BEFORE THE INDEPENDENT HEARINGS PANEL

PROPOSED WAIKATO DISTRICT PLAN (STAGE 1)

Under	the Resource Management Act 1991 (**RMA**)
In the matter of	hearing submissions and further submissions on the Proposed Waikato District Plan (Stage 1) – **Hearing 21a Significant Natural Areas**
By	the Surveying Company (Submitter)

Summary Statement by Sarah Nairn

The Surveying Company

(Planning)

Dated: 16 November 2020

INTRODUCTION

1. This is a planning summary of evidence on behalf of The Surveying Company in relation to the Significant Natural Area (**SNA**) provisions in the Proposed Waikato District Plan (**PWDP**).

2. The notified version of the PWDP identified 698 SNA's of which 37,000ha relates to private land[1]. Given this size and extent, it is fair to conclude that the SNA provisions are not limited to a handful of sites or activities, rather they are impactful on a wide range of landowners and/or activities across the region.

3. Whilst all provisions of the PWDP should be 'the most appropriate' and 'effective and efficient' in terms of Section 32 of the RMA, the wide application of the SNA provisions places an even greater emphasis on the necessity to ensure that this is the case.

4. I support the removal of the SNA's which have not been ground truthed. I consider that the removal of these areas is essential for avoiding unnecessary consent costs and time delays. It is also fundamental to maintaining the <u>integrity</u> of the PWDP.

5. I do not support the proposed amendment to the definition of SNA's as, in my view, it is not the most appropriate or effective and efficient approach for the following reasons:

   (a) <u>Lack of transparency</u>

   To be effective and efficient, planning provisions need to be clear as to when and where they apply. The identification of SNA's on planning maps achieves this clarity as all parties (being Council, landowners and any interested parties) can see where SNA's are located.

[1] Evidence of Susan Chibnall paragraph 16

The proposed amendment to the definition of SNA's removes that clarity as it does not require SNA's to be shown on the planning maps. Rather, it allows SNA's to be identified through an ecological assessment. This means that parties may have an SNA on their property and not know it.

Many will see this lack of clarity and transparency as 'planning by stealth' - especially as what seems a relatively innocuous amendment to a definition has the effect of enlarging the application of the SNA provisions from 698 sites to almost the whole Waikato district (given that the SNA rules are contained in almost all zones).

(b) Time/Cost/Uncertainty

In order to understand if the SNA provisions apply to a proposal for earthworks or vegetation clearance, an applicant will need to employ an ecologist to determine if the works are located in an area which meets one of the criteria in Appendix 2. Inevitably, this will have a time and cost effect for the applicant which is difficult to accept when wanting to undertake day to day activities such as earthworks and vegetation clearance.

(c) Removes planning input

The normal process for including provisions (such as SNA's) in a district plan would require a plan change or plan review. As part of developing the plan change or plan review there would be opportunity for the planner to balance the ecological outcomes of applying a SNA to a site against other planning outcomes such as enabling reasonable development or facilitating the establishment of a regionally significant activity. The lack of planning input means that ecology is given primacy over other important and legitimate matters; I consider that all matters in Section 6 of the RMA are of National Importance (not just ecology) and this needs to be factored into the application of SNA's to a site or sites.

(d) Best practice plan drafting for permitted activities

As I identified in (a) above, the most effective and efficient planning provisions are those which are very clear as to when and where they will apply. This is particularly important for permitted activities because it needs to be very clear if an activity requires a resource consent or not.

In my view, the proposed amendment does not meet best practice for plan drafting as the amendment requires input from a specialist ecologist to evaluate if the activity is permitted or not. This was addressed in *Friends of Pelorus Estuary Incorporated v Marlborough District Council* [2008] Decision C004/08 at [101]:

> *There are practical disadvantages in adopting conditions requiring evaluation to determine whether or not a proposal is a permitted activity. Rules by which permitted activities are defined in such a way are regrettable, and might be questioned when the instrument is open for submissions and appeals.*

6. The Council's Rebuttal Evidence seeks to include a non-regulatory policy into the PWDP requiring the Council to cover the cost of an ecological assessment. Whilst this goes some way to remedying the concern raised in relation to cost above, it does not meet any of the other concerns raised in respect of transparency, time delays, planners input or plan drafting.

7. Overall, I consider that the proposed amendment to the definition of SNA is not the 'most appropriate' or 'effective and efficient' for the reasons outlined above. In my view, the only realistic and defendable option available to the Council is Option 4 which retains the SNA's that have been ground truthed and then progressively adds others through a series of plan changes.

Sarah Nairn

November 2020