

**IN THE MATTER**

of the Resource Management Act 1991

**AND**

**IN THE MATTER**

of hearings regarding submissions to the proposed Waikato District Plan relating to Chapter 1 Issues for the District's rural areas.

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**STATEMENT OF PRIMARY EVIDENCE OF SHANE ALEXANDER HARTLEY ON BEHALF  
OF MIDDLEMISS FARM HOLDINGS LTD (SUB 794 and FS1330)  
Dated 16 September 2019**

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**1 INTRODUCTION**

- 1.1 My name is Shane Alexander Hartley. I have been a Director of Terra Nova Planning since establishing the consultancy in 2001. I hold the qualifications of Bachelor of Arts in Political Studies and History, and Bachelor of Town Planning. I am a Member of the NZ Planning Institute.
- 1.2 I was actively involved in policy and resource consent processes while employed by the Rodney District Council, holding from 1981 the various positions of Planner, Senior Planner, Planning Manager, and Forward Planning Manager, and as a consultant since 1999, have been involved in many Plan policy processes, and prepared and assessed numerous applications for development and subdivision proposals primarily in areas north of Auckland.
- 1.3 My professional experience has substantially been in the area of strategic and district plan land use. My extensive experience with statutory processes and documents includes the Auckland Regional Policy Statement, Auckland Regional Growth Strategy, Waikato Regional Plan, and Manawatu-Wanganui One Plan; the Auckland Unitary Plan, the Thames Coromandel District Plan, district structure planning, district plan resource management, including plan preparation and processing, and multiple urban and rural land use and subdivision resource consent applications and private plan changes.

**2 SCOPE**

- 2.1 My evidence is in relation to submissions to the Proposed Waikato District Plan lodged by Middlemiss Farm Holdings Ltd (Middlemiss) seeking amendments to the issues within

Chapter 1 Proposed District Plan (PDP), with reference to other submissions by Middlemiss to objectives and policies and other provisions under Chapters 3 and 5 which will be the subject of separate evidence statements when submissions to those chapters is heard.<sup>1</sup>

### 3 CODE OF CONDUCT

- 3.1 I confirm that I have read the Environment Court's Code of Conduct for Expert Witnesses and I agree to comply with it. I confirm that I have considered all the material facts that I am aware of that might alter or detract from the opinions that I express, and that this evidence is within my area of expertise, except where I state that I am relying on the evidence of another person.

### 4 SUBMISSIONS

- 4.1 My statement addresses the primary and further submissions made by Middlemiss relating to Chapter 1 and Section 1.4: Issues 1.4.2.1, 1.4.3 (1.4.3.1, 1.4.3.2) of the Proposed Plan (with the submission adding the qualifying statement relating to the track changes Middlemiss provided to assist the Council that "*the changes are not comprehensive and there will be other changes required to implement the concerns outlined in the relief sought*"<sup>2</sup>):

- 4.2 The overall thrust of Middlemiss's submissions to the PDP is that it does not fully identify or include appropriate methods that address the important biodiversity issues within the District and unnecessarily restricts rural residential activity. While protection of existing significant natural areas (SNAs) is included in the Plan, there is little or no provision for "... *the enhancement and expansion of biodiversity over time*"<sup>3</sup>. The Middlemiss submission points from issues through to objectives, policies and methods and rules address these core principles.

#### 1.4.2.1 Challenges (a) (vi) Soil resources

- 4.1 In relation to the amendment sought by Middlemiss to 1.4.2.3 (a) (vi) concerning soil resources, the Hearing Report ("HR")<sup>4</sup> rejects the relief sought. The discussion of soil resources in paragraphs 5.6 to 5.10 of the Submission explains the purpose of the amendments sought and I agree with the approach set out. In my opinion, the s42A report may have misunderstood the intent of the amendment.

- 4.2 As it currently reads, the issue is incorrectly worded in its current form in terms of (i) being too limited in scope by generically referencing all subdivision and intensification, and (ii) ignoring other threats to the soil resource. I refer to the higher-level Waikato Regional Policy Statement (WRPS) issues, objectives and policies as an example of these concerns. Issue

#### **1.1 State of resources is:**

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<sup>1</sup> Refer Middlemiss Submission #794 and FS #1330.

