

THE WAITOMO DISTRICT COUNCIL

UNDER	the Resource Management Act 1991 ('the Act')
IN THE MATTER OF	Proposed Waitomo District Plan
SUBMITTER	Graymont (NZ) Limited

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STATEMENT OF PLANNING EVIDENCE OF TERRY CALMEYER ON BEHALF OF GRAYMONT (NZ)  
LIMITED

21 October 2024

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## 1. INTRODUCTION

1. My name is Terry Calmeyer. I am a qualified and experienced environmental practitioner and planner and Associate Director of Enspire Consulting **Limited ('Enspire'), which is a consultancy** that provides, environmental, planning and process management services and advice.

### 1.1 Qualifications and Experience

2. After obtaining a Bachelor of Arts (Geography and Development Administration) and a Bachelor of Arts with Honours (Geography with specialisation in Environmental Analysis and Management) I completed a Magister Artium ('MA') (with distinction, specialising in Environment and Society) at the University of Pretoria, in 2003.
3. I am a full member of the New Zealand Planning Institute ('MNZPI'), a Certified Environmental Practitioner ('CEnvP' No 1673) and an accredited Commissioner under the Ministry for the **Environment 'Making Good Decisions' programme.**
4. I commenced my environmental planning career in Pretoria, South Africa in 1989 as a Geographic Information System ('GIS') Operator. I joined BKS (Pty) Ltd as a Scientist in 1997 where I undertook Assessments of Environment Effects (called Environmental Impact Assessments under South African legislation) and contributed to environmental components of various projects in the water, transport and energy sectors. In 2005 I joined ILISO Consulting (Pty) Ltd as a Technical Director, where I continued consulting on infrastructure development and water resource management projects. In 2012, together with two business partners, I established MDT Environmental (Pty) Ltd to continue my environmental assessment, management and planning career.
5. I moved to New Zealand to take up a position in the Land and Oceans Applications Team at the Environmental Protection Authority ('EPA') in January 2020. In this role I gained a working **knowledge of New Zealand's natural resource management** system, particularly in relation to the Resource Management Act 1991 ('RMA'), the COVID-19 Recovery (Fast-track Consenting) Act 2020, and the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012. I commenced my role at Enspire in April 2023.
6. I provide expert planning advice to a range of clients, in relation to resource management processes. I have attached, as Annexure A, my professional curriculum vitae. It lists some of the processes and projects that I have been, or am currently, involved in.

### 1.2 Code of Conduct

7. I confirm that I have read the Code of Conduct for Expert Witnesses in the Environment Court - **Te Kōti Taiao o Aotearoa** Practice Note (2023). My evidence has been prepared in compliance with that Code of Conduct, and I agree to follow it, when presenting my evidence to the hearing to the proposed Waitomo District Plan ('the proposed Plan').
8. I confirm that this evidence is written within my area of expertise, except where I state that I am relying on the evidence of another person. I also confirm that I have not deliberately omitted to consider any material fact known to me that might alter or detract from the opinion expressed.
9. **I acknowledge that my overriding duty is to impartially assist the Hearing Panel's consideration and assessment of the proposed Plan.**

## 2. SCOPE OF EVIDENCE

10. On 20 October 2022, the Waitomo District Council publicly notified the proposed Plan for submissions. The proposed Plan is a review of the entire Operative District Plan and has been written in the National Planning Standards format.

11. Graymont (NZ) Limited ('Graymont') made submissions<sup>1</sup> and further submissions<sup>2</sup> on the proposed Plan.
12. I was engaged by Graymont in October of 2024 to prepare and present expert planning evidence on the 2<sup>nd</sup> tranche of the hearing of the proposed Plan.
13. I confirm that I am familiar with the proposed Plan, having reviewed the following in the preparation of my evidence:
  - a. Relevant sections of the proposed Plan as notified;
  - b. Relevant section of the Waitomo District Council '*Proposed Waitomo District Plan - S32 Evaluation Report*' dated 20 October 2022 ('the S32 Report');
  - c. Graymont's submissions and further submissions; and
  - d. The '*Section 42A Report. Report on submissions and further submissions. Topic: Ecosystems and Indigenous Biodiversity*', prepared by; C. O'Callaghan, dated 20 September 2024 ('the EIB S42A Report').
14. In my evidence, I also refer to the:
  - a. **Resource Management Act ('RMA');**
  - b. **Waikato Regional Policy Statement ('WRPS');** and
  - c. **National Policy Statement for Indigenous Biodiversity ('NPS-IB').**
15. This evidence addresses the Ecosystems and Indigenous Biodiversity Chapter (Chapter 26) of the proposed Plan and includes:
  - a. Statutory and policy context;
  - b. A summary of **Graymont's** submissions and further submissions;
  - c. An assessment of the recommendations made in the EIB S42A Report; and
  - d. My summary and conclusions.
16. The remainder of the topics to be heard in tranche 2 of the hearing will be addressed in separate evidence to be submitted by 4 November 2024, and will cover the following chapters of the proposed Plan:
  - Definitions;
  - Strategic Direction;
  - Natural features and landscapes; and
  - Natural Character.

