

**BEFORE THE NEW PLYMOUTH DISTRICT AND  
TARANAKI REGIONAL COUNCILS**

**IN THE MATTER** of the Resource Management Act 1991

**AND**

**IN THE MATTER** applications from NZTA to alter a designation and for  
resource consents for the Mt Messenger Bypass Project  
SH 3 between Uruti and Ahititi ("the Project")

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**OUTLINE OF LEGAL SUBMISSIONS ON BEHALF OF THE DIRECTOR-  
GENERAL OF CONSERVATION**

Dated: 7 August 2018

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## INTRODUCTION

1. DOC has a MOU with the NZ Transport Agency (NZTA) regarding the expected behaviours and processes when DOC and the Transport Agency are involved in RMA processes. That involves early and meaningful engagement. That engagement has occurred for this Project, and DOC and NZTA experts have been involved in (voluntary) conferencing for some time.
2. DOC representatives undertook a site visit with NZTA representatives following NZTA narrowing down possible options to Route P1 (located west of SH 3 through the Waipingao Valley) and Route E1 (east of SH3),<sup>1</sup> At the site visit NZTA explained that the remaining two route options were favoured, out of a total of 5 shortlisted options. DOC's feedback to NZTA was that both options would have significant adverse ecological effects, but that DOC's preference was route E1. Route E1 was subsequently chosen by NZTA as the proposed alignment.
3. The Director-General of Conservation (DOC) made a submission on the resource consent applications lodged with TRC and on the Notice of Requirement (NOR). These submissions were broadly similar and stated:

"Although at a high level I support the Applicant's proposal to proceed with the alignment option east of SH3 over other proposed options, I still consider that the proposal will have significant adverse effects on the environment."

4. Relief sought included that further information be provided to address DOC's concerns, and:

"That the consent authority recommend to the requiring authority that it withdraw the requirement if the requiring authority cannot provide, through further information, adequate certainty that the adverse effects of the proposed activities will be adequately avoided, remedied, mitigated, offset or compensated for (in that order)."

5. DOC's current position, evaluating all the further information that is now on record, is essentially the same as that expressed by Wildlands in its advice to NPDC, that is:<sup>2</sup>

"... evaluation of the existing documentation, as it stands, continues to raise significant concerns that are unlikely to be adequately addressed by the Applicant. These outstanding issues mean there is little assurance that significant adverse ecological effects will be meaningfully addressed.

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<sup>1</sup> Inger EIC at [4.1]. 8 August 2017.

<sup>2</sup> *Review of Ecological Aspects of the Application to reroute SH3 at Mt Messenger, North Taranaki – July 2018 Contract Report 4402f (Wildlands Supplementary Report) pages 33 -35.*

The Application continues to place a heavy reliance on the implementation of a pest management plan to address the identified adverse effects of the proposed road. This remains very problematic...

The Application also lacks certainty of outcomes due to the omission of performance measures for all components of the mitigation package. All parts of the proposed mitigation package need to be accompanied by a measurable performance measures, otherwise there is no legal requirement for the measures to be implemented. These performance measures need to be drawn together and evaluated as part of an integrated package of works to address the considerable scale of proposed adverse effects.

...  
A critical change in the Applicant's documentation, with revisions to the draft ELMP, is the reduction in management requirements for long-tailed bats. This was unexpected, given the recent deterioration of conservation status for this species to "Threatened-Nationally Critical", its presence throughout the project footprint, and the likely presence of bat roosts within the areas of vegetation to be felled. The management proposed by the Applicant falls well short of best practice, and places long-tailed bats at high risk of mortality. The management of long-tailed bats for this project must adequately address direct mortality through felling of roosts and possible vehicle strike, and mitigate for habitat loss, habitat fragmentation, and roost loss through extensive pest management of appropriate scale and timing, and appropriate road design (e.g. lighting requirements). The Application as it stands is likely to have significant adverse effects on long-tailed bats."

## THE LAW

### Relevance of Part 2

6. The law is currently in a state of flux. The following extract from *City Rail Link Limited v Auckland Council*<sup>3</sup> provides a useful summary of the relevance of Part 2 in relation to designations:

"[98] All consideration under s171(1) is, as noted, subject to Part 2.

[99] The long-standing judicial approach to an 'overall broad judgment' approach to assessing applications for resource consent against Part 2, was, as it is well known, rejected for at least some purposes by the decision of the Supreme Court in *Environmental Defence Society Inc v New Zealand King Salmon Company Limited*.

[100] There have been subsequent decisions exhibiting some uncertainty about the application of that finding, particularly in relation to notices of requirement. (Also in relation to resource consenting).

[101] The Board of Inquiry concerning the Puhoi to Warkworth Road of national significance held that there remains a need to carry out an overall balancing test and questions the widespread applicability of the 'environmental bottom lines' approach to the New Zealand Coastal

<sup>3</sup> [2017] NZEnvC 204 (Principal Environment Judge Newhook presiding).

Policy Statement [Final Report and Decision of the Board of Inquiry into Ara Tuhono-Puhoi to Wellsford Road of national significance: Puhoi to Warkworth section, 2 September 2014 at [133]-[134]].

[102] The High Court in what is colloquially known as the Basin Bridge decision also distinguished *King Salmon* on the basis that s171(1) RMA provides for specific statutory authority to consider Part 2, which is different from the statutory wording in the Plan Change context. The High Court held:

King Salmon did not change the import of Part 2 for the consideration under s171(1) of the effects on the environment of a requirement.

...

[104] Question marks remain however because of the decision of the Environment Court, upheld in the High Court in *RJ Davidson Family Trust v Marlborough District Council*. (The latter decision concerned a resource consent application measured against s104 RMA).

[105] We are aware that the *Davidson* decision has recently been the subject of a hearing in the Court of Appeal, and reserve decision is awaited.

...

[107] We hold that the debate is (perhaps fortunately) academic in the present case. We consider that a Part 2 analysis would be satisfied in this case on the evidence before us...".

7. Mr Inger has weighed the proposal against the planning documents, and Part 2 of the Act. He reaches the same conclusion following application of both approaches. I now comment on each approach.

