

**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 –  
to the Operative Hamilton City District Plan

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**SUPPLEMENTARY STATEMENT OF EVIDENCE OF EMILY BUCKINGHAM**

**(PLANNING – NPS-IB)**

**Dated 1 September 2023**

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**LACHLAN MULDOWNY**

BARRISTER

**P** +64 7 834 4336 **M** +64 21 471 490

**Office** Panama Square, 14 Garden Place, Hamilton

**Postal** PO Box 9169, Waikato Mail Centre, Hamilton 3240

**[www.lachlanmuldowney.co.nz](http://www.lachlanmuldowney.co.nz)**

## INTRODUCTION

1. My full name is Emily Chee Win Buckingham. My qualifications and experience have been set out in section 1 of the Hearing Session 1 Planning Report for Plan Change 9 (**PC9**).
2. This statement of planning evidence addresses the National Policy Statement for Indigenous Biodiversity 2023 (**NPS-IB**), as per Panel Direction #12.
3. For PC9, my role has been section 42A (**s42A**) reporting planner for the Significant Natural Areas (**SNAs**) topic. I co-authored the Plan Change Hearing Session 1 Themes and Issues Report and s42A Planning Report, being responsible for the SNAs topic. I then presented at the PC9 Session 1 hearing in May 2023.
4. Ms Laura Galt was the Hamilton City Council (**HCC**) expert in respect of this topic. At the conclusion of the hearing on the SNA topic I presented my s42A report update having conferred with Ms Galt. We were in agreement on all issues. Due to workload in relation to the Built Heritage Topic in PC9, Ms Galt is unavailable to address the NPS-IB issue and HCC has requested that I present evidence in response to the Panel's directions. Accordingly, my evidence can be taken as a supplementary s42A report which has the endorsement of Council as PC9 proponent.

## CODE OF CONDUCT

5. I reconfirm that 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.

## SCOPE OF EVIDENCE

6. This evidence relates primarily to the impact of the NPS-IB on PC9. It provides an update to the position provided in the s42A report, most

recently in the s42A reply dated 2 June 2023.

## **SUMMARY OF EVIDENCE**

7. Regarding the spatial extent of SNAs, I consider that areas of vegetation on the Fonterra Te Rapa site and the Yzendoorn property at 29 Petersburg Drive do qualify as SNA if mapping is to occur strictly in accordance with the methodology set out in the NPS-IB. If the Panel seeks to directly give effect to these provisions within the NPS-IB, then this would be contrary to my previous recommendation to exempt these areas from the PC9 SNA overlay, which was made based on planning rather than ecological reasons. I consider it remains open for the Panel to exercise its discretion on this issue as part of its overall plan making function.
8. I do not consider that any other changes are required to the spatial extent of SNAs (as mapped and listed in PC9 and updated through Session 1 evidence) to give effect to the NPS-IB.
9. Regarding the PC9 provisions addressing activities within SNAs, I consider that these are generally consistent with the NPS-IB, including its objective and the highly directive clause 3.10(2). In particular, PC9 contains policy direction to avoid a list of adverse effects on indigenous biodiversity that is very similar to the list of adverse effects to be avoided that is contained in the NPS-IB, and there are very limited opportunities to remove indigenous or exotic (non-pest) vegetation in SNAs as a permitted activity.
10. I have identified three parts of PC9's provisions where I consider that minor wording changes would be appropriate to recognise and give effect to the gazetted NPS-IB. In addition to those three matters set out below, subject to there being scope I also recommend alignment with the NPS-IB definitions for 'biodiversity offsetting' and 'biodiversity compensation'. The three recommended changes are:
  - a) A wording change to Policy 20.2.1d to match the wording of the

effects management hierarchy in the final NPS-IB;

- b) A change to Standard 20.5.7 containing the permitted standards for vegetation removal for infrastructure maintenance, to require all cleared areas to be replanted, so as to avoid permitting any permanent loss of SNA extent; and
- c) A wording change to the information requirements for activities involving biodiversity offsetting and compensation in Appendix 1.2 to refer to the principles for offsetting and compensation that are contained in the NPS-IB, now being the most recent best practice guidance.

