>
<i>FS1293.15</i>	<i>Department of Conservation</i>	<i>Supports 81.61</i>
349.35	Lochiel Farmlands Limited	Oppose in Rule 22.2.7P3(a) Indigenous vegetation clearance inside a Significant Natural Area, the requirement that indigenous vegetation removal is only permitted if no alternative development area is identified outside the Significant Natural Area.
<i>FS1377.59</i>	<i>Havelock Village Limited</i>	<i>Supports 349.35</i>
<i>FS1340.47</i>	<i>TaTa Valley Limited</i>	<i>Supports 349.35</i>
349.15	Lochiel Farmlands Limited	Amend Rule 22.2.7P3(a) Indigenous vegetation clearance inside a Significant Natural Area, to increase the area for indigenous vegetation clearance in relation to buildings and access/parking.
<i>FS1340.46</i>	<i>TaTa Valley Limited</i>	<i>Supports 349.15</i>
<i>FS1377.57</i>	<i>Havelock Village Limited</i>	<i>Supports 349.15</i>
706.7	Francis and Susan Turton	No specific decision is sought, but submission opposes Rule 22.2.7 P3(a) Indigenous vegetation clearance inside a Significant Natural Area, particularly the 250m2 limit.
481.7	Culverden Farm	Amend the limit of 250m2 for indigenous vegetation clearance for building and access in Rule 22.2.7 P3 Indigenous vegetation clearance inside a Significant Natural Area as it is not enough allowance for both a platform for building and driveway.
<i>FS1340.80</i>	<i>TaTa Valley Limited</i>	<i>Supports 481.7</i>
<i>FS1377.116</i>	<i>Havelock Village Limited</i>	<i>Supports 481.7</i>
273.4	Russell Luders	No specific decision sought, but submission opposes Rule 22.2.7 P3 (a) Indigenous vegetation clearance inside a Significant Natural Area.
680.213	Federated Farmers of New Zealand	Amend Rule 22.2.7 P3 (a) (ii) Indigenous vegetation clearance inside a Significant Natural Area, as follows: <i>(ii) The total indigenous vegetation clearance does not</i>

		<p><del>exceed 250m<sup>2</sup></del> <u>500m<sup>2</sup> per building, including areas associated with access, parking and manoeuvring</u></p> <p>AND</p> <p>Any consequential changes needed to give effect to this relief.</p> <p>AND</p> <p>Any consequential amendments to Chapter 23: Country Living Zone to address areas of existing farmland zoned as Country Living Zone.</p>
FS1108.71	Te Whakakitenga o Waikato Incorporated (Waikato-Tainui)	Opposes 680.213
FS1139.62	Turangawaewae Trust Board	Opposes 680.213
FS1315.11	Lochiel Farmlands Limited	Supports 680.213
FS1340.110	TaTa Valley Limited	Supports 680.213
FS1377.192	Havelock Village Limited	Supports 680.213
731.4	Jean Tregidga	Amend Rule 22.2.7 P3(a)(ii) Indigenous vegetation clearance inside a Significant Natural Area, by increasing the allowable limit of indigenous vegetation clearance to 8000m <sup>2</sup> to provide for building, access, parking and manoeuvring as follows:(ii) <u>The total indigenous vegetation clearance does not exceed 250m<sup>2</sup>-8000m<sup>2</sup>.</u>
FS1180.4	Jean Tregidga	Supports 731.4
FS1277.145	Waikato Regional Council	Opposes 731.4
FS1377.237	Havelock Village Limited	Supports 731.4
81.62	Waikato Regional Council	Amend Rule 22.2.7 P3 Indigenous vegetation clearance inside a Significant Natural Area by giving it restricted discretionary activity status. AND/OR Amend to provide tighter thresholds/ activity status in the Coastal Environment.
FS1342.30	Federated Farmers	Opposes 81.62
482.2	Kirstie Hill on behalf of Hill Country Farmers Group	Amend the limit of 250m <sup>2</sup> for indigenous vegetation clearance for building and access in Rule 22.2.7 P3 Indigenous vegetation clearance inside a Significant Natural Area as it is not enough allowance for both a platform for building and driveway.
FS1340.81	TaTa Valley Limited	Supports 482.2: <i>The submitter agrees that 250m<sup>2</sup> of indigenous vegetation clearance does not provide enough area for both a building and a driveway.</i>
FS1377.117	Havelock Village Limited	Supports 482.2
81.63	Waikato Regional Council	Amend Rule 23.2.8 P3 Indigenous vegetation clearance inside a Significant Natural Area by giving it restricted discretionary activity status. AND/OR Amend to provide tighter thresholds/ activity status in the Coastal Environment.
FS1342.31	Federated Farmers	Opposes 81.63

553.28	Malibu Hamilton	Retain Rule 23.2.8 P3, P4, P5, and P6 Indigenous vegetation clearance inside a Significant Natural Area.
81.66	Waikato Regional Council	Amend provisions for Indigenous vegetation clearance inside a Significant Natural Area (P3) by giving it restricted discretionary activity status. AND/OR Amend provisions to provide tighter thresholds/ activity status in the Coastal Environment.
<i>FS1308.153</i>	<i>The Surveying Company</i>	<i>Opposes 81.66</i>
<i>FS1342.33</i>	<i>Federated Farmers</i>	<i>Opposes 81.66</i>
81.64	Waikato Regional Council	Amend Rule 24.2.8 P3 Indigenous vegetation clearance inside a Significant Natural Area by giving it restricted discretionary activity status. AND/OR Amend to provide tighter thresholds/ activity status in the Coastal Environment.
<i>FS1342.32</i>	<i>Federated Farmers</i>	<i>Opposes 81.64</i>
81.65	Waikato Regional Council	Amend Rule 28.2.8 P3 Indigenous vegetation clearance inside a Significant Natural Area by giving it restricted discretionary activity status. AND/OR Amend to provide tighter thresholds/ activity status in the Coastal Environment.

### 21.5.1 Analysis

476. The submissions from Francis and Susan Turton [706.7], and Russell Luders [273.4] seek no specific decision and it is difficult to meaningfully assess the submission. However, the submissions appear to oppose the 250m<sup>2</sup> limit. I consider the 250m<sup>2</sup> limit to be appropriate area as it balances the effects of a building development with the importance of SNAs. I recommend the panel reject the submissions from Francis and Susan Turton [706.7] and Russell Luders [273.4].
477. Malibu Hamilton [553.28] seeks to retain Rule 23.2.8 P3, P4, P5 and P6 as notified. I have accepted this submission only in part as I have recommended amendments to these rules in response to other submissions. I recommend the panel accept in part the submission from Malibu Hamilton [553.28].
478. Waikato Regional Council [81.66], [81.62], [81.63], [81.64], [81.65] and [81.61] seeks to amend Rule P3 Indigenous vegetation clearance inside a SNA by changing the activity status from permitted to restricted discretionary, and/or tighten up the thresholds if within the Coastal Environment. Further submitter The Surveying Company [FS1308.153], Havelock Village Limited [FS1377.7] and Federated Farmers [FS1342.33] have opposed the submission and the Department of Conservation [FS1293.15] has supported the submission. Similar submissions have been received specific to the zone. The reasons provided by the submissions are that the clearance may occur in areas that are of higher value than others. The submitter does not consider the rule gives effect to Policy 3.2.3 (a) (iii) or (iv) or the NZCPS in terms of the Coastal Environment.
479. I have addressed the matter of giving effect to the New Zealand Coastal Policy Statement in Section 21.2-3 of this report. Turning back to the 250m<sup>2</sup> limit for sites outside the Coastal Environment, I consider the rule as notified is a pragmatic approach to properties where either the property is entirely bush clad or has topographical constraints. A title has a development right, and it would be unreasonable to expect a property owner to undergo a consenting

process due to there being no other alternative area for development available. The area of 250m<sup>2</sup> is not large when considering the area required for building, access, parking, and manoeuvring, plus wastewater systems. In my opinion, as the rule has restricted the amount of vegetation clearance by only allowing 250m<sup>2</sup>, and this constitutes appropriate recognition of the importance of these areas.

480. Conversely, a number of submitters sought that the area that could be cleared as a permitted activity be increased e.g. Lochiel Farmland Limited [349.15], Culverden Farm [481.7], Federated Farmers [680.213], Jean Tregidga [731.4] and Hill Country Farmers Group [482.2].
481. I consider that an increase in the area of indigenous vegetation clearance permitted for building, access, parking and manoeuvring would not be giving effect to Waikato Regional Policy Statement Policy 11. I note that Regional Policy Statement Method 11.1.4 which recognises some activities as having minor adverse effects on indigenous biodiversity does not recognise the development right of a property. For this I rely on Part 5 of the Act which promotes sustainable management, which means managing the use, development etc., in a way or at a rate which enables people to provide for their social economic and cultural well-being. I believe the rule as notified recognises this. I believe the area of 250m<sup>2</sup> is appropriate as it acknowledges the right to develop under Policy 3.2.3 (a) (i) recognising specific activities need to be enabled. Any clearance over the 250m<sup>2</sup> will be subject to a consenting process and I consider this to be appropriate. I recommend the panel reject the submissions from Lochiel Farmland Limited [349.15], Culverden Farm [481.7], Federated Farmers [680.213], Country Farmers Group [482.2] and Jean Tregidga [731.4].
482. Waikato Regional Council has stated in the submission that it is appropriate to require mitigation or offsetting in accordance with Policy 3.2.3 (a) (iii) or (iv). However, I am mindful of Policy 3.2.3 (a) (i) which recognises specific activities need to be enabled. I consider the specific activities relating to the development of a property that allows an owner to live on that property is being recognised by Policy 3.2.3 (a) (i). Imposing a rule framework limiting the area to be cleared, but only where there is no other alternative area, is a reasonable approach to take.
483. I acknowledge Policy 11 of the NZCPS where there is the requirement to protect biological diversity in the Coastal Environment. This was discussed in Section 21.2-3 of this report. I believe the amounts set within the rule in combination with *'if there is no other alternative'* are reasonable and, as discussed above regarding part 5 of the RMA, the notified framework provides for peoples social, economic and cultural well-being. However, I am mindful of the NZCPS Policy 11(a) requirement to avoid adverse effects of activities on: i. indigenous taxa that are listed as threatened or at risk in the New Zealand Threatened Classification System lists. In respect of this Policy I must concede that a more restrictive threshold is placed on indigenous vegetation in P3 of the Proposed Plan. This could read as follows;
- Indigenous vegetation clearance **outside of the Coastal Environment** 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:
484. On this basis I recommend the panel accept in part Waikato Regional Council's submission [81.66].
485. A submission received from Lochiel Farmland Limited [349.35] has opposed only allowing a permitted activity if there is no alternative area in Rule 22.2.7 P3. Further submissions from Havelock Village Limited [FS/377.59] and TaTa Valley Limited [FS/340.47] supported this submission. Reasons provided by the submission that the alternative development area must

be a practical site. I agree with the submitter and that the rule is not clear and that it does not provide any guidance/parameters to property owners where the only alternative may be completely impractical. If the only cleared area on a property meant significant earthworks are needed to provide access to that area, or on a ridgeline, then potentially other adverse effects in relation to the earthworks needed for the building platform may occur. Adding some wording that allows some thought to the implementation of an alternative development area would allow for a more practical approach when implementing the rule and result in less disagreements over interpretation of the rule. I suggest a minor amendment to the rule as follows;

(i) There is no **practicable** alternative development area.....

486. This would allow a considered approach when implementing the rule. On this basis, I recommend the panel accept Lochiel Farmland Limited's submission [349.35].

### 21.5.2 Recommendations

487. For the reasons above I recommend:

- a. **Reject** Francis and Susan Turton [706.7] and Russell Luders [273.4].
- b. **Accept in part** Malibu Hamilton [553.28].
- c. **Accept in part** Waikato Regional Council [81.61], [81.66], [81.62], [81.63], [81.64], [81.65], Department of Conservation [FS/293.15], Havelock Village Limited [FS/377.7], and Federated Farmers [FS/342.31], [FS/342.32] and [FS/342.30].
- d. **Accept** Lochiel Farmland Limited [349.35], Havelock Village Limited [FS/377.59] and TaTa Valley Limited [FS/340.47].
- e. **Reject** Lochiel Farmland Limited [349.15], Culverden Farm [481.7], Federated Farmers [680.213], Country Farmers Group [482.2], Jean Tregidga [731.4], TaTa Valley Limited [FS/340.46] and Havelock Village Limited [FS/377.57], TaTa Valley Limited [FS/340.8], Havelock Village Limited [FS/377.116], [FS/377.192] and [FS/377.237], TaTa Valley Limited [FS/340.81] and Havelock Village Limited [FS/377.117]. **Accept** Waikato Tainui [FS/108.71], Turangawaewae Trust Board [FS/139.62] and Waikato Regional Council [FS/277.145].

### 21.5.3 Recommended amendments

488. The following amendments are recommended:

Include additional wording to Rule P3 Indigenous vegetation clearance inside a Significant Natural Area

P3	<p>(a) Indigenous vegetation clearance <sup>4</sup> <b>outside of the Coastal Environment</b> for building, access, parking and manoeuvring areas in a Significant Natural Area <b>identified on the planning maps</b> or in Schedule 30.5 (Urban Allotment Significant Natural Areas) must comply with all of the following conditions:</p> <p style="margin-left: 40px;">(i) There is no <sup>5</sup> <b>practicable</b> alternative development area on the site outside the Significant Natural Area; and</p> <p style="margin-left: 40px;">(ii) The total indigenous vegetation clearance does not exceed 250m<sup>2</sup>.</p> <p style="text-align: center;"><sup>6</sup></p>
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<sup>4</sup> Waikato Regional Council [81.61] 81.66], [81.62], [81.63], [81.64], [81.65] and [81.61] and Department of Conservation

<sup>5</sup> Lochiel Farmlands Limited [349.35]

<sup>6</sup>

### 21.5.4 Section 32AA evaluation

489. The recommended amendments to the rule by adding 'practicable' do not change the planning outcomes. Accordingly, no s32AA evaluation has been required to be undertaken. The s32AA evaluation relating to the exclusion of SNAs in the coastal environment is set out in Section 21.3 of this report.

### 21.6 Land use –P4 Indigenous vegetation clearance on Maaori land

490. Fourteen primary submissions were received. The submissions seek either to amend the activity status or to retain as notified.

491. Rule P4 provides for the development of marae and papakaainga development on Maaori Freehold or Maaori Customary land. The rules are consistent across the zones.

#### 21.6.1 Submissions

Submission point	Submitter	Decision requested
81.67	Waikato Regional Council	Retain Rule 16.2.8 P4 Indigenous vegetation clearance inside a Significant Natural Area, except for the amendments sought below AND Amend Rule 16.2.8 P4 Indigenous vegetation clearance inside a Significant Natural Area to a restricted discretionary activity. AND/OR Amend Rule 16.2.8 P4 Indigenous vegetation clearance inside a Significant Natural Area to assign a lower threshold than clearance off indigenous vegetation outside of SNA for the same activity. AND/OR Amend Rule 16.2.8 P4 Indigenous vegetation clearance inside a Significant Natural Area to provide an overall cap on clearance as a permitted activity. AND/OR Amend to 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. AND/OR Amend to provide tighter thresholds/ activity status in the Coastal Environment.
<i>FS1377.8</i>	<i>Havelock Village Limited</i>	<i>Opposes 81.67</i>
553.24	Malibu Hamilton	Retain Rule 22.2.7 P4, P5 and P6 Indigenous vegetation clearance inside a Significant Natural Area.
81.68	Waikato Regional Council	Retain Rule 22.2.7 Indigenous vegetation clearance inside a Significant Natural Area, except for the amendments sought below AND Amend Rule 22.2.7 P4 Indigenous vegetation clearance inside a Significant Natural Area to a restricted discretionary activity. AND/OR Amend Rule 22.2.7 P4 Indigenous vegetation clearance inside a Significant Natural Area to assign a lower threshold than clearance off indigenous vegetation outside

		<p>of SNA for the same activity. AND/OR Amend Rule 22.2.7 P4 Indigenous vegetation clearance inside a Significant Natural Area to provide an overall cap on clearance as a permitted activity. AND/OR Amend to 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. AND/OR Amend to provide tighter thresholds/ activity status in the Coastal Environment.</p>
FS1342.34	Federated Farmers	Opposes 81.68
81.70	Waikato Regional Council	<p>Retain Rule 24.2.8 Indigenous vegetation clearance inside a Significant Natural Area, except for the amendments sought below AND Amend Rule 24.2.8 P4 Indigenous vegetation clearance inside a Significant Natural Area to a restricted discretionary activity. AND/OR Amend Rule 24.2.8 P4 Indigenous vegetation clearance inside a Significant Natural Area to assign a lower threshold than clearance off indigenous vegetation outside of SNA for the same activity. AND/OR Amend Rule 24.2.8 P4 Indigenous vegetation clearance inside a Significant Natural Area to provide an overall cap on clearance as a permitted activity. AND/OR Amend to 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. AND/OR Amend to provide tighter thresholds/ activity status in the Coastal Environment.</p>
81.71	Waikato Regional Council	<p>Retain Rule 28.2.8 Indigenous vegetation clearance inside a Significant Natural Area, except for the amendments sought below AND Amend Rule 28.2.8 P4 Indigenous vegetation clearance inside a Significant Natural Area to a restricted discretionary activity. AND/OR Amend Rule 28.2.8 P4 Indigenous vegetation clearance inside a Significant Natural Area to assign a lower threshold than clearance off indigenous vegetation outside of SNA for the same activity. AND/OR Amend Rule 28.2.8 P4 Indigenous vegetation clearance inside a Significant Natural Area to provide an overall cap on clearance as a permitted activity. AND/OR Amend to 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. AND/OR</p>

		Amend to provide tighter thresholds/ activity status in the Coastal Environment.
81.72	Waikato Regional Council	Amend provisions for Indigenous vegetation clearance inside a Significant Natural Area (P4) in any chapters not covered in previous submissions to a restricted discretionary activity. AND/OR Amend provisions for Indigenous vegetation clearance inside a Significant Natural Area (P4) to assign a lower threshold than clearance off indigenous vegetation outside of SNA for the same activity. AND/OR Amend provisions for Indigenous vegetation clearance inside a Significant Natural Area (P4) to provide an overall cap on clearance as a permitted activity. AND/OR Amend to 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. AND/OR Amend provisions to provide tighter thresholds/ activity status in the Coastal Environment.
<i>FS1293.16</i>	<i>Department of Conservation</i>	<i>Supports 81.72</i>
<i>FS1342.36</i>	<i>Federated Farmers</i>	<i>Opposes 81.72</i>
984.13	Trustee Turangawaewae Trust Board	Retain the activity status and clearance thresholds for indigenous vegetation clearance for marae, dwellings and papakaainga on Maaori Freehold Land or Maaori Customary Land.
<i>FS1387.1624</i>	<i>Mercury NZ Limited for Mercury D</i>	<i>Opposes 984.13</i>
<i>FS1108.183</i>	<i>Te Whakakitenga o Waikato Incorporated (Waikato-Tainui)</i>	<i>Supports 984.13</i>
493.14	Jackie Colliar	Retain the activity status and clearance thresholds for indigenous vegetation clearance for Marae, dwellings and papakaainga on Maaori Freehold Land or Maaori Customary Land in the Proposed District Plan.
<i>FS1035.67</i>	<i>Pareoranga Te Kata</i>	<i>Supports 493.14</i>
493.26	Jackie Colliar	Retain the provisions allowing for indigenous vegetation clearance associated with the gathering of plants in accordance with Maori customs and values as a Permitted Activity.
<i>FS1035.79</i>	<i>Pareoranga Te Kata</i>	<i>Supports 493.26</i>
493.31	Jackie Colliar	Retain the ability to clear indigenous vegetation for the purposes of establishing a Marae complex, dwellings and papakaainga building on Maaori Freehold Land or Maaori Customary Land.
<i>FS1035.84</i>	<i>Pareoranga Te Kata</i>	<i>Supports 493.31</i>
553.34	Malibu Hamilton	Retain Rule 28.2.8 P4, P5, and P6 Indigenous vegetation clearance inside a Significant Natural Area.
81.69	Waikato Regional Council	Retain Rule 23.2.8 Indigenous vegetation clearance inside a Significant Natural Area, except for the amendments

		<p>sought below. AND Amend Rule 23.2.8 P4 Indigenous vegetation clearance inside a Significant Natural Area to a restricted discretionary activity. AND/OR Amend Rule 23.2.8 P4 Indigenous vegetation clearance inside a Significant Natural Area to assign a lower threshold than clearance off indigenous vegetation outside of SNA for the same activity. AND/OR Amend Rule 23.2.8 P4 Indigenous vegetation clearance inside a Significant Natural Area to provide an overall cap on clearance as a permitted activity. AND/OR Amend to 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. AND/OR Amend to provide tighter thresholds/ activity status in the Coastal Environment.</p>
<i>FS/342.35</i>	<i>Federated Farmers</i>	<i>Opposes 81.69</i>
984.15	Trustee Turangawaewae Trust Board	Retain the permitted activity provisions for indigenous vegetation clearance associated with the gathering of plants in accordance with Maori customs and values.

### 21.6.2 Analysis

492. Submissions from Malibu Hamilton [553.24] and [553.34] seek to retain Rule P4, P5, and P6 in Rule 22.2.7 and Rule 28.2.8. Rule P6 is a duplicate rule that I have recommended be deleted. For this reason, I have only accepted the submissions in part. In respect of P4 and P5 I have recommended amendments in regards to the Coastal Environment in response to other submissions.
493. Rule P4 received supporting submissions seeking to retain the rule from Turangawaewae Trust Board [984.13] and Jackie Colliar [493.14] and [493.31] as the rules provide for the development of Maori owned land.
494. The submissions from Waikato Regional Council [81.67], [81.68], [81.69], [81.70], [81.71], and [81.72] all seek to retain the rule but suggest alternatives to amend the rule, by either changing the activity status from permitted to restricted discretionary, or assign a lower threshold for clearance, or provide for an overall cap to the amount that can be cleared, or to clarify the location and extent of areas that may be subject to the rule. Further submissions have been received from Havelock Village Limited [FS/377.8], Federated Farmers [FS/342.34], [FS/342.36] and [FS/342.35] which oppose the submission. The Department of Conservation [FS/393.16] supports the submission.
495. The rules managing indigenous vegetation clearance on Maaori Freehold or Customary Lands have been included in the Proposed Plan specifically to recognise one of the many constraints that are prevalent for this land tenure (this mainly being multiple owners). The RMA is clear in its direction in Part 6 Matters of national importance clause (e) which states there shall be recognition and provisions for the relationship of Maaori and their culture and traditions with their ancestral lands etc. The permitted clearance afforded to the activities in the rule acknowledges the importance of marae and papakaainga development to the relationship of Maaori and their culture and traditions with their ancestral lands. This approach has required

somewhat of a balancing of the RMA Section 6 matters, particularly as s6(c) requires the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna. It is for this reason that limits on the level of indigenous vegetation clearance permitted on Maaori land have been included in the rule. This is also reflected in the Regional Policy Statement in Objective 3.12 and Policy 6.4 Marae and Papakainga, where there is a requirement to recognise their importance and to provide for their ongoing use and development, and in this regard I consider the amount of clearance would be appropriate. I also suggest that the rule is amended to remove reference to the Urban Allotment as this is unlikely to occur on Maaori Freehold/Customary Land and to clarify that the rule is for the purpose of development.

496. However, I am mindful of NZCPS Policy 11(a) which requires avoidance of adverse effects of activities on: i. indigenous taxa that are listed as threatened or at risk in the New Zealand Threat Classification System lists. As discussed in Section 21.2-3 of this report, I must concede that a more restrictive threshold is placed on indigenous vegetation in P4 of the Proposed Plan, even though this is deeply disappointing. This could read as follows
- (a) On Maaori Freehold Land or Maaori Customary Land ~~outside of the Coastal Environment~~ indigenous vegetation clearance in a Significant Natural Area ~~identified on the planning maps for the purpose of development or in Schedule 30.5 (Urban Allotment Significant Natural Areas)~~ where:
- (i) There is no alternative development area on the site outside the Significant Natural Area;
- (ii) The following total areas are not exceeded:
- (iii) ...
497. On this basis I recommend the panel accept in part the submissions from Waikato Regional Council [81.67], [81.68], [81.69], [81.70], [81.71] and [81.72].
498. I have also recommended including the words 'for the purposes of development' so it is clear that the rule applies to buildings as opposed to P5 which relates to vegetation clearance for other reasons.

