

# **SECTION 42A REPORT**

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

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

Report prepared by: Susan Chibnall

Date: November 2020

### **Part I - Objectives and Policies**



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Andrew Kerr	400
Anthony Armstrong	160
Anthony Hutt	21
Arthur Raymond Wright	677
Auckland Council	372
Auckland Waikato Fish and Game Council	433
B&A Harvey Ltd	132
Balle Bros Group Limited	466
Bathurst Resources Ltd and BT Mining Ltd	771
Bernard Brown	669
Beverley Bell	48
Bob Carter	510
Bonita Dean	126
Brodict Farms Ltd	944
Bruce Cameron	587
Caroline Swann	358
Chorus New Zealand Limited	648
Christine Madsen on behalf of Madsen & Holmes	678
Churchill Property	844
Colette Hanrahan	77
Culverden Farm	481
CYK Limited	362
D & J Tate	494
David Gibbard	611
David Lawrie	78

<b>Further Submitter</b>	<b>Submission number</b>
<i>Andrew and Christine Gore</i>	<i>FSI062</i>
<i>Auckland Council</i>	<i>FSI129</i>
<i>Auckland Waikato Fish and Game Council</i>	<i>FSI045</i>
<i>Bathurst Resources Limited and BT Mining Limited</i>	<i>FSI198</i>
<i>Bernard Brown Family Trust</i>	<i>FSI040</i>
<i>Charlie Harris</i>	<i>FSI303</i>
<i>Colette Shona Hanrahan</i>	<i>FSI051</i>
<i>Counties Power Limited</i>	<i>FSI381</i>
<i>Department of Conservation</i>	<i>FSI293</i>
<i>Dermot Murphy</i>	<i>FSI267</i>
<i>Federated Farmers</i>	<i>FSI342</i>
<i>Fonterra Limited</i>	<i>FSI333</i>
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<i>Gleeson Quarries Huntly Limited</i>	<i>FSI146</i>
<i>Havelock Village Limited</i>	<i>FSI291</i> <i>FSI377</i>
<i>Horticulture New Zealand</i>	<i>1168</i>
<i>Heritage New Zealand Pouhere Taonga</i>	<i>FSI323</i>
<i>Housing New Zealand</i>	<i>FSI269</i>
<i>Hynds Foundation</i>	<i>FSI306</i>
<i>Hynds Pipe Systems Limited</i>	<i>FSI341</i>
<i>Jean Tregidga</i>	<i>FSI180</i>
<i>KiwiRail Holdings Limited</i>	<i>FSI272</i>
<i>Lochiel Farmlands Limited</i>	<i>FSI315</i>

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Glen Alvon Farms Limited	540
Glenn Morse	20
Grace M Wilcock	845
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Gwenith Sophie Francis	394
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Jackie Colliar	493
Jean Tregidga	731
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Jon Harris	327
Karen White	757
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Leigh Thompson	17
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<i>Winstone Aggregates</i>	<i>FS1332</i>
<i>Yashili Dairy Company Limited</i>	<i>FS1086</i>
<i>Zeala Limited trading as Aztech Buildings</i>	<i>FS1275</i>

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***Please refer to Appendix I to see where each submission point is addressed within this report.***



# I Introduction

## I.1 Qualifications and experience

1. My name is Susan Chibnall. I am employed by Waikato District Council as a Policy Planner within the Resource Management team.
2. I hold the qualification of Bachelor of Social Science from the University of Waikato, majoring in Environmental Planning.
3. I have been employed in local government for over 14 years. I have been employed by Waikato District Council as a policy planner since 2015. In this role I have undertaken the following tasks and responsibilities:
  - The drafting of Objectives, Policies and Rules for the purpose of the district plan review process. However, I was not involved with the drafting of the provisions for the Natural Environment Chapter and the Significant Natural Area topic.
  - The writing of the Section 32A Report.
  - The summarising of submissions and further submissions.
  - The preparation of the s42A report for the Country Living Zone.
4. Prior to my role as Policy Planner, I was a Monitoring Officer in the Regulatory team, where the main focus was on the monitoring of land use consents, designations and district plan compliance.

## I.2 Code of Conduct

5. I confirm that I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2014 and that I have complied with it when preparing this report. Other than when I state that I am relying on the advice of another person, this evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.
6. I am authorised to give this evidence on the Council's behalf to the Proposed District Plan hearings commissioners.

## I.3 Conflict of Interest

7. I confirm that I have no real conflict of interest. However, a perceived conflict of interest is in my capacity as a Monitoring Officer, where I have monitored or undertaken enforcement action in relation to land use consents or breaches of the district plan rules which a submitter may have been party to.
8. I am also a ratepayer and live within the district. My property has an identified Significant Natural Area.

## I.4 Preparation of this report

9. I am the author of this report.
10. The provisions in the Proposed District Plan concerning the natural environment have two separate parts – the landscape/natural character provisions, and biodiversity/indigenous vegetation and habitat provisions. The scope of this evidence relates to the evaluation of submissions and further submissions received in relation to the provisions related to biodiversity and the Significant Natural Area (SNA) topic. The consideration of the landscape/natural character provisions is contained in a separate s42A report.
11. The data, information, facts, and assumptions I have considered in forming my opinions are set out in my evidence. Where I have set out opinions in my evidence, I have given reasons for those opinions. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

12. In preparing this report I rely on expert advice sought from Council’s Monitoring team and John Turner of WSP Opus.

## 2 Scope of Report

### 2.1 Matters addressed by this report

13. This report is prepared in accordance with section 42A of the RMA. This report considers submissions that were received by the Council in relation to the provisions on the management of indigenous vegetation and habitats and SNAs within the Waikato Proposed District Plan. The submissions and further submissions on these topics relate to land use effects, in terms of earthworks and vegetation clearance. Subdivision rules for sites that have a Significant Natural Area are discussed in the S42A report for the Rural subdivision topic. However, there is only one policy that relates to incentivising subdivision within the Rural Zone, and submissions in this regard have been included in this report, as the policy relates to the quality and viable functioning of the SNA in terms of appropriate size.

### 2.2 Overview of the topic / chapter

14. Waikato District Council (Council) is required to maintain indigenous biodiversity under Section 31(1) (b) (iii) of the Resource Management Act (RMA). Part 2 of the RMA ensures that indigenous biodiversity is at the core of decision-making, with the requirement to recognise and provide for “*the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna*” as a matter of national importance (Section 6(c)). In addition, Section 7(f) requires particular regard be given to the “*maintenance and enhancement of the quality of the environment*” and 7(d) “*intrinsic value of ecosystems.*”
15. New Zealand has many endemic species and a diverse range of ecosystems that contribute to our biodiversity. The natural environment contributes to our national identity and our cultural and economic well-being. There has been considerable modification of habitats and this, combined with the introduction of invasive pest plants and animals, has contributed to a decline in biodiversity.
16. There is approximately 70,693ha of Significant Natural Areas in the Waikato District. This data has been sourced from Waikato Regional Council’s spatial data and used to inform the Proposed District Plan maps as to where SNAs are located within the district. Many of these are protected by mechanisms outside the District Plan such as indigenous vegetation that is protected by private covenants or public ownership. Of these, the Queen Elizabeth Trust protects approximately 10,000ha and the Department of Conservation manages approximately 23,000ha. It is unfortunate that data for significant natural areas held in conservation covenants with the Waikato District Council is imprecise. However, I have extrapolated out an approximate estimate that the area of significant natural areas held in this regard is in the realm of between 1,400ha to 3,500 ha. This leaves approximately 37,000ha remaining on private land where the responsibility for protecting and maintaining these features falls on the local authority and the landowner. This needs careful consideration when making planning and policy decisions under the RMA as to how this is achieved.
17. The main threats to indigenous biodiversity are vegetation clearance, the effects of browsing stock in unfenced areas and degradation from animal and plant species. Habitats for some indigenous species can comprise of several, scattered small sites, which together creates a corridor between much larger sites. Corridors assist with providing a connection between otherwise fragmented ecosystems which, in turn, increase the viability of vulnerable animal and plant species and therefore even a small loss of vegetation from a site can have a cumulative effect upon biodiversity.
18. Significant Natural Areas are one of the key mechanisms for protection of indigenous vegetation and habitats in the Proposed District Plan. Schedule 1 IA of the Waikato Regional Policy Statement

contains criteria for determining whether indigenous vegetation is classified as a significant natural area. Waikato Regional Council was instrumental in providing Waikato District Council with a database of significant natural areas and this formed the basis of the sites included on the Proposed District Plan maps. The criteria for qualifying as a SNA is contained in Appendix 2 of the Proposed District Plan and is consistent with those criteria in Schedule 1 IA of the Regional Policy Statement.

19. At the time of notification of the Proposed District Plan in July 2018, 698 sites had been identified as SNAs and mapped in the Proposed District Plan maps. The basis for the application of the SNA provisions is the district plan maps and the significant natural area overlay. The premise in the Proposed District Plan is that if an area of indigenous vegetation met at least one of the criteria in Appendix 2, then it would qualify as a SNA and would be mapped on the planning maps as an overlay. This then means that the objectives, policies, and rules relating to SNAs would apply to that area.
20. This approach is indeed embedded in the definition of a Significant Natural Area in Chapter 13 as follows:
 

*“Means an area of significant indigenous biodiversity that is identified as a Significant Natural Area on the planning maps.”*
21. Significant Natural Areas occur in all but the following zones: Business Town Centre Zone, Business Zone Tamahere, Hampton Downs Motor Sport and Recreation Zone, and Te Kowhai Airpark Zone. Within the remaining zones, they occur in the district in varying sizes. The objectives and policies managing SNAs are mostly found in Chapter 3 Natural Environment of the Proposed District Plan. However, Chapter 6 Infrastructure and Energy and Chapter 8 Reserves also have policies relating to SNAs. These apply across the district irrespective of zone. The rules relating to significant natural areas are located within the land use rules of each zone and Chapter 14 Infrastructure and Energy.
22. The SNA topic has one overarching objective that seeks that the life-supporting capacity of indigenous ecosystems are maintained or enhanced. The supporting policies recognise the importance of indigenous vegetation, while providing for sufficient flexibility to make decisions that give effect to the Waikato Regional Policy Statement and achieve the purpose of the RMA. There are conservation subdivision rules to support the policy for incentivising protection of SNAs. However, these rules are not dealt with in this report but are discussed in the Rural Subdivision topic Hearing 18.
23. The approach taken in the Proposed District Plan focuses on the need to protect the integrity of the SNA whilst balancing the ability of the landowners to use and develop their properties. The rules that manage indigenous vegetation are located within the activity tables in the zone chapters and include:
  - a. Earthworks thresholds within SNAs are much lower than would apply outside of SNAs. Resource consent is required for a discretionary activity if the proposal cannot meet the conditions for a permitted activity.
  - b. Provision for the removal of up to 5m<sup>3</sup> of manuka and/or kanuka from a SNA per site per year for domestic firewood, arts or crafts.
  - c. Up to 250m<sup>2</sup> of vegetation clearance is provided as a permitted activity for buildings, access, and car parking/manoeuvring areas, when there is no alternative development area outside of the SNA.
  - d. Provision for fence and track maintenance, pest eradication, gathering plants in accord with Maaori customs, and clearing vegetation that endangers human life and existing buildings.

- e. Subdivision provisions that encourage landowners to achieve a subdivision layout that limits further division of the SNA. Resource consent is required for a non-complying activity if a SNA is divided into separate titles.

- 24. In Chapters 6 and 14 (Infrastructure and Energy), SNAs are included in the term 'identified areas' and new infrastructure in these areas has a more stringent activity status.
- 25. Section 6(e) of the RMA requires the Council to recognise the relationship of Maori and their culture and traditions with their ancestral lands. In this regard, a higher level of clearance and earthworks on Maaori Freehold/Customary Land has been enabled to provide for Marae and Papakainga and acknowledge the relationship that Maori have with that land.

### **2.2.1 Indigenous Vegetation and Habitats**

- 26. The Proposed District Plan provisions for the natural environment are not just limited to SNAs. The plan also includes policies which apply to biodiversity offsetting, biodiversity in the coastal environment and rules for indigenous vegetation that is outside a SNA. I note that notable trees may also fall within a SNA and may also be an indigenous species, however, these are addressed in the s42A report for Historic Heritage due to the definition of Historic Heritage in the RMA, and the fact that notable trees are not necessarily identified for their ecological value.

## **2.3 The Current Regime of the Operative Plans**

- 27. Indigenous biodiversity is recognised as an important resource management issue in the Operative District Plan (Waikato and Franklin sections). Both sections of the district plan identify similar 'threats' to indigenous biodiversity and provide similar incentives to protecting and enhancing significant vegetation/habitat using non-regulatory methods and by enabling 'bonus' lot subdivision entitlements.
- 28. The Operative District Plan (both Waikato and Franklin sections) does not map SNAs. In the Franklin section there are some SNA equivalents identified by criteria in Schedule 5A. In this regard there are sites of special wildlife interest that have been identified on the planning maps which are afforded various types of protection, with adverse effects that are to be managed listed, depending on the site. For example, several wetlands have been identified or some specific areas of bush. Indigenous vegetation/habitat is protected through blanket regulation as well as through landscape overlays. The landscape overlays of both the Waikato and Franklin sections of the district plan are focused on natural character and landscape values rather than ecological merit. However, the Operative Plans recognise the value of indigenous vegetation within the overlay and the Plans have a more restrictive approach towards clearance and earthworks, compared to areas of indigenous vegetation that are outside this policy overlay.
- 29. The Franklin Section of the Operative Plan has one objective that manages ecosystems which seeks to avoid or mitigate the adverse effect of activities. It also has two supporting policies that relate to the activities which cross the boundary of Mean High Water Springs and to give priority to avoid adverse effects of subdivision, use or development in those areas identified in Schedule 5A. The Franklin section also has an objective to manage vegetation clearance.
- 30. Section 15.6.3.1 of the Franklin section sets out the circumstances in which indigenous vegetation can be cleared without resource consent (permitted activity) which applies to all zones. They are as follows:
  - a. The cutting, damaging or destroying of any exotic tree or area of trees not listed as protected in Schedules 5A or 8A of the plan,
  - b. The cutting or removal of vegetation planted for farming and forestry.
  - c. The removal of vegetation (excluding removal of indigenous bush) to maintain pasture, rural production activity areas and orchards.

- d. The cutting, damaging or destroying of any indigenous vegetation understorey in any forest as part of production or Conservation Forestry operations.
  - e. The treatment or removal of dead, damaged or diseased indigenous trees or other works relating to indigenous trees immediately necessary to avoid any actual or potential damage to the life, health or property on the site on which the trees are located or any adjacent site.
  - f. The operation of any statute or delegated legislation, which may conflict with this part of the plan or to which this part of the plan is subordinate.
  - g. The cutting or removal of indigenous vegetation for recreational (excluding motorised vehicles) tracks up to and including 1.7 metres in width except within areas identified in Schedules 5A or 8A of the plan.
  - h. The removal of any plant pest identified pursuant to the Biosecurity Act 1993 or listed as a plant pest in the Auckland Regional Pest Management Strategy 2007–2012 or Waikato Regional Pest Management Strategy 2008–2013.
  - i. The cutting, damaging or destroying of any individual indigenous tree or number of indigenous trees constituting indigenous bush where the total contiguous bush area from which the tree or trees is/are to be affected is less than or equal to 1 hectare in area.
  - j. Where any area of indigenous bush is over 1 hectare in area, the clearing of a single area or a series of smaller areas of indigenous bush to a maximum of up to 2.5% of the total area of the canopy of any contiguous area of indigenous bush and other indigenous vegetation as existed on a site as at 4 November 2009.
  - k. The clearance of scattered stands of Manuka and Kanuka within areas of pasture which do not constitute indigenous forest.
  - l. The cutting, damaging or destroying of any indigenous tree, including its root system, located within the coastal protection setback having dimensions less than:
    - a) a height of 6 metres; and
    - b) one or more limbs when measured at 1200mm above ground level of 650mm in circumference.
31. If the felling or clearance of vegetation fails to qualify as a permitted activity, resource consent would be required for a restricted discretionary activity (Rule 15.6.3.2). The matters over which the Council has restricted its discretion would require an analysis of the value of the vegetation to indigenous biodiversity.
32. The Waikato section has fundamentally rolled over the Operative Plan objective to the Proposed District Plan, where the objective seeks to maintain or enhance indigenous biodiversity. The supporting policies of the operative plan are also similar in that they seek to manage ecological linkages, threatened species, wetlands, dunes, and peatlands. The policies also seek to manage the ecological functioning and biodiversity through various mechanisms which would be implemented in the instance of a conservation covenant (for example, excluding stock, pest and plant pest control and wetland hydrology). There are policies that manage the effects of subdivision to ensure that relate to the adverse effects on indigenous biodiversity.
33. The objectives and policies of Part 2 of the Waikato section of the District Plan (Indigenous Vegetation and Habitat) are given effect to by rules that are located within the activity rule tables that apply to Pa, Industrial, Rural, Coastal, and Country Living zones. The rules across the zones have variations to the permitted clearance area ranging from 300m<sup>2</sup> through to 3000m<sup>2</sup> depending on the zone and location of the indigenous vegetation. By way of an example, within the Rural Zone, there are rules that apply specifically to indigenous vegetation clearance in the Landscape Policy and Conservation Areas (Rule 25.43), and there are blanket rules that apply to indigenous vegetation clearance on land outside of these overlay areas (Rule 25.43A). Outside of the overlay areas, up to 3000m<sup>2</sup> or 1% of the contiguous vegetation/habitat can be cleared within a 3-year period without resource consent (subject to controls). There are also several exclusions relating

to fire risk management and pest control, etc. There is provision for the Council to meet the cost of providing an ecological assessment in some instances.

34. For Operative Plan Rural Zone sites within the landscape overlays, the list of permitted activities is similar to that of vegetation clearance that is outside the policy overlay, but with reduced thresholds (for instance up to 1000m<sup>2</sup> can be cleared to establish a building platform without resource consent). The Franklin section provides for the clearance of scattered stands of Manuka and Kanuka as a permitted activity, while the Waikato section provides for clearance of Kanuka and Manuka as a permitted activity (subject to conditions), within landscape overlay areas, of up to 3000m<sup>2</sup> of Kanuka or 3% (whichever is the lesser) that can be removed in a three year period. Both sections of the Operative District Plan contain provisions to incentivise the protection and ongoing management of natural features by enabling 'bonus' lot subdivision entitlements upon the formal protection of SNAs. Importantly, the onus (and cost) would be on the landowner to determine the value of the indigenous vegetation or habitat to indigenous fauna through expert analysis and is an important component of the subdivision consent application. Non-regulatory methods (such as contestable funds and rate remissions) are listed as ways to assist in funding stock-proof fencing and ongoing pest management measures in both the Waikato and Franklin sections of the District Plan.

## 2.4 Statutory requirements

35. The statutory considerations that are relevant to the content of this report are largely set out in the opening legal submissions by counsel for Council (23 September 2019) and the opening planning submissions for Council (23 September 2019, paragraphs 18–32). The opening planning submissions from the Council also detail the relevant iwi management plans (paragraphs 35–40) and other relevant plans and strategies (paragraphs 41–45). The following sections identify statutory documents with particular relevance to the topic of biodiversity.

## 2.5 Waikato Regional Policy Statement

36. Many Regional Policy Statement (RPS) objectives require the promotion of positive indigenous biodiversity outcomes or the maintenance and enhancement of indigenous biodiversity, such as Objective 3.16 (Riparian Areas and Wetlands) and Objective 3.12 (Built Environment). Of particular importance to this topic are Objectives 3.8 (Ecosystem Services) and 3.9 (Relationship of Tangata Whenua with the Environment). The RPS also states that the WRC will establish an inventory for use in advocacy, education, policy development and decision-making, which will be implemented through regional and district plans (Section 11B of the RPS).
37. Chapter 11 provides the strategic framework upon which to achieve the maintenance and enhancement of indigenous biodiversity and to work towards achieving 'no net loss' for indigenous biodiversity at a regional scale. There are two policies that frame the region-wide approach of Chapter 11. Policy 11.1 seeks to maintain and enhance indigenous biodiversity across the region; while Policy 11.2 and associated methods apply specifically to significant indigenous biodiversity. This establishes a hierarchy to inform decision-making processes, both under the RMA and in terms of resourcing/financing for their ongoing protection. For instance, in the non-significant areas (Policy 11.1), Method 11.1.3 provides some flexibility to consider ways of providing for on-site and off-site mitigation (i.e. biodiversity offsets). Conversely, the focus for the significant areas (Policy 11.2) is on avoiding adverse effects. Mitigation, remediation and biodiversity offsets can only be considered when the adverse effect is unavoidable. In such instances, Method 11.2.2 also expects that the proposal will need to reasonably demonstrate that 'no net loss' has been achieved.
38. To ensure consistency across the region, the Regional Council has responsibility for identifying SNAs for protection by applying the assessment criteria in Section 11A. However, SNAs are to be managed and protected through a combination of regional and district plan rules and non-regulatory methods. Chapter 11 also allows for continuous monitoring and review of indigenous vegetation within the region, with the potential for indigenous vegetation or the habitat of

indigenous species to be identified as an SNA, using the criteria within Section 11A. Chapter 11 will be implemented through a combination of both regulatory and non-regulatory measures. In this regard, Method 11.1.1 states that Waikato Regional Council will assist territorial authorities to prepare local indigenous biodiversity strategies which, amongst other things, acknowledges that the enhancement of indigenous biodiversity requires ongoing management and coordination across agencies, including the community, tangata whenua, landowners and other stakeholders.

39. The desire for the Regional Council to work collaboratively with the community and stakeholders is also clearly stated in Policy 11.3 of the RPS, while Method 11.10.1 asks that local authorities ensure that there is appropriate funding available through the long-term plan and annual plan processes to protect and enhance indigenous biodiversity.

## 2.6 New Zealand Coastal Policy Statement

40. Policy 1 defines the extent of the coastal environment, which includes areas where coastal processes, influences or qualities are significant, such as coastal lakes, lagoons, tidal estuaries, saltmarshes, coastal wetlands and their margins. Policy 4 also provides for the co-ordinated management of activities in the coastal environment with local authorities. Objective 1 of the NZCPS seeks to sustain the ecosystems of the coastal environment, in part by protecting representative or significant natural ecosystems and sites of biological importance. Policy 11 (Indigenous biological diversity) and Policy 13 (Preservation of natural character) are particularly relevant to the maintenance and enhancement of indigenous biodiversity in the district's coastal environment. In particular, Policy 11(a) requires adverse effects to be avoided on the most significant indigenous ecosystems and vegetation types. Policy 11(b) establishes a hierarchy of avoiding significant adverse effects, and remedying or mitigating adverse effects of activities on indigenous biodiversity that has not been identified as significant.

## 2.7 Proposed National Policy Statement for Biodiversity

41. The proposed National Policy Statement for Biodiversity is likely to be gazetted in April 2021. The stated purpose is to bring more clarity to the role of local authorities in managing indigenous biodiversity. While a draft document is available, at the time of writing this report, the National Policy Statement for Biodiversity has no legal status and therefore it is the Waikato Regional Policy Statement and the New Zealand Coastal Policy Statement that provide the higher level policy context for the Proposed District Plan when identifying and protecting indigenous vegetation and habitat. The Draft National Policy Statement for Biodiversity states that in the event of any conflict, the New Zealand Coastal Policy Statement will prevail.

## 2.8 Application of the National Planning Standards

42. The National Planning Standards (NPS) were gazetted and came into effect on the 5th of April 2019. There are some standards which are relevant to consideration of the natural environment. Standard 14 contains definitions and Standard 4 establishes the structure for district plans which includes a section for Natural Environment Values which includes a specific chapter for Ecosystems and Indigenous Biodiversity. Standard 14 defines terms. The direction from the NPS in Standard 14 requires that where a term used in a policy statement or plan is synonymous with a term defined in the Definitions List, local authorities must use the definition in the Definitions List. Hearing 5 Definitions has addressed this in Section 2.5 of the Hearing 5 s42A report, and has described how the Planning Standards have been applied in the context of Definitions. In respect of the Significant Natural Area topic, there are no standard definitions for the various terminologies that occur in the topic and as such these have been addressed through the analysis of the submissions received. Hearing 5 Definitions identified definitions that required further consideration in respect of the significant natural area topic. Below is a list of the terminology frequently used in rules associated with the significant natural area topic:

- a. Biodiversity

- b. Biodiversity offset
- c. Conservation activity
- d. Environmental compensation
- e. Indigenous vegetation
- f. Indigenous vegetation clearance
- g. Outside a Significant Natural Area
- h. Significant Natural Area/SNA
- i. Wetland

43. Of note, the only definitions that are listed in the proposed plan are: Biodiversity, Conservation activity, Indigenous vegetation, Significant Natural Area and Wetland. The other definitions listed above are recommended to be included as a result of the analysis undertaken as part of Hearing 5 Definitions.

## 2.9 Section 32

44. Section 32 of the RMA requires that the objectives of the proposal be examined for their appropriateness in achieving the purpose of the RMA, and that the provisions (policies, rules or other methods) of the proposal be examined for their efficiency, effectiveness and risk. Section 32 reports were published when the Proposed Waikato District Plan (PWDP) was notified in 2018. This report updates that earlier analysis in “section 32AA evaluations” where material changes to the plan are recommended.

## 2.10 Procedural matters

- 45. Forty site visits were undertaken to private property owners where a submission was received challenging the accuracy or the right to impose a SNA on the site. The result of the site visits on these properties are discussed in Appendix 3.
- 46. A meeting was held with Waikato Regional Council in relation to the spatial data that has been included on the Proposed Plan Maps. This is further discussed in Section 4 of this report.
- 47. A letter received from New Zealand Steel dated 2 September 2020 has informed the Hearing Commissioners that it is no longer in a position to attend future hearings on the Proposed District Plan (PDP) or table evidence on matters to in relation to its submission points. The letter also provided an update on submission point 827.4 which sought the deletion of the SNA mapping on the Waikato North Head mine site where an ecological assessment has been provided. Given the conclusion of the ecological assessment, New Zealand Steel stated that it no longer wishes to pursue the removal of the SNA requested in the submission point, however instead seeks that the boundary of the SNA is amended as per the assessment.

# 3 Consideration of submissions received

## 3.1 Overview of submissions

- 48. There are 623 primary submission points addressed in this report that relate to the Significant Natural Areas and areas of indigenous vegetation and habitat. The submissions cover a wide range of issues including the following issues raised by more than one submitter:
  - a. Submissions on objectives and policies to address kauri dieback and myrtle rust, including the recognition of *Kunzea* and *Leptospermum* and the revised conservation status of these species. There were also submissions on the rules enabling the removal of Manuka or Kanuka for domestic firewood purposes.



- b. Submissions to encourage restoration/offsetting or rehabilitation, and to undertake environmental compensation.
- c. Submissions seeking to increase the area permitted to clear indigenous vegetation.
- d. Submissions seeking to increase the area permitted for earthworks within a Significant Natural Area.
- e. The accuracy of the mapping of Significant Natural Areas.

### 3.2 Further submissions

- 49. I address the further submissions in each relevant section of the report, together with the primary submissions they relate to.
- 50. Numerous further submissions from Mercury NZ Limited oppose original submissions on the grounds that it is not clear how effects from flooding would be managed. I have largely not addressed these because I consider them irrelevant to the matters considered in this report, and indeed the primary submissions to which they relate. These recommendations are included in Appendix 1, but there is no further discussion on these further submissions in this report.

### 3.3 Structure of this report

- 51. The report is structured by grouping the submission themes into district plan topics and aligning them with the same order they appear in the notified version of the plan (i.e. objectives, policies, and land use activities, land use effects, land use, building and subdivision).
- 52. Given the number, nature and extent of the submissions and further submissions received, I have structured the Section 42A report into three parts. Part one will discuss the below sections, which speak to the Objectives, Policies and rule framework. Part two will be specific to the mapping of Significant Natural Areas, and Part three relates to site specific submissions:

Overall approach to Significant Natural Areas

#### PART 1 – OVERALL APPROACH, OBJECTIVES AND POLICIES

- a. Overall approach
- b. Objectives 3.1 Indigenous Vegetation and Habitats
- c. Policy 3.1.2
- d. Objective 3.2.1 Significant Natural Areas
- e. Policies 3.2.2 through to 3.2.8
- f. Kauri Dieback
- g. Manuka/Kanuka

#### PART 2 – RULES

- a. Earthworks
- b. Vegetation clearance
- c. General submissions on rules
- d. Appendix 2: Criteria for Determining Significance of Indigenous Biodiversity
- e. Appendix 6: Biodiversity Offsetting
- f. Hamilton Basin Ecological Area

g. Definitions

PART 3 – SITE SPECIFIC ISSUES

a. Site Visits and mapping

Appendix 1: Table of submission points

Appendix 2: Recommended amendments

Appendix 3: Technical Report

Appendix 5: Provisions cascade

Appendix 6: Thames Coromandel District Plan Kauri Dieback provisions

### 3.4 Amendments to plan text

53. Where amendments to plan text are recommended, the relevant text is presented after the recommendations with new text in red underlined, and deleted text in ~~red struck through~~. All recommended amendments are brought together in Appendix 2.

## 4 Overall approach to Significant Natural Areas

### 4.1 Analysis

54. I would first like to address the overall approach to SNAs in terms of both the notified Proposed District Plan (Proposed Plan) and my recommended amendments in response to submissions.
55. As outlined above, data which informed the SNA mapping in the Proposed Plan was provided by the Waikato Regional Council (WRC). During the development of the Proposed Plan, some ground truthing of the WRC data was undertaken to assist with refining the mapping, but this was unfortunately undertaken in a limited capacity and was by no means a comprehensive ground truthing of all of the data provided by WRC. In response to the SNA mapping during the consultation phase of the Proposed Plan, information from 152 landowners was collected from workshop meetings and 354 feedback forms. Based on the feedback received, approximately 50 sites were visited, and a basic vegetation assessment was undertaken and, if necessary, the spatial data was amended. A limitation of this process of implementing landowner feedback into the Master Data base is that most SNAs cover multiple landholdings and the landowners were only able to provide feedback on the SNAs on their own property. At the time of notification in July 2018, 698 sites were identified as being SNAs.
56. When the Proposed District Plan was notified, approximately 100 submissions were received which challenged the accuracy of the mapping of the SNAs. Most submissions were specific to a particular site, but there were also broad submissions received from organisations such as Federated Farmers which sought that the inclusion of sites currently identified as SNA on the Proposed Plan maps should instead be made an information layer until each of the sites can be ground truthed. In order to assess the submissions which pertained to a particular site, Mr John Turner from WSP was engaged by Council to undertake site visits and assess compliance with Appendix 2 and confirm the geographical extent of the SNA on each property. Fairly quickly into the process it became apparent to Mr Turner that the mapping did not reflect what was actually on the ground. Detailed discussion on the mapping is contained in Part 2 of this s42a report. However, in summary, Mr Turner's findings were that often the mapped SNA lay across vegetation that clearly did not meet any of the criteria, and in some cases did not even apply to anything even closely resembling indigenous vegetation. Common examples were domestic gardens and stands

of privet. While undertaking site visits it also became apparent that there were a number of sites that were not addressed by a submission and yet the mapping of a SNA was plainly incorrect.

57. In discussions with Mr Turner and Ms Bridget Parham (Council's legal counsel), it became obvious that there were significant risks in relying on the mapping of a SNA as contained in the notified version of the Proposed Plan. I am aware of many instances of an area being identified as a SNA which clearly does not meet the Appendix 2 criteria to be classed as a SNA, yet the rules relating to a SNA will apply to that area by virtue of it being a mapped SNA. This has the consequence of severely limiting any earthworks in that mapped area, the construction of any building and, perversely, restricting removal of vegetation even though it may be a noxious species such as privet.
58. There is also a high risk that the maps do not cover those areas which do legitimately qualify as a SNA. As the application of the SNA rules are limited to only the mapped areas in the planning maps, there is a high risk of loss of indigenous vegetation and habitat in those unidentified areas. I am aware that even if the rule was amended to apply to mapped areas or any area meeting the criteria in Appendix 2, this does not overcome the incorrect mapping.
59. To address the issues arising from the incorrect SNA mapping as confirmed by Mr Turner's site visits, I considered a number of options, including the following:
- a. Option 1:  
Retain the SNA mapped layer in the PDP maps, subject to modifications to reflect site visits undertaken in response to submissions.
  - b. Option 2:  
Retain the mapping as an information layer only, either within or outside the Proposed Plan. The information layer will not trigger the SNA rules. Rules do not refer to a mapped layer and instead refer to those areas which meet the criteria for a SNA in Appendix 2.
  - c. Option 3:  
SNAs are not mapped in the District Plan. Rules do not refer to a mapped layer and instead apply to all areas which meet the criteria for a SNA in Appendix 2.
  - d. Option 4:  
Retain the mapped SNA sites in the Planning Maps only where the Council is certain of the extent and quality of the indigenous vegetation, deleting all other SNA sites from the Planning Maps. This option would result in only 40 mapped SNAs (based on Mr Turner's site visits). A series of plan changes specific to each geographical area could be promulgated as a subsequent process to re-introduce the mapping concept back into the District Plan. Delineating the district into a number of geographical areas with separate plan changes for each would enable the plan change to be promulgated more quickly and targeted consultation to be undertaken with landowners within that area. The rules would only apply to those areas mapped as a SNA on the planning maps (as a result of ground truthing through the current Proposed Plan process or future plan changes).
  - e. Option 5:  
This option comprises a combination of options 3 and 4 as follows: Retain the mapped SNA sites in the Planning Maps only where the Council is certain of the extent and quality of the indigenous vegetation, deleting all other SNA sites from the Planning Maps. Amend the SNA provisions to apply to every piece of indigenous vegetation that meets the criteria for a SNA contained in Appendix 2. A series of plan changes specific to each geographical area could be promulgated as a subsequent process to reintroduce the full mapping concept back into the district plan, deleting the application of the general SNA criteria from each area in each plan change.

60. Ms Parham has brought to my attention the Environment Court’s decision in *Cabra Rural Developments Limited v Auckland Council* [2018] NZEnvC 90. At paragraph 140 the Court stated:

*“A fundamental contention of the Council before this court was that only those areas mapped as SEA in the District Plan constituted a significant ecological area.”*

61. At paragraph 166 it said:

*“We agree with the High Court decision that questions of significant ecological areas are a question of fact, and that these would be assessed in relation to the agreed criteria within the plan.”*

Therefore, it does not follow that only areas mapped can be SNAs. If an area meets the criteria, it is a SNA too.

62. Mr Turner and I met with staff from the WRC on 10 September 2020 to discuss the accuracy with the mapping and they expressed surprise that their database of SNAs had been inserted into the Proposed Plan without a comprehensive ground truthing of all of the data, possibly because the RPS expressly says ground truthing is required<sup>1</sup>. WRC have indicated they consider that a modified Option 5 could work. The difference between the two are that WRC suggest that as well as mapping the ground truthed sites, to also consider identifying all other SNAs on a schedule which would then require an assessment at the time of resource consent. I also canvassed the approaches of other territorial authorities within the Waikato region to see how they have handled this issue given that they had access to a similar level of information from WRC. The outcome of my discussions are set out below:
- a. Taupo District Council: have contracted a consultant to physically ground truth all 900+ SNAs in the district prior to notifying their Proposed District Plan
  - b. Thames Coromandel District Council: Have not included the mapping of SNAs due to the inaccuracy of the data, and are currently working through appeals on this issue
  - c. Waipa District Council: Mapped on the Planning Maps but recommend not relying on those without detailed field survey
  - d. Waitomo District Council: Currently undergoing a ground truthing exercise and these properties will be mapped in the upcoming Proposed District Plan
  - e. Rotorua Lakes District Council: Mapped Natural Areas at a very high level
  - f. Matamata Piako District Council: Currently not mapped in the District Plan
  - g. Hauraki Plains District Council: Not currently mapped in the District Plan, although have notified a plan change to insert some areas in the District Plan.
63. Three additional matters have also influenced my consideration of the potential solution for this issue. Firstly, the Operative District Plan (both sections) does not map SNAs. Instead, all areas that meet the criteria in Appendix Oc Significant Vegetation Criteria (this criteria is derived from Waikato Regional Policy Statement) are deemed to be SNAs. The Operative Plan takes the approach that when clearance is being contemplated for farming purposes the Council will meet the cost of an ecological assessment for up to 10 hectares. This is supported by a rule that states if the Council certifies that the vegetation to be cleared is not significant indigenous vegetation or significant habitat of indigenous fauna, the clearance would be a permitted activity.
64. Secondly, there are early indications that the upcoming National Policy Statement for Biodiversity (NPS) will require all territorial councils to undertake a district wide assessment to determine if an area is significant and if it is found to be significant, the area is to be classified as either High or Medium in accordance with the Appendix 2 of the NPS. This assessment must be undertaken within five years after the commencement date. Further to this, territorial authorities must notify

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<sup>1</sup> Refer to the diagram on Section 11B of the RPS

- any plan change necessary to map areas identified within six years of the commencement date of the NPS.
65. Thirdly, I am aware of the requirement for the Proposed District Plan to give effect to the Waikato Regional Policy Statement (RPS) which contains a suite of Objectives that address: the Coastal Environment, Ecosystems Services and Ecological Integrity, and Indigenous Biodiversity. Section 11 of the RPS seeks to give effect to these objectives and contains policies that seek to maintain or enhance indigenous biodiversity and to protect significant indigenous vegetation and significant habitats of indigenous fauna.
66. Having considered all this information and the submissions on the overall approach, I recommend pursuing Option 5 as suggested by Waikato District Council. This option has several parts to it:
- a. Retain the mapped SNA sites in the Planning Maps only where Council is certain of the extent and quality of the indigenous vegetation as a result of ground truthing;
  - b. Delete all other SNA sites from the Planning Maps that have not been ground truthed;
  - c. Amend the SNA provisions to apply to every piece of indigenous vegetation that meets the criteria for an SNA contained in Appendix 2 or those areas mapped as such on the planning maps; and
  - d. Promulgate a series of plan changes specific to each geographical area as a subsequent process to reintroduce the full mapping concept back into the District Plan, and delete the application of the general SNA criteria from each geographical area through each plan change.
67. I considered carefully whether those submitters who challenged the mapping of the SNA on their site would be disadvantaged by (in some cases) still having a SNA identified on their site in the planning maps. Where Mr Turner and I have undertaken a site visit, we have confirmed consistency with Appendix 2 criteria and where required, amended the geographical extent of the SNA. In my view, this provides certainty to those submitters that the area that is in the eventual decision version of the Proposed District Plan is correctly identified as a SNA. This will allow those landowners to be able to access discretionary funds such as a Conservation Strategy fund. In any event, Option 5 would apply the SNA provisions to the indigenous vegetation, regardless of whether it was mapped in the planning maps or not. Therefore, the advantage to the submitter of having the SNA mapped is that if they wish to undertake a land use activity on their property, they do not have to engage an expert to determine if an area meets the criteria in Appendix 2. I am aware that this may seem like an onerous response to the landowners, however it is only an interim solution until specific plan changes with accurate and comprehensive mapping of the SNAs can be promulgated. As a result of those future plan changes, only the areas that meet the criteria of Appendix 2 and are mapped as a SNA in the planning maps will be deemed to be a SNA.
68. Implementing Option 5 will require consequential changes to policies and rules as well as the planning maps, and I have kept this approach in mind when I have addressed the various submissions in the remainder of this report.
69. In order to implement this approach, the definition for Significant Natural Areas in Chapter 13 will need to be amended as follows:
- Means an area of significant indigenous biodiversity that is identified as a Significant Natural Area on the planning maps or meets one or more criteria in Appendix 2 Criteria for Determining Significance of Indigenous Biodiversity.