### **Planning documents**

#### ***Illegality, uncertainty or incompleteness?***

8. The New Plymouth District Plan is largely complete except in one respect. The District Plan suffers from a deficiency in that the overlay identifying "significant natural areas" is incomplete. This is acknowledged in the NPDC s42A Report:<sup>4</sup>

"With respect to SNAs, recent work carried out by the District Plan review team identifies additional SNAs to be included in the next generation District Plan. Noting the age of the operative District Plan and the work carried out in relation to understanding the ecological values of the indigenous vegetation on the Pascoe farm, I consider the operative District Plan to be deficient in terms of the SNA overlay. However this assessment of the NOR does consider the high ecological values present on the Pascoe land."

(My emphasis)

9. This excerpt from the Officer's Report refers to the Pascoe land. The approach the New Plymouth District Plan takes to SNA identification is to identify SNAs

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<sup>4</sup> At [336].

on private property.<sup>5</sup> That does not mean that areas on public land should not be given section 6(c) status.

10. The deficiency in the District Plan is beyond doubt because the Environment Court has recognised it. The Environment Court has made the following declaration on the Operative New Plymouth District Plan:<sup>6</sup>

“The omission of the New Plymouth District Council to include in Appendix 21.2 of its District Plan SNAs which have been identified applying the criteria in Appendix 21.1 –

- Contravenes its duty to protect areas of significant indigenous vegetation and significant habitats of indigenous fauna pursuant to s6(c) RMA - s310(a), (c) and (h);
- Fails to give effect to relevant provisions of the New Zealand Coastal Policy Statement and Taranaki Regional Policy Statement – s310(bb), (i) and (h).”

11. Although the SNA list in Appendix 21.1 of the New Plymouth District Plan has been held to be deficient, the Environment Court has upheld the *criteria* for identification of SNAs (in Appendix 21.1).<sup>7</sup>

12. I submit that the Objectives and Policies in the Plan that relate to SNAs remain valid, and apply to section 6(c) areas that are not listed in Appendix 21.1, but that meet the District Plan’s SNA identification criteria.

13. Those criteria cover both parts of section 6(c), that is “*areas of significant indigenous vegetation*” and “*significant habitats of indigenous fauna*”. The evidence of NZTA and DOC witnesses is sufficient to establish that the Project Area is an area of significance for the purposes of section 6(c). It meets one or more of the SNA identification criteria.<sup>8</sup>

14. Where objectives and policies in the planning documents refer to areas of *significant* indigenous biodiversity, I submit you must recognise their application to the area in question albeit that the area is not listed in Appendix 21 to the District Plan.

<sup>5</sup>Reflected e.g. in Appendix 21.2 “Schedule of Legally Unprotected Significant Natural Areas” 21.3 “Significant Natural Areas on private property that are legally protected”.

<sup>6</sup> *RFBPS v New Plymouth District Council* [2015] NZEnvC 219 (Judge Dwyer presiding).

<sup>7</sup> The Environment Court has upheld the general appropriateness of the criteria, except for criteria (6) “*the extent of management input required to ensure sustainability*”. Above-cited at [34] and [113].

<sup>8</sup> For example in the AEE Mr Singers states here “*these results strongly support the conclusion that both WF8 and WF13 primary and modified secondary vegetation units meet the District Plans significance criteria of 3, 4 and 5 (Appendix 21 of the District Plan)*”. Refer also Dr O’Donnell at [6.5] - [6.10] in relation to fauna.

15. Relevant provisions are:

- Policy 16.1 Operative District Plan “*Land use, development and subdivision should not result in adverse effects on the sustainable management of, and should enhance where practical, Significant Natural Areas.*”
- Policy 16.2 Operative District Plan “*Land use, development and subdivision should not result in adverse effects on, and should enhance where practical, the quality and intrinsic values of areas of INDIGENOUS VEGETATION and habitats.*”
- RPS BIO Objective 1 “*To maintain and enhance the indigenous biodiversity of the Taranaki Region, with a priority on ecosystems, habitats and areas that have significant indigenous biodiversity values.*”
- RPS BIO Policy 3 “*Priority will be given to the protection, enhancement or restoration of terrestrial, freshwater and marine ecosystems, habitats and areas that have significant indigenous biodiversity values.*”
- RPS BIO Policy 4 – this policy sets out criteria for the identification of significance that has been operationalised in the Operative District Plan and upheld by the Environment Court and states: “*Once identified as significant, consideration should be given to the sustainability of the area to continue to be significant in future when deciding on what action (if any) should reasonably and practicably be taken to protect the values of the area.*”

16. Consistent with these provisions, NZTA has set out an objective for the Project of ‘no net loss’ in 10 years and a ‘net gain’ for biodiversity in 15 years.

## **Part 2**

17. Through its stated aim, the Applicant appears to accept that the Act no longer supports a ‘trade-off’ or a compromise.

18. In *Environmental Defence Society v New Zealand King Salmon Company* [2014] NZSC 167, although the Court did not describe sections 5(2)(a) – (c) as “bottom lines”, the Court clearly disagreed with the rather simplistic analysis that the first part of section 5 should be viewed as ‘pro-development’ and the second part (ss 5(2)(a) – (c)) as ‘pro environment’. The “while” in section 5 was considered to mean “at the same time as”.<sup>9</sup>

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<sup>9</sup> At [24(d)].

19. In the recent case of *Clearwater Mussels Ltd v Marlborough District Council*<sup>10</sup> the Environment Court declined to 're-consent' mussel farms where it was found there would be unavoidable effects on King Shag habitat, and a lack of evidence that a proposed offset would offer sufficient benefits for that bird. The provisions of the NZCPS and the Sounds Plan were relevant, as well as section 6(c), as follows:<sup>11</sup>

“(a) the Proposals would, in net terms, give rise to an adverse potential effect to King Shag and, hence, to ecological and biodiversity values (particularly in view of the King Shag's Threatened status). The effect is one of disturbance from human activity associated with the maintenance and operation of the farms. While there may be a relatively small risk of such an effect, it is not an insignificant one;

(b) the Proposals cannot be relied upon to deliver any offsetting or other relevant ecological benefits, including from Clearwater's proposed Predator or Pest Programme;

(c) the Proposals would increase risk to, and not avoid, adverse effects on the King Shag as a Threatened species. That includes the satellite colony at Hunia Rock, close to the Proposals. The proposals would not protect indigenous biodiversity. Hence, granting the coastal permits for Proposals would not be supported by the NZCPS Policy 11, whereas declining them would, on the evidence, assist to achieve that Policy;

...  
 (f) on the basis of those findings, we also find that granting the coastal permits would not recognise and provide for the matters in s6(c) RMA. Conversely, a decision to decline the permits would recognise and provide for those matters to some extent ...”  
 (My emphasis)

20. Because the case here does not involve re-consenting a current activity, it could never be said that a decline of consents, or recommendation to withdraw the NOR, will provide ecological benefits. A decline would roll over the *status quo*. We can be more certain that, on the basis of the evidence, constructing the road is likely to increase current rates of decline of threatened species, have significant adverse effects, and as a corollary would reduce opportunities for species recovery efforts now and in the future.