#### **STATUTORY CONTEXT**

11. The Memorandum of Counsel on behalf of HCC dated 19 July 2023 sets out the legal relevance of the NPS-IB to PC9. To summarise, the NPS-IB came into force on 4 August 2023 and all local authorities must give effect to it as soon as possible. That includes a positive obligation on the Panel to ensure its decision on PC9 is in accordance with, and gives effect to, the NPS-IB. However, the extent to which PC9 can give effect to the NPS-IB is limited by the scope of the plan change. To the extent that certain directives in the NPS-IB are outside of the scope of PC9, those matters will require addressing in a further plan change.
12. The NPS-IB applies to all indigenous biodiversity in Aotearoa. PC9 only addresses the indigenous biodiversity within Hamilton City's SNAs.
13. I note that while it had no legal effect, the exposure draft of the NPS-IB was available at the time that PC9 was notified and for the Session 1 hearing. HCC's team was cognisant of this in preparing the recommendations on submissions and plan provisions. Much of the final NPS-IB is substantially unchanged from the exposure draft.

## **SPATIAL EXTENT OF SNAS**

### **SNA Identification Methodology**

14. PC9 reviewed and updated the extent of mapped SNAs in Hamilton City. The methodology that was used for defining the extent of SNAs applied the criteria from Appendix 5 of the Waikato Regional Policy Statement (WRPS).
15. Clause 3.8 of the NPS-IB now requires territorial authorities to identify SNAs across their districts in accordance with Appendix 1. This contains a different set of criteria for identifying SNAs to that in the WRPS. However, Clause 3.8(5) states that areas already identified as SNAs at commencement of the NPS-IB need not be re-identified if a qualified ecologist confirms that the methodology used was consistent with the approach in Appendix 1.
16. As the SNAs identified in PC9 had immediate legal effect upon notification, they are considered to be 'already identified' at commencement of the NPS-IB.
17. The supplementary evidence of Mr Hamish Dean compares the PC9 approach for identifying SNAs to that in clause 3.8/Appendix 1 of the NPS-IB. He concludes that while there are some differences to the criteria, overall the identification methodology is consistent with the NPS-IB. The most significant difference is that the NPS-IB applies to terrestrial environments only, but PC9 includes some aquatic environments as SNA. In my understanding, this is not precluded by the NPS-IB, and it remains appropriate to include these SNAs in PC9 because they qualify under the WRPS criteria.
18. In particular, as the cSNAs identified on bat habitat meet criteria C and/or D of the NPS-IB, Mr Dean has confirmed that it remains appropriate for them to be SNAs (rather than Highly Mobile Fauna areas). Schedule 9C in PC9 describes the location and attributes of the SNAs, which aligns with the

requirements of NPS-IB clause 3.9(2)(a).

19. On that basis, I consider that no changes are required to the spatial extent of SNAs (as mapped and listed in PC9 and updated through Mr Dean's Session 1 evidence) to give effect to the NPS-IB. I also consider that Mr Dean's supplementary evidence confirms that the already identified SNAs in PC9 do not need to be re-identified through a future plan change, in accordance with clause 3.8(5) of the NPS-IB.
20. Under clause 3.8(1) of the NPS-IB, HCC will still need to identify any additional SNAs within 5 years, for example, mudfish habitat.

#### **Fonterra Te Rapa and Yzendoorn**

21. At the PC9 Session 1 hearing there were two instances where Ms Galt's planning evidence and my s42A recommendations diverged from the ecological recommendations on SNA extent. These were the Fonterra Te Rapa site, where an area was exempted under the WRPS for being created in connection with artificial structures, and the Yzendoorn property at 29 Petersburg Drive, due to an easement requiring that this area remain clear of vegetation. These were practical considerations that meant that while the ecological evidence may have recommended mapping the areas as SNAs, the better planning outcome was to make them exempt.
22. In my interpretation, the NPS-IB requires the spatial identification of SNAs on an ecological merits basis only, and does not provide for such exemptions. That means that the original ecological recommendation for inclusion of these areas as SNA gives effect to the NPS-IB, so I consider that these two areas would need to be retained as SNA if the Panel seeks to directly give effect to the mapping methodology for SNAs prescribed in the NPS-IB.
23. Given that, I have considered the possibility of site-specific SNA provisions recognising the unique constraints associated with these areas. In my view,

that approach could potentially be supportable if the site-specific provisions were linked to a circumstance where the NPS-IB anticipates an alternative approach to managing effects on SNAs. For example, clause 3.11(4) of the NPS-IB applies to the Fonterra site. However, I consider that any such provisions would need to allow for the applicable effects management approach in the NPS-IB to be followed.