## 4.2 Section 32AA Assessment

### *Other reasonably-practicable options*

70. I consider there are five main options available to address this issue:
- a. Option 1:

Retain the SNA mapped layer in the PDP maps, subject to modifications to reflect site visits undertaken in response to submissions Option 2:

b. Option 2:

Retain the mapping as an information layer only, either within or outside the Proposed Plan. The information layer will not trigger the SNA rules. Rules do not refer to a mapped layer and instead refer to those areas which meet the criteria for a SNA in Appendix 2.

c. Option 3:

SNAs are not mapped in the District Plan. Rules do not refer to a mapped layer and instead apply to all areas which meet the criteria for a SNA in Appendix 2.

d. Option 4:

Retain the mapped SNA sites in the Planning Maps only where Council is certain of the extent and quality of the indigenous vegetation, deleting all other SNA sites from the Planning Maps. This option would result in only 40 mapped SNAs (based on Mr Turner's site visits). A series of plan changes specific to each geographical area could be promulgated as a subsequent process to re-introduce the mapping concept back into the District Plan. Delineating the district into a number of geographical areas with separate plan changes for each would enable the plan change to be promulgated more quickly and targeted consultation to be undertaken with land owners within that area. The rules would only apply to those areas mapped as a SNA on the Planning Maps (as a result of ground truthing through the current Proposed Plan process or future plan changes).

Option 5:

This option comprises a combination of options 3 and 4 as follows: Retain the mapped SNA sites in the Planning Maps only where Council is certain of the extent and quality of the indigenous vegetation, deleting all other SNA sites from the Planning Maps. Amend the SNA provisions to apply to every piece of indigenous vegetation that meets the criteria for a SNA contained in Appendix 2. A series of plan changes specific to each geographical area could be promulgated as a subsequent process to reintroduce the full mapping concept back into the District Plan, deleting the application of the general SNA criteria from each area in each plan change.

*Effectiveness and efficiency*

71. The recommended overall approach to the mapping of Significant Natural Areas will provide a robust methodology that will ensure consistency and accurate identification for these areas. Option 5 is the preferred option, as retaining the mapped SNA sites in the Planning Maps only where the extent and quality is certain, will help improve the effectiveness and efficiency in implementing a policy framework to achieve Objective 3.1 This option will also provide suitable guidance to plan users when considering activities in these areas.

*Costs and benefits*

72. The benefits are likely to be:
- a. certainty that the SNA areas mapped are correct and no expense for landowner to verify whether or not an area is a SNA
  - b. direct and clear linkage between the provisions and the mapped areas
  - c. high integrity of the SNA layer that is mapped and included in the Plan
  - d. SNA layer will not apply to areas where it has not been groundtruthed and therefore will not unreasonably constrain development or activities in areas that do not meet the Appendix 2 criteria
  - e. the PDP would comprehensively give effect to the RPS
  - f. enables education of the landowners through the ground truthing exercise
  - g. ability to protect areas which would qualify as an SNA but have not been mapped

h. reduced cost through the PDP process as no further site visits required

73. The costs associated with this option include:

- a. need for a future comprehensive ground-truthing exercise and plan change(s).
- b. high future cost for the Council (but somewhat inevitable given the upcoming National Policy Statement, therefore a neutral cost)
- c. insufficient time to undertake site visits and groundtruthing of all the submissions due to this complex issue
- d. uncertainty for landowners as to whether the rules for SNAs apply to their property as this will depend on whether an area meets the criteria in Appendix 2.
- e. cost to landowners to engage experts to assess any non-mapped area (if they wish to undertake a land use activity and do not wish to wait for a Council plan change to ground truth the area).
- f. monitoring may not protect the SNA due to uncertainty as to whether an area qualifies as a SNA.
- g. would apply across the district and landowners who do not currently have a mapped SNA on their property would not have realised that the SNA rule may now apply to them.

74. The overarching benefit is that indigenous vegetation and habitats meeting the criteria in Appendix 2 will be protected.

*Risk of acting or not acting*

75. There are high risks in not acting. From the site visits in response to submissions, it became apparent that the dataset used to map the SNAs in the Proposed District Plan is incorrect. By retaining this overlay as notified, it will unreasonably and unjustifiably limit activities or land uses that can be undertaken in areas that are incorrectly mapped as being a SNA. Conversely, there is a risk that indigenous vegetation and habitats that are not mapped as SNAs will be lost as there are no provisions which provide them with protection.

76. The risk in acting is that it will be difficult for Monitoring Officers to be aware if an area of indigenous vegetation that meets the criteria in Appendix 2 is damaged or destroyed. There is no database of where that vegetation is located. The option I have proposed is similar to that already implemented by the Operative District Plan and thus the risks of acting are similar.

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

*Decision about most appropriate option*

78. Option 5 is considered to be the most appropriate method to achieve the objectives of the Proposed Plan when compared to the other options, including the status quo in the notified version. A robust methodology will ensure accuracy and consistency across the district when identifying SNAs. The methodology will give effect to the Regional Policy Statement where the Policies under Section 11 seek to work towards a no net loss of biodiversity and therefore achieve the purpose of the RMA. Option 5 is also the most appropriate as it is consistent with the case law above.

## 5 Objectives and Policies

### 5.1 Introduction

79. Chapter 3 Natural Environment of the Proposed District Plan sets out the framework of objectives and policies that relate to the management of indigenous vegetation and habitats and Significant Natural Areas. Policies under 3.1 Indigenous Vegetation and Habitats relate to all

indigenous vegetation and seek to maintain or enhance indigenous biodiversity and ecosystems. The supporting policies enable activities that maintain or enhance, and consideration of a suite of ecological aspects when undertaking activities that may have an effect.

80. The policies under Section 3.2 relate to significant indigenous vegetation and a more restrictive approach is taken with these areas. Given the definition of SNA in Chapter 13, Section 3.2 only applies to those areas mapped (although I am recommending amending this approach as outlined above). Under Section 3.2, there are supporting policies that provide for some flexibility for property owners when activities occur within a Significant Natural Area. There are also objectives and policies in Chapter 6, being Objective 6.1.8, and Policies 6.1.10 that relate to identified areas, but these are addressed in the Infrastructure s42A report.

## 5.2 Submissions

81. The submissions addressed in this section are those which relate generally to objectives and policies rather than any specific provision. A total of 21 primary submissions were received, of which five seek no specific decision, three seek to retain Chapter 3 as notified, seven seek to amend Chapter 3, five seek an addition to Chapter 3, one seeks to delete Chapter 3 and one seeks to delete duplication within the rule framework.

<b>Submission point</b>	<b>Submitter</b>	<b>Decision requested</b>
12.4	Carl Ammon	Amend Chapter 3 Natural Environment to strengthen the requirement for development to protect and improve biodiversity.
81.94	Waikato Regional Council	Amend Chapter 3.1 Indigenous Vegetation and Habitats to provide a mitigation hierarchy for indigenous biodiversity outside of an Significant Natural Area.
<i>FSI 198.61</i>	<i>Bathurst Resources Limited and BT Mining Limited</i>	<i>Null</i>
<i>FSI 342.15</i>	<i>Federated Farmers</i>	<i>Opposes</i>
<i>FSI 345.88</i>	<i>Genesis Energy Limited</i>	<i>Opposes</i>
<i>FSI 377.15</i>	<i>Havelock Village Limited</i>	<i>Supports</i>
<i>FSI 258.6</i>	<i>Meridian Energy Limited</i>	<i>Opposes</i>
367.44	Liam McGrath for Mercer Residents and Ratepayers Committee	Retain Section 3.1 Indigenous Vegetation and Habitats.
<i>FSI 377.66</i>	<i>Havelock Village Limited</i>	<i>Opposes</i>
81.92	Waikato Regional Council	Amend Chapter 3.1 Indigenous Vegetation and Habitats to provide for the opportunity to offset non-significant biodiversity.
<i>FSI 377.13</i>	<i>Havelock Village Limited</i>	<i>Opposes</i>
<i>FSI 342.13</i>	<i>Federated Farmers</i>	<i>Supports</i>
<i>FSI 258.4</i>	<i>Meridian Energy Limited</i>	<i>Opposes</i>
<i>FSI 345.87</i>	<i>Genesis Energy Limited</i>	<i>Opposes</i>



FS1202.42	New Zealand Transport Agency	Supports
81.96	Waikato Regional Council	Amend Section 3.1 Indigenous Vegetation and Habitats to ensure that policies related to indigenous biodiversity outside of Significant Natural Area are not under section 3.2 Significant Natural Areas.
FS1340.19	TaTa Valley Limited	Supports
FS1345.90	Genesis Energy Limited	Supports
FS1258.8	Meridian Energy Limited	Opposes
FS1342.17	Federated Farmers	Supports
FS1377.17	Havelock Village Limited	Supports
942.13	Tainui o Tainui	Retain the objectives and policies in Chapter 3 Natural Environment that protect and enhance the natural environment.
942.40	Tainui o Tainui	Retain the objectives and policies in Chapter 3 Natural Environment.
831.47	Gabrielle Parson on behalf of Raglan Naturally	No specific decision is sought, however the submitter seeks that the Council publicly notifies and informs adjoining authorities and the Regional Council of all resource consent applications for vegetation clearance.
FS1276.142	Whaingaroa Environmental Defence Inc. Society	Supports
FS1342.238	Federated Farmers	Opposes .
579.89	Lakeside Developments 2017 Limited	No specific decision sought, but submission generally supports the objectives and policies relating to the Natural Environment (Chapter 3 Natural Environment).
FS1087.13	Ports of Auckland Limited	Supports
799.1	Leo Koppens	Delete Chapter 3: Natural Environment.
831.44	Gabrielle Parson on behalf of Raglan Naturally	Amend Chapter 3 Natural Character, to recognise that new development should not encroach on nature and that all natural character areas (not just those of higher value) be protected through tools such as cat free covenants and similar rules imposed by the Palmerston North District Plan.
FS1342.237	Federated Farmers	Opposes
81.21	Waikato Regional Council	Add advice notes drawing attention to the provisions of the Waikato Pest Management Plan, particularly for earthworks and fill activities.
FS1342.44	Federated Farmers	Supports
FS1223.7	Mercury NZ Limited	Supports
825.48	John Lawson	Amend the Proposed District Plan so that all resource consents for vegetation clearance are publicly notified, including informing adjoining authorities and the regional council. The submission makes reference to section 1.5.7 Natural Environment, Chapter 3 and Maps.

780.51	John Lawson on behalf of Whaingaroa Environmental Defence Incorporated Society	No specific decision sought, but submission states that it is not clear that the policies and rules sufficiently identify and protect Significant Natural Areas. The submission refers to section 1.5.7 Natural Environment, Chapter 3 Natural Environment and Maps.
780.48	John Lawson on behalf of Whaingaroa Environmental Defence Incorporated Society	Amend the Proposed District Plan so that all resource consents for vegetation clearance are publicly notified, including informing adjoining authorities and the regional council. The submission makes reference to Section 1.5.7 Natural Environment, Chapter 3 and Maps.
FS1269.75	Housing New Zealand Corporation	Opposes
831.71	Gabrielle Parson on behalf of Raglan Naturally	No specific decision is sought, but the submitter considers that it is not clear that the policies sufficiently identify and protect significant natural areas.
680.2	Federated Farmers of New Zealand	Amend the Proposed District Plan to acknowledge and recognise that biodiversity gains are best achieved with landowner buy-in. AND Adopt a biodiversity policy and management framework which facilitates a collective and collaborative response to this public good issue which could be achieved by non-regulatory methods that include such as: <ul style="list-style-type: none"> <li>• increasing the contestable conservation fund as recommended in the Kessels Ecology report</li> <li>• assistance with stock exclusion and pest control</li> <li>• raising education and awareness about the importance of biodiversity.</li> </ul> AND Any consequential changes necessary to give effect to the relief sought and/or concerns raised in the submission.
FS1330.58	Middlemiss Farm Holdings Limited	Supports
FS1387.157	Mercury NZ Limited for Mercury D	Opposes
831.72	Gabrielle Parson on behalf of Raglan Naturally	No specific decision is sought, but the submitter considers it is not clear that the rules sufficiently identify and protect significant natural areas.
388.6	Sonny Karena for Tangata Whenua Working Group	Retain policies that require that the overall quality of freshwater is to be maintained or improved, while protecting the significant values of outstanding freshwater bodies and wetlands, and improving water quality in waterbodies that have been degraded to the point of being over-allocated.
FS1388.89	Mercury NZ Limited for Mercury E	Opposes
FS1045.5	Auckland/Waikato Fish and Game Council	Supports

<i>FS1045.6</i>	<i>Auckland/Waikato Fish and Game Council</i>	<i>Supports</i>
<i>FS1108.108</i>	<i>Te Whakakitenga o Waikato Incorporated (Waikato-Tainui)</i>	<i>Supports</i>
<i>FS1139.95</i>	<i>Turangawaewae Trust Board</i>	<i>Supports</i>

### 5.3 Analysis

82. Raglan Naturally [831.72], [831.71] and [831.47], Whaingaroa Environmental Defence Inc. [780.51] and Lakeside Developments 2017 Limited [579.89] seek no specific decision and it is difficult to meaningfully assess these submissions but the submitters consider that it is not clear that the policies sufficiently identify and protect significant natural areas. A further submission from Whaingaroa Environmental Defence Inc [FS1276.142] supports the submission and further submitter Federated Farmers [FS1342.238] opposes the submission. Further submitter Ports of Auckland Limited [FS1087.13] supports submission [579.89]. I recommend the panel reject these submissions.
83. Submissions from Mercer Residents and Ratepayers Committee [367.44], Angeline Greensill for Tainui o Tainui [942.13] and [942.40] seek to retain Objective 3.1 as notified. A submission from Havelock Village Limited [FS1377.66] has opposed submission [367.44]. I consider Objective 3.1 should be retained as it supports the maintenance or enhancing of biodiversity and ecosystems. I have accepted these submissions only in part as I have recommended amendments to Chapter 3 in response to other submissions.
84. The Tangata Whenua Working Group [388.6] has sought to retain policies that require the quality of freshwater to be improved. Further submissions from Auckland Waikato Fish and Game Council [FS1045.5], [FS1045.6], Waikato–Tainui [FS1108.108] and Turangawaewae Trust Board [FS1139.95] all support the submission and Mercury Energy Limited [FS1388.89] opposes the submission. As freshwater quality is primarily a regional council function and is managed through their plan, I recommend the panel reject the Tangata Whenua Working Group submission [388.6].
85. Carl Ammon [12.4] seeks to amend Chapter 3 Natural Environments to strengthen the framework to ensure development protects and improves biodiversity. A further submission from Federated Farmers [FS1342.5] has opposed the submission. Further submitter Whaingaroa Environmental Defence Inc. Society [FS1276.216] has supported the submission. The submitter has not provided any suggestions in this regard. In my opinion the notified version of the provisions, subject to the various recommended amendments will achieve what Mr Ammon is seeking, however I invite Mr Ammon to provide more information at the hearing. In the meantime, I recommend the panel reject Carl Ammon’s submission [12.4]. Waikato Regional Council [81.21] seeks to include an advice note directing plan users to the Waikato Pest Management Plan. Further submissions from Federated Farmers [FS1342.44] and Mercury Energy Limited [FS1223.7] support the submission. I agree that an advice note would be useful to direct plan users to this document as it would inform plan users when undertaking activities that it is the Regional Council which is the main agency that deals with pest management. The advice note would also assist with collaboration between the District Council and Regional Council when activities such as earthworks occur. I accept that an advice note will not aid interpretation of the plan, but will highlight the existence of the Waikato Pest Management Plan. I recommend the panel accept the Waikato Regional Council submission [81.21].

86. Waikato Regional Council [81.94] seeks to amend Chapter 3 to provide for a mitigation hierarchy for indigenous biodiversity that is outside of a SNA. Further submissions from Bathurst Resources Limited and BT Mining Limited [FS1198.61], Federated Farmers [FS1342.15], Genesis Energy Limited [FS1345.88] and Meridian Energy Limited [FS1258.6] oppose this submission and further submitter Havelock Village Limited [FS1377.15] supports the submission. In a related submission, Waikato Regional Council [81.92] seeks amendment to Chapter 3 to provide for offset in areas that are not significant. Further submissions from Havelock Village Limited [FS1377.13], Meridian Energy Limited [FS1258.4], and Genesis Energy Limited [FS1345.87] and oppose this submission. Further submissions from Federated Farmers [FS1342.13] and New Zealand Transport Agency [FS1202.42] support this submission.
87. I have considered the provisions within Chapter 3 which contains Objective 3.1 and which relates to all indigenous biodiversity to be maintained or enhanced. I note the submission seeks to provide for a mitigation hierarchy, however the reasons provided by the submitter relate to Policy 3.2.4 which are regarding biodiversity offsetting. Policy 11.2.1 of the Waikato Regional Policy Statement (WRPS) seeks a higher level of consideration for significant indigenous vegetation and a slightly less stringent approach for vegetation that is not significant.
88. Nevertheless, although there are policies under Objective 3.1.1 they do not allow for a management hierarchy or offsetting. I see value in adding this to the policy framework. This would be the most efficient way to give effect to the WRPS Policy 11.1.3. There are proposed rules for vegetation clearance outside a SNA within the Rural Zone which provide for removing vegetation that endangers humans or buildings, maintaining pasture, tracks and fences and drains, conservation fencing gathering of plants in accordance with Maaori custom, and for building platforms. Although these areas may not be deemed significant, they still may have some ecological value, and in the event of the permitted level of clearance being breached and land use consent being required, this could provide for biodiversity benefits from offsetting. This approach would also give effect to the Regional Policy Statement 11.1.3 where district councils are required to ensure remediation, mitigation or offsetting relates to the indigenous vegetation being lost and not just SNAs. I recommend the panel accept the Waikato Regional Council submissions [81.92]. and [81.94]. and include a policy for a management hierarchy.
89. In another similarly related submission, Waikato Regional Council [81.96] seeks to amend section 3.1 to move aspects relating to indigenous vegetation and habitats outside SNAs from section 3.2. Further submissions from TaTa Valley Limited [FS1340.19], Havelock Village Limited [FS1377.17] Federated Farmers [FS1342.17] and Genesis Energy Limited [FS1345.90] support this submission. A further submission from Meridian Energy Limited [FS1258.8] opposes the submission. I agree that policies relating to indigenous vegetation and habitats outside SNAs should be separate to those within SNAs. In this regard Policy 3.2.4, which relates to biodiversity offsetting, sits under the objective for Significant Natural Areas. Clause (a) of this policy is as follows:
- “Allow for a biodiversity offset to be offered by a resource consent applicant where an activity will result in significant residual adverse effects on a Significant Natural Area, **or on indigenous biodiversity outside such Significant Natural Areas.**” [emphasis added]*
90. This policy contains a reference to indigenous vegetation and habitats outside a SNA and would be more appropriately positioned as a new policy under Objective 3.1.1 which relates to indigenous vegetation and habitats in general. This change would also address Waikato Regional Council’s previous submission which sought offsetting for indigenous vegetation and habitats outside a SNA. I recommend the panel accept Waikato Regional Council’s submission [81.96].
91. A submission from Leo Koppens [799.1] seeks to delete the entire Chapter 3 Natural Environment. The reason provided by the submitter is that Chapter 3 and the Council’s maps do not meet the WRPS requirement in that not all significant indigenous areas have been identified,

as they have not included Kahikatea throughout the district. In my view, this is a mapping concern not a policy direction concern. The deleting of Chapter 3 would not give effect to the policies in the Waikato Regional Policy Statement in relation to indigenous biodiversity where there is a direction to maintain or enhance indigenous biodiversity. I therefore recommend the panel reject Leo Koppens' submission [799.1].

92. The submission from Raglan Naturally [831.44] seeks to amend Chapter 3 to (amongst other things) manage all new development so that it does not encroach on nature. A further submission from Federated Farmers [FS1342.237] opposes the submission. I agree with the reasons Federated Farmers provides in that it is important to provide for opportunities for development but in a managed way, and not all development will be inappropriate. This not only supports the health and well-being of communities but also allows for a managed approach to development where considerations such as suggested by Raglan Naturally can be looked at. I recommend the panel reject Raglan Naturally's submission [831.44].
93. The submission from John Lawson [825.48] and Whaingaroa Defence Inc. Society [780.48] seeks that all resource consents for vegetation clearance be publicly notified. A further submission from Housing New Zealand Corporation [FS1269.75] opposes the submission. It would be unreasonable for an applicant to undergo a full notification process for vegetation clearance if the clearance is minor. Every application undergoes an evaluation to assess whether the activity has an effect that requires either affected party's approval or a necessity to fully notify. I recommend the panel reject John Lawson's submission [825.48] as I do not consider a blanket notification requirement to be appropriate.
94. A submission from Federated Farmers of New Zealand [680.2] seeks to amend the Proposed District Plan to recognise the benefits of working with landowners when considering biodiversity gains. A further submission from Middlemiss Farm Holdings Limited [FS1330.58] supports this submission and a further submission from Mercury Energy Limited [FS1387.157] opposes the submission. Although I support the approach that Federated Farmers is proposing, I do not consider that a rule framework is conducive to this method but rather, as suggested by Federated Farmers, is best achieved through advocacy and non-regulatory methods. I suggest a non-regulatory policy framework could be useful. Waikato District Council provides for this via a Contestable Conservation Fund and to some degree rates relief on areas that are legally protected. These could read as follows:

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

95. I recommend that the panel accept in part Federated Farmers of New Zealand's submission [680.2].

## 5.4 Recommendations

96. For the reasons above I recommend that the Hearings Panel:
- a. **Reject** Raglan Naturally [831.71], [831.72] and [831.47], and Whaingaroa Environmental Defence Inc [FS1276.142]. **Accept** Federated Farmers [FS1342.238].
  - b. **Reject** Whaingaroa Environmental Defence Inc. [780.51].
  - c. **Accept** Lakeside Developments 2017 Limited [579.89] and Ports of Auckland limited [FS1087.13].
  - d. **Accept in part** Mercer Residents and Ratepayers Committee [367.44], Tainui o Tainui [942.13] and [942.40], and Havelock Village Limited [FS1377.66].

- e. **Reject** Tangata Whenua Working Group [388.6], Auckland Waikato Fish and Game Council [FS/045.5], [FS/045.6], Waikato–Tainui [FS/108.108] and Turangawaewae Trust Board [FS/139.95].
- f. **Reject** Carl Ammon [12.4] and Whaingaroa Environmental Defence In. Society [FS/276.216]. **Accept** Federated Farmers [FS/342.5].
- g. **Accept** Waikato Regional Council [81.60] where it seeks deletion of duplicate provisions.
- h. **Accept** Waikato Regional Council [81.21] Federated Farmers [FS/342.44] and Mercury Energy Limited [FS/223.7].
- i. **Accept** Waikato Regional Council [81.94] and Havelock Village Limited [FS/377.15]. **Reject** Bathurst Resources Limited and BT Mining Limited [FS/198.61], Federated Farmers [FS/342.15], Genesis Energy Limited [FS/345.88] and Meridian Energy Limited [FS/258.6].
- j. **Accept** Waikato Regional Council [81.92] Federated Farmers [FS/342.13] and New Zealand Transport Agency [FS/202.42]. **Reject** Havelock Village Limited [FS/377.13], Meridian Energy Limited [FS/258.4] and Genesis Energy Limited [FS/345.87].
- k. **Accept** Waikato Regional Council [81.96], TaTa Valley Limited [FS/340.19], Havelock Village Limited [FS/377.17], Federated Farmers [FS/342.17] and Genesis Energy Limited [FS/345.90]. **Reject** Meridian Energy Limited [FS/258.8].
- l. **Reject** Leo Koppens [799.1] where he seeks deletion of Chapter 3.
- m. **Reject** Raglan Naturally [831.44]. **Accept** Federated Farmers [FS/342.237].
- n. **Reject** John Lawson [825.48] and Whaingaroa Defence Inc. Society [780.48]. **Accept** Housing New Zealand Corporation [FS/269.75].
- o. **Accept in part** Federated Farmers [680.2].

## 5.5 Recommended amendments

97. The following recommend amendments to include an advice note, are to be included under rules which manage earthworks within Significant Natural Areas and under rules which manage vegetation clearance of indigenous vegetation:

### <sup>2</sup>Advice note

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

### Non-Regulatory Policy

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

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<sup>2</sup> Waikato Regional Council [81.21]

### Policy 3.2.4 Biodiversity Offsetting

- (a) Allow for a biodiversity offset to be offered by a resource consent applicant where an activity will result in significant residual adverse effects on a Significant Natural Area, <sup>34</sup>~~or on indigenous biodiversity outside such Significant Natural Areas.~~
- (b) Within a Significant Natural Area, a biodiversity offset will only be considered appropriate where adverse effects have been avoided, remedied or mitigated in accordance with the hierarchy established in Policy 3.2.3; and
  - (i) the biodiversity offset is consistent with the framework detailed in Appendix 6 Biodiversity Offsetting; and
  - (ii) the biodiversity offset can achieve no net loss of indigenous biodiversity:
    - A. preferably in the affected area of Significant Natural Area; or
    - B. where that is not practicable, in the ecological district in which the affected area of Significant Natural Area is located.

### 53.1.2 A Policy -Management hierarchy

- (a) Recognise and protect indigenous biodiversity outside Significant Natural Areas using the following hierarchy by
  - (i) avoiding the significant adverse effects of vegetation clearance and the disturbance of habitats in the first instance;
  - (ii) remedying any effects that cannot be avoided; then
  - (iii) mitigating any effects that cannot be remedied; and
  - (iv) after remediation or mitigation has been undertaken, offset any significant residual adverse effects in accordance with Policy 3.1.2B

### 63.1.2B Policies-Biodiversity Offsetting

- (a) Allow for a biodiversity offset to be offered by a resource consent applicant where an activity will result in significant residual adverse effects to indigenous vegetation or habitat outside a Significant Natural Area, where
  - (i) the biodiversity offset is consistent with the framework detailed in Appendix 6 Biodiversity Offsetting;
  - (ii) alternative habitat supporting similar ecological aspects is enabled or enhanced.

## 5.6 Section 32AA evaluation

- 98. The recommended addition of an advice note does not change the planning outcome. Accordingly, no s32AA evaluation has been required to be undertaken in this regard.
- 99. Similarly, the recommended deletion from Policy 3.2.4 Offsetting is an administrative change and is being incorporated into a new policy. Therefore, no Section 32AA evaluation is required.

<sup>3</sup> Waikato Regional Council [81.96]

<sup>4</sup> Waikato Regional Council [81.95]

<sup>5</sup> Waikato Regional Council [81.94]

<sup>6</sup> Waikato Regional Council [81.92]

100. The addition of a new policy for management hierarchy is to recognise there are circumstances where indigenous vegetation outside of a potential SNA can be removed within a framework that supports a no net loss of biodiversity. The s32AA for this recommendation is outlined below.

*Other reasonably-practicable options*

101. There are two options for consideration:
- a. Retain the framework as notified
  - b. Provide an opportunity for a management hierarchy when the clearing of indigenous vegetation is proposed outside of a SNA.

*Effectiveness and efficiency*

102. The recommended additional of Policy 3.1.2A Management Hierarchy will increase the ability for landowners to manage areas by working with the Councils to ensure that when clearing vegetation outside of a SNA, the adverse effects on indigenous vegetation and fauna can be mitigated through offsetting. The amendments improve the effectiveness of the policy framework in implementing Objectives within Chapter 3 (particularly Objective 3.1.1 which seeks the maintenance or enhancement of indigenous biodiversity) and provide suitable guidance to plan users for the assessment of activities that affect the natural values and management of indigenous vegetation and fauna. The recommended additional policies will be more effective and efficient at giving effect to the Waikato Regional Policy Statement.

*Costs and benefits*

103. There are potential costs to those who wish to clear more than the permitted baseline of indigenous vegetation and therefore require a resource consent. However, by collaborating with both Councils, there are benefits for the environment. There is wider benefit to the local and regional community when managing the way vegetation clearance occurs.

*Risk of acting or not acting*

104. The risk of not acting prevents a collaborative approach to biodiversity management between landowners and the Councils. The risk of not having an offsetting pathway is if consent is granted that allows for vegetation removal, there would not be the opportunity to achieve a no net loss of indigenous biodiversity. 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*

105. The recommended amendment gives effect to Objective 3.1 Indigenous Vegetation and Habitats in Chapter 3 Natural Environment, which requires indigenous vegetation to be maintained or enhanced. It is more appropriate in achieving the purpose of the RMA than the notified version where there are no policies to support the offsetting of biodiversity outside of a SNA. The new policy gives effect to the Waikato Regional Policy Statement 11.1.3 where there is a requirement to provide for avoidance, remediation, mitigation and offsetting when managing indigenous vegetation.



## 6 Objective 3.1.1 Biodiversity and ecosystems

106. Objective 3.1.1 seeks to maintain or enhance indigenous biodiversity values and the life-supporting capacity of indigenous ecosystems.

### 6.1 Submissions

107. Nine primary submissions were received. Two seek no specific decision and four seek to retain the objective as it was notified. The remainder seek to amend the objective to further clarify or include additional clauses to allow for establishment of new areas of indigenous vegetation. The following submissions were made:

Submission point	Submitter	Decision requested
644.2	Spark New Zealand Trading Limited	Retain Objective 3.1.1 Biodiversity and ecosystems, as notified.
FS1350.2	Transpower New Zealand Limited	Support
646.2	Vodafone New Zealand Limited	<b>Retain</b> Objective 3.1.1 Biodiversity and ecosystems, as notified.
731.5	Jean Tregidga	Delete Objective 3.1.1 Biodiversity and ecosystems.
FS1180.5	Jean Tregidga	Seek that the whole of the submission be allowed.
794.5	Middlemiss Farm Holdings Limited on behalf of	Amend Objective 3.1.1 Biodiversity and ecosystems as follows: (a) Indigenous biodiversity values and the life-supporting capacity of indigenous ecosystems are maintained or enhanced. (b) <u>New areas of indigenous biodiversity are established.</u>  AND  Amend the Proposed District Plan consequential or additional amendments as necessary to give effect to the submission.
FS1308.136	The Surveying Company	Support
FS1342.219	Federated Farmers	Oppose
81.93	Waikato Regional Council	Amend Objective 3.1.1 Biodiversity and ecosystems to clearly state that the outcome that is being worked towards is to achieve no net loss.
FS1045.7	Auckland/Waikato Fish and Game Council	Support
FS1198.60	Bathurst Resources Limited and BT Mining Limited	Oppose
FS1340.17	TaTa Valley Limited	Oppose.
FS1377.14	Havelock Village Limited	Oppose.
FS1258.5	Meridian Energy Limited	Oppose
FS1342.14	Federated Farmers	Oppose
FS1045.8	Auckland/Waikato Fish and Game Council	Support

433.36	Mischa Davis for Auckland Waikato Fish and Game Council	Retain Objective 3.1.1 - Biodiversity and ecosystems, as notified.
585.39	Lucy Roberts for Department of Conservation	Retain Objective 3.1.1 Biodiversity and ecosystems as notified.
746.104	The Surveying Company	Retain Objective 3.1.1- Biodiversity and ecosystems as notified.
680.27	Federated Farmers of New Zealand	No specific decision sought, but the submission conditionally supports Objective 3.1.1 (a) Biodiversity and ecosystems.
<i>FS1387.161</i>	<i>Mercury NZ Limited</i>	<i>Opposes</i>
<i>FS1007.5</i>	<i>Phillip John Swann</i>	<i>Supports</i>

## 6.2 Analysis

108. Submissions from Lakeside Development 2017 Limited [579.89] and Federated Farmers [680.27] seek no specific decision and it is difficult to meaningfully assess the submission. However, both submitters generally support the Objective. A further submission from Ports of Auckland [FS1087.13], and from Phillip John Swan [FS1007.5] supports the submission, and further submitter Mercury Energy Limited [FS1387.161] opposes the submission. I recommend the panel accept these submissions.
109. Submissions from Spark New Zealand Trading Limited [644.2], Vodafone New Zealand Limited [646.2], Auckland Waikato Fish and Game Council [433.36], Department of Conservation [585.39], and The Surveying Company [746.104] seek to retain Objective 3.1.1 as it is written, as the objective ensures maintenance and enhancement of biodiversity and is consistent with section 6(c) of the RMA. A further submission from Transpower New Zealand Limited [FS1350.2] has supported submission [644.2]. Conversely a submission from Jean Tregidga [731.5] seeks to delete Objective 3.1.1 Biodiversity and Ecosystems. I consider Objective 3.1.1 should be retained as it supports the maintaining or enhancing of biodiversity and ecosystems, albeit I have recommended amendments to this objective in response to other submissions. I recommend the panel accept in part the submission from Spark New Zealand Trading Limited [644.2], Vodafone New Zealand Limited [646.2], Auckland Waikato Fish and Game Council [433.36], Department of Conservation [585.39], and The Surveying Company [746.104].
110. A submission from Waikato Regional Council [81.93] seeks to amend Objective 3.1.1 to clearly state the outcome is to achieve no net loss of biodiversity. Further submissions from Auckland/Waikato Fish and Game [FS1045.7] and [FS1045.8] support the submission. Further submitters TaTa Valley Limited [FS1340.7], Bathurst Resources Limited and BT Mining Limited [FS1198.60], Havelock Village Limited [FS1377.14], Meridian Energy Limited [FS1258.5] and Federated Farmers [FS1342.14] have opposed the submission. I have considered this request and see no issue with including additional wording that reflects the Regional Policy Statement where it states in Policy 11.1 Maintain or enhance indigenous biodiversity clause a) *working towards achieving no net loss of indigenous biodiversity at a regional scale*. Waikato District is only one part of the region and therefore I consider it is not appropriate to refer to the regional scale. I recommend the panel accept the submission from Waikato Regional Council [81.93].
111. A submission from Middlemiss Farm Holdings [794.5] seeks to amend Objective 3.1.1 by the addition of a new clause (b) which recognises new areas of indigenous vegetation being established. A further submission from The Surveying Company [FS1308.136] supports the submission and a

further submission from Federated Farmers [FS/342.219] opposes the submission. I do not consider the addition is necessary as the objective as it is written speaks to enhancing. New areas of vegetation will achieve the Objective insofar as they will enhance the biodiversity values, and therefore I do not consider the addition necessary. I recommend the panel reject the submission from Middlemiss Farm Holdings [794.5].

### 6.3 Recommendations

112. For the reasons above I recommend that the Hearings Panel:

- a. **Accept** Lakeside Development [579.89], Federated Farmers [680.27], Ports of Auckland [FS/087.13] and Phillip Swan [FS/007.5]. **Reject** Mercury Energy Limited [FS/387.161].
- b. **Accept in Part** Spark New Zealand Trading Limited [644.2], Auckland Waikato Fish and Game Council [433.36], Department of Conservation [585.39], and The Surveying Company [746.104], and Vodafone New Zealand Limited [646.2].
- c. **Reject** Jean Tregidga [731.5] and Jean Tregidga [FS/180.5].
- d. **Accept** Waikato Regional Council [81.93] Auckland/Waikato Fish and Game [FS/045.7], and [FS/045.8]. **Reject** TaTa Valley Limited [FS/340.17], Bathurst Resources Limited and BT Mining Limited [FS/198.60], Havelock Village Limited [FS/377.14], Meridian Energy Limited [FS/258.5] and Federated Farmers [1342.14].
- e. **Reject** Middlemiss Farm Holdings [794.5] and The Surveying Company [FS/308.136]. **Accept** Federated Farmers [FS/342.219].