### 21.6.3 Recommendations

499. For the reasons above I recommend:
- a. **Accept in part** Malibu Hamilton [553.24] and [553.34] to the extent that P4 and P5 are retained as notified.
  - b. **Accept** Turangawaewae Trust Board [984.13], Jackie Colliar [493.14] and [493.26]. Waikato Tainui [FS1108.183] and Pareoranga Te Kata [FS1035.67] and [FS1035.79]. **Reject** Mercury Energy Limited [FS1387.1624].
  - c. **Accept** Turangawaewae Trust Board [984.15]
  - d. **Accept in part** Waikato Regional Council [81.67], [81.68], [81.69], [81.70], [81.71] and [81.72], Department of Conservation [FS1393.16], Havelock Village Limited [FS1377.8] and Federated Farmers [FS1342.34], [FS1342.36] and [FS1342.35].

### 21.6.4 Recommended amendments

500. There are no recommended amendments in response to the submissions.

P4	(b) On Maaori Freehold Land or Maaori Customary Land, <del>outside of the Coastal Environment</del> indigenous vegetation clearance in a Significant Natural Area <del>identified on the planning maps for the purposes of development or in Schedule 30.5 (Urban Allotment Significant Natural Areas)</del> where: <ol style="list-style-type: none"> <li>(i) There is no alternative development area on the site outside the Significant Natural Area;</li> </ol>
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	<p>(ii) The following total areas are not exceeded:</p> <p>A. 1500m<sup>2</sup> for a Marae complex, including areas associated with access, parking and manoeuvring;</p> <p>B. 500m<sup>2</sup> per dwelling, including areas associated with access, parking and manoeuvring; and</p> <p>C. 500m<sup>2</sup> for a papakainga building including areas associated with access, parking and manoeuvring.</p>
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### 21.6.5 Section 32AA evaluation

501. The recommended additional wording to the rule is to manage indigenous vegetation in the Coastal Environment is to acknowledge the NZCPS and is outlined in Section 21.3 of this report.

### 21.7 Land use – P5 Indigenous vegetation clearance on Maaori land

502. Seven primary submissions were received. These submissions seek to delete the rule for administrative reasons.

503. Rule P5 provides for the removal of vegetation that endangers human life or existing buildings, conservation fencing, maintenance of existing drains, tracks and fences and the gathering of plants in accordance with Maaori customs, and is consistent across the zones.

#### 21.7.1 Submissions

Submission point	Submitter	Decision requested
697.126	Waikato District Council	Delete Rule 16.2.8 P5 Indigenous vegetation clearance inside a Significant Natural Area AND Make consequential change to D1 as follows: "...or P4, P5 or P6."
697.199	Waikato District Council	Delete Rule 17.2.9 P5 Indigenous vegetation clearance inside a Significant Natural Area.
697.638	Waikato District Council	Delete Rule 20.2.9 Rule P5 Indigenous vegetation clearance inside a Significant Natural Area; AND Make consequential change to Rule 20.2.9 Discretionary Activities Rule D1 as follows: ... P4, P5 or P6.
697.714	Waikato District Council	Delete Rule 21.2.9 P5 Indigenous vegetation clearance inside a Significant Natural Area; AND Make consequential changes to Rule 21.2.9 D1 Indigenous vegetation clearance inside a Significant Natural Area, as follows: ...P4, P5 or P6.
697.790	Waikato District Council	Delete Rule 22.2.7 P5 Indigenous vegetation clearance inside a Significant Natural Area. AND Amend Rule 22.2.7 D1 Indigenous vegetation clearance inside a Significant Natural Area, as follows: ...P4, P5 or P6.

697.974	Waikato District Council	Delete Rule 24.2.8 P5 Indigenous vegetation clearance inside a Significant Natural Area; AND Make consequential change to Rule 24.2.8 D1, as follows: ...P4, P5 or P6.
697.885	Waikato District Council	Delete Rule 23.2.8 P5 Indigenous vegetation clearance inside a Significant Natural Area; AND Amend Rule 23.2.8 D1 Indigenous vegetation clearance inside a Significant Natural Area, as follows: ...P4, P5 or P6.

### 21.7.2 Analysis

504. Waikato District Council's submissions [697.126], [697.199], [697.638], [697.714], [697.790], [697.974] and [697.885] all seek to delete Rule P5 Indigenous vegetation clearance inside a SNA. The reasons provided are Rule P5 duplicates P1 with the only difference being that P5 captures Maori Freehold land or Maori Customary land, which is already captured by P1. This approach will improve the consistency and clarity within the Proposed Plan. Accordingly, I recommend the panel accept Waikato District Council's submissions [697.126], [697.199], [697.638], [697.714], [697.790], [697.974] and [697.885].

### 21.7.3 Recommendations

505. For the reasons above I recommend:

- a. **Accept** Waikato District Council [697.126], [697.199], [697.638], [697.714], [697.790], [697.974] and [697.885].

### 21.7.4 Recommended amendments

506. The following amendments are recommended:

#### Rule 16.2.8 Indigenous vegetation clearance inside a Significant Natural Area

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: (i) Removing vegetation that endangers human life or existing buildings or structures; (ii) Conservation fencing to exclude stock or pests; (iii) Maintaining existing farm drains; (iv) Maintaining existing tracks and fences; or (v) Gathering plants in accordance with Maaori customs and values.</del>
D1	Indigenous vegetation clearance in a Significant Natural Area <del>identified on the planning maps</del> or in Schedule 30.5 (Urban Allotment Significant Natural Areas) that does not comply with one or more conditions in Rule 16.2.8 P1, P2, P3, <del>or P4, P5 or P6.</del>

#### Rule 17.2.9 Indigenous vegetation clearance inside a Significant Natural Area

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>
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	<del>(i) Removing vegetation that endangers human life or existing buildings or structures;</del> <del>(ii) Conservation fencing to exclude stock or pests;</del> <del>(iii) Maintaining existing farm drains;</del> <del>(iv) Maintaining existing tracks and fences; or</del> <del>(v) Gathering plants in accordance with Maaori customs and values.</del>
D1	Indigenous vegetation clearance in a Significant Natural Area <del>identified on the planning maps</del> or in Schedule 30.5 (Urban Allotment Significant Natural Areas) that does not comply with one or more conditions in Rule 16.2.8 P1, P2, P3, <del>or P4., P5 or P6.</del>

#### Rule 20.2.9 Indigenous vegetation clearance inside a Significant Natural Area

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> <del>(i) Removing vegetation that endangers human life or existing buildings or structures;</del> <del>(ii) Conservation fencing to exclude stock or pests;</del> <del>(iii) Maintaining existing farm drains;</del> <del>(iv) Maintaining existing tracks and fences; or</del> <del>(v) Gathering plants in accordance with Maaori customs and values.</del>
D1	Indigenous vegetation clearance in a Significant Natural Area <del>identified on the planning maps</del> or in Schedule 30.5 (Urban Allotment Significant Natural Areas) that does not comply with one or more conditions in Rule 16.2.8 P1, P2, P3, <del>or P4., P5 or P6.</del>

#### Rule 21.2.9 Indigenous vegetation clearance inside a Significant Natural Area

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> <del>(i) Removing vegetation that endangers human life or existing buildings or structures;</del> <del>(ii) onservation fencing to exclude stock or pests;</del> <del>(iii) Maintaining existing farm drains;</del> <del>(iv) Maintaining existing tracks and fences; or</del> <del>(v) (v)Gathering plants in accordance with Maaori customs and values.</del>
D1	Indigenous vegetation clearance in a Significant Natural Area <del>identified on the planning maps</del> or in Schedule 30.5 (Urban Allotment Significant Natural Areas) that does not comply with one or more conditions in Rule 16.2.8 P1, P2, P3, <del>or P4., P5 or P6.</del>

#### Rule 22.2.7 Indigenous vegetation clearance inside a Significant Natural Area

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> <del>(i) Removing vegetation that endangers human life or existing buildings or structures;</del> <del>(ii) Conservation fencing to exclude stock or pests;</del> <del>(iii) Maintaining existing farm drains;</del> <del>(iv) intaining existing tracks and fences; or</del> <del>(v) (v)Gathering plants in accordance with Maaori customs and values.</del>
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DI	Indigenous vegetation clearance in a Significant Natural Area <del>identified on the planning maps</del> or in Schedule 30.5 (Urban Allotment Significant Natural Areas) that does not comply with one or more conditions in Rule 16.2.8 P1, P2, P3, <del>or P4., P5 or P6.</del>
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#### Rule 23.2.8 Indigenous vegetation clearance inside a Significant Natural Area

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: (i) Removing vegetation that endangers human life or existing buildings or structures; (ii) Conservation fencing to exclude stock or pests; (iii) Maintaining existing farm drains; (iv) Maintaining existing tracks and fences; or (v) Gathering plants in accordance with Maaori customs and values.</del>
DI	Indigenous vegetation clearance in a Significant Natural Area <del>identified on the planning maps</del> or in Schedule 30.5 (Urban Allotment Significant Natural Areas) that does not comply with one or more conditions in Rule 16.2.8 P1, P2, P3, <del>or P4., P5 or P6.</del>

#### Rule 24.2.8 Indigenous vegetation clearance inside a Significant Natural Area

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: (i) Removing vegetation that endangers human life or existing buildings or structures; (ii) Conservation fencing to exclude stock or pests; (iii) Maintaining existing farm drains; (iv) Maintaining existing tracks and fences; or (v) Gathering plants in accordance with Maaori customs and values.</del>
DI	Indigenous vegetation clearance in a Significant Natural Area <del>identified on the planning maps</del> or in Schedule 30.5 (Urban Allotment Significant Natural Areas) that does not comply with one or more conditions in Rule 16.2.8 P1, P2, P3, <del>or P4., P5 or P6.</del>

### 21.7.5 Section 32AA evaluation

507. The recommended deletion of the Rule P5 does not change the planning outcome. Accordingly, no s32AA evaluation has been required to be undertaken in this regard.

### 21.8 DI Discretionary Activity- Indigenous vegetation clearance inside a Significant Natural Area

508. Seventeen primary submissions were received – 14 seek to retain the rule as notified and three seek to amend.

509. The discretionary activity rule is to ensure that if the permitted activity rule is exceeded then all adverse effects can be considered.

4.

## 21.8.1 Submissions

Submission point	Submitter	Decision requested
585.25	Department of Conservation	Retain Rule 16.2.8 D1 Indigenous vegetation clearance inside a Significant Natural Area, in particular, retain the cascade to discretionary activity upon non-compliance with the permitted activity standards.
<i>FS1377.163</i>	<i>Havelock Village Limited</i>	<i>Opposes 585.25</i>
81.41	Waikato Regional Council	Retain Rule 16.2.8 D1 Indigenous vegetation clearance inside a Significant Natural Area.
585.26	Department of Conservation	Retain Rule 17.2.9 D1 Indigenous vegetation clearance inside a Significant Natural Area, in particular, retain the cascade to discretionary activity upon non-compliance with the permitted activity standards.
585.27	Department of Conservation	Retain Rule 20.2.9 D1 Indigenous vegetation clearance inside a Significant Natural Area, in particular, retain the cascade to discretionary activity upon non-compliance with the permitted activity standards.
585.28	Department of Conservation	Retain Rule 21.2.9 D1 Indigenous vegetation clearance inside a Significant Natural Area, in particular, retain the cascade to discretionary activity upon non-compliance with the permitted activity standards.
349.14	Lochiel Farmlands Limited	Amend Rule 22.2.7 D1 Indigenous vegetation clearance inside a Significant Natural Area, to be a restricted discretionary activity rather than a discretionary activity and read: <del>D1-RD1</del> .
<i>FS1377.56</i>	<i>Havelock Village Limited</i>	<i>Supports 349.14</i>
<i>FS1340.45</i>	<i>TaTa Valley Limited</i>	<i>Supports 349.14</i>
680.215	Federated Farmers of New Zealand	Amend Rule 22.2.7 D1 Indigenous vegetation clearance inside a Significant Natural Area, as follows: <del>D1-RD1</del> (a) 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 in Rule 22.2.7 P1, P2, P3, P4, P5 or P6. (b) <u>Council's discretion is restricted to the following matters: (i) The measures to avoid, remedy or mitigate any adverse effects to the significant indigenous vegetation and significant habitats of indigenous fauna, including species relocation, offset and restorative planting; (ii) Any cumulative effects arising from the proposed activity;</u> AND Any consequential changes needed to give effect to this relief. AND Any consequential amendments to Chapter 23: Country Living Zone to address areas of existing farmland zoned as Country Living Zone.
<i>FS1340.111</i>	<i>TaTa Valley Limited</i>	<i>Supports 680.215</i>
<i>FS1377.193</i>	<i>Havelock Village Limited</i>	<i>Supports 680.215</i>

<i>FS1315.12</i>	<i>Lochiel Farmlands Limited</i>	<i>Supports 680.215</i>
81.42	Waikato Regional Council	Retain Rule 22.2.7 D1 Indigenous vegetation clearance inside a Significant Natural Area.
585.29	Department of Conservation	Retain Rule 22.2.7 D1 Indigenous vegetation clearance inside a Significant Natural Area, in particular, retain the cascade to discretionary activity upon non-compliance with the permitted activity standards.
<i>FS1315.10</i>	<i>Lochiel Farmlands Limited</i>	<i>Opposes 585.29</i>
81.44	Waikato Regional Council	Retain Rule 24.2.8 D1 Indigenous vegetation clearance inside a Significant Natural Area.
585.31	Department of Conservation	Retain Rule 24.2.8 D1 Indigenous vegetation clearance inside a Significant Natural Area, in particular, retain the cascade to discretionary activity upon non-compliance with the permitted activity standards.
697.404	Waikato District Council	Amend Rule 25.2.8 D1 Indigenous vegetation clearance in a Significant Natural Area, as follows: <i>Indigenous vegetation clearance in a Significant Natural Area identified on the planning maps or in Schedule 30.5 (Urban Allotment Significant Natural Areas) that does not comply with <del>one or more conditions</del> Rule 25.2.8 P1 or P2.</i>
585.50	Department of Conservation	Retain Rule 25.2.8 D1 Indigenous vegetation clearance inside a Significant Natural Area, in particular, retain the cascade to discretionary activity upon non-compliance with the permitted activity standards.
81.45	Waikato Regional Council	Retain Rule 28.2.8 D1 Indigenous vegetation clearance inside a Significant Natural Area.
585.51	Department of Conservation	Retain Rule 28.2.8 D1 Indigenous vegetation clearance inside a Significant Natural Area, in particular, retain the cascade to discretionary activity upon non-compliance with the permitted activity standards.
81.43	Waikato Regional Council	Retain Rule 23.2.8 D1 Indigenous vegetation clearance inside a Significant Natural Area.
585.30	Department of Conservation	Retain Rule 23.2.8 D1 Indigenous vegetation clearance inside a Significant Natural Area, in particular, retain the cascade to discretionary activity upon non-compliance with the permitted activity standards.

## 21.8.2 Analysis

510. The Waikato District Council [697.404] seeks a minor amendment to Rule 25.2.8 which will provide more clarity for the plan user. The rule would therefore read as follows;

D1 Indigenous vegetation clearance in a Significant Natural Area, as follows: Indigenous vegetation clearance in 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~~ Rule 25.2.8 P1 or P2.

511. I recommend the panel accept Waikato District Council's submission [697.404]

512. In considering this submission, it became apparent that the rule is not clear as to what the activity status would be when indigenous vegetation is cleared within a SNA for a reason other

than those in P1–P5, for example clearance of vegetation for creating additional pasture or harvesting of native timber. This could be rectified by inclusion of the following rule:

D2 Indigenous vegetation clearance in a Significant Natural Area for any reason not specified in P12.

513. Submissions from the Department of Conservation [585.25], [585.26], [585.27], [585.28], [585.29], [585.30], [585.31], [585.50] and [585.51] and Waikato Regional Council [81.41], [81.42], [81.43], [81.44] and [81.45] seek to retain the discretionary activity rule as it was notified. Further submissions from Havelock Village Limited [FS/377.163] and [585.25] and Lochiel Farmlands Limited [FS/3515.10] opposed the submission [585.29]. Submissions from Lochiel Farmlands Limited [349.14] and Federated Farmers [680.215] both seek to amend Rule 22.27 D1 to change the activity status to restricted discretionary. In respect of indigenous biodiversity, I consider the discretionary activity status to be the most appropriate status to fall to as it recognises the importance of the topic. I disagree with the restricted discretionary approach because there has been a permitted baseline afforded for many activities. These activities either recognise farming practices that are important for the functional operation of a farm or, in the instance of Maaori Freehold/Customary Land, the importance of providing for the associated activities. In my view if an activity cannot be undertaken within a permitted baseline for this topic then the activity status of discretionary is the most appropriate as it will allow the consenting process to assess all effects and not just those imposed by a restricted discretionary status. The jump from permitted activity to discretionary activity may seem significant but this encourages a property owner to consider the permitted activity as the best option. If this is not possible then I believe it is appropriate that any adverse effect can be assessed. I recommend the panel accept the submissions from the Department of Conservation [585.25], [585.26], [585.27], [585.28], [585.29], [585.30], [585.31] and [585.51] and Waikato Regional Council [81.41], [81.42], [81.43], [81.44] and [81.45]. However due to the submission from Waikato District Council where a minor amendment has been made to 25.2.8 D1, I recommend the panel accept in part these submissions from the Department of Conservation [585.25], [585.26], [585.27], [585.28], [585.29], [585.30], [585.31], [585.50] and [585.51] and Waikato Regional Council [81.41], [81.42], [81.43], [81.44] and [81.45]. On this basis I recommend the panel reject the submissions from Lochiel Farmlands Limited [349.14] and Federated Farmers [680.215].

### 21.8.3 Recommendations

514. For the reasons above I recommend:
- a. **Accept** Waikato District Council [697.404].
  - b. **Accept** Waikato Regional Council [81.41], [81.42], [81.43], [81.44] and [81.45].
  - c. **Accept** Department of Conservation [585.25], [585.26], [585.27], [585.28], [585.29], [585.30], [585.31] and [585.51]. **Reject** Havelock Village Limited [FS/377.163] and Lochiel Farmlands Limited [FS/3515.10].
  - d. **Accept in part** Department of Conservation [585.50].
  - e. **Reject** Lochiel Farmlands Limited [349.14] and Federated Farmers [680.215], Havelock Village Limited [FS/377.56] and [FS/377.193], and TaTa Valley Limited [FS/340.45] and [FS/340.111] Lochiel Farmland Limited [FS/315.12].

### 21.8.4 Recommended amendments

515. The following amendments are recommended:

## Rule 25.2.8 D1 Indigenous vegetation clearance in a Significant Natural Area

D1	Indigenous vegetation clearance in a Significant Natural Area, as follows: Indigenous vegetation clearance in a Significant Natural Area identified on the planning maps or in Schedule 30.5 (Urban Allotment Significant Natural Areas) that does not comply with <del>one or more conditions</del> <a href="#">Rule 25.2.8 P1 or P2</a> .
D2	Indigenous vegetation clearance in a Significant Natural Area for any reason not specified in P1 or P2

**21.8.5 Section 32AA evaluation**

516. The recommended changes to Rule 25.2.8 Indigenous vegetation clearance in a Significant Natural Area does not change the planning outcome. Accordingly, no s32AA evaluation has been required to be undertaken in this regard.

**21.9 New permitted activity**

517. One primary submission was received which seeks to add a new rule.

**21.9.1 Submission**

Submission point	Submitter	Decision requested
591.3	Stevenson Waikato Ltd	Add a new permitted activity rule within Rule 22.2.7 Indigenous vegetation clearance within Significant Natural Areas, as follows: <i>P7 Indigenous Vegetation clearance for extractive industry within the Aggregate Extraction Areas and Aggregate Resource Areas shown on the planning maps.</i>
<i>FS1377.174</i>	<i>Havelock Village Limited</i>	<i>Supports 591.3</i>
<i>FS1146.16</i>	<i>Gleeson Quarries Huntly Limited on behalf of</i>	<i>Supports 591.3</i>
<i>FS1319.17</i>	<i>New Zealand Steel Holdings Limited</i>	<i>Supports 591.3</i>

**21.9.2 Analysis**

518. The submission from Stevenson Waikato Ltd [591.3] seeks to add a new permitted activity that provides for indigenous vegetation clearance within the Aggregate Extraction policy overlays. Further submissions from Havelock Village Limited [FS1377.174], Gleeson Quarries Huntly Limited [FS1146.16] and New Zealand Steel Limited [FS1319.17] have supported the submission. Gleeson Quarries has opposed with reasons provided that these areas have already being earmarked for mineral extraction. I consider this approach would not be giving effect to the Regional Policy Statement Policy 11.1 where there is a requirement to maintain or enhance indigenous biodiversity. This approach would also eliminate any requirement for considering offsetting as required in Policy 11.1 (j). I understand that there may be a need to remove SNAs to access mineral resources, but this is likely to result in adverse effects. I consider that it appropriate that where these activities need to clear indigenous vegetation, that these proposals are subjected to a consent process so the effects can be considered, and therefore mitigated or remedied. Accordingly, I recommend the panel reject the submission from Stevenson Waikato Ltd [591.3].

### 21.9.3 Recommendations

519. For the reasons above I recommend:

- a. **Reject** Stevenson Waikato Ltd [591.3].
- b. **Reject** Havelock Village Limited [FS1377.174], Gleeson Quarries Huntly Limited [FS1146.16] and New Zealand Steel Limited [FS1319.17].

### 21.9.4 Recommended amendments

520. There are no recommended amendments as a result of the analysis of the submissions.

## 22 Clearance outside a SNA

### 22.1 Introduction

521. The rules managing clearance outside a SNA provide for property owners to have some flexibility towards clearance of vegetation that is not significant. The rule is consistent across the zones and is very similar to the rules for inside a SNA with the exception of an extra allowance for clearance for a building development and for manuka/kanuka for pasture maintenance. The rule cascades to a restricted discretionary activity if the permitted levels are exceeded. The rule was not intended to capture removal of a single tree but to provide for the management of indigenous vegetation when undertaking activities such as maintenance of farming infrastructure (tracks, drains, etc) or the development of Maori-owned land.

### 22.2 P1 and P2 Indigenous vegetation clearance outside a Significant Natural Area

522. A total of 38 primary submissions were received. Of these, several seek to add additional clauses to the rule. Some seek to delete the rule and to add new rules in replacement. Others seek to amend the rule to increase the areas that can be cleared.

#### 22.2.1 Submissions

Submission point	Submitter	Decision requested
81.30	Waikato Regional Council	Add an additional clause to Rule 22.2.8 P1(a)(vii) and P3(a) Indigenous vegetation clearance outside a Significant Natural Area as follows: <i>There is no alternative development area on the site outside of the area of indigenous vegetation clearance.</i>
<i>FS1342.26</i>	<i>Federated Farmers</i>	<i>Opposes 81.30</i>
330.89	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 22.2.8- Indigenous vegetation clearance outside a Significant Natural Area.
273.11	Russell Luders	No specific decision sought, but submission opposes Rule 22.2.8 P1 (a) Indigenous vegetation clearance outside a Significant Natural Area.
701.5	Steven & Theresa Stark	Delete Rule 22.2.8 Indigenous vegetation clearance outside a Significant Natural Area and replace with the following: <u>P1 Indigenous Vegetation and Habitats- Permitted activity</u>

		<p><u>(a) Any activity involving disturbance, removal, damage or destruction (modification) of kanuka, and/or manuka and/or totara.</u></p> <p><u>(b) The removal of up to 50m3 of timber per 1-year period per Certificate of Title for personal use</u></p> <p><u>(c) The harvesting of indigenous timber undertaken in accordance with an approval under Part IIIA of the Forests Act 1949.</u></p> <p><u>(d) The disturbance, removal, damage or destruction of naturally occurring indigenous vegetation that has grown under the canopy of a plantation forest.</u></p> <p><u>(e) The clearance or modification of indigenous vegetation that has been planted and managed specifically for commercial production forestry horticulture or agriculture purposes.</u></p> <p><u>(f) The disturbance or damage, but not destruction of naturally occurring indigenous vegetation as a consequence of harvesting of plantation forest, including where the harvesting involves:</u></p> <p><u>(i) The lifting and/or dragging of logs.</u></p> <p><u>(ii) The construction and maintenance of forestry roads and stream crossings.</u></p> <p><u>(g) The disturbance, removal, damage or destruction ("modification") of naturally occurring indigenous vegetation by any network utility operator to ensure the safety and integrity of any network utility or to maintain access to the network utility.</u></p> <p><u>(h) The disturbance, removal, damage or destruction ("modification") of naturally occurring indigenous vegetation associated with the maintenance of existing access tracks, fence-lines and firebreaks and the construction of new fence-lines and firebreaks.</u></p> <p><u>(i) Any activity involving disturbance, removal, damage or destruction ("modification") of indigenous vegetation and habitats necessary for the avoidance of imminent danger to human life or property.</u></p> <p><u>(j) Activities are carried out subject to and in accordance with any specific covenants or other legal agreements entered into with the District Council, or Waikato Regional Council, or Department of Conservation, or QEII Trust.</u></p>
706.8	Francis and Susan Turton	No specific decision sought, but submission opposes Rule 22.2.8 PI (a) Indigenous vegetation clearance - outside a Significant Natural Area and questions what is the definition of "outside a Significant Natural Area."
349.16	Lochiel Farmlands Limited	Amend Rule 22.2.8 Indigenous vegetation clearance outside a Significant Natural Area, to remove all controls on indigenous vegetation clearance for pasture maintenance and other existing activities ancillary to farming.
349.17	Lochiel Farmlands Limited	Amend Rule 22.2.8 Indigenous vegetation clearance outside a Significant Natural Area, to increase the permitted indigenous vegetation clearance for new pasture, new fencing and tracks to 2,500m <sup>2</sup> per site per year.