#### **When effects on section 6 values cannot be avoided**

21. A decision to decline/recommend withdrawal, is not the only option for activities where adverse effects cannot be *avoided* or *mitigated*. Other options include

<sup>10</sup> [2018] NZEnvC 88 (Hassan J presiding).

<sup>11</sup> At [117].

adaptive management and offsetting/compensation. The primary approach proposed here is offset/compensation.<sup>12</sup>

22. The Act now makes it explicit that offsets or compensation are to be considered, but must be proposed, or agreed to, by the requiring authority.<sup>13</sup> By providing for both offsets or compensation, the law recognises a distinction and understanding that offsetting and compensation may not be the same thing.

23. Those provisions do in some ways restate caselaw, including *RFBPS v Buller District Council and West Coast Regional Council* where the High Court said:<sup>14</sup>

“The most important aspect of this judgment is the view of this Court that the RMA keeps separate the relevant consideration of mitigation of adverse effects caused by the activity for which resource consent is being sought, from the relevant consideration of the positive effects offered by the applicant as offsets to adverse effects caused by the proposed activity.”

24. In that case Forest and Bird wanted a clear finding that mitigation considerations should get a greater weight than offsetting considerations. The Court did not make that finding, stating “... *it all depends on the context, including the degree of mitigation and the scale and quantities of the offset.*”

25. In a recent case under the Reserves Act, it was found that the word “protection” may even include the offsetting component:<sup>15</sup>

“Protection in s 23(2)(a) does not mean absolute protection of the reserve in its current state. Protection could include enhancement of parts of the reserve by Rangitira to offset or compensate for the impact on any areas of the reserve which would not be protected by Rangitira undertaking its proposed works.”

26. The Applicant has proposed a combination of offset and compensation for effects that cannot be avoided or adequately mitigated. DOC accepts that approach here (subject to the following comments).

<sup>12</sup> Section 64 of the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 defines adaptive management as “(a) allowing an activity to commence on a small scale or for a short period so that its effects on the environment and existing interests can be monitored; (b) any other approach that allows an activity to be undertaken so that its effects can be assessed and the activity discontinued, or continued with or without amendment, on the basis of those effects.” It would be very difficult to undertake full adaptive management with a linear infrastructure project such as this.

<sup>13</sup> Sections 104(1)(ab) and 171 (1B) require the decision-maker to have regard to: “any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity”.

<sup>14</sup> [2013] NZHC 1346 at [122].

<sup>15</sup> *Rangitira Developments Ltd v Royal Forest and Bird Protection Society Ltd* [2018] NZRMA 241.



## Offsetting and compensation

27. Offsetting/compensation are generally said to be for “significant residual adverse effects”. However “significant” has a different meaning within the BBOP, as compared to the RMA. Mr MacGibbon acknowledges this stating:<sup>16</sup>

“The Biodiversity Offsetting Guidance notes that ‘significant residual adverse impacts’ is not analogous to significant effects under the RMA but rather can be thought of as referring to effects that are ecologically meaningful or of non minor ecological importance.”

28. As well as leading DOC’s kokako specialist group, Dr Barea is an expert witness on biodiversity offsetting. Dr Barea accepts that:

28.1. Environmental compensation (as distinct from *offset* and its no net loss goal) can be appropriate, for example in situations where no net loss can’t reasonably be demonstrated to be achievable<sup>17</sup> following application of the mitigation hierarchy.

28.2. The remaining offsetting *principles* (other than no net loss) remain relevant for environmental compensation, particularly the principle of additionality.<sup>18</sup>

29. Additionality means that:<sup>19</sup>

“A biodiversity offset should achieve conservation outcomes above and beyond results that would have occurred if the offset had not taken place.”

30. The principles also include the following:<sup>20</sup>

“Long-term outcomes: the design and implementation of a biodiversity offset should be based on an adaptive management approach, incorporating monitoring and evaluation, with the objective of securing outcomes that last at least as long as the projects impacts and preferably in perpetuity.”

31. DOC considers the approach here should be termed *compensation* and not *offset*, because the term offset should only be used where one can demonstrate no net loss. Mr MacGibbon appears to now accept that, stating (when giving his evidence) that the terminology no net loss is “probably” not suitable for a compensation approach.

<sup>16</sup> EIC at [51].

<sup>17</sup> At [3.21] and [4.48].

<sup>18</sup> EIC at [4.49].

<sup>19</sup> EIC at [3.6(e)].

<sup>20</sup> EIC at [3.6(h)].

32. The area of disagreement is clearly around the extent of compensation required.

### Compensation

33. Even with compensation, one must have confidence in the outcome, and so a robust analysis is also required. I suggest it is largely irrelevant whether the pest management area proposed would be within the top 20% by area of sanctuaries in the North Island,<sup>21</sup> or that:<sup>22</sup>

“None of the large-scale projects I have provided bat expertise on (e.g., SH1 Puhoi to Warkworth project, multiple sections of the SH1 Waikato Expressway project, Te Uku Wind Farm, etc.), or any other large-scale projects I am aware of, have provided much in the way of mitigation/compensation for effects on bats other than standard VRP and monitoring.”

34. (Noting that these comments refer to NZTA Projects that occurred prior to the finalisation of the ‘NZTA Bat Framework’).

35. DOC agrees that it is not necessary for an Applicant to provide compensation or mitigation that would provide gains *beyond* the effects of the Project.<sup>23</sup> That is not what DOC requests.

36. Mr Chapman says that, although his recommendation to the Project team was to carry out further attempts to trap and radio-track, the Project team decided to focus instead on addressing uncertainty by increasing the size of the PMA to benefit bats and relying more on vegetation removal protocols or VRPs.<sup>24</sup>

37. Mr MacGibbon has clarified that the size of the PMA was finalised on the basis of addressing effects on bats, and in particular its reading of the Eglinton Valley Study<sup>25</sup> that showed 3350ha is sufficient to provide protection for bats.

