

**BEFORE THE 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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**SECTION 42A REPORT UPDATE STATEMENT OF EVIDENCE OF EMILY CHEE WIN  
BUCKINGHAM**

**Dated 2 JUNE 2023**

## **INTRODUCTION**

1. My full name is Emily Chee Win Buckingham. I am one of the Section 42A Report authors of the report titled 'Plan Change 9 – Historic Heritage and Natural Environment Planning Report and Recommendations' (**the Section 42A Report**) dated 6 April 2023. Specifically, I prepared the Significant Natural Areas (**SNA**) sections of the report.
2. My qualifications and experience are as set out in Section 1 of the Section 42A Report.
3. I reconfirm that I have read and am familiar with the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2023 and agree to comply with it.

## **PURPOSE AND SCOPE OF STATEMENT**

4. The purpose of this statement is to provide an update to the SNA specific sections of the Section 42A report. This update responds to matters identified within submitter statements of evidence and presentations during this hearing where my recommendations are amended in response. Some additional comments are also made in response to discussion during the hearing, regarding why my recommendations remain unchanged.
5. A summary of amended recommendations is included as Attachment 1. A summary of responses to the submitters appearing at the hearing is included as Attachment 2. Attachment 3 is a clean version of my updated recommended SNA rules. The full updated recommended Plan Change 9 (**PC9**) chapters in track change format are being provided to the Panel separately (due to different parts of PC9 with different s42A authors affecting the same chapters).

## **SPATIAL EXTENT OF SNAS**

6. I continue to rely upon the spatial extent of SNAs recommended by Mr Hamish Dean and Dr Hannah Mueller, unless there is a specific planning reason to diverge from the ecological recommendations. In my view, the identification of such areas must primarily be on an ecological basis, applying the criteria in APP5 of the WRPS.

7. I have included Mr Dean's two late changes to SNA extents as presented at the hearing as recommended amendments.
8. My divergences from the ecological recommendations are limited to the Fonterra Te Rapa site and the Yzendoorn's property at 29 Petersburg Drive. My recommendation with respect to Fonterra has not changed. I agree with the EIR of Ms Laura Galt that the easement area should be removed from the SNA on 29 Petersburg Drive.
9. In relation to the HEN Block (Te Awa Lakes), there may be a valid planning reason to amend this SNA, however I do not change my recommendation at this time. I have not seen sufficient information to confirm that the vegetation in all of the black outlined areas on Attachment 2 to Mr Gascoigne's EIC is expressly authorised to be removed. Some of these areas appear to extend offsite. I accept from the information provided that the majority of C59 is authorised to be removed, where the residential/business development areas are located. However for C76 along the River, it is still unclear whether the LDP consent expressly provides for the removal of vegetation in the specific outlined areas for the outfalls, overland flow paths and lowering of the cyclepath. These are only roughly marked on the stamped plans provided, and the cyclepath works are not notated at all. The missing information may be contained in the Ecological Assessments and Rehabilitation Management Plan that the works must be in accordance with as part of condition 1, but these have not been provided.
10. Further, I would expect that some replanting would be required under the Ecological Rehabilitation Management Plan after the works affecting C76 are completed. Given the small portions of C76 sought to be removed, and assuming that vegetation will be replaced to some extent (maintaining some ecological functionality), I consider from a planning perspective that it would be preferable for the whole of SNA C76 to remain rather than taking small chunks out.
11. There also remains some residual uncertainty as to whether the LDP consent will definitely be implemented in full as it stands.

## **OBJECTIVES AND POLICIES**

12. I recommend that an explanation be added underneath the new objective and policies relating to long-tailed bats, as per para 27 of Ms Galt's EIR.
13. I agree with the reasoning of Ms Galt and Mr Inger in not supporting the new noise policy sought by DOC. I also note that the noise effects on indigenous fauna can be considered for Discretionary and Non-Complying activities under the proposed Chapter 20 policies. For example, Policy 20.2.1c in considering adverse effects on ecosystem function and reduction in occupancy and presence of threatened or at-risk species.
14. I also agree with the evidence of Ms Galt and Mr Inger in not supporting DOC's proposed changes to protect unmapped areas that meet SNA criteria. For the reasons set out in the Section 42A report, I consider that any lacuna in the protection of mudfish habitat is minimal. As such I have not recommended any changes to provisions in this respect.

## **ACTIVITIES IN SNAS**

### **Planting**

15. I have reconsidered my position on planting of exotics in cSNAs. Whilst from an ecological perspective, indigenous plants are generally preferable and would contribute towards meeting the target of 10% indigenous vegetation cover in the City, I consider that the restriction on private landowners' planting activities is not necessary to give effect to WRPS Policy ECO-P2. The characteristics that contribute to the significance of cSNAs can still be maintained through planting of exotics. I recommend that Rules 20.3(d) and (f) addressing this activity are changed to permitted status in cSNAs.