831.88	Gabrielle Parson on behalf of Raglan Naturally	Delete Rule 22.2.8 Indigenous vegetation clearance outside a Significant Natural Area AND Add provisions that will increase natural habitats.
<i>FS1345.123</i>	<i>Genesis Energy Limited</i>	<i>Opposes 831.88</i>
349.18	Lochiel Farmlands Limited	Amend Rule 22.2.8 Indigenous vegetation clearance outside a Significant Natural Area, to increase the limit for permitted indigenous vegetation clearance for new dwellings and buildings and associated access to 2500m <sup>2</sup> per site per year.
481.8	Culverden Farm	Delete the limits in respect to area, species, height, age and location of indigenous vegetation removal in Rule 22.2.8 PI Indigenous Vegetation clearance outside a Significant Natural Area for the maintenance of productive pasture. AND Amend Rule 22.2.8 PI Indigenous Vegetation clearance outside a Significant Natural Area, to allow vegetation clearance for new farming infrastructure including fencing, tracks and drains; AND Amend Rule 22.2.8 PI Indigenous Vegetation clearance outside a Significant Natural Area, to allow vegetation clearance for new dwellings and buildings including access.
680.216	Federated Farmers of New Zealand	Amend Rule 22.2.8 (PI) Indigenous vegetation clearance outside a Significant Natural Area, as follows: <i>(a) 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:</i> <i>(i) Removing vegetation that endangers human life or existing buildings or structures;</i> <i>(ii) Maintaining or reinstating 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;</i> <i>(iii) Constructing and maintaining existing tracks and fences;</i> <i>(iv) Constructing and maintaining existing farm drains;</i> <i>(v) Conservation-Activities to fencing to exclude manage stock or pests such as installing a bait station network or undertaking plant pest management activities.</i> <i>(vi) Gathering of plants in accordance with Maori custom and values; or</i> <i>(vii) A building platform and associated access, parking and manoeuvring up to a total of 1,000m<sup>2</sup> 500m<sup>2</sup> clearance of indigenous vegetation.</i> <i>viii) To create and maintain firebreaks</i> <i>(ix) The clearance or modification of indigenous vegetation that has been planted and managed specifically for commercial production forestry, horticulture or agriculture purposes.</i>

		<p><u>(x) To give effect to a Sustainable Forest Management Plan or Permit as approved under the Forests Act 1949 prior to 16 September 2010;</u></p> <p>(xi) Activities are carried out subject to and in accordance with any specific covenants or other legal agreements entered into with the District Council, or Waikato Regional Council, or Department of Conservation, or QEII Trust; AND Any consequential changes needed to give effect to this relief. AND Any consequential amendments to Chapter 23: Country Living Zone to address areas of existing farmland zoned as Country Living Zone.</p>
FS1114.24	Fire and Emergency New Zealand	Supports 680.216
FS1315.16	Lochiel Farmlands Limited	Supports 680.216
FS1139.64	Turangawaewae Trust Board	Opposes 680.216
FS1108.73	Te Whakakitenga o Waikato Incorporated (Waikato-Tainui)	Opposes 680.216
797.29	Fonterra Limited	Retain Rule 22.2.8 Indigenous Vegetation Clearance outside of a Significant Natural Area as notified.
268.7	Warwick Cheyne	Delete Rule 22.2.8 P1 (a)(ii) Indigenous vegetation clearance outside a Significant Natural Area.
257.3	Estate of Alwynne McDonald Chisnall	Amend Rule 22.2.8 (P1) Indigenous vegetation clearance outside a Significant Natural Area to allow farmers to maintain productive pastures by controlling non-pasture species.
697.792	Waikato District Council	Amend Rule 22.2.8 Indigenous vegetation clearance outside a Significant Natural Area heading, as follows: <u>Indigenous vegetation clearance - outside a Significant Natural Area - General</u>
697.794	Waikato District Council	Amend Rule 22.2.8 P1 (a)(vii) Indigenous vegetation clearance outside a Significant Natural Area, as follows: (vii) A building platform and associated access, parking and manoeuvring up to a total of 500m <sup>2</sup> clearance of indigenous vegetation <u>except on Maori Freehold or Maori Customary land.</u>
FS1108.26	Te Whakakitenga o Waikato Incorporated (Waikato-Tainui)	Supports 697.794
FS1139.25	Turangawaewae Trust Board	Supports 697.794
697.795	Waikato District Council	Delete Rule 22.2.8 P2 Indigenous vegetation clearance outside a Significant Natural Area.
510.6	Bob Carter	Amend Rule 22.2.8 Indigenous vegetation clearance - outside a Significant Natural Area heading, as follows: <u>Naturally Occurring</u> Vegetation Clearance outside a Significant Natural Area.

482.3	Kirstie Hill on behalf of Hill Country Farmers Group	Delete the limits in respect to area, species, height, age and location of indigenous vegetation removal in Rule 22.2.8 PI Indigenous vegetation clearance outside a Significant Natural Area for the maintenance of productive pasture. AND Amend Rule 22.2.8 PI Indigenous vegetation clearance outside a Significant Natural Area, to allow vegetation clearance for new farming infrastructure including fencing, tracks and drains; AND Amend Rule 22.2.8 PI Indigenous vegetation clearance outside a Significant Natural Area, to allow vegetation clearance for new dwellings and buildings including access.
<i>FS1340.82</i>	<i>TaTa Valley Limited</i>	<i>Supports 482.3</i>
81.29	Waikato Regional Council	Amend Rule 22.2.8 PI (a)(ii) and P2(a)(ii) Indigenous vegetation clearance outside a Significant Natural Area to exclude clearance in wetlands.
<i>FS1293.14</i>	<i>Department of Conservation</i>	<i>Supports 81.29</i>
<i>FS1342.25</i>	<i>Federated Farmers</i>	<i>Opposes 81.29</i>
577.6	Dilworth Trust Board	Amend Rule 22.2.8 PI (a) Indigenous vegetation clearance - outside a Significant Natural Area, as follows: <i>(vii) A building platform and associated access, parking and manoeuvring up to a total of 500m<sup>2</sup> clearance of indigenous vegetation.; or</i> <i>(viii) Remediating or stabilising the banks of a stream, river or other water body.</i> AND Amend the Proposed District Plan for any further or other consequential relief required to give effect to the relief sought in this submission
349.20	Lochiel Farmlands Limited	Amend Rule 22.2.8 Indigenous vegetation clearance outside a Significant Natural Area, to enable any indigenous vegetation clearance for a consented building platform or for clearance that has been considered appropriate at the time of resource or subdivision consent approval to be permitted.
394.15	Gwenith Sophie Francis	Delete Rule 22.2.8 Indigenous vegetation clearance - outside a Significant Natural Area, and make indigenous vegetation clearance outside a Significant Natural Area permitted in all circumstances. AND Amend the Proposed District Plan to make consequential or further additional relief, as is appropriate to give effect to the intent of the submission.
433.57	Auckland Waikato Fish and Game Council	Retain Rule 22.2.8 Vegetation clearance - outside a Significant Natural Area, as notified.
553.25	Malibu Hamilton	Retain Rule 22.2.8 PI (vi), PI (vii), P2, and P3 Indigenous vegetation clearance outside a Significant Natural Area.

747.9	Ryburn Lagoon Trust Limited	Amend Rule 22.2.8 Indigenous vegetation clearance outside a Significant Natural Area to provide for the following additional permitted activity: <i>Indigenous vegetation clearance for the purposes of ecosystem protection, rehabilitation or restoration works.</i> AND Amend the Proposed District Plan to provide other such relief and consequential amendments as to give effect to the relief sought in the submissions.
747.5	Ryburn Lagoon Trust Limited	Amend Rule 22.2.8 Indigenous vegetation clearance outside a Significant Natural Area to ensure the link from the term "Indigenous vegetation clearance" does not go to the more generally defined "vegetation clearance" and that the rule only limits the clearance indigenous vegetation. AND Add an additional definition of "Indigenous vegetation clearance" if necessary to achieve the relief sought in the submission. AND Amend the Proposed District Plan to provide other such relief and consequential amendments as to give effect to the relief sought in the submissions.
330.104	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 23.2.9 Indigenous vegetation clearance outside a Significant Natural Area.
831.89	Gabrielle Parson on behalf of Raglan Naturally	Delete Rule 23.2.9 Indigenous vegetation clearance outside a Significant Natural Area AND Add provisions that will increase natural habitats.
553.29	Malibu Hamilton	Retain Rule 23.2.9 P1 (a)(vi), P1 (a)(vii), P2, and P3 Indigenous vegetation clearance outside a Significant Natural Area.
81.34	Waikato Regional Council	Amend Rule 23.2.9 P1(a)(ii) and P2(a)(ii) Indigenous vegetation clearance outside a Significant Natural Area to exclude clearance in wetlands.
<i>FS1342.28</i>	<i>Federated Farmers</i>	<i>Opposes</i>
81.35	Waikato Regional Council	Add an additional clause to Rule 23.2.9 P1(a)(vii) and P3(a) Indigenous vegetation clearance outside a Significant Natural Area as follows: <i>There is no alternative development area on the site outside of the area of indigenous vegetation clearance.</i>
<i>FS1342.29</i>	<i>Federated Farmers</i>	<i>Opposes</i>
697.886	Waikato District Council	Delete Rule 23.2.8 P6 Indigenous vegetation - outside a Significant Natural Area; AND Amend Rule 23.2.8 D1 Indigenous vegetation clearance - outside a Significant Natural Area, as follows: <i>...P4, P5 or P6.</i>
697.887	Waikato District Council	Amend Rule 23.2.9 Indigenous vegetation clearance - outside a Significant Natural Area heading, as follows: <i>Indigenous vegetation clearance - outside a Significant Natural Area general</i>

394.23	Gwenith Sophie Francis	Delete Rule 23.2.9 Indigenous vegetation clearance - outside a Significant Natural Area, to make indigenous vegetation clearance outside of a Significant Natural Area permitted in all circumstances. AND Amend the Proposed District Plan to make consequential or further additional relief, as is appropriate to give effect to the intent of the submission.
697.888	Waikato District Council	Amend Rule 23.2.9 P1(a)(ii) Indigenous vegetation clearance - outside a Significant Natural Area, as follows: <i>(ii) maintaining productive pasture through the removal of up to 1000m<sup>2</sup> per single consecutive 12 month period year of manuka and/or kanuka that is <u>at least</u> more than 10m from a waterbody, and less than 4m in height; or</i>

### 22.2.2 Analysis

523. Submissions from Andrew and Christine Gore [330.89] and [330.104], Russell Luders [273.11] and Francis and Susan Turton [706.8] seek no specific decision and it is difficult to meaningfully assess the submissions. However, the submissions oppose Rule 22.2.8 Indigenous vegetation outside a SNA, and the reasons given are that the rule is unclear as to what area the rule applies to and what the definition of ‘outside a SNA’ means. I am rejecting these submissions as in my opinion the heading of the rule where it refers to ‘outside of a SNA’ means you are not within a SNA. I recommend the panel reject the submissions from Andrew and Christine Gore [330.89] and [330.104], Russell Luders [273.11] and Francis and Susan Turton [706.8].
524. Submissions from Fonterra Limited [797.29] and Auckland Waikato Fish and Game Council [433.57] seek to retain Rule 22.2.8 Indigenous vegetation clearance outside a SNA as notified as does Malibu Hamilton [553.25] and [553.29]. I recommend the panel accept these submissions in part as I have recommended amendments in response to other submissions.
525. Waikato District Council [697.887], [697.792] seeks to amend the heading of the rule to refer to indigenous vegetation clearance ‘general’ as opposed to saying ‘outside’ the SNA. I do not agree with this approach and in my view the rule is clear as to the area you are managing, which in this case is outside of a SNA. I recommend the panel reject Waikato District Council’s submissions [697.887] and [697.792].
526. The submissions from Waikato Regional Council [81.30] and [81.35] seek to amend the rule ‘Indigenous vegetation clearance outside a Significant Natural Area’ P1(a) (vii) and P3 by adding an addition clause as below Rule P3 is in relation to Maaori Freehold/Customary Land for the allowance of Marae an papakaainga. A further submission from Federated Farmers [FS1342.26] has opposed the submission. The amendment sought seeks to include the following;
- “There is no alternative development area on the site outside of the areas of indigenous vegetation clearance”*
527. I agree with Waikato Regional Council’s approach, as the additional clause would help prevent unnecessary clearance of indigenous vegetation regardless of whether the vegetation is deemed significant or not. The area may not currently contain a quality of vegetation that meets the criteria of the Regional Policy Statement for being a SNA but could be in the future. However, I am mindful that in response to other submissions I have recommended that the word ‘practicable’ be inserted into this rule and for consistency I suggest ‘practicable’ is also used in this rule. The amendment would help support the overarching goal of the Regional

Policy Statement of working towards no net loss of biodiversity. The rule for 22.2.8 PI (a)(vii) would then include the following clause:

(vii) a building platform and associated access, parking and manoeuvring up to a total of 500m<sup>2</sup> clearance of indigenous vegetation and there is no practicable alternative development area on the site outside of the area of indigenous vegetation clearance.

528. I recommend the panel accept Waikato Regional Council's submissions [81.30] and [81.35].

529. Rule 23.2.9 P3 is to provide for clearance for marae and papakainga on Maaori Freehold/Customary Land. However there is no permitted activity rule for these activities within the Country Living Zone as there is no land with this tenure in this zone. To address this error I recommend that Rule 23.2.8 P4 and P5 Indigenous vegetation clearance inside a SNA and 23.2.9 P2 and P3 are deleted from the Country Living Zone as follows:

#### 23.2.9 Indigenous vegetation clearance – outside a Significant Natural Area

P3	<p><del>(a) On Maaori Freehold Land or Maaori Customary Land, the clearance of indigenous vegetation clearance outside a Significant Natural Area identified on the planning maps or in Schedule 30.5 (Urban Allotment Significant Natural Areas) must not exceed:</del></p> <p><del>(i) 1500m<sup>2</sup> for a marae complex including associated access, parking and manoeuvring; and</del></p> <p><del>(ii) 500m<sup>2</sup> per dwelling including associated access, parking and manoeuvring; and</del></p> <p><del>(iii) 500m<sup>2</sup> for a papakainga building including associated access, parking and manoeuvring.</del></p>
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#### 23.2.8 Indigenous vegetation clearance inside a Significant Natural Area

P4	<p><del>(c) 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) where:</del></p> <p><del>(iii) There is no practical development area on the site outside the Significant Natural Area;</del></p> <p><del>(iv) The following total areas are not exceeded:</del></p> <p><del>D. 1500m<sup>2</sup> for a marae complex, including areas associated with access parking and manoeuvring; and</del></p> <p><del>E. 500m<sup>2</sup> per dwelling, including areas associated with access parking and manoeuvring; and</del></p> <p><del>F. 500m<sup>2</sup> for a papakainga building including areas associated with access parking and manoeuvring.</del></p>
P5	<p><del>(b) 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></p> <p><del>(i) Removing vegetation that endangers human life or existing buildings or structures; or</del></p> <p><del>(ii) Conservation fencing to exclude stock or pests; or</del></p> <p><del>(iii) Maintaining existing farm drains; or</del></p> <p><del>(iv) Maintaining existing tracks and fences; or</del></p> <p><del>(v) Gathering plants in accordance with Maaori customs and values.</del></p>

530. Waikato District Council [697.795] seeks to delete Rule 22.2.8 P2 Indigenous vegetation clearance outside a SNA, and consequently amend Rule 22.2.8 PI (a) (vii) Indigenous vegetation clearance outside a SNA by adding reference to Maaori Freehold or Maaori

Customary Land into the rule. Further submissions from Waikato Tainui [FS1/08.26] and Turangawaewae Trust Board [FS1/39.25] have supported submission [697.794]. The reasons provided are that an exemption for Maaori Freehold or Customary Land into the rule means that P2 can be deleted, as P2 essentially repeats P1. This approach will simplify the plan for users and remove unnecessary rules. As I have recommended accepting a submission to include an additional clause in the above analysis, I recommend the panel only accept in part this submission from Waikato District Council [697.794] and accept this submission from Waikato District Council [697.795].

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> <ul style="list-style-type: none"> <li><del>(i) removing vegetation that endangers human life or existing buildings or structures;</del></li> <li><del>or</del></li> <li><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; or</del></li> <li><del>(iii) maintaining existing tracks and fences; or</del></li> <li><del>(iv) maintaining existing farm drains; or</del></li> <li><del>(v) conservation fencing to exclude stock or pests; or</del></li> <li><del>(vi) gathering of plants in accordance with Maaori custom and values.</del></li> </ul>
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531. The next group of submissions seek to amend the clearance levels for pasture maintenance, firewood, plantation forestry and building platforms, parking and manoeuvring.
532. Lochiel Farmlands Limited [349.16] seeks to remove from Rule 22.2.8 Indigenous vegetation clearance outside a SNA, and all restrictions for indigenous vegetation clearance for new pasture. In respect of there being no controls, I disagree, as in my opinion there needs to be some level of control to ensure the WRPS is given effect to, in particular the policies in Section 11 that support no net loss. I recommend the panel reject the submission from Lochiel Farmlands Limited [349.16].
533. Lochiel Farmlands Limited [349.17] has also sought to increase the permitted clearance level for new pasture, fencing and tracks to 2,500m<sup>2</sup> per site per year. The WRPS approach of indigenous vegetation has taken a two-tier approach, where it is either deemed to have significant value or not. The WRPS also recognises activities having minor effects on indigenous biodiversity. This indicates to me that areas outside a SNA can have less restrictive rules and this is reflected in the Proposed Plan where there are more restrictive rules imposed inside a SNA and more enabling rules apply outside a SNA. I have addressed the manuka/kanuka issues comprehensively in Section 18 of this report.
534. Lochiel Farmlands Limited [349.18] also seeks to amend Rule 22.2.8 by increasing the limit of clearance for new dwellings and associated access to 2500m<sup>2</sup>. A similar submission was received from the Hill Country Farmers Group [482.3]. I see no further reasons to create an allowance for more clearance within clause (vii) for this. I recommend the panel reject the submission from Lochiel Farmlands Limited [349.18].
535. The submission also seeks to amend the rule to allow vegetation clearance for new farming infrastructure. This has been discussed below in response to other submissions where I have recommended that if this cannot be accommodated with the area suggested then it is appropriate that the consenting process is entered into. I recommend the panel reject the Hill Country Farmers Group's submission [482.3].

536. The submission from Lochiel Farmlands Limited [349.20] seeks to enable vegetation clearance for a consented building platform or for clearance considered appropriate at the time of resource consent or subdivision. If a consent is required or has been granted for a building platform or subdivision, then this would have been subjected to the consenting process. Any clearance of vegetation would be considered through the assessment of effects during the consenting process. There does not need to be a permitted activity rule to give effect to an application for consent or for a granted consent. If the submitter has a particular scenario in mind it would be helpful if they could provide this information. On this basis, I recommend the panel reject Lochiel Farmlands Limited's submission [349.20].
537. A number of submitters sought to either delete the limits completely for clearance of manuka/kanuka for pasture maintenance or amend the rule to allow farmers to maintain productive pastures e.g. Culverden Farm [481.8], Gwenith Sophie Francis [394.15], [394.23] and [394.15], and the Estate of Alwynne McDonald Chisnall [257.3]. Given that I have recommended increasing the area for clearance from 1000m<sup>2</sup> to 2000m<sup>2</sup>, I consider that rules are providing for the maintenance of pasture. I recommend the panel accept in part the submission from Stuart Chisnall on behalf of Estate of Alwynne McDonald Chisnall [257.3].
538. I do not consider it appropriate to have no controls in the Proposed District Plan (PDP) to manage indigenous vegetation clearance, as this would not be giving effect to the WRPS. I have recommended a clearance amount of 2000m<sup>2</sup> of manuka and kanuka outside of the Coastal Environment, and my analysis is contained in Section 18. In my view this recognises the importance of maintaining pasture, but not allowing large-scale clearance without the appropriate controls. On this basis I recommend the panel reject the submissions from Culverden Farm [481.8], Stuart Chisnall on behalf of Estate of Alwynne McDonald Chisnall [257.3] and Gwenith Sophie Francis [394.15] and [394.23].
539. A submission from Steven and Theresa Stark [701.5] seeks to delete Rule 22.2.8 and replace it with a new permitted activity rule which, amongst many things, fundamentally relates to providing for the following:
- clearance of kanuka or manuka or totara,
  - removal of 50m<sup>3</sup> of timber for personal use
  - harvesting of indigenous timber as per the Forest Act 1949
  - the disturbance, removal, damage or destruction of naturally occurring indigenous vegetation that has grown under the canopy of plantation forest
  - the clearance or modification of indigenous vegetation that has been planted for commercial purposes
  - the disturbance but not destruction of naturally occurring indigenous vegetation through harvesting of plantation forest including the dragging of logs and construction and maintenance of forestry roads
  - the ability for network operators for maintenance of infrastructure
  - the disturbance, removal, damage or destruction of indigenous vegetation for the maintenance of tracks and firebreaks or to avoid imminent danger to human life or property.
  - activities carried out subject to legal agreements such as QEII, DOC, WRC or District Council.