38. DOC request a minimum controlled area of 5000 ha. In his Opening Mr Allen stated that<sup>26</sup> “*Dr O'Donnell presents no science to justify this additional area –*

<sup>21</sup> Mr Allen legal submissions at [162(a)].

<sup>22</sup> Chapman Supplementary at [13].

<sup>23</sup> *D M Handley v South Taranaki District Council* [2018] NZEnvC 97 at [40], [54], [57] and [66] – preliminary decision on jurisdiction where it was found a condition sought would have served an ulterior purpose and probably gone well beyond RMA effects matters (citing the tests in *Newbury v Secretary of State for the Environment* [1980] All ER 731 (HL) as clarified in *Waitakere City Council v Estate Holmes Ltd* [2007] 2NZLR 149 (SC)). Refer also 108AA RMA.

<sup>24</sup> Chapman Rebuttal at [9].

<sup>25</sup> “Controlling invasive predators enhances the long-term survival of endangered New Zealand long-tailed bats (*Chalinolobus tuberculatus*): implication for conservation of bats on oceanic islands” 2017.

<sup>26</sup> Opening submissions of Mr Allen at [171(a)].

*rather he considers it a 'pragmatic minimum' when breeding trees have not been identified."* Dr O'Donnell was a co-author of the Eglinton Valley Study. Dr O'Donnell presents a great deal of science to justify the additional area. He says the fact that a survival rate of over 80% per annum for most colonies was achieved at Eglinton Valley when control was increased to 3350 ha<sup>27</sup> only occurred when predator control was specifically focussed on known roosts indicating that the area of control would need to be larger to provide sufficient confidence where roosts are not known.<sup>28</sup> The Applicant appears to have misread the import of the Eglinton Valley Study.

39. Dr O'Donnell's evidence is that:

"[5.12] Research on long-tailed bats demonstrates that not only are high-quality breeding trees extremely rare, but once bats adopt one of these roosts, they are relatively inflexible about finding new ones. If roost trees are lost at a high rate, then finding alternatives would be challenging for the bats and they would likely be forced to adopt suboptimal roosts.

[5.13] Given that these bats are critically endangered already, and facing numerous accumulating threats, if bats are also forced to use poorly insulated roosts, or if bats are killed during tree felling, then the Mt Messenger colony is at risk of going extinct."

40. Dr O'Donnell's conclusion states:<sup>29</sup>

"Therefore, at a site where the breeding trees have not been identified, planning must maximise the chance of the predator control area overlapping the area of the breeding trees. The larger the area, the greater the probability of protecting the breeding trees. I consider that 5000 ha is a pragmatic minimum area to maximise the chance of protecting roost trees over sufficient area, where we can be reasonably confident that survival will be  $\geq 80\%$  with sustained control."

41. Further references to Dr O'Donnell's key conclusions are:

41.1. Section 4 of his evidence - felling breeding trees can reduce breeding success, reduce adult survival and threaten population viability from fragmentation of social groups.

41.2. [8.5]. *"If breeding and roosting trees lie within the Project Area, as suggested by the Applicant's experts e.g. s4.2.1 & Table 3.1.1 Chapman & Choromanski (2017); s2.3.1 Chapman 2018 adverse*

<sup>27</sup> O'Donnell EIC [9.12] and [9.15]: Predator control trials for long-tailed bats in the Eglinton Valley to achieve adult female survival rates - for pest control to be effective annual survival of adult female long-tailed bats must be greater than 79%.

<sup>28</sup> EIC at [9.16] - [9.17].

<sup>29</sup> [9.18] EIC.

*effects will occur when trees are destroyed, even if bats are not in them at the time of felling.*" In this respect, vegetation removal protocols (VRP's) are a last resort.

- 41.3. [8.9] The Applicant would have been very lucky to catch bats with the little effort undertaken (for the purpose of a future radio tracking study).
- 41.4. At [9.14] and Figures 2a and 2b: examples of Department of Conservation pest control efforts at Maruia in 2006 and Heaphy of the futility of pest control that does not coincide with bat roosts. If the PMA does not coincide with bat roost habitat for this Project, maintenance of foraging habitat would be meaningless for bats.<sup>30</sup>
- 41.5. At [9.19]: response to Mr Chapman's comments that intensity of predator control will be more a factor in the North Island than in the Fiordland area.
- 41.6. At [9.20]: response to Mr Chapman's suggestion that long-tailed bats have a smaller home range size in areas where habitat is fragmented and patchy meaning that a lesser area may be required in the North Island.<sup>31</sup>
42. It is acknowledged that there is no one study which provides a 'magic number' so that we can have confidence that gains will be achieved for the New Zealand long-tailed bat. Dr O'Donnell has relied on all of the above, and on his work with bats in New Zealand for over 25 years. His evidence, based on the studies cited and his extensive experience, is that the adverse effects on the Project are likely to be very high for bats unless mitigation is significant.<sup>32</sup> In order to provide a sufficiently high probability of containing the Mr Messenger long-tailed bat habitat, and maintaining breeding success and survival, the PMA should encompass a minimum area of 5000 ha of effective pest management.<sup>33</sup> That is, Dr O'Donnell considers that given that the radio tracking study to identify roost areas has not occurred, an area of 5000 ha or more is required in order

<sup>30</sup> O'Donnell EIC at [10.2].

<sup>31</sup> Other examples of fragmented habitat where colony home range width range from 9 km to 12 km, stating: "*[the] maximum width of the proposed PMA is 9 km, suggesting that long-tailed bats could easily range wider in the landscape*".

<sup>32</sup> At [3.8].

<sup>33</sup> At [3.10] and [10.8].

to provide “*an adequate level of confidence that the PMA does in fact protect bat habitats.*”<sup>34</sup>

43. The proposed PMA would need to be adequately buffered against reinvasion by pests. Because the pest control targets within the PMA proposed by the Applicant do not apply in perimeter area, DOC witnesses had some doubt around whether the entire 3650 ha area has sufficient pest management over it to provide for this purpose. [Await further detail]
44. Dr O’Donnell considers that the PMA proposed by the Applicant may be sufficient if considered alongside the adjacent local pest control initiative at Parininihi if that has long term certainty. That pest control currently does not have long term certainty. That should not be read as some form of threat that DOC will withdraw funding for Parininihi. Pest control at Parininihi is undertaken by the Tiaki Te Mauri o Panininihi Trust (for rats, possums, mustelids, cats and goats) with funding from Taranaki Electricity Trust, Biodiversity Condition fund, Lottery Grants Board, Ngati Tama, DOC and TRC. DOC is one of the smaller contributors.
45. Leaving aside the additionality requirement for an offset or compensation, in order to claim the ‘benefit’ of Parininihi for the overall pest management, the Applicant would need to produce evidence that such pest control is secured in perpetuity or at least in the long term. It has not provided that evidence. Presumably that is why the Applicant is referring to a pest control area of 3650 ha.
46. Finally, DOC has not ‘flip-flopped’ on the required area for pest management to compensate for effects on the long-tailed bat. According to the principle of early engagement, DOC’s expert Moira Pryde undertook discussions with the Applicant’s bat expert. The record of those discussions says:<sup>35</sup>

“Moira – Would like to see additional radio-tracking to reduce uncertainty – would better enable refinement of the alignment to avoid roost trees. Local loss of roost habitat could have significant effect on bat colonies – on top of other environmental change this effect could be significant. Bats have very specific requirements for roost trees.”