<sup>2</sup> Para 6.3 Middlemiss Submission

<sup>3</sup> Para 1.3 Middlemiss Submission

<sup>4</sup> Para 109 Section 42A Report Chapter 1 Introduction.

***c) effects of intensive land based activities by the accumulation of contaminants from point and non-point sources in soils and the effects on water quality;***

- 4.3 The Explanation to this issue clarifies the concern as *“Some intensive land use practices are causing a reduction in soil quality including damage to soil structure, fertility and porosity, and a build-up of contaminants such as cadmium, zinc and fluorine. Some land uses are also resulting in reduced water quality in some areas, such as by causing an increase in nutrients, sediment, pathogens and algal growth in water bodies”*.
- 4.4 Soil is referenced again in the WRPS under **Issue 1.4 Managing the built environment** as
- f) the effect of development on access to mineral resources (particularly aggregates), high class soils, and future energy development sites;
- 4.5 The Explanation includes the statement that *“Development can also lead to a range of other undesirable and unsustainable outcomes if not appropriately managed. For example ... The region supports a range of primary production activities, which require a range of attributes, such as soil, climate, water, access to transportation and labour. Inappropriate subdivision, use and development may limit access to such resources and hence the ability for primary production activities to be undertaken”*.
- 4.6 The WRPS therefore is concerned about the issues of soil quality – primarily from farming activities – and that development can prevent access to (i.e. the ability to use) high quality soils.
- 4.7 These issues are then addressed by the WRPS objectives for soils which are:
- 3.25 Values of soil: The soil resource is managed to safeguard its life supporting capacity, for the existing and foreseeable range of uses.
- 3.26 High class soils: The value of high class soils for primary production is recognised and high class soils are protected from inappropriate subdivision, use or development.
- 4.8 Relevant WRPS policies for soils are focussed on maintaining the life supporting capacity of the soil resource (Policy 14.1) and directing development - including rural residential development - away from high class soils and primary production activities on those high class soils<sup>5</sup>: As the Middlemiss submission has specifically identified, Policy 14.2 is to *“Avoid a decline in the availability of high class soils for primary production due to inappropriate subdivision, use or development”*<sup>6</sup>, with the implementation methods including that urban and rural residential development should be restricted on such soils and directed *“... on to soils of lesser versatility where there is an option to do so”*.
- 4.9 I generally agree with the protection of high class soils to protect their productive potential. In some cases in the Waikato District, high class soils have been identified through the RPS

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<sup>5</sup> Policy 6.1.5; page WRPS

<sup>6</sup> Policy 14.2; page 14-2 WRPS

definition but in some areas:

- these soils may have minimal productive potential as they are regularly flooded (within the 1% AEP flood plain); or
- the loss of some areas of prime soils (Class 2 & 3) will have less than minor effects on the productive potential of the district if threatened ecosystems are restored or enhanced on these sites. This would have significant positive benefits for regional and national biodiversity enhancement.

4.10 The WRPS and Proposed WDP both define high class soils as:

Means those soils in Land Use Capability Classes I and II (excluding peat soils) and soils in Land Use Capability Class IIIe1 and IIIe5, classified as Allophanic Soils, using the New Zealand Soil Classification.

4.11 It is my understanding that this definition includes soils mapped as high class but will be within the 1% AEP flood plain and where investment in intensive agriculture (cropping) or horticulture would be a risk to that investment. Essentially, these soils within the 1% AEP flood plain may have severely limited productive potential and Regional Policy 13.2.6 (Control of development within a floodplain or coastal hazard area) seeks to avoid earthworks and stop-banking on these sites as it is likely to increase flood risk on other properties.

