

Introduction

My name is Dr Murry Cave. I am the Principal Scientist for a territorial authority although obviously enough not Porirua City. This submission is, however, made as a private citizen adversely affected by the SNA proposal in the Porirua City Council (PCC) draft district plan. I apologise for the lateness of this revised submission but unfortunately I had a State of Emergency in relation to a severe storm with flooding and urban landslides, and the subsidence landslide response and recovery to lead and that has taken quite a lot of effort to resolve. In fairness to the commissioners, this submission is therefore rather more brief and less fulsome than I had hoped.

I am firmly of the view that SNA's are a valuable tool for protecting vulnerable biodiversity values on land but of course need to be applied with care to ensure that the adverse effects on the property owner do not outweigh the potential benefits. This balance requires councils to be both pragmatic and flexible in their approach and consider the best mechanisms for achieving the stated objectives under Section 6 (c) of the Act which covers SNA's.

This submission is an adjunct to the full submission made previously and it is assumed that the commissioners are familiar with the analysis in the full submission. I focus on five main elements.

1. Is an SNA an appropriate conservation mechanism in the urban environment particularly for urban allotments as defined in the Act.
2. Is s.76 (4 a and c) of the Act an appropriate or available tool for defining SNA's as used by PCC or is it as noted by the senior planner at Waimakariri District Council Section says; *"76(4C) of the RMA relates to notable trees, not SNAs. SNAs are covered by Section 6(c) of the RMA. Notable trees will be addressed in the Proposed District Plan's Notable Trees chapter."*
3. As noted in the full submission, I have significant concerns that PCC has not put its mind to the implications of s.32 and s.85 of the Act, or if they had done so they would have approached the method and tools for determining the boundaries of the SNA's with more care.
4. Can a broad brush desktop study using rather poor quality aerial imagery as was the case here be an appropriate mechanism to establishing biodiversity values and determining the appropriateness of an SNA and its boundaries?
5. Fairness and consistency. Is treating 82 Cluny road (and to a lesser extent 80 Cluny Road) different from adjacent urban allotments fair and reasonable, is it consistent?

What is being asked for

It is requested that the boundaries of SNA 035 be amended to exclude No's 82 and 80 Cluny Road to make the boundaries consistent with how the boundaries have been drawn for adjacent allotments which are all under 1400m². It is noted that this will reduce the size of SNA 035 from 343,351.9 m² to 342,380.2 m² or 971.75m² See **Figure One**.

This change will not materially affect the function, or reduce the benefits of the SNA given that it would be only reduced by 0.28% but would be an effective mitigation of the adverse affects on our property and better align the SNA with s.6(c) of the Act. It would also better

align the SNA with the process applied for adjacent properties where the boundaries of the SNA were adjusted exclude small urban allotments.

I am thus at a loss to understand why our property (and to a lesser extent our neighbours at No. 80) were treated differently from the other adjacent properties.