540. Regarding the first aspect raised by the submitter in relation to manuka, kanuka or totara, the PDP has a provision for clearance, and I have recommended in response to a previous submission that this is increased in regard to manuka and kanuka (relating to pasture maintenance) and my analysis is contained in Section 18. In respect of 50m<sup>3</sup> for personal use, I believe the clearance rules would provide for this. However, I do not consider it appropriate to include totara or provide for potential wholesale clearance of this species as this would not be giving effect to the WRPS.
541. Regarding the Forest Act 1949, this Act does not exempt production forestry from the requirement to obtain relevant consents from the district council. I see no value in including the Forest Act in the PDP rule framework.
542. In respect of the aspects that relate to plantation forestry, this is governed by the National Environmental Standards for Plantation Forestry (NES-PF). Section 93 of the NES-PF states that indigenous vegetation clearance associated with plantation forestry is a permitted activity provided the clearance does not occur within a significant natural area. I agree with the submitter that it would be unreasonable to subject a forestry harvesting project to the rules in the Proposed Plan regarding vegetation clearance if the area is deemed to be an SNA due to the application of the criteria in Appendix 2. Given that Appendix 2 of the Proposed Plan sets the criteria for determining a SNA, I suggest that a forestry area that has been planted in accordance with the National Environmental Standards for Plantation Forestry be exempt from the application of Appendix 2. This would mean that the permitted rules within the NES-PF would prevail. I recommend additional text be included in Appendix 2: Criteria for Determining Significance of Indigenous Biodiversity as clause (D), as follows:
- The Appendix does not apply to plantation forestry.
543. I have given consideration to whether indigenous vegetation that would legitimately qualify as a SNA using the criteria in Appendix 2 could then be removed if it were subsequently planted in plantation forestry. While this is a risk, I consider it to be small. I am more mindful of unintentionally hindering the harvesting of plantation forestry due to manuka or kanuka being present in the undergrowth (as an example). I am mindful that clause 14 of the National Environmental Standards for Plantation Forestry requires afforestation to not occur within 10m of a SNA nor within a SNA. Thus, any new plantings would need to comply with this requirement.
544. The other aspects of the submission that relate to plantation forestry are covered by the NES-PF and I see no reason to duplicate the NES within the Proposed Plan.
545. In respect of the Forest Act, Landowners are required to submit and comply with a sustainable forest management plan or permit and Section 67V of the Act requires the owner to obtain a resource consent if district plan rules require so. In this regard I see no purpose in including reference to a Sustainable Forest Management Plan, as the district plan rules will prevail.
546. The ability for network operators to maintain infrastructure has been discussed previously. There is already provision for this in Rule 14.3.1 Permitted Activities P5, in Chapter 14: Infrastructure and Energy, which allows for these activities to be undertaken.
547. The Stark's submission also seeks to include the disturbance, removal, damage or destruction of indigenous vegetation for the maintenance of tracks and firebreaks, or to avoid imminent danger to human life or property. I believe this is covered by Rule PI (a) (i).
548. Regarding areas that are legally protected, I believe that covenants can be altered with the agreement of the parties (although in my experience this is unlikely to occur). As well, some covenants have conditions that allow for some activities to occur, for example the clearance of areas for a house site, or tracks and in my opinion, this should not relieve them from

complying with district plan rules. On this basis I recommend the panel accept in part the submission from Steven and Theresa Stark [701.5]

549. A submission from Federated Farmers [680.216] seeks to amend Rule 22.2.8 PI Indigenous vegetation clearance outside a SNA. Further submitters Fire and Emergency [FS114.24] and Lochiel Farmlands Limited [FS1315.16] support the submission. Further submitters Turangawaewae Trust Board [FS1139.64] and Waikato Tainui [FS1108.73] have opposed the submission. The submission has many aspects which are listed as follows;

- (i) ~~Maintaining or reinstating 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;~~
- (ii) Constructing and maintaining existing tracks and fences;
- (iii) Constructing and maintaining existing farm drains;
- (iv) ~~Conservation Activities to fencing to exclude manage stock or pests such as installing a bait station network or undertaking plant pest management activities.~~
- (v) *Gathering of plants in accordance with Maori custom and values; or*
- (vi) *A building platform and associated access, parking and manoeuvring up to a total of 1,000m<sup>2</sup> 500m<sup>2</sup> clearance of indigenous vegetation.*
- (vii) To create and maintain firebreaks
- (viii) The clearance or modification of indigenous vegetation that has been planted and managed specifically for commercial production forestry, horticulture or agriculture purposes.
- (ix) To give effect to a Sustainable Forest Management Plan or Permit as approved under the Forests Act 1949 prior to 16 September 2010;
- (x) Activities are carried out subject to and in accordance with any specific covenants or other legal agreements entered into with the District Council, or Waikato Regional Council, or Department of Conservation, or QEII Trust;

550. Regarding clauses (i), (ii) and (iii), the maintenance or reinstating pasture, construction of new tracks and drains. I have recommended increasing the level of clearance of manuka and kanuka from 1000m<sup>2</sup> to 2000m<sup>3</sup> which should help recognise the challenge farmers have when managing this species (my assessment is in Section 18). However, I consider any more than this should be subjected to a consenting process so potential effects can be managed. Regarding the construction of new fences and drains, the rule as notified provides for the maintenance of such and if new fences and drains are required then I consider it appropriate that a consenting process is entered into.

551. Regarding clause (vi), where the submitter is seeking to increase the amount of clearance for building development. I have recommended increasing the removal of up to 2000m<sup>2</sup>, of manuka or kanuka and would think that this combined with the notified amount of 500m<sup>2</sup> would be sufficient to provide for building development. If any more that this is proposed, then I consider that a consenting process would be appropriate so any effects over the 2000m<sup>2</sup> can be considered.

552. Regarding clause (vii), I consider this could be undertaken as a permitted activity as PI (a)(i) provides for vegetation that endangers human life for existing buildings or structures.

553. Regarding clause (viii), commercial forestry production is governed by the National Environmental Standards for Forestry Plantation (NES-PF). Section 93 of the NES-PF states

that indigenous vegetation clearance associated with plantation forestry is a permitted activity provided the clearance does not occur within a significant natural area. In this regard, I have recommended that Appendix 2 criteria for determining the significance of indigenous vegetation does not apply to plantation forestry. The submitter also refers to the modification of indigenous vegetation that has been planted and managed specifically for commercial horticulture or agriculture purposes. I am uncertain as to what this is, and ask the submitter to provide more information on this aspect.

554. Regarding clause (ix), in respect of the Forest Act, as discussed above, landowners are required to submit and comply with a Sustainable Forest Management Plan or permit and Section 67V of the Act requires the owner to obtain a resource consent if district plan rules require so. In this regard I see no purpose in including reference to a Sustainable Forest Management Plan, as the district plan rules will prevail.
555. Regarding clause (x), as discussed above in respect of areas that are legally protected, I believe that covenants can be altered with the agreement of the parties (although in my experience this is unlikely to occur). As well, some covenants have conditions that allow for some activities to occur, for example the clearance of areas for a house site, or tracks, and in my opinion this should not relieve them from complying with district plan rules.
556. On this basis I recommend the panel accept in part the submission from Federated Farmers [680.216].
557. Submissions from Waikato Regional Council [81.29] and [81.34] seek to amend Rule 22.2.9 and 23.2.8 P1 and P2 to exclude clearance from within a wetland. A further submissions from Department of Conservation [FS/293.14] has supported submission [81.29] and further submitter Federated Farmers [FS/342.28] and [FS/342.25] opposes these submissions. I note the reasons provided by Waikato Regional Council are that they do not support the removal of manuka or kanuka from wetlands, and that there is potential for this to occur in P1 (a)(ii) and P2 (a)(ii). However, the submission speaks to the clearance of indigenous vegetation in general. I consider any indigenous vegetation clearance within a wetland environment needs to be carefully managed regardless of whether it has been identified as a SNA or not.
558. However, I am mindful of the NES for Freshwater, where in Section 54 vegetation clearance within a wetland, or within a 10m setback from a wetland is a non-complying activity. I do not think it is necessary to duplicate the NES provisions in this regard the PDP, as the NES prevails. On this basis I recommend the panel reject Waikato Regional Council's submissions [81.29] and [81.34], although I am aware that the NES was not even in draft format when the Regional Council made their submission on this matter.
559. The submissions from Raglan Naturally [831.88] and [831.89] seek to delete Rule 22.2.8 and 23.2.9 and to add provisions that will increase natural habitats. A further submission from Genesis Energy [FS/345.123] has opposed submission [831.88]. In my opinion the suite of provisions relating to offsetting will achieve what the submitter is seeking. I am also mindful of the discussions that occurred through the course of the recent Rural Zone hearing and the potential for a framework that encourages ecological enhancement in exchange for the creation of additional lots. I consider deleting the rules as suggested by the submitter would not give effect to the overarching policies that are managing indigenous biodiversity. The Proposed District Plan rules relating to SNAs are largely framed around managing adverse effects rather than encouraging positive effects, although positive outcomes are encouraged by enhancement subdivision. I recommend the panel reject Raglan Naturally's submissions [831.88] and [831.89].
560. Warwick Cheyne's submission [268.7] also seeks to delete Rule 22.2.8 P1 (a) (ii). I consider this approach is not appropriate as it will not give effect to the overarching policies that are

managing indigenous biodiversity nor the outcomes expressed in the objectives. I recommend the panel reject Warwick Cheyne's submission [268.7].

561. Ryburn Lagoon Trust Limited [747.9] is seeking to amend Rule 22.2.8 to provide for ecosystem protection, rehabilitation, or restoration. A similar scenario was discussed in paragraph 443-444 where it is recommended to include a new clause to provide for conservation activities (*...Means activities associated with indigenous habitat, wetlands and wildlife management and restoration that fundamentally benefit indigenous biodiversity...*). The additional clause would allow for all of these activities to occur. I recommend the panel accept in part Ryburn Lagoon Trust Limited's submission [747.9].
562. Ryburn Lagoon Trust Limited [747.5] seeks to amend Rule 22.2.8 to ensure the link in the rule takes the plan user to the correct definition. The submission also seeks an additional definition for indigenous vegetation clearance. I note the rule in the Proposed Plan shows a link to '*indigenous vegetation clearance*' of which there is no specific definition for this. The definition within the Proposed Plan for vegetation clearance is as follows;
- Vegetation clearance*
- Includes the modification, burning, cutting, crushing, spraying and removal by physical, mechanical, chemical or other means, of all forms of vegetation, including indigenous, and may include exotic plants. It does not include vegetation clearance relating to routine cultivation or grazing.*
563. In respect of this definition, it is generic in approach and simply reflects the activity of clearance as opposed to what is being cleared. However, I agree with the submitter that this is not clear in the rule and I suggest to the panel that a simple solution is for the hyperlink to only reflect '*vegetation clearance*' as this would still apply to indigenous vegetation. On this basis I recommend the panel accept in part the submission from Ryburn Lagoon Trust Limited [747.5].
564. Bob Carter [510.6] seeks to amend the heading in Rule 22.2.8 PI Indigenous vegetation clearance outside a SNA by adding the words '*Naturally occurring*'. The reasons provided for the amendment are that the Council should not be involved with planted vegetation that has been undertaken by a property owner, and that property owners should be able to remove if they create problems such as damage to drains and infrastructure. I do not consider the additional wording is required as Rule PI provides for the activities the submitter is referring to, however as I have discussed in Section 19 of this report, this submission has highlighted to me a much broader issue. In the meantime I recommend the panel reject Bob Carter [510.6]
565. The Dilworth Trust Board [577.6] is seeking to amend Rule 22.2.8 PI Indigenous vegetation clearance outside a SNA by adding an additional clause that provides for the stabilisation of the banks of a stream, river, or other water bodies. I consider that this would not be a district council's concern but rather fall under the jurisdiction of Waikato Regional Council as the activity will potentially have an effect on these water bodies. I recommend the panel reject the submission from the Dilworth Trust Board [577.6].

### 22.2.3 Recommendations

566. For the reasons above I recommend:
- a. **Reject** Andrew and Christine Gore [330.89] and [330.104], Russell Luders [273.11] and Francis and Susan Turton [706.8].
  - b. **Accept in part** Fonterra Limited [797.29] and Auckland Waikato Fish and Game Council [433.57].

- c. **Accept in part** Malibu Hamilton [553.25] and [553.29].
- d. **Reject** Waikato District Council [697. 887] and [697.792].
- e. **Accept in part** Waikato District Council [697.888]
- f. **Accept** Waikato Regional Council [81.30] and [81.35]. **Reject** Federated Farmers [FS1342.26].
- g. **Accept** Waikato District Council [697.795].
- h. **Accept in part** Waikato District Council [697.794].
- i. **Accept** Waikato Regional Council [81.29] and [81.34], and Department of Conservation [FS1293.14]. **Reject** Federated Farmers [FS1342.28] and [FS1342.25].
- j. **Reject** Raglan Naturally [831.88] and [831.89]. **Accept** Genesis Energy Limited [FS1345.123].
- k. **Accept in part** Ryburn Lagoon Trust Limited [747.9].
- l. **Accept in part** Ryburn Lagoon Trust Limited [747.5].
- m. **Reject** Lochiel Farmlands Limited [349.16].
- n. **Accept in part** Lochiel Farmlands Limited [349.17] to the extent that the permitted baseline for clearance is increased to 2000m<sup>2</sup>.
- o. **Reject** Lochiel Farmlands Limited [349.18], the Hill Country Farmers Group [482.3] and Tata Valley Limited [FS1340.82].
- p. **Reject** Lochiel Farmlands Limited [349.20].
- q. **Reject** Culverden Farm [481.8] and Gwenith Sophie Francis [394.15] and [394.23].
- r. **Accept in part** Stuart Chisnall on behalf of Estate of Alwynne McDonald Chisnall [257.3].
- s. **Accept in part** Steven and Theresa Stark [701.5].
- t. **Reject** Warwick Cheyne [268.7].
- u. **Reject** Bob Carter [510.6]
- v. **Reject** The Dilworth Trust Board [577.6].

#### 22.2.4 Recommended amendments

567. The following amendments are recommended:

#### Appendix 2: Criteria for Determining the Significance of Indigenous Biodiversity

Additional text to be added to Appendix 2: Criteria for Determining the Significance of Indigenous Biodiversity

*The Appendix does not apply to plantation forestry.*

#### Chapter 22: Rural Zone

Rule 22.2.8 Indigenous vegetation Clearance-outside a Significant Natural Area

22.2.8 Indigenous vegetation clearance –<sup>7</sup>–outside a Significant Natural Area

PI	<p>(a) 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:</p> <ul style="list-style-type: none"> <li>(i) Removing vegetation that endangers human life or existing buildings or structures;</li> <li>(ii) Maintaining existing tracks and fences;</li> <li>(iii) Maintaining existing farm drains;</li> <li>(iv) Conservation fencing to exclude stock or pests;</li> <li>(v) Gathering of plants in accordance with Maaori custom and values; or</li> <li>(vi) A building platform and associated access, parking and manoeuvring up to a total of 500m<sup>2</sup> clearance of indigenous vegetation <sup>8</sup><u>and there is no practicable alternative development area on the site outside of the area of indigenous vegetation clearance.</u></li> </ul>
<sup>9</sup> P2	<p><del>(b) 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> <ul style="list-style-type: none"> <li><del>(vii) Removing vegetation that endangers human life or existing buildings or structures;</del></li> <li><del>(viii) 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></li> <li><del>(ix) Maintaining existing tracks and fences;</del></li> <li><del>(x) Maintaining existing farm drains;</del></li> <li><del>(xi) Conservation fencing to exclude stock or pests; or</del></li> <li><del>(xii) Gathering of plants in accordance with Maaori custom and values.</del></li> </ul>
P3	<p>(b) On Maaori Freehold Land or Maaori Customary Land, the clearance of indigenous vegetation clearance outside a Significant Natural Area identified on the planning maps or in Schedule 30.5 (Urban Allotment Significant Natural Areas) must not exceed:</p> <ul style="list-style-type: none"> <li>(iv) 1500m<sup>2</sup> for a Marae complex including associated access, parking and manoeuvring;</li> <li>(v) 500m<sup>2</sup> per dwelling including associated access, parking and manoeuvring; and</li> <li>(vi) 500m<sup>2</sup> for a papakaainga building including associated access, parking and manoeuvring and <sup>10</sup><u>there is no practicable alternative development area on the site outside of the area of indigenous vegetation clearance.</u></li> </ul>
RDI	<p>(a) 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 of Rule 22.2.8 PI, <del>P2</del> or P3.</p> <p>(b) Council's discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> <li>(i) the extent to which the clearance will result in the fragmentation and isolation of indigenous ecosystems and habitats, including the loss of corridors or connections that link indigenous ecosystems and habitat and the loss of buffering of indigenous ecosystems;</li> <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>(iii) the extent to which cumulative effects have been considered and addressed;</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.</li> </ul>

<sup>8</sup> Waikato Regional Council [81.30] and [81.35]

<sup>9</sup> Waikato District Council [697.795]

<sup>10</sup> Waikato Regional Council [81.35]

## Chapter 23: Country Living Zone

### Rule 23.2.9 Indigenous vegetation clearance – outside a Significant Natural Area

#### 23.2.9 Indigenous vegetation clearance - outside a Significant Natural Area

P1	<p>(b) 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:</p> <ul style="list-style-type: none"> <li>(vii) removing vegetation that endangers human life or any existing building or structure;</li> <li>(viii) maintaining existing tracks and fences; or</li> <li>(ix) maintaining existing farm drains; or</li> <li>(x) conservation fencing to exclude stock or pests; or</li> <li>(xi) gathering of plants in accordance with Maaori customs and values; or</li> <li>(xii) a building platform and associated access, parking and manoeuvring up to a total of 500m<sup>2</sup> clearance of indigenous vegetation and <sup>11</sup><u>there is no practical alternative development area on the site outside of the area of indigenous vegetation clearance.</u></li> </ul>
P2	<p><del>(c) 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> <ul style="list-style-type: none"> <li><del>(xiii) removing vegetation that endangers human life or existing buildings or structures; or</del></li> <li><del>(xiv) 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; or</del></li> <li><del>(xv) maintaining existing tracks and fences; or</del></li> <li><del>(xvi) maintaining existing farm drains; or</del></li> <li><del>(xvii) conservation fencing to exclude stock or pests; or</del></li> <li><del>(xviii) gathering of plants in accordance with Maaori custom and values.</del></li> </ul>
P3	<p><del>(c) On Maaori Freehold Land or Maaori Customary Land, the clearance of indigenous vegetation clearance outside a Significant Natural Area identified on the planning maps or in Schedule 30.5 (Urban Allotment Significant Natural Areas) must not exceed:</del></p> <ul style="list-style-type: none"> <li><del>(vii) 1500m<sup>2</sup> for a marae complex including associated access, parking and manoeuvring; and</del></li> <li><del>(viii) 500m<sup>2</sup> per dwelling including associated access, parking and manoeuvring; and</del></li> <li><del>(ix) 500m<sup>2</sup> for a papakainga building including associated access, parking and manoeuvring.</del></li> </ul>
RDI	<p>(c) 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 Rule 21.2.9 P1, <del>P2 or P3.</del></p> <p>(d) Council's discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> <li>(vi) The extent to which the clearance will result in the fragmentation and isolation of indigenous ecosystems and habitats, including the loss of corridors or connections that link indigenous ecosystems and habitat and the loss of buffering of indigenous ecosystems;</li> <li>(vii) 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>(viii) The extent to which cumulative effects have been considered and addressed;</li> </ul>

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	<ul style="list-style-type: none"> <li>(ix) The extent to which the clearance affects Tangata Whenua relationships with indigenous biodiversity on the site;</li> <li>(x) 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.</li> </ul>
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### 23.2.8 Indigenous vegetation clearance inside a Significant Natural Area

P1	<ul style="list-style-type: none"> <li>(i) 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:</li> <li>(ii) Removing vegetation that endangers human life or any existing building or structure;</li> <li>(iii) Conservation fencing to exclude stock or pests;</li> <li>(iv) Maintaining existing farm drains;</li> <li>(v) Maintaining existing tracks and fences;</li> <li>(vi) Gathering plants in accordance with Maaori customs and values.</li> <li>(vii) 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;</li> </ul>
P2	Removal of up to 5m <sup>3</sup> of manuka and/or kanuka outside of the Coastal Environment per year 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.
P3	<ul style="list-style-type: none"> <li>(b) 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 the following conditions: <ul style="list-style-type: none"> <li>(ii) there is no alternative development area on the site outside the Significant Natural Area; and</li> <li>(iii) the total indigenous vegetation clearance does not exceed 250m<sup>2</sup>.</li> </ul> </li> </ul>
<del>P4</del>	<p><del>(d) 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) where:</del></p> <p><del>(v) There is no practical development area on the site outside the Significant Natural Area;</del></p> <p><del>(vi) The following total areas are not exceeded:</del></p> <p style="padding-left: 40px;"><del>G. 1500m<sup>2</sup> for a marae complex, including areas associated with access parking and manoeuvring; and</del></p> <p style="padding-left: 40px;"><del>H. 500m<sup>2</sup> per dwelling, including areas associated with access parking and manoeuvring; and</del></p> <p style="padding-left: 40px;"><del>I. 500m<sup>2</sup> for a papakainga building including areas associated with access parking and manoeuvring.</del></p>
<del>P5</del>	<p><del>(e) 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></p> <p><del>(vi) Removing vegetation that endangers human life or existing buildings or structures;</del></p> <p style="padding-left: 40px;"><del>or</del></p> <p><del>(vii) Conservation fencing to exclude stock or pests; or</del></p> <p><del>(viii) Maintaining existing farm drains; or</del></p> <p><del>(ix) Maintaining existing tracks and fences; or</del></p> <p><del>(x) Gathering plants in accordance with Maaori customs and values.</del></p>

P6	<del>Removal of up to 5m<sup>3</sup> of manuka and/or kanuka outside of the Coastal Environment per year 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>
DI	Indigenous vegetation clearance in a Significant Natural Area identified on the planning maps or in Schedule 30.5 (Urban Allotment Significant Natural Areas) that does not comply with Rule 23.2.8 P1, P2, P3, <del>P4, P5</del> or P6.

### 22.2.5 Section 32AA evaluation

568. The deleting of Rule 22.2.8 P2 is that the rule is no required as there has been an amendment made to Rule 22.2.8 P1(a)(vii) which covers these provisions. Accordingly, no s32AA evaluation is required.
569. The additional text into Appendix 2: Criteria for Determining the Significance of Indigenous Biodiversity is to exclude Forestry Plantation from been captured by the criteria.
570. The addition to clause (vii) in relation to clearance of vegetation for a building development is to ensure that the clearance occurs only if there is no alternative area.
571. The deletion of Rule 23.2.8 P4 and P5 Indigenous Vegetation Clearance inside a SNA and 23.2.9 P2 and P3 Indigenous vegetation clearance -outside a SNA are in relation to Maaori Freehold/Customary Land. I consider these were included in the Country Living Zone in error as there is no Maaori Freehold Land in this zone nor are there any permitted activity rules in relation to Marae Complex or Papakaainga. Accordingly, no section 32aa evaluation is required.
572. The amendments to the restricted discretionary rule and discretionary rule are a consequence of the deletion of the Rules. Accordingly, no s32AA evaluation has been required.

#### *Other reasonably-practicable options*

573. In respect of the additional text the Appendix 2 Criteria for Determining the Significance of Indigenous Biodiversity, one option is to retain the Appendix as notified, the other is to include the additional text so the Appendix does not apply to areas that have been planted for Forestry Plantation.
574. In respect of the addition to clause (vii) in relation to clearance of vegetation for a building development, one option is to retain the rule as notified. The other is to have provisions that ensure that indigenous vegetation is only removed if necessary.

#### *Effectiveness and efficiency*

575. The recommended exclusion of plantation forestry from Appendix 2 Criteria for Determining the Significance of Indigenous Biodiversity will enable the forestry industry to have surety of being able to undertake harvesting in accordance with the National Environmental Standard for Plantation Forestry without the encumbrance of having the area identified as a significant natural area.
576. The amendment would help support the overarching goal of the Regional Policy Statement in Section 11 Indigenous Biodiversity and working towards no net loss of biodiversity, while still allowing a practical approach to clearance.

#### *Costs and benefits*

577. There are benefits to the forestry industry, as it will be clear that the activities associated with plantation forestry can be undertaken. There may be perceived costs to indigenous

vegetation, however I consider that as it was always expected that an area that has been planted for the purpose of plantation forestry would inevitably be cleared and subsequently, that any indigenous vegetation that may have grown underneath the harvest crop would be cleared as well. The NES-PF has a permitted activity for indigenous vegetation clearance unless it is in a SNA. The additional text in Appendix 2 will ensure that the activity can occur. Other benefits are clearer guidance to plan users regarding the interaction between plantation forestry and indigenous vegetation.

578. There are benefits to the environment where the amendment would allow a considered approach to when the activity of clearance for the purposes of building development can only occur if there is no practical alternative. This will encourage development to be undertaken away from the vegetation but still allow assessment of the activity in areas that may have topographical restraints or are completely covered in bush.

*Risk of acting or not acting*

579. The risk of not acting is to prevent the forestry industry from being able to carry out an activity that was established under a National Environmental Standard. There is sufficient information on the costs to the environment, and benefits to people and communities to justify the amendment to the policy. There is wider benefit to the local and regional community when managing the way indigenous vegetation clearance occurs.
580. The risk of not acting, in relation to the amendment to allow for clearance of vegetation for building development only if there is no practical alternative, would be that indigenous vegetation could be removed without due consideration.

*Decision about most appropriate option*

581. The amendment in regard to Appendix 2 Criteria for Determining the Significance of Indigenous Biodiversity supports the NES-PF as it will allow plantation forestry to take place without the encumbrance of a forestry block inadvertently being deemed a SNA. It is considered to be more appropriate in achieving the purpose of the RMA than the notified version.
582. The amendments regarding Rule 22.2.8 and 23.2.9 Indigenous vegetation clearance, clause (vii), are considered more appropriate for giving effect to the policies in Chapter 3: Natural Environment and therefore the Objective for Indigenous Biodiversity than the notified version, and the policies in Section 11 of the Regional Policy Statement, and therefore giving effect to the Act than the notified version.
583. The amendment to the Rule is considered more appropriate than the notified version when meeting the Chapter 5: Rural Environment Objective 5.1.1 and Objective 5.2.1 Rural Resources, and therefore more appropriately achieves the purpose of the Act.

### **22.3 P3 Indigenous vegetation clearance outside a Significant Natural Area on Maaori land**

584. Two primary submissions were received where amendment of the activity status is sought.
585. The rule provides for the development of marae and papakaainga on Maaori owned land and is consistent across the zones. The rule enables a fixed amount of vegetation clearance for three purposes:
- a) Marae complex;
  - b) Dwelling including; and

c) Papakaainga building.