**13.2.6 Control of development within a floodplain or coastal hazard area**

Regional and district plans shall ensure that:

a) Subdivision, use and development can only occur in a floodplain with an annual exceedance probability of 1% (where the floodplain does not match the definition of being a High Risk Flood Zone) or in an identified potential coastal hazard area (not being a High Risk Coastal Hazard) area where:

i) appropriate assessment of the risks has been undertaken and these risks will not exceed acceptable levels;

ii) appropriate assessment of the likely effects has been undertaken, including the effects of any new structure or fill on the diversion of overland flows or any consequential increased runoff volumes;

iii) the creation of a new, or exacerbation of an existing hazard, including those off site, and any adverse effects are avoided, remedied or mitigated;

iv) any adverse effects of a 1% annual exceedance probability flood event on habitable buildings are avoided or mitigated; v) has been designed and located to minimise the level of coastal hazard risk over its intended lifetime; and

vi) any hazardous substance stored as part of the development, or during the construction, or found on or near to the site, will not create a hazard; or

...

4.12 Furthermore, the remnants of Indigenous ecosystems on these same high class soils and those on the 1% AEP flood plain are extremely rare and most have been classified as critically

endangered (Singers & Rogers 2014<sup>7</sup>). These ecosystems (mainly flood plain forests) provide an opportunity for WDC to meet WRPS Policy 11.1.1 (Maintain or enhance indigenous biodiversity) which requires the WDC to include positive indigenous biodiversity outcomes within its district plan:

11.1.1 Regional and district plans shall maintain or enhance indigenous biodiversity, including by:

providing for positive indigenous biodiversity outcomes when managing activities including subdivision and land use change;

- 4.13 Where there is scope to do so under the submissions, I also consider that it would be appropriate to amend the definition of High class soils in the PDP to exclude flood plain soils as follows (additional words underlined);

Means those soils in Land Use Capability Classes I and II (excluding peat soils and soils within the 1%AEP flood plain) and soils in Land Use Capability Class IIIe1 and IIIe5, classified as Allophanic Soils, using the New Zealand Soil Classification.

- 4.14 It is also helpful to reference the Auckland Unitary Plan (AUP) provisions, recognising their recent gestation and confirmation through the Environment and High Court process, as the MHFL Submission sets out. It is my understanding that there is relatively little difference between the Auckland and Waikato environments in terms of threats to soil quality. In this respect, the AUP includes the following issue<sup>8</sup>;

.... Specific issues in the Auckland region are:

- protecting the finite resource of elite quality soils from urban expansion;

...

- 4.15 The Environment Court's Decision on appeals to the rural subdivisions of the AUP does not specifically address the AUP's emphasis on the protection of prime and elite soils (as the Court put it "*Ostensibly, this case relates to the subdivision rules that might apply to promote the protection of significant ecological areas concerning indigenous vegetation and wetlands within the Auckland Rural Areas*") but the Court clearly identified that focus several times without adverse comment; for example [my underlining], .

Although the regional plan does not encourage subdivision within the other rural areas, it recognises that there will be further subdivision, but clearly sets its face, in doing so, to achieve certain, more particularised objectives: an avoidance of fragmentation of productive land, prime and elite soils in particular, and subdivision is to achieve other objectives of the plan such as securing Schedule 3 SEA areas, ONL and outstanding natural character areas and the like<sup>9</sup>.

<sup>7</sup> In Leathwick J 2016 Integrated biodiversity ranking and prioritisation for the Waikato region. Waikato regional Council 2016/12

<sup>8</sup> B9.1 Issues; Rural Environment; Auckland Unitary Plan

<sup>9</sup> Para 304, *Cabra v Auckland Council and ors* [2018] EnvC 90

- 4.16 The amendment sought by Middlemiss is consistent with the regional issues and policy provisions of the Waikato RPS for soils and is consistent with the AUP (being the latest and most recent Plan assessed (in part) by the Environment and High Court) relevant to the rural issues in Waikato District). In my opinion, the relief sought is an appropriate amendment to make to the PDP, given also that the objectives, policies and methods following from it would then be more focussed in terms of addressing the soil qualities that should most be protected.