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<sup>34</sup> At [3.14].

<sup>35</sup> A copy of the Outcome Notes of meeting 3 April 2018 are attached to these submissions.

"DOC's bat experts now consistently recommend 5000 ha as a goal for bat management in line with current predator management regime in Eglinton Valley, and is recommended by Moira as the aim for this Project."

### **Indigenous vegetation**

47. Dr Barea commends the use of the offset accounting system/model (Maseyk et al 2016) used by Mr Singers, but with some caveats.
48. The offset relates to the biodiversity values at both the impact and the offset sites, and balances those. The currency, which represents what no net loss means in this case, is Ecological integrity. Ecological integrity represents an ecological measure of condition for the browse intolerant elements of the forest types concerned, and consequential ecological benefits associated with condition improvement. Mr Singers' "no net loss" calculations involve an offset implemented in an existing forest and this means it does not account for forest area lost.
49. Dr Barea is concerned that the data used to generate the Ecological Integrity offset has not been documented and provided. This creates a lack of transparency. It also means that the offset calculation is not repeatable, creating a real issue for robust monitoring and assessment in 10-15 years time. Because an offset must demonstrate no net loss, and be transparent, Dr Barea considers that the approach should be viewed as environmental compensation. The Memorandum attached to Mr Singers rebuttal evidence, provided to Dr Barea on 20 March 2018, does not resolve the issue.
50. While this debate may be viewed as academic, it is important because the use of the term no net loss, for these effects, is potentially misleading. No net loss represents a gold standard approach to effects management, and it needs to be verifiable.
51. This matter also relates to the concerns expressed by Wildlands that further field work needs to be provided to determine baseline forest condition in the PMA.<sup>36</sup> Wildlands has requested a quantitative assessment of forest condition and tree health to the east of SH3 including a canopy measure (e.g. Foliar Browse Index) and an understorey measure (e.g. Seedling Ratio Index).<sup>37</sup>

<sup>36</sup> Wildlands Original Report at Section 5.6 and Supplementary Report at pages 25 and 29.

<sup>37</sup> Page 29 Wildlands Supplementary Report.

Such measures are repeatable, and could have informed the currency for Ecological Integrity.

52. I note that Mr Singers<sup>38</sup>, referred recently to the package resulting in "significant positive benefits" for vegetation and flora within the wider Mt Messenger area.
53. DOC's suggested way forward is that the entire proposal be viewed as compensation and not an offset.

### **Avifauna**

54. Dr Rhys Burns gives evidence for DOC on avifauna. Although he is generally comfortable with the revised PMA proposal (3650 ha), he does have remaining concerns. His concerns generate the need for DOC to be involved in reviewing the detail of the ELMP before it is finalised, and for a thorough and comprehensive ability to apply adaptive management to the PMA. I note that Wildlands state:<sup>39</sup>

"...the approach to managing outcomes needs to not only be adaptive but also needs to be flexible if it is shown that achieving a particular outcome is not possible. Decisions regarding the adequacy of the adaptive management approach, and any alterations to proposed management tools, approaches and outcomes, should be made by independent experts, based on annual reports on pest control operations and outcome monitoring results.

However, improvement in kiwi abundance has been identified as 'The key focal area for avifauna management' (Section 6.3). As such, it is not acceptable for kiwi to be one of the biodiversity outcome targets that is not met. It is possible that kiwi management may require a considerably larger area for pest control, and/or different strategies such as introduction of young birds (if the existing population is largely old with lower reproductive abilities), or Operation Nest Egg, to achieve the stated 20% increase."

### **Freshwater values**

55. Dr Drinan, DOC's freshwater ecology expert, will explain the limits of the SEV model when dealing with high value freshwater environments, as here. Dr

<sup>38</sup> Highlights notes at [35].

<sup>39</sup> Supplementary Report page 19.

Drinan has also taken a pragmatic approach by accepting *compensation* can be acceptable, but only on the basis of recognising biodiversity values lost - through his recommendations for a multiplication factor to be applied, and applying a value of zero to the mitigation/restoration site score.

56. The Applicant has updated its quantum of compensation to 11,536 m<sup>2</sup>.<sup>40</sup> While Dr Drinan accepts this falls short (by 1,091 m<sup>2</sup>) of what he recommend (12,627 m<sup>2</sup>), it is a considerable improvement. Dr Drinan considers that the exact length and area of restoration should be finalised upon detailed construction plans on the basis of his methodology (multiplication factor and a SEVi-I score of 0 for culverts).
57. Mr Duirs and Dr Drinan have questioned the need for mitigation for residual sedimentation effects. Previously the Applicant appeared to assume such effects would be fully managed at all times during construction. The Applicant has now accepted more robust monitoring and response protocols, should an adverse event occur. This goes some way to addressing DOC's concerns although some improvements are needed to the conditions to determine triggers for when the Project Ecologist considers the effect to be "moderate or greater", thus requiring the matter to be elevated. That elevation of management should occur to the Ecology Review Panel. There also needs to be a requirement for events-based monitoring for in-stream invertebrates following prolonged high sediment levels being detected by in-stream monitoring devices, and Dr Drinan proposes a trigger of 20% change in turbidity.
58. Dr Drinan's concerns regarding fish passage have also been answered to some extent (removing the number of culverts, removing one fill site and adding a bridge). Culverts will however need to be designed according to the 2018 guidelines in so far as iris baffles should not be used. There is a lack of effort proposed for fish recovery protocols. This is surprising as this is potentially where the greater gains can occur for mitigating effects on freshwater values.

