

BEFORE THE HEARING PANEL

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of Plan Change 9 – Heritage and Natural Environments –
Significant Natural Areas (SNA)

STATEMENT OF EVIDENCE OF LAURA JANE GALT

(Planning - Significant Natural Areas)

14 April 2023

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INTRODUCTION

1. My full name is Laura Jane Galt.
2. I am an Intermediate Planner at Hamilton City Council (**HCC**). I have held this role for approximately six years. I have approximately 16 years' experience in policy planning, including involvement in the 2012 Hamilton City District Plan Review and as the reporting officer for Plan Change 3 – Temple View.
3. My qualifications include a Master of Environmental Planning from the University of Waikato (2011), and a Bachelor of Social Science with Honours from the University of Waikato (Resource and Environmental planning, 2006). I am an intermediate member of the New Zealand Planning Institute.
4. I have been involved in the Significant Natural Area (**SNA**) topic for Plan Change 9 (**PC9**) to the Hamilton City Operative District Plan (**ODP**) since November 2022. I have reviewed all the notified PC9 documents, submissions and expert evidence related to SNAs.
5. I have attended expert conferencing on the topics set out below and signed the joint witness statement (**JWS**) for the following:
 - a) Ecology and Planning - 14 March 2023.
 - b) Planning - 20 March 2023.

CODE OF CONDUCT

6. I am familiar with the Code of Conduct for Expert Witnesses (Environment Court Practice Note 2023) and although I note this is a Council hearing, I agree to comply with this code. The evidence I will present is within my area of expertise, except where I state that I am relying on information

provided by another party. I have not knowingly omitted facts or information that might alter or detract from opinions I express.

SCOPE OF EVIDENCE

7. The purpose of this evidence, presented on behalf of HCC as proponent of PC9 is to address:
 - a) The background to the proposed SNA provisions of PC9;
 - b) The notified SNA provisions;
 - c) Other HCC Strategies/Programs addressing ecological values such as 'Nature in the City';
 - d) HCC's submission points on SNA's and any issues arising from submissions.

8. It is necessary for my evaluation to consider the technical analysis undertaken by the ecological experts engaged by HCC to inform the development of the SNA's proposed under PC9. For the purpose of preparing this evidence, my primary reference source has been the original technical reports by 4Sight Ecologists of May and June 2022 which are set out at Appendix 12 to the s 32 report which accompanies the PC9 documents as the notified. I also rely on the updated Technical Ecological Report of 8 March 2023 which respond to issues raised in submissions.

EXECUTIVE SUMMARY

9. SNAs in the ODP are currently focused on the identification and protection of vegetation and not fauna, which is recognised as a significant gap in the protection of ecological values in the city, particularly in relation to the nationally critically threatened Long Tailed Bat (**LTB**). In this respect, HCC

considers that the existing ODP provisions do not fully meet the obligations arising under section 6(c) of the Resource Management Act 1991 (**RMA**) and the WRPS.

10. In light of this, 4Sight Consulting were engaged to review the extent of SNAs within Hamilton city which resulted in a unique outcome of two separate classifications of SNAs (fSNA and cSNA) being introduced through PC9 which respond specifically to the ecological values identified within them.
11. To address the noted gaps within the ODP a review of the relevant provisions resulted in a number of policy and rule changes, including:
 - a) A change in policy approach from absolute 'avoidance' to an effects management approach to enable the protection of SNAs.
 - b) Provision and recognition of activities that are beneficial and/or have a functional need to exist in SNAs.
 - c) An effects management hierarchy to address situations where adverse effects cannot be avoided.
 - d) Policies introducing biodiversity offsetting and biodiversity compensation.
 - e) Amended policies for pruning and maintenance within SNAs which corresponds to the amended activity status.
 - f) Amended policies to address and align with the Nature in the City strategy (biodiversity strategy).
 - g) Amended policies in relation to public awareness of SNA protection.