#### 1.4.2.1 Challenges (a) (ix) Natural environment

- 4.17 In relation to the amendment sought by Middlemiss to 1.4.2.3 (a) (ix) concerning enhancing the natural environment with the addition of a reference to the ' *sustainability of ecosystem services*', the Hearing Report ("HR") rejects the relief sought on the basis that ecosystem services are already captured within the Issue wording.
- 4.18 In my view, it is appropriate to reference "ecosystem services" at this level in the Plan. The term is already referred to in the PWDP for indigenous vegetation clearance outside SNAs<sup>10</sup>, and appears in WRPS issues, objectives and policies set out below (my underlining added).

#### **Issue 1.1 State of resources**

Declining quality and quantity of natural and physical resources impacts their life-supporting capacity, reduces intrinsic values and ecosystem services and in general reduces our ability to provide for our wellbeing.

#### **Objective 3.8 Ecosystem services**

The range of ecosystem services associated with natural resources are recognised and maintained or enhanced to enable their ongoing contribution to regional wellbeing.

#### **Policy 4.1 Integrated approach**

An integrated approach to resource management will be adopted that:

...  
recognises the multiple values of natural and physical resources including ecosystem services;  
...

#### **Policy 11.1 Maintain or enhance indigenous biodiversity**

Promote positive indigenous biodiversity outcomes to maintain the full range of ecosystem types and maintain or enhance their spatial extent as necessary to achieve healthy ecological functioning of ecosystems, with a particular focus on:

...  
e) providing ecosystem services;  
...

#### **11.1.2 Adverse effects on indigenous biodiversity**

Regional and district plans shall recognise that adverse effects on indigenous biodiversity within terrestrial, freshwater and coastal environments are cumulative and may include:

...  
h) loss of ecosystem services;

#### **14.1.1 Manage the effects of activities to maintain soil quality and reduce risk of erosion**

Regional plans shall control the effects of activities to maintain soil quality and to reduce the risk of erosion, including:

a) activities that negatively impact on soil quality and ecosystem services;  
...

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<sup>10</sup> Chapter 22 Rural Zone - Rule (Table) 22.2.8 Indigenous Vegetation clearance outside a Significant Natural Area RD1 (b)(ii); and Chapter 23 Country Living Zone – Rule (Table) 23.2.9 Indigenous Vegetation Clearance Outside a Significant Natural Area RD1 (b)(ii); PWDP

4.19 The WRPS also defines ecosystem services as:

**Ecosystem services** – the benefits people obtain from ecosystems. These include:  
 a) provisioning services (such as food and water);  
 b) regulating services (such as flood and disease control);  
 c) cultural services (such as spiritual, recreational, and cultural benefits); and  
 d) supporting services (such as nutrient cycling); that maintain the conditions for life on Earth.

4.20 Ecosystem services are also referenced in the Environment Court's Decision on appeals to the rural subdivisions of the AUP<sup>11</sup>. The system used for a report underpinning the mapping of Auckland ecosystems was noted by the Court as being the IUCN threat assessment of ecosystems, and the Court set out benefits of the approach in its Decision. Reference to the IUCN website describes the term as;

The Millennium Ecosystem Assessment defined Ecosystem Services as “the benefits people derive from ecosystems”. Besides provisioning services or goods like food, wood and other raw materials, plants, animals, fungi and micro-organisms provide essential regulating services such as pollination of crops, prevention of soil erosion and water purification, and a vast array of cultural services, like recreation and a sense of place.

In spite of the ecological, cultural and economic importance of these services, ecosystems and the biodiversity that underpins them are still being degraded and lost at an unprecedented scale. One major reason for this is that the value (importance) of ecosystems to human welfare is still underestimated and not fully recognized in every day planning and decision-making, in other words, the benefits of their services are not, or only partly, captured in conventional market economics. Furthermore, the costs of externalities of economic development (e.g. pollution, deforestation) are usually not accounted for, while inappropriate tax and subsidy (incentive) systems encourage the over-exploitation and unsustainable use of natural resources and other ecosystem services at the expense of the poor and future generations.<sup>12</sup>