### 3. STATUTORY AND POLICY CONTEXT

17. I acknowledge the statutory and policy context of the proposed Plan presented in the S32 Report for the Chapter relevant to my evidence. This includes National Direction, the WRPS and Iwi Management Plans.
18. Of particular significance to the topics being heard in this tranche are:
  - a. RMA Section 6(c) - '*the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna*'. The proposed Plan is required to recognise and provide for section 6(c) as a matter of national importance.
  - b. RMA Section 7(d) - '**intrinsic values of ecosystems**'. The proposed Plan must have particular regard to the intrinsic value of ecosystems.
  - c. RMA Section 7(f) - '*maintenance and enhancement of the quality of the environment*'. The proposed Plan must have particular regard to the maintenance and enhancement of the quality of the environment.
  - d. NPS-IB - Section 3.10 - '*Managing adverse effects on Significant Natural Areas ('SNA') of new subdivision, use and development*'. (3) Any adverse effects on an SNA of a new subdivision, use, or development .... **must be managed** by applying the effects management hierarchy.

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<sup>1</sup> Submission #43.

<sup>2</sup> [graymont-nz-limited-further-submission.pdf \(waitomo.govt.nz\)](#)

#### 4. SUMMARY OF GRAYMONT'S SUBMISSION AND FURTHER SUBMISSION

19. Graymont is principally concerned to ensure that their existing lawfully established activities within the Waitomo District can continue to exist, operate and are able to be maintained, repaired, and upgraded without undue restriction, both during the operation of the quarry and during rehabilitation, as quarrying is completed. Further, given the long-term viability of its operations hinges on being able to access high quality limestone, Graymont seeks to provide for the carefully considered expansion of its operations, using world class environmental practices, and also, to ensure that the existing and possible future extraction of minerals is not compromised by activities established or establishing near to those resources, which do not rely on access to those mineral resources.
20. While Graymont supports the objective to protect areas of significant indigenous vegetation and significant habitats of indigenous fauna, for the Ecosystem and Indigenous Biodiversity provisions under consideration in this evidence, **the continuation of Graymont's activities** relates primarily to clearing vegetation outside of SNAs and ensuring that the provisions regarding the same are not overly restrictive. The process required to recognise the expansion of, additional or new SNAs is also important to Graymont.

#### 5. ASSESSMENT OF CHANGES TO THE PLAN PROVISIONS RECOMMENDED IN THE S42A REPORT

21. In the following part of my evidence, I comment on the recommendations in the EIB S42A Report.
22. References to the proposed Plan in the sections below are to the notified version of the documents with additions sought by Graymont or recommended by the EIB S42A Report underlined, and the deletions marked with ~~strike through~~.
23. I discuss submissions regarding the Ecosystem and Indigenous Biodiversity provisions below.