- h) Revised activity status and standards to reflect the amended management approach signalled in the amended policies, including separate consenting pathways for fSNA and cSNA where warranted.
 - i) Updated planning maps to reflect new extents of SNAs.
12. In relation to HCC's submission points, I have reviewed and support the s42A report recommendations. It is my opinion that the recommendations assist in achieving the intent of PC9.
13. In regard to the spatial extent of the SNAs I have reviewed the s42A report recommendation in light of the ecologists' recommendations and I am satisfied with the proposed amendments to the SNA boundaries.
14. In regard to the Te Awa Lakes submission on SNA c59 and c76, I support the recommendation of Mr Dean to amend the boundaries where vegetation clearance has already occurred or includes a path. I also support retaining, at this time, the SNA areas which still exist and hold ecological values (potential LTB habitat) unless specific vegetation removal consents can be provided.
15. I have reviewed the s42A report recommendations in respect of lighting effects on bats and proposed setbacks sought by The Department of Conservation (**DoC**). I support the proposed amendment for outdoor lighting for properties adjoining an SNA. I also agree with the s42A report recommendations that it is not appropriate to introduce setbacks sought by DoC nor scope to do so within PC9. However, I have considered and support in principle the proposed lighting/setback rule within Chapter 25.6 – Lighting and Glare as recommended by HCC's lighting expert Mr McKensey.

16. My agreement is noted in the JWS to include objectives and policies to specifically address the bat habitat within SNAs and I support the proposed new objective and related policies.
17. I have reviewed and support the expert evidence of Dr Mueller and the s42A report recommendation to not include additional SNAs specifically for mudfish in PC9. The associated ecological issues are important, but may require addressing through another plan change process.
18. Finally, it is noted that HCC does not provide any direct financial assistance to gully owners, including any consent fees waivers for restoration work.

ANALYSIS

The background to Significant Natural Areas (SNAs)

19. Prior to PC9, existing mapped SNAs in the ODP were heavily focused on flora and not fauna, which was recognised as a significant gap in the management of ecological values in the City, particularly in relation to the nationally critically threatened LTB. The mapped extent of SNA's has been in place since the review of the ODP in 2012, and the rules have not been reviewed since the settlement of appeals in relation to that review in 2017.
20. Since the resolution of the appeals to the ODP, significant work has been undertaken in relation to biodiversity at a regional level, including the review of the Waikato Regional Policy Statement (**WRPS**) and its Appendix 5 (which was Chapter 11A). At a national level an exposure draft of the National Policy Statement on Indigenous Biodiversity (**NPSIB**) was released in 2022, and a final gazetted version is expected this year.
21. Furthermore, it is now recognised that many vegetation areas that are not currently recognised as SNAs (predominantly in gullies and along the

Waikato River) are the habitat for several threatened and/or regionally uncommon species, notably the LTB.

22. As noted above, in the ODP, SNA's are currently focused on the identification and protection of vegetation and not fauna; this significant gap in the ODP SNA framework has been noted by the Environment Court¹ and HCC considers that the existing provisions do not fully meet the obligations arising under section 6(c) of the Resource Management Act 1991 (**RMA**) and the WRPS.
23. As a consequence, 4Sight Consulting were engaged by HCC to review and update the extent of the SNAs to be recognised within Hamilton City from an ecological perspective.
24. As set out in Dr Hannah Mueller and Mr Hamish Dean's evidence, the review of the extent of the SNAs resulted in a unique outcome of two classifications of SNAs:
 - a) Floristic SNAs (**fSNA**): which are distinct areas of wetland or terrestrial vegetation dominated by indigenous vegetation. These areas largely reflect the existing ODP SNAs.
 - b) Corridor/Indigenous Fauna Habitat SNAs (**cSNA**): which were identified by topographical or vegetation features (such as gullies) but are often dominated by exotic vegetation or restoration planting. These areas either provide significant fauna habitats (e.g. LTB) or provide ecological buffering to a regionally or nationally important SNA.
25. Given the different ecological functions and values of fSNA and cSNA, the two classifications of SNA were included and mapped through PC9,

¹ Weston Lea v Hamilton City Council [2020] NZEnvC 189

including an updated Appendix 9D which includes the criteria each SNA meets to determine its classification.

26. Specific details on the difference between the SNA classifications and the background methodology of the mapping are set out in the ecological reports at Appendix 12 to the s32 report to PC9, and in the evidence of Dr Mueller and Mr Dean.
27. Relevant District Plan sections which are subject to proposed new SNA related provisions are:
 - a) Chapter 20 – Natural Environments which deals with SNAs and also includes provisions for Notable Trees (also subject to PC9), and Peat Lakes for which no changes were made through PC9;
 - b) Appendix 9 – Natural Environments includes the SNAs in Schedule 9C;
 - c) Appendix 1.3 – Assessment Criteria D – Natural Character and Open Space, specifically D3, D3A, D3B, D3C;
 - d) Planning maps extent of SNAs.