### 6.4 Recommended amendments

113. The following amendments is recommended.

Objective 3.1.1 Biodiversity and Ecosystems

- (a) Indigenous biodiversity values and the life-supporting capacity of indigenous ecosystems are maintained or enhanced:<sup>7</sup>[to work towards achieving a no net loss of biodiversity](#)

### 6.5 Section 32AA evaluation

114. The recommended addition to the wording of Objective 3.1.1 Biodiversity and Ecosystems will improve the alignment with the Regional Policy Statement.

*Other reasonably-practicable options*

115. There are two options for consideration:

- a) Retain the objective as notified
- b) Provide better alignment with the Regional Policy Statement when managing biodiversity and ecosystems.

*Effectiveness and efficiency*

116. The amendments improve the effectiveness of the objective within Chapter 3 and provides improved guidance to plan users related to the overall goal of Chapter 3 in relation to indigenous biodiversity. The recommended additional wording will be more effective and efficient at giving effect to the Waikato Regional Policy Statement.

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<sup>7</sup> Waikato Regional Council [81.93]

### Costs and benefits

117. There are no additional costs, and therefore costs are likely to be the same. There are benefits for the environment with the revised objective as it is clearer about the purpose of the objective. Other benefits are clearer guidance to plan users in that the goal is to work towards a no net loss of biodiversity.

### Risk of acting or not acting

118. 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 objective.

### Decision about most appropriate option

119. The recommended amendment gives effect to the Regional Policy Statement Policy 11.1 – Maintain or enhance indigenous biodiversity by (amongst other things) working towards achieving no net loss of indigenous biodiversity, and therefore is more appropriate in achieving the purpose of the RMA than the notified version.

## 7 Policy 3.1.2

### 7.1 Introduction

120. Policy 3.1.2 seeks to maintain or enhance indigenous biodiversity values and the life-supporting capacity of indigenous ecosystems. Clause (a) of the policy lists three activities that maintain or enhance indigenous biodiversity, while clause (b) lists matters to be considered when assessing effects on indigenous biodiversity.

### 7.2 Submissions

121. Twelve primary submissions were received. Four submitters seek to retain the Policy 3.1.2 as notified. Three submissions seek to amend the policy to add incentivising subdivision or planting of indigenous vegetation. One seeks to include eco-sourcing. The following submissions were made:

Submission point	Submitter	Decision requested
644.3	Spark New Zealand Trading Limited	Retain 3.1.2 Policy - Indigenous Vegetation and Habitats, as notified.
731.1	Jean Tregidga	Amend Policy 3.1.2 Indigenous Vegetation and Habitats, to permit the active management of indigenous vegetation.
<i>FSI 180.1</i>	<i>Jean Tregidga</i>	<i>Support</i>
731.6	Jean Tregidga	Delete Policy 3.1.2 Indigenous Vegetation and Habitats.
<i>FSI 180.6</i>	<i>Jean Tregidga</i>	<i>Support</i>
794.6	Middlemiss Farm Holdings Ltd	Amend Policy 3.1.2 Policies as follows: (a) Enable activities that maintain or enhance indigenous biodiversity including: (i) planting using indigenous species suitable to the habitat; (ii) the removal or management of pest plant and animal species; (iii) biosecurity works. <u>(iv)</u>

		<p><u>incentivised subdivision</u> (b) Consider the following when avoiding, remedying or mitigating adverse effects on indigenous biodiversity: .... (x) ecological corridors, natural processes and buffer areas; <u>(xi) connections and linkages that integrate habitats and resources;</u> <del>(xii)</del> <u>the appropriateness of land use activities, including primary production;</u> <del>(xiii)</del> <u>legal and physical production of existing habitat;</u> (c) Provide for the removal of manuka or kanuka on a sustainable basis.</p> <p>AND</p> <p>Amend the Proposed District Plan consequential or additional amendments as necessary to give effect to the submission.</p>
FS1308.137	The Surveying Company	Support
585.40	Department of Conservation	Amend Policy 3.1.2(a)(i) Policies as follows: (a) Enable activities that maintain or enhance indigenous biodiversity including: (i) planting <u>and reintroducing eco-sourced</u> <del>using</del> indigenous species suitable to the habitat;
FS1330.51	Middlemiss Farm Holdings Limited	Oppose
585.41	Department of Conservation	Amend Policy 3.1.2 (a)(iii) Policies as follows: Enable activities that maintain or enhance indigenous biodiversity including: ... (iii) biosecurity works <u>including management of plant diseases.</u>
FS1223.141	Mercury NZ Limited	Support
FS1342.161	Federated Farmers	Oppose
FS1330.52	Middlemiss Farm Holdings Limited	Support
746.105	The Surveying Company	Retain Policy 3.1.2- Policies as notified.
585.42	Department of Conservation	<p>Retain Policy 3.2.2 (b) Policies except for the amendments sought below</p> <p>AND</p> <p>Amend Policy 3.1.2(b) as follows: (b) <del>Consider the following when a</del> <u>Avoiding, remedying or mitigating</u> adverse effects on indigenous biodiversity <u>including by considering:</u> ....</p>
FS1223.142	Mercury NZ Limited	Support
680.28	Federated Farmers of New Zealand	<p><b>Add</b> new policy in Section 3.1 Indigenous vegetation and habitats, as follows:</p> <p>(a) <u>The Council recognises landowners' stewardship of the land and it will work with landowners to promote the use of non-regulatory methods; including assistance with the establishment of protective covenants, service delivery, education, and other incentives in protecting and enhancing ecological sites, geological features, and the values of outstanding natural features and landscapes; and</u></p>

		<p><u>ensure current land management practices help achieve this</u></p> <p>AND</p> <p>Any consequential changes needed to give effect to this relief.</p>
FSI 293.41	Department of Conservation	Oppose
FSI 275.3	Zeala Limited T/A Aztech Buildings	Support
FSI 139.40	Turangawaewae Trust Board	Oppose
FSI 108.49	Te Whakakitenga o Waikato Incorporated (Waikato-Tainui)	Oppose
FSI 258.83	Meridian Energy Limited	Oppose
680.29	Federated Farmers of New Zealand	<p><b>Amend</b> Policy 3.1.2 (a) Policies, as follows:</p> <p>(a) <del>Enable</del> <u>Incentivise</u> activities that maintain or enhance indigenous biodiversity including:</p> <p>(i) planting using indigenous species suitable to the habitat;</p> <p>(ii) the removal or management of pest plant and animal species;</p> <p>(iii) biosecurity works</p> <p>AND</p> <p><b>Add</b> to Policy 3.1.2 (a) Policies, as follows:</p> <p>(iv) <u>encouraging voluntary planting of indigenous plant specimens suitable to each habitat, whilst anticipating flexibility to appropriately manage planted vegetation in a way that is integrated with other land management practices</u></p> <p>AND</p> <p><b>Add</b> to Policy 3.1.2 new policies, as follows:</p> <p>(d) <u>Council will coordinate with other agencies and organisations in identifying risks, requirements, opportunities and effective methods for maintaining and enhancing Waikato’s biodiversity and will support landowners with a range of regulatory and non-regulatory initiatives to maintain and enhance biodiversity</u></p> <p>(e) <u>Consider additional subdivision opportunities where significant biodiversity gains can be achieved in the following priority areas or locations:</u></p> <p>(i) <u>peat lakes and rivers: by permanently providing significant buffer areas around peat lakes and rivers; or</u></p> <p>(ii) <u>wetlands, kahikatea stands, riparian margins and bush stands on the low lands, by providing permanent protection; or</u></p>

		<p><u>(iii) significant natural areas being aggregated to form one large more ecologically sustainable area and being permanently protected; or</u></p> <p><u>(iv) biodiversity corridors: by the permanent protection of significant areas of indigenous forest within biodiversity (indigenous forest) corridors; or</u></p> <p><u>(v) biodiversity corridors: by permanently protecting significant riparian or wetland areas within identified biodiversity (river or stream) corridors.</u></p> <p>AND</p> <p>Any consequential amendments needed to give effect to this relief.</p>
FS1293.42	Department of Conservation	Oppose
FS1308.101	The Surveying Company	Support

### 7.3 Analysis

122. Submissions from Spark New Zealand Limited [644.3], Chorus New Zealand Limited [648.3], The Surveying Company [746.105] and Vodafone New Zealand Limited [646.3] seek to retain the policy as it is written. I recommend accepting these submissions only in part as I have recommended amendments to the policy in response to other submissions.
123. There are two submissions from Jean Tregidga [731.1], one seeks to amend Policy 3.1.2 to permit active management of indigenous vegetation and then in submission [731.6] seeks to delete Policy 3.1.2. The reasons provided is that the policy is unreasonable and unnecessary as most landowners take a responsible approach to managing indigenous vegetation. Further submissions from Jean Tregidga [FS1180.1] and [FS1180.6] support these submissions. This is somewhat confusing as to what the submitter is trying to achieve and I invite Ms Tregidga to clarify at the hearing, and until then I recommend the panel reject the submissions from Jean Tregidga [731.1] and [731.6].
124. The submission from Department of Conservation [585.40] seeks to include additional wording to Policy 3.1.2 (a)(i) which considers eco-sourced indigenous species. I agree with this approach. If planting is required through a consenting process, eco-sourced species are likely to have the best chance of survival. However as eco-sourced plants may not always be readily available, I suggest that the additional wording is tempered to say 'when available' eco-sourced plants should be used. I recommend the panel accept in part the Department of Conservation's submission [585.4].
125. The Department of Conservation [585.42] seeks to amend the policy 3.1.2 by rearranging the wording. A further submission from Mercury Energy Limited [FS1223.142] supports the submission. I do not see this as a necessary change as fundamentally the current wording achieves the same outcome. I recommend the panel reject Department of Conservation [585.42].
126. Middlemiss Farm Holdings [794.6] submission seeks additional wording to Policy 3.1.2 to acknowledge land use activities, including primary production. The Surveying Company [FS1308.137] supports the submission. I do not agree with this additional wording as the purpose of the policy is to manage the effects on indigenous biodiversity from an activity, not to provide for an activity. Activities such as primary production are best managed through the rules framework. The Proposed Plan has accommodated aspects of primary production such as track

maintenance, conservation works and fencing, amongst other things. In addition, the Proposed Plan provides for vegetation clearance outside a SNA for the maintenance of productive pasture. I do not see the value of amending the policy as requested.

127. The submission also seeks to include a clause that provides for incentivised subdivision. I agree that covenanting indigenous vegetation is an excellent way to protect areas. The current policy framework currently only relates to SNAs. It could be argued that if an area of lesser quality was large enough, it would eventually become significant over time with the right care and protection (especially if fenced from stock). However, it could take several years and constant management before the area became significant enough to meet the criteria in Appendix 2.
128. The current regime in the Proposed District Plan (PDP) is to provide for the concept of incentivised subdivision and to encourage protection on high quality areas that could otherwise potentially be at risk. Given that there are already policies (refer 3.2.8) that incentivise subdivision, I do not see any benefit in additional clauses in Policy 3.1.2 that would allow low quality areas to be protected. In my opinion, significant vegetation should be incentivised as this is the most at risk of being lost.
129. Further to the above, the submission seeks to include an additional clause that seeks inclusion of connections and linkages. I do not consider this is necessary as clause (x) already addresses ecological corridors, natural process and buffer areas and in my opinion the additional wording would add no value. I recommend the panel reject the submission from Middlemiss Farm Holdings [794.6].
130. A submission from Department of Conservation [585.41] seeks additional wording to Policy 3.1.2(a)(iii) to include the management of plant diseases. Further submitters Mercury Energy Limited [FS/223.141] and Middlemiss Farm Holdings [FS/330.52] support the submission and a further submission from Federated Farmers [FS/342.161] opposes the submission. The policy as it is written simply refers to *biosecurity works* in clause (a)(iii). In my opinion this encompasses all, and the additional wording sought by the Department of Conservation is not required. Accordingly, I recommend the panel reject the Department of Conservation's submission [585.41].
131. A submission from Federated Farmers [680.28] seeks to add a new policy in Section 3.1 Indigenous Vegetation and Habitats to recognise landowner's stewardship and that the Council will work with landowners. Further submitters Zeala Limited T/A Aztech Buildings [FS/275.3] supports the submission and Department of Conservation [FS/293.41], Turangawaewae Trust Board [FS/139.40] and Waikato Tainui [FS/108.49] have opposed the submission. I see value in what Federated Farmers is seeking, however it would be difficult to implement through a rule framework. I have recommended further on in this report in response to similar submissions from Federated Farmers that some non-regulatory policies are included in the plan. I recommend the panel accept in part the submission from Federated Farmers [680.28].
132. A submission from Federated Farmers [680.29] is seeking to amend Policy 3.1.2 (a) by changing the wording from 'enabling' to 'incentivising' activities that maintain or enhance indigenous biodiversity. A further submission from the Department of Conservation [FS/293.42] has opposed the submission as it considers that while non-regulatory methods can provide some benefit to management of indigenous vegetation and habitats, they need to be backed up by regulatory methods and that the proposed policy would be an inappropriate mechanism within the district plan framework. The further submission from The Surveying Company [FS/308.101] supports the submission as it relates to incentivising environmental subdivision. The submitter also seeks other additional clauses that encourage voluntary planting and to also add new policies



that require co-ordination with other agencies when managing SNAs with a range of regulatory and non-regulatory policies. These policies include considerations of subdivision in priority areas such as peat lakes, rivers, wetlands, kahikatea stands and biodiversity corridors.

133. I agree with utilising regulatory methods, which is largely the approach of the Proposed District Plan, but I agree that non regulatory policies can be appropriate in a district plan. I have recommended in response to a previous submission from Federated Farmers that non-regulatory mechanisms are recognised in the policies.
134. The purpose of Policy 3.1.2 is to provide for the planting of indigenous species and the removal pests etc. I can appreciate that incentivising is an effective tool to increase the quality of an SNA, however I have recommended in response to another submission that an additional clause be added that permits clearance for conservation purposes. I therefore consider to 'enable' would be more appropriate than 'incentivise'.
135. In respect of incentivising subdivision, Policy 3.2.8 provides for incentivising provided the area is of a suitable size and quality. If the areas suggested by the submitter are deemed to meet the criteria within Appendix 2 Criteria for Determining the Significance of Indigenous Vegetation, then I see no reason to include more policies in relation to subdivision. On this basis I recommend the panel accept in part the submission from Federated Farmers [680.29].

#### 7.4 Recommendations

136. For the reasons above I recommend:
- a. **Accept in Part** Spark New Zealand Limited [644.3], Chorus New Zealand Limited [648.3], The Surveying Company [746.105] and Vodafone New Zealand Limited [646.3].
  - b. **Reject** Jean Tregidga [731.1] and [731.6] and Jean Tregidga [FS1180.1] and [FS1180.6].
  - c. **Accept in Part** Department of Conservation [585.40] and Middlemiss Farm Holdings [FS1330.51].
  - d. **Reject** Middlemiss Farm Holdings [794.6] and The Surveying Company [FS1380.137].
  - e. **Reject** Department of Conservation [585.41], Mercury Energy Limited [FS1223.141] and Middlemiss Farm Holdings [FS1330.52]. **Accept** Federated Farmers [FS1342.161].
  - f. **Reject** Department of Conservation [585.42] and Mercury Energy Limited [FS1223.142].
  - g. **Reject** Waikato Regional Council [81.97]. **Accept** Federated Farmers [FS1243.37].
  - h. **Accept in part** Federated Farmers [680.29], Department of Conservation [FS1293.42] and The Surveying Company [FS1308.101].
  - i. **Accept in part** Federated Farmers [680.28], Zeala Limited T/A Aztech Buildings [FS1275.3], Department of Conservation [FS1293.41], Turangawaewae Trust Board [FS1139.40] and Waikato–Tainui [FS1108.49].

## 7.5 Recommended amendments

137. Amend Policy 3.1.2 as follows.

### 3.1.2 Policies

- (a) Enable activities that maintain or enhance indigenous biodiversity including:
  - (i) Planting using indigenous species suitable to the habitat <sup>8</sup>and eco-sourcing these where practical;
  - (ii) the removal or management of pest plant and animal species;
  - (iii) biosecurity works.

## 7.6 Section 32AA evaluation

138. The recommended reference to eco-source indigenous species improves the policy by helping to ensure indigenous biodiversity is enhanced with eco-sourced species where practicable

### *Other reasonably-practicable options*

139. There are two options for consideration:

- a) Retain the policy as notified.
- b) Amend the policy to provide for the consideration of using localised species when enhancing indigenous vegetation.

### *Effectiveness and efficiency*

140. The amendments improve the effectiveness of the policy and provide guidance to plan users in relation to indigenous biodiversity. The recommended additional wording will be more effective and efficient at giving effect to the Waikato Regional Policy Statement as eco-sourced plants will likely thrive more than those brought in from other areas, therefore supporting the maintenance and enhancement of indigenous biodiversity.

### *Costs and benefits*

141. 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 the purpose of the policies' relevance to the Regional Policy Statement. Other benefits are clearer guidance to plan users, in that the goal is to work towards a no net loss of biodiversity and eco-sourced plants will help to achieve this.

### *Risk of acting or not acting*

142. 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*

143. The recommended amendment gives effect to the Regional Policy Statement Policy 11.1 – Maintain or enhance indigenous biodiversity by (amongst other things) working towards achieving a no net loss of indigenous biodiversity. It is more effective at achieving Objective 3.1.1 than the notified version and therefore achieving the purpose of the RMA.

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<sup>8</sup> Department of Conservation [585.40]

## 8 Objective 3.2.1 Significant Natural Areas

### 8.1 Introduction

144. This objective seeks to protect and enhance Significant Natural Areas.

### 8.2 Submissions

145. Sixteen primary submissions were received.

Submission point	Submitter	Decision requested
644.4	Spark New Zealand Trading Limited	Retain Objective 3.2.1 Significant Natural Areas, as notified.
747.2	Ryburn Lagoon Trust Limited	Amend Objective 3.2.1 Significant Natural Areas to acknowledge that enhancement may not always be practicable or achievable and restoration is a desirable management outcome with the following amendments: Indigenous biodiversity in Significant Natural Areas is protected and <del>enhanced</del> <u>restored or enhanced where appropriate</u> .  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.
FS1377.256	Havelock Village Limited	Support
FS1007.6	Phillip John Swann	Support
794.7	Middlemiss Farm Holdings Limited	Retain Objective 3.2.1 Significant Natural Areas
81.98	Waikato Regional Council	Retain Objective 3.2.1 Significant Natural Areas.
862.28	Havelock Village Limited	Amend the objectives and policies within section 3.2 Significant Natural Areas and related rules for Significant Natural Areas and biodiversity to provide greater flexibility and to enable development subject to appropriate mitigation or offsetting. AND Any consequential amendments or alternative relief to give effect to the matters raised in the submission.
FS1086.28	Yashili Dairy Company Limited	Support
FS1186.28	Pokeno Nutritional Park Limited	Support
FS1301.28	New Zealand Health Food Park Limited	Support
FS1303.28	Charlie Harris	Support
FS1277.154	Waikato Regional Council	Oppose
FS1340.175	TaTa Valley Limited	Support

372.13	Auckland Council	Retain Objective 3.2.1 (a) Significant Natural Areas.
580.12	Meridian Energy Limited	Amend Objective 3.2.1 Significant Natural Areas as follows: (a) Indigenous biodiversity in Significant Natural Areas is protected, <del>and enhanced</del> .  AND Amend the Proposed District Plan as necessary to address the matters raised in the submission.
<i>FS1308.81</i>	<i>The Surveying Company</i>	<i>Oppose</i>
<i>FS1350.3</i>	<i>Transpower New Zealand Limited</i>	<i>Support</i>
<i>FS1342.144</i>	<i>Federated Farmers</i>	<i>Support</i>
<i>FS1377.149</i>	<i>Havelock Village Limited</i>	<i>Support.</i>
<i>FS1330.43</i>	<i>Middlemiss Farm Holdings Limited</i>	<i>Oppose</i>
<i>FS1345.49</i>	<i>Genesis Energy Limited</i>	<i>Support</i>
585.44	Department of Conservation	Retain Objective 3.2.1 Significant Natural Areas as notified.
680.30	Federated Farmers of New Zealand	Amend Objective 3.2.1 Significant Natural Areas as follows: (a) Indigenous biodiversity in Significant Natural Areas is protected and enhanced <u>through a range of regulatory and non-regulatory methods</u> .  AND Any consequential amendments needed to give effect to this relief.
<i>FS1007.7</i>	<i>Phillip John Swann</i>	<i>Support</i>
<i>FS1387.162</i>	<i>Mercury NZ Limited</i>	<i>Oppose</i>
574.10	TaTa Valley Limited	Amend Section 3.2 - Significant Natural Areas and related rules, to apply a bespoke approach for the management of indigenous biodiversity on the TaTa Valley site as outlined in the proposed provisions (refer to Appendix A of the submission).  AND Any consequential amendments and other relief to give effect to the matters raised in the submission.
<i>FS1369.13</i>	<i>Ngati Tamaoho Trust</i>	<i>Opposes</i>
<i>FS1108.88</i>	<i>Te Whakakitenga o Waikato Incorporated (Waikato-Tainui)</i>	<i>Opposes</i>
<i>FS1301.52</i>	<i>New Zealand Health Food Park Limited</i>	<i>Supports</i>
<i>FS1303.52</i>	<i>Charlie Harris</i>	<i>Supports</i>
<i>FS1139.79</i>	<i>Turangawaewae Trust Board</i>	<i>Opposes</i>

81.95	Waikato Regional Council	Amend Section 3.2 Significant Natural Areas to ensure that policies related to indigenous biodiversity outside of Significant Natural Area are not under section 3.2 Significant Natural Areas,
<i>FS1258.7</i>	<i>Meridian Energy Limited</i>	<i>Opposes</i>
<i>FS1345.89</i>	<i>Genesis Energy Limited</i>	<i>Supports</i>
<i>FS1377.16</i>	<i>Havelock Village Limited</i>	<i>Supports</i>
<i>FS1342.16</i>	<i>Federated Farmers</i>	<i>Supports</i>
<i>FS1340.18</i>	<i>TaTa Valley Limited</i>	<i>Supports</i>
367.45	Liam McGrath for Mercer Residents and Ratepayers Committee	Retain Section 3.2 Significant Natural Areas.
827.1	New Zealand Steel Holdings Ltd	No specific decision sought, but submission does not oppose section 3.2 Significant Natural Areas provided that the amendments are made to Policy 3.2.6 as sought below.
<i>FS1323.40</i>	<i>Heritage New Zealand Pouhere Taonga</i>	<i>Opposes</i>
648.4	Chorus New Zealand Limited	Retain Objective 3.2.1- Significant Natural Areas as notified.
794.7	Middlemiss Farm Holdings Limited	Retain Objective 3.2.1 Significant Natural Areas
575.2	Fulton Hogan Limited	Retain Objective 3.2.1 - Significant Natural Areas.
<i>FS1332.23</i>	<i>Winstone Aggregates</i>	<i>Supports</i>
646.4	Vodafone New Zealand Limited	Retain Objective 3.2.1 Significant Natural Areas as notified.

### 8.3 Analysis

146. Submissions from Spark New Zealand Trading Limited [644.4], Middlemiss Farm Holdings Limited [794.7], Waikato Regional Council [81.98], Auckland Council [372.13], Department of Conservation [585.44], Mercer Residents Ratepayers Committee [367.45], Chorus New Zealand Limited [648.4], Fulton Hogan Limited [575.2] and Vodafone New Zealand Limited [646.4] all seek to retain the Policy 3.2.1 Significant Natural Areas as it was notified. New Zealand Steel Holdings Ltd [827.1] does not oppose Section 3.2 Significant Natural Areas provided that the amendments sought are made to Policy 3.2.6. I recommend the panel accept in part these submissions as I have recommended amendments in response to other submissions.
147. A submission from Waikato Regional Council [81.95] seeks to amend Section 3.2 to move aspects relating to indigenous vegetation and habitats outside SNAs to be in its own section. Further submissions from Genesis Energy Limited [FS1345.89], Havelock Village Limited [FS1377.16], Federated Farmers [FS1342.16] and TaTa Valley Limited [FS1340.18] support this submission, and a further submission from Meridian Energy Limited [FS1258.7] opposes the submission. As discussed in paragraph 89, I agree with this and have recommended similar amendments in the previous section. I recommend amending Policy 3.2.4(a) to make the suite of policies sitting under Objective 3.2.1 focused entirely on areas within a SNA. I recommend the panel accepts the submission from Waikato Regional Council [81.95].

148. TaTa Valley Limited [574.10] seeks to amend Section 3.2 to apply a bespoke approach specific to the TaTa Valley site. Further submissions from Ngati Tamaoho [FS/369.13], Waikato Tainui [FS/108.88], and Turangawaewae Trust Board [FS/139.79] all oppose the submission. Further submissions from New Zealand Health Food Park Limited [FS/301.52] and Charlie Harris [FS/303.52] support the submission. The bespoke approach in the original submission includes a suite of provisions that allow for development of the resort in respect of activities within a SNA. The suggested policies reflect the notified policies within the Proposed Plan, where they speak to remediation, mitigation, or offsetting in the various precincts of the proposed development.
149. I do not agree with this approach. The Waikato Regional Policy Statement is not specific to any one site but rather the district as a whole. To remove the TaTa Valley site in this manner would mean potentially not giving effect to the Regional Policy Statement. In my view, if the vegetation in the areas has been deemed significant then the provisions within the District Plan need to apply. If there is already a management plan in place for this site that has been prepared by a suitably qualified person then it is likely that any activities recommended in this management plan should meet the requirements of the overarching policy framework which the Proposed District Plan is required to give effect to. I recommend the panel reject the submission from TaTa Valley Limited [574.10].
150. A submission from Ryburn Lagoon Trust [747.2] seeks to amend Objective 3.2.1 to acknowledge enhancement is not always achievable and restoration can be a desirable outcome. Further submissions from Havelock Village Limited [FS/377.256] and Phillip Swan [FS/007.6] have supported the submission. The suggested wording recommends either 'enhancing' or 'restoring' where appropriate. In my view 'restoration' is problematic as restoring something implies you are returning it back to an original state, where this state is an area that is constantly changing. Using words such as 'restoration' in a policy is problematic for interpretation as there is a lack of clarity as to what point in time the area is being restored. Nevertheless, enhancing an area through activities such as planting, pest control or fencing out stock will support a functioning system. The use of the term 'enhance' also reflects the Regional Policy Statement Policy 11.1 which is to maintain or enhance indigenous biodiversity. I believe the use of the word 'enhance' is an achievable goal and the most appropriate term to use. I do not see value in including the words 'where appropriate' as this would not fully reflect the Regional Policy Statement. I therefore recommend the panel reject the submission from Ryburn Lagoon Trust [747.2].
151. The submission from Havelock Village Limited [862.28] seeks an amendment to Policy 3.2 that will provide greater flexibility and enable development subject to mitigation or offsetting. Further submissions from Yashili Dairy Company Limited [FS/086.28], Pokeno Nutritional Park Limited [FS/186.28], New Zealand Health Food Park Limited [FS/301.28], Charlie Harris [FS/303.28] and TaTa Valley Limited [FS/340.175] all support the submission. A further submission from Waikato Regional Council [FS/277.154] opposes the submission. The submitter has not provided any suggestions on wording in this regard, so it is difficult to analyse what this flexibility may consist of. I consider that the notified version of the suite of objectives, policies and rules inclusive of any recommended amendments in response to other submissions, provide for the appropriate amount of flexibility when managing these areas and are the most suitable mechanisms to give effect to the Waikato Regional Policy Statement. I recommend the panel reject the submission from Havelock Village Limited [862.28].
152. The submission from Federated Farmers Limited [680.30] seeks an amendment to Objective 3.2.1 with suggested additional wording to include 'a range of regulatory and non-regulatory methods'. A further submission from Phillip Swan [FS/007.7] supports the submission. The concept of non-regulatory methods has been discussed in previous submissions. I agree with an approach of utilising regulatory methods which is the approach that the Proposed District Plan has taken, but I also consider it appropriate for the District Plan to recognise non-regulatory methods. I believe

education and help for property owners is one of the best methods to obtain owner buy-in when managing indigenous vegetation. However, I consider that including the words as sought by the submitter are more akin to a policy than a statement of outcome (which is the role of an objective). I consider it would be useful for the Proposed District Plan to incorporate non-regulatory methods into the policy framework and I suggest the following:

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

I recommend the panel accept in part the submission from Federated Farmers [680.30].

153. A submission from Meridian Energy Limited [580.12] seeks to remove reference to ‘enhance’ from Objective 3.2. Further submissions from The Surveying Company [FS1308.81] and Middlemiss Farm Holdings [FS1330.43] oppose the submission and further submissions from Transpower New Zealand Limited [FS1350.3], Federated Farmers [FS1342.144] and Havelock Village Limited [FS1377.149] support the submission. I consider this approach would not give effect to the Regional Policy Statement where there is a requirement under Policy 11.1 to maintain or enhance. Accordingly, I recommend the panel reject the submission from Meridian Energy Limited [580.12].

#### 8.4 Recommendations

154. For the reasons above I recommend that the Hearings Panel:
- a. **Reject** New Zealand Steel Holdings Ltd [827.1]. **Accept** Heritage New Zealand Pouhere Taonga [FS1323.40].
  - b. **Reject** TaTa Valley Limited [574.10], New Zealand Health Food Park Limited [FS1301.52] and Charlie Harris [FS1303.52]. **Accept** Ngati Tamaoho [FS1369.13], Waikato–Tainui [FS1108.88] and Turangawaewae Trust Board [FS1139.79].
  - c. **Reject** Ryburn Lagoon Trust [747.2], Havelock Village Limited [FS1377.256] and Phillip Swan [FS1007.6].
  - d. **Reject** Havelock Village Limited [862.28], Yashili Dairy Company Limited [FS1086.28], Pokeno Nutritional Park Limited [FS1186.28], New Zealand Health Food Park Limited [FS1301.28], Charlie Harris [FS1303.28] and TaTa Valley Limited [FS1340.175]. **Accept** Waikato Regional Council [FS1277.154].
  - e. **Accept in part** Federated Farmers Limited [680.30], Phillip Swan [FS1007.7] and Mercury Energy Limited [FS1387.162].
  - f. **Reject** Meridian Energy Limited [580.12], Transpower New Zealand Limited [FS1350.3], Federated Farmers [FS1342.144] and Havelock Village Limited [FS1377.149]. **Accept** The Surveying Company [FS1308.81] and Middlemiss Farm Holdings [FS1330.43].

#### 8.5 Recommended amendments

##### 3.1.2C Non- Regulatory Policy

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

## 8.6 Section 32AA evaluation

155. The recommended amendment to include a non-regulatory policy assists landowners and the Council to work together to help manage indigenous biodiversity

### *Other reasonably-practicable options*

156. One option is to have no non-regulatory policy and another option is to include a policy that enables collaboration between property owner and the Council.

### *Effectiveness and efficiency*

157. The recommended additional policy will encourage property owners and the Council to work together to achieve good management of indigenous biodiversity. This will improve the effectiveness in implementing Objective 3.1 in the Natural Environment chapter.

### *Costs and benefits*

158. There are no additional costs, therefore costs are likely to be the same. There are benefits for the environment and to the local and regional community with the additional policy as it will encourage collaboration on the management of indigenous biodiversity.

### *Risk of acting or not acting*

159. 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 additional policy.

### *Decision about most appropriate option*

160. The amendment gives effect to the Objective 3.1.1 Biodiversity and Habitats. It is considered to be more appropriate in achieving the purpose of the RMA than the notified version where no non-regulatory policy was included.

## 9 Policy 3.2.2 Identify and Recognise

### 9.1 Introduction

161. This policy seeks to identify significant indigenous vegetation and habitats in accordance with the Waikato Regional Policy Statement and to recognise and protect these areas by ensuring the characteristics of their significance are not adversely affected.

### 9.2 Submissions

162. Fourteen primary submissions were received. Three seek to retain the notified version, others seek to include additional clauses to provide for aggregate mining, incentivising subdivision, and amending the approach to mapping.

Submission point	Submitter	Decision requested
202.1	Tom Hockley	Amend Policy 3.2.2(b) Identify and Recognise, to ensure that the proposed Significant Natural Areas related regulations are only accepted with the full voluntary participation of the landowner.



FS1062.21	Andrew and Christine Gore	Support
FS1267.1	Dermot Murphy	Support
575.6	Fulton Hogan Limited	Retain Policy 3.2.2 (b) Identify and Recognise, except for the amendments sought below. AND Amend Policy 3.2.2 (b) Identify and Recognise, as follows (or words to similar effect): (b) Recognise and protect Significant Natural Areas by ensuring the characteristics that contribute to their significance are not adversely affected <u>by activities other than mineral and aggregate extraction.</u> AND Amend the Proposed District Plan to make consequential and additional amendments as necessary to give effect to the matters raised in the submission.
FS1377.143	Havelock Village Limited	Support.
FS1332.26	Winstone Aggregates	Support.
FS1319.5	New Zealand Steel Holdings Limited	Support
FS1292.21	McPherson Resources Limited	Support
FS1293.33	Department of Conservation	Oppose
FS1198.10	Bathurst Resources Limited and BT Mining Limited	Support
644.5	Spark New Zealand Trading Limited	Retain Policy 3.2.2 Identify and Recognise, as notified.
646.5	Vodafone New Zealand Limited	Retain Policy 3.2.2- Identify and recognise as notified.
648.5	Chorus New Zealand Limited	Retain Policy 3.2.2- Identify and Recognise as notified.
691.3	McPherson Resources Limited	Amend Policy 3.2.2 (b) Identify and Recognise, as follows (or words to similar effect): (b) Recognise and protect Significant Natural Areas by ensuring the characteristics that contribute to their significance are not adversely affected <u>by activities other than mineral and aggregate extraction.</u> AND Any consequential amendments or alternative relief to give effect to the matters raised in the submission.
FS1334.21	Fulton Hogan Limited	Support
FS1198.12	Bathurst Resources Limited and BT Mining Limited	Support
747.3	Ryburn Lagoon Trust Limited	Amend Policy 3.2.2 - Identify and recognise as follows (or similar such amendments to give effect to the relief sought in this submission): (a) Identify significant

		<p>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 <u>to the extent that the significance of the vegetation or habitat is reduced.</u></p> <p>AND</p> <p>Amend the Proposed District Plan to provide other such relief and consequential amendments as to give effect to the relief sought in the submissions.</p>
FS1377.257	Havelock Village Limited	Oppose.
FS1292.22	McPherson Resources Limited	Support
FS1334.22	Fulton Hogan Limited	Support
794.8	Middlemiss Farm Holdings Limited	<p>Amend Policy 3.2.2 Identify and Recognise as follows: (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. (c) <u>Incentivise subdivision for ecological enhancement where it will maintain and support the viability of existing Significant Natural Areas.</u></p> <p>AND</p> <p>Amend the Proposed District Plan consequential or additional amendments as necessary to give effect to the submission.</p>
FS1308.138	The Surveying Company	Support
81.99	Waikato Regional Council	Support
FS1139.102	Turangawaewae Trust Board	Oppose
FS1340.20	TaTa Valley Limited	Oppose.
372.24	Auckland Council	Amend Policy 3.2.2 (a) Identify and Recognise as follows: Identify significant indigenous vegetation and habitats of indigenous fauna in accordance with the Waikato Regional Policy Statement <u>and include identified significant ecological areas in the Auckland Unitary Plan which cross the Waikato-Auckland territorial boundary as Significant Natural Areas.</u>
585.45	Department of Conservation	Retain Policy 3.2.2 Identify and Recognise as notified.
680.31	Federated Farmers of New Zealand	Amend Policy 3.2.2 (a) Identify and Recognise, as follows: (a) Identify significant indigenous vegetation and habitats of indigenous fauna in accordance with the Waikato Regional Policy Statement and identify as Significant Natural Areas <u>on a Schedule in the plan and planning maps. (i) The sites currently identified on the planning maps are for information purposes only and have no legal</u>

		<p><u>effect until a robust identification process, including ground-truthing, has been undertaken.</u> (b) Recognise and protect Significant Natural Areas by ensuring the characteristics that contribute to their significance are not adversely affected. <u>(i) Ensure landowners are informed of the characteristics relating to their specific site and the activities which may adversely affect them.</u> (c) <u>Where a proposed activity requires a resource consent solely as a result of an area being identified as a significant natural area (SNA) and the site has not been ground-truthed, Council will meet the costs of the ground-truthing assessment to confirm the status and boundaries of the significant natural area. The assessment will be carried out by a Council approved suitably qualified and experienced ecologist prior to an application for resource consent being lodged.</u></p> <p>AND</p> <p>Any consequential amendments needed to give effect to this relief.</p>
FS1315.1	Lochiel Farmlands Limited	Supports
FS1333.5	Fonterra Limited	Supports
FS1108.50	Te Whakakitenga o Waikato Incorporated (Waikato-Tainui)	Opposes
FS1139.41	Turangawaewae Trust Board	Opposes
FS1292.20	McPherson Resources Limited	Supports
FS1377.190	Havelock Village Limited	Supports
FS1334.20	Fulton Hogan Limited	Supports
FS1340.107	TaTa Valley Limited	Supports
FS1198.9	Bathurst Resources Limited and BT Mining Limited	Supports
349.1	Lochiel Farmlands Limited	Add the criteria for each Significant Natural Area, as these are what should be relevant when assessing appropriate for Significant Natural Areas.
FS1062.24	Andrew and Christine Gore	Supports
FS1198.8	Bathurst Resources Limited and BT Mining Limited	Supports
FS1386.495	Mercury NZ Limited	Opposes

### 9.3 Analysis

163. Federated Farmers [680.31] submission has sought an addition to Policy 3.2.2 (a) by adding additional aspects to the policy. Further submissions have been received from Lochiel Farmlands Limited [FS1315.1], Fonterra Limited [FS1333.5], McPherson Resources Limited [FS1292.20], TaTa Valley Limited [FS1340.107] and Bathurst Resources Limited and BT Mining Limited [FS1198.9] which all support this submission. A further submission from Turangawaewae Trust Board [FS1139.41] opposes the submission. The amendments suggested by the submitter include:

A Schedule in the plan and planning maps

(i) The sites currently identified on the planning maps are for information purposes only and have no legal effect until a robust identification process, including ground-truthing, has been undertaken.