586. The levels of clearance apply not just to the building but also to associated access, parking and manoeuvring.

### 22.3.1 Submissions

Submission point	Submitter	Decision requested
81.31	Waikato Regional Council	Amend Rule 22.2.8 P3 Indigenous vegetation clearance outside a Significant Natural Area to provide a total cap on clearance, after which a consent for a restricted discretionary activity is required.
<i>FS1342.27</i>	<i>Federated Farmers</i>	<i>Opposes 81.31</i>
<i>FS1315.13</i>	<i>Lochiel Farmlands Limited</i>	<i>Supports 81.31</i>
81.36	Waikato Regional Council	Amend Rule 23.2.9 P3 Indigenous vegetation clearance outside a Significant Natural Area to provide a total cap on clearance, after which a consent for a restricted discretionary activity is required.

### 22.3.2 Analysis

587. The submissions from Waikato Regional Council [81.31] and [81.36] seek to amend Rule 22.2.8 P3 which relates to Maaori Freehold or Customary Lands to provide a total cap on clearance, after which a consent for a restricted discretionary activity is required. The further submission from Federated Farmers [FS1342.27] has opposed the submission and Lochiel Farmlands Limited [FS1315.13] has supported the submission. This type of land tenure was discussed previously in the report. The rules managing indigenous vegetation clearance on Maaori Freehold or Customary Lands have been included in the Proposed Plan specifically to address one of the many restraints that are prevalent for this land tenure (this mainly being multiple owners). The clearance amounts as a permitted activity are to enable a specific purpose such as marae and papakaainga.

588. The approach to enabling development of Maaori land is a balancing of the various requirements in section 6 of the RMA. Section (e) requires recognition and provisions for the relationship of Maaori and their culture and traditions with their ancestral lands, while section 6(c) requires the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna. The permitted clearance of a specified amount of indigenous vegetation acknowledges the importance of enabling marae, and papakaainga development. This is also reflected in the Regional Policy Statement in Objective 3.12 and Policy 6.4 Marae and Papakaainga, where there is a requirement to recognise their importance and to provide for their ongoing use and development. On this basis, I recommend the panel reject Waikato Regional Council [81.31] and [81.36].

### 22.3.3 Recommendations

589. For the reasons above I recommend:

- a. **Reject** Waikato Regional Council [81.31] and [81.36].
- b. **Accept** Federated Farmers [FS1342.27].
- c. **Reject** Lochiel Farmlands Limited [FS1315.13].

### 22.3.4 Recommended amendments

590. There are no amendments in response to the submissions.

## 22.4 RDI Restricted Discretionary Activity Indigenous vegetation clearance Outside a Significant Natural Area

591. Seven primary submissions were received. Generally, the submissions are seeking amendment of the rule for administrative reasons or to add an additional clause in relation to offsetting.

592. The restricted discretionary rule is to ensure that any effects generated over the permitted standards are managed.

### 22.4.1 Submissions

Submission point	Submitter	Decision requested
81.32	Waikato Regional Council	Retain Rule 22.2.8 RDI Indigenous vegetation clearance outside a Significant Natural Area for where the permitted thresholds become a restricted discretionary activity.
<i>FS1315.14</i>	<i>Lochiel Farmlands Limited</i>	<i>Supports 81.32</i>
81.33	Waikato Regional Council	Add an additional assessment criteria to Rule 22.2.8 RDI Indigenous vegetation clearance outside a Significant Natural Area as follows: <i>the extent to which adverse effects have been avoided, remedied, mitigated or offset.</i>
<i>FS1340.9</i>	<i>TaTa Valley Limited</i>	<i>Opposes 81.33</i>
<i>FS1315.15</i>	<i>Lochiel Farmlands Limited</i>	<i>Supports 81.33</i>
<i>FS1345.86</i>	<i>Genesis Energy Limited</i>	<i>Opposes 81.33</i>
680.217	Federated Farmers of New Zealand	Amend Rule 22.2.8 RDI (b) (iv) Indigenous vegetation clearance outside a Significant Natural Area, as follows: <i>(iv) the extent to which <u>the clearance on Maaori Freehold Land or Maaori Customary Land</u> affects Tangata Whenua relationships with indigenous biodiversity on the site;</i> AND Any consequential changes needed to give effect to this relief. AND Any consequential amendments to Chapter 23: Country Living Zone to address areas of existing farmland zoned as Country Living Zone.
<i>FS1108.74</i>	<i>Te Whakakitenga o Waikato Incorporated (Waikato-Tainui)</i>	<i>Opposes 680.217</i>
<i>FS1139.65</i>	<i>Turangawaewae Trust Board</i>	<i>Opposes 680.217</i>
697.796	Waikato District Council	Amend Rule 22.2.8 RDI Indigenous vegetation clearance outside a Significant Natural Area, as follows: <i>(a) Indigenous Vegetation clearance outside a Significant Natural Area identified on the planning maps or in Schedule</i>

		<p>30.5 (Urban Allotment Significant Natural Areas) that does not comply with one or more conditions of Rule 22.2.8 P1, <del>or P2 or P3.</del></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> <p>(ii) the extent to which the clearance will result in loss, damage or disruption to ecological processes, functions and ecological integrity, including ecosystem services;</p> <p>(iii) <del>the extent to which</del> cumulative effects <u>of the vegetation clearance have been considered and addressed;</u></p> <p>(iv) the extent to which the clearance affects Tangata Whenua relationships with indigenous biodiversity on the site;</p> <p>(v) the extent to which the indigenous biodiversity contributes to natural character and landscape values, including: <del>in</del></p> <p><u>A.</u> areas of outstanding natural character,  <u>B.</u> outstanding natural features,  <u>C.</u> outstanding natural landscapes; and  <u>D.</u> significant amenity landscapes.</p>
FS1340.135	TaTa Valley Limited	Supports 697.796
81.38	Waikato Regional Council	Add an additional assessment criteria to Rule 23.2.9 RDI Indigenous vegetation clearance outside a Significant Natural Area as follows: <i>the extent to which adverse effects have been avoided, remedied, mitigated or offset.</i>
81.37	Waikato Regional Council	Retain Rule 23.2.9 RDI Indigenous vegetation clearance outside a Significant Natural Area with the permitted thresholds becoming a restricted discretionary activity.
697.889	Waikato District Council	Amend Rule 23.2.9 RDI (b) (iii) Indigenous vegetation clearance - outside a Significant Natural Area, as follows: (iii) <del>The extent to which</del> cumulative effects <u>of the vegetation clearance have been considered and addressed;</u>

## 22.4.2 Analysis

593. Submissions from Waikato Regional Council [81.32] and [81.37] seek to retain Rule 22.2.8 and 23.2.9 RDI Indigenous vegetation clearance outside SNA and Waikato Regional Council's submissions [81.33] and [81.38] seek to amend the rule to include an addition matter of discretion, being *the extent to which adverse effects have been avoided, remedied, mitigated or offset.* Further submitters TaTa Valley [FS1340.9] and Genesis Energy Limited [FS1345.86] has opposed the submission [81.33] and Lochiel Farmlands Limited [FS1315.15] has supported the submissions. The wording requested is consistent with RPS Policy 11.1.3. and TaTa Valley Limited has opposed this for the reason that the RPS only requires that district plans 'promote' offsetting if significant adverse effects are unable to be avoided, remedied, or mitigated. Given that I have recommended including offsetting in polices for indigenous vegetation that is not significant, I can see value in the additional clause. However, I also see the point that TaTa

Valley has made and suggest the additional clause also includes reference to ‘significant residual effects’ I also consider that as the clause starts with ‘the extent’ the suggested wording would read as follows:

(xx) The extent to which adverse effects have been avoided, remedied, mitigated, or if this is unable to be achieved, the extent of offsetting of significant residual adverse effects

594. The further submission from Genesis Energy Limited supports the submission but considers environmental compensation should be included alongside offsetting. Although I have recommended environmental compensation be included into the policy framework, I have included it as a last option and do not think it appropriate for an assessment criterion. On this basis I recommend the panel accept in part the submissions from Waikato Regional Council [81.32] [81.37], [81.33] and [81.38].
595. Federated Farmers [680.217] is seeking to amend clause (iv) to only apply to Maaori owned land. Further submissions from Waikato Tainui [FS1/08.74] and Turangawaewae Trust Board [FS1/39.65] have opposed the submission. The WRPS requires under Objective 3.9 that the relationship of tangata whenua with the environment is recognised and provided for. This is then supported by Policy 11.1 Maintain or enhance indigenous biodiversity (h) Tangata whenua relationships with indigenous biodiversity including their holistic view of ecosystems and the environment. In my view the assessment criteria should be considered for all land, and not just Maaori Freehold/Customary Land, as this is the most appropriate method to give effect to the WRPS. On this basis I recommend the panel reject Federated Farmers’ submission [680.217].
596. Waikato District Council [697.796] seeks to amend Rule 22.2.8 RDI Indigenous vegetation clearance outside SNA by deleting part of clause (b) (i) about corridors or connections that link indigenous ecosystems and habitats. This will ensure the intent of the rule is correct. Further submitter TaTa Valley Limited [FS/340.135] has supported the submission. As well, WDC seeks administrative changes to correct the wording in clause (iii) to refer to the cumulative effects of vegetation clearance rather than the extent. I consider these amendments will improve the clarity of the plan for plan users. In a similar submission Waikato District Council [697.889] seeks to amend clause (b) (iii) of Rule 23.2.9 RDI Indigenous vegetation clearance – outside a Significant Natural Area, as follows:
- (iii) The ~~extent to which~~ cumulative effects of the vegetation clearance have been considered and addressed;
597. The matters of discretion would then read as follows;
- (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 of Rule 22.2.8 P1–P3.
- (b) Council's discretion is restricted to the following matters:
- (i) the extent to which the clearance will result in the fragmentation and isolation of indigenous ecosystems and habitats; ~~including the loss of corridors or connections that link indigenous ecosystems and habitat and the loss of buffering of indigenous ecosystems;~~
- (ii) the extent to which the clearance will result in loss, damage or disruption to ecological processes, functions and ecological integrity, including ecosystem services;

(iii) ~~the extent to which~~ cumulative effects of the vegetation clearance have been considered and addressed;

598. As I have made recommendations to amend other aspects of the rule in response to other submissions, I recommend the panel accept in part Waikato District Council's submission [697.796].

599. In my consideration of the submissions, I realised it is not clear what the activity status would be for clearance of vegetation for any other reason other than those listed in P1–P3 such as the creation of new tracks, or clearance to create additional productive pasture. I consider this could be remedied by adding a restricted discretionary activity as follows:

RD2	Indigenous vegetation clearance outside a Significant Natural Area for any reason not specified in P1–P3.
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### 22.4.3 Recommendations

600. For the reasons above I recommend:

- a. **Accept in part** Waikato Regional Council [81.32] and [81.37].
- b. **Accept in part** Waikato Regional Council [81.33] and [81.38]. **Accept in part** TaTa Valley [FS/340.9] and Genesis Energy Limited [FS/345.86] and Lochiel Farmlands Limited [FS/315.15].
- c. **Reject** Federated Farmers [680.217].
- d. **Accept** Waikato Tainui [FS/108.74] and Turangawaewae Trust Board [FS/139.65].
- e. **Accept in part** Waikato District Council [697.796] and TaTa Valley Limited [FS/340.135].
- f. **Accept in part** Waikato District Council [697.889].

### 22.4.4 Recommended amendments

601. The following amendments are recommended:

#### Rule 22.2.8 RDI

RDI	<p>(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 of Rule 22.2.8 P1, <u>or P2 or P3.</u></p> <p>(b) Council's discretion is restricted to the following matters:</p> <ol style="list-style-type: none"> <li><sup>12</sup>(i) <del>the extent to which the clearance will result in the fragmentation and isolation of indigenous ecosystems and habitats; including the loss of corridors or connections that link indigenous ecosystems and habitat and the loss of buffering of indigenous ecosystems;</del></li> <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>(iii) <del>the extent to which</del> cumulative effects <u>of the vegetation clearance have been considered and addressed</u></li> <li>(iv) the extent to which the clearance affects Tangata Whenua relationships with indigenous biodiversity on the site;</li> </ol>
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<sup>12</sup> Waikato District Council [697.796]

	<p>(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.</p> <p><u>(vi) <sup>13</sup>The extent to which adverse effects have been avoided, remedied or mitigated, or if this is unable to be achieved, the extent of offsetting on significant residual adverse effects.</u></p>
<u>RD2</u>	<p>Indigenous vegetation clearance outside a Significant Natural Area for any reason not specified in PI–P3</p> <p>(b) Council's discretion is restricted to the following matters:</p> <p><sup>14</sup>(i) the extent to which the clearance will result in the fragmentation and isolation of indigenous ecosystems and habitats;</p> <p>(ii) the extent to which the clearance will result in loss, damage or disruption to ecological processes, functions and ecological integrity, including ecosystem services;</p> <p>(iii) the cumulative effects of the vegetation clearance;</p> <p>(iv) the extent to which the clearance affects Tangata Whenua relationships with indigenous biodiversity on the site;</p> <p>(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.</p> <p>(vi) <sup>15</sup>The extent to which adverse effects have been avoided, remedied or mitigated or, if this is unable to be achieved, the extent of offsetting on significant residual adverse effects.</p>

#### Rule 23.2.9

RDI	<p>(a) 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 Rule 21.2.9 PI, P2 or P3.</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, including the loss of corridors or connections that link indigenous ecosystems and habitat and the loss of buffering of indigenous ecosystems;</p> <p>(ii) The extent to which the clearance will result in loss, damage or disruption to ecological processes, functions and ecological integrity, including ecosystem services;</p> <p>(iii) <sup>16</sup>The <del>extent to which</del> cumulative effects <u>of the vegetation clearance have been considered and addressed</u>;</p> <p>(iv) The extent to which the clearance affects Tangata Whenua relationships with indigenous biodiversity on the site;</p> <p>(v) The extent to which the indigenous biodiversity contributes to natural character and landscape values, including in areas of outstanding natural character,</p>
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<sup>13</sup> Waikato Regional Council [81.33],[81.38]

<sup>14</sup> Waikato District Council [697.796]

<sup>15</sup> Waikato Regional Council [81.33],[81.38]

<sup>16</sup> Waikato District Council [697.889]

	<p>outstanding natural features, outstanding natural landscapes and significant amenity landscapes.</p> <p><u>(vi) The extent to which adverse effects have been avoided, remedied or mitigated or, if this is unable to be achieved, the extent of offsetting on significant residual adverse effects.</u></p>
RD2	<p>Indigenous vegetation clearance outside a Significant Natural Area for any reason not specified in PI-P3</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;</p> <p>(ii) the extent to which the clearance will result in loss, damage or disruption to ecological processes, functions and ecological integrity, including ecosystem services;</p> <p>(iii) the cumulative effects of the vegetation clearance;</p> <p>(iv) the extent to which the clearance affects Tangata Whenua relationships with indigenous biodiversity on the site;</p> <p>(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.</p> <p>(vi) The extent to which adverse effects have been avoided, remedied or mitigated or, if this is unable to be achieved, the extent of offsetting on significant residual adverse effects.</p>

#### 22.4.5 Section 32AA evaluation

602. The recommended changes to the rule by deleting the reference to corridors or connections improves the clarity of the plan as these aspects are already alluded to in the matters of discretion. As the amendments are administrative no s32AA has been required.

603. The recommended inclusion of an additional clause ensures that biodiversity offsetting is considered.

##### *Other reasonably-practicable options*

604. There are two options for consideration – one option is to retain the rule as notified and the other is to enable biodiversity offsetting as a means of mitigation, where appropriate.

##### *Effectiveness and efficiency*

605. The recommended changes to the rule are the most appropriate way to give effect to the objectives in relation to biodiversity offsetting within the Proposed Plan.

606. There will be additional costs when undertaking indigenous vegetation clearance, however the recommended amendment is relatively minor, as the requirement is only to enable offsetting where there are significant residual adverse effects. There are benefits for the environment with the revised rule as it is clearer about how the effects will be managed. Other benefits are clearer guidance to plan users regarding the effects of vegetation clearance.

##### *Risk of acting or not acting*

607. The risks in not acting are that biodiversity offsetting may not occur. There is sufficient information on the costs to the environment, and benefits to people and communities to justify the amendment to the rule.

*Decision about most appropriate option*

608. The recommend amendment gives effect to the policies in relation to indigenous biodiversity and therefore Objective 3.1. It is considered to be more appropriate in achieving the purpose of the RMA than the notified version.

## 23 New permitted activity

609. One submission was received, seeking to add a new rule.

Submission point	Submitter	Decision requested
591.4	Stevenson Waikato Ltd	Add a new permitted activity rule within Rule 22.2.8 Indigenous vegetation clearance outside a Significant Natural Area, as follows: <i>P4 Indigenous Vegetation clearance for extractive industry within the Aggregate Extraction Areas and Aggregate Resource Areas shown on the planning maps.</i>
<i>FS1377.175</i>	<i>Havelock Village Limited</i>	<i>Supports 591.4</i>
<i>FS1146.17</i>	<i>Gleeson Quarries Huntly Limited</i>	<i>Supports 591.4</i>
<i>FS1319.18</i>	<i>New Zealand Steel Holdings Limited</i>	<i>Supports 591.4</i>

### 23.1 Analysis

610. The submission from Stevenson Waikato Ltd [591.4] is seeking to add a new permitted activity rule within Rule 22.2.8 Indigenous vegetation clearance outside a SNA that will allow for clearance of indigenous vegetation within the aggregate extraction policy areas. Further submissions from Havelock Village Limited [FS1377.175], Gleeson Quarries Huntly Limited [FS1146.17] and New Zealand Steel Holdings Limited [FS1319.18] have supported the submission. I consider the approach as suggested would not give effect to the Waikato Regional Policy Statement policies regarding indigenous biodiversity. However, I am mindful of RPS Policy 6.8 Access to minerals and Policy 6.8.2 Plan provisions, where district plans shall include provisions to protect, as appropriate access to significant mineral resources. I believe there should be acknowledgment in Rule 22.2.8 for the extractive industry, however this needs to be considered carefully to ensure that adverse effects on indigenous vegetation are managed. Given that the plan acknowledges productive pasture as a resource it seems reasonable that aggregate should be seen in a similar way, in that it is a resource for use. Policy 6.8.2 seeks to protect access as appropriate. I suggest that the cap of 2000m<sup>2</sup> which is the area that has been recommended for the removal of kanuka and manuka to enable the maintenance of pasture would be appropriate, and that anything over this amount would then require a consent where mitigation measures such as offsetting could be considered, where appropriate. I suggest adding to the rule as follows:

*P1 (a) (viii) Access to minerals within the Aggregate Extraction Areas through the removal of up to 2000m<sup>2</sup> in a single consecutive 12-month period per record of title*

611. On this basis, I recommend the panel accept in part the submission from Stevenson Waikato Ltd [591.4].

## 23.2 Recommendations

612. For the reasons above I recommend:

- a. **Accept in part** Stevenson Waikato Ltd [591.4], Havelock Village Limited [FS1377.175], Gleeson Quarries Huntly Limited [FS1146.17] and New Zealand Steel Holdings Limited [FS1319.18].

## 23.3 Recommended amendments

613. The following amendments are recommended:

Rule 22.2.8 Indigenous vegetation clearance outside a SNA

PI	<p>(a) 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:</p> <p>(i) Removing vegetation that endangers human life or existing buildings or structures;</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>(iii) Maintaining existing tracks and fences;</p> <p>(iv) Maintaining existing farm drains;</p> <p>(v) Conservation fencing to exclude stock or pests;</p> <p>(vi) Gathering of plants in accordance with Maaori custom and values;</p> <p>(vii) A building platform and associated access, parking and manoeuvring up to a total of 500m<sup>2</sup> clearance of indigenous vegetation; or</p> <p><del>(viii) In the Aggregate Extraction Areas, a maximum of 2000m<sup>2</sup> in a single consecutive 12 month period per record of title</del></p>
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## 23.4 Section 32AA evaluation

614. The recommended changes to the rule will recognise that indigenous vegetation removal is required at times in order to access minerals within the Aggregate Extraction Area.

*Other reasonably-practicable options*

615. One option is to retain the rule as notified where there is no permitted activity for any amount of clearance for the extractive industry. This would mean the activity would be captured as a restricted discretionary activity in the event that the clearance of indigenous vegetation is required. Another option would be to have no limits in indigenous vegetation clearance for extraction industries. Another option is to provide for a limited amount of clearance like that provided for pasture maintenance.

*Effectiveness and efficiency*

616. The recommended amendments to the rule provide for a limited amount of indigenous vegetation. The amendments improve the effectiveness of the rule in implementing Objective 5.4.1 – Minerals and Extractive Industries, and provide suitable guidance to plan users for the assessment of activities that affect the natural values and management of the indigenous biodiversity.

*Costs and benefits*

617. There will be additional costs to the environment regarding indigenous vegetation, in that some clearance will be afforded to the industry. However, there are benefits for the aggregate

industry as the revised rule will allow a limited amount of clearance to occur, which will acknowledge the Objectives in the Proposed Plan relating to minerals and extractive industries.

*Risk of acting or not acting*

618. The risks of not acting are that the aggregate industry will need to undergo a consenting process for any amount of clearance. There is sufficient information on the costs to the environment, and benefits to people and communities to justify the amendment to the rule.

*Decision about most appropriate option*

619. The recommended amendment to the rule gives effect to the policies in relation to indigenous biodiversity and the minerals and extractive industries. It is considered to be more appropriate in achieving the purpose of the RMA than the notified version.

## 24 Land use – New rules

620. Three primary submissions were received which seek to add new rules.

### 24.1 Submissions

Submission point	Submitter	Decision requested
831.48	Gabrielle Parson on behalf of Raglan Naturally	Add new rules that read as follows: <u>In a significant indigenous vegetation or habitat area the following are discretionary activities:</u> <ul style="list-style-type: none"> <li>• <u>Cultivation</u></li> <li>• <u>Spreading soil or other material (including fertilizer or lime) in excess of existing routine application rates</u></li> <li>• <u>Drainage works, apart from routine maintenance</u></li> <li>• <u>Land reclamation from estuary or other wetlands</u></li> <li>• <u>Modifications to watercourses apart from routine maintenance</u></li> <li>• <u>Flood defences</u></li> <li>• <u>Infilling ditches, ponds, pits, pools, marshes or historic earthwork features</u></li> <li>• <u>Clearing vegetation or land (by physical removal, burning, application of herbicides, or deliberate overgrazing, tramping, or rooting by livestock) in preparation for cultivation</u></li> <li>• <u>Introducing livestock (including poultry) at intensive stocking rates, or increasing stocking rates to intensive levels.</u></li> </ul>
FS1342.240	Federated Farmers	Opposes 831.48
FS1345.121	Genesis Energy Limited	Opposes 831.48
825.1	John Lawson	Add areas of Significant Indigenous vegetation or habitat by use of LENZ and in consultation with conservation and environment groups. AND Add rules for significant indigenous vegetation and habitat

		<p>as follows:<u>In a significant indigenous vegetation or habitat area the following are discretionary activities:-</u></p> <ul style="list-style-type: none"> <li>• <u>Cultivation.</u></li> <li>• <u>Spreading soil or other material (including fertilizer or lime) in excess of existing routine application rates.</u></li> <li>• <u>Drainage works, apart from routine maintenance.</u></li> <li>• <u>Land reclamation from estuary or other wetlands.</u></li> <li>• <u>Modifications to watercourses apart from routine maintenance.</u></li> <li>• <u>Flood defences.</u></li> <li>• <u>Infilling ditches, ponds, pits, pools, marshes or historic earthwork features.</u></li> <li>• <u>Clearing vegetation or land (by physical removal, burning, application of herbicides, or deliberate overgrazing, trampling, or rooting by livestock) in preparation for cultivation.</u></li> <li>• <u>Introducing livestock (including poultry) at intensive stocking rates, or increasing stocking rates to intensive levels.</u></li> </ul>
FS1387.1310	Mercury NZ Limited for Mercury D	Opposes 825.1
780.1	Whaingaroa Environmental Defence Incorporated Society	<p>Add areas of Significant indigenous vegetation or habitat through the use of LENZ and in consultation with conservation and environment groups. AND Add rules for Significant indigenous vegetation and habitat as follows:<u>In a significant indigenous vegetation or habitat area the following are discretionary activities:-</u></p> <ul style="list-style-type: none"> <li>• <u>Cultivation.</u></li> <li>• <u>Spreading soil or other material (including fertilizer or lime) in excess of existing routine application rates.</u></li> <li>• <u>Drainage works, apart from routine maintenance.</u></li> <li>• <u>Land reclamation from estuary or other wetlands.</u></li> <li>• <u>Modifications to watercourses apart from routine maintenance.</u></li> <li>• <u>Flood defences.</u></li> <li>• <u>Infilling ditches, ponds, pits, pools, marshes or historic earthwork features.</u></li> <li>• <u>Clearing vegetation or land (by physical removal, burning, application of herbicides, or deliberate overgrazing, trampling, or rooting by livestock) in preparation for cultivation.</u></li> <li>• <u>Introducing livestock (including poultry) at intensive stocking rates, or increasing stocking rates to intensive levels.</u></li> </ul>
FS1342.210	Federated Farmers	Opposes 780.1

<i>FS1198.34</i>	<i>Bathurst Resources Limited and BT Mining Limited</i>	<i>Opposes 780.1</i>
<i>FS1387.1188</i>	<i>Mercury NZ Limited for Mercury D</i>	<i>Opposes 780.1</i>

## 24.2 Analysis

621. The submissions from Raglan Naturally [831.48], John Lawson [825.1] and the Whaingaroa Environmental Defence Incorporated Society [780.1] have sought to include a new discretionary activity rule that incorporates various activities. All the further submissions opposed these primary submissions. The first part of these submissions seeks to add SNAs using LENZ and in consultation with conservation and environment groups. LENZ is the Land Environments of New Zealand and is an environmental classification of New Zealand's terrestrial environments that assists biodiversity conservation throughout New Zealand. The Waikato Regional Policy Statement is clear in its direction to identify areas of significant indigenous biodiversity that meet one or more of the criteria identified in Table 11A Criteria for determining significance of indigenous biodiversity. This is the criteria that has been determined to be used throughout the region.
622. In respect of the latter part of these submissions where the submitters are seeking various activities to have a discretionary activity status, in my opinion they are not all activities that a district plan has the jurisdiction to manage. Some listed are either a regional council concern or in the instance of cultivation, a farming practice. I consider it is more appropriate to manage the SNA resource through identifying appropriate activities and levels of clearance, rather than identifying all activities that require a consent. On this basis I recommend the panel reject the submissions from Raglan Naturally [831.48], John Lawson [825.1] and the Whaingaroa Environmental Defence Incorporated Society [780.1].