### **Pest control**

16. The recommended change to the definition of pest control was intended to widen the ability to remove pest plants in SNAs without a resource consent, noting that Waikato

Regional Council's submission considered that only allowing pest plants under its Regional Pest Management Plan to be removed would 'severely' limit the removal of weedy and nuisance species. I understand that the Waikato Regional Pest Management Plan 2022-2032 has been prepared under the Biosecurity Act and only includes harmful organisms declared pests under that Act. For example, tradescantia is not included. I am not aware of a more appropriate list of pests that is currently published. Therefore, my recommendation on this matter remains unchanged.

### **Restoration**

17. I continue to recommend that any restoration projects involving the removal of more than 50m<sup>2</sup> of non-pest plant species, or the removal of larger trees, require resource consent. An ecological review is important before these take place, as I understand that well-meaning parties have inadvertently removed exotic bat roost trees in the past. As it is ultra-vires to base a permitted activity status on an approval process outside the District Plan, a resource consent application is the appropriate mechanism for such a review.
18. In my view, a helpful way to reduce the barriers to larger scale restoration taking place would be for Council to provide greater financial or other assistance to the parties for both consent applications and the projects themselves.

### **Structures**

19. My recommendations on the structures that should be permitted within cSNAs generally remain unchanged. However, I have revisited the wording of the provisions with a view to making them clearer for plan users. Instead of referring to structures for restoration activities and safety purposes, I have now explicitly listed out the structures that I recommend be permitted within activity table 20.3, and deleted Standard 20.5.8. The new listed structures are:

<a href="#"><u>ja. Ancillary residential structures (excluding swimming pools)</u></a>	<a href="#"><u>P</u></a>	<a href="#"><u>RD</u></a>
<a href="#"><u>jaa. Access tracks and boardwalks</u></a>	<a href="#"><u>P</u></a>	<a href="#"><u>RD</u></a>
<a href="#"><u>jab. Other structures not meeting the definition of a building (excluding swimming pools)</u></a>	<a href="#"><u>P</u></a>	<a href="#"><u>RD</u></a>

20. Associated vegetation alteration and earthworks is provided for by Rules 20.3(a)iii and (h) (which I have adjusted correspondingly), subject to Standard 20.5.1 specifying that branches and roots thicker than 50mm may not be cut and up to 15% of a tree's foliage may be removed each year.
21. I refer to the operative rules for the Waikato Riverbank and Gully Hazard Area which coincides with some or all of the proposed cSNAs for the majority of submitters who appeared (see Attachment 2). New buildings (definition includes fences or walls over 2.5m in height, retaining walls over 1.5m in height and load bearing, and excludes steps, terraces and patios not exceeding 1m in height) and building alterations or additions resulting in greater coverage/floor area are discretionary activities within this area (Chapter 22.3 of the Plan). "Ancillary residential structures" (letterboxes, clothes lines, steps, terraces and patios) and lower fences and walls are permitted. This is consistent with the revised recommended rules for structures in cSNAs.

### **Summary – Activities in SNAs**

22. I consider that the plan provisions I have recommended go a substantial way towards addressing many of the concerns raised by landowners at the hearing. Under these provisions, the updated list of activities able to be carried out by private landowners in cSNAs without a resource consent includes:
- a) Pruning or removal of diseased trees and those putting people or property at imminent risk;
  - b) Pruning close to existing buildings;
  - c) Removal of pest species (no area limit, but size limits for trees apply);
  - d) Any planting of indigenous vegetation in both fSNAs and cSNAs;
  - e) Any planting of exotic vegetation in cSNAs;
  - f) Replacing existing buildings without increasing their size;
  - g) Access tracks, boardwalks and steps;
  - h) New retaining walls no more than 1.5m high, fences and walls;
  - i) Clotheslines, terraces, patios, garden structures such as ornamental pools, and other structures that do not meet the definition of a building;

- j) Vegetation pruning and maintenance required to construct, maintain or upgrade the above structures/tracks, subject to size limits on branches/roots that can be cut and amount of foliage removed; and
  - k) Earthworks for maintaining tracks or fencing, or associated with works for the above permitted structures, subject to size limits on roots that can be cut.
23. Under these provisions gardening activities, access, stability, safety and security are all provided for in cSNAs. The main activities that are recommended to be subject to a restrictive regime and potential requirement for resource consent are buildings, any lighting, and larger scale vegetation removal. I consider that this regime accords with s6(c) RMA and WRPS Policy ECO-P2 which require that Council protects the ecological values of SNAs and ensures the significance of the vegetation or habitat is not reduced. I recognise that many landowners do value and look after the vegetation on their properties, and I have sought to minimise any restrictions on their ongoing activities. I do not consider that the goodwill of landowners can be entirely relied upon to protect areas of ecological significance, due to the drivers for some to remove this vegetation (e.g. to improve development potential).
24. Attachment 3 is a clean version of the updated recommended SNA rules to assist the Panel's consideration of whether the provisions work efficiently and effectively.

## **LIGHTING AND GLARE**

25. I originally recommended that outdoor security lighting be required to be 3000K. My concern was around the effectiveness and practicality of the proposed new outdoor lighting rule 25.6.4X. It potentially affects a large number of private properties, who would need to be able to source the appropriate fixtures in order to comply. My online shopping experience matched that described in Mr McKensey's EIR, where a downfacing exterior security light with incorporated or compatible 2700K lightbulb was difficult and expensive to find. I was uncomfortable with placing that difficulty and expense on a large number of landowners when it may not make any material difference, particularly given the existing lighting context.