(i) Ensure landowners are informed of the characteristics relating to their specific site and the activities which may adversely affect them.

(c) Where a proposed activity requires a resource consent solely as a result of an area being identified as a significant natural area (SNA) and the site has not been ground-truthed, Council will meet the costs of the ground-truthing assessment to confirm the status and boundaries of the significant natural area. The assessment will be carried out by a Council approved suitably qualified and experienced ecologist prior to an application for resource consent being lodged.

164. I acknowledge the submitter's concerns and have recommended in Section 4 of this report to amend the approach to SNA mapping so the only mapped SNA sites in the Planning Maps will be where Council is certain of the extent and quality of the indigenous vegetation. All other SNA sites would be deleted from the Planning Maps. Accompanying this is a recommendation to apply the SNA provisions to every piece of indigenous vegetation that meets one or more criteria for a SNA contained in Appendix 2. A series of plan changes specific to each geographical area could be promulgated as a subsequent process to re-introduce the mapping concept back into the District Plan, deleting the application of the general SNA criteria from each area in each plan change. This roll out of plan changes would mean that the process could be initiated more quickly and allow focused consultation with the landowners in each geographical area.
165. The submission from Federated Farmers (amongst others) has caused me to look more critically at Policy 3.2.2 and it seems to me that this policy is rather redundant. I consider clause (a) is not needed as the criteria in Appendix 2 of the Proposed District Plan match those in Section 11 of the Regional Policy Statement. I have concerns about this type of cross-referencing to the Regional Policy Statement as the Regional Council are commencing their review of the Regional Policy Statement and it will undoubtedly change. In any event, section 75(3)(c) of the RMA requires district plan to give effect to any regional policy statement, which is essentially what Policy 3.2.3(a) achieves. In my opinion, if my recommended approach to the identification of SNAs is accepted, then there would be little value in this policy.
166. Turning to clause (b) I note this is very similar to Policy 3.2.3, although at a more broad level. I consider that Policy 3.2.2(b) does not achieve anything useful over and above Policy 3.2.3. The policy as notified seeks to recognise and protect SNAs, however Policy 3.2.3 Management hierarchy already does this. In my view policy 3.2.2 should be deleted in its entirety.
167. I recommend the panel accept in part the submission from Federated Farmers [680.31].
168. Submissions from Spark New Zealand Trading limited [644.5], Vodafone New Zealand Limited [646.5], Chorus New Zealand Limited [648.5], Waikato Regional Council [81.99], and the Department of Conservation [585.45] all seek to retain the policy as it was notified. Further submitters Turangawaewae Trust Board [FS1139.102] and TaTa Valley Limited [FS1340.20] both opposed the submission [91.99]. I recommend the panel reject this submission as I have recommended amendments in response to other submissions.
169. A submission from Tom Hockley [202.1] seeks to amend Policy 3.2.2 (b) to ensure that provisions are only accepted with participation of the landowner. Further submissions from Andrew and Christine Gore [FS1062.21] and Dermot Murphey [FS1267.1] support the submission. I consider that the Schedule 1 process that is currently being undertaken ensures participation from landowners. However, as I have discussed earlier in Section 4 of this report, there are inaccuracies

in the SNAs that were mapped in the notified version of the Proposed District Plan and I have recommended an approach to address this. All SNAs that have not been physically ground-truthed will be deleted from the planning maps, but all areas that meeting one or more of the criteria in Appendix 2 will be deemed to be SNAs. I recommend the panel accept in part the submission from Tom Hockley [202.1].

170. A submission from Fulton Hogan Limited [575.6] and McPherson Resources Limited [691.3] seeks to amend Policy 3.2.2 (b) that will result in excluding mineral and aggregate extraction. Further submissions from Havelock Village Limited [FS/377.143], Winstone Aggregate [FS/332.26], New Zealand Steel Holdings Limited [FS/319.5], McPherson Resources Limited [FS/292.21] and Bathurst Resources Limited and BT Mining Limited [FS/198.10] all support the submission. The Department of Conservation [FS/293.33] opposes the submission. I consider the approach suggested by Fulton Hogan will not give effect to the policies in the Regional Policy Statement, in particular 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 seek to ensure that areas of significant indigenous vegetation are not adversely affected by any activity, including mining and extraction. I recommend the panel reject the submissions from Fulton Hogan Limited [575.6] and McPherson Resources Limited [691.3].
171. The submission from Middlemiss Farm Holdings Limited [794.8] seeks to include a new clause into 3.2.2 to incentivise subdivision. A further submission from The Surveying Company [FS/308.138] supports the submission. I consider the addition is not necessary as there is a specific policy allowing for subdivision in Policy 3.2.8 Incentivise subdivision. Policy 3.2.8 is general in its approach and I consider that the aspects that the submission is seeking would be accommodated within Policy 3.2.8. Accordingly, I recommend the panel reject the submission from Middlemiss Farm Holdings Limited [794.8].
172. The submission from Auckland Council [372.24] seeks to amend the policy to recognise Significant Natural Areas in the Auckland Unitary Plan which cross into the Waikato District Boundary. I consider this an unnecessary addition to the policy. Accordingly, I recommend the panel reject the submission from Auckland Council [372.24].
173. The submission from Lochiel Farmlands Limited [349.1] seeks to add the criteria for each significant natural area. Further submitters Lochiel Farmlands Limited [349.1], Andrew and Christine Gore [FS/062.24] and Bathurst Resources Limited and BT Mining Limited [FS/198.8] support the submission. Further submitter Mercury Energy Limited [FS/386.495] opposes the submission. My understanding of the submission is the submitter is seeking each and every SNA to be assessed so its specific criteria are known for that particular SNA. I am mindful of the draft National Policy Statement for Biodiversity where there will be the requirement for the attributes to be listed for a SNA, however I do not consider the assessment for this criteria at this stage should be undertaken through the district plan review process. In my opinion the criteria set out in the Regional Policy Statement and Appendix 2 of the Proposed District Plan for assessing significance is sufficient to allow an assessment of any significant natural area. If an activity is to be undertaken that requires a resource consent, then it is at this stage the assessment against the criteria should be made. For these reasons I recommend the panel reject the submission from Lochiel Farmlands Limited [349.1].
174. Ryburn Lagoon Trust Limited [747.3] seeks to amend Policy 3.2.2 by the additional wording '*to the extent that the significance of the vegetation or habitat is reduced*'. Havelock Village Limited [FS/377.257], McPherson Resources Limited [FS/292.22] and Fulton Hogan [FS/334.22] have opposed the submission. I disagree with the additional wording as the Regional Policy Statement

is clear in its approach under Chapter 11 Indigenous Biodiversity where amongst other requirements, there is the obligation to 'maintain or enhance' areas. In my opinion the additional wording would undermine the intent of the Regional Policy Statement when managing areas of indigenous biodiversity. If the Proposed District Plan only acknowledged a reduction in the significance of the vegetation, this would not be giving effect to the Regional Policy Statement where there is a requirement in Policy 11.1 to maintain or enhance. I recommend the panel reject the submission from Ryburn Lagoon Trust Limited [747.3]

#### 9.4 Recommendations

175. For the reasons above I recommend:

- a. **Reject** Spark New Zealand Trading limited [644.5], Vodafone New Zealand Limited [646.6], Chorus New Zealand Limited [648.5], Waikato Regional Council [81.99], the Department of Conservation [585.45], Turangawaewae Trust Board [FS/139.102] and TaTa Valley Limited [FS/340.20].
- b. **Accept in part** Tom Hockley [202.1], Andrew and Christine Gore [FS/062.21] and Dermot Murphy [FS/267.1].
- c. **Reject** Fulton Hogan [575.6], McPherson Resources Limited [691.3], Havelock Village Limited [FS/377.143], Winstone Aggregate [FS/332.26], New Zealand Steel Holdings Limited [FS/319.5], McPherson Resources Limited [FS/292.21] and Bathurst Resources Limited and BT Mining Limited [FS/198.10]. **Accept** Department of Conservation [FS/293.33].
- d. **Reject** Middlemiss Farm Holdings Limited [794.8] and The Surveying Company [FS/308.138].
- e. **Reject** Auckland Council [372.24].
- f. **Reject** Lochiel Farmlands Limited [349.1], Andrew and Christine Gore [FS/062.24] and Bathurst Resources Limited and BT Mining Limited [FS/198.8]. **Accept** Mercury Energy Limited [FS/386.495].
- g. **Reject** Ryburn Lagoon Trust Limited [747.3] and **Accept** Havelock Village Limited [FS/377.257], McPherson Resources Limited [FS/292.22] and Fulton Hogan [FS/334.22].
- h. **Accept in part** Federated Farmers [680.31], Lochiel Farmlands Limited [FS/315.1], Fonterra Limited [FS/333.5], McPherson Resources Limited [FS/292.20], TaTa Valley Limited [FS/340.107], Bathurst Resources Limited and BT Mining Limited [FS/198.9] and Turangawaewae Trust Board [FS/139.41].

#### 9.5 Recommended amendments

176. The following amendments are recommended:

##### **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.~~

#### 9.6 Section 32AA evaluation

177. The deleting of Policy 3.2.2 Identify and Recognise is avoid duplication of s75(3)(c) of the RMA and duplication with Policy 3.2.3.

*Other reasonably-practicable options*

178. There are two options for consideration:
- Retain the policy as notified
  - Provide for SNAs to be recognised, bearing in mind the recommended change to the approach to identifying SNAs on the planning maps
  - Delete the policy

*Effectiveness and efficiency*

179. Policy 3.2.2 does not achieves anything over and above Section 75(3)(c) of the RMA and duplicates Policy 3.2.3, albeit at a broader level. A more efficient approach is to delete Policy 3.2.2.

*Costs and benefits*

180. There are no additional costs or benefits from the deletion of the policy.

*Risk of acting or not acting*

181. There are no risks of acting, and the risk of not acting is unnecessary duplication. 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*

182. The recommended amendment does not affect the ability of the policies and rules to give effect to Objective 3.1 Indigenous Vegetation and Habitats in Chapter 3 Natural Environment, which requires indigenous vegetation to be maintained or enhanced. Deleting the policy is a more efficient approach than what was notified.

## 10 Policy 3.2.3 Management hierarchy

### 10.1 Introduction

183. This policy establishes a hierarchy of avoiding, remedying or mitigation of adverse effects on SNAs. The policy seeks to avoid significant adverse effects, then cascades to remedying and mitigating other effects, with offsetting of any residual effects.
184. Thirteen primary submissions have been received.

### 10.2 Submissions

Submission point	Submitter	Decision requested
575.7	Fulton Hogan Limited	Retain Policy 3.2.3 Management hierarchy, except for the amendments sought below. AND Amend Policy 3.2.3 Management hierarchy, as follows: (i) avoiding the significant adverse effects of vegetation clearance and the disturbance of habitats unless specific activities need to be enabled <u>such as mineral and aggregate extraction activities</u> ; AND

		Amend the Proposed District Plan to make consequential and additional amendments as necessary to give effect to the matters raised in the submission.
FS1319.6	New Zealand Steel Holdings Limited	Support
FS1292.25	McPherson Resources Limited	Support
FS1293.34	Department of Conservation	Oppose
FS1198.11	Bathurst Resources Limited and BT Mining Limited	Support
FS1332.27	Winstone Aggregates	Support.
644.6	Spark New Zealand Trading Limited	Retain Policy 3.2.3 Management hierarchy, as notified.
646.6	Vodafone New Zealand Limited	Retain Policy 3.2.3- Management hierarchy as notified.
648.6	Chorus New Zealand Limited	Retain Policy 3.2.3 – Management hierarchy as notified.
691.4	McPherson Resources Limited	Amend Policy 3.2.3 (a)(i) Management hierarchy, as follows (or words to similar effect): (a) Recognise and protect indigenous biodiversity within Significant Natural Areas by: (i) avoiding the significant adverse effects of vegetation clearance and the disturbance of habitats unless specific activities need to be enabled, <u>such as for mineral and aggregate extraction activities;</u> AND Any consequential amendments or alternative relief to give effect to the matters raised in the submission.
FS1334.90	Fulton Hogan Limited	Support
797.8	Fonterra Limited	Retain Policy 3.2.3 Management hierarchy as notified.
924.8	Genesis Energy Limited	Amend Policy 3.2.3 (a) (iv) – Management Hierarchy as follows: iv.) After remediation or mitigation has been undertaken, <u>offset or compensate</u> any significant residual adverse effects <del>In accordance with Policy 3.2.4.</del>
FS1258.36	Meridian Energy Limited	Support
FS1350.4	Transpower New Zealand Limited	Support
FS1377.299	Havelock Village Limited	Support
580.13	Meridian Energy Limited	Retain Policy 3.2.3 Management Hierarchy, except for the amendments sought below AND Amend Policy 3.2.3(a)(iv) Management Hierarchy as follows: (iv) after remediation or mitigation has been undertaken, <u>provide for managing residual effects by means of environmental compensation or biodiversity offsets</u> in accordance with Policy 3.2.4.



		AND Amend the Proposed District Plan as necessary to address the matters raised in the submission.
FS1330.44	Middlemiss Farm Holdings Limited	Support
FS1345.50	Genesis Energy Limited	Support
585.46	Department of Conservation	Retain Policy 3.2.3 Management hierarchy, except for the amendments sought below AND Amend Policy 3.2.3 Management hierarchy as follows: (a) Recognise and protect indigenous biodiversity within Significant Natural Areas by: (i) avoiding the significant adverse effects of vegetation clearance and the disturbance of habitats <del>unless specific activities need to be enabled</del> as a preference: ...
FS1198.13	Bathurst Resources Limited and BT Mining Limited	Oppose
FS1340.98	TaTa Valley Limited	Oppose.
FS1345.10	Genesis Energy Limited	Oppose
FS1258.35	Meridian Energy Limited	Oppose
FS1292.24	McPherson Resources Limited	Oppose
FS1334.24	Fulton Hogan Limited	Oppose
FS1377.166	Havelock Village Limited	Oppose.
680.32	Federated Farmers of New Zealand	Retain Policy 3.2.3 Management hierarchy as notified.
81.102	Waikato Regional Council	Amend Policy 3.2.3 Management hierarchy as follows: (a) Recognise and protect indigenous biodiversity within Significant Natural Areas by: (i) avoiding <del>the significant</del> adverse effects of vegetation clearance and the disturbance of habitats <del>unless specific activities need to be enabled</del> ; (ii) remedying any effects that cannot be avoided; then (iii) mitigating any effects that cannot be remedied; and (iv) after remediation or mitigation has been undertaken, offset <del>any significant residual</del> <u>more than minor</u> adverse effects in accordance with Policy 3.2.4.
FS1258.9	Meridian Energy Limited	Oppose
FS1345.91	Genesis Energy Limited	Oppose
FS1377.18	Havelock Village Limited	Oppose.
FS1292.23	McPherson Resources Limited	Oppose
FS1198.63	Bathurst Resources Limited and BT Mining Limited	Oppose
FS1334.23	Fulton Hogan Limited	Oppose
FS1340.21	TaTa Valley Limited	Oppose.

<i>FS1272.1</i>	<i>KiwiRail Holdings Ltd</i>	<i>Oppose</i>
986.5	KiwiRail Holdings Limited (KiwiRail)	Retain Policy 3.2.3 Management Hierarchy as notified.
<i>FS1176.285</i>	<i>Watercare Services Ltd</i>	<i>Supports</i>
576.5	Transpower New Zealand Ltd	Retain Policy 3.2.3 Management hierarchy, as notified.
742.5	New Zealand Transport Agency	<b>Retain</b> Policy 3.2.3 Management hierarchy, as notified.
<i>FS1387.837</i>	<i>Mercury NZ Limited</i>	<i>Oppose</i>
<i>FS1062.93</i>	<i>Andrew &amp; Christine Gore</i>	<i>Support</i>

### 10.3 Analysis

185. Submissions from Spark New Zealand Trading Limited [644.6], Vodafone New Zealand Limited [646.6], Chorus New Zealand Limited [648.6], Fonterra Limited [797.8], Federated Farmers [680.32], KiwiRail Holdings Limited [986.5], Transpower New Zealand Ltd [576.5] and the New Zealand Transport Agency [742.5] all seek to retain Policy 3.2.3 Management hierarchy. Further submitter Mercury Energy Limited [1386.278] has opposed submission [742.5] and Andrew and Christine Gore [FS1062.93] has supported submission [742.5] to retain Policy 3.2.3 as it was notified. The further submission from Watercare Services Ltd [FS1176.285] supports submission [986.5]. I consider Policy 3.2.3 should be retained as it supports the WRPS, where a management hierarchy is required. However, I have recommended that these submissions be accepted only in part, as I have recommended amendments to Policy 3.2.3 in response to other submissions.
186. Submissions from Fulton Hogan Limited [575.7] and McPherson Resources Limited [691.4] seek to exclude mineral and aggregate extraction activities from the policy. A further submission from Fulton Hogan [FS1334.9] supports submission [697.4]. Further submissions from New Zealand Steel Holdings Limited [FS1319.6], McPherson Resources Limited [FS1292.25], Bathurst Resources Limited and BT Mining Limited [FS1198.11] and Winstone Aggregates [FS1332.27] have all supported submission [575.7]. The Department of Conservation [FS1293.34] has opposed the submission. The submitter supports the intent of the policy and is concerned that it would hinder the operation of existing quarries. A similar submission was discussed in paragraph 170 and my opinion remains the same for these submissions. The activity of mineral and aggregate extraction can have adverse effects on a SNA area and by exempting these activities would not be giving effect to the Regional Policy Statement policies that relate to indigenous biodiversity. I recommend the panel reject the submission from Fulton Hogan Limited [575.7] and McPherson Resources Limited [691.4].
187. Genesis Energy Limited [924.8] and Meridian Energy Limited [580.13] are seeking to amend Policy 3.2.3 (a) (iv) to allow for environmental compensation as well as offsetting when managing areas of indigenous biodiversity. Further submissions from Middlemiss Farm Holdings Limited [FS1330.44] and Genesis Energy Limited [FS1345.50] have supported submission [580.13], and further submissions from Meridian Energy Limited [FS1258.36] and Havelock Village Limited [FS1377.299] have supported submission [924.8]. My understanding of the term 'environmental compensation' within a district plan is that this would allow for a financial payment that could be used to enhance another area of indigenous biodiversity. In comparison, an offset is to counteract the effects of an activity and is managed in accordance with the framework in Appendix 6 Biodiversity Offsetting, where a net gain or preferably a net gain in biodiversity will be achieved, preferably close by.

188. Although I believe placing a monetary value on biodiversity can lead to its value being decreased should an activity result in its removal, there may be some merit in the policies recognising compensation. If it could be established/proven that offsetting is not a viable option and there is an absolute necessity for the activity to take place in the area then environmental compensation could be an alternative choice to consider, but only as a last option. It is noted that the Regional Policy Statement does not refer to compensation. It would be beneficial for Waikato Regional Council to provide comments in this regard. Regional Policy Statement 11.1.8 (b) Plan Development states that local authorities should consider using other economic instruments to maintain or enhance indigenous biodiversity. Although the RPS was possibly alluding to financial support for fencing and other non-regulatory mechanisms, it is not specific and compensation may be an option to consider if offsetting is not feasible. However, in my opinion, economic compensation should be a last consideration and not a preference. I recommend that the concept be allocated its own clause as follows:

*(v) If offsetting of any significant residual adverse effects in accordance with Policy 3.2.4. is not feasible then compensation may be considered.*

189. Further to this, as a consequential amendment, I recommend this clause is also added to the recommended Policy 3.2.2 B.
190. I recommend the panel accept in part the submissions from Genesis Energy Limited [924.8] and Meridian Energy Limited [580.13].
191. The submissions from the Department of Conservation [585.46] and Waikato Regional Council [81.102] are similar, and are seeking to alter the wording in Policy 3.2.3 to simply state the preference is to avoid the adverse effects of clearance and disturbance and delete the exemption for 'specific activities'. Waikato Regional Council also seeks to remove reference to specific activities being enabled. There are a number of further submissions largely in opposition, generally because as they consider that some activities may need to occur within a SNA.
192. In respect of the first part of the submission, I note the WRPS and the PDP have a two-tier approach where the vegetation is either a significant natural area or simply indigenous vegetation. I agree with removing the reference to 'significant' in terms of avoiding the *significant adverse effects* on indigenous vegetation in Policy 3.2.3. The notified version meant that only significant adverse effects would need to be avoided, although I note that the approach of Policy 3.2.3(a)(i) matches Policy 11(b) of the New Zealand Coastal Policy Statement which seeks to avoid *significant* adverse effects. The difference is that PDP Policy 3.2.3 applies to SNAs, whereas NZCPS Policy 11(b) relates to the second tier of biodiversity. The Implementation Method 11.2.2 in the Regional Policy Statement refers to avoiding the loss or degradation of areas of significant indigenous vegetation and significant habitats of indigenous fauna in preference to remediation or mitigation. The Implementation Method pertains to avoiding adverse effects rather than *significant* adverse effects, and I consider that the Proposed District Plan should reflect this.
193. In respect of the second part of Waikato Regional Councils submission, the policy as it is written is acknowledging that there may be circumstances that require removal and disturbance within a SNA. However, I am cognisant that the policy needs to reflect the WRPS, particularly Implementation Method 11.2.2(g) which has regard to the functional necessity of activities. As pointed out by Waikato Regional Council, the Regional Policy Statement recognises that some activities with minor adverse effects may be permitted (Implementation Method 11.1.4 states that district plans should include permitted activities where they will have minor adverse effects...). I believe this should be the approach for indigenous vegetation in general and not for vegetation that has been deemed significant i.e. a SNA. Policy 3.2.3(a) (i) refers to '*specific activities that need to be enabled*' and acknowledges RPS Policy 11.2.2.

### Policy 3.2.3 Management hierarchy

- (a) Recognise and protect indigenous biodiversity within Significant Natural Areas by:
- (i) avoiding the **significant** adverse effects of vegetation clearance and the disturbance of habitats unless specific activities need to be enabled;
  - (ii) remedying any effects that cannot be avoided; then
  - (iii) mitigating any effects that cannot be remedied; and
  - (iv) after remediation or mitigation has been undertaken, offset any significant residual adverse effects in accordance with Policy 3.2.4.

194. On this basis I recommend that the Panel accept in part the submissions from the Department of Conservation [585.46] and Waikato Regional Council [81.102].

### 10.4 Recommendations

195. For the reasons above I recommend:

- a. **Accept in part** Spark New Zealand Trading Limited [644.6], Vodafone New Zealand Limited [646.6], Chorus New Zealand Limited [648.6], Fonterra Limited [797.8], Federated Farmers [680.32], KiwiRail Holdings Limited [986.5], Transpower New Zealand Ltd [576.5], New Zealand Transport Agency [742.5], Mercury Energy Limited [FS1386.278] and Andrew and Christine Gore [FS1062.93].
- b. **Reject** Fulton Hogan Limited [575.7], McPherson Resources Limited [691.4], Fulton Hogan [FS1334.90], New Zealand Steel Holdings Limited [FS1319.6], McPherson Resources Limited [FS1292.25], Bathurst Resources Limited and BT Mining Limited [FS1198.11] and Winstone Aggregates [FS1332.27]. **Accept** Department of Conservation [FS1293.34].
- c. **Accept in part** Department of Conservation [585.46], Waikato Regional Council [81.102], Bathurst Resources Limited and BT Mining Limited [FS1198.13], TaTa Valley Limited [FS1340.98], Genesis Energy [FS1345.10], McPherson Resources Limited [FS1292.24], Fulton Hogan Limited [FS1334.2], Havelock Village Limited [FS1377.166], Meridian Energy Limited [FS1258.9], Genesis Energy [FS1345.91], Havelock Village Limited [FS1377.18], McPherson Resources Limited [FS1292.23], Bathurst Resources Limited and BT Mining Limited [FS1198.63], Fulton Hogan Limited [FS1334.23], TaTa Valley Limited [FS1340.21], KiwiRail Holdings Ltd [FS1272.1] and Meridian Energy [FS1258.35].
- d. **Accept in part** Genesis Energy Limited [924.8], Meridian Energy Limited [580.13], Middlemiss Farm Holdings Limited [FS1330.44], Genesis Energy Limited [FS1345.50], Meridian Energy Limited [FS1258.36] and Havelock Village Limited [FS1377.299] in that environmental compensation may be an option.

### 10.5 Recommended amendments

196. The following amendments are recommended:

Policy 3.2.3 Management hierarchy (relates to SNA)

- (a) Recognise and protect indigenous biodiversity within Significant Natural Areas by:
- (i) avoiding the <sup>9</sup>significant adverse effects of vegetation clearance and the disturbance of habitats unless

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<sup>9</sup> Department of Conservation [585.46] and [81.102]

- (ii) remedying any effects that cannot be avoided; then
- (iii) mitigating any effects that cannot be remedied; and
- (iv) after remediation or mitigation has been undertaken, offset any significant residual adverse effects in accordance with Policy 3.2.4.

(v) <sup>10</sup>If offsetting of any significant residual adverse effects in accordance with Policy 3.2.4. are not feasible then economic compensation may be considered.

## 10.6 Section 32AA evaluation

197. The amendment to Policy 3.2.3 recognises the Waikato Regional Policy Statement that there is a two-tier approach to indigenous biodiversity; if inside a SNA it is adverse effects that need to be considered, whereas outside a SNA 'significant' adverse effects need to be considered.

198. Including a clause that addresses offsetting sets out a clear hierarchy.

### *Other reasonably-practicable options*

199. With regards to the word "significant", the options are to leave the clause as notified or amend it to more fully align with the Regional Policy Statement.

200. With regards to including policy recognition of offsetting, one option is to retain the policy as notified; however, this would not allow consideration of economic compensation and would not set a clear policy direction for consideration of offsetting. Another option would be to include reference to economic compensation as an option if offsetting is not a feasible option.

### *Effectiveness and efficiency*

201. The recommended changes to the policy framework will increase the ability to assess activities that have potential effects on indigenous vegetation. The additional policies recommended to be included under Objective 3.1.1 will be more effective and efficient than the notified version as the policies will recognise and provide for a management hierarchy as set out in WRPS Policy 11.1.3.

202. The recommended additional clauses that provide for economic compensation will recognise that it is not always possible to avoid, remedy or mitigate in the same or nearby area when vegetation clearance is being undertaken, and could be considered as a last resort. This mechanism could still provide for the opportunity to enhance or work towards a no net loss of biodiversity. The additional clause will be the most efficient and effective way to meet the requirements of the WRPS in Policy 11.1.8.

### *Costs and benefits*

203. There are potential additional costs, for property owners who have indigenous vegetation on their properties that is not deemed of high value. However, the additional policies may provide a pathway that will benefit the natural environment. 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 indigenous vegetation clearance. There is wider benefit to the local and regional community for the protection, or enhancement, of indigenous biodiversity

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<sup>10</sup> Genesis Energy Limited [924.8]

*Risk of acting or not acting*

204. 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*

205. The amendment gives effect to the NZCPS, and the WRPS is considered to be more appropriate in achieving the purpose of Objectives 3.1.1 and 3.2.1 than the notified version of Policy 3.2.3.

## 11 Policy 3.2.4 Biodiversity offsetting

### 11.1 Introduction

206. This policy establishes a framework for biodiversity offsetting. Although biodiversity offsetting is not defined in the Proposed District Plan, the Ministry for the Environment guidance document informs that the goal of biodiversity offsetting is to achieve no net loss and preferably a net gain of biodiversity on the ground.

### 11.2 Submissions

206. Nineteen primary submissions were received. Several submitters seek to retain the policy as notified. Others seek to amend it to provide for aggregate extraction, or to recognise environmental compensation.

Submission point	Submitter	Decision requested
575.8	Fulton Hogan Limited	Retain Policy 3.2.4 Biodiversity offsetting.
FS1292.30	McPherson Resources Limited	Support
FS1198.14	Bathurst Resources Limited and BT Mining Limited	Support
644.7	Spark New Zealand Trading Limited	Retain Policy 3.2.4 Biodiversity Offsetting, as notified.
646.7	Vodafone New Zealand Limited	Retain Policy 3.2.4- Biodiversity Offsetting as notified.
648.7	Chorus New Zealand Limited	Retain Policy 3.2.4- Biodiversity Offsetting as notified.
691.5	McPherson Resources Limited	Amend Policy 3.2.4 (b) Biodiversity offsetting, in the event that the Significant Natural Area overlay is not removed from the McPherson's property (as addressed elsewhere in the submission), as follows (or words to similar effect): (b) Within a Significant Natural Area <u>not otherwise subject to mineral or aggregate extraction activities</u> , a biodiversity offset will only be considered appropriate where adverse effects have been avoided, remedied or mitigated in accordance with the hierarchy established in Policy 3.2.3. AND

		Any consequential amendments or alternative relief to address the matters raised in the submission.
FS1334.29	Fulton Hogan Limited	Support
924.9	Genesis Energy Limited	Amend Policy 3.2.4- Biodiversity Offsetting as follows: (a) Allow for a biodiversity offset <u>or compensatory measure</u> to be offered by a resource consent applicant where an activity will result in significant residual adverse effects on a Significant Natural Area, or on indigenous biodiversity outside such Significant Natural Areas. (b) Within a Significant Natural Area, a biodiversity offset <u>or compensatory measure</u> will only be considered appropriate where adverse effects have been avoided, remedied or mitigated in accordance with the hierarchy established in Policy 3.2.3; and (i) The biodiversity offset is consistent with the framework detailed in Appendix 6 Biodiversity Offsetting; and (ii) The biodiversity offset can achieve no net loss of indigenous biodiversity: Preferably in the affected area of Significant Natural Area; Or Where that is not practicable, in the ecological district in which the affected area of Significant Natural Area is located. (iii) <u>Environmental compensation will be considered for effects associated with operation, maintenance and enhancement of regionally significant industry and regionally significant infrastructure.</u>
FS1377.300	Havelock Village Limited	Support.
FS1350.5	Transpower New Zealand Limited	Support
FS1334.31	Fulton Hogan Limited	Support
FS1333.6	Fonterra Limited	Support
FS1258.37	Meridian Energy Limited	Support
FS1292.32	McPherson Resources Limited	Support
FS1198.16	Bathurst Resources Limited and BT Mining Limited	Support.
433.37	Auckland Waikato Fish and Game Council	Amend Policy 3.2.4 Biodiversity Offsetting as follows: (b) Within a Significant Natural Area, a biodiversity offset will only be considered appropriate where adverse effects have been <u>preferentially</u> avoided, <u>then</u> remedied or mitigated in accordance with the hierarchy established in Policy 3.2.3; and ... (c) <u>Where biodiversity cannot be reasonably achieved as to address environmental effects that cannot be avoided, remedied or mitigated, consideration of environmental compensation must be made.</u> AND/OR Any alternative relief to address the issues and concerns raised in the submission.
FS1345.20	Genesis Energy Limited	Oppose.

FSI258.41	Meridian Energy Limited	Oppose
FSI292.26	McPherson Resources Limited	Support
FSI334.25	Fulton Hogan Limited	Support
FSI340.65	TaTa Valley Limited	Support
FSI377.94	Havelock Village Limited	Support
FSI342.121	Federated Farmers	Oppose
580.21	Meridian Energy Limited	Retain Policy 3.2.4 Biodiversity Offsetting, except for the amendments sought below AND Amend Policy 3.2.4(a) Biodiversity Offsetting to provide for environmental compensation as follows: (a) Allow for a biodiversity offset <u>or environmental compensation</u> to be offered by a resource consent applicant where an activity will result in significant residual adverse effects on a Significant Natural Area, or on indigenous biodiversity outside such Significant Natural Areas. AND Amend the Proposed District Plan as necessary to address the matters raised in the submission.
FSI342.145	Federated Farmers	Support
FSI198.15	Bathurst Resources Limited and BT Mining Limited	Support
FSI330.45	Middlemiss Farm Holdings Limited	Support
FSI334.26	Fulton Hogan Limited	Support
FSI292.27	McPherson Resources Limited	Support
FSI377.150	Havelock Village Limited	Support.
FSI223.111	Mercury NZ Limited	Support
349.2	Lochiel Farmlands Limited	Retain the intent of Policy 3.2.4 Biodiversity offsetting.
585.47	Department of Conservation	Retain Policy 3.2.4 (b) Biodiversity Offsetting, except for the amendments sought below AND Amend Policy 3.2.4(b) Biodiversity as follows: (b) Within a Significant Natural Area, a biodiversity offset will only be considered appropriate where adverse effects have been <u>preferentially</u> avoided, <u>then</u> remedied or mitigated in accordance with the hierarchy established in Policy 3.2.3; and...
FSI340.99	TaTa Valley Limited	Oppose.
FSI292.28	McPherson Resources Limited	Support
FSI334.27	Fulton Hogan Limited	Support



FSI258.38	Meridian Energy Limited	Support
FSI377.167	Havelock Village Limited	Oppose.
FSI223.143	Mercury NZ Limited	Support.
FSI345.15	Genesis Energy Limited	Oppose
FSI330.53	Middlemiss Farm Holdings Limited	Support
FSI045.9	Auckland/Waikato Fish and Game Council	Support
585.48	Department of Conservation	Add a new clause (c) to Policy 3.2.4 Biodiversity offsetting that provides for consideration of environmental compensation in cases where biodiversity offsetting cannot be reasonably achieved as to address environmental effects that cannot be avoided, remedied or mitigated.
FSI223.144	Mercury NZ Limited	Support
FSI292.29	McPherson Resources Limited	Support
FSI258.40	Meridian Energy Limited	Disallow in part
FSI377.168	Havelock Village Limited	Support.
FSI345.16	Genesis Energy Limited	Oppose
FSI342.163	Federated Farmers	Support
FSI340.100	TaTa Valley Limited	Support.
FSI334.28	Fulton Hogan Limited	Support
680.33	Federated Farmers of New Zealand	Retain Policy 3.2.4 Biodiversity Offsetting as notified.
81.103	Waikato Regional Council	Amend Policy 3.2.4 Biodiversity Offsetting to address biodiversity offsets in relation to indigenous biodiversity outside of Significant Natural Areas.
FSI340.22	TaTa Valley Limited	Oppose.
FSI345.92	Genesis Energy Limited	Oppose
FSI342.18	Federated Farmers	Oppose
FSI258.10	Meridian Energy Limited	Oppose
FSI315.2	Lochiel Farmlands Limited	Support
FSI292.84	McPherson Resources Limited	Oppose
FSI334.91	Fulton Hogan Limited	Oppose.
81.249	Waikato Regional Council	Amend Policy 3.2.4 Biodiversity Offsetting to require offsetting of more than minor residual adverse effects on Significant Natural Areas.
FSI342.19	Federated Farmers	Oppose
FSI334.92	Fulton Hogan Limited	Oppose

FS1292.85	McPherson Resources Limited	oppose
FS1315.3	Lochiel Farmlands Limited	Support
FS1345.94	Genesis Energy Limited	Support
FS1258.17	Meridian Energy Limited	Oppose
349.3	Lochiel Farmlands Limited	Add rules and assessment criteria that provide for biodiversity offsetting where an activity might cause effects on a Significant Natural Areas or on Indigenous Biodiversity outside a Significant Natural Area.
FS1258.39	Meridian Energy Limited	Opposes
986.6	KiwiRail Holdings Limited (KiwiRail)	Retain Policy 3.2.4(b) Biodiversity offsetting except for the amendments sought below AND Amend Policy 3.2.4(b)(ii) Biodiversity offsetting as follows (or similar amendments to achieve the requested relief): <u>the biodiversity offset can achieve an equivalent level of no net loss of indigenous biodiversity:</u> AND Any consequential amendments to link and/or accommodate the requested changes.
FS1340.197	TaTa Valley Limited	Opposes
942.81	Tainui o Tainui	Amend the Proposed District Plan to incorporate a policy of environmental offset promoting the establishment of woodlots to replace trees cut and provide for future needs, using the principle of reciprocity to give back to the land.
466.78	Balle Bros Group Limited	No specific decision sought, but submission considers that significant ecological enhancement (wherever it occurs) should be given a significant weighting, and current rules around environmental and enhancement provisions are too restrictive and provide minimal incentivisation for ecological management.
493.4	Jackie Colliar	Amend the Proposed District Plan to integrate the concept of environmental enhancement including in the Biodiversity Offsetting provisions.
FS1035.57	Pareoranga Te Kata	Supports
742.6	New Zealand Transport Agency	<b>Amend</b> Policy 3.2.4 Biodiversity Offsetting, as follows: (a) Allow for a biodiversity offset to be offered <del>by a resource consent applicant</del> where an activity ... (b) (ii)the biodiversity is <u>enhanced or maintained working towards achieving biodiversity offset can strives to achieve no net loss of indigenous biodiversity at a regional scale</u> ... AND <b>Request</b> any consequential changes necessary to give effect to the relief sought in this submission.
FS1293.45	Department of Conservation	Oppose

FS1342.198	Federated Farmers of New Zealand	Support
FS1292.31	McPherson Resources Limited	Support
FS1334.30	Fulton Hogan Limited	Support
FS1258.42	Meridian Energy Limited	Support
FS1377.240	Havelock Village Limited	Support
535.7	Hamilton City Council	Retain Policy 3.2.4 - Biodiversity Offsetting. AND <del>Add to Chapter 22 Rural Zone a new subdivision rule that provides specifically for biodiversity offsetting, does not set a minimum lot size and requires the lot and any areas subdivided under such a framework to be restored and protected in perpetuity.</del> AND <del>Add to Chapter 23 Country Living Zone a new subdivision rule that provides specifically for biodiversity offsetting, does not set a minimum lot size and requires the lot and any areas subdivided under such a framework to be restored and protected in perpetuity.</del> AND <del>Any consequential amendments and/or additional relief required to address the matters raised in the submission.</del>
FS1062.72	Andrew and Christine Gore	Allow submission point 535.7 in part.
FS1342.131	Federated Farmers	Support

### 11.3 Analysis

207. A submission from Balle Bros Group Limited [466.78] seeks no specific decision and it is difficult to meaningfully assess the submission. The submission considers that significant ecological enhancement (whenever it occurs) should be given a significant weighting and current rules around environmental and enhancement provisions are too restrictive and provide minimal incentivisation for ecological management. In the absence of more detail, I recommend the panel rejects the submission from Balle Bros Group Limited [466.78].
208. Submissions from Fulton Hogan [575.8], Spark New Zealand Trading Limited [644.7], Chorus New Zealand Limited [648.7], Vodafone New Zealand Limited [646.7], Lochiel Farmlands Limited [349.2], Federated Farmers [680.33], and Hamilton City Council [535.7] all seek to retain Policy 3.2.4 Biodiversity offsetting as it was notified. Further submissions from McPherson Resources Limited [FS1292.30], Bathurst Resources Limited and BT Mining Limited [FS1198.14], Andrew and Christine Gore [FS1062.72] and Federated Farmers [FS1342.131] have supported submission [575.8]. I consider Policy 3.2.4 should be retained as the policy supports the WRPS, where offsetting should be promoted. However, I recommend accepting these submissions only in part as I have recommended amendments to this policy in response to other submissions.
209. The submission received from McPherson Resources Limited [691.5] seeks to exclude mineral or aggregate extraction from the policy. Further submitter Fulton Hogan Ltd [FS1334.29] supports the submission. I am aware of Policy 6.8 of the WRPS regarding access to minerals, however I am also mindful of section 6(c) of the RMA which requires the protection of significant indigenous vegetation. In addition, the Regional Policy Statement objectives and policies use more directive

language such as maintaining and enhancing. I believe the policy as notified is an effective and efficient way of giving effect to the Act. A similar submission was discussed in paragraph 170 and my opinion remains the same for these submissions. The activity of mineral and aggregate extraction can have adverse effects on a SNA area and by exempting these activities would not be giving effect to the Regional Policy Statement policies in regard to biodiversity. Accordingly, I recommend the panel reject the submission from McPherson Resources Limited [691.5].