## 24.3 Recommendations

623. For the reasons above I recommend:
- a. **Reject** Raglan Naturally [831.48], John Lawson [825.1] and the Whaingaroa Environmental Defence Incorporated Society [780.1].
  - b. **Accept** Federated Farmers [FS1342.240], Genesis Energy Limited [FS1345.121], Mercury Energy Limited [FS1387.1310], Federated Farmers [FS1342.210], Bathurst Resources Limited and BT Mining Limited [FS1198.34] and Mercury Energy Limited [FS1387.1188].

## 24.4 Recommended amendments

624. There are no changes recommended in response to the submissions.

## 25 General submissions

625. Eighteen primary submissions were received which address the rules for SNAs more generally. These submissions generally relate to amending the Proposed Plan in relation to mapping, forestry, development and indigenous habitats.

## 25.1 Submissions

Submission point	Submitter	Decision requested
481.16	Culverden Farms	Amend the rules relating to Significant Natural Areas and Significant Amenity Landscapes to better enable existing practices for activities which are usual and expected in the Rural Zone.
585.8	Department of Conservation	Amend the forestry provisions in the Proposed District Plan to afford greater protection to indigenous vegetation and Significant Natural Areas within or adjacent to plantation forestry.
<i>FSI342.152</i>	<i>Federated Farmers</i>	<i>Opposes 585.8</i>
66.1	First Rock Consultancy Ltd	Amend the approach to identifying Significant Natural Areas to allow any land owner to challenge the designation of a Significant Natural Area until a physical audit of the area has been carried out by a specified panel and confirmed that the designation is appropriate.
<i>FSI062.3</i>	<i>Andrew and Christine Gore</i>	<i>Supports 66.1</i>
<i>FSI340.2</i>	<i>TaTa Valley Limited</i>	<i>Supports 66.1</i>
771.8	Bathurst Resources Ltd and BT Mining Ltd	Amend the Proposed District Plan to ensure that where an activity is regionally significant and cannot be located other than where it is proposed, provisions for offsets should be considered as mitigation for adverse effects on areas of Significant Natural Areas which cannot be avoided. AND Any consequential amendments necessary to address the matters raised in the submission.
746.151	The Surveying Company	No specific decision sought, but the submission supports the incentivisation of legally and physically protecting Significant Natural Area and other areas of existing biodiversity which offers positive benefits for the Region.
574.20	TaTa Valley Limited	Amend Section 3.2 Significant Natural Areas and associated rules, to provide for greater flexibility and to enable development subject to appropriate mitigation or offsetting. AND Any consequential amendments and other relief to give effect to the matters raised in the submission.
<i>FSI369.16</i>	<i>Ngati Tamaoho Trust</i>	<i>Opposes 574.20</i>
<i>FSI301.62</i>	<i>New Zealand Health Food Park Limited</i>	<i>Supports 574.20</i>
<i>FSI303.62</i>	<i>Charlie Harris</i>	<i>Supports 574.20</i>
831.1	Raglan Naturally	Add areas of significant indigenous vegetation or habitats and rules in consultation with LENZ and environmental groups.
<i>FSI342.235</i>	<i>Federated Farmers of New Zealand</i>	<i>Oppose</i>

825.52	John Lawson	Add areas of Significant Indigenous vegetation or habitat by use of LENZ and in consolidation with conservation and environment groups.
845.2	Grace M Wilcock	Add to the text that the Tamahere gully systems are an ecological corridor.
330.2	Andrew and Christine Gore	Retain the provisions restoring and enhancing the gully systems throughout the Waikato Region.
48.2	Beverley Bell	Add a rule to require fencing of Significant Natural Areas to exclude stock.
<i>FSI 386.36</i>	<i>Mercury NZ Limited for Mercury C</i>	<i>Opposes 48.2</i>
<i>FSI 342.6</i>	<i>Federated Farmers</i>	<i>Supports 48.2</i>
81.28	Waikato Regional Council	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 in the planning maps.
<i>FSI 293.13</i>	<i>Department of Conservation</i>	<i>Supports 81.28</i>
<i>FSI 340.8</i>	<i>TaTa Valley Limited</i>	<i>Opposes 81.28</i>
<i>FSI 1062.7</i>	<i>Andrew and Christine Gore</i>	<i>Opposes 81.28</i>
<i>FSI 342.49</i>	<i>Federated Farmers</i>	<i>Supports 81.28</i>
55.4	Shelley Munro	Amend the Proposed District Plan to not allow commercial or rural pollutants such as fertiliser plants near Significant Natural Areas.
<i>FSI 342.8</i>	<i>Federated Farmers</i>	<i>Opposes 55.4</i>
81.20	Waikato Regional Council	Amend the Proposed District Plan to provide a mechanism to manage areas that meet the WRPS IIA criteria and have not been identified and mapped in the Proposed Plan.
<i>FSI 1258.1</i>	<i>Meridian Energy Limited</i>	<i>Opposes 81.20</i>
<i>FSI 340.7</i>	<i>TaTa Valley Limited</i>	<i>Opposes 81.20</i>
<i>FSI 1223.6</i>	<i>Mercury NZ Limited</i>	<i>Supports 81.20</i>
<i>FSI 342.43</i>	<i>Federated Farmers</i>	<i>Opposes 81.20</i>
799.3	Leo Koppens	Amend the Proposed District Plan to prevent cattle grazing in Significant Natural Areas.
<i>FSI 342.227</i>	<i>Federated Farmers</i>	<i>Opposes 799.3</i>
799.2	Leo Koppens	Amend the Proposed District Plan to allow all significant indigenous areas to be protected the same as identified Significant Natural Areas.
<i>FSI 342.226</i>	<i>Federated Farmers</i>	<i>Opposes 799.2</i>
845.5	Grace M Wilcock	Add text to assure the owners at 117 Windmill Road, RD3, Hamilton that there will be no future incremental/creep on more stringent conditions/rules on Significant Natural Area compliance but still be included as part of land calculations for possible future subdivision.

611.1	David Gibberd	Amend the Proposed District Plan so that further restrictions are not imposed on the farming operation at 53B McGovern Road, Taniwha, Waerenga.
862.29	Havelock Village Limited	Amend the rules relating to earthworks and indigenous vegetation clearance inside a Significant Natural Area in Chapter 16 Residential Zone to enable the implementation of the masterplan attached in the original submission and the bespoke approach requested elsewhere in the submission. AND Any consequential amendments and alternative relief to give effect to the matters raised in the submission.
FS1086.29	Yashili Dairy Company Limited	Supports 862.29
FS1186.29	Pokeno Nutritional Park Limited	<i>Supports 862.29: Havelock Village Limited and related companies control land in southern Pokeno at 88, 242 (in part) and 278 Bluff Road (the site). That land is in proximity to Pokeno Nutritional's new dairy plant. Havelock Village's submissions seeks, amongst other things, the rezoning of the Site to residential zone in order to provide for approximately 1025 new residential lots and new neighbourhood centre. In the alternative it seeks the rezoning of the Site to Aggregate Extraction Zone. Pokeno Nutritional is strongly supportive of the ongoing growth and development of Pokeno. As a result, it supports the additional housing and population that would be created by the rezoning of the Site. The additional population will assist to improve the economic vitality of Pokeno. The rezoning will provide much needed residential land and will promote more affordable houses and housing choice, including for employees at Pokeno Nutritional's plant. In addition, the proposed new neighbourhood centre will provide a range of amenities and commercial services to cater for the day-to-day needs of the local community, including new residents and employees at Pokeno Nutritional's plant. Finally, Pokeno Nutritional's supports the inclusion within the Masterplan for the Site of reserve land on the eastern boundary of the Site. This reserve land will provide an appropriate set back between the residential development and the adjacent industrial land and address any potential adverse effects related to this interface.</i>
FS1301.29	New Zealand Health Food Park Limited	Supports 862.29
FS1303.29	Charlie Harris	Supports 862.29: provide a much-improved connection for the Pokeno South community.
FS1340.176	TaTa Valley Limited	Supports 862.29
FS1387.1410	Mercury NZ Limited for Mercury D	Opposes 862.29
437.4	KCH Trust	Add a rule to the Proposed District Plan that provides for the verification of the mapped Significant Natural Area by a suitable qualified ecologist when the Significant Natural Area is to be subject to subdivision or development used for the purposes of conservation lot subdivision.
FS1388.263	Mercury NZ Limited for Mercury E	Opposes Submission 437.4

## 25.2 Analysis

626. The submission from The Surveying Company [746.151] seeks no specific decision and it is difficult to meaningfully assess the submission. However, the submission supports the incentivisation of legally and physically protecting of SNAs. I recommend the panel accept The Surveying Company's submission [746.151].
627. The submission from Andrew and Christine Gore [330.2] seeks to retain the provisions related to restoring and enhancing the gully systems. The approach of the Proposed Plan is to rely on Appendix 2 Criteria for determining the significance of indigenous vegetation. If the gully systems have been identified and mapped as SNAs in accordance with the Appendix then there are provisions that support restoration and enhancement. There will also be the opportunity to enhance these areas through the contestable conservation strategy fund. I recommend the panel accept the submission from Andrew and Christine Gore [330.2].
628. The submission from Culverden Farms [481.16] seeks to amend the Proposed District Plan (PDP) to better enable existing practices for activities which are usual and expected in the Rural Zone. Although I am uncertain about the extent of activities the submitter is referring to, in my opinion the PDP does not restrict the undertaking of normal farming practices to be undertaken although I accept that the removal of indigenous vegetation is restricted. It may be useful for the submitter to elucidate on the activities that they are referring to. Until then, I recommend the panel reject Culverden Farms' submission [481.16].
629. The Department of Conservation [585.8] seeks to amend the forestry provisions to afford greater protection to indigenous vegetation and SNAs within or adjacent to plantation forestry. A further submission from Federated Farmers [FS/342.152] has opposed the submission. The submitter has provided no guidance as to what this protection would entail. I note that clause 14 of the National Environmental Standards for Plantation Forestry states that afforestation must not occur within 10m of a SNA nor within a SNA. In addition, section 93 of the NES-PF only permits indigenous vegetation clearance if it does not occur within a SNA. In my opinion the NES-PF does not need to be replicated within the PDP. On this basis I recommend the panel reject Department of Conservation's submission [585.8].
630. A submission from TaTa Valley Limited [574.20] is seeking to amend Section 3.2 Significant Natural Areas and associated rules to provide greater flexibility and to enable development, subject to mitigation or offsetting. A further submission from Ngati Tamaoho Trust [FS/369.15] opposes the submission. Further submitters New Zealand Health Food Park Limited [FS/301.62] and Charlie Harris [FS/303.62] have supported the submission. In my view the plan provisions have been developed to provide for the best outcome for indigenous biodiversity, while still acknowledging that development may need to occur within these areas. To enable development to occur by simply offsetting or mitigating will undermine the intent of the WRPS, where the policy direction is to maintain or enhance indigenous biodiversity that is already there. If development must occur within these areas, then the effects of the development can be addressed at this point. Offsetting should not be used as a first response, although I accept that this is a subset of mitigation. I recommend the panel reject the submission from TaTa Valley Limited [574.20].
631. The submission from Waikato Regional Council [81.20] seeks to amend the PDP to provide a mechanism to manage areas that meet the WRPS IIA Criteria, but that have not been identified as SNAs. Further submitters Meridian Energy Limited [FS/258.1], TaTa Valley Limited [FS/340.7] and Federated Farmers [FS/342.43] have opposed the submission. Further submitter Mercury Energy Limited [FS/223.6] has supported the submission. I consider that this submission will be somewhat addressed by my recommended approach to amend the

definition of a Significant Natural Area so that the term applies to any areas mapped as such on the Planning Maps, but also any indigenous vegetation meeting one of more of the criteria in Appendix 2. I have outlined this approach in section 4 of this report. In the meantime, I recommend the panel accept Waikato Regional Council's submission [81.20].

632. Waikato Regional Council [81.28] seeks to amend the PDP to consider activities that may impact on the significant habitats of indigenous fauna that have been identified and mapped on the planning maps. Further submitter Department of Conservation [FS/293.13] and Federated Farmers [FS/342.49] have supported the submission and TaTa Valley Limited [FS/340.8] and Andrew and Christine Gore [FS/062.7] have opposed the submission. I note that the submitter refers to significant habitats of indigenous fauna. The mapping that has been provided by Waikato Regional Council (WRC) is for Significant Natural Areas and I consider that significant habitats of indigenous fauna are captured or form part of this data. However, in saying this, habitats are not specifically mapped, and I invite WRC to clarify where these habitats are in the SNA data set.
633. In the reasons provided by WRC, it has concerns that earthworks and clearance provisions may impact on significant habitats of fauna. In this regard Objective 3.1.1 requires that indigenous biodiversity values and the life-supporting capacity of indigenous ecosystems to be maintained or enhanced and there are supporting policies and rules to ensure this. The submitter then gives an example where clearance of exotic vegetation may in certain circumstances adversely effect significant habitats of indigenous fauna such as bats.
634. In my view, if the vegetation is exotic it is likely not to qualify as a SNA, and if there are bats then it becomes problematic as to how a property owner is to manage this. I suggest that this issue is a regional/national issue and best dealt with by experts in respect of any indigenous species.
635. The Proposed Plan allows for a small amount of vegetation clearance in SNAs for specific (and limited) activities. Clearance greater than this amount or for other purposes will require a consent. This then gives the opportunity through the consenting process for the proposal to be considered, including any adverse effects. In the instance of earthworks, this defaults to a restricted discretionary status where the matters of discretion are the effects on the SNA and the location of the works regarding significant vegetation or habitats. In my opinion the rule framework provides good parameters to address the concerns of the submitter. I recommend the panel rejects the submission from Waikato Regional Council [81.28].
636. Submissions were received from Beverly Bell [48.2] and Leo Koppens [799.3] seeking to amend the PDP to prevent stock from grazing in SNAs. Further submissions from Mercury Energy Limited [FS/386.36] and Federated Farmers [FS/342.6] have opposed the submission and Federated Farmers [FS/342.227] has also opposed submission [799.3]. I agree that the fencing of SNA would greatly improve their quality, however I do not agree that the district plan can require fencing unless the SNA is the subject of a conservation covenant where it would be appropriate to require the fencing of such. In my view to require property owners to fence SNAs would place an unreasonable burden on a property owner. In any event, not all properties that have SNAs stock grazing animals. Accordingly, I recommend the panel reject the submissions from Beverly Bell [48.2] and Leo Koppens [799.3].
637. A submission from Leo Koppens [799.2] seeks to amend the PDP to allow all significant areas to be protected in the same way as identified Significant Natural Areas. Further submitter Federated Farmers [FS/342.235] has opposed the submission. The submitter considers Chapter 3 is not meeting the WRPS requirement that all significant indigenous areas be

identified on the Council maps. The WRPS does not required councils to map significant natural areas – only that areas be identified if they are significant. I consider that this submission will be somewhat addressed by my recommended approach to amend the definition of a Significant Natural Area so that the terms applies to any areas mapped as such on the Planning Maps, but also any indigenous vegetation meeting one of more of the criteria in Appendix 2. I have outlined this approach in section 4 of this report. I recommend the panel accept in part the submission from Leo Koppens [799.2]

638. Havelock Village Limited [862.29] is seeking a suite of provisions to implement the masterplan that has been produced to manage this area. Further submissions from Yashili Dairy Company Limited [FS/086.29], Pokeno Nutritional Park Limited [FS/186.29], New Zealand Health Food Park Limited [FS/301.29], Charlie Harris [FS/303.29] and TaTa Valley Limited [FS/340.176] have supported the submission. Further submitter Mercury Energy Limited [FS/387.1410] has opposed the submission. A similar submission from Havelock Village Limited has been discussed previously in this report. In my opinion to cookie cut a site out from the suite of objectives, policies and rules in relation to indigenous biodiversity is not an approach that would give effect to the policies within the WRPS. The WRPS does not identify individual properties, and in my view, regardless of how effective the masterplan is, there will still be a requirement to meet the overarching Regional Policy Statement and relevant national policy statements. On this basis, I recommend the panel reject the submission from Havelock Village Limited [862.29].
639. A submission from KCH Trust [437.4] seeks to add a rule that provides for the verification of a mapped SNA by a suitably qualified ecologist if the SNA is subject to a Conservation lot subdivision. The purpose of the Conservation lot subdivision rule is to incentivise the protection of a SNA, in lieu of obtaining extra lots. I am mindful that the benefit of such is only for that property owner and, as such, I do not think it appropriate that ratepayers should be paying for the cost of an ecologist, and that this should be at the expense of the property owner. This information would need to be provided to support any subdivision application and I recommend the panel reject the KCH Trust's submission [437.4].
640. Shelly Munro [55.4] is seeking to amend the PDP to stop commercial or rural pollutants such as fertiliser plants near SNAs. A further submission from Federated Farmers [FS/342.8] has opposed the submission. If I understand the submission correctly, the submitter does not support the industrial or commercial activities establishing adjacent SNAs. I believe that the objectives, policies and rules in the PDP for the establishment of such would provide appropriate controls as this activity would be a discretionary activity in most zones. I recommend the panel reject Shelly Munro's submission [55.4].
641. The submission from Bathurst Resources and BT Mining Ltd [771.8] is seeking to amend the PDP to consider offsetting where regionally significant activities may have to be located in a SNA. I believe the PDP has achieved this through Policy 3.2.3 where, if the effects of the activity cannot be avoid, remedied, or mitigated, then offsetting may be considered. Further to this, in response to a submission from Waikato Regional Council, I have recommended a new matter of discretion in relation to offsetting be added to the vegetation clearance rule. I recommend the panel accept the submission from Bathurst Resources and BT Mining Ltd [771.8], but no changes are required to the PDP.
642. Raglan Naturally [831.1] and John Lawson [825.52] seek to add areas of significant indigenous vegetation habitats and rules in consultation with LENZ and environmental groups. Further submitter Federated Farmers [FS/342.235] has opposed the submission. I consider it more

appropriate that the Criteria 11A of the WRPS is the overarching requirement for determining SNAs, particularly as the district plan is required by s75(3)(c) of the RMA to give effect to the Regional Policy Statement. On this basis I recommend the panel reject Raglan Naturally's submission [831.1].

643. A submission from Grace M Wilcock [845.2] seeks to add text to the Proposed District Plan to identify the Tamahere gully systems as an ecological corridor. I can appreciate Ms Wilcock seeking acknowledgement in respect of the Tamahere Gully system as it is a significant gully system in the District. However, I do not see any purpose in the additional text, as I consider that this may cause confusion for plan users. The Proposed Plan does not contain specific rules for the Tamahere Gully, however there are specific rules for SNAs. As there are many areas of the Tamahere Gully System that have been identified as a SNA, I consider additional text is not required, and the proposed rule framework is appropriate for managing this area. I recommend the panel reject Grace M Wilcock's submission [845.2].
644. Grace M Wilcock [845.5] also seeks to add text to assure the owners of 117 Windmill Road, Tamahere that there will be no incremental creep of more stringent conditions related to SNA compliance, but still be included as part of land calculations for possible future subdivisions. I can appreciate the concern of future conditions that may be imposed by future plan changes or policy direction. However, the review process on the PDP is in regard to the notified objectives, policies and rules and it would not be appropriate to futureproof individual properties from the process. I recommend the panel reject Grace M Wilcock's submission [845.5].
645. First Rock Consultancy [66.1] seeks to amend the PDP approach to identifying SNAs by allowing landowners to challenge the designation of a SNA until a physical audit has been undertaken. Further submitters Andrew and Christine Gore [FS1062.3] and TaTa Valley Limited [FS/340.2] have supported the submission. I believe the Schedule 1 process that we are currently in is the correct process for challenging the extent of SNAs. I consider that this submission will be somewhat addressed by my recommended approach to amend the definition of a Significant Natural Area so that the term applies to any areas mapped as such on the Planning Maps, but also any indigenous vegetation meeting one of more of the criteria in Appendix 2. I have outlined this approach in section 4 of this report.
646. David Gibberd [611.1] seeks to amend the PDP so that further restrictions are not imposed on farming operations at 53B McGovern Road, Waerenga. It is not usual practice to exempt an individual property from provisions within a district plan. However, I invite the submitter to provide information as to what further restrictions they consider would prevent them from operating their farm. Until further information is received, I recommend the panel reject David Gibberd's submission [611.1].
647. Rita Carey [261.3] seeks to amend the approach to Significant Natural Areas and Significant Amenity Landscapes by various means such as; Council purchasing the land, the funding of fencing by Council and for Council to maintain any areas that are SNAs. The latter part of the submission in relation to SAL, this has been dealt with in the hearing for Landscapes. The reasons provided indicate that the submitter appears to think that Council want to take the land and then expect the property owner to pay for the upkeep. This is not the case and the purpose of SNAs is to protect and enhance them. It would not be appropriate for Council to purchase the land. As well, these areas are part of a title and it would not be possible to separate out. To offer some assurances to the submitter, if an area has been identified and

mapped as SNAs in accordance with the Appendix 2 of the proposed plan, then there is the opportunity to enhance these areas through the contestable conservation strategy fund which can include contributing to fencing. On this basis, I recommend the panel reject Rita Carey [261.3]

### 25.3 Recommendations

648. For the reasons above I recommend:

- a. **Accept** The Surveying Company [746.151].
- b. **Accept** Andrew and Christine Gore [330.2].
- c. **Reject** Culverden Farms [481.16].
- d. **Reject** Department of Conservation [585.8]. **Accept** Federated Farmers [FS1342.152].
- e. **Reject** TaTa Valley Limited [574.20], New Zealand Health Food Park Limited [FS1301.62] and Charlie Harris [FS1303.62]. **Accept** Ngati Tamaoho Trust [FS1369.15].
- f. **Accept** Waikato Regional Council [81.20] and Mercury Energy Limited [FS1223.6]. **Reject** Meridian Energy Limited [FS1258.1], TaTa Valley Limited [FS1340.7] and Federated farmers [FS1342.43].
- g. **Reject** Waikato Regional Council [81.59].
- h. **Reject** Waikato Regional Council [81.28], Department of Conservation [FS1293.13] and Federated Farmers [FS1342.49]. **Accept** TaTa Valley Limited [FS1340.8] and Andrew and Christine Gore [FS1062.7].
- i. **Reject** Beverly Bell [48.2] and Leo Koppens [799.3]. **Accept** Mercury Energy Limited [FS1386.36], Federated Farmers [FS1342.6] and Federated Farmers [FS1342.227].
- j. **Accept in part** Leo Koppens [799.2] and Federated Farmers [FS1342.226].
- k. **Reject** Havelock Village Limited [862.29], Yashili Dairy Company Limited [FS1086.29], Pokeno Nutritional Park Limited [FS1186.29], New Zealand Health Food Park Limited [FS1301.29], Charlie Harris [FS1303.29] and TaTa Valley Limited [FS1340.176]. **Accept** Mercury Energy Limited [FS1387.1410].
- l. **Reject** KCH Trust [437.4]. **Accept** Mercury Energy Limited [FS1388.263].
- m. **Reject** Shelly Munro [55.4]. **Accept** Federated Farmers [FS1342.8].
- n. **Accept** Bathurst Resources and BT Mining Ltd [771.8].
- o. **Reject** Raglan Naturally [831.1] and John Lawson [825.52]. **Accept** Federated Farmers [FS1342.235].
- p. **Reject** Grace M Wilcock [845.2].
- q. **Reject** Grace M Wilcock [845.5].
- r. **Accept in part** First Rock Consultancy [66.1], Andrew and Christine Gore [FS1062.3] and TaTa Valley Limited [FS1340.2].
- s. **Reject** David Gibberd [611.1].
- t. **Reject** Rita Carey [261.3].