4.21 Having reference to ‘ecosystem services’ in the Issue as sought by the Submitter is important, particularly given the ‘economic’ context the challenges are set out in under this section (noting that it appears nowhere else in the higher level issues, objectives or policies despite being in many of the WRPS provisions). As is seen in the WRPS, the Environment Court's statement, and the IUCN description above, the meaning, significance and scope of the term goes beyond that of “simply maintaining and enhancing the natural environment”. Importantly, reference to this term enables consideration of more holistic and comprehensive objectives, policies and methods to address the issue, including the consideration of economic development opportunities and constraints within the umbrella of ‘ecosystem services’.

#### 1.4.3 (a) and (b) The Rural environment

4.22 The HR rejects the Middlemiss submission seeking the deletion of the word “productive” from the issue so that it would refer only to “rural activities” (and not “productive rural activities”) in relation to the range of rural area attributes. This rejection is based on the rationale that the

<sup>11</sup> Para 141, *Cabra v Auckland Council and ors* [2018] EnvC 90

<sup>12</sup> <https://www.iucn.org/commissions/commission-ecosystem-management/our-work/cems-thematic-groups/ecosystem-services>

issue needs to have consistent wording with the objectives and policies for the Rural Zone which use this term.

- 4.23 In my opinion this is why it is important to ensure that issues are appropriately and accurately stated, as a “top down” rather than “bottom up” approach is more likely to lead to an integrated and more effective issue/objective/policy/method outcome. Retaining the word ‘productive’ gives precedence to ‘productive’ activities - rather than those which may traditionally be viewed as non-productive ones - and circumscribes the scope of objectives and policies (i.e. how can an objective or policy be written that doesn’t include the requirement that all activities are ‘productive’, even where they may be entirely appropriate and desirable in the rural area?).
- 4.24 At best, the current wording creates room for future debate (especially if carried down into objectives and policies without amendments to those) over whether a proposed activity is ‘productive’ or not, and at worst, leads to inappropriate or restrictive environmental outcomes.
- 4.25 There are potentially a range of rural activities that are not “productive” in the traditional or commonly understood sense<sup>13</sup>, and it is appropriate to delete reference in the front end of this issue to remove doubt.
- 4.26 This leaves room for the later objectives, policies and methods to be appropriately worded to seek and achieve a wider range of intended outcomes for the rural environment. Recognition of a productive rural area as one resource is also addressed in the second part of the issue which is not proposed to be modified.

#### 1.4.3 (a) and (b) The Rural environment

- 4.27 The wording changes to the Rural environment activity issues sought by the Middlemiss Submission are not accepted by the HR. Having considered both the Submission and HR I consider that slightly amended wording or deletions or retaining PDP wording would be appropriate within the scope of the Middlemiss submission (noting also the Fonterra submission seeking a definition of the term productive rural activities).
- 4.28 This would help to address the Submitter’s concerns about the very narrow scope assumed for productive activities and the need to allow in the issues statement for the positive subdivision and land use contributions that can occur in rural areas, as well as address the HR concern about listing activities.
- 4.29 The amended wording I propose is (with the proposed Middlemiss changes shown as single underlined or struck through where I support them without change; double underlined and/or struck through and in blue where I propose alternative changes to the specific Middlemiss wording or deletions, or accept the current PDP wording instead);

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<sup>13</sup> The Oxford dictionary defines ‘productive’ as “*Producing or able to produce large amounts of goods, crops, or other commodities*” (the Cambridge English dictionary definition is less “produce or goods” oriented with “*resulting in or providing a large amount or supply of something*”).