210. Genesis Energy Limited [924.9], Auckland Waikato Fish and Game [433.37], Meridian Energy Limited [580.21] and the Department of Conservation [585.48] seek to include the option of compensatory measures into Policy 3.2.4 Biodiversity offsetting. These submissions were supported by various further submissions including Havelock Village Limited [FS/377.300], Transpower New Zealand Limited [FS/350.5], Fulton Hogan Limited [FS/334.31], Meridian Energy Limited [FS/258.37], McPherson Resources Limited [FS/292.32] and Bathurst Resources Limited and BT Mining Limited [FS/198.16]. Further submitters Meridian Energy Limited [FS/258.41] and Genesis Energy Limited [FS/345.16] have opposed the submission from the Department of Conservation [585.48]. The inclusion of environmental compensation was analysed in similar submissions in paragraph 187-189 regarding policy 3.2.3 and I recommended inclusion of an additional clause in relation to economic compensation. I agree with the submitters insofar that economic compensation is acknowledged, but I consider it is more appropriate to be addressed in Policy 3.2.3 rather than Policy 3.2.4. I recommend the panel accept in part Genesis Energy Limited [924.9], Auckland Waikato Fish and Game [433.37], Meridian Energy Limited [580.21] and the Department of Conservation [585.48].
211. A submission from the Department of Conservation [585.47] is seeking additional wording to the policy 3.2.4(b) to ensure that biodiversity offsetting will only be considered appropriate if effects are preferentially avoided in the first place, then remedied or mitigated. A number of further submissions supported the submission. TaTa Valley Limited [FS/340.99], Havelock Village Limited [FS/377.167] and Genesis Energy Limited [FS/345.15] all opposed the submission, as in general they seek flexibility to enable development. I do not consider it necessary for Policy 3.2.4 to outline a mitigation hierarchy when this is the role of Policy 3.2.3 and can be more efficiently achieved in that single policy. Accordingly I recommend the panel reject Department of Conservation [585.47]
212. The submission from Waikato Regional Council [81.103] seeks to provide for offsetting outside of a SNA. I have recommended providing for offsetting in response to a previous submission by Waikato Regional Council where they sought to amend Chapter 3 to provide for the opportunity to offset non-significant biodiversity. The analysis of such is in paragraph 86. I recommend the panel accept the submission from Waikato Regional Council [81.103]
213. A submission from Lochiel Farmland Limited [349.3] seeks to add rules and assessment criteria for biodiversity offsetting for significant natural areas and for indigenous biodiversity outside an SNA. Meridian Energy Limited [FS/258.39] has opposed the submission. The rules as they are written provide for a permitted level of vegetation clearance that allows for certain activities to be undertaken. If a consent is required as a discretionary activity status, this process allows for a consent planner to consider all effects and the policies will guide the direction for mitigation, remedy or if appropriate offsetting. I consider Policy 3.2.4 Biodiversity Offsetting guides consent applications which propose offsetting as a mitigation measure and do not see the need for a specific rule or assessment criteria (particularly as the activity would be discretionary status). I recommend the panel reject the submission from Lochiel Farmland Limited [349.3].
214. Waikato Regional Council [81.249] seeks to amend Policy 3.2.4 Biodiversity Offsetting to require offsetting of more than minor residual adverse effects. Further submissions from Federated Farmers [FS/342.19], Fulton Hogan Limited [FS/334.92], McPherson Resources Limited [FS/292.85] and Mercury Energy Limited [FS/258.17] have opposed the submission. Further submitters Lochiel Farmlands Limited [FS/315.3] and Genesis Energy Limited [FS/345.94] have

supported the submission. I do not consider it appropriate to *require* offsetting, as this is only one tool in the cascade of measures to address adverse effects. I have recommended deleting the word “significant” which will broaden the potential for offsetting to be considered as a mitigation measure, and not just when there are “significant” residual effects. I note that there a number of conflicting approaches to this issue however:

- a. the MfE guidance for biodiversity offsetting only relates to “significant” residual adverse effects;
- b. The RPS uses “minor” residual effects when inside a SNA (Policy I 1.2.2)
- c. The RPS uses “significant” residual when outside a SNA
- d. The draft National Planning Statement for Biodiversity states “more than minor” adverse effects

215. Taking all this into account, I recommend the following amendments:

*Allow for a biodiversity offset to be offered by a resource consent applicant where an activity will result in **significant** residual adverse effects on a Significant Natural Area, or on indigenous biodiversity outside such Significant Natural Areas.*

216. I therefore recommend the panel accept in part the submission from Waikato Regional Council [81.249].

217. KiwiRail Holdings Limited [986.6] seeks to amend 3.2.4 (b)(ii) where biodiversity can achieve an equivalent level of indigenous biodiversity as opposed to a no net loss. Further submitter TaTa Valley Limited [FS/340.197] has opposed the submission. I consider this approach would not give effect to Policy I 1.1 of the WRPS where the desire is to work towards a no net loss of indigenous biodiversity. I also note the Guidance on Good Practice Biodiversity Offsetting also includes reference to a no net loss and preferably a net gain of biodiversity. I recommend the panel rejects the submission from KiwiRail Holdings Limited [986.6].

218. Submissions from Tainui o Tainui [942.81] and Jackie Colliar [493.4] are seeking to amend the Plan to incorporate environmental offsets promoting the establishment of woodlots to replace trees cut and include enhancement in the policies. A further submission from Pareoranga Te Kata [FS/035.57] has supported submission [493.4]. I believe the objectives, policies and rules within the PDP that provide for offsetting and enhancement will achieve this. I recommend the panel accept in part the submissions from Tainui o Tainui [942.81] and Jackie Colliar [493.4].

219. A submission from the New Zealand Transport Agency [742.6] seeks to amend Policy 3.2.4 Biodiversity offsetting by deleting reference in the policy to being offered by a resource consent applicant. Further submissions from Federated Farmers [FS/342.198], McPherson Resources Limited [FS/292.31], Fulton Hogan Limited [FS/334.30], Meridian Energy Limited [FS/258.42] and Havelock Village Limited [FS/377.240] have supported the submission and Department of Conservation [FS/293.45] has opposed. I agree that these words are superfluous.

220. New Zealand Transport Agency also seeks to reword the policy as follows:

*the biodiversity is enhanced or maintained working towards achieving biodiversity offset ~~can~~ strives to achieve no net loss of indigenous biodiversity at a regional scale ...*

The Regional Policy Statement is clear in its direction in Policy I 1.1.3 (ii) to promote biodiversity offsets as a means to achieve a no net loss of indigenous biodiversity. Using the term “strives” in my opinion is not a strong enough approach to achieve a no net loss. I do not see the value in the inclusion of the words “enhanced or maintained”. While I appreciate that seeking no net loss of indigenous biodiversity at a regional scale would be attractive for infrastructure providers that

span multiple territorial authorities, I question how this policy could be implemented through a district plan where its jurisdiction is limited to Waikato District. I recommend the panel reject New Zealand Transport Agency [742.6].

#### 11.4 Recommendations

221. For the reasons above I recommend:

- a. **Reject** Balle Bros Group Limited [466.78].
- b. **Accept in part** Fulton Hogan [575.8], Spark New Zealand Trading Limited [644.7], Chorus New Zealand Limited [648.7], Vodafone New Zealand Limited [646.7], Lochiel Farmlands Limited [349.2], Federated Farmers [680.33], Hamilton City Council [535.7], McPherson Resources Limited [FS/292.30], Bathurst Resources Limited and BT Mining Limited [FS/198.14], Andrew and Christine Gore [FS/062.72] and Federated Farmers [FS/342.131].
- c. **Accept** Genesis Energy Limited [924.9], Auckland Waikato Fish and Game [433.37], Meridian Energy Limited [580.21], Department of Conservation [585.48], Havelock Village Limited [FS/377.300], Transpower New Zealand Limited [FS/350.5], Fulton Hogan Limited [FS/334.31], Meridian Energy Limited [FS/258.37], McPherson Resources Limited [FS/292.32], Bathurst Resources Limited and BT Mining Limited [FS/198.16], Genesis Energy Limited [FS/345.20], McPherson Resources Limited [FS/292.96], Fulton Hogan Limited [FS/334.25], TaTa Valley Limited [FS/340.65], Havelock Village Limited [FS/377.94], Federated Farmers [FS/342.145], Bathurst Resources Limited and BT Mining Limited [FS/198.15], Middlemiss Farm Holdings Limited [FS/330.45], Fulton Hogan Limited [FS/334.26], McPherson Resources Limited [FS/292.27], Havelock Village Limited [FS/377.150] and Mercury Energy [FS/223.111], Mercury Energy Limited [FS/223.144], McPherson Resources Limited [FS/292.29], Havelock Village Limited [FS/377.168], Federated Farmers [FS/342.163], TaTa Valley Limited [FS/340.100] and Fulton Hogan Limited [FS/334.28]. **Reject** Federated Farmers [FS/342.121], Meridian Energy Limited [FS/258.41], Meridian Energy Limited [FS/258.41] and Genesis Energy Limited [FS/345.16].
- d. **Reject** McPherson Resources Limited [691.5] and Fulton Hogan Ltd [FS/334.29].
- e. **Accept** Waikato Regional Council [81.103].
- f. **Reject** Department of Conservation [585.47] McPherson Resources Limited [FS/292.28], Fulton Hogan [FS/334.27], Mercury Energy Limite [FS/223.143], Middlemiss Farm Holdings Limited [FS/330.53], Auckland/Waikato Fish and Game Council [FS/045.9]. **Accept** TaTa Valley Limited [FS/340.99], Havelock Village Limited [FS/377.167] and Genesis Energy Limited [FS/345.15].
- g. **Accept** Waikato Regional Council [81.249], Lochiel Farmlands Limited [FS/1315.3] and Genesis Energy Limited [FS/345.94]. **Reject** Federated Farmers [FS/342.19], Fulton Hogan Limited [FS/334.92], McPherson Resources Limited [FS/292.85] and Mercury Energy Limited [FS/258.17].
- h. **Reject** Lochiel Farmland Limited [349.3]. **Accept** Meridian Energy Limited [FS/258.39].
- i. **Reject** KiwiRail Holdings Limited [986.6]. **Accept** TaTa Valley Limited [FS/340.197].
- j. **Accept in part** Tainui o Tainui [942.81], Jackie Colliar [493.4] an Pareoranga Te Kata [FS/035.57].
- k. **Accept in part** New Zealand Transport Agency [742.6] Federated Farmers [FS/342.198], McPherson Resources Limited [FS/292.31], Fulton Hogan Limited

[FS/334.30], Meridian Energy Limited [FS/258.42] and Havelock Village Limited [FS/377.240], Department of Conservation [FS/293.45].

## 11.5 Recommended amendments

222. The following amendments are recommended:

### Policy 3.2.4 Biodiversity Offsetting

- (a) Allow ~~for a~~ biodiversity offset ~~to be offered by a resource consent applicant~~ where an activity will result in <sup>11</sup>~~significant~~ residual adverse effects on a Significant Natural Area, or on indigenous biodiversity outside such Significant Natural Areas.
- (b) Within a Significant Natural Area, a biodiversity offset will only be considered appropriate where adverse effects have been avoided, remedied or mitigated in accordance with the hierarchy established in Policy 3.2.3; and
  - (i) the biodiversity offset is consistent with the framework detailed in Appendix 6 Biodiversity Offsetting; and
  - (ii) the biodiversity offset can achieve no net loss of indigenous biodiversity:
    - A. preferably in the affected area of Significant Natural Area; or
    - B. where that is not practicable, in the ecological district in which the affected area of Significant Natural Area is located.

## 11.6 Section 32AA evaluation

### *Other reasonably-practicable options*

223. There are two options available – retain the policy as notified, or amend it as I have recommended.

### *Effectiveness and efficiency*

224. The amendments to the first part of clause (a) are administrative only and result in a clearer policy direction. The only significant change is the deletion of “significant” in terms of residual adverse effects. This amendment will be more effective in enabling the consideration of offsetting for lesser levels of adverse effects.

### *Costs and benefits*

225. There are potential additional costs, for applicants as offsetting may be required for lesser adverse effects than “significant”.

### *Risk of acting or not acting*

207. 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*

208. The amendment gives effect to the WRPS is considered to be more appropriate in achieving the purpose of Objectives 3.1.1 and 3.2.1 than the notified version of Policy 3.2.3.

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<sup>11</sup> Waikato Regional Council [81.249]

## 12 Policy 3.2.5 Biodiversity in the coastal environment

### 12.1 Introduction

226. This policy seeks to give effect to Policy 11 of the New Zealand Coastal Policy Statement and to establish a different policy approach for indigenous biodiversity within the coastal environment. The Regional Policy Statement also includes policies in section 11 to safeguard coastal/marine ecosystems.

### 12.2 Submissions

227. Seven primary submissions were received. Five submissions seek to retain the policy as it was notified, one submission seeks amendments in relation to regionally significant infrastructure, and one relates to the approach to the coastal environment.

Submission point	Submitter	Decision requested
644.8	Spark New Zealand Trading Limited	Retain Policy 3.2.5 Biodiversity in the coastal environment, as notified.
646.8	Vodafone New Zealand Limited	Retain Policy 3.2.5 Biodiversity in the coastal environment, as notified.
648.8	Chorus New Zealand Limited	Retain Policy 3.2.5 Biodiversity in the coastal environment, as notified.
585.49	Department of Conservation	Amend Policy 3.2.5 Biodiversity in the coastal environment, by moving it to section 3.1 AND Amend Policy 3.2.5 Biodiversity in the coastal environment as follows: (a) Avoid the adverse effects of subdivision use and development <del>within Significant Natural Areas</del> of the coastal environment on:
<i>FS1258.43</i>	<i>Meridian Energy Limited</i>	<i>Oppose</i>
680.34	Federated Farmers of New Zealand	Retain Policy 3.2.5 Biodiversity in the coastal environment, as notified.
81.250	Waikato Regional Council	Retain Policy 3.2.5 Biodiversity in the coastal environment.
81.27	Waikato Regional Council	Retain mapping of the coastal environment and consider a section that sets out the approach to the coastal environment.
<i>FS1381.1</i>	<i>Counties Power Limited</i>	<i>Support</i>
742.7	New Zealand Transport Agency	Retain Policy 3.2.5(a) Biodiversity, except for the amendments sought below AND Amend Policy 3.2.5(a) Biodiversity in the coastal environment as follows: <i>Avoid the adverse effects of subdivision use and development within Significant Natural Areas of the coastal environment (except where there is a need for regionally significant infrastructure to be located in the coastal environment) on: ...</i> AND



		Request any consequential changes necessary to give effect to the relief sought in the submission.
FS1381.4	Counties Power Limited	Supports
FS1293.46	Department of Conservation	Opposes
FS1277.146	Waikato Regional Council	Opposes

### 12.3 Analysis

228. Submissions from Spark New Zealand Trading Limited [644.8], Vodafone New Zealand Limited [646.8], Chorus New Zealand Limited [648.8], Federated Farmers [680.34] and Waikato Regional Council [81.250] all seek to retain Policy 3.2.5 Biodiversity in the coastal environment as it is notified. I have accepted these submissions only in part as I have recommended amendments to this policy in response to other submissions.
229. The submission from Waikato Regional Council [81.27] seeks to retain the mapping of the Coastal Environment. A further submission from Counties Power Limited [FS1381.1] has supported the submission. The Coastal Environment has been incorporated as a spatial overlay on the PDP maps. I consider that retaining the mapping is useful for plan users as the mapping indicates where the provisions apply. I recommend the panel accept the submission from Waikato Regional Council [81.27].
230. The submission from the Department of Conservation [585.49] is seeking to relocate Policy 3.2.5 Biodiversity in the coastal environment, to be located under Section 3.1 and to delete the references to SNAs which would have the effect of it applying more broadly than to just SNAs in the coastal environment. A further submission from Meridian Energy [FS1258.43] opposes the submission. The reasons provided for relocating the policy are that Policy 11 of the New Zealand Coastal Policy Statement requires the protection of indigenous biological diversity in all areas of the coastal environment. Policy 3.2.5 as it was notified only relates to SNAs, however, the rules in the PDP apply to all SNAs, including the coastal environment. The rule framework also takes a less restrictive approach for indigenous vegetation outside of an SNA area which is also in accordance with the NZCPS Policy 11(b) which requires avoiding *significant adverse effects*. Policy 3.2.5 reflects the NZCPS, which can be seen in the following table, showing the level of alignment between the proposed policy, Appendix 2 of the Proposed Plan, and the NZCPS.
231. I consider Policy 3.2.5 is appropriately located and does not need to be reworded to refer to indigenous biodiversity in general rather than just within SNAs. I recommend the panel reject the Department of Conservation's submission [585.49].

Proposed District Plan		New Zealand Coastal Policy Statement
<p><b>3.2.5 Policy - Biodiversity in the coastal environment</b></p> <p>(a) Avoid the adverse effects of subdivision use and development within Significant Natural Areas of the coastal environment on:</p>	<p><b>Appendix 2: Criteria for Determining Significance of Indigenous Biodiversity</b></p>	<p><b>NZCPS 2010</b></p> <p><b>Policy 11 Indigenous biological diversity</b></p> <p>a. avoid adverse effects of activities on:</p>
<p>(i) Indigenous species that are listed as threatened or at risk</p>	<p>3. It is vegetation or habitat that is currently habitat for indigenous species or</p>	<p>i. indigenous taxa that are listed as threatened or at risk in the New</p>

<p>in the New Zealand Threat Classification System list</p>	<p>associations of indigenous species that are:</p> <ul style="list-style-type: none"> <li>• classed as threatened or at risk, or</li> <li>• endemic to the Waikato region, or</li> <li>• at the limit of their natural range</li> </ul>	<p>Zealand Threat Classification System lists;</p>
<p>(ii) habitats of indigenous species where the species are listed as threatened or at risk, are at the limit of their natural range, or are naturally rare</p>	<p>3. It is vegetation or habitat that is currently habitat for indigenous species or associations of indigenous species that are:</p> <ul style="list-style-type: none"> <li>• classed as threatened or at risk, or</li> <li>• endemic to the Waikato region, or</li> <li>• at the limit of their natural range.</li> </ul>	<p>iv. habitats of indigenous species where the species are at the limit of their natural range, or are naturally rare</p>
<p>(iii) areas containing nationally-significant examples of indigenous community types</p>	<p>7. It is an area of indigenous vegetation or naturally-occurring habitat that is large relative to other examples in the Waikato region of similar habitat types, and which contains all or almost all indigenous species typical of that habitat type. Note this criterion is not intended to select the largest example, only in the Waikato region of any habitat type.</p>	<p>v. areas containing nationally significant examples of indigenous community types</p>
<p>(iv) indigenous ecosystems and vegetation types that are threatened in the coastal environment, or are naturally rare, and</p>	<p>8. It is aquatic habitat (excluding artificial waterbodies, except for those created for the maintenance and enhancement of biodiversity or as mitigation as part of a consented activity) that is within a stream, river, lake, groundwater system, wetland, intertidal mudflat or estuary, or any other part of the coastal marine area and their margins, that is critical to the self sustainability of an indigenous species within a catchment of the Waikato region, or within the coastal</p>	<p>iii. indigenous ecosystems and vegetation types that are threatened in the coastal environment, or are naturally rare</p>

	marine area. In this context 'critical' means essential for a specific component of the life cycle and includes breeding and spawning grounds, juvenile nursery areas, important feeding areas and migratory and dispersal pathways of an indigenous species. This includes areas that maintain connectivity between habitats.	
(v) areas set aside for full or partial protection of indigenous biological diversity under legislation.	I. It is indigenous vegetation or habitat for indigenous fauna that is currently, or is recommended to be, set aside by statute or covenant or by the Nature Heritage Fund, or Ngaa Whenua Raahui committees, or the Queen Elizabeth the Second National Trust Board of Directors, specifically for the protection of biodiversity, and meets at least one of criteria 3-11.	vi. areas set aside for full or partial protection of indigenous biological diversity under other legislation

232. This table shows there is a high degree of alignment between Policy 3.2.5, the criteria in Appendix 2 and Policy 11(a) of the NZCPS.

233. The submission from the New Zealand Transport Agency [742.7] is seeking to exempt regionally significant infrastructure that may need to be in the coastal environment. Although I can appreciate the importance of this infrastructure, I believe that because of the strong policy directives of the NZCPS, it is appropriate that Policy 3.2.5 seeks to manage indigenous vegetation when activities are undertaken inclusive of any infrastructure that may need to locate within these areas. I note that Policy 11 of the New Zealand Coastal Policy Statement does not contain any such exemptions. I recommend the panel rejects the submission from the New Zealand Transport Agency [742.7].

#### 12.4 Recommendations

234. For the reasons above I recommend:

- a. **Accept in part** Spark New Zealand Trading Limited [644.8], Vodafone New Zealand Limited [646.8], Chorus New Zealand Limited [648.8], Federated Farmers [680.34] and Waikato Regional Council [81.250].
- b. **Accept** Waikato Regional Council [81.27] and Counties Power Limited [FS/381.1].
- c. **Reject** Department of Conservation [585.49].
- d. **Reject** New Zealand Transport Agency [742.7].

## 12.5 Recommended amendments

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

## 13 Policy 3.2.6 Providing for vegetation clearance

### 13.1 Introduction

236. This policy seeks to identify the purposes for which clearance of vegetation within a SNA is considered appropriate.

### 13.2 Submissions

237. Eighteen primary submissions were received. Several submissions seek to retain the policy as it has notified. Others seek to amend the policy to provide for aggregate extraction, upgrading existing infrastructure, and for general clarification.

Submission point	Submitter	Decision requested
535.8	Hamilton City Council	Delete Policy 3.2.6 (a)(iv) Providing for vegetation clearance. AND Any consequential amendments and/or additional relief required to address the matters raised in the submission.
<i>FS1342.130</i>	<i>Federated Farmers</i>	<i>Oppose</i>
<i>FS1345.107</i>	<i>Genesis Energy Limited</i>	<i>Oppose</i>
585.2	Department of Conservation	Delete Policy 3.2.6(b) Providing for vegetation clearance.
<i>FS1342.149</i>	<i>Federated Farmers</i>	<i>Oppose</i>
<i>FS1340.90</i>	<i>TaTa Valley Limited</i>	<i>Oppose.</i>
<i>FS1345.5</i>	<i>Genesis Energy Limited</i>	<i>Oppose</i>
<i>FS1377.157</i>	<i>Havelock Village Limited</i>	<i>Oppose</i>
591.5	Stevenson Waikato Ltd	Retain Policy 3.2.6 Providing for vegetation clearance, except for the amendments sought below. AND Amend Policy 3.2.6(a) Providing for vegetation clearance as follows: (a) Provide for the clearance of indigenous vegetation in Significant Natural Areas when: (i) maintaining tracks, fences and farm drains (ii) avoiding loss of life injury or damage to property (iii) collecting material to maintain traditional Maaori cultural practices (iv) collecting firewood for domestic use (v) <u>undertaking extractive industry within Aggregate Extraction and Aggregate Resource Areas shown on the planning maps.</u>

FSI146.4	Gleeson Quarries Huntly Limited	Support
FSI198.17	Bathurst Resources Limited and BT Mining Limited	Support
644.9	Spark New Zealand Trading Limited	Retain Policy 3.2.6 Providing for vegetation clearance, as notified.
646.9	Vodafone New Zealand Limited	Retain 3.2.6 Providing for vegetation clearance, as notified.
648.9	Chorus New Zealand Limited	Retain Policy 3.2.6 Providing for vegetation clearance, as notified.
797.9	Fonterra Limited	Retain Policy 3.2.6 Providing for vegetation clearance, as notified.
986.7	KiwiRail Holdings Limited (KiwiRail)	<p>Add a new clause (v) to Policy 3.2.6(a) Providing for vegetation clearance as follows (or similar amendments to achieve the requested relief): (a) Provide for the clearance of indigenous vegetation in Significant Natural Areas when:</p> <p>...</p> <p><u>(v) operating, maintaining or upgrading existing infrastructure</u></p> <p>AND</p> <p>Any consequential amendments to link and/or accommodate the requested changes.</p>
FSI350.6	Transpower New Zealand Limited	Support
FSI176.286	Watercare Services Ltd	Support
FSI345.138	Genesis Energy Limited	Support
553.13	Malibu Hamilton	Retain Policy 3.2.6(b) Providing for vegetation clearance.
576.6	Transpower New Zealand Ltd	<p>Retain Policy 3.2.6 Providing for vegetation clearance, except for the amendments sought below</p> <p>AND</p> <p>Add a new clause (v) to Policy 3.2.6 (a) Providing for vegetation clearance as follows (or equivalent references to Regionally significant infrastructure or the National Grid):</p> <p><u>(v) associated with the operation, maintenance and upgrading of infrastructure</u></p> <p>AND</p> <p>Amend the Proposed District Plan to make consequential amendments to address the matters raised in the submission.</p>
FSI211.2	First Gas Limited	Support
FSI345.21	Genesis Energy Limited	Support
585.1	Department of Conservation	Delete policy 3.2.6(a)(iv) Providing for vegetation clearance.

FS1345.4	Genesis Energy Limited	Oppose
FS1340.89	TaTa Valley Limited	Oppose.
81.251	Waikato Regional Council	Retain Policy 3.2.6 Providing for vegetation clearance, except for the amendments sought below. AND Amend Policy 3.2.6 Providing for vegetation clearance to recognise that only clearance with minor adverse effects in relation to the maintenance or protection of indigenous biodiversity will be enabled as a permitted activity.
FS1342.20	Federated Farmers	Disallow submission point 81.251.
81.252	Waikato Regional Council	Retain Policy 3.2.6 Providing for vegetation clearance, except for the amendments sought below. AND Amend or Relocate Policy 3.2.6 Providing for vegetation clearance so that it is clear that it applies to both SNA's and indigenous biodiversity outside of Significant Natural Areas.
FS1340.29	TaTa Valley Limited	Support
FS1342.21	Federated Farmers	Support
831.56	Gabrielle Parson on behalf of Raglan Naturally	Delete Policy 3.2.6 Providing for vegetation clearance AND Add policies that will increase natural habitats.
FS1342.239	Federated Farmers	Oppose
FS1377.278	Havelock Village Limited	Oppose.
924.10	Genesis Energy Limited	Add clause (v) to Policy 3.2.6-Providing for Vegetation Clearance by including the following (or wording to similar effect): <u>(v) The vegetation is impinging on adjacent existing activities.</u>
FS1342.249	Federated Farmers	Support
FS1293.66	Department of Conservation	Oppose
697.360	Waikato District Council	Delete the word 'firewood' from Policy 3.2.6 (b)(vi) Providing for vegetation clearance.
742.8	New Zealand Transport Agency	Retain Policy 3.2.6(a) Providing for vegetation clearance, except for the amendments sought below. AND Add new sub-clauses to Policy 3.2.6(a) Providing for vegetation clearance as follows: <u>(v) operating maintaining or upgrading existing infrastructure</u> <u>(vi) the construction and operation of new regionally significant infrastructure where there is a need for that infrastructure to be located within the Significant Natural Area</u>

		AND Request any consequential changes necessary to give effect to the relief sought in the submission.
FS1272.13	KiwiRail Holdings Ltd	Support
FS1293.47	Department of Conservation	Oppose
FS1345.41	Genesis Energy Limited	Support
FS1277.147	Waikato Regional Council	Oppose
FS1387.838	Mercury NZ Limited for Mercury D	Oppose
587.3	Bruce Cameron	Amend the Significant Natural Areas to be confirmed through direct consultation with the landowner.
827.2	New Zealand Steel Holdings Ltd	Add a clause (v) to Policy 3.2.6 Providing for vegetation clearance as follows (or words to similar effect): (v) located in the Aggregate Extraction Area in Waikato North Head
680.35	Federated Farmers of New Zealand	<b>Amend</b> Policy 3.2.6(b) Providing for vegetation clearance, as follows:  (b) Provide for the clearance of indigenous vegetation in Significant Natural Areas for the construction of building platforms, services, access, vehicle parking and on-site manoeuvring and the development of Maaori Freehold Land-by: ...  AND  Any consequential changes needed to give effect to this relief.

### 13.3 Analysis

238. Submissions from Spark New Zealand Limited [644.9], Vodafone New Zealand Limited [646.9], Chorus New Zealand Limited [648.9] and Fonterra Limited [797.9] all seek to retain the Policy 3.2.6 as notified, recognising that the policy provides for vegetation clearance for certain activities. I have accepted these submissions only in part as I have recommended amendments to this policy in response to other submissions.
239. A submission from Malibu Hamilton [553.13] seeks to retain Policy 3.2.6(b) which relates to Maaori Freehold Land as it was notified, recognising that the policy provides for vegetation clearance for certain activities. I have accepted this submission only in part as I have recommended amendments to this policy in response to other submissions
240. A submission from Bruce Cameron [587.3] seeks to amend significant natural areas to be confirmed through direct consultation. I consider that the Schedule 1 process that is currently being undertaken through the District Plan Review enables participation from landowners. Nevertheless, I have recommended in Section 4 of this report to amend the approach to SNA mapping so that the mapped SNA sites in the Planning Maps are retained, but only where Council is certain of the extent and quality of the indigenous vegetation. All other SNA sites will be deleted from the Planning Maps. The SNA provisions would apply to every piece of indigenous vegetation that meets the criteria for a SNA contained in Appendix 2. I recommend the panel accept Bruce Cameron's submission [587.3].
241. The submission from Hamilton City Council [535.8], and the Department of Conservation [585.1] are seeking to delete Policy 3.2.6 (a)(iv) which relates to collecting firewood for domestic use.

Further submissions from Federated Farmers [FS/342.140], Genesis Energy Limited [FS/345.107 and FS/345.4], Middlemiss Farm Holdings Limited [FS/330.66] and TaTa Valley Limited [FS/340.89] have opposed the submissions. The policy allows for this activity to occur, however this policy is implemented by rules which only allow for 5m<sup>3</sup> of manuka removal. Manuka is typically a regenerative species and tends to be in abundance in many areas in Waikato district. It is of note that the recently released Aotearoa Biodiversity Strategy makes no specific mention of the Manuka species (although discusses indigenous vegetation clearance in general which indicates there is no specific concern towards this species. I consider the notified amount of removal enabled as a permitted activity would have less than minor effects on a SNA. The Regional Policy Statement is also clear in its direction in Policy 11.1.4 Recognition of activities having minor adverse effects on indigenous biodiversity, in particular clause (b) where it refers to existing lawfully established uses remaining the same or similar in character, intensity and scale. As the practice of firewood collection has been occurring for many generations, arguably the removal for the purposes of heating (amongst other things) would meet the intention of this policy. Further to this, there is no evidence to suggest that the species is on the decline. I have addressed the issue of manuka and kanuka elsewhere in this report.

242. I also bring to the panel's attention the Draft National Policy Statement for Biodiversity which states as follows.

*<sup>12</sup>"If a Significant Natural Area is identified only because of the presence of mānuka and kānuka that is considered Threatened only because of the threat posed by myrtle rust, it should not be managed as if it is a Significant Natural Area. Assessment against the other criteria in Appendix I must also determine whether it is a Significant Natural Area. If it qualifies as significant for any other reason, then it should be managed as a Significant Natural Area."*

243. Although the NPS is only in draft, I agree with the approach towards these species as being practical and pragmatic. Further to this I have identified in the Waikato Regional Council Technical Report 2018/28 the following.

*"To retain the original intent of identifying SNA through threatened species presence, and whilst research is ongoing to determine the disease threat posed to these species, a current exception for manuka and kanuka has been suggested in the draft National Policy Statement on Indigenous Biodiversity (Biodiversity Collaborative Group 2018). It acknowledges that some relatively common Myrtaceae taxa have been elevated in conservation status solely due to the threat of myrtle rust, and suggests that these species of kanuka and manuka should not trigger identification of an SNA based on their presence alone. It should follow that within the Waikato all common Myrtaceae (including rātā and Pohutukawa), which have been given the NZTCS qualifier of 'De' (designated) solely due to myrtle rust threat, should also be included in this SNA exception."*

244. I recommend the panel reject the submissions from Hamilton City Council [535.8] and the Department of Conservation [585.1].

245. A submission from the Department of Conservation [585.2] is seeking to delete Policy 3.2.6 (b) which provides for vegetation clearance for Māori Freehold Land. Further submissions from Genesis Energy Limited [FS/345.5], TaTa Valley Limited [FS/341.9], Havelock Village Limited [FS/377.157] and Federated Farmers [FS/342.169] have opposed the submission. The reason given by the submitters for deleting the policy is that the policy is too permissive. In my view the Proposed District Plan needs to provide for the ability for communities to develop their land in a sustainable manner. Policy 3.2.6 (b) is recognising this by providing for an allowance to clear indigenous vegetation to utilise the land. There are properties (especially Māori Freehold Land) where the entire site is vegetated or has topographical restraints when building platforms are

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<sup>12</sup> Draft National Policy Statement



required. The policy as it is written requires as a preference to use existing cleared areas in the first instance, and the permitted activity baseline, only relates to there being no other alternative. In respect of Maaori Freehold/Customary land, Section 6(e) of the RMA has specifically provided for the relationship of Maaori and their culture and traditions with their ancestral lands and consider this acknowledges marae and papakainga as being important to achieve this. The approach of the Proposed District Plan is pragmatic while still acknowledging the importance of these areas. As well, the Regional Policy Statement recognises in Policy 11.2.2 (g) that there may be the necessity of activities being located in SNA. I note that clearance of SNAs within the coastal environment would be covered by Policy 3.2.5, irrespective of the ownership of the land. Accordingly, I recommend the panel reject the Department of Conservation's submission [585.2].