26. Should the Panel be of the view that the market will respond to make suitable 2700K outdoor lighting fixtures available, I agree that it would be best to replace 3000K with 2700K in Rule 25.6.4X(b)iii.
27. For clarity, I do not disagree with the 2700K value in proposed rule 25.6.4.X(c), as I understand from Mr McKensey that developers are likely to have more cost-effective access to other suppliers of fixtures than would be so for private landowners.
28. The reference to EUROBATS No. 8 was considered helpful to include in the explanation to the lighting policies. I disagree with Mr Inger that the explanation would have a de facto effect as a standard. There is currently no other obvious place to refer to EUROBATS – as there are no assessment criteria or information requirements proposed in association with the new lighting rule, discretion simply defaults to effects of not complying with the standard (as per clause 1.1.8). This is when it could be helpful for plan users to refer to EUROBATS. However, I am not strongly of the view that it must be included.
29. I have already recommended that a cross reference to the lighting rules be added within the activity table 20.3 in Chapter 20, which I expect would be looked at by plan users as city-wide rules when an activity is proposed in proximity to a SNA. To further ensure the requirements are not missed, I recommend changing the wording in row (jc) of this table to ‘Artificial lighting (both within a SNA and within 20m of a SNA)’. Should the Panel consider that cross reference to the lighting rules would be helpful to include in the zone chapters, a GIS query has been run and the list of operative District Plan zones/areas that are in or within 20m of an SNA (as per Council’s recommendations version of maps) are:

District Plan Chapter	Zone/Area
Chapter 4 Residential Zones	General Residential Zone Large Lot Residential Medium Density Residential Zone Residential Intensification Zone
Chapter 5 Special Character Zones	Peacocke Character Zone Special Heritage Zone Special Natural Zone



	Special Residential Zone Temple View Zone
Chapter 6 Business 1 to 7 zones	Business 1 Zone – Commercial Fringe Business 5 Zone – Suburban Centre Core Business 6 Zone – Neighbourhood Centre
Chapter 7 Central City Zone	Precinct 1 – Downtown Precinct Precinct 2 – City Living Precinct Precinct 3 – Ferrybank Precinct
Chapter 8 Knowledge Zone	Knowledge Zone AgResearch University of Waikato Campus
Chapter 9 Industrial Zone	Industrial Amenity Protection Area Industrial Zone
Chapter 11 Ruakura Industrial Park Zone	Ruakura Interface Design Control Area
Chapter 12 Te Rapa North Industrial Zone	Deferred Industrial Zone Heavy Industry
Chapter 15 Open Space Zones	Natural Open Space Zone Destination Open Space Zone Waikato River and Lakes Neighbourhood Open Space Zone Ruakura Open Space Sports and Recreation Open Space Zone
Chapter 16 Community Facilities Zone	Community Facilities Zone
Chapter 17 Major Facilities Zone	Major Facilities Zone
Chapter 18 Transport Corridor Zone	Transport Corridor Zone

## MISCELLANEOUS

30. In relation to the proposed new information requirements in Appendix 1.2.2.X relating to biodiversity offsetting and compensation in SNAs, I agree with Commissioner Serjeant's comment that Clause (a) might not need to be included as applications should be assessed against these policies anyway, but in my view it would be helpful to keep this clause for completeness of what information would be expected for such applications.

31. I consider that the alternative wording for clause (b) presented by Mr Inger in his hearing speaking notes and included below has some merit. I understand that while mostly consistent with each other, the 2014 document covers slightly different aspects to the 2018 guidelines, therefore keeping reference to both documents would be preferable. Referring to the 'principles' for offsetting and compensation as described in these documents would still achieve the intention of this provision, which is to provide some best practice guidance to inform any assessment. I have recommended a revised clause (b) which partially incorporates Mr Inger's suggestions, but continues to refer to the documents as an advice note rather than incorporating them as a requirement.

**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 ~~most recent best practice guidelines on principles for 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 in~~ Biodiversity Offsetting under the Resource Management Act: A guidance document, prepared for the Biodiversity Working Group on behalf of the BioManagers Group, 2018 or any principles for offsetting and compensation in an applicable national policy statement.

*Appendix 1.2.2.X wording proposed by Ben Inger*

32. I do not support adding DOC as an affected party into the flowchart Figure 1.1.9a if Rule 20.3(l) is triggered. It is unnecessary, as DOC can still be considered affected under a normal s95 assessment. Further, the way the flowchart operates is that the listed activities marked with an asterisk (\*) default to being non-notified except for the identified party, rather than notification being determined in accordance with the provisions of the Act. This would prevent consent applications for new public walkways from being notified to other parties.

## **CONCLUSION**

43. The above paragraphs set out a series of changes to the recommendations set out within the Section 42A Report dated 6 April 2023 for consideration by the Panel of Hearing Commissioners. Except where amended above, in all other respects the recommendations contained within the Section 42A Report remain the recommendations. The combined revised recommended amendments to district plan chapters will be provided to the Panel by the Section 42A authors, noting that Appendix 9C has not yet been revised to reflect amended SNA extents (ha) following the hearing. It is considered most efficient that these areas be recalculated upon the Panel's decision.