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<sup>40</sup> Mr Hamill's rebuttal evidence [16] and speaking notes [16e].



### **Certainty**

59. DOC considers that both the PMA and the areas for riparian restoration works are critical compensation and are required in order to allow any consent to be granted.
60. The size and shape of the PMA area, and its actual location, is critical. For example, another area that has a high chance of invasion from surrounding areas would not be suitable. Wildlands also refer to the lack of detail around mitigation site, and the:<sup>41</sup>

“conceptual uncertainty around land ownership and restoration sites. This creates considerable uncertainty with regards to the likely conservation outcomes, and whether they do actually address the adverse ecological effects of the project. This is a key issue for aquatic habitats. The total stream length to be restored cannot be confirmed until the offset reaches are known (and assessed). It could change significantly if there are changes in the width of the final restoration reaches. ...”.

61. In the *Buller Coal* decisions<sup>42</sup>, the Environment Court accepted a “best endeavours” condition for offset mitigation. But that only related to the Denniston Permanent Protection Area (“DPPA”), which it was proposed would be protected from open cast mining in the future (on 745ha contiguous to its proposed Escarpment Mine). It did not relate to the equivalent to the PMA in this case.<sup>43</sup>

### **Lizards**

62. A predator proof fenced lizard enclosure is proposed. As Mr Chapman has accepted Ms Adams evidence in that regard<sup>44</sup>, Ms Adams will not be appearing today. DOC looks forward to the details being reflected in consent conditions and the revised ELMP.

### **Code of Conduct matters**

63. The Code of Conduct allegations made on behalf of the Applicant are entirely rejected.

<sup>41</sup> Page 24 Supplementary Report, July 2018.

<sup>42</sup> Culminating in Decision No. [2013] NZEnvC 253.

<sup>43</sup> Which in that case were called the Denniston Biodiversity Enhancement Area (DBEA) and the Heaphy Biodiversity Enhancement Area (HBEA) – proposed for predator control for 50 and 35 years respectively Recorded in the High Court decision, above-cited, at [6] - [9] as together forming the comprehensive offset and mitigation package.

<sup>44</sup> Adams EIC at [6.1] – [6.8] and Chapman Rebuttal at [38].

64. Dr Barea, when stating that he does not support the issuing of resource consent for the application, is clearly making a conclusion within his area of expertise. Dr Barea's expertise relates to offsetting (and environmental compensation). He says he relies on that expertise, as well as the evidence of, in particular, Dr O'Donnell and Dr Drinan.<sup>45</sup> He is not purporting to be the decision maker but applying what is set out in his evidence as principles of the BBOP. This is intended to be of assistance to the Commissioner and should not be excluded simply because it may address the "ultimate issue".

65. Mr Inger has recognised the benefits of the Project in the following paragraphs:<sup>46</sup>

"[6.7] I recognise that there are clear social and economic wellbeing and safety benefits associated with the proposed bypass. These benefits are comprehensively described in the AEE and in the NPDC Reporting Officers s42A Report. However, there are also social, economic and cultural wellbeing benefits associated with the ecological values that will be lost as a result of the Project works."

"[6.8] With respect to the requirement that adverse effects be 'avoided, remedied or mitigated', case law has established that it is not necessarily required that all effects be avoided, or that there is no net effect on the environment, or that all effects are compensated for in some way. However, given the high ecological values and the inability to avoid, remedy and mitigate all of the adverse effects, in this instance the NZTA has proposed no net loss of biodiversity within 10-15 years as an objective."

66. Mr Inger has stated<sup>47</sup> that he has reviewed a list of statutory documents, he has reviewed the Applicant's objectives and policies assessment contained in section 11 and Appendix A of the AEE, and he has identified in his Appendix 2 the provisions most relevant to DOC's submission. His Appendix 2 includes policy provisions relating to the continued safe and efficient operation of the region's infrastructure of regional importance.<sup>48</sup> His summary of themes in the objective and policy documents was intended to assist the Commissioner. Indeed Table 11.1 of the AEE contained a similar summary of "key themes" from various planning provisions. This is a useful approach for a Project that involves a very large number of issues.

67. Mr Inger's and Mr Dixon's opinions substantially rely on expert evidence regarding ecological effects, one of the key issues remaining in this case.

<sup>45</sup> At [5.3].

<sup>46</sup> [6.7].

<sup>47</sup> At [6.31].

<sup>48</sup> Eg. RPS INF Objective 1 and Policy 1, Objective 20 of the Operative District Plan ("to ensure that the road transportation network will be able to operate safely and efficiently.").

## Invertebrates and Biosecurity

68. From the perspective of invertebrate taxa, DOC's expert Mr Edwards agrees that "*the larger pest management area (PMA) now proposed by the Applicant would, if the targets are achieved, adequately compensate for effects on invertebrates*".<sup>49</sup>
69. Mr Edwards raises concerns that the value of the Mangapepeke floodplain as wetland habitat has not been recognised, and the construction footprint and AWA cover very substantial areas of that wetland habitat. That is, as well as these potential effects of *sedimentation* events on wetlands, direct physical effects will occur from the footprint of the road and AWA.<sup>50</sup> Wildlands appear to share the view stating:<sup>51</sup>

### **"Misleading statements regarding likely ecological gains.**

Section 3.5.3. of the draft ELMP states that, with regards to the project, 'the result will be the conversion of these valleys back to fully-forested and connected swamp and riparian forest and the elimination of forest edge'. This is unachievable in the Mangapepeke Valley, where the restoration occurs in the same valley as the proposed road, and where the road will separate habitats and create new edges. If this statement is only in respect to the Mimi Valley, away from the road, the statement needs to be modified to not refer to valley's'."

"In section 4.6.2.2. of the draft and revised ELMP it is stated that 'the biodiversity offset targets for all valley floor plantings are to obtain a near complete cover of indigenous species across the valley (including riparian areas) by year 10'. In the Mangapepeke Valley the valley floor will include areas dissected by the proposed road, so this is unachievable.