### 25.4 Recommended amendments

649. There are no amendments recommended in response to the submissions

## 26 Appendix 2: Criteria for Determining Significance of Indigenous Biodiversity

### 26.1 Introduction

650. The purpose of Appendix 2 Criteria for Determining Significance of Indigenous Biodiversity is to establish criteria for determining the significance of indigenous vegetation. This closely reflects Appendix 11A of the Regional Policy Statement.
651. Five primary submissions were received, seeking to retain Appendix 2, and none challenged the criteria.

### 26.2 Submissions

Submission point	Submitter	Decision requested
362.10	CYK Limited	Retain Appendix 2 Criteria for Determining significance of Indigenous Biodiversity.
332.11	Gwyneth & Barrie Smith	Retain Appendix 2.
686.11	Reid Crawford Farms Limited	Retain Appendix 2 Criteria for Determining Significance of Indigenous Biodiversity.
540.11	Glen Alvon Farms Limited	Retain Appendix 2 Criteria for Determining Significance of Indigenous Biodiversity.
529.10	Wilcox Properties Limited	Retain Appendix 2 Criteria for Determining Significance of Indigenous Biodiversity, as notified.
514.10	DP & LJ Ramsey Limited	Retain Appendix 2 Criteria for determining significance of indigenous biodiversity.
<i>FS1388.551</i>	<i>Mercury NZ Limited</i>	Opposes 514.10

### 26.3 Analysis

652. Submissions received by CYK Limited [362.10], Gwyneth and Barrie Smith [332.11], Reid Crawford Farms Limited [686.11], Glen Alvon Farms Limited [540.11], Wilcox Properties Limited [529.10] and DP and LJ Ramsey Limited [514.10] all seek to retain Appendix 2 as notified, as the submitters support the approach taken in the Appendix. A further submission from Mercury Energy Limited [*FS1388.551*] has opposed submission [514.10]. However, I recommend the panel accept in part these submissions as I have made a recommendation to amend Appendix 2 Criteria for Determining the Significance of Indigenous Biodiversity in response to another submission in relation to Plantation Forestry.

### 26.4 Recommendations

653. For the reasons above I recommend:
- Accept in part** CYK Limited [362.10], Gwyneth and Barrie Smith [332.11], Reid Crawford Farms Limited [686.11], Glen Alvon Farms Limited [540.11], Wilcox Properties Limited [529.10] and DP and LJ Ramsey Limited [514.10], Mercury Energy Limited [*FS1388.51*]

### 26.5 Recommended amendments

654. The only amendment recommended is in response to a submission elsewhere pertaining to plantation forestry.

## Appendix 2: Criteria for Determining the Significance of Indigenous Biodiversity

655. Additional text to be added to Appendix 2: Criteria for Determining the Significance of Indigenous Biodiversity

*The Appendix does not apply to plantation forestry.*

## 27 Appendix 6: Biodiversity offsetting

656. Appendix 6 sets out the framework for the use of biodiversity offsets.

### 27.1 Submissions

657. Six primary submissions were received seeking to amend the Appendix.

Submission point	Submitter	Decision requested
433.63	Auckland Waikato Fish and Game Council	Amend Appendix 6: Biodiversity Offsetting, as follows: <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> ... 2. A proposed biodiversity offset will contain <del>a</del> <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. AND/OR Any alternative relief to address the issues and concerns raised in the submission.
FS1342.122	Federated Farmers	Opposes 433.63
FS1377.96	Havelock Village Limited	Opposes 433.63
FS1340.72	TaTa Valley Limited	Opposes 433.63
585.14	Department of Conservation	Retain Appendix 6 Biodiversity offsetting, except for the amendments sought below AND Amend Appendix 6 Biodiversity offsetting as follows: <u>Introduction .... 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> 2 Biodiversity offsetting framework ... 2. A proposed biodiversity offset will contain <del>a</del> <u>qualitative</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. AND Amend bullet 8 of Appendix 6 Biodiversity Offsetting 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.
FSI 340.93	TaTa Valley Limited	Opposes 585.14
FSI 223.139	Mercury NZ Limited	Supports 585.14
FSI 377.160	Havelock Village Limited	Opposes 585.14
FSI 258.70	Meridian Energy Limited	Not Stated 585.14
FSI 330.56	Middlemiss Farm Holdings Limited	Supports 585.14
FSI 342.154	Federated Farmers	Opposes 585.14
FSI 345.8	Genesis Energy Limited	Opposes 585.14
81.187	Waikato Regional Council	Amend Appendix 6 (2) (1) Biodiversity Offsetting as follows: <u>Restoration, enhancement and protection actions offered by an applicant</u> will only be considered a biodiversity offset where they are used to <del>offset</del> <u>compensate for</u> the <del>anticipated</del> <u>reasonably-measurable</u> residual effects of activities <u>that are anticipated will remain</u> after appropriate avoidance, remediation and mitigation <u>measures</u> <del>actions</del> have been <u>applied</u> <del>occurred</del> in accordance with Policy 3.2.3.
FSI 345.93	Genesis Energy Limited	Opposes 81.187
FSI 340.26	TaTa Valley Limited	Supports 81.187
FSI 258.11	Meridian Energy Limited	Opposes 81.187
FSI 198.64	Bathurst Resources Limited and BT Mining Limited	Not Stated 81.187
680.250	Federated Farmers of New Zealand	Retain Appendix 6: Biodiversity Offsetting, as notified.
246.3	Tony Oosten	Amend Appendix 29:6 Biodiversity Offsetting so that the use of biodiversity offsets is the last resort and the area is 200% of the impacted area.
FSI 340.34	TaTa Valley Limited	Opposes 246.3
FSI 276.1	Whaingaroa Environmental Defence Inc. Society	Supports 246.3. Habitats important for ecology have largely been lost and further loss should be avoided.
81.188	Waikato Regional Council	Amend Appendix 6 Biodiversity Offsetting to take into account the forthcoming national guidance for local government on biodiversity offsetting, Biodiversity Offsetting under the Resource Management Act; A guidance document.
FSI 258.12	Meridian Energy Limited	Opposes 81.188
FSI 198.68	Bathurst Resources Limited and BT Mining Limited	Opposes 81.188
FSI 198.65	Bathurst Resources Limited and BT Mining Limited	Opposes 81.188

## 27.2 Analysis

658. Federated Farmers [680.250] seeks to retain Appendix 6 Biodiversity offsetting, as notified. I only recommend accepting this submission in part as I have recommended amendments in response to other submissions.
659. A submission from Tony Oosten [246.3] seeks to amend Appendix 6 Biodiversity offsetting by only allowing offsetting as a last resort, and to increase the threshold to 200% of the impacted area. A further submission from TaTa Valley Limited [FS/340.34] opposes the submission and further submitter Whaingaroa Defence Inc Society [FS/276.1] supports the submission. The provision framework that leads to offsetting is set out in Policy 3.2.3 Management hierarchy; to avoid, remedy or mitigate, and after remediation or mitigation has been undertaken, offsetting will be considered. I consider this policy position would be consistent with what the submitter is seeking.
660. Appendix 6: Biodiversity offsetting sets out the framework for the use of biodiversity offsets and in Section 2, clause 2 states:
- “a proposed offset will contain an 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.”*
661. It is this framework that appropriately sets the thresholds, as it will mean that individual cases will be fairly assessed. To set a fixed amount of 200% could feasibly not be enough or unreasonably onerous for a property owner, depending on the situation. In my view the methodology within Appendix 2 (subject to amendments in response to other submissions) is appropriate. On this basis I recommend the panel reject Tony Oosten’s submission [246.3].
662. The submissions from Auckland Waikato Fish and Game Council [433.63], Department of Conservation [585.14] and Waikato Regional Council [81.188] seek to amend Appendix 6 Biodiversity offsetting to take into consideration or be read in conjunction with central government Guidance on Good Practice Biodiversity offsetting and to add in text to provide for a ‘qualitative assessment of losses and gains’. Federated Farmers [FS/342.122], Havelock Village Limited [FS/377.96] and TaTa Valley Limited [FS/340.72] have opposed the submissions. Further submissions from Meridian Energy Limited [FS/258.12] and Bathurst Resources Limited and BT Mining Limited [FS/198.68] and [FS/196.65] have opposed the submission [81.188]. I can see value in the additional wording requiring a qualitative assessment as this would help give surety that the area being offset is captured correctly when offsetting occurs. In respect of referencing an external document, this may not allow for subsequent updates of the document. However, I agree that the Guidance on Good Practice Biodiversity offsetting is a useful document and rather than lock a version into the district plan, I suggest having an advice note as follows:
- The Ministry for the Environment has produced Guidance on Good Practice Biodiversity Offsetting that provides guidance when offsetting is an option.*
663. I recommend the panel accept in part the submissions from Auckland Waikato Fish and Game Council [433.63], the Department of Conservation [585.14] and Waikato Regional Council [81.188].
664. A submission from Waikato Regional Council [81.187] seeks to amend Appendix 6 by rearranging the wording. The reason provided is that the Appendix is difficult to follow. Further submissions from TaTa Valley Limited [FS/340.26] and Bathurst Resources Limited and BT Mining Limited [FS/198.64] have supported the submission, and further submitter

Genesis Energy Limited has opposed the submission. Reasons provided by Genesis are that “some submitters are seeking environmental compensation be provided for (which Genesis supports). The use of ‘compensate’ in the Appendix may cause confusion between an offset and an environmental compensation measure.” The amendment also seeks to include that the offsetting is offered by an applicant. I am mindful that in response to a submission, the New Zealand Transport Agency has sought to remove reference to ‘a resource consent applicant’ from Policy 3.2.4 Biodiversity offsetting. I generally agree with the amendments sought by Waikato Regional Council although I also agree with the points raised by Genesis Energy. Therefore, I recommend that the words be revised as follows:

“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-measurable 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.”

665. I recommend the panel accept in part Waikato Regional Council’s submission [81.187].

### 27.3 Recommendations

666. For the reasons above I recommend:

- a. **Accept in part** Federated Farmers [680.250].
- b. **Reject** Tony Oosten [246.3] and Whaingaroa Defence Inc Society [FS/276.1]. **Reject** TaTa Valley Limited [FS/340.34].
- c. **Accept in part** Auckland Waikato Fish and Game Council [433.63], Department of Conservation [585.14] and Waikato Regional Council [81.188].
- d. **Accept in part** Waikato Regional Council [81.187], Tata Valley Limited [FS/340.26], Genesis Energy Limited [FS/345.93], Bathurst Resources Limited and BT Mining Limited [FS/18.64] and Meridian Energy Limited [FS/258.11].

### 27.4 Recommended amendments

667. The following amendments are recommended:

Appendix 6: Biodiversity Offsetting

2 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-measurable 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.
2. A proposed biodiversity offset will contain ~~an~~ qualitative 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

### 27.5 Section 32AA evaluation

668. The amendment to include qualitative assessment provides clarity as to what clause 2 is seeking and does not change the intent of the Appendix 6. Accordingly, no s32AA evaluation has been required.

## 28 Hamilton Basin Ecological Management Area

669. Six primary submissions were received. Four seek to delete the Overlay and two seek clarification.

### 28.1 Submissions

Submission point	Submitter	Decision requested
832.2	Hounsell Holdings Limited	Delete the Hamilton Basin Ecological Management Area from the property at 268 Te Kowhai Road, Te Kowhai; AND Amend the Proposed District Plan to make any consequential amendments as necessary to address the matters raised in the submission.
742.189	New Zealand Transport Agency	Retain Hamilton Basin Ecological Management Area, except for the amendments sought below AND Clarify the purpose of the Hamilton Basin Ecological Management Area in District Plan provisions AND Delete the Hamilton Basin Ecological Management Area overlay from existing New Zealand Transport Agency designations. AND Request any consequential changes necessary to give effect to the relief sought in the submission.
<i>FS1293.52</i>	<i>Department of Conservation</i>	<i>Opposes 742.189</i>
17.1	Leigh Thompson	Delete the Hamilton Basin Ecological Management Area from the property at 454 Pencarrow Road, Tamahere.
785.72	Z Energy Limited, BP Oil NZ Limited and Mobil Oil NZ Limited for 'Oil Companies'	Delete the Hamilton Basin Ecological Management Area Overlay from the Planning Maps. AND Any consequential amendments or additional relief to give effect to the submission.
832.5	Hounsell Holdings Limited	Delete the Hamilton Basin Ecological Management Area from the property at 284 Onion Road, Te Kowhai; AND Amend the Proposed District Plan to make any consequential amendments as necessary to address the matters raised in the submission.
80.2	Dean Van Ingen	Delete the overlay 'Hamilton basin ecological management area' from the property at 384A Karakariki Road, Hamilton.
419.98	Horticulture New Zealand	Amend the planning maps and rules to clarify the purpose of the Hamilton Basic Ecological Area. AND Any consequential or additional amendments as a result of changes sought in the submission.

## 28.2 General discussion

670. The Waikato Regional Council has created Ecological Management Areas within the Waikato region. These management areas were created for the purposes of assessing the biodiversity management needs of the Waikato district within each area. The Hamilton Basin Management Zone in the Proposed District Plan is most relevant to conservation lot subdivision rule where further subdivision is enabled in exchange for protection of a minimum area of SNA. It is clear from the submissions that the Proposed Plan does not explain the purpose of the overlay nor how it may (or may not) affect properties which have had this layer imposed on them. I suggest that a definition be included in Chapter 13: Definitions. I recommend the definition read as follows:

*The Hamilton Basin Ecological Management Area is a spatial overlay which forms part of the management of ecological areas within the Waikato region. The purpose of the inclusion of this overlay within the Proposed District Plan is that it provides a spatial representation of where the rules for Conservation lot subdivision applies.*

Diagram from Waikato Regional Council

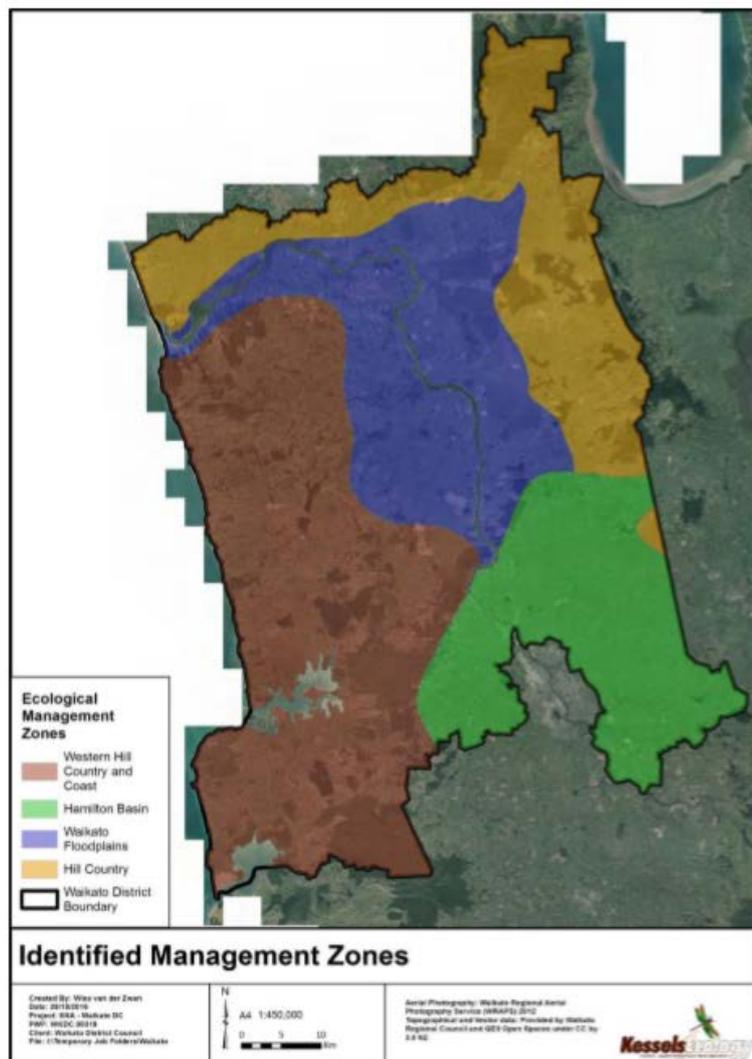


Figure 3 Identified Ecological Management Zones within Waikato District.

### 28.3 Analysis

671. A submission from the New Zealand Transport Agency [742.189] seeks to clarify the purpose of the Hamilton Basin Ecological Management Area and to delete the overlay from any NZTA designations. A further submission from Department of Conservation [FS/293.52] has opposed the submission. The overlay forms part of the management of the area, where there is an incentive to protect SNAs which meet the criteria within the Conservation lot subdivision rule (Rule 22.4.1.6). Given that the overlay is for the purpose of Conservation lot subdivision and this is not an activity that NZTA is likely to undertake, I recommend the panel accept in part the submission from the New Zealand Transport Agency [742.189].
672. The submission from Horticulture New Zealand [419.98] also seeks to clarify the purpose of the Hamilton Basin Ecological Management Area. I agree that clarification of the overlay would benefit plan users. On this basis I recommend the panel accept Horticulture New Zealand's submission [419.98].
673. Submissions from Hounsell Holdings Limited [832.2] and [832.5], Leigh Thompson [17.1], Z Energy Limited, BP Oil NZ Limited and Mobil Oil NZ Limited [785.72] and Dean Van Ingen [80.2] all seek to delete reference to the Hamilton Basin Ecological Management Area. Based on the discussions above, I believe that an explanation within the Proposed District Plan will alleviate any concerns these submitters may have if their properties have had this overlay imposed on them. The overlay, forms part of the management of the area, where there is an incentive to protect SNAs which meet the criteria within the Conservation lot subdivision rule. I recommend the panel reject the submissions from Hounsell Holdings Limited [832.2] and [832.5], Leigh Thompson [17.1], Z Energy Limited, BP Oil NZ Limited and Mobil Oil NZ Limited [785.72] and Dean Van Ingen [80.2] on the basis that the Proposed District Plan insufficiently explains the purpose of the overlay.

### 28.4 Recommendations

674. For the reasons above I recommend:
- a. **Accept in part** New Zealand Transport Agency [742.189] and Department of Conservation [FS/293.52].
  - b. **Accept** Horticulture New Zealand [419.98].
  - c. **Reject** Hounsell Holdings Limited [832.2] and [832.5], Leigh Thompson [17.1], Z Energy Limited, BP Oil NZ Limited, and Mobil Oil NZ Limited [785.72] and Dean Van Ingen [80.2].

### 28.5 Recommended amendments

675. The following amendments are recommended:

Include the following definition in the Proposed District Plan to be located in Chapter 13: Definitions

The Hamilton Basin Ecological Management Area is a spatial overlay which forms part of the management of ecological areas within the Waikato region. The purpose of the inclusion of this overlay within the Proposed District Plan is that it provides a spatial representation of where the rules for Conservation lot subdivision apply.

## 28.6 Section 32AA evaluation

676. The recommended changes of the additional definition explaining the purpose of the Hamilton Basin Ecological Management Area does not change the planning outcome. Accordingly, no s32AA evaluation has been required to be undertaken in this regard.

## 29 Definitions

677. A total of 25 primary submissions were received. Of these, several seek amendments and others are seeking to add new definitions.

### 29.1 Submissions

Submission point	Submitter	Decision requested
680.252	Federated Farmers of New Zealand	Amend the definition of 'Indigenous vegetation' in Chapter 13 Definitions as follows: <i>Means vegetation that occurs naturally in New Zealand or arrived in New Zealand without human assistance. For the purposes of this plan, domestic or ornamental / <del>landscape landscaping</del>-planting, or planted shelter belts comprising indigenous species are not included. <del>or forestry undergrowth, or planted indigenous forestry are excluded</del> from the definition of 'indigenous vegetation'.</i> AND Any consequential amendments needed to give effect to this relief.
419.125	Horticulture New Zealand	Retain the definition of "Indigenous vegetation" in Chapter 13 Definitions, as notified.
686.8	Reid Crawford Farms Limited	Amend the definition for "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 of the planning maps or has been assessed as meeting one or more of the Criteria for Determining Significance of Indigenous Biodiversity (Appendix 2) by a suitably qualified Ecologist.</i>
FSI 387.262	Mercury NZ Limited for Mercury D	Opposes 686.8
FSI 138.20	Trustees of the Pakau Trust	Supports 686.8
81.239	Waikato Regional Council	Add to Chapter 13 a new definition for 'Biodiversity offset' as follows: <u>Biodiversity offset A measureable conservation outcome resulting from actions designed to compensate for residual, adverse biodiversity effects arising from activities after appropriate avoidance, remediation, and mitigation measures have been applied. The goal of a biodiversity offset is to achieve a no-net-loss, and preferably a net-gain, of indigenous biodiversity values.</u>
FSI 198.66	Bathurst Resources Limited and BT Mining Limited	Opposes 81.239
FSI 340.27	TaTa Valley Limited	Opposes 81.239
FSI 258.13	Meridian Energy Limited	Opposes 81.239

FSI342.52	Federated Farmers	Supports 81.239
433.20	Auckland Waikato Fish and Game Council	Add a definition for "biodiversity offsets" to Chapter 13: Definitions as follows: <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> AND/OR Any alternative relief to address the issues and concerns raised in the submission.
FSI198.36	Bathurst Resources Limited and BT Mining Limited	Opposes 433.20
FSI340.61	TaTa Valley Limited	Supports 433.20: The submitter is supportive of the principle of including a biodiversity offset definition subject to appropriate wording.
FSI377.91	Havelock Village Limited	Supports 433.20: Support amendments to provisions that enable development subject to appropriate mitigation, offsetting and compensation, subject to drafting.
FSI345.18	Genesis Energy Limited	Supports 433.20
FSI342.120	Federated Farmers	Opposes 433.20
585.10	Department of Conservation	Add a new definition of "Environmental Compensation" Definitions as follows: <u>Environmental compensation comprises actions offered as a meas to address residual adverse effects on the environmental arising from project development that are not intended to result in no net loss or a net gain of biodiversity on the ground.</u>
FSI340.92	TaTa Valley Limited	Supports 585.10
FSI330.55	Middlemiss Farm Holdings Limited	Supports 585.10
FSI258.26	Meridian Energy Limited	Supports 585.10
FSI345.7	Genesis Energy Limited	Not Stated – 585.10
FSI223.138	Mercury NZ Limited	Supports 585.10
FSI377.159	Havelock Village Limited	Supports 585.10
FSI342.153	Federated Farmers	Supports 585.10
585.9	Department of Conservation	Add a new definition of "Biodiversity offset" to Chapter 13 Definitions, as follows: <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 preferable a net gain of biodiversity on the ground.</i>
FSI377.158	Havelock Village Limited	Supports 585.9

FSI258.25	Meridian Energy Limited	Supports 585.9
FSI345.6	Genesis Energy Limited	Supports 585.9
FSI340.91	TaTa Valley Limited	Supports 585.9
FSI330.54	Middlemiss Farm Holdings Limited	Supports 585.9
433.21	Auckland Waikato Fish and Game Council	Add a definition for "environmental compensation" to Chapter 13: Definitions as follows: <i>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.</i> AND/OR Any alternative relief to address the issues and concerns raised in the submission.
FSI377.92	Havelock Village Limited	Supports 433.21
FSI340.62	TaTa Valley Limited	Supports 433.21
FSI223.78	Mercury NZ Limited	Supports 433.21
FSI198.37	Bathurst Resources Limited and BT Mining Limited	Opposes 433.21
FSI345.19	Genesis Energy Limited	Not Stated 433.21
419.137	Horticulture New Zealand	Delete the acronym 'SNA' in Chapter 13 Definitions AND Add a glossary of abbreviations in the Proposed District Plan. AND Any consequential or additional amendments as a result of changes sought in the submission.
862.27	Havelock Village Limited	Delete the definition of 'Significant Natural Area' in Chapter 13: Definitions and replace with a more descriptive definition of Significant Natural Area. AND Any consequential amendments or alternative relief to give effect to the matters raised in the submission.
FSI009.1	Te Ia Trust	Opposes 862.27
FSI086.27	Yashili Dairy Company Limited	Supports 862.27
FSI186.27	Pokeno Nutritional Park Limited	Supports 862.27
FSI301.27	New Zealand Health Food Park Limited	Supports 862.27
FSI303.27	Charlie Harris	Supports 862.27
FSI340.174	TaTa Valley Limited	Supports 862.27
574.13	TaTa Valley Limited	Delete the definition of Significant Natural Area in Chapter 13 Definitions, and replace with a new definition that is more descriptive as to what a Significant Natural Area is. AND