- (a) Productive rural activities ~~are include~~ those activities that use rural resources for economic gain or which cannot be carried out easily or appropriately in an urban setting. Farming activities, including dairy, dry stock, horse breeding/training, honey production, horticulture, pig and poultry, mining, and forestry are all significant industries in economic terms for the Waikato district.
- (b) Other ~~productive~~ rural activities include housing for people ~~working in rural environments~~ and ecosystem services that provide inputs for rural production (such as ~~farm labour~~ and clean water) and assimilate output pollutants (such as nitrate and sediment run off).
- (c) Rural-based activities that do not use rural resources directly include rural service industries and major facilities such as Hampton Downs. The recreational use of the rural environment is also important to the district, with activities such as hunting, fishing, tramping, and cycling being very important in terms of tourism. Lifestyle uses can be sensitive to the effects of mining, farming and horticulture operations and other significant activities. There is therefore potential for conflict between rural activities and other land uses. ~~Excessive~~ lifestyle development in rural areas can have a number of adverse effects that need to be ~~avoided~~ managed. These effects may include the loss of rural amenity, rural production, and high quality soils, resulting in the potential for reverse sensitivity conflicts, and demands for improved rural infrastructure and services that are difficult to provide economically, ~~and reduced growth in urban areas, which affects the prosperity of urban areas.~~ However, through a design led site development process, and robust assessment criteria, rural residential development can be integrated into ~~working~~ rural environments in appropriate locations.
- (d) ~~(c) Rural areas are vulnerable to small-scale change that, cumulatively, can have an profound adverse effect on their efficient use for rural production and other rural activities. The continued modification of the rural environment through land use, subdivision, and development as a result of residential and commercial growth, can adversely affect their natural and physical qualities and character. These qualities and character are important in maintaining investment in rural activities, which proportionally contribute the most to the district's GDP and provide a context to the development and sustainability of rural towns and villages.~~

4.30 These proposed changes to the issues statements better provide for rural subdivision and activities that address and encourage, for example, biodiversity maintenance, enhancement and restoration. This includes the opportunity for subdivision and land use incentives in appropriate circumstances and location (subject to standards, guidelines and criteria). They also reduce, to some extent, the potential for an imbalance between providing for traditional rural production activities and the statutory obligations (both existing and imminent) for soil protection, indigenous biodiversity and freshwater management.

#### 1.4.3.2 (a), (b) and (c); Protecting the rural environment

4.31 The Middlemiss submission relating to these issues is in similar vein to the previous issues concerns. While the importance of rural areas for productive rural activities such as farming and mineral extraction requires Identification, the statutory responsibilities under the RMA

and relevant national policy statements and WRPS require a wider scope under a section heading of protecting the rural environment.

- 4.32 The National Policy Statement for Freshwater Management (NPSFM) sets out key objectives for water quality protection and improvement.

Objective A1

To safeguard:

- a) the life-supporting capacity, ecosystem processes and indigenous species including their associated ecosystems, of fresh water; and
  - b) the health of people and communities, as affected by contact with fresh water;
- in sustainably managing the use and development of land, and of discharges of contaminants.

Objective A2

The overall quality of fresh water within a freshwater management unit is maintained or improved

while:

- a) protecting the significant values of outstanding freshwater bodies;
- b) protecting the significant values of wetlands; and
- c) improving the quality of fresh water in water bodies that have been degraded by human activities to the point of being over-allocated.

Objective A3

The quality of fresh water within a freshwater management unit is improved so it is suitable for primary contact more often, unless:

- a) regional targets established under Policy A6(b) have been achieved; or
- b) naturally occurring processes mean further improvement is not possible.

Objective A4

To enable communities to provide for their economic well-being, including productive economic opportunities, in sustainably managing freshwater quality, within limits.

- 4.33 These objectives are implemented by policies which primarily apply the responsibility for achieving the intended outcomes to regional councils, generally through regional plans. While many of the policies can or may require consideration and management of land uses in terms of achieving water quality maintenance and improvement, Section C; Integrated management, most specifically addresses this;

C. Integrated management

Objective C1

To improve integrated management of fresh water and the use and development of land in whole catchments, including the interactions between fresh water, land, associated ecosystems and the coastal environment.

Policy C1

By every regional council:

- a) recognising the interactions, ki uta ki tai (from the mountains to the sea) between fresh water, land, associated ecosystems and the coastal environment; and
- b) managing fresh water and land use and development in catchments in an integrated and sustainable way to avoid, remedy or mitigate adverse effects, including cumulative effects.

