

## SUMMARY STATEMENT OF CHRIS SCRAFTON ON BEHALF OF TATA VALLEY LIMITED (PLANNING) HEARING 21A – SIGNIFICANT NATURAL AREAS

### Definition of Significant Natural Areas (SNA)

- 1.1 For the reasons set out in my primary statement of evidence<sup>1</sup> I do not agree with the reporting officers recommended definition of Significant Natural Areas (**SNAs**) and I have recommended amendments to the definition<sup>2</sup> in response. In her rebuttal statement of evidence, the Reporting Officer has stated that she is unclear of the consequences of my proposed amendments and have requested further clarification<sup>3</sup>. To clarify, the intent of my recommended amendments to the definition are to:
- (a) Recognise that an SNA as shown on a planning map is essentially a planning mechanism to reflect a mapping exercise undertaken at a point in time to identify areas that meet one or more criteria of Appendix 2. As such, in my opinion a mapped SNA area should be recognised as being an area that likely includes areas of indigenous biodiversity values as opposed to being an absolute area (in entirety) that is of indigenous biodiversity value. I also recommend amendments to policies 3.1.2A and 3.2.3 to reflect this view; and
  - (b) Better align with the RPS which states that *significant indigenous vegetation and the significant habitats of indigenous fauna shall be protected by ensuring the characteristics that contribute to its significance are not adversely affected to the extent that the significance of the vegetation or habitat is reduced*<sup>4</sup>.
- 1.2 I note that the reporting officer agrees with my recommended amendments to policy 3.2.3<sup>5</sup> to focus on 'values' rather than the area identified as 'SNA'<sup>6</sup> and I consider that this approach should equally apply to the definition of SNAs.

### Management of Significant Natural Areas and Indigenous Biodiversity

- 1.3 I support the inclusion of mapped SNAs within the Proposed Waikato District Plan (**PWDP**) where there is sufficient evidence to support their inclusion. However, for the reasons stated in my rebuttal statement of evidence in my view it is not appropriate to:
- (a) Apply SNA mapping of indigenous biodiversity value as an absolute identification of areas of such value through a district plan process;
  - (b) Develop district plan objectives, policies and rules in a manner that considers SNA mapping to be an absolute identification of areas of such value; or
  - (c) Rely solely on SNA mapping and associated plan provisions for the protection of areas of indigenous biodiversity.
- 1.4 As such, I consider that the SNA provisions should:

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<sup>1</sup> Paragraph 4.3 Primary Statement of Evidence of Christopher James Scrafton

<sup>2</sup> Paragraph 4.4, Primary Statement of Evidence of Christopher James Scrafton

<sup>3</sup> Paragraph 134, rebuttal statement of evidence of Ms Chibnall

<sup>4</sup> Explanation to policy 11.2 of the Waikato Regional Policy Statement

<sup>5</sup> Paragraph 85, rebuttal statement of evidence of Ms Chibnall

<sup>6</sup> Paragraph 86, rebuttal statement of evidence of Ms Chibnall

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

### **Policy 3.2.3 – Management Hierarchy**

- 1.5 I suggest a number of changes to policy 3.2.3 because as drafted I consider it to be overly restrictive and to not adequately give effect to the RPS<sup>7</sup>. In my view the proposed effects management hierarchy should recognise that in some instances, avoidance of effects is not always practicable. To summarise my recommended approach is to:
- (a) Avoid effects on values as far as practicable;
  - (b) When avoidance as far as practicable has been exhausted, remedy and/or mitigate as far as practicable;
  - (c) When remedy or mitigate as far as practicable has been exhausted, offset any residual adverse effects;
  - (d) If offsetting isn't feasible, then consider compensation.
- 1.6 The reporting officer partially agrees with my suggested amendments in their rebuttal statement of evidence<sup>8</sup> but does not recommend including 'as far as practicable' with respect to remedying or mitigating effects. I do not agree with the reporting officer's recommendation and consider the wording 'as far as practicable' is necessary and appropriate. This is because the policy is an effects management hierarchy, and as such users need to understand 'how far you go' before you step down the hierarchy. In this regard I remain of the view that the inclusion of 'as far as practicable' throughout the hierarchy is appropriate.
- 1.7 Mr Matthews has also raised concerns that my recommended amendments to policy 3.2.3 (proposed through my primary statement of evidence) does not provide for activities to occur where there is no other practicable option or that there is a functional or operational need to locate in an SNA<sup>9</sup>. In response I note that:
- (a) I have recommended a specific policy<sup>10</sup> to recognise that some activities may have a locational, operational or functional requirement to traverse or locate within a SNA. In my view, recognising