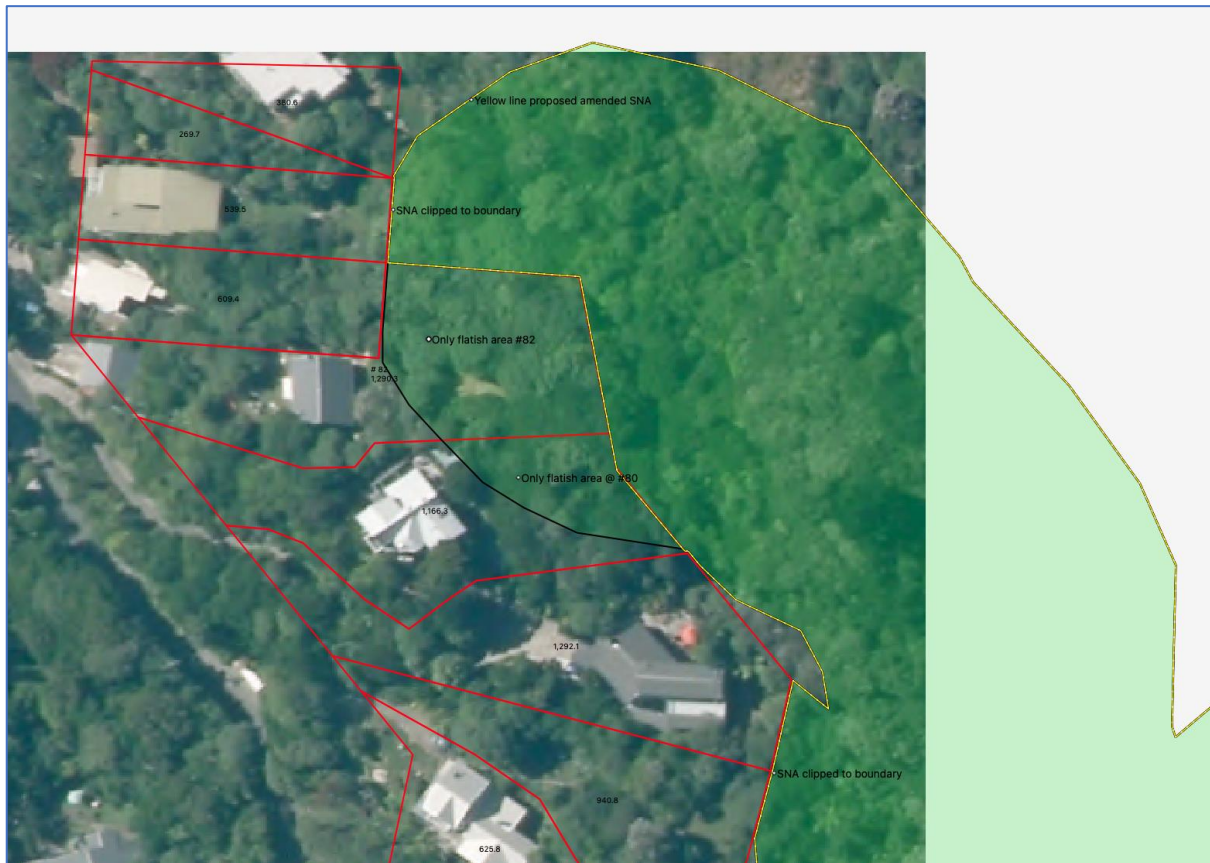


Figure One. Existing SNA 035 boundary (Black line) and proposed revised boundary (yellow line) and where SNA boundary has been clipped to urban allotment property boundaries.

SNAs as an appropriate tool in the urban environment

In my role I am a member of the Regional Council's Biomanagers Special Interest Group, and the SIG had a member seconded to the group formulating the proposed NPS Indigenous Biodiversity. The SIG received drafts of the proposed SNA and commented on it. PCC appears to have relied in part on the proposed NES Indigenous Biodiversity in its Officers response to submissions. This reliance is unfounded as the Ministry for the Environment is at pains to point out that the NES is not finalised or in effect. It had been hoped that the NES-IB would be finalised well before now, but strong regional push back and general concerns about the impact of the NES-IB on local communities has resulted in a further series of consultations.

It is perhaps because of this that PCC used s.76(4c) of the principal Act to support its analysis but as noted above, this is not an appropriate application of the Act.

The officers response to submissions cited Auckland City, New Plymouth District and Hamilton City SNA's as justification for the approach at Porirua. I sought information from each of these and received responses from both New Plymouth and Auckland. The Auckland City response is instructive.

Accordingly, the spatial data was searched for properties where there was a strong degree of overlap between SNA and property boundaries and the smallest of these properties identified (**Figure Three**). These were what could be defined as rural lifestyle blocks and the smallest property was 17,187 m². They are thus not urban allotments as defined in the Act and not a valid comparison with the situation we face at #82 Cluny Road.



Figure Three. The SNA's located which showed a strong overlap with the smallest properties in New Plymouth District.

It can be concluded that the officers response to the submissions regarding SNA's in urban environments affecting urban allotments as defined by the Act is incorrect and should be disregarded. The approach that other councils have adopted for environmental protections in urban areas, namely voluntary agreements is a far better approach.

Use of section 76 (4a and c) of the Act as a proxy for section 6

I do not think it is necessary to dwell on this and the views of the Waimakiriri District and Auckland City planners highlights the flaws in the logic. This aspect was also discussed in detail in the main submission. It is not clear how this provision in the Act can be applied to support the establishment of an SNA and conflates two separate functions of the Act. It should not be used to shoehorn urban allotments into a s6 SNA framework.