246. A submission from Federated Farmers [680.35] seeks to amend Policy 3.2.6 (b) Providing for vegetation clearance by deleting reference to Maaori Freehold Land. The aspect of Maaori Freehold Land is discussed in the previous submission, with reference to the importance of recognising s6(e) of the RMA and Policy 6.4 Marae and papakainga within the WRPS. I recommend the panel rejects Federated Farmers' submission [680.35].
247. The submission from Stevenson Waikato Ltd [591.5] is seeking to provide for vegetation clearance in the extractive industry with the Aggregate Resource Area Policy. A similar submission was received from New Zealand Steel Holdings Limited [827.2]. Further submissions from Gleeson Quarries Huntly Limited [FS1146.4] and Bathurst Resources Limited and BT Mining Limited [FS1198.17] have supported the submission as they consider that clearance should be enabled to support 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 the spatial extent of ecosystem types. As well, Policy 11.1 (j) of the WRPS requires consideration of offsetting, when vegetation clearance occurs. If the approach from the submitter was accepted this would then eliminate this requirement for offsetting. Often, there is a need to remove a SNA in order to access mineral resources, and the effects of this are likely to have adverse effects. Gleeson Quarries consider that these areas have already been earmarked for mineral extraction. I consider that it is appropriate that these activities are subjected to a regime within a district plan so the effects can be considered, and therefore mitigated or remedied. Accordingly, I recommend the panel reject the submissions from Stevenson Waikato Ltd [591.5] and New Zealand Steel Holdings Limited [827.2].
248. KiwiRail Holdings Limited [986.7] are seeking an additional clause (v) in policy 3.2.6 (a) which would allow for the operating, maintaining, or upgrading of existing infrastructure. The New Zealand Transport Agency [742.8] has a similar submission. Further submissions from Transpower New Zealand Limited [FS1350.6], Watercare Service Ltd [FS1176.286] and Genesis Energy Limited [FS1345.138] have all supported the submission. I agree with the submitter as the infrastructure is already there, and the Regional Policy Statement recognises in 11.1.4 a) the maintenance, operation and upgrading of lawfully established infrastructure and Objective 3.12 e) recognises and protects regionally significant infrastructure. Further to this, in Chapter 14: Infrastructure, the maintaining or upgrading of existing infrastructure is a permitted activity. I recommend the policy read as the submitter has suggested:
- ... (v) operating, maintaining or upgrading existing infrastructure*
249. I recommend the panel accept the submission from KiwiRail Holdings Limited [986.7].
250. Transpower New Zealand Limited [576.6] is seeking to take a similar approach to KiwiRail, seeking allowance for vegetation removal for regionally significant infrastructure or the National Grid for the operation, maintenance and upgrading of infrastructure. Further submitters First Gas [FS1211.2] and Genesis Energy [FS1345.21] have supported the submission. As per the discussion above, I consider this to be the same scenario, and accordingly recommend the panel accept the submission from Transpower New Zealand Limited [576.6].

251. The New Zealand Transport Agency also sought recognition of new infrastructure in the policy. Although I appreciate the importance of regionally significant infrastructure, this approach would not be consistent with the Waikato Regional Policy Statement regarding the policies for indigenous biodiversity. The reasons provided by the submitter are that there may be a functional need to locate this infrastructure within a SNA. To allow for new infrastructure to be built without any restraint would not only have adverse effects on SNAs but would also not facilitate biodiversity offsetting as required by the WRPS and the Proposed Plan. Accordingly, I recommend the panel accept in part the submission from the New Zealand Transport Agency [742.8].
252. Waikato Regional Council [81.252] seeks to relocate Policy 3.2.6 so that the policy would apply to indigenous vegetation both inside and outside an SNA. Reasons given by the submitter are that the activities in the policy are provided for as permitted activities in the rules (just as they are for SNAs, but different thresholds apply). Further submissions from TaTa Valley Limited [FS/340.29] and Federated Farmers [FS/342.21] support the submission. This policy currently sits under Section 3.2 Significant Natural Areas. The Policy for clearance within a SNA appropriately recognises the importance of these areas, and in my view does not need to be relocated. There are objectives and policies in Chapter 5 Rural Environment that support activities that are outside a SNA. Accordingly, I recommend the panel reject Waikato Regional Council's submission [81.252].
253. A submission from Waikato Regional Council [81.251] seeks to amend Policy 3.2.6 to recognise that the clearance as a permitted activity should only be enabled if the effects are minor. A further submission from Federated Farmers [FS/342.20] has opposed the submission. I have considered the WRPS and acknowledge that Policy 11.1.4 does use the term minor adverse effects. The submitter has stated that Policy 3.2.6 does give effect to Method 11.1.4, however goes on to say that the opening statement should only refer to minor adverse effects, as this is the basis for the activities listed in the WRPS implementation methods. In this regard, the Proposed District Plan policies have taken a generalist approach regarding the effects on SNAs but consider it should apply more broadly to all indigenous biodiversity and not just SNAs. I believe this is a practical approach and if a resource consent is required, it is likely that an ecologist would be providing an assessment of effects whether the effects are minor or more than minor. The approach in Policy 3.2.6 is to provide for vegetation clearance and the supporting rule framework is specific in what is a permitted activity; anything outside of this will require a consenting process where any effect would be considered. The proposed permitted activities relate to activities that are either within already cleared areas, for example, maintenance of farm drains, existing tracks and fences. In my opinion, this approach only allows for vegetation clearance that will potentially have minor adverse effects. Nevertheless, I am mindful of RPS Policy 11.2.2 (g) which states that district plans, excluding activities pursuant to 11.1.4, are to have regard to the functional necessity of activities being in or near SNA where no reasonably practicable alternative location exists. This to me indicates that it is expected that there may, on occasion, be effects that are more than minor and that the rules as notified in the PDP relate to those activities and have a functional need as provided for by 11.2.2 (g). On this basis I recommend the panel reject Waikato Regional Council's submission [81.251].
254. The submission from Raglan Naturally [831.56] is seeking to delete Policy 3.2.6 and to add policies that will increase natural habitats. Further submissions from Federated Farmers [FS/342.239] and Havelock Village Limited [FS/377.278] oppose the submission. The latter part of this submission has already been accommodated in Objective 3.1.1 where the aim is to maintain or enhance policies relating to offsetting. As to the deletion of the policy, I consider this approach would not meet Part 5 of the Act, which requires enabling people and communities to provide for their social, economic and cultural well-being and for their health and safety, nor the Regional Policy

Statement which in Policy 11.1.4 provides for some vegetation clearance. I recommend the panel rejects Raglan Naturally's submission [831.56].

255. The submission from Genesis Energy Limited [924.10] seeks an additional clause (v) to provide clearance for vegetation impinging on adjacent existing activities. Further submitter Federated Farmers [FS/342.249] supports the submission, and Department of Conservation [FS/293.66] opposes the submission as it considers the amendment too permissive. I agree with the Department of Conservation's further submission, as the approach could justify any clearance if it is impinging on, for example primary industry without due consideration of the effects of clearance of vegetation. I recommend the panel reject the submission from Genesis Energy Limited [924.10].
256. Waikato District Council [697.360] is seeking to delete clause (b)(vi) which simply says 'firewood'. This appears to be an error in the Proposed Plan, and I recommend the panel accept Waikato District Council's submission [697.360].

### 13.4 Recommendations

257. For the reasons above I recommend that the Hearings Panel:
- a. **Accept in part** Spark New Zealand Limited [644.9], Vodafone New Zealand Limited [646.9], Chorus New Zealand Limited [648.9] and Fonterra Limited [797.9].
  - b. **Accept in part** Malibu Hamilton [553.13].
  - c. **Reject** Hamilton City Council [535.8] and Department of Conservation [585.1]. **Accept** Federated Farmers [FS/342.140], Genesis Energy Limited [FS/345.107], Genesis Energy Limited [FS/345.4], Middlemiss Farm Holdings Limited [FS/330.66] and TaTa Valley Limited [FS/340.89].
  - d. **Reject** Department of Conservation [585.2]. **Accept** Genesis Energy Limited [FS/345.5], TaTa Valley Limited [FS/341.9], Havelock Village Limited [FS/377.157] and Federated Farmers [FS/342.169].
  - e. **Reject** Federated Farmers [680.35].
  - f. **Reject** Stevenson Waikato Ltd [591.5], Gleeson Quarries Huntly Limited [FS/146.4] and Bathurst Resources Limited and BT Mining Limited [FS/198.17].
  - g. **Reject** New Zealand Steel Holdings Limited [827.2].
  - h. **Accept** KiwiRail Holdings Limited [986.7], Transpower New Zealand Limited [FS/350.6], Watercare Service Ltd [FS/176.286], Genesis Energy Limited [FS/345.138],
  - i. **Accept** Transpower New Zealand Limited [576.6] First Gas [FS/211.2] and Genesis Energy [FS/345.21].
  - j. **Reject** Waikato Regional Council [81.251]. **Accept** Federated Farmer [FS/342.20].
  - k. **Reject** Waikato Regional Council [81.252], TaTa Valley Limited [FS/340.29] and Federated Farmers [FS/342.21].
  - l. **Reject** Raglan Naturally [831.56]. **Accept** Federated Farmers [FS/342.239] and Havelock Village Limited [FS/377.278].
  - m. **Reject** Genesis Energy Limited [924.10] and Federated Farmers [FS/342.249] and **Accept** Department of Conservation [FS/293.66].
  - n. **Accept** Waikato District Council [697.360].
  - o. **Accept in part** New Zealand Transport Agency [742.8], KiwiRail Holdings Ltd [FS/272.13] and Genesis Energy Limited [FS/345.41]. **Accept** Mercury Energy Limited [FS/387.838], Department of Conservation [FS/293.47] and Waikato Regional Council [FS/277.147].

### 13.5 Recommended amendments

258. The following amendments are recommended:

#### Policy 3.2.6 Providing for vegetation clearance

- (a) Provide for the clearance of indigenous vegetation in Significant Natural Areas when:
  - (i) maintaining tracks, fences and farm drains
  - (ii) avoiding loss of life injury or damage to property
  - (iii) collecting material to maintain traditional Maaori cultural practices
  - (iv) collecting firewood for domestic use
- (b) Provide for the clearance of indigenous vegetation in Significant Natural Areas for the construction of building platforms, services, access, vehicle parking and on-site manoeuvring ~~and for~~ the development of Maaori Freehold Land by:
  - (i) using any existing cleared areas on a site that are suitable to accommodate new development in the first instance;
  - (ii) using any practicable alternative locations that would reduce the need for vegetation removal;
  - (iii) retaining indigenous vegetation which contributes to the ecological significance of a site, taking into account any loss that may be unavoidable to create a building platform, services, access, vehicle parking and manoeuvring on a site;
  - ~~(iv) <sup>13</sup>Firewood.~~
  - (v) Operating, maintaining or upgrading existing infrastructure

### 13.6 Section 32AA evaluation

259. The proposed amendments for the deletion of clause (iv) are minor in nature and do not change the planning outcomes, therefore no S32aa analysis is required.

260. The proposed amendments for the additional clause (v) is to recognise the Regional Policy Statement Policy 11.1.4 (a).

#### *Other reasonably-practicable options*

261. One option is no change to the notified version. The other is to recognise lawfully established infrastructure and enable vegetation clearance.

#### *Effectiveness and efficiency*

262. The recommended amendments to Policy 3.2.6 give effect to the Regional Policy Statement Policy 11.1.4 (a) to ensure that the maintenance, operation and upgrading of lawfully established infrastructure can occur. The recommended amendments will also achieve Objective 6.1.1 Development, operation and maintenance of infrastructure in Chapter 6 Infrastructure. The amendment will provide suitable guidance to plan users for the assessment of activities that affect the natural values and management of indigenous vegetation.

#### *Costs and benefits*

263. There are benefits for the environment with the revised policy as it is clearer about the relationship of indigenous vegetation and existing infrastructure. The amended policy will enable the ongoing maintenance and operation of existing infrastructure, and is likely to result in only

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<sup>13</sup> Waikato District Council [697.360]

minimal loss of vegetation. Other benefits are clearer guidance to plan users regarding established infrastructure. There is wider benefit to the local and regional community.

*Risk of acting or not acting*

264. 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*

265. The amendment gives effect to the WRPS and Objective 6.1.1 Development, operation and maintenance of infrastructure in Chapter 6 Infrastructure. It is considered to be more appropriate in achieving the purpose of the RMA than the notified version.

## 14 Policy 3.2.7 Managing Significant Natural Areas

### 14.1 Introduction

266. This policy identifies ways in which SNAs can be protected.

### 14.2 Submissions

267. Twelve primary submissions were received. Four submissions seek to retain the policy as it was notified. Others seek to amend the policy to (amongst other things) acknowledge private ownership, hydrology of wetlands, and kaitiaki.

Submission point	Submitter	Decision requested
575.9	Fulton Hogan Limited	Retain Policy 3.2.7 Managing Significant Natural Areas, except for the amendments sought below. AND Amend Policy 3.2.7 (a)(v) Managing Significant Natural Areas, as follows (or words to similar effect): (v) avoiding <del>physical and</del> legal fragmentation AND Amend the Proposed District Plan to make consequential and additional amendments as necessary to give effect to the matters raised in the submission.
<i>FSI 332.28</i>	<i>Winstone Aggregates</i>	<i>Support</i>
<i>FSI 292.33</i>	<i>McPherson Resources Limited</i>	<i>Support</i>
<i>FSI 293.35</i>	<i>Department of Conservation</i>	<i>Oppose</i>
433.38	Auckland Waikato Fish and Game Council	Amend Policy 3.2.7 (a)(iv) Managing Significant Natural Areas, as follows: (iv) maintaining and restoring natural wetland hydrology <u>which in some cases may require artificial raising of water levels due to the adverse effects of drainage.</u> AND/OR Any alternative relief to address the issues and concerns raised in the submission.
<i>FSI 342.116</i>	<i>Federated Farmers</i>	<i>Oppose</i>

FS1083.8	Ryburn Lagoon Trust Limited	Support
559.39	Heritage New Zealand Lower Northern Office	Retain Policy 3.2.7(a) (vii) Managing Significant Natural Areas.
644.10	Spark New Zealand Trading Limited	Retain Policy 3.2.7 Managing Significant Natural Areas, as notified.
646.10	Vodafone New Zealand Limited	Retain 3.2.7 Managing Significant Natural Areas, as notified.
648.10	Chorus New Zealand Limited	Retain 3.2.7 Managing Significant Natural Areas, as notified.
680.36	Federated Farmers of New Zealand	<p>Add to Policy 3.2.7 Managing Significant Natural Areas a new clause (b) as follows:</p> <p><u>(b) Recognise that management of Significant Natural Areas on private land requires public investment in a range of incentives such as:</u></p> <p><u>(i) Rates remissions or rebates for land retired for biodiversity purposes; (ii) Reimbursements or discounts for products and fencing material for stock exclusion;</u></p> <p><u>(iii) Resource consent fee discounts and waivers;</u></p> <p><u>(iv) Providing native plants seedlings;</u></p> <p><u>(v) Pest animal and weed control assistance;</u></p> <p><u>(vi) Contestable fund for biodiversity projects;</u></p> <p><u>(vii) Transferable development rights;</u></p> <p><u>(viii) Education and information on types of vegetation and habitat, and why they are important;</u></p> <p><u>(ix) Assistance for landowners going through a QEII process, or applying for Landcare Trust funding.</u></p> <p>AND</p> <p>Any consequential changes needed to give effect to this relief.</p>
FS1045.1	Auckland/Waikato Fish and Game Council	Support
FS1138.6	Pakau Trust	Support
328.3	Paula Dudley	Amend Policy 3.2.7 (vii) Managing Significant Natural Areas to extend the role of kaitiaki to the neighbouring property owners residing next to historical reserves, to include daily upkeep and management of lawns, gardens and rubbish. Kaitiaki to be supported by WDC to maintain grounds.
450.1	Rushala Farm Ltd	No specific decision sought, but the submitter refers to Policy 3.2.7 Managing Significant Natural Areas, and considers costs for protecting these should be borne by Council rather than farmers.
587.10	Bruce Cameron	Amend the Proposed District Plan to ensure there are no setbacks imposed on farm operations adjacent to a Significant Natural Area.

587.11	Bruce Cameron	Amend the Proposed District Plan to recognise that landowners need the ability to clear bush and prepare building sites within a Significant Natural Areas.
587.7	Bruce Cameron	Amend Policy 3.2.7 Managing Significant Natural Areas, to not require fencing of a Significant Natural Area if no transferable title is granted or other sources of financing are available.
587.4	Bruce Cameron	Amend Policy 3.2.7(a) (i) Managing Significant Natural Areas, to enable conservation subdivision with transferable titles to support stock exclusion from Significant Natural Areas.
<i>FS1138.10</i>	<i>Pakau Trust</i>	<i>Support</i>
691.6	McPherson Resources Limited	Amend 3.2.7 Policy (a)(v) Managing Significant Natural Areas, as follows (or words to similar effect): (v) Avoiding physical and legal fragmentation <u>where practicable</u> . OR Amend Policy 3.2.7 (a)(v) Managing Significant Natural Areas, as follows if the Council does not want to remove the words "physical" (or words to similar effect): (v) Avoiding physical and legal fragmentation <u>where practicable</u> . AND Any consequential amendments or alternative relief to address the matters raised in the submission.
<i>FS1377.197</i>	<i>Havelock Village Limited</i>	<i>Support</i>
<i>FS1334.32</i>	<i>Fulton Hogan Limited</i>	<i>Support</i>
794.9	Middlemiss Farm Holdings Limited	Amend Policy 3.2.7 (a) (i) Managing Significant Natural Areas as follows: (a) Promote the management of Significant Natural Areas in a way that protects their long-term ecological functioning and indigenous biodiversity values, through such means as: (i) permanently excluding stock through voluntary covenants and conservation <u>incentive</u> subdivisions AND Amend the Proposed District Plan consequential or additional amendments as necessary to give effect to the submission.

### 14.3 Analysis

268. The submission received from Rushala Farm Ltd [450.1] seeks no specific decision and it is difficult to meaningfully assess the submission. However, the submission mentions that the costs for protecting SNAs should be borne by the Council. I recommend the panel reject the submission from Rushala Farm Ltd [450.1].
269. Submissions from Spark New Zealand Trading Limited [644.10], Vodafone New Zealand Limited [646.10] and Chorus New Zealand Limited [648.10] all seek to retain Policy 3.2.7. I consider Policy 3.2.7 should be retained as the policy provides guidance on managing SNAs, However, I have

accepted these submissions only in part as I have recommended amendments to Policy 3.2.7 in response to other submissions.

270. Heritage New Zealand Lower Northern Office [559.39] seeks to retain Policy 3.2.7 (a) (vii) as notified which relates to providing for mana whenua as kaitiaki. I recommend the panel accept the submission from the Heritage New Zealand Lower Northern Office [559.39].
271. The submission from Fulton Hogan Limited [575.9] seeks to remove reference to physical fragmentation. Further submissions from Winstone Aggregates [FS/332.28] and McPherson Resources Limited [FS/292.33] have supported the submission because the submission point recognises that quarry operations may require SNAs to be separated. A further submission from Department of Conservation [FS/293.35] has opposed the submission with the reasons provided stating that the proposed amendments would be contrary to section 6(c) of the Act. The policy as notified seeks to avoid physical and legal fragmentation with the purpose being to protect the long-term ecological function and biodiversity values of SNAs. The submitter is concerned that SNAs may be physically separated because of mining/extraction activities and that the policy will inhibit the operation of a quarry. In my view, if a quarry operator needs to enter an area of indigenous vegetation then the policy as notified ensures the effects of this are appropriately managed. The policy as notified will ensure that the activity is in accordance with the WRPS and the policies within the PDP that relate to management hierarchy and biodiversity offsetting. I recommend the panel reject the submission from Fulton Hogan Limited [575.9].
272. The submission from Auckland Waikato Fish and Game Council [433.38] are seeking recognition of the raising of water levels to maintain and restore natural wetland hydrology. A further submission from Ryburn Lagoon Trust Limited [FS/083.8] has supported the submission and a further submission from Federated Farmers [FS/342.116] has opposed the submission. Anything to do with the management of water would be a regional authority jurisdiction. Therefore, I consider the additional wording to be outside a district council's jurisdiction and accordingly recommend the panel reject Auckland Waikato Fish and Game Council's submission [433.38].
273. A submission from Federated Farmers [680.36] is seeking additional wording to the policies to include a range of incentives such as: rates remissions, discounts on products for fencing, providing native plants, help with pest control (including weeds), a contestable fund, education and assistance with processes for QEII and Landcare Trust. Further submissions from the Auckland/Waikato Fish and Game Council [FS/045.1] and Pakau Trust [FS/138.6] have supported the submission. I agree with the submitter that these would be an excellent way for district councils to recognise the value of SNAs to the District and help a landowner look after these areas. However, rather than additional wording to the policy, I consider the aspects listed would be best written as non-regulatory policies. A contestable fund is already in place through Waikato District Council, which is available to property owners with SNAs to assist with fencing, pest plant and animal species and provision of native plants. In respect of the QEII processes, the Council may assist property owners through the contestable fund, however this would not be available for the subdivision process as the incentive in this regard is the ability to create new lots. I recommend using the suggested non-regulatory policy as per a similar submission from Federated Farmers as follows;
- The Council will work with landowners to promote the use of non-regulatory methods; including assistance with the establishment of protective covenants, service delivery, education, and other incentives in protecting and enhancing ecological sites.*
274. Paula Dudley [328.3] is seeking to amend Policy 3.2.7 clause (vii) to extend kaitiaki to property owners neighbouring reserves. It would be difficult to implement kaitiaki through a rule framework and I consider the amendment sought is too specific to be useful. I recommend the panel reject Paula Dudley's submission [328.3].



275. The submission from Bruce Cameron [587.10] seeks to amend the Proposed District Plan to ensure there are no setbacks imposed on farming operations. Without further information as to which specific farming operations the submitter is referring to, it is difficult to analyse the submission. I invite the submitter to explain at the hearing what farming operations require a setback other than a building setback. It is worth noting that the spatial extent of a SNA applies to that vegetation that meets the criteria in Appendix 2 and does not extend beyond that. Until further information is provided, I recommend the panel reject Bruce Cameron's submission [587.10].
276. Bruce Cameron [587.11] has submitted to amend the Proposed District Plan to recognise the need to clear vegetation for building platforms within a SNA. This has been provided for in Policy 3.2.6. However, the way the policy is worded is ambiguous as it could be interpreted that it only applies to Maaori Freehold/Customary Land and I suggest a minor amendment to clarify that the policy applies to all SNAs and not just Maaori owned land and would read as follows;
- “(b) Provide for the clearance of indigenous vegetation in Significant Natural Areas for the construction of building platforms, services, access, vehicle parking and on-site manoeuvring and for the development of Maaori Freehold Land by:...”*
277. I recommend the panel accept in part Bruce Cameron's submission [587.11].
278. Bruce Cameron [587.7] has also submitted to amend the plan to not require fencing of a SNA area if no transferable title is granted or other sources of financing are available. The Proposed District Plan has no requirement for the fencing of SNAs. A fencing requirement would only apply in the instance of the Conservation Lot subdivision provisions. In respect of financing, as mentioned earlier in this report, there is a contestable fund through Waikato District Council that is available for property owners to apply to should they require assistance with fencing. My recommendation to include non-regulatory policies in response to the Federated Farmers submission would further support Mr Cameron's submission. I recommend the panel accept in part Bruce Cameron's submission [587.7].
279. Bruce Cameron [587.4] seeks to amend Policy 3.2.7 to enable conservation subdivision with transferrable titles to support stock exclusion. Further submitter Pakau Trust [FS1138.10] has supported the submission. As there are provisions in Policy 3.2.8 Incentivise subdivision that provide for conservation subdivision, I see no need to include conservation subdivision in Policy 3.2.7. In respect of the transferrable titles, this is discussed in the Rural Zone hearing. I recommend the panel rejects Bruce Cameron's submission [587.4].
280. The submission from McPherson Resources Limited [691.6] seeks to amend Policy 3.2.7 Managing Significant Natural Areas by including the additional wording of 'where practicable' or, if this is not accepted, to remove reference to 'physical and legal'. The reason provided is to recognise the existing situation at the McPherson Quarry. Further submitters Havelock Village Limited [FS1377.197] and Fulton Hogan Limited [FS1334.32] have supported the submission. Although I can appreciate the logistics of a quarry operation having to manage their site when indigenous vegetation is present, I do not consider it appropriate to change the policy to recognise for this situation. SNAs are best kept intact if possible as this will help maintain their ecological value. The policy as notified uses 'avoiding' and to incorporate 'where practicable' seems in my view, to be contradicting the intent. On this basis, I recommend the panel reject McPherson Resources Limited [691.6]
281. Middlemiss Farm Holding Limited [794.9] is seeking to amend Policy 3.2.7 by adding in a reference to 'incentive' subdivision. I consider that the provisions for incentivising subdivision is provided for in Policy 3.2.8. and do not consider that adding 'incentive' to this policy serves any purpose. Accordingly, I recommend the panel reject Middlemiss Farm Holding Limited's submission [794.9].

#### 14.4 Recommendations

282. For the reasons above I recommend that the Hearings Panel:
- a. **Reject** Rushala Farm Ltd [450.1].
  - b. **Accept in part** Spark New Zealand Trading Limited [644.10], Vodafone New Zealand Limited [646.10] and Chorus New Zealand Limited [648.10].
  - c. **Accept** Heritage New Zealand Lower Northern Office [559.39].
  - d. **Reject** Fulton Hogan Limited [575.9] and Winstone Aggregates [FS/332.28] and McPherson Resources Limited [FS/292.33]. **Accept** Department of Conservation [FS/293.35].
  - e. **Reject** Auckland Fish and Game Council [433.38] and Ryburn Lagoon Trust Limited [FS/083.8]. **Accept** Federated Farmers [FS/342.116].
  - f. **Accept in part** Federated Farmers [680.36], Auckland/Waikato Fish and Game Council [FS/045.1] and Pakau Trust [FS/138.6].
  - g. **Reject** Paula Dudley [328.3].
  - h. **Reject** Bruce Cameron [587.10].
  - i. **Accept in part** Bruce Cameron [587.11].
  - j. **Accept in part** Bruce Cameron [587.7].
  - k. **Reject** Bruce Cameron [587.4] and Pakau Trust [FS/138.10].
  - l. **Reject** McPherson Resources Limited [691.6], Havelock Village Limited [FS/377.197] and Fulton Hogan Limited [FS/334.32].
  - m. **Reject** Middlemiss Farm Holding Limited [794.9].

#### 14.5 Recommended amendments

##### 3.1.2C Non-Regulatory Policy

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

##### Policy 3.2.6 Providing for vegetation clearance

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

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

~~(iv) <sup>14</sup>Firewood.~~

(v) Operating, maintaining or upgrading existing infrastructure

#### 14.6 Section 32AA evaluation

283. The recommended amendment to include non-regulatory policy and a minor administrative amendment does not change the planning outcome. Accordingly, no s32AA evaluation has been required to be undertaken.

## 15 Policy 3.2.8 Incentivise Subdivision

### 15.1 Introduction

284. Policy 3.2.8 Incentivise subdivision provides for the opportunity for the legal protection of Significant Natural Areas through subdivision where an additional lot(s) may be granted.

### 15.2 Submissions

285. Four primary submissions were received. Three submissions seek an additional clause to provide for incentivising when enhancement or restoration of biodiversity occurs. One submission seeks additional wording to incentivise if areas are protected.

Submission point	Submitter	Decision requested
81.253	Waikato Regional Council	Retain Policy 3.2.8 Incentivise subdivision.
686.1	Reid Crawford Farms Limited	Retain Policy 3.2.8 Incentivise subdivision, except for the amendments sought below: AND Add a new clause (b) to Policy 3.2.8 Incentivise subdivision, to include the following: <u>(b) Incentivise subdivision in the Rural Zone when there is the enhancement and/or restoration of biodiversity, legal and physical protection of areas that are of a suitable size and meet the Criteria for Determining Significance of Indigenous Biodiversity.</u>
<i>FS1342.171</i>	<i>Federated Farmers</i>	<i>Support</i>
362.1	CYK Limited	Retain Policy 3.2.8 Incentivise subdivision, except for the amendments sought below AND Add to Policy 3.2.8 Incentivise subdivision, as follows: <u>(b) Incentivise subdivision in the Rural zone when there is the enhancement and/or restoration of biodiversity,</u>

<sup>14</sup> Waikato District Council [697.360]

		<u>legal and physical protection of areas that are of a suitable size and meet the Criteria for Determining Significance of Indigenous Biodiversity.</u>
FS1062.29	Andrew and Christine Gore	Support
529.1	Wilcox Properties Limited	Retain Policy 3.2.8 Incentivise subdivision, except for the amendments sought below AND Add to Policy 3.2.8(b) Incentivise subdivision, as follows: <u>(b) Incentivise subdivision in the Rural Zone when there is the enhancement and/or restoration of biodiversity, legal and physical protection of areas that are of a suitable size and meet the Criteria for Determining Significance of Indigenous Biodiversity</u>
FS1377.126	Havelock Village Limited	Supports
514.1	DP & LJ Ramsey Limited	Retain Policy 3.2.8 Incentivise Subdivision, except for the amendments sought below AND Add to Policy 3.2.8 Incentivise Subdivision, as follows: <u>(b) Incentivise subdivision in the Rural Zone when there is the enhancement and/or restoration of biodiversity, legal and physical protection of areas that are of a suitable size and meet the Criteria for Determining Significance of Indigenous biodiversity.</u>
540.1	Glen Alvon Farms Limited	Retain Policy 3.2.8 Incentivise Subdivision as notified except for the amendments sought below AND Add a new clause (b) to Policy 3.2.8 Incentivise Subdivision as follows: <u>(b) Incentivise subdivision in the Rural Zone when there is the enhancement and/or restoration of biodiversity, legal and physical protection of areas that are of a suitable size and meet the Criteria for Determining Significance of Indigenous Biodiversity.</u>
FS1062.85	Andrew and Christine Gore	Supports
394.8	Gwenith Sophie Francis	Amend Policy 3.2.8 Incentivise subdivision, as follows: (a) Incentivise subdivision in the Rural Zone when there is the legal and physical protection of Significant Natural Areas, provided the areas are of a suitable size and quality to achieve <u>a functioning ecosystem material ecological benefit.</u> 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.
986.8	KiwiRail Holdings Limited (KiwiRail)	Amend Policy 3.2.8 - Incentivise subdivision as follows (or similar amendments to achieve the requested relief): <u>3.2.8 Policy - Incentivise subdivision that Protects Significant Natural Areas (a) Incentivise appropriate</u>

		subdivision <del>in the Rural zone when there is</del> <u>which provides for</u> the legal and physical protection of Significant Natural Areas, provided the areas are of a suitable size and quality to achieve a functioning ecosystem. AND Any consequential amendments to link and/or accommodate the requested changes.
831.87	Gabrielle Parson on behalf of Raglan Naturally	Delete Policy 3.2.8 Incentivise subdivision AND Add policies that will increase habitats.
<i>FS1342.241</i>	<i>Federated Farmers</i>	<i>Oppose</i>
794.10	Middlemiss Farm Holdings Limited	Amend Policy 3.2.8 Incentivise subdivision as follows: (a) Incentivise subdivision in the Rural Zone when there is the legal and physical protection of Significant Natural Areas, provided the areas are of a suitable size and quality to achieve a functioning ecosystem. <u>(b) Incentivises in situ subdivision in the Rural Zone where there are significant ecological benefits.</u> AND Amend the Proposed District Plan consequential or additional amendments as necessary to give effect to the submission.
<i>FS1387.1242</i>	<i>Mercury NZ Limited for Mercury D</i>	<i>Oppose</i>
<i>FS1308.129</i>	<i>The Surveying Company</i>	<i>Support</i>
433.39	Auckland Waikato Fish and Game Council	Delete Policy 3.2.8 Incentivise subdivision. AND Add new policy 3.2.8 as follows: <u>3.2.8A Policy - Incentivise Protection of Significant Natural Areas by enabling subdivision in the Rural Zone (a) Incentivise the legal and physical protection of Significant Natural Areas by enabling appropriate subdivision in the Rural Zone which is consistent with protecting the rural environment and only occurs where the Significant Natural Areas protected are of a suitable size and quality to achieve a functioning ecosystem.</u> AND/OR Any alternative relief to address the issues and concerns raised in the submission.
<i>FS1330.40</i>	<i>Middlemiss Farm Holdings Limited</i>	<i>Oppose</i>
680.37	Federated Farmers of New Zealand	Retain Policy 3.2.8 Incentivise subdivision, as notified.
<i>FS1315.4</i>	<i>Lochiel Farmlands Limited</i>	<i>Support</i>
332.1	Gwyneth & Barrie Smith	Retain Policy 3.2.8 Incentivise subdivision, except for the amendments sought below AND

		Add a new clause to Policy 3.2.8 Incentivise subdivision, as follows: <u>(b) Incentivise subdivision in the Rural Zone when there is the enhancement and/or restoration of biodiversity, legal and physical protection of areas that are of a suitable size and meet the Criteria for Determining Significance of Indigenous Biodiversity.</u>
FS1386.456	Mercury NZ Limited for Mercury C	Opposes
746.106	The Surveying Company	Amendments sought below AND Add a new clause (b) to Policy 3.2.8- Incentivise subdivision as follows: <u>(b) Incentivise subdivision in the Rural Zone when there is the enhancement and/or restoration of biodiversity, legal and physical protection of areas that are of a suitable size and meet the Criteria for Determining Significance of Indigenous Biodiversity.</u>
FS1062.103	Andrew and Christine Gore	Support

### 15.3 Analysis

286. The submissions from Waikato Regional Council [81.253], Federated Farmers [680.37] and TaTa Valley Limited [574.9] seek to retain Policy 3.2.8 Incentivise subdivision, as notified, as the policy provides for the opportunity to legally protect SNAs. Further submissions from Charlie Harris [FS1303.51] and New Zealand Health Food Park Limited [FS1301.51] have supported submission [574.9]. Further submitter Lochiel Farmlands Limited [FS1315.4] has supported submission [680.37]. I recommend the panel accept these submissions.
287. The submission from Raglan Naturally [831.87] seeks to delete Policy 3.2.8 Incentivise subdivision. Federated Farmers [FS1342.241] has opposed the submission. The reasons provided by Raglan Naturally are that they have concerns that subdivision will diminish the attraction that Raglan derives from its beaches and the north shore of the harbour having rural aspects. I agree with further submitter Federated Farmers where Policy 3.2.8 is one of a range of options available to encourage habitat protection through covenanting SNAs as part of a conservation lot subdivision. On this basis I recommend the panel reject the submission from Raglan Naturally [831.87].
288. Submissions from Wilcox Properties Limited [529.1], Glen Alvon Farms Limited [540.1], Reid Crawford Farms Limited [686.1], CYK Limited [362.1], DP and LJ Ramsay Limited [514.1], The Surveying Company [746.106] and Gwyneth and Barrie Smith [332.1] have sought an additional clause to Policy 3.2.8 to incentivise subdivision in the Rural Zone that recognises enhancement or restoration of biodiversity that meets the criteria within the Regional Policy Statement. Further submissions from Havelock Village limited [FS1377.126], Andrew and Christine Gore [FS1062.85], [FS1062.103] and [FS1062.29] and Federated Farmers [FS1342.171] support those submissions. I see no purpose in the inclusion of the additional clause. If an area meets the criteria of Appendix 2: Criteria for Determining Significance of Indigenous Biodiversity and a suitably qualified person such as an ecologist has deemed the area to meet the criteria, then there is no need for the additional clause as clause (a) would apply. I am mindful however that the concept of subdivision as a result of restoration/enhancement planting was discussed at length in the Rural Zone hearing. Thus, the Panel may wish to further consider my response to these submissions, depending on their approach to that issue. In the meantime I recommend the panel reject the submissions from Wilcox Properties Limited [529.1], CYK Limited [362.1] and Glen Alvon Farms [540.1].
289. The submission from Gwenith Sophie Francis [394.8] seeks to amend Policy 3.2.8 by deleting reference to a functioning ecosystem and replace it with a material ecological benefit. I am not

sure what a ‘*material ecological benefit*’ would look like and whether this approach could be quantified. In my opinion it is important that the ecosystem is a functioning system and an ecologist will be able to confirm this as part of an assessment. A functioning ecosystem is vital for the survival of the area and I consider the wording in the policy is appropriate to ensure that any conservation lots are and will remain functioning systems. On this basis I recommend the panel reject the submission from Gwenith Sophie Francis [394.8].

290. KiwiRail Holdings Limited [986.8] seeks to amend the wording of Policy 3.2.8. The submitter has concerns that the policy as written may encourage widespread subdivision or ad-hoc subdivision in the Rural Zone rather than the object of incentivising the legal protection of SNAs. The submitter believes that the subdivision should be appropriate. In my opinion the additional wording is not required as the purpose of the policy is to simply encourage the legal protection of SNAs. The only zone this can occur in is the Rural Zone where there are SNAs that would benefit from legal protection. However, I do agree with the additional wording of ‘provides for’. I recommend the panel accept in part the submission from KiwiRail Holding Limited [986.8].
291. The submission from Middlemiss Farm Holdings Limited [794.10] seeks to amend Policy 3.2.8 Incentivise subdivision by adding an addition clause that incentivises in situ subdivision in the Rural Zone where there are significant ecological benefits. Further submitters Mercury Energy Limited [FS/387.1242] has opposed the submission, and The Surveying Company [FS/308.129] has supported the submission. In my opinion the policy as notified will achieve this. The reasons provided by the submitter are that there is concern that the proposed plan is largely focused on only protecting existing SNAs and ignores restoring, linking, and expanding indigenous vegetation. My understanding from reading the reasons provided is that there is a desire to allow for new plantings or restoration works to qualify for subdivision. The conservation lot subdivision rule is based on SNAs that are worthy of protection. In my view this is appropriate as any newly planted areas will need significant management to ensure they will eventually meet the criteria in Appendix 2. If such an area eventually meets the criteria, it is at this point that a property owner could approach the Council with an application for a conservation lot subdivision. In my opinion the policy as notified is appropriate. I am mindful however that the concept of subdivision as a result of restoration/enhancement planting was discussed at length in the Rural Zone hearing. Thus the Panel may wish to further consider my response to these submissions depending on their approach to that issue. In the meantime I recommend the panel reject the submission from Middlemiss Farm Holdings Limited [794.10].
292. The submission from Auckland Waikato Fish and Game [433.39] seeks to delete Policy 3.2.8 Incentivise subdivision and replace it with an alternative policy. The reasons provided are they believe the policy incorrectly focuses on incentivising subdivision rather than legal and physical habitat protection. A further submission from Middlemiss Farm Holdings Limited [FS/3340.40] has opposed the submission. In my opinion the policy as notified is appropriate and provides for the protection of significant natural areas. On this basis I recommend the panel rejects the submission from Auckland Waikato Fish and Game [433.39].