<sup>7</sup> Paragraph 5.5, primary statement of evidence of Christopher James Scafton

<sup>8</sup> Paragraph 86, rebuttal statement of evidence of Ms Chibnall

<sup>9</sup> Paragraph 16 rebuttal statement of evidence of Mr Matthews for Genesis Energy

<sup>10</sup> Paragraph 5.12, Primary Statement of Evidence of Christopher James Scafton

functional, operational or locational requirements (or needs) to be located in SNAs acknowledges that some activities have a greater justification to be located within SNAs than others;

- 1.8 As described above, I have recommended amendments to Policy 3.2.3 to provide greater clarity regarding how to step down the effects management hierarchy. I consider that my recommended amendments to policy 3.2.3 and the inclusion of policy 3.2.xx should adequately address Mr Mathews stated concerns.

### **New Policy 3.1.2D Significant Natural Area Assessment Funding Policy**

- 1.9 The reporting officer proposes a new policy that states that Waikato District Council (**WDC**) and Waikato Regional Council (**WRC**) will meet the costs of an ecological assessment to determine if an area meets the Appendix 2 criteria<sup>11</sup>. I have concerns in regard to implementation of such a policy including how (or if) this policy should be considered through a resource consent process. I also note that a policy in a district plan can not commit a local authority to commit to spend any money or undertake any action. Instead that is done through other local government processes such as the annual and long-term plans. As a result, I consider it is highly uncertain whether the policy will in fact be implemented or achieve the outcomes it seeks.

### **Functional need proposed new policy**

- 1.10 The reporting officer agrees with my suggestion to introduce a new policy that recognises some activities may have a functional need to locate within a SNA<sup>12</sup> but suggests some alternate wording for the policy within their rebuttal evidence including the change of “functional need” to “functional requirement”<sup>13</sup>.
- 1.11 I generally support the reporting officers proposed wording - noting it largely mirrors policy 11.2.2(g) of the RPS but in my view ‘functional requirement’ should be amended to ‘functional need’ which is defined in the PWDP and in the National Planning Standards. I also note that ‘functional need’ as defined in the PWDP as notified refers only to Chapter 14: Infrastructure<sup>14</sup>, and as such a consequential change is necessary to widen the scope of the definition.

### **Response to Rebuttal Evidence of Richard Matthews (Genesis Energy Ltd)**

- 1.12 Mr Matthews does not agree with my recommended amendments to policy 3.1.2A and considers that options for managing effects on indigenous biodiversity outside of mapped SNAs should provide for offsetting or compensation equally<sup>15</sup>. In response:

(a) I do not consider that ‘offsetting’ and ‘compensation’ are commensurate with each other;

(b) In my view it is appropriate to explore offsetting first before ‘stepping down’ the hierarchy to compensation. This aligns with the proposed new definitions included in the s42A Report<sup>16</sup>, which requires offsetting to achieve no net loss whereas compensation does not, with best practice ecological policy and with the latest national direction within the National Policy Statement: Freshwater Management.

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<sup>11</sup> Paragraph 129, rebuttal statement of evidence of Ms Chibnall

<sup>12</sup> Paragraph 13.1, rebuttal statement of evidence of Ms Chibnall

<sup>13</sup> Paragraph 117, rebuttal statement of evidence of Ms Chibnall

<sup>14</sup> “Functional need” *Means for Chapter 14 Infrastructure and Energy, the need for a proposal or activity to traverse, locate or operate in a particular environment because it can only occur in that environment.*

<sup>15</sup> Paragraph 18, rebuttal statement of evidence of Mr Matthews for Genesis Energy

<sup>16</sup> Paragraph 704 of the s42A Report (Part 2)