		Any consequential amendments and other relief to give effect to the matters raised in the submission.
FSI 139.82	Turangawaewae Trust Board	Opposes 574.13
FSI 108.91	Te Whakakitenga o Waikato Incorporated (Waikato-Tainui)	Opposes 574.13
FSI 303.55	Charlie Harris	Supports 574.13
FSI 301.55	New Zealand Health Food Park Limited	Supports 574.13
529.8	Wilcox Properties Limited	Retain the definition for 'Significant Natural Area' in Chapter 13: Definitions, except for the amendments sought below AND Amend the definition for 'Significant Natural Area' in Chapter 13: Definitions, as follows: <u>Means an area of significant indigenous biodiversity that is identified as a Significant Natural Area on the planning maps or 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>
680.268	Federated Farmers of New Zealand	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 and listed in Appendix XX and described in the individual assessment sheet</i> AND Any consequential changes needed to give effect to this relief.
FSI 333.23	Fonterra Limited	Supports 680.268
514.8	DP & LJ Ramsey Limited	Retain the definition for 'Significant Natural Area in Chapter 13 Definitions, except for the amendment sought below AND Amend the definition for 'Significant Natural Area' in Chapter 13 Definitions, as follows: <u>Means an areas of significant indigenous biodiversity that is identified as a Significant Natural Area on the Planning maps or 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>
332.8	Gwyneth & Barrie Smith	Retain the definition of Significant Natural Area in Chapter 13: Definitions, except for the amendment sought below AND 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 has been assessed as meeting one or more of the Criteria for Determining Significance of Indigenous Biodiversity (Appendix 2) by a suitably qualified Ecologist.</i>
FSI 377.53	Havelock Village Limited	Supports 332.8
581.17	Synlait Milk Ltd	Retain the definition of 'Significant Natural Areas' in Chapter 13 Definitions as notified.
FSI 341.34	Hynds Pipe Systems Limited	Supports 581.17

746.22	The Surveying Company	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 has been assessed as meeting one or more of the Criteria for Determining Significance of Indigenous Biodiversity (Appendix 2) by a suitably qualified Ecologist.</i>
FSI 293.54	Department of Conservation	Supports 746.22
576.47	Transpower New Zealand Ltd	Retain the definition for 'Significant Natural Area' in Chapter 13 Definitions, as notified.
540.8	Glen Alvon Farms Limited	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 has been assessed as meeting one or more of the Criteria for Determining Significance of Indigenous Biodiversity (Appendix 2) by a suitably qualified Ecologist.</i>
FSI 377.133	Havelock Village Limited	Supports 540.8
362.8	CYK Limited	Retain the definition for 'Significant Natural Area' in Chapter 13: Definitions, except for the amendments sought below AND Amend the wording of the definition for '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 of the planning maps or has been assessed as meeting one or more of the Criteria for Determining Significance of Indigenous Biodiversity (Appendix 2) by a suitably qualified Ecologist.</i>
FSI 377.64	Havelock Village Limited	Supports 362.8:
697.507	Waikato District Council	Amend the definition for 'Significant Natural Area' as follows: <i>Significant Natural Area or SNA</i>
419.140	Horticulture New Zealand	Amend the definition of 'Vegetation clearance' in Chapter 13 Definitions, as follows: <u>Indigenous</u> Vegetation clearance Includes the modification, burning, cutting, crushing, spraying and removal by physical, mechanical, chemical or other means <u>of indigenous vegetation, of all forms of vegetation, including indigenous, and may include exotic plants.</u> It does not include <del>vegetation clearance relating to routine cultivation or grazing-clearing: (a) hedges, shelter belts and amenity plants, or (b) vegetation along fences and around dams and ponds, or (c) vegetation around public utility networks, or (d) vegetation that impedes or is likely to impede flood flows (e) vegetation for the maintenance of roads and tracks, or (f) scattered trees, shrubs or regenerating bush amongst pasture or horticultural crops, or (g) vegetation that is infected by an unwanted organism as declared by the Ministry of Primary Industries Chief Technical Officer or an emergency declared by the Minister under the Biosecurity Act 1993.</del> AND Any consequential or additional amendments as a result of changes sought in the submission.

FSI 345.104	Genesis Energy Limited	Neutral/Amend 419.140
680.271	Federated Farmers of New Zealand	<p>Amend the definition of 'Vegetation clearance' in Chapter 13 Definitions, as follows: <i>Includes the modification, burning, cutting, crushing, spraying and removal by physical, mechanical, chemical or other means, of all forms of vegetation, including indigenous, and may include exotic plants. It does not include vegetation clearance relating to routine cultivation or grazing, which is ancillary to Farming, such as:</i></p> <p><u>(a) clearance for the purpose of maintaining rural fire breaks,</u></p> <p><u>(b) pasture maintenance</u></p> <p><u>(c) clearance of airstrips, helipads, vehicle entranceways, accessways and driveways, farm tracks and stock crossings of waterways,</u></p> <p><u>(d) clearance around farm buildings and farm infrastructure, water supply dams, pipelines and troughs,</u></p> <p><u>(e) pest plant/weed management, including clearance of pest plants including: thistles, ring ferns, carpet ferns, rushes, ink weed, briar rose, barberry, introduced pampas grass (other than toetoe), mingimingi, wilding pinus species, etc</u></p> <p><u>(f) cultivation,</u></p> <p><u>(g) forestry harvesting, pruning and thinning,</u></p> <p><u>(h) clearance or disturbance by animals including grazing,</u></p> <p><u>(i) activities undertaken for the purpose of establishing a fence line,</u></p> <p><u>(j) maintaining shelterbelts (including cutting of shelterbelt roots,</u></p> <p><u>(k) activities associated with fruit tree or fruit vine plantations,</u></p> <p><u>(l) clearance of vegetation that is fallen or dead,</u></p> <p>AND</p> <p>Any consequential changes needed to give effect to this relief.</p>
FSI 168.132	Horticulture New Zealand	Supports 680.271
FSI 171.97	T&G Global	Supports 680.271
FSI 277.144	Waikato Regional Council	Opposes 680.271
749.64	Housing New Zealand Corporation	<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>
FSI 293.56	Department of Conservation	Opposes 749.64
581.19	Synlait Milk Ltd	Retain the definition of 'Vegetation clearance' in Chapter 13 Definitions as notified.
FSI 341.36	Hynds Pipe Systems Limited	Supports 581.19

## 29.2 Analysis

### Indigenous vegetation

678. The term 'Indigenous vegetation' is the subject of a number of submissions and was notified as follows:

*Means vegetation that occurs naturally in New Zealand or arrived in New Zealand without human assistance. For the purposes of this plan, domestic or ornamental/landscaping planting or planted shelter belts comprising indigenous species are not included.*

679. The submission from Horticulture New Zealand [419.125] seeks to retain the definition of 'Indigenous vegetation' in Chapter 13: Definitions as notified. I recommend the panel accept Horticulture New Zealand's submission [419.125].

680. Federated Farmers [680.252] seek to amend the indigenous vegetation definition by including additional wording that excludes forestry undergrowth or planted indigenous forestry. The submission also seeks minor amendments to the grammar regarding landscaping planting and I agree the definition should say 'landscape planting'.

681. In respect of the forestry undergrowth I have considered the NES-PF and within Part 2, subpart 9, the NES-PF regulates three activities that are ancillary to plantation forestry, one of which is indigenous vegetation clearance. Regulations 93 and 94 set out circumstance in which indigenous vegetation clearance and incidental damage from forestry harvesting can occur as a permitted activity. I am of the opinion the NES-PF regulates this issue and, on this basis, do not see the need to add the additional wording.

682. In respect of purposefully planted indigenous vegetation for the purpose of production forestry, the NES-PF states the following:

*The key requirements in the definition of plantation forestry is that the plantation forest:*

- *Is at least 1 ha of continuous area – so small areas of isolated trees that cumulatively reach 1 ha do not meet this definition*
- *Is a forestry species – defined in the NES-PF as a 'tree species capable of reaching at least 5 m in height at maturity where it is located'*
- *Was deliberately established for commercial purposes*
  - *Will be harvested or replanted. The NES-PF is therefore intended to apply to plantation forests that were deliberately established with an intent to harvest for commercial gain not forests established for alternative purposes (e.g. manuka forests for honey production)*

683. This is an interesting dilemma for property owners or an enterprise that has planted areas of indigenous vegetation for the purpose of harvesting, with a potential conflict between the NES-PF definition and the Proposed District Plan Appendix 2 criteria for determining a SNA. I would suggest that this scenario is more appropriately governed by the NES-PF and do not see the need for additional wording in the District Plan definition. I consider my recommended exclusion in Appendix 2 with regards to plantation forestry will assist in clarifying this situation. In respect of the grammar, the definition would read as follows:

*Means vegetation that occurs naturally in New Zealand or arrived in New Zealand without human assistance. For the purposes of this plan, domestic or ornamental ~~landscaping~~ landscape planting or planted shelter belts comprising indigenous species are not included*

684. On this basis I recommend the panel accept in part Federated Farmers' submission [680.252].

## Significant Natural Area

685. The definition of Significant Natural Area reads as follows:

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

686. Synlait Milk Ltd [581.17] and New Zealand Transpower New Zealand Limited [576.47] seek to retain the definition of 'Significant Natural Area' in Chapter 13: Definitions as notified. A further submission from Hynds Pipe Systems Limited [FS/341.34] supports the submission. I recommend the panel accept in part the submissions from Synlait Milk Ltd [581.17] and New Zealand Transpower New Zealand Limited [576.47] as I have made recommendations to amend the definition in response to other submissions.

687. Waikato District Council [697.507] seeks a minor amendment to the definition for significant natural areas by adding the acronym 'SNA'. I consider this would be a useful addition to the definition, as SNA is a known acronym. I recommend the panel accept Waikato District Council's submission [697.507].

688. Horticulture New Zealand [419.137] seeks to delete the acronym SNA in Chapter 13 Definitions. I agree as the acronym does not have a definition and simply refers the plan user to the definition of Significant Natural Area. Given that I have recommended to add the acronym SNA to the 'Significant Natural Area' definition, I believe the deletion of the acronym would improve the clarity of the PDP. However, I do not think it is necessary to include a glossary of abbreviations in the PDP. I recommend the panel accept in part Horticulture New Zealand's submission [419.137].

689. Reid Crawford Farms Limited [686.8], The Surveying Company [746.22], Glen Alvon Farms Limited [540.8], Gwyneth and Barrie Smith [332.8], DP and LJ Ramsey Limited [514.8], Federated Farmers [680.268] and CYK Limited [362.8] seek to amend the definition for 'Significant Natural Area' to include that it has been assessed as meeting one or more of the Criteria for Determining Significance of Indigenous Biodiversity (Appendix 2) by a suitable qualified ecologist. Further submitter Mercury Energy Limited [FS/387.262] opposes the submission, and the Trustees of the Pakau Trust [FS/138.20] and Havelock Village Limited [FS/377.133] support the submission. Further submitter Department of Conservation [FS/293.54] has supported submission [742.22]. Further submitter Havelock Village Limited [FS/377.53] supports [332.8]. Further submitter Fonterra [FS/333.23] support [680.268]. Further submitter Havelock Village Limited [FS/377.64] supports [362.8]. The reasons provided are that the additional wording would align with the Conservation lot subdivision rule.

690. I have considered the notified definition and believe it would be useful for a plan user if the definition included reference to Appendix 2. This aligns with my recommendation that a SNA is either represented on the Planning Maps, or meets one or more of the criteria in Appendix 2. However, I do not think it necessary to include that the area has been assessed by an ecologist, as if the area has been identified as a SNA it has already met at least one of the criteria in Appendix 2. The new wording would read as follows:

*Means an area of significant indigenous biodiversity that is identified as a Significant Natural Area on the planning maps or that meets one or more of the criteria in Appendix 2 Criteria for Determining Significance of Indigenous Biodiversity.*

691. On this basis I recommend the panel accept in part the submissions from Reid Crawford Farms Limited [686.8], The Surveying Company [746.22], Glen Alvon Farms Limited [540.8],

Gwyneth and Barrie Smith [332.8], DP and LJ Ramsey Limited [514.8] and Federated Farmers [680.268].

692. Submissions from Havelock Village Limited [862.27] and TaTa Valley Limited [574.13] seek to delete the definition for Significant Natural Area and instead replace it with a new definition. A further submission from Te la Trust [FS1009.1] has opposed submission [862.27]. Further submitters Yashili Dairy Company Limited [FS1086.27], Pokeno Nutritional Park Limited [FS1186.27], New Zealand Health Food Park Limited [FS1301.27], Charlie Harris [FS1303.27] and TaTa Valley Limited [FS1340.174] have all supported submission [862.27]. Further submitters Turangawaewae Trust Board [FS1139.82] and Waikato–Tainui [FS1108.91] have opposed submission [574.13]. Further submitters Charlie Harris [FS1303.55] and New Zealand Health Food Park Limited [FS1301.55] have supported the submission.
693. The submitters have provided no suggestion as to the wording of a replacement definition and without this I am unable to assess what they are seeking. On this basis I recommend the panel reject the submissions from Havelock Village Limited [862.27] and TaTa Valley Limited [574.13].

### **Vegetation clearance**

694. The notified definition for Vegetation clearance is:

*“Includes the modification, burning, cutting, crushing, spraying and removal by physical, mechanical, chemical or other means, of all forms of vegetation, including indigenous, and may include exotic plants. It does not include vegetation clearance relating to routine cultivation or grazing.”*

695. Synlait Milk Ltd [581.19] seeks to retain the definition of ‘Vegetation clearance’ in Chapter 13; Definitions as notified. Further submitter Hynds Pipe Systems Limited [FS1341.36] has supported the submission. I recommend the panel accept the submission from Synlait Milk Ltd [581.19].
696. The submission from the Housing New Zealand Corporation [749.64] is seeking to amend the definition for ‘vegetation clearance’ to include exclusions and method of measurement. The Department of Conservation [FS1293.56] has opposed the submission. In my opinion, the purpose of the definition is simply to describe the activity and not impose standards. Standards are best imposed in a rule or a condition of consent and not on the activity itself. On this basis I recommend the panel reject Housing New Zealand Corporation’s submission [749.64].
697. Similar submissions from Horticulture New Zealand [419.140] and Federated Farmers [680.271] seek to add to the definition for vegetation clearance exclusions. The exclusions include: or hedges, shelter belts and amenity plants, vegetation along fences and around dams and ponds, utility networks, for flood control, roads and tracks, scattered trees/shrubs or regenerating bush amongst pasture or horticultural crops, vegetation that is infected by an unwanted organism as declared by the Ministry for Primary Industry Chief Technical Officer or an emergency as declared by the Minister under the Biosecurity Act. Further submitter Genesis Energy [FS1345.104] has supported submission [419.140]. Further submitters Horticulture New Zealand [FS1168.132] and Barker and T & G Global [FS1171.97] have supported submission [680.27], and Waikato Regional Council [FS1277.144] has opposed submission [680.271]. As discussed above, I consider the purpose of a definition is to describe the activity. I agree with further submitter Waikato Regional Council where it says that the proposed changes go beyond the scope of activities that have minor adverse effects as per method 11.1.4 of the WRPS. I recommend the panel reject the submissions from Horticulture New Zealand [419.140] and Federated Farmers [680.271].

### New Definitions - Biodiversity offset

698. Submissions from Waikato Regional Council [81.239], Auckland Waikato Fish and Game [433.20] and the Department of Conservation [585.9] are seeking a new definition for “biodiversity offset”.
699. The suggested wording reflects the Guidance for Biodiversity Offsetting in New Zealand and is as follows:
- 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.*
700. I consider that it is appropriate to incorporate the proposed definition for biodiversity offsetting as it reflects the Guidance for Biodiversity Offsetting in New Zealand. I recommend that the provided wording be used as the definition for Biodiversity offsetting. On this basis I recommend the panel accept the submissions from Waikato Regional Council [81.239], Auckland Waikato Fish and Game [433.20] and the Department of Conservation [585.9].

### **New definition – Environmental Compensation**

701. Submissions from Auckland Waikato Fish and Game Council [433.21] and Department of Conservation [585.10] seek a new definition for environmental compensation to be included in the PDP as follows:
- 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.*
702. Several further submissions have been received in support. from I consider that it is appropriate to incorporate the proposed definition for Environmental Compensation as it is a term within the Guidance for Biodiversity Offsetting in New Zealand and the suggested wording reflects this. I recommend that the provided wording be used as the definition for Environmental compensation. I recommend the panel accept Auckland Waikato Fish and Game Council [433.21] and the Department of Conservation [585.10].

### **29.3 Recommendations**

703. For the reasons above I recommend:
- a. **Accept** Horticulture New Zealand [419.125].
  - b. **Accept in part** Federated Farmers [680.252].
  - c. **Accept in part** Reid Crawford Farms Limited [686.8], The Surveying Company [746.22], Glen Alvon Farms Limited [540.8], Gwyneth and Barrie Smith [332.8], DP and LJ Ramsey Limited [514.8], Federated Farmers [680.268], Wilcox Properties Limited [529.8] CYK Limited [362.8], Mercury Energy Limited [FS1387.262], Trustees of the Pakau Trust [FS1138.20], Department of Conservation [FS1293.54], Havelock Village Limited [FS1377.53], Fonterra Limited [FS1333.23] and Havelock Village [FS1377.64].
  - d. **Accept in part** Synlait Milk Ltd [581.17], New Zealand Transpower New Zealand Limited [576.47] and Hynds Pipe Systems Limited [FS1341.34].
  - e. **Accept** Waikato District Council [697.507].
  - f. **Reject** Havelock Village Limited [862.27] and TaTa Valley Limited [574.13].
  - g. **Reject** Charlie Harris [FS1303.55], New Zealand Health Food Park Limited [FS1301.55] Yashili Dairy Company Limited [FS1086.27], Pokeno Nutritional Park

Limited [FS1186.27], New Zealand Health Food Park Limited [FS1301.27], Charlie Harris [FS1303.27] and TaTa Valley Limited [FS1340.174]. **Accept** Te la Trust [FS1009.1], Turangawaewae Trust Board [FS1139.82] and Waikato–Tainui [FS1108.91].

- h. **Accept in part** Horticulture New Zealand [419.137].
- i. **Reject** Housing New Zealand Corporation [749.64]. **Accept** Department of Conservation [FS1293.56].
- j. **Reject** Horticulture New Zealand [419.140], Federated Farmers [680.271], Genesis Energy [FS1345.104], Horticulture New Zealand [FS1168.132] and Barker and T & G Global [FS1171.97]. **Accept** Waikato Regional Council [FS1277.144].
- k. **Accept** Waikato Regional Council [81.239], Auckland Waikato Fish and Game [433.20], [433.21] Department of Conservation [585.9], [585.10] Federated Farmers [FS1342.52], TaTa Valley Limited [FS1340.61], Havelock Village Limited [FS1377.91], Genesis Energy Limited [FS1345.18] Havelock Village Limited [FS1377.158], Meridian Energy Limited [FS1258.25], Genesis Energy Limited [FS1345.6], TaTa Valley Limited [FS1340.91], Middlemiss Holdings Limited [FS1330.54] TaTa Valley Limited [FS1340.92], Middlemiss Holdings Limited [FS1330.55], Meridian Energy Limited [FS1258.26], Genesis Energy Limited [FS1345.7], Mercury Energy Limited [FS1223.138], Havelock Village Limited [FS1377.159] and Federated Farmers [FS1342.153]. **Reject** Bathurst Resources and BT Mining Limited [FS1198.66], TaTa Valley Limited [FS1340.27], Meridian Energy Limited [FS1258.13], Bathurst Resources and BT Mining Limited [FS1198.36], Federated Farmers [FS1342.120] and Bathurst Resources Limited and BT Mining Limited [FS1198.37].

## 29.4 Recommended amendments

704. The following amendments are recommended.

### Indigenous vegetation

Means vegetation that occurs naturally in New Zealand or arrived in New Zealand without human assistance. For the purposes of this plan, domestic or ornamental ~~landscaping~~ landscape planting or planted shelter belts comprising indigenous species are not included.

### Significant Natural Area

Means an area of significant indigenous biodiversity that is identified as a Significant Natural Area on the planning maps or that meets one or more of the criteria in Appendix 2 Criteria for Determining Significance of Indigenous Biodiversity.

### New Definition:

#### Biodiversity offsetting

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.

New Definition:

Environmental Compensation

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.

## 29.5 Section 32AA evaluation

705. The recommended minor amendment to the definition of indigenous vegetation is a grammatical correction. Accordingly, no s32AA evaluation is required to be undertaken.

706. The new definitions, Biodiversity offsetting and Environmental Compensation are recommended to be included within the Proposed District Plan, as they support the terminology within the provisions.

### *Other reasonably-practicable options*

707. One option is to not include the recommended new definitions in Chapter 13: Definitions. However, this would not provide plan users with relevant information when seeking the meaning of the terms, Biodiversity Offsetting or Environmental Compensation.

### *Effectiveness and efficiency*

708. The recommended amendments to Chapter 13: Definitions supports the policies in Chapter 3: Natural Environment and the overarching Objective 3.1.1. The amendments improve the effectiveness of the policy in implementing the Objective, and provide suitable guidance to plan users for the assessment of activities that affect the natural values and management of indigenous biodiversity. The definitions support the policies, and rules, and will be the most appropriate way to achieve the objective.

### *Costs and benefits*

709. There are no additional costs, and therefore costs are likely to be the same. There are benefits for the environment with the revised policy, as it is clearer about how the effects will be managed. Other benefits are clearer guidance to plan users regarding the effects of Offsetting or Environmental Compensation.

### *Risk of acting or not acting*

710. There are no additional risks in not acting. There is sufficient information on the costs to the environment, and benefits to people and communities to justify the amendment to Chapter 13: Definitions.

### *Decision about most appropriate option*

711. The amendment gives effect to the policies in relation to indigenous biodiversity. It is considered to be more appropriate in achieving the purpose of the RMA than the notified version.

## 30 Conclusion

712. The proposed rules for Indigenous Biodiversity and the Significant Natural Area discussed in this report provides an assessment of submissions received in relation to the objectives,

policies, and rules regarding this topic. The primary amendments I have recommended relate to the following:

- (a) Small adjustments to plan text to improve the plan's clarity and usability
- (b) Adjustments to the objectives and policies to align better with the Regional Policy Statement
- (c) Amendment to the definition of SNA to include both areas that are mapped on the Planning Maps and areas that meet one or more of the criteria in Appendix 2 Criteria for Determining Significance of Indigenous Biodiversity.
- (d) Amendment to the plan to provide for a practical approach to maintaining existing tracks and earthworks in Significant Natural Areas
- (e) Amendment to the plan to recognise earthworks for marae and papakainga on Maaori Freehold/Customary Land
- (f) More restrictive rules for SNAs in the coastal environment to give better effect to the New Zealand Coastal Policy Statement
- (g) Relocation of the kanuka and manuka rules to reflect their changing conservation status
- (h) Increase in the permitted amount of clearance of kanuka and manuka outside the Coastal Environment to allow productive pasture
- (i) Clarification of rules regarding indigenous undergrowth in production forestry
- (j) Provision of additional definitions for Biodiversity Offsetting and Environmental Compensation.

713. In conclusion, I consider that the submissions on this topic should be accepted, accepted in part or rejected as set out in Appendix 1 below for the reasons set out in all three parts of this report.
714. I recommend that the provisions in Chapter 3: Natural Environments and the relevant zones which have indigenous vegetation be amended as set out in Appendix 2 below for the reasons set out in this report.
715. I consider that the amended provisions will be efficient and effective in achieving the purpose of the RMA (especially for changes to objectives), the relevant objectives of this plan and other relevant statutory documents, for the reasons set out in the Section 32AA evaluations undertaken and included in this report.