

**BEFORE THE INDEPENDENT HEARINGS PANEL**  
**THE PROPOSED WAIKATO DISTRICT PLAN (STAGE 1)**

**UNDER** the Resource Management Act 1991 (**RMA**)

**IN THE MATTER OF** hearing submissions and further submissions on the  
Proposed Waikato District Plan (Stage 1)  
**Topic 21a: Significant Natural Areas**

**BY** **TATA VALLEY LTD**  
Submitter

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**REBUTTAL STATEMENT OF CHRISTOPHER JAMES SCRAFTON ON BEHALF  
OF TATA VALLEY LTD**

**Planning**

**Dated: 5 November 2020**

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## 1. INTRODUCTION

- 1.1 My full name is Christopher James Scrafton. I filed primary planning evidence<sup>1</sup> on behalf of TaTa Valley Ltd (**TVL**) in relation to Topic 21a: Significant Natural Areas (**SNA**) as part of Stage 1 of the Proposed Waikato District Plan (**PWDP**).
- 1.2 My qualifications and expertise are previously set out in that statement of primary evidence. I repeat the confirmation given in my statement of primary evidence that I have read the Code of Conduct for expert witnesses contained in the Environment Court Practice Note 2014 and my evidence has been prepared in accordance with that Code.
- 1.3 This statement of rebuttal evidence responds to the Primary Statement of Evidence of Miffy Foley on behalf of Waikato Regional Council (**WRC**) and addresses:
- (a) Approach to the protection of areas of significant indigenous biodiversity;
  - (b) Use of other tools to protect significant indigenous biodiversity; and
  - (c) Policy 3.2.2.

## 2. APPROACH TO THE PROTECTION OF AREAS OF SIGNIFICANT INDIGENOUS BIODIVERSITY

- 2.1 For the reasons set out in my primary statement of evidence and set out below, I agree with Ms Foley that plan mapping is not a definitive confirmation of the exact location of vegetation, habitats or biodiversity values on the ground. This is due to potential inaccuracies in mapping methodology, the fact that values can change over time and some values cannot be easily mapped (such as bat habitat).
- 2.2 However, I do not agree with Ms Foley that:
- a) Plan mapping (including identification of SNAs) should automatically be accepted as a representation of reality<sup>2</sup> in all cases;
  - b) The implications of having a SNA inaccurately identified on a property are minor<sup>3</sup>; or

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<sup>1</sup> Statement of primary evidence of Chris Scrafton in relation to Topic 21a: Significant Natural Areas, 29 October 2020

<sup>2</sup> As above, para 4.7.

<sup>3</sup> Paragraph 3.5, Statement of Evidence of Marie-Louise (Miffy) Foley.

c) Including SNA mapping in the district plan will ensure that SNAs are identified as per the Regional Policy Statement (**RPS**).<sup>4</sup>

2.3 I discuss each of these points of disagreement in more detail below.

2.4 Ms Foley states<sup>5</sup> that it is WRC's preference "*to retain the SNAs on the planning maps and to amend the rule framework to refer to SNAs more generally*". She notes that this provides an "*applicant to have an assessment of a mapped SNA to determine its boundaries should they wish to go beyond the permitted activity standards and do not believe it is a SNA*". Ms Foley explains that in her opinion this is the more appropriate approach and that outlined by the section 42A Officer is not appropriate.

2.5 I understand that Ms Foley's comments are in response to the s42A Reporting Officer's recommended approach<sup>6</sup>, which in summary would:

- a) Retain only the mapped SNA sites which have been ground truthed;
- b) Amend the definition of "SNA" to apply to every piece of indigenous vegetation that meets the criteria of Appendix 2; and
- c) Require a series of plan changes to introduce full mapping into the PWDP.

2.6 I note that the Reporting Officer's recommendations appear to be in response to the acknowledged limitations of SNA mapping<sup>7</sup>. As noted in my primary statement of evidence, in my view, the protection of indigenous biodiversity within areas identified as SNAs should be focused on protection of values as opposed to SNA area. In part this is because accurately mapping SNAs through a plan review process is fraught and inherently limited by:

- a) The resource and time available to undertake what is an extensive exercise; and
- b) The fact that areas of indigenous biodiversity are dynamic and likely to evolve over the timeframe of a district plan.