#### 15.4 Recommendations

293. For the reasons above I recommend that the Hearings Panel:
- a. **Accept** Waikato Regional Council [81.253] Federated Farmers [680.37], TaTa Valley Limited [574.9], Charlie Harris [FS/303.51], New Zealand Health Food Park Limited [FS/301.51] and Lochiel Farmlands Limited [FS/315.4].
  - b. **Reject** Raglan Naturally [831.87] and **Accept** Federated Farmers [FS/342.241].
  - c. **Reject** Wilcox Properties Limited [529.1], Glen Alvon Farms [540.1], The Surveying Company [746.106], Gwyneth and Barrie Smith [332.1], CYK Limited [362.1], DP and LJ

Ramsay Limited [514.1], Havelock Village limited [FS/377.126] and Andrew and Christine Gore [FS/062.85] and [FS/062.103]. **Accept** Mercury Energy Limited [FS/386.456].

- d. **Reject** Gwenith Sophie Francis [394.8] and Federated Farmers [FS/342.69].
- e. **Accept in part.** KiwiRail Holding Limited [986.8].
- f. **Reject** Middlemiss Farm Holdings Limited [794.10] and The Surveying Company [FS/308.129] and **Accept** Mercury Energy Limited [FS/387.1242].
- g. **Reject** Auckland Waikato Fish and Game [433.39] and **Accept** Middlemiss Farm Holdings Limited [FS/3340.40].

## 15.5 Recommended amendments

294. The recommendation is as follows:

### Policy 3.2.8-Incentivise subdivision

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

## 15.6 Section 32AA evaluation

295. The recommended amendments do not change the planning outcomes. Accordingly, no s32AA evaluation has been required.

# 16 New Objectives/Policies

296. The following submissions were made seeking to include new objectives:

## 16.1 Submissions

297. Two primary submission have been received – one seeking new maps objectives, policies and rules to manage bats and the other seeking a new objective to encourage the restoration and/or rehabilitation of indigenous ecosystems.

Submission point	Submitter	Decision requested
394.6	Gwenith Sophie Francis	Add a new objective to Chapter 3 Natural Environment, to encourage the restoration and/or rehabilitation of indigenous ecosystems to encourage new significant ecological areas to be established to replace, in part, what has been lost.  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.
394.7	Gwenith Sophie Francis	Add new policies to Chapter 3 Natural Environment to implement the additional objective requested (in submission point 394.6) which provide, interalia, subdivision incentives for creating areas with



		<p>significant indigenous biodiversity value, including the encouragement, establishment or protection of: (i) Significant linkages between large (significant) areas of native bush, wetland, scrubland and dunelands; (ii) Significant enhancement of an area which is already significant in terms of bush or natural values; (iii) Significant restoration or enhancement of areas which are largely depleted, highly modified or destroyed in terms of native biodiversity within the district; (iv) Compensation, mitigation or remediation to offset the adverse effects of subdivision or development.</p> <p>AND</p> <p>Amend the Proposed District Plan to make consequential or further additional relief, as is appropriate to give effect to the intent of the submission.</p>
<i>FS1342.68</i>	<i>Federated Farmers</i>	<i>Oppose</i>
585.38	Department of Conservation	Add new maps, objectives, policies and rules recognising and providing for bat zones and tree protection (see submission for an example of a rule from the Draft Timaru District Plan).
<i>FS1377.165</i>	<i>Havelock Village Limited</i>	<i>Oppose</i>
<i>FS1340.97</i>	<i>TaTa Valley Limited</i>	<i>Oppose</i>
<i>FS1345.9</i>	<i>Genesis Energy Limited</i>	<i>Oppose</i>
<i>FS1342.160</i>	<i>Federated Farmers</i>	<i>Oppose</i>

## 16.2 Analysis

298. The submission from Gwenith Sophie Francis [394.6] is seeking an additional objective to encourage enhancement and restoration to create new SNAs. Further submitters Andrew and Christine Gore [FS1062.35] support the submission, and a further submission from Federated Farmers [FS1342.68] opposes the submission. In my opinion the request will be achieved via Objective 3.1.1 and 3.2.1, where indigenous biodiversity values are either protected, maintained, or enhanced. These objectives are supported by the suite of policies that sit beneath these that support offsetting and enhancement and will effectively replace any biodiversity that is lost through development. I consider that the objective sought is more akin to a policy than an intended outcome (which is the purpose of an objective). The submitter has also requested in submission [394.7] to add new policies to support subdivision incentives for creating areas with significant indigenous biodiversity values which is further supported by Federated Farmers [FS1342.69]. I am mindful however that the concept of subdivision as a result of restoration/enhancement planting was discussed at length in the Rural Zone hearing, and in particular whether this required a SNA as a starting point. Thus, the panel may wish to further consider my response to these submissions depending on their approach to that issue. In the meantime, I recommend the panel reject the submission from Gwenith Sophie Francis [394.6].
299. The Department of Conservation [585.38] submission seeks new objective, policies, and rules to recognise bat zones and tree protection, and provides as an example the Timaru District Plan. The Director-General highlights that both exotic and native trees provide habitat for native bats. The submission also seeks the mapping of bat zones as these will provide protection for important bat nesting and roosting areas. Further submissions from Havelock Village [FS1377.165], TaTa

Valley Limited [FS/340.97], Genesis Energy Limited [FS/345.9] and Federated Farmers [FS/342.160] have all opposed the submission.

300. I have reviewed the rules in the Timaru District Plan and can appreciate that if bat habitat mapping has occurred then these rules may be appropriate. However, Waikato Regional Council, through the Regional Policy Statement in Section 11.2.1, is required to identify areas of significant indigenous vegetation and significant habitats of indigenous fauna. To the best of my knowledge Waikato District Council has not been provided with any spatial data for the habitats of bats. In the absence of this spatial data it would be very difficult to include provisions if we do not know where the habitats are. Therefore I do not consider it appropriate to implement provisions in regard to bats and on this basis I recommend the panel reject the Department of Conservation's submission [585.38].

### 16.3 Recommendations

301. For the reasons above I recommend that the Hearings Panel:
- Reject** Gwenith Sophie Francis [394.6],[394.7] Andrew and Christine Gore [FS/062.35]. **Accept** Federated Farmers [FS/342.68].
  - Reject** Department of Conservation [585.38].
  - Accept** Havelock Village [FS/377.165], TaTa Valley Limited [FS/340.97], Genesis Energy Limited [FS/345.9] and Federated Farmers [FS/342.160].

### 16.4 Recommended amendments

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

### 16.5 Section 32AA evaluation

303. There are no recommended amendments. Accordingly, no s32AA evaluation has been required to be undertaken.

## 17 Kauri Dieback

### 17.1 Introduction

304. Kauri dieback disease is caused by *Phytophthora agathidicida* and is a lethal threat to the survival of kauri. It is spread through the movement of soil contaminated with *Phytophthora agathidicida*. The disease is currently not present in the Waikato District.

### 17.1 Submissions

305. Four submissions have been received regarding kauri dieback. The submissions seek amendments to earthwork policies and the addition of new objectives, policies and rules to manage this concern.

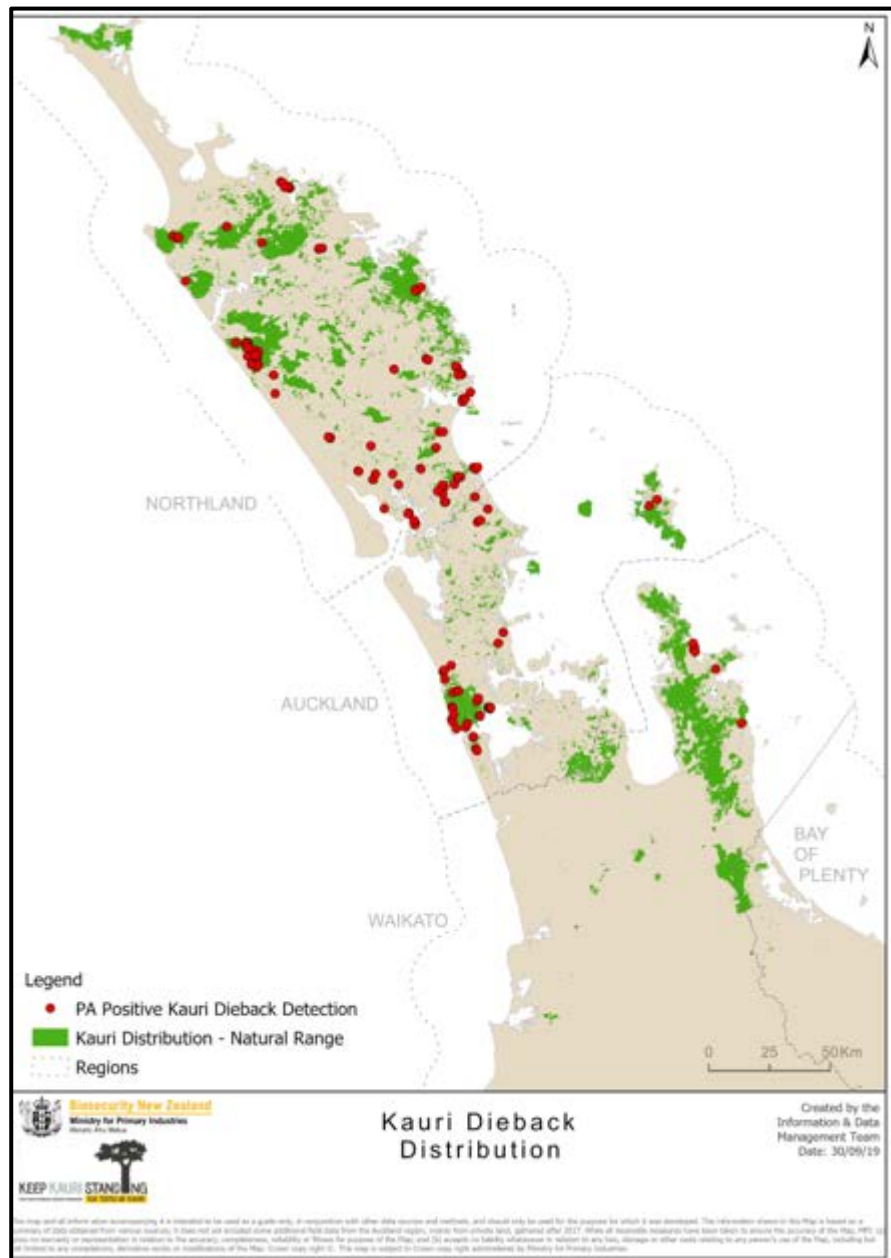
Submission point	Submitter	Decision requested
81.23	Waikato Regional Council	Add issues, objectives, policies and rules to address the spread of Kauri Dieback Disease.
FS/342.46	Federated Farmers	Opposes
585.33	Department of Conservation	Add new objectives, policies and rules to address the management of kauri dieback, particularly around

		earthworks and measures to prevent spread of the disease.
<i>FS1342.158</i>	<i>Federated Farmers</i>	<i>Oppose.</i>
585.5	Department of Conservation	Amend Policy 5.3.5 Earthworks activities to address the management of kauri dieback and measures to prevent the spread of the disease.
<i>FS1342.150</i>	<i>Federated Farmers</i>	<i>Oppose</i>
585.7	Department of Conservation	Amend Policy 5.6.7 Earthworks to address the management of kauri dieback and measures to prevent the spread of the disease.

## 17.2 Analysis

306. Submissions from Waikato Regional Council [81.23] and the Department of Conservation [585.33] [585.7] and [585.5] seek additional objectives, policies and rules to manage kauri dieback. Department of Conservation seek amendment to Policy 5.3.5 and 5.6.7 which relate to the Rural and Country Living Zones. Further submissions from Federated Farmers [*FS1342.158*], [*FS1342.46*] and [*FS1342.150*] oppose these submissions.

Diagram I showing the Kauri Dieback Distribution Sourced from Biosecurity New Zealand



307. I have considered the rules that have been included in the Thames Coromandel District Council (TCDC). In my view, these rules are complex and not particularly user friendly from a plan user perspective, nor from a monitoring and enforcement perspective. These rules have come about by an appeal to the Thames Coromandel District Plan. The permitted activity in the TCDC plan is earthworks are permitted if not within a kauri hygiene zone which cascades to restricted discretionary. I have provided this in Appendix 6.
308. I note that the Auckland Unitary Plan has taken a more simplistic approach to managing this disease where for example a matter of discretion is “the extent to which is appropriate to require measure to contain and control plant pathogens and diseases including kauri die back”. I also searched the Whangarei District Plan and the approach they are taking is to discourage earthworks in the vicinity of kauri, however I found neither plan contained a rule framework similar in complexity to the TCDC plan. I believe that management of Kauri Dieback should be dealt with at a national or regional issue. I also believe the management of such will be a constantly changing process as

we become aware of new management techniques. I note that the Waikato Regional Plan is currently under review and my preference is for consideration to be given to this issue in the Waikato Regional Plan during that review process. Nevertheless, I can see some merit in including a policy to help address kauri dieback, and I believe any policy framework would best sit within Chapter 3 Natural Environment under 3.1.2 Policies (b) as a new clause as follows:

### 3.1.2 Policies

- (a) Enable activities that maintain or enhance indigenous biodiversity including:
- (i) Planting using indigenous species suitable to the habitat and eco-sourcing these <sup>15</sup>where practical;
  - (ii) the removal or management of pest plant and animal species;
  - (iii) biosecurity works.
- (b) Consider the following when avoiding, remedying or mitigating adverse effects on indigenous biodiversity:
- (i) the required range of natural food sources;
  - (ii) habitats of threatened and at risk species;
  - (iii) ecological processes and corridors;
  - (iv) ecological sequences;
  - (v) migratory pathways;
  - (vi) pest plants and pest animals;
  - (vii) the Waikato river and its catchment;
  - (viii) natural character and landscape values of the area;
  - (ix) natural waterway habitats and hydrology;
  - (x) ecological corridors, natural processes and buffer areas;
  - (xi) legal and physical protection of existing habitat;
  - (xii) the effects of earthworks on Agathis australis (Kauri)
- (c) Provide for the removal of manuka or kanuka on a sustainable basis

309. This would be supported by a Permitted Earthworks rule as follows (and replicated appropriately in every zone):

#### Rule 22.2.3.1 Earthworks – General

PI	<p>(a) Earthworks for:</p> <ul style="list-style-type: none"> <li>(i) Ancillary rural earthworks;</li> <li>(ii) Farm quarry where the volume of aggregate does not exceed 1000m<sup>3</sup> per single consecutive 12 month period;</li> <li>(iii) Construction and/or maintenance of tracks, fences or drains;</li> <li>(iv) A building platform for a residential activity, including accessory buildings.</li> <li>(v) <u>Where they are not within a kauri root zone</u></li> </ul>
RDI	<p>(a) Earthworks that do not comply with Rule 22.2.3.1 PI, P2, P3 P4 or P5</p> <p>(b) Council's discretion shall be limited to the following matters:</p> <ul style="list-style-type: none"> <li>(i) amenity values and landscape effects;</li> <li>(ii) volume, extent and depth of earthworks;</li> <li>(iii) nature of fill material;</li> </ul>

<sup>15</sup> Department of Conservation [585.40]

	<ul style="list-style-type: none"> <li>(iv) contamination of fill material or cleanfill;</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><u>(xii) the effects on any kauri tree</u></li> </ul>
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310. In my view any rule framework is best kept simple, and as knowledge increases in relation to this disease, that a guidance note be included referring plan users to the latest information on the methodology on how to manage would be the best way forward for this species. This will also prevent a rule framework from becoming ‘locked in’ and potentially becoming outdated. This approach will ensure that best practice is always undertaken. The proposed rule will be added to the earthworks rule and require that earthworks are not within the kauri root zone (defined in the guide) and if the permitted baseline is exceeded then the effects on the kauri tree in relation to earthworks will need to be managed as per the guidelines. I have recommended that the guidance note be added to the following zones: Residential Zone, Rural Zone, Country Living Zone, Village Zone and the Reserve Zone. I consider that if kauri trees are present that they are more likely to be in these zones as opposed to the Business or Industrial Zones and the special purpose zones

Guidance note

Guidance on Kauri Die Back can be found in the Protecting Kauri: A Rural Landowner’s Guide produced by Waikato Regional Council.

I have considered whether there is a need to define “kauri root zone” but after having looked at the Regional Council guidance, the term is well described and drawn. I also considered whether it was necessary to insert the kauri dieback rules in every zone but consider that a more realistic approach is to target those zones where the trees are most likely to be located.

### 17.3 Recommendations

311. For the reasons above I recommend that the Hearings Panel:
- a) **Accept in part** Waikato Regional Council [81.23] and Department of Conservation [585.33].[585.7] and [585.5] Federated Farmers [FS/342.158], [FS/342.46] and [FS/342.150].

### 17.4 Recommended amendments

312. The recommended amendments are as follows.

Guidance Note

[<sup>16</sup>Guidance on Kauri Die Back can be found in the Protecting Kauri: A Rural Landowner's Guide produced by Waikato Regional Council and endorsed by Ministry for Primary Industries.](#)

### Policy 3.1.2

- (a) Enable activities that maintain or enhance indigenous biodiversity including:
  - (i) planting using indigenous species suitable to the habitat;
  - (ii) the removal or management of pest plant and animal species;
  - (iii) biosecurity works.
- (b) Consider the following when avoiding, remedying or mitigating adverse effects on indigenous biodiversity:
  - (i) the required range of natural food sources;
  - (ii) habitats of threatened and at risk species;
  - (iii) ecological processes and corridors
  - (iv) ecological sequences;
  - (v) migratory pathways;
  - (vi) pest plants and pest animals;
  - (vii) the Waikato river and its catchment;
  - (viii) natural character and landscape values of the area;
  - (ix) natural waterway habitats and hydrology;
  - (x) ecological corridors, natural processes and buffer areas;
  - (xi) legal and physical protection of existing habitat;
  - [<sup>17</sup>\(xii\) the effects of earthworks on Agathis australis \(kauri\).](#)

### Chapter 16: Residential Zone Rule 16.2.4.1 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 1.5m 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 re-vegetated 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> </ul>
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<sup>16</sup> Waikato Regional Council [81.23] Department of Conservation [585.33], [585.5] and [585.7]

<sup>17</sup> Waikato Regional Council [81.23] Department of Conservation [585.33], [585.5] and [585.7]

	<ul style="list-style-type: none"> <li>(ix) Do not divert or change the nature of natural water flows, water bodies or established drainage paths;</li> <li>(x) <u>Where they are not within a kauri root zone.</u></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>(i) Be carried out in accordance with NZS 4431:1989 Code of Practice for Earth Fill for Residential Development;</li> <li>(ii) <u>Where they are not within a kauri root zone.</u></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> <li>(viii) <u>Where they are not within a kauri root zone.</u></li> </ul>
RDI	<p>(a) Earthworks that do not comply with Rule 16.2.4.1 P1, P2 or P3.</p> <p>(b) The Council's 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;</li> <li>(xi) Land instability, erosion and sedimentation; and</li> <li>(xii) <u>The effects on any kauri tree.</u></li> </ul>
NCI	Earthworks including the importation of cleanfill to a site.

#### Chapter 22: Rural Zone Rule 22.2.3.1-Earthworks- General

PI	<p>(a) Earthworks for:</p> <ul style="list-style-type: none"> <li>(i) Ancillary rural earthworks;</li> <li>(ii) Farm quarry where the volume of aggregate does not exceed 1000m<sup>3</sup> per single consecutive 12 month period;</li> <li>(iii) Construction and/or maintenance of tracks, fences or drains;</li> <li>(iv) A building platform for a residential activity, including accessory buildings;</li> </ul>
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	(v) <u><sup>18</sup>Where they are not within a kauri root zone.</u>
P2	<p>(a) Earthworks within a site must meet all of the following conditions:</p> <ul style="list-style-type: none"> <li>(i) Do not exceed a volume of more than 1000m<sup>3</sup> and an area of more than 2000m<sup>2</sup> over any single consecutive 12 month period;</li> <li>(ii) The total depth of any excavation or filling does not exceed 3m above or below ground level with a maximum slope of 1:2 (1 vertical to 2 horizontal);</li> <li>(iii) Earthworks are setback 1.5m from all boundaries;</li> <li>(iv) Areas exposed by earthworks are re-vegetated to achieve 80% ground cover within 6 months of the commencement of the earthworks;</li> <li>(v) Sediment resulting from the earthworks is retained on the site through implementation and maintenance of erosion and sediment controls;</li> <li>(vi) Do not divert or change the nature of natural water flows, water bodies or established drainage paths;</li> <li>(vii) <u>Where they are not within a kauri root zone.</u></li> </ul>
P3	<p>(a) Earthworks for the purpose of creating a building platform for residential purposes within a site, using imported fill material must meet the following conditions:</p> <ul style="list-style-type: none"> <li>(i) Be carried out in accordance with NZS 4431:1989 Code of Practice for Earth Fill for Residential Development;</li> <li>(ii) <u>Where they are not within a kauri root zone.</u></li> </ul>
P4	<p>(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:</p> <ul style="list-style-type: none"> <li>(ix) not exceed a total volume of 200m<sup>3</sup>;</li> <li>(x) not exceed a depth of 1m;</li> <li>(xi) 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>(xii) fill material is setback 1.5m from all boundaries;</li> <li>(xiii) areas exposed by filling are revegetated to achieve 80% ground cover within 6 months of the commencement of the earthworks;</li> <li>(xiv) sediment resulting from the filling is retained on the site through implementation and maintenance of erosion and sediment controls;</li> <li>(xv) does not divert or change the nature of natural water flows, water bodies or established drainage paths;</li> <li>(xvi) <u>Where they are not within a kauri root zone.</u></li> </ul>
RDI	<p>(a) Earthworks that do not comply with Rule 22.2.3.1 P1, P2, P3 or P4.</p> <p>(b) Council's discretion shall be limited 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 or cleanfill;</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) <u><sup>19</sup>The effects on any kauri tree</u></li> </ul>

<sup>18</sup> Waikato Regional Council [81.23] Department of Conservation [585.33], [585.5] and [585.7]

<sup>19</sup> Waikato Regional Council [81.23] Department of Conservation [585.33], [585.5] and [585.7]

## Chapter 23: Country Living Zone Rule 23.2.3.1 Earthworks-General

P1	(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> <li>(iv) <sup>20</sup><u>Where they are not within a kauri root zone</u></li> </ul>
P2	(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 re-vegetated to achieve 80% ground cover within 6 months of the commencement of the earthworks;</li> <li>(v) Sediment resulting from the earthworks is retained on the site through implementation and maintenance of erosion and sediment controls;</li> <li>(vi) Do not divert or change the nature of natural water flows, water bodies or established drainage paths;</li> <li>(vii) <sup>21</sup><u>Where they are not within a kauri root zone</u></li> </ul>
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: <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>
P4	(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>(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 set back 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> <li>(viii) <sup>22</sup><u>Where they are not within a kauri root zone</u></li> </ul>
RDI	(a) Earthworks that do not comply with Rule 23.2.3.1 P1, P2, P3 or P4. (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> </ul>

<sup>20</sup> Waikato Regional Council [81.23] Department of Conservation [585.33], [585.5] and [585.7]

<sup>21</sup> Waikato Regional Council [81.23] Department of Conservation [585.33], [585.5] and [585.7]

<sup>22</sup> Waikato Regional Council [81.23] Department of Conservation [585.33], [585.5] and [585.7]

	<ul style="list-style-type: none"> <li>(x) Flood risk, including natural water flows and established drainage paths;</li> <li>(xi) Land instability, erosion and sedimentation;</li> <li>(xii) <sup>23</sup><a href="#">The effects on any kauri tree</a></li> </ul>
NCI	Earthworks including the importation of cleanfill to a site.

#### Chapter 24: Village Zone 24.2.4.1 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 1,000m<sup>2</sup> over any single 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 re-vegetated 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> <li>(x) <a href="#">Where they are not within a kauri root zone.</a></li> </ul>
P2	<p>(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:</p> <ul style="list-style-type: none"> <li>(iii) Be carried out in accordance with NZS 4431:1989 Code of Practice for Earth Fill for Residential Development;</li> <li>(iv) <a href="#">Where they are not within a kauri root zone.</a></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> <li>(viii) <a href="#">Where they are not within a kauri root zone.</a></li> </ul>
RDI	<ul style="list-style-type: none"> <li>(c) Earthworks that do not comply with Rule 24.2.4.1 PI, P2 or P3.</li> <li>(d) 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> </ul> </li> </ul>

<sup>23</sup> Waikato Regional Council [81.23] Department of Conservation [585.33], [585.5] and [585.7]

	<ul style="list-style-type: none"> <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) <a href="#">The effects on any kauri tree.</a></li> </ul>
NCI	Earthworks including the importation of cleanfill to a site.

## Chapter 25 Reserve Zone: 25.2.4 Earthworks-general

P1	<p>(a) Earthworks within a site must meet all of the following:</p> <ul style="list-style-type: none"> <li>(i) Be located more than 1.5m from a public sewer, open drain, overland flow path or other service pipe;</li> <li>(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;</li> <li>(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);</li> <li>(iv) Areas exposed by earthworks are re-vegetated to achieve 80% ground cover within 6 months of the commencement of the earthworks;</li> <li>(v) Sediment resulting from the earthworks is retained on the site through implementation and maintenance of erosion and sediment controls;</li> <li>(vi) Do not divert or change the nature of natural water flows, water bodies or established drainage paths;</li> <li>(vii) Do not result in the site being unable to be serviced by gravity sewers; and</li> <li>(viii) <a href="#">Where they are not within a kauri root zone.</a></li> </ul>
P2	<p>(a) The importation of fill material to a site must meet all of the following conditions, in addition to the conditions in P1.</p> <ul style="list-style-type: none"> <li>(i) Does not exceed a total volume of 500m<sup>3</sup> per site and a depth of 1m;</li> <li>(ii) Is fit for compaction;</li> <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> <p>(c) <a href="#">The effects on any kauri tree.</a></p>
RDI	<p>(a) Earthworks that do not comply with Rule 25.2.4.1 P1 or P2.</p> <p>(b) Council's discretion is 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 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> </ul>

	<p>(viii) Protection of the Hauraki Gulf Catchment Area;</p> <p>(ix) Geotechnical stability;</p> <p>(x) Flood risk, including natural water flows and established drainage paths</p> <p>(xi) Land instability, erosion and sedimentation;</p> <p>(xii) Proximity to underground services and service connections;</p> <p>(xiii) <u>The effects on any kauri tree.</u></p>
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## 17.5 Section 32AA evaluation

313. The addition of a new policy and rules for management of kauri dieback is to recognise that earthworks have potential to spread this disease.

### *Other reasonably-practicable options*

314. There are two options for consideration:

- a. Retain the framework as notified and not have any provisions specific to kauri.
- b. Recognise the potential for kauri dieback when earthworks occur within the root zone of a kauri.

### *Effectiveness and efficiency*

315. The recommended additional clause to Policy 3.1.2 to recognise kauri dieback will ensure that when undertaking earthworks, the adverse effects on kauri can be mitigated through following best practice guidelines provided by Regional Council and Central Government agencies. The amendments improve the effectiveness of the policy framework in implementing the objectives within Chapter 3 (particularly Objective 3.1.1 which seeks the maintenance or enhancement of indigenous biodiversity) and provide suitable guidance to plan users for the assessment of activities that affect the natural values and management of indigenous vegetation, in particular kauri trees. The recommended additional policy and rules will be more effective and efficient at giving effect to the Waikato Regional Policy Statement.

### *Costs and benefits*

316. There are potential costs to those who wish to undertake earthworks in the vicinity of kauri trees and therefore require a resource consent. However, by collaborating with the Councils and Central Government agencies, there are benefits for the environment. There is wider benefit to the local and regional community when managing the way earthwork occurs near this species.

### *Risk of acting or not acting*

317. The risk of not acting prevents a collaborative approach to biodiversity management between landowners and Councils and Central Government agencies. The risk of not having a pathway to help manage kauri dieback is that the disease may spread to kauri within the district. There is sufficient information on the costs to the environment, and benefits to people and communities to justify the additional policy and rules. However, the number and location of kauri within the district is not known.

### *Decision about most appropriate option*

318. The recommended amendment gives effect to Objective 3.1 Indigenous Vegetation and habitats in Chapter 3 Natural Environment, which requires indigenous vegetation to be maintained or enhanced. It is more appropriate in achieving the purpose of the RMA than the notified version where there are no policies and rules for earthworks near kauri. The new policy and rules give effect to the Waikato Regional Policy Statement Section 11 where there is a requirement to promote positive indigenous biodiversity outcomes.

## 18 Kunzea and Leptospermum (kanuka and manuka)

### 18.1 Introduction

319. The notified Proposed District Plan took the approach of enabling the clearance of kanuka and manuka as a permitted activity. Policy 3.1.2(c) enabled the removal of kanuka and manuka on a sustainable basis, and this outcome was delivered by the following rules:

Maximum amount	Any restrictions	Purpose
<b>Inside a SNA</b>		
5m <sup>3</sup> per year per property	Outside of the Coastal Environment  The removal will not directly result in the death, destruction or irreparable damage of any other tree, bush or plant	domestic firewood purposes or arts and crafts
<b>Outside a SNA</b>		
1000m <sup>2</sup> per single consecutive 12 month period	Needs to be greater than 10m from a waterbody  Plants must be less than 4m in height	Maintaining productive pasture

320. A number of submitters sought that this area for clearance be increased, while other submitters such as Waikato Regional Council and the Department of Conservation sought that the limits be reduced or that the permitted clearance of kanuka and manuka be deleted completely.

### 18.2 Submissions

Submission point	Submitter	Decision requested
585.37	Department of Conservation	Add new objectives, policies and rules to recognise and implement measures to address and manage the revised conservation status of Kunzea and Leptospermum taxa.
<i>FSI 342.159</i>	<i>Federated Farmers</i>	<i>Opposes</i>
585.43	Department of Conservation	Amend Policy 3.1.2(c) Policies to appropriately recognise and implement measures to address and manage Kunzea and Leptospermum in light of their reassessed conservation status.
<i>FSI 342.162</i>	<i>Federated Farmers</i>	<i>Oppose</i>
81.97	Waikato Regional Council	Amend Policy 3.1.2(c) Policies as follows: (c) Provide for the removal of manuka or kanuka <u>for domestic firewood or arts and crafts</u> on a sustainable basis.

<i>FS1342.37</i>	<i>Federated Farmers</i>	<i>Oppose</i>
697.125	Waikato District Council	Amend Rule 16.2.8 P2 Indigenous vegetation clearance inside a Significant Natural Area as follows: <i>Removal of up to 5m<sup>3</sup> of manuka and/or kanuka outside of the Coastal Environment per year per property site</i> for domestic firewood purposes or arts and crafts provided the removal will not directly result in the death, destruction or irreparable damage of any other tree, bush or plant.
81.47	Waikato Regional Council	Amend Rule 16.2.8 P2 Indigenous vegetation clearance inside a Significant Natural Area to ensure that weeds are controlled in the cleared area and native vegetation is allowed to regenerate.
<i>FS1377.6</i>	<i>Havelock Village Limited</i>	<i>Opposes</i>
553.39	Malibu Hamilton	Retain Rule 16.2.8 P2, P4 and P5 Indigenous vegetation clearance inside a Significant Natural Area.
81.46	Waikato Regional Council	Retain Rule 16.2.8 P2 Indigenous vegetation clearance inside a Significant Natural Area, except for the amendments sought below AND Amend Rule 16.2.8 P2 Indigenous vegetation clearance inside a Significant Natural Area to exclude clearance of manuka and kanuka in wetlands and the coastal environment from this rule.
<i>FS1377.5</i>	<i>Havelock Village Limited</i>	<i>Supports</i>
553.17	Malibu Hamilton	Retain Rule 17.2.9 P2, P4, P5, and P6 Indigenous vegetation clearance inside a Significant Natural Area.
697.198	Waikato District Council	Amend Rule 17.2.9 P2 Indigenous vegetation clearance inside a Significant Natural Area as follows: <i>Removal of up to 5m<sup>3</sup> of manuka and/or kanuka outside of the Coastal Environment per year per property site</i> for domestic firewood purposes or arts and crafts provided the removal will not directly result in the death, destruction or irreparable damage of any other tree, bush or plant.
780.33	Whaingaroa Environmental Defence Incorporated Society	Amend Rule 17.2.9 P2 Indigenous vegetation clearance inside a Significant Natural Area as follows: <i>Removing of up to 53m<sup>3</sup> of manuka and/or kanuka outside of the Coastal Environment</i> per single consecutive 12 month period per property for domestic firewood purposes or arts and craft, provided the removal will not directly result in the death, destruction or irreparable damage to any other tree, bush or plant.
<i>FS1007.19</i>	<i>Phillip John Swann</i>	<i>Opposes</i>
831.3	Gabrielle Parson on behalf of Raglan Naturally	Amend Rule 17.2.9 P2 Indigenous vegetation clearance inside a Significant Natural Area as follows: <i>Removing of up to 53m<sup>3</sup> of manuka and/or kanuka outside of the Coastal Environment</i> per ...

<i>FS1007.21</i>	<i>Phillip John Swann</i>	<i>Opposes 831.3</i>
830.2	Linda Silvester	Amend Rule 17.2.9 P2 Indigenous vegetation clearance inside a Significant Natural Area as follows: <del>Removing up to 53m2 of Manuka and/or kanuka outside of the Coastal Environment</del> per single...
825.33	John Lawson	Amend Rule 17.2.9 P2 Indigenous vegetation clearance inside a Significant Natural Area as follows: <i>Removing of up to 53m3 of manuka and/or kanuka outside of the Coastal Environment</i> per single consecutive 12 month period per property for domestic firewood purposes or arts and craft, provided the removal will not directly result in the death, destruction or irreparable damage to any other tree, bush or plant.
<i>FS1007.20</i>	<i>Phillip John Swann</i>	<i>Opposes 825.33</i>
697.637	Waikato District Council	Amend Rule 20.2.9 (P2) Indigenous vegetation clearance inside a Significant Natural Area, as follows: <i>Removal of up to 5m3 of manuka and/or kanuka outside of the Coastal Environment per year per property site</i> for domestic firewood purposes or arts and crafts provided the removal will not directly result in the death, destruction or irreparable damage of any other tree, bush or plant.
553.20	Malibu Hamilton	Retain Rule 20.2.9 P2-, P4, P5, and P6 Indigenous vegetation clearance inside a Significant Natural Area.
697.713	Waikato District Council	Amend Rule 21.2.9 (P2) Indigenous vegetation clearance inside a Significant Natural Area, as follows: <i>Removal of up to 5m3 of manuka and/or kanuka outside of the Coastal Environment per year per property site</i> for domestic firewood purposes or arts and crafts provided the removal will not directly result in the death, destruction or irreparable damage of any other tree, bush or plant.
349.34	Lochiel Farmlands Limited	Amend Rule 22.2.7 P2 Indigenous vegetation clearance inside a Significant Natural Area, to remove the limitation on manuka/kanuka removal.
<i>FS1377.58</i>	<i>Havelock Village Limited</i>	<i>Supports 349.34</i>
<i>FS1114.16</i>	<i>Fire and Emergency New Zealand</i>	<i>Supports 349.34</i>
704.5	The C. Alma Baker Trust	No specific decision sought, but the submission opposes the volume limit of 5m3 of manuka and/or kanuka per property within a 12 month period for use as domestic firewood in Rule 22.2.7 P2 Indigenous vegetation clearance inside a Significant Natural Area
535.71	Hamilton City Council	Delete Rule 22.2.7 P2 Indigenous vegetation clearance inside a Significant Natural Area; AND



		Delete Rule 22.2.7 P6 Indigenous vegetation clearance inside a Significant Natural Area. AND Any consequential amendments and/or additional relief required to address the matters raised in the submission.
FS1377.131	Havelock Village Limited	Opposes
FS1340.85	TaTa Valley Limited	Opposes
FS1345.108	Genesis Energy Limited	Opposes
587.6	Bruce Cameron	Amend Rule 22.2.7 P2 Indigenous vegetation clearance inside a Significant Natural Area, to allow removal of bastard Totara trees.
587.5	Bruce Cameron	Amend Rule 22.2.7 P2 Indigenous vegetation clearance inside a Significant Natural Area, as follows: <i>Removal of up to 5m3 of manuka and/or kanuka outside of the Coastal Environment per single consecutive 12 month period per <del>property</del> Significant Natural Area...</i>
359.3	Phillip Swann	Amend Rule 22.2.7 P2 Indigenous vegetation clearance inside a Significant Natural Area, by deleting "5m3" and replacing it with "1 per cent" AND Delete the words "outside the coastal environment" from Rule 22.2.7 P2 Indigenous vegetation clearance inside a Significant Natural Area.
FS1377.61	Havelock Village Limited	Supports
737.3	Ronald Rumbal and Catherine Evison	Amend Rule 22.2.7 Indigenous vegetation clearance inside a Significant Natural Area, to allow additional volume of Manuka and/or Kanuka for domestic firewood purposes.
FS1007.11	Phillip John Swann	Supports
358.2	Caroline Swann	Amend Rule 22.2.7 P2 Indigenous vegetation clearance inside a Significant Natural Area, by deleting 5m3 and -the words "outside the coastal environment".
FS1377.60	Havelock Village Limited	Supports 358.2
697.789	Waikato District Council	Amend Rule 22.2.7 P2 Indigenous vegetation clearance inside a Significant Natural Area, as follows: <i>Removal of up to 5m3 of manuka and/or kanuka outside of the Coastal Environment per year per <del>property</del> site for domestic firewood purposes or arts and crafts provided the removal will not directly result in the death, destruction or irreparable damage of any other tree, bush or plant.</i>
81.49	Waikato Regional Council	Retain Rule 22.2.7 P2 Indigenous vegetation clearance inside a Significant Natural Area, except for the amendments sought below AND Amend Rule 22.2.7 P2 Indigenous vegetation clearance inside a Significant Natural Area to exclude clearance of Manuka and Kanuka in wetlands and the coastal environment from this rule.