...  
 Details provided in section 4.6.3.2 show that the project will result in a net loss of wetland on an area basis. Exotic rushland, most of which is probably wetland, will be replaced at a ratio of 0.5 hectare replacement planting for every hectare removed. What is the current vegetation at sites where mitigation plantings for exotic rushland will occur? The Applicant lists open pasture, pasture rushland mosaic, mixed indigenous wetland margins, and manuka stands. Of these, only wet areas of pasture or pasture rushland mosaic are appropriate planting sites for mitigation of exotic wetlands. Replacing only half of the current wetland extent would result in a net loss of wetlands, which are an ecosystem type that is a national priority for protection due to significant historic loss of wetland extent."  
 (my emphasis)

70. A full assessment of remaining wetland function has not been made, although Mr Boam has commented on retention of flood control capabilities and Mr

<sup>49</sup>Mr Edwards at [2.1.1]

<sup>50</sup> CEMP appendix C show the extent of WF8 in the proposed route footprint and ancillary works area.

<sup>51</sup> S42A report 30 July 2018, appendix E at [2.5] and page 5

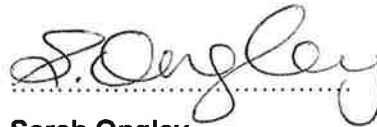
Singers on vegetation type/condition.<sup>52</sup> It is acknowledged that *vegetation condition* is relevant to any assessment. DOC does not take this matter any further, except to note it as a potential residual effect that does not appear to have been fully analysed. Also Dr Barea does not consider the restoration planting for the loss of exotic rushland on the Mangapepeke floodplain at a 0.5:1 ratio is acceptable.

71. Mr Edwards is appearing today primarily to raise his remaining concern about the biosecurity measures proposed for bringing plants and soils to the Project Area.

#### **Conditions and ELMP**

72. Following the numerous amendments suggested in the Applicant's Supplementary and Rebuttal evidence, DOC received a copy of an updated CEMP AND CLMP last Friday (3 August). At the time of writing, DOC has just received an updated ELMP document and set of consent conditions. DOC has had inadequate time to review those documents.

**DATED** at New Plymouth this 7<sup>th</sup> day of August 2018



**Sarah Ongley**

**Counsel for the Director-General of  
Conservation**

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<sup>52</sup> MacGibbon rebuttal at [43] referring to Boam EIC at [199] – [204]: Mr Boam's evidence covers flooding impacts and does not cover an analysis of effects on wetland function, which may not relate solely to flooding capability or vegetation.

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**Mt Messenger One-on-One Meeting - Outcomes**

**Topic:** Bats  
**Date:** Tuesday 3 April 2018  
**Location:** Mt Messenger Alliance Office, Wellington  
**Attendees:** Moira Pryde (DOC) and Simon Chapman (Mt Messenger Alliance), Laurence Barea (DOC), Roger MacGibbon (Alliance)  
**Facilitators:** Ben Inger (DOC), Peter Roan (Mt Messenger Alliance)

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**Environment Court Practice Note:**

The participant experts, Moira Pryde and Simon Chapman, confirm they have read the Environment Court Practice Note 2014 Code of Conduct, and agree to abide by it (including Part 7 and Appendix 3).

The following sets out the assumptions and outcomes of this one-on-one expert meeting which are agreed to by the participants, Moira Pryde and Simon Chapman:

**Key Facts and Assumptions:**

**Topic 1:**

1. Findings from ABM survey - high detection rate and importance of area for long-tailed bats.

**Points of agreement:**

An important area for bats. ABM survey highlights importance for bats - high pass rates recorded by ABMs in winter, which reinforces the importance of the area for bats. Additional survey (seasons, years) would improve information on importance of wider area for bats. There is a degree of uncertainty in findings based on the use of ABM. More data can be gained from use of ABM's, however, survey has surveyed purpose for determining importance for bat.

Short-tail bats are not the significant consideration for this project. Concerns being expressed here are in relation to long-tail bats.

**Unresolved issues (and the reasons in each case):**

None

**Topic 2:**

2. Need for radio-tracking surveys to locate maternity roost trees and inform avoidance strategies.

Points of agreement:

Radio tracking work is difficult to undertake successfully. Radio tracking can identify roost trees, however, even if radio tracking had been successful, there is still a need to implement tree removal protocols during construction works. Tree removal protocols come at a high level of effort to make work, effort at this location will be extremely high.

Felling occupied roost trees would be an adverse effect on bats (possible loss of the local colony / colonies that would roost in the impacted tree); removal of roost habitat trees can also have an effect, which could result in displacement or if other roost trees is unavailable, loss of colonies.

Would have still required tree removal protocols even if had 3 years of radio tracking survey. Currently don't have population information on size / distributions so need to be conservative.

Unresolved issues (and the reasons in each case):

Simon - reluctant to do radio tracking working again on this project (Simon had recommended multiple sessions of radio tracking, however, not pursued due to lack of success, but is comfortable with the management methods proposed, has applied conservative assumptions). There is a large pool of roosts available in wider area to offset effect of loss of roost habitats brought about by the project. Refinement of alignment (and selection of this alignment) has been made based on knowledge of location of large old trees, rather than use of radio tracking.

Moira - Would like to see additional radio tracking to reduce uncertainty - would better enable refinement of the alignment to avoid roost trees. Local loss of roost habitat could have significant effect on bat colonies - on top of other environmental change this effect could be significant. Bats have very specific requirements for roost trees.

**Topic 3:**

3. NZTA Bat Management Framework

Points of agreement:

Tree removal protocol is part of a Bat Management framework agreed with NZTA. Tree protocols never designed to assess 1000's of trees. Bat framework released part way through the project.

Process of arriving at this alignment has involved review of alternative alignments and consideration of possible effects, including on bats. Assessment process avoided alignments in Waipingao valley, which have high ecological values, including for bats. And refinement of proposed alignment.

Tree removal protocols will need to be implemented on the Project. The protocols have been developed and agreed on by NZTA and DOC and should be followed without modification. The draft bat chapter of the ELMP has been modified from the agreed protocols and should be replaced with an unmodified version. The only exception would be the inclusion of a 15cm DBH threshold above which trees will need to be assessed as this is the threshold DOC will specify in the Wildlife Act permit.

Wildlife Act approval process will also provide opportunity for DOC to have input into detail of the Bat Protocol.

Bat Protocol identifies the need for radio tracking, but doesn't confirm the level of effort required in survey (note above discussion).

Unresolved issues (and the reasons in each case):

None

**Topic 4:**

4. Long term benefits of replacement and restoration planting.

Points of agreement:

Replacement planting doesn't mitigate effects of roost loss until trees are old (hundreds of years) - no offsetting benefit. Restoration planting may provide additional foraging areas.