24. If those site specific provisions are not available nor workable, I consider that the Panel retains an overall discretion in terms of how it gives effect to the NPS-IB which must be exercised in a balanced way with all other relevant factors in the plan making process. For example, it may not be efficient in s 32 terms to map an SNA on an area of land which title is already subject to a registered covenant requiring vegetation remain cleared.

#### **PLAN PROVISIONS**

25. PC9 contains a comprehensive set of provisions addressing activities within SNAs, primarily through amendments to Chapter 20 of the District Plan.
26. The NPS-IB does not contain rules or activity statuses but does contain direction on how to manage adverse effects on indigenous biodiversity from various activities. In my opinion, in order to give effect to the NPS-IB, the plan provisions in PC9 would generally need to:
  - a) contain permitted activities that align with the kinds of activities that the NPS-IB anticipates as being acceptable in SNAs;
  - b) require resource consent for those types of activities which the NPS-IB anticipates may have adverse effects on indigenous biodiversity in SNAs; and
  - c) have a policy framework which allows for an assessment of activities requiring resource consent in a manner that is consistent with the NPS-IB assessment framework.

27. I have reviewed the PC9 provisions with the above points in mind.

### **Objectives and policies**

28. The objective of the NPS-IB is to maintain indigenous biodiversity across Aotearoa so that there is at least no overall loss in indigenous biodiversity after the commencement date. I consider that PC9 is aligned with this objective in terms of its objectives and approach to SNAs (promoting protection, maintenance, restoration and enhancement). In particular, under PC9, there are very limited opportunities to remove indigenous or exotic (non-pest) vegetation in SNAs as a permitted activity, which helps to prevent the loss of indigenous biodiversity.
29. Maintenance of indigenous biodiversity outside of SNAs is not within the scope of PC9.
30. A highly directive clause in the NPS-IB is clause 3.10(2), containing a list of adverse effects on an SNA of any new subdivision, use or development that must be avoided. PC9 contains Policy 20.2.1c, which also uses an 'avoid' direction, with the list of effects to be avoided being very close to that in NPS-IB clause 3.10(2). In my view this will result in a similar, consistent policy assessment of proposals between PC9 and the NPS-IB.
31. PC9 Policy 20.2.1d sets out an effects management hierarchy for managing adverse effects on SNAs that cannot be avoided, which was consistent with the effects management hierarchy in the exposure draft of the NPS-IB. I confirm that it remains largely consistent with the wording in the final NPS-IB, except for the inclusion of the term 'demonstrably' in front of the words 'avoided' and 'possible', and the use of 'then' as a connector between the elements of the hierarchy instead of 'and'. There is scope to bring the wording into alignment through the Director General of Conservation's submission on PC9 [#425], and in my view, this should be done. This change is included in **Attachment 1** to my evidence.



32. In the NPS-IB there is an emphasis on the active participation of tangata whenua in decision-making about indigenous biodiversity. As set out in the section 32 report for PC9, tangata whenua were consulted in respect of the plan change, but their involvement was not to the extent that they could be considered partners in developing the approach to indigenous biodiversity (as per the NPS-IB). I do not consider that this requires any change to PC9. Tangata whenua will need to be given the opportunity for stronger involvement in any future plan changes to implement the NPS-IB.
33. Where directly relevant, I have commented further on specific NPS-IB policies in the following paragraphs. It is my opinion that PC9 is not inconsistent with the remaining NPS-IB policies, which will need to be fully implemented through a later plan change.

#### **Planting, vegetation alteration and management**

34. As previously stated, PC9 takes a stringent approach to vegetation removal. The permitted vegetation removal options are set out in the table below, where I have commented on how I consider that these align with the NPS-IB.