**Emily Chee Win Buckingham**

**2 June 2023**

## Attachment 1: Summary of amended recommendations

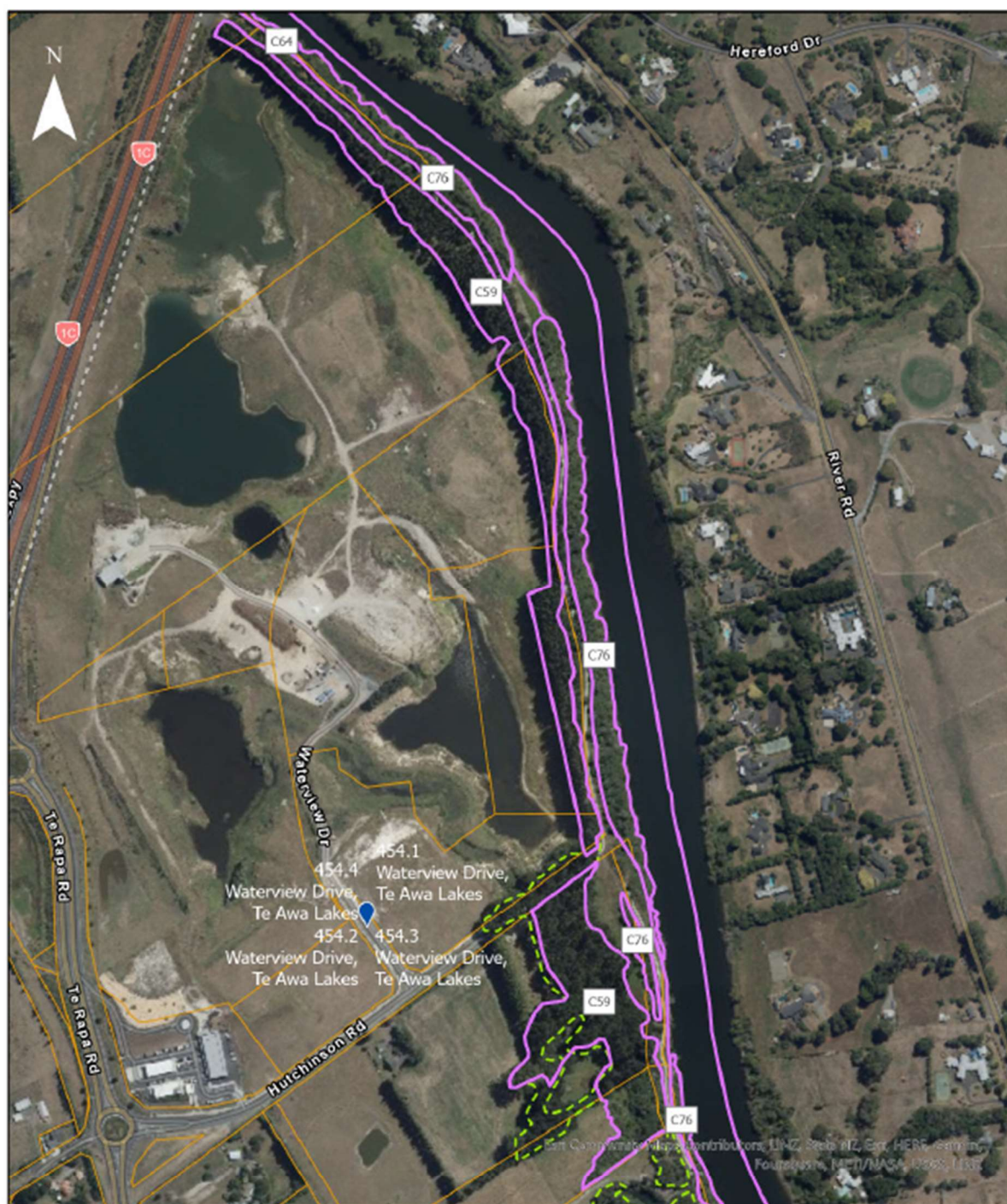
Submitter	Provision / Address	Revised recommendation
356 Jason Lee	Planning Maps: 160 St James Dr	Fix minor error - remove the SNA off the property. As per amended map supplied by Hamish Dean and <b>below</b> . Amend area of SNA in Schedule 9C accordingly.
454 Te Awa Lakes	Planning Maps: HES Block and HEN Block, Te Awa Lakes	Remove the area of pines already cleared from the SNA extent on HEN Block. As per amended map supplied by Hamish Dean and <b>below</b> . Amend area of SNA in Schedule 9C accordingly.
457 Yzendoorn	Planning Maps: 29 Petersburg Drive	Agree with EIR of Laura Galt. Remove the area of SNA where there is an easement, as per rebuttal evidence of Laura Galt – Map in Appendix 1 (p12) and <b>below</b> . Amend area of SNA in Schedule 9C accordingly.
423 The Adare Company	Chapter 20 Natural Environments 20.2.2 Explanation to the new objective and policies relating to long tailed bat	Add explanation underneath new objective and policies relating to long-tailed bats, as per para 27 of Ms Galt's EIR:  <u><i>Significant Natural Areas throughout the City provide habitat for the threatened – nationally critical long-tailed bat which is important to protect and enhance. To help to achieve this an integrated approach across all Significant Natural Areas in the City for restoration of long-tailed bat habitat and monitoring of long-tailed bat activity is required. The role and responsibilities of the City-wide Bat and Habitat Enhancement Panel are addressed in Appendix 1.5.4 r).</i></u>
425 Director of General Conservation	Chapter 25.6 Lighting and Glare Proposed Rule 25.6.4X  Chapter 20 Natural Environments 20.3 Activity table (jc)	Replace <del>3000K</del> with <u>2700K</u> in Rule 25.6.4X(b)iii.  Semi colon instead of fullstop after 25.6.4X(b).  Change 20.3(jc) to read 'Artificial lighting <u>(both within a SNA and within 20m of a SNA)</u> '