Unresolved issues (and the reasons in each case):

None

**Topic 5:**

5. Intensive integrated pest management to address residual effects.

Points of agreement:

Pest management will benefit bats, but needs to reduce rat (and stoat, cat, and possum) numbers levels to 5% and be across a sufficiently large area. From SI research, benefits (population size increases) gained where area of pest management is some 5000ha in size, where rat levels are at less than 5%. A recent published study<sup>1</sup> indicated good survival rates of bats when the predator management is >3000 ha. DOC's bat experts now consistently recommend 5000 ha as a goal for bat management in line with the current predator management regime in Eglinton Valley, and is recommended by Moira as the aim for this Project.

If you add the proposed 1100ha NZTA (at 5% predators) pest management area (which is compensation for ecological effects) to Parininihi, get some 2500ha, which goes some way to the 5000 ha.

Bat roost boxes could be explored as providing mitigation for loss of roost trees, but pest control would be the preference.

Unresolved issues (and the reasons in each case):

Moira would like to see an additional 2000ha pest management added to achieve an overall area of 5000ha. (Simon defers to the experts on the matter of the area required to provide benefits).

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<sup>1</sup> O'Donnell CFJ, Pryde MA, van Dam-Bates P, Elliott GP Controlling invasive predators enhances the long-term survival of endangered New Zealand long-tailed bats (*Chalinolobus tuberculatus*): Implications for conservation of bats on oceanic islands. *Biological Conservation* 214: 156-167.

**Topic 6:**

6. Post-construction monitoring.

Points of agreement:

Using ABMs to determine trends in populations is challenging. Noting challenges with ABMs, pest level monitoring might be an acceptable surrogate.

Unresolved issues (and the reasons in each case):

Moirira - has current research project which is suggesting that 50 ABM recorders monitored at agreed sites to achieve consistent level of information for tracking population trends. 5 years minimum, with monitoring over 15 yrs needed to point to population trends.

Simon - doesn't believe that ABM monitoring is fit for purpose for population trend monitoring, noting the uncertainties referred to above in topic 1.



# APPENDIX 21

## SIGNIFICANT NATURAL AREAS



- 21.1 Criteria for determining SIGNIFICANT NATURAL AREAS
- 21.2 Schedule of legally unprotected SIGNIFICANT NATURAL AREAS
- 21.3 SIGNIFICANT NATURAL AREAS on private property that are legally protected

## 21.1 Criteria for determining SIGNIFICANT NATURAL AREAS

In determining whether a natural area is a SIGNIFICANT NATURAL AREA, the COUNCIL will consider the following criteria:

- 1 Occurrence of an endemic species that is:
  - Endangered;
  - Vulnerable;
  - Rare;
  - Regionally threatened; or
  - Of limited abundance throughout the country.
- 2 Areas of important habitat for:
  - Nationally vulnerable or rare species; or
  - An internationally uncommon species (breeding and/or migratory).
- 3 Ecosystems or examples of an original habitat type, sequence or mosaic which are:
  - Nationally rare or uncommon;
  - Rare within the ecological region;
  - Uncommon elsewhere in that ecological district or region but contain all or almost all species typical of that habitat type (for that region or district); or
  - Not well represented in protected areas.
- 4 An area where any particular species is exceptional in terms of abundance or habitat.
- 5 Buffering and connectivity is provided to, or by the area.
- 6 Extent of management input required to ensure sustainability.

## 21.2 Schedule of legally unprotected SIGNIFICANT NATURAL AREAS

This schedule contains areas that meet the criteria in Appendix 21.1 and are currently unprotected.

SNA No	SNA Name
1	Mokau-Mohakatino Coastal Cliffs
2	Te Puia, Adjacent to Kawau Pa
3	Kuwahatahi
4	Headwaters of the Rapanui and Mangahutiwai
5	Waitaanga Plateau
6	Waikiekie
7	Pukatea
8	Okoki
9	Urenui River Mouth
10	Waikekeho A
11	Waikekeho B
13	Taramouku
14	Pouiatoa
16	Henwood Road
17	Carrington Road A
18	Maketawa
20	Barrett Road
21	Norfolk Road
23	Alfred Road
24	Dorset Road
25	Townsend Road
26	Tarurutangi
28	Tariki
29	Surrey Hill Road
31	Carrington Road B
32	Saunders Road

Note: Some of the SNA's included in this list may have been legally protected since printing of the plan. They will in future be moved to schedule 21.3 – SIGNIFICANT NATURAL AREAS on private property that are legally protected.

Rule No.	Parameter	Conditions Permitted		Standards and Terms		Matters over which control is reserved	Assessment Criteria
		Controlled	Discretionary	Controlled	Discretionary		
<b>INDIGENOUS VEGETATION DISTURBANCE</b>							
OL60	within a SIGNIFICANT NATURAL AREA identified in Schedule 21.2	is expressly allowed under the terms of a CONSERVATION COVENANT used to legally protect the relevant SIGNIFICANT NATURAL AREA or part of the SIGNIFICANT NATURAL AREA	n/a	does not meet the conditions for a permitted activity	n/a		<p>COUNCIL has restricted the exercise of its discretion to these matters for land use consents</p> <ol style="list-style-type: none"> <li>1) The extent to which the disturbance will adversely affect the integrity, viability and sustainability of the SIGNIFICANT NATURAL AREA and the wider eco-system of which it is a part.</li> <li>2) The extent to which the disturbance will adversely affect corridors and linkages between SIGNIFICANT NATURAL AREAS or between SIGNIFICANT NATURAL AREAS and other areas of indigenous vegetation.</li> <li>3) The extent to which the disturbance will adversely affect the habitat values of the SIGNIFICANT NATURAL AREA.</li> <li>4) The extent to which disturbance will create "edge effects" from wind and light on remaining vegetation.</li> <li>5) The effect on, and risk to, those parts of SIGNIFICANT NATURAL AREAS not cleared, from associated activities such as tracking, storage and burning.</li> <li>6) The appropriateness of the time of the year/season in which the disturbance is proposed.</li> <li>7) The practicality of alternatives other than the proposed disturbance.</li> <li>8) The extent to which remaining INDIGENOUS VEGETATION will be at risk from animal and plant pests and grazing animals.</li> <li>9) The extent to which more than minor effects of disturbance can be remedied or mitigated on-site.</li> <li>10) The extent to which more than minor effects of disturbance can be remedied, avoided or mitigated by off-SITE means.</li> </ol>
<p>Note: SIGNIFICANT NATURAL AREAS are used as matters over which the COUNCIL reserves its control and assessment criteria for subdivision consents.</p>							