<b>Reason for vegetation removal, as permitted by PC9</b>	<b>NPS-IB alignment</b>
Prevent spread of disease (Rule 20.3a(i))	Consistent with objective to maintain indigenous biodiversity, as prevents any further loss of indigenous biodiversity to disease
Imminent risk to health and safety (Rule 20.3a(ii))	Consistent – the NPS-IB requirement to avoid and manage effects on indigenous biodiversity does not apply to works addressing a high risk to public health or safety (clause 3.10(6)(a))
Maintenance of existing structures (Rule 20.3a(iii, v))	Consistent with Policy 9 and clause 3.15, as allows established activities to continue
Customary activities (Rule 20.3a(iv))	Consistent – the NPS-IB requirement to avoid and manage effects on indigenous biodiversity does not apply to sustainable

	customary use in accordance with tikanga (clause 3.10(6)(b))
Weed / pest control (excluding trees over a specified size that may be bat habitat) (Rule 20.3b)	Consistent with objective to protect and restore indigenous biodiversity, as reduces impact of weeds and pests
Up to 50m <sup>2</sup> for restoration purposes in cSNA (Rule 20.3e)	Consistent with objective to restore indigenous biodiversity and clause 3.21 promoting restoration, noting that cleared vegetation must be replaced with indigenous vegetation.

35. In summary, I am of the view that the reasons for which vegetation removal is permitted in SNAs under the PC9 provisions align with and give effect to the NPS-IB objective for there to be no overall loss in indigenous biodiversity.
36. In terms of planting, I consider that the planting of indigenous vegetation in SNAs (as permitted by PC9) is entirely consistent with the objective of the NPS-IB.
37. In a supplementary statement for hearing session 1, Dr Mueller (ecologist for HCC) confirmed that the planting of non-invasive exotic vegetation in cSNAs was able to protect the existing values of such areas as habitat for indigenous biodiversity.<sup>1</sup> I consider that my subsequent recommendation, in the s42A reply, to change the activity status of the planting of exotics in cSNAs to a permitted activity is also consistent with the objective of the NPS-IB.

### **Structures / Development**

38. Clause 3.5 of the NPS-IB states that local authorities must consider social, economic and cultural wellbeing aspects in their management of indigenous biodiversity. Policy 7 and clause 3.10 of the NPS-IB require adverse effects on SNAs from new subdivision, use and development to be

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<sup>1</sup> PC9 Session 1 hearing – Supplementary statement of Dr Hannah Mueller, ecologist for HCC, dated 25/5/2023

avoided or managed.

39. In my view, PC9 (including the s42A changes recommended through the PC9 process) is consistent with this direction. Specifically, as I stated above, Policy 20.2.1c of PC9 closely matches the NPS-IB in terms of the adverse effects on SNAs that are to be avoided by developments. Additionally, as s42A planner I recommended that the notified provisions be revised to better allow landowners reasonable use of their property, including retaining walls, fences, access tracks, ancillary structures such as clothes lines and garden structures in cSNAs, and pruning close to existing buildings.<sup>2</sup> The provisions also allow for removal of trees putting people or property at imminent risk. In my opinion, these rules recognise that landowners of privately owned SNAs have a role as stewards of indigenous biodiversity while taking their social and economic wellbeing into consideration. Mr Dean's opinion as set out in his supplementary evidence is also that these activities avoid the adverse effects on SNAs listed in clause 3.10(2).
40. Other larger structures which require vegetation removal and may not be able to avoid the adverse effects listed in clause 3.10(2) of the NPS-IB require resource consent under the PC9 rules.<sup>3</sup> This enables the NPS-IB to be given effect to through resource consents and for such effects to be examined.
41. I note that some developments are exempt from avoiding such effects through NPS-IB clause 3.11 (e.g. a single residential dwelling on an existing allotment where there is no alternative location outside the SNA). However, that does not mean they should be permitted under PC9, as it is still necessary to apply the effects management hierarchy in clause 3.10(3) and (4) of the NPS-IB. Therefore, it is still appropriate for PC9 to include

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<sup>2</sup> PC9 Session 1 hearing – S42A reply of Emily Buckingham, dated 2 June 2023 – in particular Rules 20.3ja, jaa and jab, Rule 20.3a(v).