##### 5.1 OBJECTIVES

###### 5.1.1 ECO-01

24. Graymont sought that ECO-01 be retained as notified, noting that the objective was in keeping with Section 6(c) of the RMA and generally consistent with ECO-M13 of the WRPS.
25. Forest and Bird ('F&B') requested that ECO-01 be reworded to state that '*indigenous biodiversity including significant indigenous vegetation and the significant habitats of indigenous fauna is protected.*' **The Department of Conservation ('DOC')** requested similar but expanded wording. While the **Waikato Regional Council ('WRC')** requested that ECO-01 be **reworded to** "*Maintain, enhance and where possible restore district-wide indigenous biodiversity*".
26. In the EIB Section 42A Report, Ms **O'Callaghan** highlights that section 6(c) of the RMA requires the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna, as opposed to protection of all indigenous biodiversity, and that Policy 7 of the NPS-IB directs that SNAs are protected by avoiding or managing adverse effects from new subdivision, use and development. Given this, Ms **O'Callaghan** does not recommend that **F&B and DOC's** submission points on ECO-01 are accepted.
27. Further, Ms **O'Callaghan** notes **that WRC's** submission point on ECO-01 has the same wording as ECO-04 and assumes that the submission point relates to that objective as F&B request the same amendment but have the objective numbered correctly.
28. Considering the direction provided by the RMA and NPS-IB, Ms **O'Callaghan** therefore recommends no change to ECO-01.
29. Having considered the EIB S42A reasoning for retaining ECO-01 as notified, I support the EIB S42A Report recommendation. In this regard, the changes sought by F&B and DOC are overly restrictive, in that they go further than the direction provided in national policy.

### 5.1.2 ECO-02

30. Graymont sought that ECO-02 be retained as notified, noting that Section 6 of the RMA requires **the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga to be ‘recognised and provided for’**. Further, Graymont recorded that IM-07 of the WRPS **states that the relationship of tāngata whenua with the environment is to be recognised and provided for**. As such, Graymont highlighted that ECO-02 is consistent with these provisions.
31. King Country Energy, Te Nehenehenui and Te Tokanganui- anoho Whare also requested that ECO-02 be retained as notified. No submitters opposed this provision.
32. **Ms O’Callaghan, in Appendix 1** to the EIB S42A Report, recommends that these requested are accepted and in turn, that ECO-02 be retained as notified.
33. I support the EIB S42A Report recommendation to retain ECO-02 as notified.

### 5.1.3 ECO-03

34. Graymont sought that ECO-03 be retained as notified, noting that provision for permitted activities that have no more than minor effects on the environment, is appropriate.
35. WRC requested that the objective be **amended to ‘provide for identified permitted activities which have been assessed as having no adverse effects on the values of indigenous biodiversity’**, While F&B requested that ECO-03 be deleted. In their further submission to WRC’s **submission** on ECO-03, Graymont referred to the effects management hierarchy in the NPS-IB and opined that **WRC’s** request is inconsistent with the direction provided within the same, is overly restrictive, and therefore sought that **WRC’s requested amendment be disallowed**.
36. Ms **O’Callaghan** states that ECO-03’s **approach as notified complies with WRPS ECO-P2** and that there is nowhere in the WRPS that directs district plans to ensure that a permitted activity has no adverse effects on the values of indigenous biodiversity. Ms **O’Callaghan** records that Policy 7 of the NPS-IB requires that SNAs are protected by avoiding or managing adverse effects from new subdivision, use and development. Additionally, Ms **O’Callaghan** points out that section 3.10 of the NPS-IB applies to any new subdivision, use, or development that affects an SNA. Ms **O’Callaghan** therefore recommends no change to ECO-03.
37. Having considered the EIB S42A reasoning for retaining ECO-03 as notified, I support the EIB S42A Report recommendation. In this respect, I consider that the changes sought by WRC are overly restrictive and inconsistent with policy direction provided by the NPS-IB.

### 5.1.4 ECO-04

38. Graymont supported ECO-04, which relates to indigenous vegetation outside of SNAs, as notified noting that it accords with Objective 1 the NPS-IB that requires that indigenous biodiversity is ‘maintained’, and with Policy ECO-P1 of the WRPS, that requires that indigenous biodiversity is ‘maintained or enhanced’, and is thus, appropriate.
39. DOC, F&B and WRC requested that ECO-04 apply to ‘all’ indigenous vegetation and not only indigenous vegetation outside of SNAs.
40. Ms **O’Callaghan** notes in paragraph 59 of the EIB S42A Report that this change would leave a gap in the policy framework of the proposed Plan which differentiates between indigenous biodiversity within SNAs and indigenous biodiversity outside of SNAs, and therefore recommends no changes are made to ECO-04.
41. Having considered the EIB S42A reasoning for retaining ECO-04 as notified, I support the EIB S42A Report recommendation. In this regard, I am of the opinion that indigenous biodiversity within SNAs and indigenous biodiversity **outside of SNA’s** should be addressed differently in accordance with the policy direction provided within the RMA and WRPS. ECO-01 already provides for

protection and enhancement, where appropriate, of indigenous biodiversity **within SNA's, thus** extending ECO-04 to apply to all indigenous biodiversity (inside and outside of SNAs) is not required and could create confusion within the proposed Plan.

