

BEFORE THE INDEPENDENT HEARINGS PANEL FOR THE PROPOSED WAIKATO
DISTRICT PLAN

IN THE MATTER OF the Resource Management Act 1991

AND

IN THE MATTER OF Proposed Waikato District Plan, Stage 1: Hearing 21A –
Significant Natural Areas

RICHARD MATTHEWS – HEARING 21A SPEAKING NOTES

16 November 2020

FOR GENESIS ENERGY LIMITED SUBMITTER #924

1. My experience and qualifications are set out in my evidence statements for the Proposed Waikato District Plan hearings.
2. I generally agree with the Section 42A Report for Hearing 21A (“**s42A Report**”), which recommends acceptance of several Genesis submission and further submission points. In particular, I agree with the change in approach to remove the identified Significant Natural Area (“**SNA**”) areas on the planning maps that have not been ground truthed. However, I disagree with amending the definition of SNAs to include areas “*that meets one or more of the criteria in Appendix 2 Criteria for Determining Significance of Indigenous Biodiversity*”.
3. Ms Chibnall recommends that the “SNA” areas subject of the Genesis submissions be removed from the Planning Maps as they have not been ground truthed. Genesis sought that these areas be removed from the planning maps as they are not “natural” – they have been planted by Genesis. I agree with Ms Chibnall’s recommendation that they be removed from the planning maps, but I note that this would not preclude them from subsequently being identified as SNAs under the proposed definition of an SNA.
4. In paragraph 133 of the Hearing 21A: Natural Environments – Indigenous Vegetation and Habitats Section 42A Report Rebuttal Evidence, Ms Chibnall states that “*It would be useful to understand why Mr Matthews considers that a landscape area should be excluded from being captured by the definition when it may have similar or more value than a naturally-occurring SNA*”. I note that the areas I refer to are not necessarily “landscape areas”, nor are they areas planted to offset impacts on, or restore, existing natural biodiversity areas.
5. The areas that Genesis has particular concern about are those areas that have been planted or established as part their ongoing activities associated with the operation of the Huntly Power Station. They are not “natural” but do have biodiversity values. They have been established by artificial means by Genesis and:
 - a) May need to be altered at some point in time to enable the ongoing Genesis activities on the site;
 - b) Often require active management to ensure that the values are retained (which may not be required in truly “natural” areas) which may not be provided for in the Proposed Plan rule framework;
 - c) Are often established to meet resource consent requirements and may require management interventions that are inconsistent with the Proposed

Plan rule framework to maintain compliance with the consent conditions; and

- d) Do not necessarily require the high level of protection identified in the Proposed Plan because they need to be adaptable to accommodate ongoing use of the site.
6. I note that the National Policy Statement for Freshwater Management 2020 (August 2020) includes an exception for “constructed” wetlands which include wetlands “*constructed by artificial means (unless it was constructed to offset impacts on, or restore, an existing or former natural wetland)*” (section 3.2.1, Definitions). Similarly, the November 2019 “Draft National Policy Statement for Indigenous Biodiversity” (which has no statutory weight) has exclusions with respect to managing “plantation forest biodiversity areas”.
7. These approaches confirm, in my opinion, that different approaches are appropriate for areas of biodiversity that are “created” rather than “natural”, and that the simple “*meets one or more of the criteria in Appendix 2 Criteria for Determining Significance of Indigenous Biodiversity*” proposed definition for SNAs is insufficient to identify areas that should be regarded as “Significant Natural Areas”.
8. The amendment to the definition of SNAs does not distinguish between “natural” areas and those created by planting such as that on the Genesis Scott Farm property, nor does it include any consideration of the level of significance or value of the area.
9. There is also discussion within the s42A report regarding Genesis’ submission in respect of providing for environmental compensation. Ms Chibnall conflates this effects management concept with “economic” compensation. I note that the Council rebuttal evidence proposes a correction to Policy 3.2.2 to refer to “environmental” compensation.
10. In my rebuttal statement, I note that Ms Foley (for the Waikato Regional Council) considers that “*if an activity cannot avoid, remedy, mitigate and offsetting is not feasible then the activity should not be consented*”. I disagree with this as there will be situations where offsetting is not always feasible and there may be no other practicable option or that there is a functional or operational need to locate in an SNA or affect an area of indigenous biodiversity and offsetting is not practicable. The Waikato Regional Policy Statement itself recognises this.
11. I consider that the biodiversity provisions in the District Plan need to recognise that

avoidance of effects is not always possible or required under the RMA and there may be no other practicable option or that there is a functional or operational need to locate in an SNA or affect an area of indigenous biodiversity. In my opinion, there needs to be a practical and workable mechanism for management of effects while protecting the values of significant indigenous biodiversity and that does not automatically assume that any indigenous vegetation is significant or natural.

12. In his evidence statement for the Director General of Conservation, Mr Riddell states that he considers “*that it is inconsistent with the Regional Policy Statement to qualify the avoidance statement in the policy with an exception to that avoidance for specific activities that need to be enabled*”. In my opinion, the Waikato Regional Policy Statement directions clearly provide for (and direct) that the District Plan includes provisions for exceptions of the sort that Mr Riddell considers are inconsistent with the WRPS.
13. Mr Riddell also states that “*'environmental compensation' intrinsically results in a reduction in the values and attributes that make an area 'significant'*”. I do not agree that environmental compensation necessarily results in a reduction in the values. In my opinion, environmental compensation can achieve the same, and often better, biodiversity outcomes than strict adherence to a biodiversity offset approach.
14. In her statement for the Director General of Conservation, Ms Corkery comments that “*It is this rigorous process and the objective, quantified evaluation associated with biodiversity offsetting which make it a preferable option to environmental compensation*”. In my opinion, it is the rigorous process and the objective, quantified evaluation associated with biodiversity offsetting that makes offsetting difficult (and sometimes impossible) to achieve in practice and which reinforces the need to have environmental compensation options available for managing biodiversity effects in actual situations.
15. In my opinion, there needs to be a practical and workable mechanism in the Proposed Plan for management of effects while protecting the values of significant indigenous biodiversity and that does not automatically assume that any indigenous vegetation is significant or natural. I consider that the options for managing effects on indigenous biodiversity should provide for offsetting or compensation equally.

Richard Matthews

16 November 2020