<sup>3</sup> Rule 20.3m and 20.3q applying to both cSNAs and fSNAs, and Rules 20.3ja, jaa, jab requiring consent for most structures in fSNAs

requirements for a resource consent for these developments.

42. Policy 9 and clause 3.15 of the NPS-IB provide for certain established activities to continue in SNAs. I consider that the rule regime in PC9 aligns with this direction, as Rule 20.3(i) permits existing buildings and structures in SNAs as long as their existing envelope or footprint is not increased.

### **Infrastructure**

43. The NPS-IB does not apply to the development, operation, maintenance or upgrade of renewable electricity generation assets and activities and electricity transmission network assets and activities (the National Grid). Other infrastructure is covered, with different approaches to managing the effects of specified infrastructure versus other infrastructure set out in clause 3.10.
44. PC9 requires consent for any new infrastructure within a SNA,<sup>4</sup> which would include the National Grid or renewable electricity generation. Although this is a more stringent approach to the National Grid and renewable electricity than the NPS-IB, it is my understanding that such an approach is not precluded, therefore I would not consider it to be inconsistent with the NPS-IB. I further note that the approach was not challenged through submissions.
45. In terms of all other new infrastructure in SNAs, as PC9 requires resource consent to be obtained, this would allow for the NPS-IB to be considered and given effect to through resource consent applications as follows:
  - a) Most infrastructure has a Discretionary or Non-Complying activity status;<sup>5</sup> this allows for a full assessment under the NPS-IB. That assessment would include applying the effects management hierarchy set out in both PC9 and the NPS-IB.

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<sup>4</sup> Rule 20.3n

<sup>5</sup> Proposed Rules 20.3l and n

- b) Public walkways and cycleways in cSNAs are Restricted Discretionary activities,<sup>6</sup> with discretion reserved over a list of adverse effects on the SNA that match those that are to be avoided as per clause 3.10(2) of the NPS-IB.<sup>7</sup> There is also discretion to apply the effects management hierarchy as applicable.
46. In terms of existing infrastructure in SNAs, PC9 permits vegetation pruning and removal to maintain or upgrade existing infrastructure, including public walkways and cycleways. 100m<sup>2</sup> of removal per asset per year is permitted (but must be replanted if that land is not required for ongoing access and operation, as per the s42A recommended provisions). Size restrictions also apply to the vegetation that can be removed.<sup>8</sup>
47. As an established activity, clause 3.15 of the NPS-IB directs that existing infrastructure in an SNA should be enabled to continue operating where effects on the SNA are no greater over time and do not result in loss of SNA extent or degradation of ecological integrity. If they do, they must be managed as if they were a new development.
48. In the PC9 section 32 report it was assessed that up to 100m<sup>2</sup> of vegetation removal was typically required for small scale infrastructure maintenance works, so I consider that this threshold reasonably corresponds to allowing for the ongoing operation of the existing infrastructure. It also takes the social and economic wellbeing benefits of infrastructure into account, as per clause 3.5 of the NPS-IB. From an ecological perspective, Mr Dean is of the view that if any smaller removed vegetation is replanted, there will be a temporary loss of SNA extent, but the extent of the SNA would not be permanently lost and the SNA's ecological integrity would not be degraded over time. However, it is his view that permanently cleared areas of up to 100m<sup>2</sup> for ongoing maintenance access would represent a loss of SNA extent. Therefore, I consider that Standard 20.5.7 needs to be amended to

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<sup>6</sup> Proposed Rule 20.3l

<sup>7</sup> Appendix 1-3 of the Hamilton City District Plan, Assessment criterion D3(j)

<sup>8</sup> Proposed Rule 20.3k and Standard 20.5.7

require all cleared areas to be replanted in order to be a permitted activity, so as to be consistent with clause 3.15 of the NPS-IB. This amendment is included in **Attachment 1**.