425 Director of General Conservation	Chapter 20 Natural Environments 20.1 Purpose	Update reference in 20.1(c) to <u>APP5</u> instead of section 11A of the WRPS. (Also change same reference in Appendix 9C)
425 Director of General Conservation / 423 The Adare Company	Appendix 1.2.2.X(b) Information requirements for biodiversity offsetting and compensation	Amend as follows:  (b) Assessment of the proposal against the <del>most recent best practice guidelines on</del> <u>principles for</u> 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. <u>Future guidance documents may include an applicable national policy statement.</u>
270 Mary Lee Burton and others	Chapter 20 Natural Environments 20.3 Activity table	Amend the activity status of planting of exotic vegetation to be permitted in cSNAs (Rules 20.3(d) and 20.3(f)).  Revise the rule wording relating to structures in SNAs to be clearer for plan users (replace Rule 20.3(ja) with three new rows and delete standard 20.5.8).

## Amended SNA Maps











## Attachment 2: Summary of Responses to Submitters who Presented 24-25 May 2023

Submitter	Provision / Address	Response
<b>WEDNESDAY 24 MAY</b>		
80 Alexander Gillespie	Historic Heritage Areas	N/A to SNAs
222 Michael Griffin	170 State Highway 26 (C40)  [SNA on site is entirely within Natural Open Space Zone and Waikato Riverbank and Gully Hazard Area]	<u>As per Technical Ecology Report/p26 of Mr Dean's EIC:</u> Adjust SNA boundary to follow the fenceline as the mapped area includes a paddock area which should be excluded.
323 Tony Street	8 Minchin Cres (F64)  [SNA on site is entirely within Waikato Riverbank and Gully Hazard Area]	<u>As per Technical Ecology Report:</u> Retain SNA as notified. Although much of this is exotic vegetation it forms part of a larger SNA which buffers the Waikato River.  To clarify, the area of existing SNA adjoining the property to the south was intentionally removed due to the area containing concrete walkways and gardens.
270 Mary Lee Burton / Larry Greene	736A River Road (C18)  [SNA on site is entirely within Waikato Riverbank and Gully Hazard Area]  Chapter 20 Provisions	<u>As per Technical Ecology Report:</u> Retain SNA as notified. Some open grass areas within in this area but overall ecological value is consistent with the rest of the SNA.  <u>As per s42A report and revised recommendations in this statement:</u> Amend provisions to be less restrictive on private landowner activities. Amend the activity status of planting of exotic vegetation to be permitted in cSNAs (Rules 20.3d and 20.3f). Revise the rule wording relating to structures in SNAs to be clearer for plan users (replace Rule 20.3(ja) with three new rows and delete standard 20.5.8).
434 John Caradus	6/8 Geoffrey Place (C71)  Chapter 20 Provisions	<u>As per Technical Ecology Report:</u> Retain SNA as notified. Established indigenous vegetation connected to important bat habitat.  <u>As per s42A report and revised recommendations in this statement:</u> Amend provisions to be less restrictive on private landowner activities.