As s.76(a) notes it is important the tree or trees are described, so it is not about areas of bush and indeed it is not even the case that s.76 relates to indigenous vegetation as it has been

used in many areas to cover introduced trees of stature that have become significant. As noted in the primary submission, it is not enough to merely know the address or legal description of an urban allotment.

1. (4A) A rule may prohibit or restrict the felling, trimming, damaging, or removal of a tree or trees on a single urban environment allotment only if, in a schedule to the plan,—
 1. (a) *the tree or trees are described*; and
 2. (b) *the allotment is specifically identified by street address or legal description of the land, or both.*

s.32 assessment

Again, this issue was discussed in depth in the primary submission and need not be expanded on. It is clear, however, that PCC has not undertaken a robust assessment as to whether or not the proposal to include an urban allotment in an SNA is the most appropriate to achieve the purpose of the Act in this instance and made no effort to identify other reasonably practicable options for achieving the objectives, for example adjusting to boundaries. Indeed based on our experience the approach of the Council officers has been rigidly inflexible.

As a party affected by this proposal to a significantly greater extent than most other parties, it would have been appropriate to have consulted directly with us to ensure that other reasonably practicable options were considered in a fair and balanced way.

Adequacy of a desktop biodiversity survey

At Council where I am employed, we are doing a large number of biodiversity projects and we engage appropriate experts to do this work. We employ high resolution drone mapping, close quarter drone video and photos for areas that are inaccessible, 10m plots, photo points and line traverses. Our aerial imagery is also acquired more frequently than appears to be the case for Porirua and it is also higher resolution. I cannot imagine either relying on a desktop study using such poor quality aerial imagery to determine species mix or distribution.

The inadequacy of this approach is evident in the case of #82 Cluny road as obvious features such as a garden shed and the open work areas behind it (**Figure Four**) and a platform where we have architectural plans for a studio (**Figure Five**) were missed. Much of the area between the garden shed and the studio site is in grass not bush but this is hard to determine from either the aerial imagery or more recent satellite imagery (obviously enough the edge as observed from the poor quality aerial imagery). Other areas of relatively open canopy which we actively use are also not evident in the aerial imagery.

For completeness the relative areas occupied by the garden shed and associated working areas, the studio platform, the grassed area and an open canopy work area used for storage is shown in **Figure Six**. I also note that the proposed boundary of the SNA in #80 (which recently changed hands) appears to incorporate a small portion of their back porch.



Figure Four. Our garden shed is in the proposed SNA and the area in front of this is in grass while the area behind it is bare ground.



Figure Five. The platform for our proposed studio.



Figure Six. Plan of #82 and adjacent properties showing impact of the proposed SNA on the use and enjoyment of our property and the proposed amended boundary.

Fairness and consistency

It is not clear why # 82 and #80 (to a lesser extent) have been treated differently to the adjacent urban allotments.

The Draft Wildlands report (and I understand this is also the final one) noted;

*Ecological site boundaries in the GIS layer were clipped to property boundaries, mostly in urban areas, to prevent the ecological site overlapping onto neighbouring private land. Such overlaps typically comprised overhanging branches, are unlikely to have high significant ecological value, **could needlessly antagonise landowners**, and may cause issues from a planning perspective.*

Blaschke et al. (2011a) refined Ecological Site boundaries, by creating four meter buffers around existing dwellings and following existing property or covenant boundaries. We deemed these rules to be appropriate.

It is thus not clear why #82 and #80 were treated differently and the problem would be solved if the SNA boundaries are clipped to the property boundary as the Wildlands report indicated would happen.

Conclusion

Amending the SNA boundaries to avoid urban allotments would have minimal impact on the value of the SNA reducing it in size by only 0.28% but would provide greater certainty to ourselves as landowners about being able to enjoy the land we paid for. The proposed amendment would also be more consistent with the Act and would eliminate the policy contortion adopted by the Council using s.76 of the Act to give an effect to a requirement of s.6.

It also raises the question as to whether or not the whole issue of SNA's should be parked given the lack of direction provided by the Crown regarding the NPS Indigenous Biodiversity.