

**BEFORE THE INDEPENDENT HEARING PANEL**

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of Proposed Plan Change 9 to the Operative Hamilton City  
District Plan

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**REBUTTAL EVIDENCE OF STEPHEN JESSE MARC GASCOIGNE ON BEHALF OF TE AWA  
LAKES UNINCORPORATED JOINT VENTURE**

**PLANNING - SIGNIFICANT NATURAL AREAS**

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## **Introduction**

1. My name is **Stephen Jesse Marc Gascoigne**.
2. I am the acting Planning Lead for Te Awa Lakes (“**TAL**”) – a master-planned residential, commercial, and recreational development to the north of Hamilton City being delivered by Te Awa Lakes Unincorporated Joint Venture (“**TALUJV**”) and have been engaged to deliver the comprehensive subdivision and related consents for construction of the project on the basis of the consented Land Development Plan (“**LDP**”).
3. I am a Senior Consultant with Aurecon New Zealand Limited, a multi-disciplinary consultancy firm which provides engineering, management and specialist technical services for public and private sector clients. In total, I have eight (8) years of experience as a planner.
4. My experience and qualifications are set out at paragraphs [4] and [5] of my primary Statement of Evidence.

## **Code of Conduct**

5. I reconfirm that I have read and am familiar with the Code of Conduct for Expert Witnesses (Environment Court Practice Note 2023) and agree to comply with this code.

## **Statement of Rebuttal Evidence: Ms Laura Galt**

6. This Rebuttal evidence primarily responds to the statement of rebuttal evidence prepared by Ms Galt on behalf of Hamilton City Council, addressing the response to my primary statement of evidence on behalf of TAL at paragraphs [22] through [25]<sup>1</sup>.
7. In preparing this Rebuttal evidence I have also had regard to rebuttal statements prepared by Dr Hannah Mueller<sup>2</sup> and Mr Hamish Dean<sup>3</sup> in respect of ecological matters and relied upon in the evidence of MS Galt.
8. At the outset, the clarity of the rebuttal statements made by the Council’s experts is somewhat confused by lack of direct statements between conclusions in relation to the primary evidence prepared on behalf of TAL for the HES block and the HEN block. I have sought to determine where these statements relate as follows:

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<sup>1</sup> Dated 12 May 2023.

<sup>2</sup> Statement of Rebuttal Evidence of Dr Hannah Mueller (Ecology – Significant Natural Areas) dated 12 May 2023.

<sup>3</sup> Statement of Rebuttal Evidence of Hamish Alston Dean (Ecology – Significant Natural Areas) dated 12 May 2023.

- a. Dr Mueller and Mr Dean specifically discuss the ecological values mentioned by Mr Croft for TAL in terms of SNA's c59 (the pines) and c76 (the riverside vegetation). There is only direct reference in the experts' statements<sup>4</sup> to areas contained in the supplementary memorandum of Mr Croft on HES which are overlaid by the mentioned SNA's; the conclusions of which are not contested by this planning evidence. I have accordingly disregarded these further.
- b. The rebuttal statement of Ms Galt goes further than the statements made by Dr Mueller and Mr Dean and concludes broadly, in my interpretation, that regardless of the existing LDP resource consent (010.2021.11468.001) if the clearance of consented areas has not yet occurred those areas retain ecological value and therefore should be protected via a proposed SNA. I have assumed in preparing this statement that as no recommendation has been made within Ms Galt's evidence in light of my primary Statement of Evidence and the consent documents provided, the Council does not agree that those areas affecting HEN should be removed and warrant protection under the same philosophy. I comment on the validity of this assessment below.

#### Existing Resource Consents for HEN

9. Ms Galt states<sup>5</sup> in her evidence that *"unless the landowner presents evidence of the guaranteed future removal of all this remaining vegetation (which is not necessarily what the consent envisages, the SNA may still serve a purpose"*<sup>6</sup>. A similar conclusion is reached at paragraph [24] in relation to the conditional clearance of pines under SNA c59, albeit subject to the outcomes of that process identifying if critical vegetation is present.
10. I am concerned that such statements will potentially result in the protection of short-term ecological values in the affected extents of SNA's c59 and c76 with no beneficial long-term retention or gain outcome. It is not fanciful when considering an existing or otherwise consented environment that the clearance of such vegetation may be conducted in a progressive or staged manner if authorised and that as such clearance can be conducted lawfully, the future situation of no vegetation within the areas outlined in black at **Attachment 1** will be realised.

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<sup>4</sup> At paragraphs [25] through [27] of Dr Mueller's statement and at paragraphs [6] through [8] of Mr Deans statement.

<sup>5</sup> In relation to SNA c76

<sup>6</sup> At paragraph [23].

11. Land use consents are held with the underlying land unless subject to lapse and should TAL not complete total clearance this is not to say that another purchaser and/or holder of the LDP consent would choose to retain these areas. In fact, from a constructability perspective, the completion of TAL in accordance with the LDP is wholly reliant on the infrastructure that such clearance will enable in future stages. Stage One is near completion and Stage Two will form the primary outlet to the Waikato River.
12. I have reviewed the conditions and referenced 'general accordancy' documents contained in the decision and attached schedule for LDP resource consent 010.2021.11468.001 and these reference relatively standardised processes for the pre-felling acoustic survey and inspection of trees for bat activity (e.g., roosting and foraging). These do not necessarily imply that progressive re-survey of these trees cannot be undertaken until such time as any bat activity ceases during a survey period, and the trees thereafter felled.
13. Such conditional restrictions do not apply to that part of SNA c59 affected by HEN's development masterplan.
14. I also submit that the retention of the SNA c59 and c76 areas in full as they apply to HEN would inappropriately elevate a future restrictive planning regime on the development of super-lots or other sub-areas of the LDP that require future land use and subdivision consent approvals. The SNA provisions simply pose a reporting and assessment burden on such applications which trigger a Non-Complying status regardless if the trees themselves have since been cleared under resource consent 010.2021.11468.001. This is an inefficient planning outcome when compared to national direction seeking to enable land development, business, and housing outcomes in Tier 1 authority areas.

#### **Conclusion and Relief Sought**

15. I have reviewed the rebuttal evidence of the planning and ecological experts for Hamilton City Council in relation to TAL's relief and supporting evidence. In summary, from a planning perspective, I consider there has been clear and concise evidence provided that proposed SNA's c59 and c76 have been modified by LDP resource consent 010.2021.11468.001 and the clearance of these areas, whether progressive or outright, forms part of a non-fanciful existing environment.
16. In addition, I consider that there is no long-term gain from retention of these affected sections of SNA that could be reasonably achieved, and without imposing an unnecessary planning restriction on the existing consented development.

17. Consequently, I retain my position that proposed SNA's c59 and c76 as they apply to HEN should be modified to remove the areas in black as shown in **Attachment 1**.

**Stephen Jesse Marc Gascoigne**

**24 May 2023**

## ATTACHMENT 1