391 Sharp Planning Solutions	48 Amanda Avenue / Bremworth Park (C7)  Chapter 20 Provisions	<p><u>As per Technical Ecology Report/p28 of Mr Dean's EIC:</u> Adjust SNA boundary to property boundaries. The reason being gardens have been captured along this edge of the SNA which add little or no value to it and the straightening of the boundary will not compromise the integrity of the SNA.</p> <p><u>As per s42A report and revised recommendations in this statement:</u> Amend provisions to be less restrictive on private landowner activities. Operational matters of Council maintaining public land is beyond the scope of PC9 to remedy.</p>
286 Mark & Sara Paris	27 Keswick Crescent (C35)  [SNA on site is entirely within Waikato Riverbank and Gully Hazard Area]  Chapter 20 Provisions	<p><u>As per Technical Ecology Report/p42 of Mr Dean's EIC:</u> Adjust SNA boundary to exclude retaining wall, gardens and fruit trees.</p> <p><u>As per s42A report and revised recommendations in this statement:</u> Amend provisions to be less restrictive on private landowner activities.</p>
308 Stephen Gale	1859 River Road (C78)  [SNA on site is entirely within Waikato River flood hazard area]	<u>As per Technical Ecology Report:</u> Retain SNA as notified. The reason being the mapped area is consistent with the values of the remaining part of the SNA.
425 Director General of Conservation	Chapter 25.6 Lighting and Glare Proposed Rule 25.6.4X	<p><u>As per revised recommendations in this statement:</u> Replace <del>3000K</del> with <u>2700K</u> in Rule 25.6.4X(b)iii. Semi colon instead of fullstop after 25.6.4X(b).</p>
	Chapter 20 Natural Environments 20.3 Activity table (jc)	Change 20.3(jc) to read 'Artificial lighting <u>(both within a SNA and within 20m of a SNA)</u> '
	Chapter 20 Natural Environments 20.1 Purpose	Update reference in 20.1(c) to <u>APP5</u> instead of section 11A of the WRPS (Also change same reference in Appendix 9C)
<b>THURSDAY 25 MAY</b>		
454 Te Awa Lakes	HES Block and HEN Block, Te Awa Lakes	<u>As per amended map supplied by Hamish Dean and attached:</u> Remove the area of pines already cleared from the SNA extent on HEN Block.

		Amend area of SNA in Schedule 9C accordingly.
457 Yzendoorn	29 Petersburg Drive (C26)  [SNA on site is mostly within Waikato Riverbank and Gully Hazard Area and entirely within Natural Open Space Zone]	<u>As per EIR of Laura Galt and map attached:</u> Remove the area of SNA where there is an easement. Amend area of SNA in Schedule 9C accordingly.
423 The Adare Company	Chapter 20 Natural Environments 20.2.2 Explanation to the new objective and policies relating to long tailed bat	<u>As per EIR of Laura Galt and revised recommendations in this statement:</u> Add explanation underneath new objective and policies relating to long-tailed bats.
	Appendix 1.2.2.X Information requirements for biodiversity offsetting and compensation	<u>As per revised recommendations in this statement:</u> Amend to refer to principles for offsetting and compensation and to refer to potential future NPS-IB.
256 Anthony Endres	Address not supplied, but not challenging extent of SNA.  Chapter 20 Provisions	<u>As per s42A report and revised recommendations in this statement:</u> Amend provisions to be less restrictive on private landowner activities. Ratings matters cannot be progressed though PC9 decisions.
364 Nancy Caiger/ Mactan Property Trust	5/5a Tauhara Drive (C54)  [SNA on site is entirely within Waikato Riverbank and Gully Hazard Area]	<u>As per Technical Ecology Report:</u> Retain SNA as notified.
328 Roderick Aldridge	Chapter 20 Provisions	<u>As per s42A report and revised recommendations in this statement:</u> Amend provisions to better provide for restoration activities.
326 John Badham	Chapter 20 Provisions	Retain the management hierarchy in PC9, noting that the validity of biodiversity offsetting is recognised in the WRPS. No change of view on scope.
169 Ngati Wairere – Wiremu Puke	Mostly Notable Trees, Historic Heritage Areas and General matters	N/A to SNAs
393 Arthur Giffney	36 Normandy Ave (C39)	<u>As per Technical Ecology Report:</u> Retain SNA as notified. The reason being the area includes indigenous wetland vegetation.

	[SNA on site is entirely within Waikato Riverbank and Gully Hazard Area]	<u>As per s42A report and revised recommendations in this statement:</u> Amend provisions to be less restrictive on private landowner activities. Rates relief/financial compensation is outside the scope of PC9.
312 Ian Williams	440 Peacockes Road (C87)  [Extent of SNA is out of scope as within PC5 area]  Chapter 20 Provisions	<u>As per s42A report and revised recommendations in this statement:</u> Amend provisions to be less restrictive on private landowner activities and better facilitate restoration activities. Rates relief/financial compensation is outside the scope of PC9.
260 Roger Wilhelmsen	7 Opal Place (C18)  SNA on site is entirely within Waikato Riverbank and Gully Hazard Area	<u>As per Technical Ecology Report/p37 of Mr Dean's EIC:</u> Remove SNA. The reason being the area is weedy and connected to recently cleared gully arm. Little visible ecological value with no corridor or buffer value. Neighbouring 21 College Place has been developed. New line reflects this.
126 David and Helen Nielsen	1877 River Road (C78)  [SNA on site is partially within Waikato Riverbank and Gully Hazard Area and partially within Waikato River flood hazard area]	<u>As per Technical Ecology Report/p25 of Mr Dean's EIC:</u> Minor adjustment to edge to exclude fruit trees.  <u>As per s42A report and revised recommendations in this statement:</u> Amend provisions to be less restrictive on private landowner activities and better facilitate access tracks.
135 Fonterra	Te Rapa factory (C59, C76)	<u>As per s42A report/p29 of Mr Dean's EIC:</u> Remove SNA where vegetation is associated with artificial structures
264 Rosemarie van der Poel	11 Balloch Street (C46)  [SNA on site is entirely within Waikato Riverbank and Gully Hazard Area]	<u>As per Technical Ecology Report:</u> Retain SNA as notified. Includes wetland vegetation and values consistent with remaining part of SNA.
55 Raymond Kett	15 Jennifer Place (C12)  [SNA on site is entirely within Waikato Riverbank and Gully Hazard Area]	<u>As per Technical Ecology Report:</u> Retain SNA as notified. Vegetation contributes to the values of the SNA including buffering the stream and forming part of a corridor.
<b>SCHEDULED BUT DID NOT APPEAR/APPEARED ON DIFFERENT DAY</b>		
279 Patricia Morgan	76 Ulrich Avenue (C39)	<u>As per Technical Ecology Report/p41 of Mr Dean's EIC:</u> Adjust boundary to exclude