### **Restoration and increasing indigenous vegetation cover**

49. PC9 contains Policy 20.2.1i promoting a target of 10% indigenous vegetation cover in the City, which is entirely consistent with clause 3.22 of the NPS-IB requiring at least the same (noting that the regional council still needs to set a target, and it could end up being higher).
50. In my view, the s42A changes recommended through the PC9 process, to better enable restoration activities within SNAs, also bring PC9 closer in line with NPS-IB Policies 13 and 14 by promoting restoration of indigenous biodiversity and increased vegetation cover, although do not fully implement these policies.

### **Bats, lighting and glare**

51. In the s42A report, I recommended that additional objective, policies and lighting rules be added to PC9 for the purpose of managing effects on long-tailed bats. It was (and remains) my opinion that the recommended lighting rules in Chapter 25 would minimise the potential effects of lighting on indigenous fauna in SNAs, while being a cost-effective, efficient and proportionate response to the anticipated scale of adverse lighting effects.
52. Following the gazettal of the NPS-IB, I do not consider that any changes are required to these provisions. All were supported by HCC's lighting and ecological evidence, and regard was also had to the social and economic implications for landowners. Based on Mr McKensey's and Dr Mueller's session 1 evidence,<sup>9</sup> I consider that the lighting rules will control lighting and glare into SNAs so as to avoid any reduction in the function of the SNAs

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<sup>9</sup> Statements of evidence of Dr Hannah Mueller, Ecology – SNAs and John McKensey, Lighting – SNAs, both dated 14 April 2023

as bat habitat and any reduction in bat occupancy within the SNAs (as required by clause 3.10(2) of the NPS-IB).

### **Definitions and information requirements**

53. As part of the effects management hierarchy, the concepts and definitions of 'biodiversity offsetting' and 'biodiversity compensation' remain in the NPS-IB. The PC9 definitions of these terms in Appendix 1.1 do not exactly match the NPS-IB (which also includes appendices setting out principles for use of these techniques), but the wording is very close. Subject to there being scope, I would recommend full alignment be achieved and I have included the potential change in **Attachment 1**.
54. Appendix 1.2.2.X contains information requirements for activities that are proposing biodiversity offset or biodiversity compensation measures. Debate was had at the hearing on how the principles / best practice guidelines for offsetting and compensation should be referred to within this provision. The appendices to the NPS-IB consolidate the offsetting and compensation principles within the two other best practice documents I previously recommended be referred to in this provision, and now represent the most recent best practice guidelines. Therefore, I consider that Appendix 1.2.2.X should now refer to the NPS-IB. A wording change is included in **Attachment 1** to this evidence.

### **CONCLUSION**

55. In my opinion, the manner in which the PC9 provisions manage activities, within identified SNAs, is in accordance with and gives effect to the NPS-IB.
56. I consider that if the Panel seeks to directly give effect to the NPS-IB by implementing its SNA mapping criteria and methodology, SNAs should be mapped on the Fonterra Te Rapa and Yzendoorn sites as notified in PC9, rather than being partially removed as recommended by the s42A report. I do not consider that any other changes are required to the spatial extent

of PC9 SNAs as a result of the NPS-IB.

57. I have identified three parts of PC9's provisions where I consider that minor wording changes would be appropriate to recognise and give effect to the gazetted NPS-IB. Those changes are included in **Attachment 1**. Subject to scope, I also recommend alignment with the NPS-IB definitions for 'biodiversity offsetting' and 'biodiversity compensation'.
58. I do not consider that any further changes are required to the s42A reply version of PC9 provisions to give effect to the NPS-IB, to the extent that this is possible within the scope of PC9.

**Emily Chee Win Buckingham**

**1 September 2023**



## **ATTACHMENT 1**

## **Recommended changes to the most recent s42A version of PC9 provisions to give effect to the NPS-IB**

### **Chapter 20 Natural Environments**

#### **Policy 20.2.1d**

Where it is not possible for infrastructure and public walkways and cycleways to avoid the adverse effects on Significant Natural Areas listed in Policy 20.2.1c, manage adverse effects on Significant Natural Areas in accordance with the following effects management hierarchy:

- i. Adverse effects are avoided where practicable; ~~and then~~
- ii. Where adverse effects cannot be demonstrably avoided, they are minimised where practicable; ~~and then~~
- iii. Where adverse effects cannot be demonstrably minimised, they are remedied where practicable; ~~and then~~
- iv. Where more than minor residual adverse effects cannot be demonstrably avoided, minimised, or remedied, biodiversity offsetting is provided where possible; ~~and then~~
- v. Where biodiversity offsetting of more than minor residual adverse effects is not demonstrably possible, biodiversity compensation is provided; ~~and then~~
- vi. If biodiversity compensation is not appropriate, the activity itself is avoided.