## 5.2 POLICIES

42. The policies respond to the overarching direction of the six objectives in the Ecosystems and Indigenous Biodiversity chapter. The two categories that are of interest to Graymont are those that relate to SNAs and to indigenous vegetation outside of the coastal environment overlay (district-wide indigenous biodiversity).
43. Ms O'Callaghan provides a useful table on page 23 of the EIB S42A Report that summarises how each policy relates to the higher order documents that the proposed Plan has a statutory obligation to give effect to.
44. Ms O'Callaghan notes that the NPS-IB has come into effect subsequent to the notification of the proposed Plan. She discusses the consideration of adopting the amendments set out in the NPS-IB in full, as this would enable resource and time saving and allow for immediate implementation. Ms O'Callaghan, however, points out the disadvantages of this approach in paragraph 65 of the EIB S42A Report. She proposes, instead, a more measured approach that seeks to give effect to the NPS-IB within the scope of a submission on provisions in the Chapter. I concur with this approach.
45. I now discuss the policies that Graymont submitted on. I have, as presented in the EIB S42A Report, grouped the policies dealing with the same topics together.

### 5.2.1 EFFECTS MANAGEMENT HIEARCHY (ECO-P1 AND ECO-P4)

46. ECO-P1 seeks to provide an effects management hierarchy to protect SNAs based on the methods in the WRPS. The notified version of ECO-P4 works in conjunction with ECO-P1. In this respect, where the effects management hierarchy provided for in ECO-P1 cannot be achieved, and the indigenous vegetation clearance is unavoidable and large scale, biodiversity offsetting is provided for in ECO-P4. I therefore discuss these two policies together in this section of my evidence.
47. Graymont requested that ECO-P1 and ECO-P4 be retained as notified, noting that ECO-P1 is generally consistent with the WRPS wording of Policy IM-P7, which requires regional and district plans to protect areas of significant indigenous vegetation and significant habitats of indigenous fauna.
48. **In their further submissions, Graymont opposed WRC's submission on ECO-P4 which sought to include definitions for 'large scale clearances', 'limited circumstances' and 'larger scale' as the wording of these definitions had not been provided. In this regard, it was difficult for Graymont to understand the implications of the same without clear definition wording being provided.**
49. Ms O'Callaghan notes in paragraph 67 of the EIB S42A Report that submissions from DOC and F&B both provide scope to amend the effects management hierarchy and discusses the merits of replacing the wording in ECO-P1 with the wording in the NPS-IB, as set out within Ms O'Callaghan's table (page 23 of the EIB S42A Report).
50. Ms O'Callaghan notes that using the NPS-IB effects management hierarchy would impact, amongst others, regionally significant industries. She therefore recommends that, instead of replacing the effects management hierarchy in ECO-P1 in totality, biodiversity offsetting and compensation are added to the hierarchy as notified in ECO-P1, as follows:

*ECO-P1. Recognise and protect the values, characteristics or extent of significant natural areas identified in SCHED6 by applying the effects management hierarchy:*

- 1. Avoiding loss or degradation in preference to remediation or mitigation; and*
- 2. Remedying or mitigating any unavoidable adverse effects; and*
- 3. Where any adverse effects cannot be avoided, remedied or mitigated in accordance with ECO-P1.1 and P1.2, significant residual adverse effects are offset to achieve no net loss; and*

4. *Where remediation, mitigation or offsetting are required, as a first priority it relates to the indigenous biodiversity that has been lost or degraded (whether by on-site or off-site methods); and*
5. *Where biodiversity offsetting or compensation is required it is in accordance with APP4.*

51. Ms O'Callaghan states that including biodiversity and offsetting in ECO-P1 makes the notified version of ECO-P4 redundant.
52. Having considered the EIB S42A reasoning for the changes to ECO-P1 and deletion of ECO-P4 as notified, I support the EIB S42A Report recommendation. In this regard, combining the two Policies to cover the full spectrum of the effects management hierarchy is a clearer and more succinct approach.
53. Furthermore, I note Ms O'Callaghan's proposal, in paragraphs 72 and 73 of the EIB S42A Report to adopt the NPS-IB definitions for 'biodiversity offset' and 'biodiversity compensation', and pursuant to employing statutory definitions as closely as possible, I concur with these recommendations.
54. Ms O'Callaghan proposes, in paragraph 75 of the EIB S42A Report, that the notified Appendix 4 Biodiversity Offsetting Framework is replaced with the wording in the NPS-IB Appendices 3 and 4. While the NPS-IB framework may, arguably, introduce slightly more rigorous requirements for acceptable offsetting, I note that the NPS-IB will apply to relevant activities in the District, in addition to the District Plan, and a consistent approach is preferred. I therefore concur with the approach recommended by Ms O'Callaghan, as this will provide a more consistent policy framework.