		[SNA on site is partially within Waikato Riverbank and Gully Hazard Area]	gardens and lawn.
378 Robbie Pasley	5 Roberts Way (C78)	[SNA on site is mostly within Natural Open Space Zone and entirely within Waikato Riverbank and Gully Hazard Area]	<u>As per Technical Ecology Report:</u> Retain SNA as notified, contiguous with remaining parts of SNA and part of a riparian strip buffering the Waikato River.
180 Jason Oliver	Chapter 20 Provisions		<u>As per s42A report and revised recommendations in this statement:</u> Amend provisions to be less restrictive on private landowner activities. Rates relief/ financial compensation is outside the scope of PC9.
282 and 287 David Sorenson	13 Wha Street (C83) 22 Taniwha Street (C83)	[SNA on sites is entirely within Waikato Riverbank and Gully Hazard Area]	<p><u>As per Technical Ecology Report/p21-22 of Mr Dean's EIC:</u> Adjust boundary to near toe of slope on 13 Wha Street, adjust boundary at 22 Taniwha Street, to exclude vegetable gardens, chicken coops, terraced gardens.</p> <p><u>As per s42A report and revised recommendations in this statement:</u> Amend provisions to allow for structures for security purposes such as fences.</p> <p>Any use of private properties for public walkways and cycleways would need to be subject to property negotiations. Resource consent would also be required, through which adverse effects on owners would need to be mitigated.</p>

## 20 Natural Environments

S42A UPDATED CLEAN VERSION OF SNA RULES FOR EXPLANATORY PURPOSES - 1 JUNE 2023

### 20.3 Rules – Activity Status Table

<b>Vegetation pruning, maintenance, planting, and removal in a Significant Natural Area, Schedule 9C (Volume 2, Appendix 9)</b>	<b>cSNA</b>	<b>fSNA</b>
<p>a. Pruning, maintenance or removal of indigenous and exotic vegetation or trees (excluding as provided for by h) Notable Trees in Volume 2, Appendix 9, Schedule 9D: Notable Trees), and excluding as provided for by Rule 20.3(b), where:</p> <ul style="list-style-type: none"> <li>i. Necessary to prevent the spread of disease; or</li> <li>ii. The tree has failed and/or there is an imminent risk to public health, safety or property, or a network utility, and Standard 20.5.4 is complied with; or</li> <li>iii. The pruning or maintenance work is necessary to construct, maintain or upgrade an existing or permitted structure or private track, and Standard 20.5.1 is complied with; or</li> <li>iv. The pruning, maintenance or removal is for customary activities; or</li> <li>v. The pruning or maintenance work is within 1m of an existing lawfully established building.</li> </ul>	P	P
b. Removal or management of flora and fauna pest species associated with pest control where Standard 20.5.6(c) is complied with.	P	P
c. Planting and management of indigenous vegetation or trees	P	P
d. Planting of exotic vegetation or trees in a Significant Natural Area for erosion control and stability or restoration purposes	P	RD
<p>e. Pruning, maintenance or removal of indigenous or exotic vegetation or trees associated with restoration where:</p> <ul style="list-style-type: none"> <li>i. This is not provided for by either 20.3(a) or 20.3(b); and</li> <li>ii. Standard 20.5.6 is complied with in a cSNA</li> </ul>	P	RD
ea. Pruning, maintenance or removal of exotic vegetation or trees associated with restoration where this is not provided for by 20.3(e).	RD	RD
eb. Pruning and maintenance of the canopy of a tree overhanging the boundary of a Significant Natural Area	Activity status and rules contained in	

	Chapter 25.2: Earthworks and Vegetation Removal	
f. All other planting of exotic vegetation or trees in a Significant Natural Area	P	NC
<b>Earthworks for specified activities in a Significant Natural Area, Schedule 9C (Volume 2, Appendix 9)</b>	<b>cSNA</b>	<b>fSNA</b>
g. Earthworks associated with maintaining or upgrading existing private tracks and/or fencing, or maintaining or upgrading existing walking access tracks used for restoration projects.	P	P
h. Earthworks associated with permitted vegetation removal; and/or with permitted structures where Standard 20.5.1(b) is complied with	P	P
ha. Earthworks within the dripline of a tree where the trunk is located within a Significant Natural Area	Activity status and rules contained in Chapter 25.2: Earthworks and Vegetation Removal	
<b>Buildings and structures, infrastructure, public walkways and cycleways in a Significant Natural Area, Schedule 9C (Volume 2, Appendix 9)</b>	<b>cSNA</b>	<b>fSNA</b>
i. Alterations to, or the replacement of, any existing building that does not exceed the existing envelope or footprint in a Significant Natural Area	P	P
j. Structures associated with erosion protection and sediment control in a Significant Natural Area where Hamilton City Council is provided with confirmation that these are required under a regional plan rule or regional consent from Waikato Regional Council prior to undertaking the works.	P	P
ja. Ancillary residential structures (excluding swimming pools)	P	RD
jaa. Access tracks and boardwalks	P	RD
jab. Other structures not meeting the definition of a building (excluding swimming pools)	P	RD
jb. Park furniture (excluding lighting)	P	P
jc. Artificial lighting (both within a Significant Natural Area and within 20m of a Significant Natural Area)	Standards contained in Chapter 25.6: Lighting and Glare	