#### **Standard 20.5.7 The operation, maintenance, renewal or upgrading of, or access to, existing infrastructure and public walkways and cycleways**

##### **A. Pruning, maintenance or removal of indigenous or exotic vegetation or trees**

- a. The works are required to maintain an existing walking access track to access existing infrastructure or contribute to restoring or enhancing SNAs; or
- b. Either:
  - i. The works do not result in the removal of more than 100m<sup>2</sup> of indigenous vegetation per existing asset, per calendar year; or
  - ii. The works are limited to areas within two metres of the existing asset; and
- c. Either:
  - i. Any tree removed must have a diameter of no more than 150mm measured at 1.4m in height above ground level; or
  - ii. The tree has a diameter greater than 150mm, measured at 1.4m in height above ground level; and:
  1. A suitably qualified person has confirmed that there is a low potential for the tree to be used as habitat for either bats or any other Threatened or At-Risk indigenous fauna; and

2. The report from the suitably qualified person is provided to Hamilton City Council prior to the removal of the tree(s).

d. Any area of vegetation cleared ~~that is not required for ongoing access or operation of infrastructure~~ is planted with indigenous vegetation or trees within 12 months.

#### **B. Earthworks**

a. The disturbance is limited to areas within 2m of the asset being operated, maintained, renewed or upgraded; or

b. No more than 100m<sup>2</sup> of land is disturbed per existing asset, per calendar year; and

c. The area disturbed is reinstated as soon as practicable following the completion of the works.

#### **C. Renewal or upgrading of infrastructure**

The asset being renewed or upgraded is increasing in footprint by a maximum of 5% or 30m<sup>2</sup>, whichever is the greater.

### **Appendix 1.1 Definitions and Terms**

**Biodiversity compensation:** Means a conservation outcome that meets the requirements in Appendix 4 of the National Policy Statement for Indigenous Biodiversity 2023 and resulting from actions that are intended to compensate for any more than minor residual adverse effects on indigenous biodiversity after all appropriate avoidance, minimisation, remediation, and biodiversity offset measures have been sequentially applied.

**Biodiversity offset:** Means a measurable conservation outcome that meets the requirements in Appendix 3 of the National Policy Statement for Indigenous Biodiversity 2023 and resulting from actions that are intended to:

a. Redress any more than minor residual adverse effects on indigenous biodiversity after all appropriate avoidance, minimisation, and remediation, measures have been sequentially applied;

b. Achieve ~~no net loss, and preferably~~ a net gain, in type, amount and condition ~~the extent and values of indigenous biodiversity compared to that lost, where:~~

i. ~~No net loss means that the measurable positive effects of actions match any loss of extent or values over space and time, taking into account the type, values function and location of the indigenous biodiversity; and~~

ii. ~~Net gain means that the measurable positive effects of actions exceed the point of no net loss.~~

## **Appendix 1.2 Information Requirements**

### **1.2.2.X Significant Natural Areas – Biodiversity offsetting and biodiversity compensation**

Any activity requiring a resource consent relating to Significant Natural Areas and proposing biodiversity offset or biodiversity compensation measures shall include as part of the resource consent application:

- a. Assessment of the proposal against the effects hierarchy in Policy 20.2.1d and whether the proposal is appropriate under Policy 20.2.1e.
- b. Assessment of the proposal against the principles for biodiversity offsetting and biodiversity compensation in Appendices 3 and 4 of the National Policy Statement for Indigenous Biodiversity 2023 ~~most recent best practice guidelines on offsetting and compensation.~~

~~Note: Current guidance documents include Department of Conservation's *Guidance on Good Practice Biodiversity Offsetting in New Zealand*, published August 2014, and *Biodiversity Offsetting under the Resource Management Act: A guidance document*, prepared for the Biodiversity Working Group on behalf of the BioManagers Group, 2018.~~