Policy C2

By every regional council making or changing regional policy statements to the extent needed to provide for the integrated management of the effects of the use and development

of:

- a) land on fresh water, including encouraging the co-ordination and sequencing of regional and/or urban growth, land use and development and the provision of infrastructure; and
- b) land and fresh water on coastal water.

4.34 While the NPSFM already requires that regional policies and methods be generated to achieve the objectives this has not been occurring to central Government's satisfaction and an updated NPSFM and new national environmental standards for freshwater are being developed. The new NPSFM (Draft published September 2019) is under consultation at present but can be expected to apply in 2020. The Government consultation statement is that:

But our water is suffering as a result of urban development, agriculture, horticulture, forestry and other human activities. There is also a lack of robust regulation, monitoring and enforcement.

The Government wants to improve the current management of freshwater.

It is proposing new requirements that would:

- strengthen Te Mana o Te Wai as the framework for freshwater management
- better provide for ecosystem health (water, fish and plant life)
- better protect wetlands and estuaries
- better manage stormwater and wastewater, and protect sources of drinking water
- control high-risk farming activities and limit agricultural intensification
- improve farm management practices<sup>14</sup>.

4.35 The Government has also announced that a New Zealand Indigenous Biodiversity Strategy will be released in 2020, with consultation on the draft finishing on 22 September 2019. The proposed National Policy Statement for Indigenous Biodiversity (NPSIB) is also imminent.

4.36 These initiatives will almost certainly apply during the PWDP process and it is appropriate to consider the likely implications as part of the submission process, bearing in mind that the current statutory documents in large part already require that, as is evident from the Environment Court's decision on the AUP rural subdivision provisions.

4.37 As the Middlemiss submission also notes, Policies 7, 11, 13, 14 18 and 19 of the NZ Coastal Policy Statement are also relevant and require attention in forming the PDP. The wider considerations of ecosystem systems, and the need to improve indigenous biodiversity and freshwater quality, avoid soil loss degradation, and respond to climate change impacts all require a response to achieve the NZCPS policies, as they also do in regard to Part 2 of the RMA, the NPSFM, and forthcoming NPSIB.

4.38 In this respect, the restrictive approach signalled for lifestyle or rural residential development and non-rural activities should be tempered given the range of possible options for such

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<sup>14</sup> <https://www.mfe.govt.nz/consultation/action-for-healthy-waterways>

activities to occur with limited adverse effects on productive activities, especially where there is (or should be) an increased emphasis in the PWDP on protecting higher quality soils.

4.39 The proposed amendments by Middlemiss to emphasise management as opposed to limitation or avoidance of rural residential and other activities in the rural area are appropriate. This is particularly the case for activities of this kind intended to achieve significant biodiversity, water quality, and soil protection gains in Waikato District, as is sought by Middlemiss in its wider submission, and which will be addressed in more detail in later hearings for objectives, policies and methods. I support the amendments sought by MHFL to the issue as set out in its submission, other than with the addition I recommend to the proposed wording below (my additional words single underlined)

(d) (e) Rural areas also contain degraded natural and physical resources, including soil, water and indigenous habitats, because of inappropriate rural productive activities. For example, the loss of indigenous biodiversity and habitats in the Waikato District is significant, and the mauri of the Waikato River has been compromised and it is no longer a healthy and reliable food source for tangata whenua. Degraded natural and physical resources urgently need protection, enhancement and restoration, including the establishment of new ecological habitats. This work is expensive and labour intensive to undertake at the scale required to meet the Purpose of the Act. In situ and other forms of incentivized subdivision such as transferable development rights are ~~is an~~ important methods to manage the demand for residential/lifestyle growth in rural areas, while at the same time achieving significant environmental restoration benefits.

4.40 The transferable development right option is an appropriate method in some situations for achieving significant environmental benefits, as was recognised by the Environment Court. This option is also within the rule amendments sought by Middlemiss in regard to Chapter 22 – Rules.

**Shane Hartley**

**September 2019**

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