k. The operation, maintenance, renewal or upgrading of, or access to, existing infrastructure and public walkways and cycleways, including associated pruning, maintenance or removal of indigenous or exotic vegetation or trees and associated earthworks where:  i. This is not provided for by either 20.3(a) or 20.3(b) and ii. Standard 20.5.7 is complied with.	P	P
l. Construction of new public walkways and cycleways through a Significant Natural Area, including associated pruning, maintenance or removal of indigenous or exotic vegetation or trees and associated earthworks	RD	D
m. Alterations to, or the replacement of, any existing building that is proposed to exceed the existing envelope or footprint in a Significant Natural Area.	D	D
n. Construction of, or access to, new infrastructure in a Significant Natural Area, including associated pruning, maintenance or removal of indigenous or exotic vegetation or trees and associated earthworks	D	NC
<b>Activities not otherwise provided for in this rule table in a Significant Natural Area, Schedule 9C (Volume 2, Appendix 9)</b>	<b>cSNA</b>	<b>fSNA</b>
o. All other earthworks in a Significant Natural Area not provided for by another rule in this table	D	NC
p. All other pruning, maintenance or removal of indigenous or exotic vegetation in a Significant Natural Area not provided for by another rule in this table	NC	NC
q. The placement and/or construction of any new building or structures in a Significant Natural Area not provided for by another rule in this table	NC	NC
r. The storage of hazardous substances in a Significant Natural Area	NC	NC

## 20.5 Rules – Specific Standards

### 20.5.1 Pruning and Maintenance in a Significant Natural Area

a. Maximum amount of foliage to be removed per tree per calendar year	15%
b. Maximum thickness (cross-section) of any branch or root that may be cut	50mm

### 20.5.4 Emergency Works to, or Removal of, a Tree in a Significant Natural Area or a Notable Tree

- a. Confirmation of the necessity for the works or removal shall be provided to Council:
  - i. Before any works are undertaken, and



- ii. The works shall be carried out by an appropriately qualified person (e.g. an arborist).

## 20.5.6 Pruning, maintenance or removal of indigenous or exotic vegetation or trees

### a. Either:

i. The works are required to maintain an existing walking access track used for restoration activities; or

ii. No more than 50m<sup>2</sup> of vegetation or trees are removed per site per calendar year and the area cleared is planted with indigenous vegetation or trees within 12 months;

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 (alive or dead) to be used as habitat for either bats or any other Threatened or At-Risk indigenous fauna (refer to NZTCS.org.nz); and

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

## 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.

## **20.6 Restricted Discretionary Activities: Matters of Discretion and Assessment Criteria**

- a. In determining any application for resource consent for a restricted discretionary activity, Council shall have regard to the matters referenced below, to which Council has restricted the exercise of its discretion. Assessment Criteria within Volume 2, Appendix 1.3 provide for assessment of applications as will any relevant objectives and policies. In addition, when considering any Restricted Discretionary Activity located within the Natural Open Space Zone, Waikato Riverbank and Gully Hazard Area, or Significant Natural Area Council will also restrict its discretion to Waikato River Corridor or Gully System Matters (see the objectives and policies of Chapter 21: Waikato River Corridor and Gully Systems).

Activity Specific	Matter of Discretion and Assessment Criteria Reference Number (Refer to Volume 2, Appendix 1.3)
i. Pruning, maintenance or removal of indigenous or exotic vegetation or trees associated with restoration where this is not provided for by either 20.3(a) or 20.3(b) in a fSNA	<ul style="list-style-type: none"> <li>• D – Natural Character and Open Space</li> <li>• F – Hazards and Safety</li> </ul>
ii. Construction of new public walkways and cycleways through a Significant Natural Area, including associated pruning, maintenance or removal of indigenous or exotic vegetation or trees and associated earthworks	<ul style="list-style-type: none"> <li>• D – Natural Character and Open Space</li> <li>• F – Hazards and Safety</li> </ul>
ii.a Planting of exotic vegetation or trees in a Significant Natural Area for erosion and stability or restoration purposes	<ul style="list-style-type: none"> <li>• D – Natural Character and Open Space</li> </ul>
ii.b Ancillary residential structures, access tracks, boardwalks and other structures not meeting the definition of building in a fSNA	<ul style="list-style-type: none"> <li>• D – Natural Character and Open Space</li> </ul>