Objectives and policies

28. Policies 20.2.2 relating to SNA management were amended to change the focus from an absolute 'avoidance' approach to an effects management approach that focuses on avoiding adverse effects on key ecological values and functions (loss of ecosystem function, fragmentation) to protect SNAs.
29. Amended policies recognise activities that are beneficial for SNA and/or have a functional or operational need to exist in a SNA, and an effects hierarchy management approach is introduced to address situations when adverse effects cannot be avoided.

30. New policies are introduced which clearly identify when biodiversity offsetting and biodiversity compensation are acceptable, and when they are not acceptable.
31. A new policy is introduced which recognises the need for pruning and maintenance within SNAs and which corresponds to the amended activity status rules.
32. Amended policies are introduced to address and align with the Nature in the City Strategy (Biodiversity strategy) and the 10% target of indigenous vegetation.
33. Amended policies are introduced which promote public awareness of SNAs and the means by which SNAs are to be protected and enhanced.

Rules related to SNAs

34. Revised activity status rules in 20.3 and revised standards in 20.5.5, 20.5.6 and 20.5.7 reflect the amended management approach signalled in the amended Policies, including addressing the separate consenting pathways for activities dependant on their classification as a fSNA or cSNA and the function and values being protected.
35. Whilst there are separate consenting pathways, there is only a slight difference between an fSNA and a cSNA, addressing situations where a different approach is warranted to manage impacts on the values they were identified for. PC9 included three activities where a higher activity status for fSNA is imposed in comparison to the cSNA, being:
 - a) Pruning maintenance, or removal of exotic vegetation or trees when associated with restoration.
 - b) Construction of, or access to new infrastructure; and

- c) All other earthworks not provided for by another rule.
36. New assessment criteria were also introduced to complete the revised policy and rule framework.

Other Council Strategies - Nature in the City Strategy 2020 – 2050

37. The Nature in the City Strategy was developed under the Local Government Act 2002 (**LGA**) to address biodiversity across the city with the focus of the strategy on restoring native vegetation. The goal of the strategy is that *“We achieve 10% native vegetation cover in Kirikiriroa/Hamilton by 2050”*. Currently Hamilton has less than 2% of native vegetation cover remaining.
38. It is recognised that a large portion of the 10% coverage would occur in SNAs which is reflected in the proposed wording of policy 20.2.1.i, and 20.2.1.l, which seek to enable activities that would also assist in achieving the goal of the Strategy.
39. Outside of the ODP, the Nature in the City Strategy also identifies and prioritises the next steps including:
- a) Restoring gully systems through creating access paths, undertaking pest control and native revegetation and maintenance;
 - b) Establishing a citywide monitoring and reporting programme;
 - c) An integrated approach to ecological restoration, including working with neighbouring councils; and
 - d) Supporting and enabling our community to care for nature.

40. It is anticipated that for HCC these initiatives would be progressed through programmes funded under the Long-Term Plan.

HCC submission points on SNAs and any issues arising from submissions

41. HCC lodged a submission in respect of the notified SNA provisions within PC9. The submission identified a number of technical or practical points which needed to be addressed through revised provisions. A summary of the HCC submission points, and the s42A report response is set out in Table 1 below.

| Submission relief | S42a response |
|---|-----------------------------------|
| <ul style="list-style-type: none"> • Further clarification in Rule 20.3 in relation to terms 'public' and 'private' walkways and corresponding definitions • Activity status for tracks in the cSNA and fSNA • What is considered an upgrade for an existing track | Recommendation to accept in part. |
| New activity status in Rule 20.3 to refer to chapter 25.2 | Recommendation to accept |
| Alignment of terminology of risk between notable trees and SNA's. SNA – uses 'unacceptable risk' whereas Notable Trees 'imminent risk' | Recommendation to accept |
| Pest species removal and pest control | Recommendation to accept in part |
| That further work is undertaken to determine the thresholds and acceptable methods for the management of indigenous and exotic vegetation or trees in both the cSNA and fSNA when restoration works are proposed, and where necessary, rule changes. | Recommendation to accept in part |
| Addressing the management of park furniture in SNA's | Recommendation to accept |
| That Rule 20.5.6 is redrafted to ensure adequate management and protection of | Recommendation to accept in part |

| | |
|---|----------------------------------|
| the canopy of a SNA, and what is acceptable area of vegetation removal. | |
| Delete the word 'and' and replace with the word 'or' between Rules 20.5.7a. and 20.5.7.b. | Recommendation to accept |
| Mapping of SNA's | Recommendation to accept in part |