#### 5.2.2 SIGNIFICANT NATURAL AREA POLICIES (ECO-P2 -P3 AND ECO-P5 - P8)

55. In their submission, Graymont opposed ECO-P2 on the basis that the proposed Plan provisions should adequately provide for the continued operation of existing lawfully established activities, including its mineral extraction, quarrying and processing activities. Graymont also noted that part 3 of ECO-P2 requires avoiding indigenous vegetation clearance in locations that are of significance to mana whenua. Graymont noted that this effectively establishes a veto with regard to vegetation clearance, regardless of effect, and is therefore, of particular concern to the Company.
56. Graymont requested the following amendments to ECO-P2:

*Recognise, protect, and enhance the ecological sustainability, indigenous biodiversity values and characteristics of significant natural areas by:*

1. *Only allowing the removal of indigenous vegetation in sustainable quantities within locally significant natural areas; and*
2. *Only allowing the removal of indigenous vegetation in limited circumstances within internationally, nationally or regionally significant natural areas; and*
3. *Ensuring Avoiding indigenous vegetation clearance in locations that are of significance to mana whenua appropriately assess those effects and any resulting development is managed in a way that protects the indigenous biodiversity values of the site; and*
4. *Protecting the health and functioning of significant natural areas that are wetland or include part of a wetland, by avoiding inappropriate land use practices, subdivision and development., and*
5. *Protect and enhance connectivity along and between significant natural areas and other areas of indigenous vegetation and habitat of indigenous fauna, and*
6. *While providing for indigenous vegetation clearance required for the continued operation of lawfully established activities.*

57. In the EIB S42A Report, Ms O'Callaghan acknowledges that there may be some merit in considering **whether the absolute 'avoid' requirement in ECO-P2.3 is appropriate.** She agrees that there may be some circumstances where indigenous vegetation removal is necessary. Further, she agrees that **the wording 'to the maximum extent practicable' seems a helpful addition, indicating there may be very limited circumstances where an 'outlier' situation results in the need to clear a**

small area of an SNA that is also of significance to mana whenua. Ms O' Callaghan therefore recommends an amendment to ECO-P2.3 that addresses the issue of outright "avoidance".

58. **Ms O'Callaghan does not recommend Graymont's request to add ECO-P2.6** regarding lawfully established activities be accepted. Ms O'Callaghan states at paragraph 82 of the EIB S42A Report that in respect of lawfully established activities, RMA section 6(c) is a matter of national importance. She opines that it is not appropriate for the proposed Plan to enable indigenous vegetation clearance in a SNA (outside of activities with minor or less than minor effects which are identified as permitted) regardless of whether any activity is lawfully established. Having said this, she notes that specific policy provision is provided for clearance within SNAs for regionally significant activities. These provisions would apply to Graymont's Oparure Quarry given that it has been identified as a significant mineral resource in RPROZ-SCHED1 and has a 'regionally significant' status. This is discussed further in Section 5.3.3 of my evidence.
59. **In addition to Graymont's submission**, ECO-P2 was subject to submissions from numerous other parties. One of these from F&B requested that ECO-P2 be completely replaced with new provisions.
60. Graymont made a further submission opposing F&Bs submission (47.87) to delete ECO-P2 and add a new policy capturing aspects of ECO-P2 clauses 4 and 5 and ECO-P6 clauses 1 to 13, on the basis that the provision sought by F&B is overly restrictive and goes beyond the requirements of Part 2 of the RMA. **Ms O'Callaghan does not recommend that the changes proposed** by F&B are accepted. **In this regard, Ms O'Callaghan records that** the majority of the matters F&B requested are provided for in other parts of the policy framework. **I concur with Ms O'Callaghan that the changes to ECO-P2 sought by F&B should not be allowed.**
61. In the EIB S42A Report, Ms O'Callaghan recommends that ECO-P2 should be amended to read:

*ECO-P2. Recognise, protect, and enhance the ecological sustainability, indigenous biodiversity values and characteristics of significant natural areas by:*

- 1. Only allowing the removal of indigenous vegetation in sustainable quantities within locally significant natural areas; and*
- 2. Only allowing the removal of indigenous vegetation in sustainable quantities and in limited circumstances within internationally, nationally or regionally significant natural areas; and*
- 3. Avoiding indigenous vegetation clearance in locations that are of significance to mana whenua to the maximum extent practicable; and*
- 4. Protecting the health and functioning of significant natural areas that are wetland or include part of a wetland, by avoiding inappropriate land use practices, subdivision and development.*
- 5. Protect and enhance connectivity along and between significant natural areas and other areas of indigenous vegetation and habitat of indigenous fauna.*

62. Having considered the EIB S42A reasoning for the changes to ECO-P2 as notified, I support the EIB S42A Report recommendation in part. **My first concern is that the term "sustainable quantities" is not defined** and is thus open to interpretation.
63. I also **note Ms O'Callaghan's reason for not accepting Graymont's** request being that specific policy provision is provided for clearing in SNAs for regionally significant activities elsewhere in the proposed Plan. I consider that provision for regionally significant activities should be included within ECO-P2 to avoid conflicting direction on the matter. I therefore propose that Ms **O'Callaghan's proposed wording is accepted with the addition** of a clause (new 6.) pertaining to regionally significant activities as follows:

*ECO-P2. Recognise, protect, and enhance the ecological sustainability, indigenous biodiversity values and characteristics of significant natural areas by:*

- 1. Only allowing the removal of indigenous vegetation in sustainable quantities within locally significant natural areas; and*

2. Only allowing the removal of indigenous vegetation in sustainable quantities and in limited circumstances within internationally, nationally or regionally significant natural areas; and
3. Avoiding indigenous vegetation clearance in locations that are of significance to mana whenua to the maximum extent practicable; and
4. Protecting the health and functioning of significant natural areas that are wetland or include part of a wetland, by avoiding inappropriate land use practices, subdivision and development.
5. Protect and enhance connectivity along and between significant natural areas and other areas of indigenous vegetation and habitat of indigenous fauna.
6. While providing for indigenous vegetation clearance required for regionally significant activities.

64. Graymont partially supported ECO-P3 as notified and sought the following amendments:

*Provide for permitted activities and for the continued operation, maintenance, repair and minor upgrading of lawfully established activities in and adjacent to significant natural areas by enabling the removal of indigenous vegetation for:*

1. The relocation, maintenance or construction of all fence lines, including fence lines for stock exclusion; and
2. Conservation activities; and
3. Construction of permitted building platforms including services and access; and
4. Maintenance or minor upgrading of existing roads, driveways, tracks and water intake/discharge structures; and
5. For maintenance of culverts and bridges; and
6. For maintenance associated with stormwater detention and treatment facilities; and
7. As part of maintenance or minor upgrading of existing drains; and
8. Sustainable harvesting of indigenous vegetation and/or removal of manuka or kanuka where the indigenous biodiversity values and ecological characteristics of the significant natural area are maintained or enhanced; and
9. Limited indigenous vegetation removal to manage fire risk; and
10. Limited indigenous vegetation removal for small scale renewable energy generation, and
11. Providing for nationally and regionally significant infrastructure and industry, and for those activities associated with significant mineral resources.

*For all of these activities, the removal of indigenous vegetation is only enabled where:*

- (i) *The adverse effects on indigenous biodiversity values and connectivity are appropriately avoided, remedied or mitigated; and*
- (ii) *Any existing cleared areas on a site that are suitable to accommodate subdivision or new development are used in the first instance; and*
- (iii) *Any practicable alternative locations that would reduce the need for indigenous vegetation removal are used in the first instance; and*
- (iv) **Consideration is given to the positive benefits of the activity in respect of people's health and wellbeing.**

65. In her EIB S42A Report, **Ms O'Callaghan** notes that several submitters requested amendments that are very detailed and on balance may not add a great deal to the interpretation of the policy. Instead, she recommended to amend the policy to reflect the permitted activities it applies to using the rule numbering only. That is, the rule numbers replace the current list of activities. **Ms O'Callaghan records that** this does not have the effect of changing the notified intent of the policy, but rather reducing its verbosity.