2.7 Having regard to the above limitations in my view it is not appropriate to:

- a) Apply SNA mapping of indigenous biodiversity value as an absolute identification of areas of such value through a district plan process;

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<sup>4</sup> Paragraph 3.7, Statement of Evidence of Marie-Louise (Miffy) Foley

<sup>5</sup> Paras 4.3(a) and 4.22 of Statement of Evidence of Miffy Foley for Waikato Regional Council, 29 October 2020

<sup>7</sup> Section 4.1 of the s42A Report (part 1)

- b) Develop district plan objectives, policies and rules in a manner that considers SNA mapping to be an absolute identification of areas of such value; or
- c) Rely solely on SNA mapping and associated plan provisions for the protection of areas of indigenous biodiversity.

2.8 As such, I consider that the SNA provisions should:

- a) Utilise mapping of areas that qualify as SNAs where there is a high degree of confidence that the mapping reflects the area of indigenous biodiversity unless there are more appropriate site specific measures;
- b) Recognise that there are limitations of SNA mapping and subsequently ensure that the associated provisions recognise these limitations by allowing for the SNA mapping to be ground truthed for a resource consent process. For clarification this would not change the SNA mapping in the District Plan but would ensure a particular consent proposal addresses the actual biodiversity values and effects of a proposal on the values; and
- c) Recognise that areas of indigenous biodiversity do likely exist outside of areas mapped as SNA.

2.9 On this basis I continue to support the amendments to the objectives and policies outlined in my primary evidence, subject to the amendments below.

#### 2.10 **POLICY 3.2.2**

2.11 Ms Foley does not agree with the s42A Officer who recommends Policy 3.2.2 be deleted<sup>8</sup> and supports its retention.

2.12 Given my opinion that the SNA maps should be retained in the PWDP, I agree with Ms Foley that the Policy 3.2.1(a) should not be deleted since that policy confirms that approach in the PWDP.

2.13 If Policy 3.2.2 is retained, I recommend that Policy 3.2.2(b) be amended so that it is consistent with the effects management hierarchy in Policy 3.2.3. The notified version of clause (b) could be interpreted to mean that effects should be avoided i.e. not adversely affected is interpreted to mean avoid effects. However, Policy 3.2.3 is more nuanced and provides for some effects to be offset and compensated.

2.14 Having regard to the above, I recommend that Policy 3.2.2. be amended as follows:

*3.2.2 Policy - Identify and Recognise Significant Natural Areas*

*(a) Identify significant indigenous vegetation and habitats of indigenous fauna in accordance with the Waikato Regional Policy Statement and identify as Significant Natural Areas.*

*(b) Recognise and protect Significant Natural Areas by ensuring the characteristics that contribute to their significance are not adversely affected by following the effects management hierarchy in Policy 3.2.3.*

2.15 Additionally, to support policy the reinstatement of 3.2.2(b) as well as Policy 3.2.3, I consider it would be beneficial to have a schedule that notes the characteristics that leads to the area having SNA status. This would provide clarity for users, enhance robustness of the SNA mapping and reflect the explanation to policy 11.2 of the RPS which notes protection of significant sites need not prevent their use where activities will not materially compromise the characteristics or values which deemed the site significant. Although not specifically requested in TVL's submission this amendment is consistent with its request for the plan to allow more flexibility for development within SNAs. Identifying the values (or criteria met) for each SNA should allow for development that does not adversely affect the values.

2.16 A similar amendment was recommended by the section 42 writers (and associated experts) for the Landscape Topic in relation to Significant Amenity Landscapes. A further example is the Auckland Unitary Plan which has a schedule of which criteria each Significant Ecological Area meets (being Schedules 3 – 5 of the Auckland Unitary Plan).

2.17 I have not reviewed any worksheets associated with the SNA mapping to understand how feasible this approach would be but would recommend that the Council consider such an approach.

**Chris James Scrafton**

5 November 2020