Table 1

42. I have reviewed the s42A report recommendations in relation to HCC's submissions on SNAs set out in Table 1 above. I agree with the recommendations set out in the s42A report and it is my opinion that these recommendations, as reflected in the draft provisions attached to the s42A report assist in achieving the intent of PC9.
43. In addition to these amendments to the notified PC9 provisions, as part of the submission process a number of submitters sought the amendment or removal of SNA mapping on their properties. The ecologists have undertaken additional field work to address these submissions and have set out their recommendations in their updated Technical Ecology report.
44. In regard to the spatial extent of SNAs, I have reviewed the s42A recommendations and in light of the recommendations of the HCC ecologists I am satisfied with the proposed amendments to the spatial extent of the SNAs as set out in the evidence of Mr Dean.
45. Te Awa Lakes made a submission on SNA c59 and c76 which extend onto or are adjacent to land they own. Discussion and a site visit relating to this submission occurred after expert conferencing.
46. I have reviewed and support Mr Dean's recommendation to amend the SNA boundary to exclude the areas where vegetation removal has already occurred, and the area covered by track for SNAs c59 and c76 as shown in Attachment 1 of his evidence.

47. In respect of the submission point seeking the removal c59 (pines) and c76 (riparian vegetation) which still physically exist, as advised by the ecologists, the ecological values (potential LTB habitat) warrant protection through SNA mapping.
48. I recommend that the SNAs c59 and c76 are retained as I do not agree these should be simply removed because they are inconsistent with previously consented activities. It has been noted that the landowner holds consents for vegetation removal in this area, at the time of writing this evidence, I did not have copies of the consents relating to the vegetation removal. However, I may revise my recommendation if the submitter provides consents relating to the vegetation removal and there exists no planning or ecological justification to support the retention of the SNA in light of that information. For now, I am not certain that is the case.
49. Finally in relation to agreed revised provisions, I confirm that I attended expert conferencing on the SNA topic in March 2023 and recorded my agreement in the JWS in regard to the amendments to provisions relating to pest species and pest control, and to Appendix 1.2.1(h)(iii).

S 42A Report Key Points

50. DoC raised the issue of lighting effects on LTBs. I have reviewed the s42A authors' recommendations in relation to lighting and concur and support the proposed amendment to lighting standards for outdoor lighting when properties adjoin an SNA.
51. DoC also sought the introduction of setbacks from SNAs to address lighting effects on SNAs, again I have reviewed and support the s42A author's recommendations that setbacks of the nature sought by DoC in an existing urban area are not appropriate nor is there scope within PC9 to address this within other zones (e.g. residential). However, I have considered the

expert evidence of Mr John McKensey and support in principle the proposed lighting/setback rule to be inserted into Chapter 25.6.

52. DoC sought the protection of mud-fish habitats because their habitat meets criteria to be included as an SNA. I have considered Dr Mueller's evidence and I have reviewed and support the s42A author's recommendation to not include additional SNAs specifically for mudfish through PC9. The ecological issues may require addressing through another plan change process, although I do note that the issues are currently addressed during land use consenting and regional consenting processes.
53. In response to the Adare Company submission my agreement is noted in the JWS to include an objective and policies to specifically address the LTBs within SNAs. I have reviewed and support the proposed new Objective 20.2.2 and related policies.
54. HCC does not provide any direct financial assistance to gully owners, including any consent fees waivers for restoration work. However, it is my opinion that the amendments proposed by Ms Buckingham in the s42A report more appropriately provide for restoration activities within an SNA.

Minor Corrections

55. In my review of the notified provisions, I have noted two minor referencing corrections in Chapter 20, which are:
 - a) Chapter 20 – Purpose; amend the reference to section 11A of the WRPS to Appendix 5. Since the notification of PC9 and close of submissions Waikato Regional Council have revised the WRPS to include the required National Planning Standards and Section 11A is now called Appendix 5; and

- b) Rule 20.3 a. amend the reference 'h' to 't'. In error the notified version of PC9 did not take into account of the additional activities inserted for SNAs in the table.

CONCLUSION

- 56. I support and accept the recommendations made by Ms Buckingham in the s42A report in relation to the HCC submission and the other key submission points addressed in my evidence.
- 57. In addition, I support Mr Dean's recommendations in relation to the amended SNA mapping boundaries. I also Mr Dean's recommendations in relation to the Te Awa Lakes submission to revise the boundaries for c59 and c76 where the vegetation has already been removed or included a path and to retain the mapped areas where the vegetation remains.

Laura Galt

14 April 2023