701.10	Steven & Theresa Stark	Amend Rule 22.2.7 Indigenous vegetation clearance inside a Significant Natural Area, as follows: <del>P2 Removal of up to 5m<sup>3</sup> 1ha</del> of manuka and/or kanuka <del>and/or totara</del> outside of the Coastal Environment per single consecutive 12 month period per property <del>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> AND Amend Rule 22.2.7 P3 Indigenous vegetation clearance inside a Significant Natural Area, as follows: <i>P3 (a) Indigenous vegetation clearance for building, access, parking and manoeuvring areas in a Significant Natural Area identified on the planning maps or in Schedule 30.5 (Urban Allotment Significant Natural Areas) must comply with all of the following conditions:-</i> <i>(i) There is no alternative development area on the site outside the Significant Natural Area; and</i> <i>(ii) The total indigenous vegetation clearance does not exceed 250m<sup>2</sup> 1500m<sup>2</sup>.</i>
FS1340.137	TaTa Valley Limited	Supports
501.3	John Swann	Amend Rule 22.2.7 P2 <del>Indigenous vegetation clearance inside a Significant Natural Area by deleting '5m<sup>3</sup>' and 'coastal environment'.</del>
FS1276.67	Whaingaroa Environmental Defence Inc. Society	Supports 501.3
680.212	Federated Farmers of New Zealand	Amend Rule 22.2.7 P2 Indigenous vegetation clearance inside a Significant Natural Area, as follows: <i>Removal of up to 205m<sup>3</sup></i> of manuka and/or kanuka outside of the Coastal Environment per single consecutive 12-month period per property for domestic firewood purposes and arts or crafts. <del>provided the removal will not directly result in the death, destruction or irreparable damage of any other tree, bush or plant.</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.
81.50	Waikato Regional Council	Amend Rule 22.2.7 P2 Indigenous vegetation clearance inside a Significant Natural Area to ensure that weeds are controlled in the cleared area and native vegetation is allowed to regenerate.
81.48	Waikato Regional Council	Delete P6 of Rule 16.2.8 Indigenous vegetation clearance inside a Significant Natural Area.
697.127	Waikato District Council	Delete Rule 16.2.8 P6 Indigenous vegetation clearance inside a Significant Natural Area AND

		Make consequential change to DI as follows: "...or P4, P5 or P6."
697.200	Waikato District Council	Delete Rule 17.2.9 P6 Indigenous vegetation clearance inside a Significant Natural Area.
697.639	Waikato District Council	Delete Rule 20.2.9 Rule P6 Indigenous vegetation clearance inside a Significant Natural Area; AND Make consequential change to Rule 20.2.9 Discretionary Activities Rule DI as follows: "...P4, P5 or P6."
697.715	Waikato District Council	Delete Rule 21.2.9 P6 Indigenous vegetation clearance inside a Significant Natural Area; AND Make consequential changes to Rule 21.2.9 DI Indigenous vegetation clearance inside a Significant Natural Area as follows: ...P4, P5 or P6.
104.3	Tim Newton	Amend Rule 22.2.7 P2 Indigenous vegetation clearance inside a Significant Natural Area by deleting "5m3" and replacing it with "1 per cent" AND Delete the words "outside the coastal environment" from Rule 22.2.7 P2 Indigenous vegetation clearance inside a Significant Natural Area.
FS1007.3	Phillip John Swann	Supports
FS1377.37	Havelock Village Limited	Opposes
FS1340.30	TaTa Valley Limited	Opposes
680.214	Federated Farmers of New Zealand	Amend Rule 22.2.7 P6 Indigenous vegetation clearance inside a Significant Natural Area, as follows: <i>Removal of up to 50m3 of manuka and/or kanuka outside of the Coastal Environment per single consecutive 12-month period per property for domestic firewood purposes and arts or crafts provided the removal will not directly result in the death, destruction or irreparable damage of any other tree, bush or plant.</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.
FS1108.72	Te Whakakitenga o Waikato Incorporated (Waikato-Tainui)	Opposes
FS1139.63	Turangawaewae Trust Board	Opposes
697.791	Waikato District Council	Delete Rule 22.2.7 P6 Indigenous vegetation clearance inside a Significant Natural Area; AND Amend Rule 22.2.7 DI Indigenous vegetation clearance inside a Significant Natural Area as follows: ...P4, P5 or P6.

53.1	Ollie Kesing	Amend Rule 22.2.7 Indigenous vegetation clearance inside a significant natural area to allow harvesting of forestry crops of manuka, blackwoods, pines and other crop trees.
81.51	Waikato Regional Council	Delete P6 of Rule 22.2.7 Indigenous vegetation clearance inside a Significant Natural Area.
697.975	Waikato District Council	Delete Rule 24.2.8 P6 Indigenous vegetation clearance inside a Significant Natural Area; AND Make consequential change to Rule 24.2.8 DI as follows: ...P4, P5 or P6.
697.973	Waikato District Council	Amend Rule 24.2.8 P2 Indigenous vegetation clearance inside a Significant Natural Area, as follows: <i>Removal of up to 5m3 of manuka and/or kanuka outside of the Coastal Environment per year per <del>property site</del> for domestic firewood purposes or arts and crafts provided the removal will not directly result in the death, destruction or irreparable damage of any other tree, bush or plant.</i>
81.196	Waikato Regional Council	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 P2 Indigenous vegetation clearance inside a Significant Natural Area to exclude clearance of Manuka and Kanuka in wetlands and the coastal environment from this rule.
81.197	Waikato Regional Council	Amend Rule 24.2.8 P2 Indigenous vegetation clearance inside a Significant Natural Area to ensure that weeds are controlled in the cleared area and native vegetation is allowed to regenerate.
81.198	Waikato Regional Council	Delete P6 of Rule 24.2.8 Indigenous vegetation clearance inside a Significant Natural Area.
535.79	Hamilton City Council	Delete Rule 24.2.8 P2 Indigenous vegetation clearance inside a Significant Natural Area. AND Delete Rule 24.2.8 P6 Indigenous vegetation clearance inside a Significant Natural Area. AND Any consequential amendments and/or additional relief required to address the matters raised in the submission.
<i>FS1129.77</i>	<i>Auckland Council</i>	<i>Supports</i>
757.14	Karen White	Amend Rule 24.2.8- Indigenous vegetation clearance inside a Significant Natural Area to reduce the removal of Manuka and Kanuka from 5m3 to 3m3. AND Delete reference to "Coastal Environment" from Rule 24.2.8- Indigenous vegetation clearance inside a Significant Natural Area.
499.25	Adrian Morton	Amend Rule 24.2.8 P6 Indigenous vegetation clearance inside a Significant Natural Area to reduce the 5m <sup>3</sup> limit to 3m <sup>3</sup> and remove reference to the Coastal Environment.

81.56	Waikato Regional Council	Amend Rule 28.2.8 P2 to ensure that weeds are controlled in the cleared area and native vegetation is allowed to regenerate.
81.57	Waikato Regional Council	Delete P6 of Rule 28.2.8 Indigenous vegetation clearance inside a Significant Natural Area.
81.55	Waikato Regional Council	Retain Rule 28.2.8 P2 Indigenous vegetation clearance inside a Significant Natural Area, except for the amendments sought below AND Amend Rule 28.2.8 P2 Indigenous vegetation clearance inside a Significant Natural Area to exclude clearance of Manuka and Kanuka in wetlands and the coastal environment from this rule.
697.424	Waikato District Council	Amend Rule 28.2.8 Indigenous vegetation clearance inside a Significant Natural Area, as follows: <i>Removal of up to 5m3 of manuka and/or kanuka outside of the Coastal Environment per year per <del>property-site</del> for domestic firewood purposes or arts and crafts provided the removal will not directly result in the death, destruction or irreparable damage of any other tree, bush or plant</i>
697.884	Waikato District Council	Amend Rule 23.2.8 P2 Indigenous vegetation clearance inside a Significant Natural Area, as follows: <i>Removal of up to 5m3 of manuka and/or kanuka outside of the Coastal Environment per year per <del>property-site</del> for domestic firewood purposes or arts and crafts provided the removal will not directly result in the death, destruction or irreparable damage of any other tree, bush or plant.</i>
81.54	Waikato Regional Council	Delete P6 of Rule 23.2.8 Indigenous vegetation clearance inside a Significant Natural Area.
81.53	Waikato Regional Council	Amend Rule 23.2.8 P2 Indigenous vegetation clearance inside a Significant Natural Area to ensure that weeds are controlled in the cleared area and native vegetation is allowed to regenerate.
535.76	Hamilton City Council	Delete Rule 23.2.8 P2 Indigenous vegetation clearance inside a Significant Natural Area. AND Delete Rule 23.2.8 P6 Indigenous vegetation clearance inside a Significant Natural Area. AND Any consequential amendments and/or additional relief required to address the matters raised in the submission.
81.52	Waikato Regional Council	Retain Rule 23.2.8 P2 Indigenous vegetation clearance inside a Significant Natural Area, except for the amendments sought below AND Amend Rule 23.2.8 P2 Indigenous vegetation clearance inside a Significant Natural Area to exclude clearance of Manuka and Kanuka in wetlands and the coastal environment from this rule.
81.58	Waikato Regional Council	Retain provisions for sustainable clearance of regenerating Manuka or Kanuka for domestic firewood purposes or for arts or crafts in any

		<p>chapters not covered in previous submission points, and except for the amendments sought below.</p> <p>AND</p> <p>Amend provisions to exclude clearance of Manuka and Kanuka in wetlands and the coastal environment from this rule (Indigenous vegetation clearance inside a Significant Natural Area) any other area of the Proposed Plan where similar provisions apply.</p>
<i>FS1342.22</i>	<i>Federated Farmers</i>	<i>Opposes</i>
697.886	Waikato District Council	<p>Delete Rule 23.2.8 P6 Indigenous vegetation - outside a Significant Natural Area;</p> <p>AND</p> <p>Amend Rule 23.2.8 D1 Indigenous vegetation clearance - outside a Significant Natural Area, as follows:</p> <p>...P4, <del>P5 or P6.</del></p>
81.59	Waikato Regional Council	Amend provisions to ensure that weeds are controlled in the cleared area and native vegetation is allowed to regenerate in a Significant Natural Area, in any chapters not covered in previous submissions.
697.793	Waikato District Council	<p>Amend Rule 22.2.8 PI (a)(ii) Indigenous vegetation clearance outside a Significant Natural Area, as follows:</p> <p>(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 <u>at least</u> <del>more than</del> 10m from a waterbody, and <u>is</u> less than 4m in height;</p>
<i>FS1340.134</i>	<i>TaTa Valley Limited</i>	<i>Support</i>
737.4	Ronald Rumbal and Catherine Evison	Amend Rule 22.2.8 Indigenous Vegetation - outside a Significant Natural Area, to allow additional volume of Manuka and/or Kanuka for removal for domestic firewood purposes.
<i>FS1007.12</i>	<i>Phillip John Swann</i>	<i>Support</i>
481.8	Culverden Farm	<p>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.</p> <p>AND</p> <p>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;</p> <p>AND</p> <p>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.</p>

### 18.3 Analysis

#### Classification of kanuka and manuka as a SNA

321. Shortly before the notification of the Proposed District Plan in 2018, manuka and kanuka were identified in the Conservation Status of New Zealand Indigenous Vascular Plants 2017 as being either a threatened or at-risk species. These species are not threatened due to numbers but rather potentially threatened by myrtle rust that may or may not affect them. Myrtle rust is a fungal disease that affect plants in the myrtle family which include the species Manuka and Kanuka.
322. The consequence of these species being added to the conservation list is that every manuka or kanuka individual now meets the criteria in Appendix II A Table II-1: Criteria for determining significance of indigenous biodiversity and therefore is deemed to be significant indigenous biodiversity:
- “Ecological values*
- 3. It is vegetation or habitat that is currently habitat for indigenous species or associations of indigenous species that are:*
- classed as threatened or at risk, or*
  - endemic to the Waikato region, or*
  - at the limit of their natural range.”*
323. I note that the recently released Aotearoa Biodiversity Strategy makes no reference to these species as needing any strategic help for their survival. As well, the Draft National Policy Statement for Indigenous Biodiversity states that in order to retain the original intent of identification of SNAs through the presence of threatened species, an exception is to be granted for the manuka and kanuka species. The draft states that the presence of these species should not trigger identification as a SNA based on their presence alone.
324. Because the Proposed District Plan Appendix 2 matches the RPS criteria, manuka and kanuka are also deemed to be SNA in terms of the Proposed District Plan. Because of this classification, I recommend deleting the rule enabling clearance of kanuka and manuka outside an SNA, simply because every kanuka and manuka meets the criteria for a SNA.
325. The changing status of those species causes me some difficulty as I am aware that the lists of threatened species can change and are well beyond the control of the Proposed District Plan. As easily as they were added to the list of threatened species, they could just as easily be removed from those lists within the lifetime of this Plan.

#### Within the coastal environment

326. Policy 11(a) of the New Zealand Coastal Policy Statement requires avoiding adverse effects of activities on species that are listed as threatened or at risk. With manuka now listed as an at-risk species and kanuka being classed as a threatened species, clearance of these species in the coastal environment would incur Policy 11(a). The ‘avoid’ policy in the New Zealand Coastal Policy Statement is absolute, and as clarified in the King Salmon case “avoid” means just that. The inclusion of these species, which are in abundance, especially within the Coastal Environment (and considered a paddock weed by the farming industry) has become problematic for property owners. I have given consideration as to whether there is a way to enable the removal of kanuka and manuka through the District Plan rules in the coastal environment, but given that very strong policy directive I am left with no choice and cannot permit any removal of SNA (which includes kanuka and manuka) as a permitted activity in the Coastal Environment.

### Outside the coastal environment -firewood and arts / crafts

327. In terms of the clearance of areas outside the coastal environment, I consider there is merit in the approach adopted by the draft National Policy Statement, however I am left in a conflicting situation where:
- a. these species technically are a SNA due to the criteria in Appendix 2;
  - b. the Proposed District Plan seeks to protect and enhance indigenous biodiversity in SNAs (Objective 3.2.1);
  - c. the draft National Policy Statement for Indigenous Biodiversity states that these species alone should not constitute an SNA;
  - d. The Regional Policy Statement Policy 11.2 requires significant indigenous vegetation and the significant habitats of indigenous fauna be protected; and
  - e. The Proposed District Plan allows removal of up to 5m<sup>3</sup> manuka and/or kanuka outside the Coastal Environment per year.
328. I do not consider this level of removal will have any adverse effects on this species, regardless of whether it is within the Coastal Environment or inland (although I am mindful of the New Zealand Coastal Policy Statement as I have outlined above). My opinion is consistent with Mr Turner's assessment in Appendix 3 and that clearance of kanuka and manuka outside the coastal environment can be enabled as a permitted activity.
329. A number of submissions seek an increase in the amount of kanuka and manuka that can be removed for the purpose of domestic firewood. The amounts being sought by various submissions include having no restriction, increasing the area to 1% of the site, 50m<sup>3</sup> and 1ha. In contrast, submissions from Whaingaroa Environmental Defence Incorporated Society [780.33], Raglan Naturally [831.1], John Lawson [825.33], Karen White [757.14] and Adrian Morton [499.25] and Linda Silvester [830.2] are seeking to reduce the amount of manuka and kanuka from 5m<sup>3</sup> to 3m<sup>3</sup> that can be removed for domestic firewood. Submissions from Hamilton City Council [535.71] [575.79] and [535.76] seek to delete Rule P2 and P6 – Indigenous vegetation clearance inside a SNA – which would have the effect of not allowing any clearance of kanuka or manuka.
330. To assign the appropriate volume or area for removal for firewood outside of the Coastal Environment is difficult, and even more so when it is for the purposes of firewood. I am aware that to a certain extent s10 of the RMA will apply to the existing use of manuka and/or kanuka for domestic firewood purposes and arts or crafts. I am also mindful from a monitoring perspective that it would be extremely difficult to monitor a rule where the purpose is to burn firewood. It would be unlikely that an enforcement team would even know the activity was occurring and by the time a compliance officer became aware of the situation, the evidence is likely to no longer exist. I believe Section 10 of the RMA in conjunction with the Regional Policy Statement Policy 11.1.4 will give the ability to remove these species at the same scale and intensity that has been occurring for generations, even though I accept that this will be difficult to prove.
331. Consequently, I have recommended deleting the maximum area of clearance for manuka and kanuka as I am aware that this rule was only for the purposes of domestic firewood or arts and craft. I am aware that this does somewhat rely on the good will of people to only take what is reasonable to heat their homes, and for arts or crafts. In my view the rule allows for a sustainable amount of removal of this species for these uses (given the prevalence of these species), provided the removal is outside the Coastal Environment.
332. Waikato District Council [697.125], [697.198], [697.637], [697.713], [697.789], [697.884], [697.973] and [697.424] seeks minor amendments to the wording by replacing 'property' with 'site'. The additional clarity is required so that the rule is intended to apply 'per site' rather than



'per property' which is not a defined term. Council made this submission on all equivalent rules in the various zones. I recommend the panel accept these submissions.

333. Waikato District Council [697.127], [697.200], [697.639], [697.715], [697.791], [697.886] and [697.975] and Waikato Regional Council [81.48], [81.51], [81.54], [81.198] and [81.57] seek to delete Rule P6 Indigenous vegetation clearance inside a SNA and amend Rule D1 as a consequence. The reason given is that Rule P6 is a duplicate rule of P2 and unnecessary. This is an obvious error and I recommend the panel accepts the submissions.

### Wetlands

334. Waikato Regional Council [81.55], [81.58], [81.196], [81.49], [81.52] and [81.46] has lodged similar submissions for every zone in relation to Manuka and Kanuka, seeking an exclusion so that removal of this species from wetlands in every zone would not be a permitted activity I agree with amending the rule to exclude wetlands from the permitted activity rule, particularly given the recent approach of the National Environmental Standards for Freshwater.
335. Thus I recommend that that the kanuka and manuka rule outside the coastal environment is amended as follows:

Removal of ~~up to 5m<sup>3</sup>~~ manuka and/or kanuka outside of the Coastal Environment or a wetland per single consecutive 12-month period per ~~property site~~, for domestic firewood purposes or arts and craft, provided the removal will not directly result in the death, destruction or irreparable damage to any other tree bush or plant

### Pasture clearance

336. In the Rural Zone there is a rule allowing up to 1000m<sup>2</sup> of clearance of manuka and kanuka per year to maintain productive pasture. Due to kanuka and manuka now being classed as a SNA, I have had to recommend relocating this rule from the "outside SNA" rule to the "inside SNA" rule. Given the directive of the New Zealand Coastal Policy Statement I am left having to recommend that this rule does not apply in the coastal environment.
337. I accept that kanuka and manuka has the ability to compromise the productive use of pasture and therefore recommend that the rule largely be retained to enable a specific area of clearance per year. A number of submitters sought that this level of clearance be increased, or deleted completely such Lochiel Farmlands Limited, Steven and Theresa Stark, Culverden Farm [481.8], Gwenith Sophie Francis [394.15], [394.23] and [394.15], and the Estate of Alwynne McDonald Chisnall [257.3]. I agree with the assessment of Mr Turner that kanuka and manuka is highly prevalent. I am mindful of the provisions in the Regional Policy Statement which recognise the importance of primary production activities such as Objective 3.2. The rule as notified for maintaining pasture relates to manuka and kanuka and, as previously discussed in this report, the higher-level protection for this species has become problematic for the farming community. However, regarding the level of clearance, and putting aside the situation of becoming a SNA due to the classification, I consider the permitted rule of 1000m<sup>2</sup> per year may not be adequate when managing these species.
338. The Operative Waikato District Plan rules allow a regime of not exceeding 3000m<sup>2</sup> or 3% of contiguous indigenous vegetation or habitat of indigenous fauna, whichever is the lesser, per contiguous area per site in any three-year period. This rule relates to the landscape policy area which now tends to be identified generally as SNA. This rule applied to indigenous vegetation generally, not just kanuka and manuka. The other relevant Waikato Operative Plan rule enabled the removal of manuka or kanuka that is less than 15 years old or less than 5m in height which has no restrictions in terms of area where these were outside the Landscape Policy Area. Both operative and proposed rules attempt to allow a farm to effectively manage what is essentially a paddock weed in a farming environment. During my time as a Monitoring Officer (10 years), to the best of my knowledge there has been no decline in the amount of manuka or kanuka under

the Operative Waikato District Plan rule regime. This suggests to me that the operative rules were appropriate when managing areas outside of the Landscape Policy Area and allowed farming practices to continue without adverse effects. However, I am mindful of the direction of the Regional Policy Statement where there is a goal of working towards a no net loss of biodiversity. I consider that increasing the clearance amount sought by the submitter may have some merit even though it has been deemed to be significant. I am also mindful of the NZCPS Policy 11a which refers to the species on the classification list, and there will be a requirement to exclude the removal of vegetation from within the Coastal Environment and the National Environmental Standard for Freshwater in regard to wetlands. Considering these aspects needs to form part of the rule framework. This means that the rule regime has gone from no restrictions to some restrictions. In this regard I suggest a compromise of 2000m<sup>2</sup> per year to be reasonable.

339. In addition to seeking an increase in the permitted removal amount for manuka and kanuka, Steven and Theresa Stark [701.10] also seek to add the totara species into the rule. A further submission from TaTa Valley Limited [FS1340.137] has supported the submission. I do not agree to adding totara to the rule and allowing its removal. Although this species may be plentiful, it contributes to the overall biodiversity of an area. Bruce Cameron's submission [587.6] similarly seeks to amend the rule to provide for the removal of 'bastard totara'. I know very little about this species except for my understanding that a bastard totara is a hybrid of various varieties of totara and is considered inferior in timber quality. In terms of a rule within a district plan, it would be difficult to easily identify this variety in a bush environment. My research found no advice or information on whether the presence of this variety of totara causes any adverse effects on a SNA. I invite the submitter to provide more information on the matter. In the meantime, I recommend the panel reject Bruce Cameron's submission [587.6].
340. The other aspects of the submission from Hill Country Farmers Group relate to deleting the references to the species, height and age of manuka or kanuka. In my opinion these aspects are important for not only the protection of waterways but also in respect of the manuka or kanuka species. If these species have obtained a height of 4m it means they are likely mature specimens and will need appropriate consideration when clearance is being considered.
341. Having considered all the submissions I recommend the following rule:

<u>P7</u>	<p><u>Removal of manuka and/or kanuka to maintaining productive pasture complying with the following:</u></p> <p><u>(i) up to 2000m<sup>2</sup> per single consecutive 12 month period per site; and</u></p> <p><u>(ii) plants are less than 4m in height; and</u></p> <p><u>(iii) outside of the Coastal Environment; and</u></p> <p><u>(iii) outside a wetland; and</u></p> <p><u>(iv) more than 10m from a waterbody</u></p>
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### **Additional provisions**

342. Submissions from the Department of Conservation [585.37] and [585.43] seek additional objectives, policies and rules to recognise and implement measures to manage Kunzea (kanuka) and Leptospermum (manuka). Further submissions from Federated Farmers [FS1342.159] and [FS1342.162] opposed the submissions. The main reason provided by the submitter is to manage myrtle rust. I have considered the information on the Department of Conservation website in respect of this disease. I am now aware that myrtle rust spores can easily spread across large distances by wind, contaminated clothing, insects, rain splash, and equipment and 'could' affect manuka and kanuka. I am also aware that the inclusion of these species on the At Risk or

Threatened Species List is a precautionary approach as it is still unclear how this disease may affect these species.

343. In my view, inclusion of objectives, policies, and rules in the Proposed District Plan at this stage would not be appropriate as it would be extremely difficult to manage myrtle rust, especially given that the disease can be spread by wind. The Department of Conservation is currently working closely with the Ministry of Primary Industries to manage myrtle rust and New Zealand already has stringent biosecurity measures to protect against myrtle rust introduction. In my view this issue is best dealt with at this level and not within a district plan. However, in recognition of the change in status of these species, consequential amendments to the rules managing this species have been included in the Coastal Environment which I have outlined above. On this basis I recommend the panel reject the submissions from the Department of Conservation [585.37] and [585.43].
344. The submission from Waikato Regional Council [81.97] seeks additional wording to Policy 3.1.2 (c) so that the provision only allows for the removal of manuka or kanuka for domestic firewood or arts and crafts. A further submission from Federated Farmers [FS1243.37] opposes. I disagree with the approach Waikato Regional Council is suggesting, as not only would this be logistically hard to monitor and enforce, the issue is the removal of these species, not what they are being used for. I recognise that this species now automatically qualifies as a SNA due to its classification of being either at risk or threatened and as such, any removal would be removing it from an SNA. Given that there is a rule that allows for the removal of this species for pasture maintenance, I consider that the wording of the policy is appropriate.
345. However, in response to submissions I have made recommendations to amend rules that manage removal of manuka or kanuka as a permitted activity to only apply if outside the Coastal Environment. On this basis I recommend the panel reject Waikato Regional Council's submission [81.97].

#### General

346. Waikato Regional Council [81.47], [81.50], [81.53], [81.59] [81.197] and [81.56] is seeking to amend Rule P2 to ensure that weeds are controlled in the cleared area and native vegetation can recover. A further submission from Havelock Village Limited [FS1377.6] has opposed the submission [81.47]. No suggestion of wording has been provided by Waikato Regional Council. In my opinion, given that the notified allowance for firewood is 5m<sup>3</sup> it would be very difficult to ascertain an area which may only amount to a few trees. To monitor the control of the regeneration of indigenous vegetation and weeds would be nigh on impossible. If weeds establish that are on the noxious weed list, then it is a regional council function to manage and not a territorial authority. However, in acknowledgement of Waikato Regional Council's concerns, I have recommended that an advice note be added to the Proposed District Plan that directs readers to the Regional Council's Pest Management Strategy. In addition, as I discussed in Section 5.3 of this report, I have identified a gap in the Proposed District Plan whereby there is no rule enabling the removal of non-indigenous vegetation from SNAs and recommended a couple of approaches for the panel to consider. I recommend the panel reject the submissions from Waikato Regional Council [81.47], [81.50], [81.53], [81.59], [81.197] and [81.56].
347. Ollie Kesing [53.1] seeks to amend Rule 22.2.7 Indigenous vegetation clearance inside a SNA to provide for the harvesting of forestry crops such as manuka, blackwood, pines and other crop trees. In my view if blackwood, pines and other crop trees that are exotic have been included in a SNA area, then these species could not be harvested from a SNA without a consent due to the absence of a rule expressly permitting this. This is an issue I have discussed in Section 18.3 of this report and there are options open to the panel for correcting this gap. If manuka is within a SNA, then rule P2 will enable a small amount to be removed but only for the domestic firewood

purposes and arts or crafts (but only outside the Coastal Environment or wetlands). Any larger amounts or removal for any other reason will require a consent. I recommend the panel accept in part the submission from Ollie Kesting [53.1].

348. The Starks also seek to amend Rule 22.2.7 Indigenous vegetation clearance inside a SNA P3 to increase the area that can be cleared for building, parking, and manoeuvring. I consider the notified amounts are appropriate for the activity in conjunction with the area and that any larger amounts should be considered through the consenting process.
349. Submissions from Malibu Hamilton [553.39], [553.17] and [553.20] seek to retain Rule 16.2.8 P2, P4 and P5 and Rule 17.2.9 P2, P4 and P6, and Rule 20.2.9 P2, P4 and P6. As the rules support the NCPS Policy (d) and WRPS Polices 6.4 recognising tangata whenua needs for marae and papakainga, I have accepted these submissions only in part as I have recommended amendments to these rules in response to other submissions.

#### 18.4 Recommendations

350. For the reasons above I recommend that the Hearings Panel:
- a) **Accept in part** Department of Conservation [585.37] and Federated Farmers [FS1342.159].
  - b) **Reject** Department of Conservation [585.43] and Federated Farmers [FS1342.159].
  - c) **Reject** Waikato Regional Council [81.97] and **accept** Federated Farmers [FS1342.37].
  - d) **Reject** C. Alma Baker Trust [704.5].
  - e) **Accept in part** Malibu Hamilton [553.39], [553.17] and [553.20].
  - f) **Accept in part** Waikato Regional Council [81.58] and Federated Farmers [FS1342.22].
  - g) **Accept in part** Waikato District Council [697.125].
  - h) **Accept** Waikato District Council [697.127] and Waikato Regional Council [81.48].
  - i) **Reject** Waikato Regional Council [81.47]. **Accept** Havelock Village Limited [FS1377.6].
  - j) **Accept in part** Waikato Regional Council [81.46] and Havelock Village Limited [FS1377.5].
  - k) **Accept in part** Waikato District Council [697.198].
  - l) **Accept** Waikato District Council [697.200].
  - m) **Accept in part** Whaingaroa Environmental Defence Incorporated Society [780.33], Raglan Naturally [831.3] and John Lawson [825.33] and Linda Silvester [830.2].
  - n) **Accept in part** Phillip Swan [FS1007.19], [FS1007.20] and [FS1007.21].
  - o) **Accept in part** Waikato District Council [697.637] and [697.713].
  - p) **Accept** Waikato District Council [697.639] and Waikato District Council [697.715].
  - q) **Accept in part** Waikato District Council [697.789].
  - r) **Accept** Waikato District Council [697.791] and Waikato Regional Council [81.51].
  - s) **Accept in part** Hamilton City Council [535.71] Havelock Village Limited [FS1377.131], TaTa Valley Limited [FS1340.85] and Genesis Energy Limited [FS1345.108].
  - t) **Reject** Bruce Cameron [587.6].
  - u) **Accept in part** Ollie Kesting [53.1].
  - v) **Reject** Waikato Regional Council [81.50].
  - w) **Accept in part** Waikato Regional Council [81.49].
  - a. **Accept** in part Waikato District Council [697.884].
  - x) **Accept** Waikato Regional Council [81.54].
  - y) **Reject** Waikato Regional Council [81.53].

- z) **Accept in part** Hamilton City Council [535.76].
- aa) **Accept in part** Waikato District Council [697.973].
- bb) **Accept** Waikato District Council [697.975].
- cc) **Accept in part** Waikato Regional Council [81.196].
- dd) **Reject** Waikato Regional Council [81.197].
- ee) **Accept** Waikato Regional Council [81.198].
- ff) **Accept in part** Hamilton City Council [535.79] to the extent that P6 is deleted.
- gg) **Accept in part** Karen White [757.14] and Adrian Morton [499.25].
- b. **Accept in part** Waikato District Council [697.424].
- hh) **Reject** Waikato Regional Council [81.56].
- ii) **Accept** Waikato Regional Council [81.57].
- jj) **Accept in part** Waikato Regional Council [81.55].
- kk) **Accept** Ronald Rumbal and Catherine Evison [737.4] and Phillip John Swann [FS1007.12]
- ll) **Accept** in part Culverden Farm [481.8].

## 18.5 Recommended amendments

### Indigenous vegetation clearance inside a Significant Natural Area

P2	Removal of <del>up to 5m<sup>3</sup></del> manuka and/or kanuka outside of the Coastal Environment <u>or a wetland</u> per single consecutive 12-month period per <del>property site</del> , for domestic firewood purposes or arts and craft, provided the removal will not directly result in the death, destruction or irreparable damage to any other tree bush or plant
<del>P6</del>	<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 or arts and crafts provided the removal will not directly result in the death, destruction or irreparable damage of any other tree, bush or plant</del>
<del>P7</del>	<del>Removal of manuka and/or kanuka to maintaining productive pasture complying with the following:</del> <del>(i) up to 2000m<sup>2</sup> per single consecutive 12 month period per site; and</del> <del>(ii) plants are less than 4m in height; and</del> <del>(iii) outside of the Coastal Environment; and</del> <del>(iii) outside a wetland; and</del> <del>(iv) more than 10m from a waterbody.</del>

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

PI	(a) Indigenous vegetation clearance outside a Significant Natural Area <del>identified on the planning maps or in Schedule 30.5 (Urban Allotment Significant Natural Areas)</del> must be for the following purposes: <ul style="list-style-type: none"> <li>(i) Removing vegetation that endangers human life or existing buildings or structures;</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;</del></li> <li>(iii) Maintaining existing tracks and fences;</li> <li>(iv) Maintaining existing farm drains;</li> </ul>
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	<ul style="list-style-type: none"> <li>(v) Conservation fencing to exclude stock or pests;</li> <li>(vi) Gathering of plants in accordance with Maaori custom and values; or</li> <li>(vii) A building platform and associated access, parking and manoeuvring up to a total of 500m<sup>2</sup> clearance of indigenous vegetation <u>and there is no practicable alternative development area on the site outside of the area of indigenous vegetation clearance.</u></li> <li>(viii) <u>In the Aggregate Extraction Areas, a maximum of 2000m<sup>2</sup> in a single consecutive 12 month period per record of title</u></li> </ul>
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## 18.6 Section 32AA evaluation

351. Because of the changing conservation status of kanuka and manuka, the approach to the management of these species in the Proposed District Plan has had to be amended.

### *Other reasonably-practicable options*

352. There are a number of options worth considering:

- a. Retain the provisions as notified.
- b. Have no restrictions on the amount of manuka or kanuka that can be cleared;
- c. Increase the amount of manuka or kanuka that can be cleared.
- d. Increase the amount of manuka or kanuka that can be removed outside the Coastal Environment, but delete any permitted activity for its removal in the coastal environment.

### *Effectiveness and efficiency*

353. In terms of manuka and kanuka, I believe the notified rule is unreasonable and is not practical in its application in terms of enforcement for firewood or arts and crafts, whether in the Coastal Environment or not. Enforcement requires evidence to be collected, and in certain circumstances (e.g. when burning firewood) this would not be possible, nor would it be possible to ascertain if last year's firewood is pooled with the current years. The recommended amendments to the rule are a more efficient approach to controlling the volume of kanuka and manuka collected through restricting the use of it.
354. The amendments to not allow the removal of manuka and kanuka within a wetland will recognise the importance of wetlands and as well be in accordance with the National Environmental Standard for Freshwater where removal of this species from wetlands is a non-complying activity.
355. In terms of clearance for pasture maintenance, the increase from 1000m<sup>2</sup> to 2000m<sup>2</sup> outside of the coastal environment is an efficient way of maximising the productive capacity of rural land. There has been much discussion in this report regarding these species because, as a precautionary approach to myrtle rust, these species have been included on the lists as either at risk or threatened. Also discussed was that these species are considered a paddock weed to the farming industry and farmers are often having to clear areas where these species have populated at a rate faster than the farm management can keep up with. The rule framework has gone from no restrictions in the Operative District Plan to only 1000m<sup>2</sup> and I consider this to be too onerous and unreasonable. The recommended increase for clearance of these species will assist the farming industry to manage this species sustainably and be the most appropriate method for giving effect to Chapter 5: Rural Environment Objective 5.1.1 and Objective 5.2.1 Rural Resources.

356. The more restrictive approach to clearance of kanuka and manuka in the coastal environment is the most effective way to achieve the policies in the New Zealand Coastal Policy Statement.

*Costs and benefits*

357. In terms of firewood, there are benefits to property owners who use manuka or kanuka for this purpose. In this regard it would be of a very minor nature.
358. There are benefits to the wetland environments by ensuring these species are protected within them. This will give clearer guidance to plan users as to how activities in these areas are managed.
359. There will be a sizable cost to property owners who are trying to manage what is fundamentally a weed species in a farming environment where these farms are located in the Coastal Environment.
360. There are benefits to the farming industry for the recommended increase for clearance of these species as it will assist the farming industry to manage this species sustainably. The increase in amount from having no restrictions to imposing a 2000m<sup>2</sup> limit is considered to be the most appropriate method for giving effect to Chapter 5: Rural Environment Objective 5.1.1 and Objective 5.2.1 Rural Resources.

*Risk of acting or not acting*

361. There is sufficient information on the sustainable use of manuka or kanuka to justify the amendment to the rule.
362. The risk of not acting is that it will be difficult for monitoring to be aware of manuka or kanuka being used for firewood or in regard to the volume.
363. The risk of not acting in relation to the amendment to permit clearance for pasture maintenance is that productive pasture could not be maintained for productive rural use. There is sufficient information on the costs to the rural industry and the environment, and benefits to people and communities to justify the amendment to the rule.

*Decision about most appropriate option*

364. The amendments are the most appropriate way to support the policy and therefore the Objectives in Chapter 5 Rural Environment and the Objective 3.2.1.