66. The recommended amendments would read:

*ECO-P3. Provide for the permitted activities and for the continued operation of lawfully established activities as identified in ECO-R1-R13, in and adjacent to significant natural areas by enabling the removal of indigenous vegetation in limited circumstances where: for:*

- ~~1. The relocation, maintenance or construction of fence lines for stock exclusion; and~~
- ~~2. Conservation activities; and~~
- ~~3. Construction of permitted building platforms including services and access; and~~

- ~~4. Maintenance of existing roads, driveways, tracks and water intake/discharge structures; and~~
- ~~5. Sustainable harvesting of indigenous vegetation and/or removal of manuka or kanuka where the indigenous biodiversity values and ecological characteristics of the significant natural area are maintained or enhanced; and~~
- ~~6. Limited indigenous vegetation removal to manage fire risk; and~~
- ~~7. Limited indigenous vegetation removal for small scale renewable energy generation.~~

~~For all of these activities, the removal of indigenous vegetation is only enabled where:~~

- ~~(i) The adverse effects on indigenous biodiversity values and connectivity are appropriately avoided, remedied or mitigated; and~~
- ~~(ii) Any existing cleared areas on a site that are suitable to accommodate subdivision or new development are used in the first instance; and~~
- ~~(iii) Any practicable alternative locations that would reduce the need for indigenous vegetation removal are used in the first instance; and~~
- ~~(iv) Consideration is given to the positive benefits of the activity in respect of **people's health and wellbeing**.~~

67. Having considered the EIB S42A reasoning for the changes to ECO-P3 as notified, I support the S42A Report recommendation in principle, on the basis that it will reduce the verbosity of the proposed Plan.

68. Graymont supported ECO-P5 as notified in part, requesting an additional matter to which regard must be given when considering the removal of indigenous vegetation or habitats of indigenous fauna or disturbance of wetland areas. This matter would provide for the consideration of whether the activity is required for the continued operation, repair, maintenance and minor upgrading of nationally or regionally significant industry, infrastructure, or is associated with significant mineral resources, and would read as follows:

*Where the limited circumstances of unavoidable removal of indigenous vegetation, or habitats of indigenous fauna, or disturbance of wetland areas are being considered (including situations provided for in ECO-P4), regard must be given to the following matters:*

...

11. Whether the activity is required for the continued operation, repair, maintenance and minor upgrading of nationally or regionally significant industry, infrastructure, or is associated with significant mineral resources.

69. DOC, WRC, Nehenehenui and the **New Zealand Speleological Society ('NZSS')** opposed Graymont's submission on this provision.

70. **Ms O'Callaghan** does not recommend the addition proposed by Graymont be allowed. Although **Ms O'Callaghan does not mention Graymont's submission specifically**, I understand that this relates to the deletion of the reference to ECO-P4 that includes specific activities, which are now addressed in the rules.

71. Further, Graymont opposed the submission on ECO-P5 from F&B in its further submissions (FS08.10) on the basis that **it is unclear what "any other considerations" means**. In this regard, Graymont noted that it would be difficult to ensure consistency with the policy without an understanding of what is intended by the requested addition. **Ms O'Callaghan** expresses concern, in paragraph 95 of the EIB S42A Report, that this would be very hard for an applicant to address or for Council to assess and proposed amendments do not meet the parameters of 3.6 in the NPS-IB or respond particularly well to Policy 4.

72. After considering all the relevant submissions, **Ms O'Callaghan** recommends the following amendments to ECO-P5:

~~ECO-P5. Where *the limited circumstances of unavoidable* removal of indigenous vegetation, or habitats of indigenous fauna, or disturbance of wetland areas are being considered (including situations provided for in ECO-P4), regard must be given to the following matters:~~

1. Whether the area contains nationally significant examples of indigenous community types and indigenous ecosystems and/or vegetation types that are threatened ~~in the coastal environment~~, **or are naturally rare; and**
2. Effects on the required range of habitats, including roosting, nesting, foraging and migratory pathways of fauna; and
3. Effects on the habitats of threatened and at risk species including migratory pathways; and
4. Effects on the maintenance of ecological corridors, processes and sequences; and
5. Whether sensitive sites remain buffered from intensive land use, development and subdivision; and
6. The outcome of consultation where indigenous vegetation clearance is proposed in locations that are of significance to mana whenua; and
7. Effects on natural waterway and wetland habitats and hydrology; and
8. The legal and physical protection of existing habitat; and
9. Whether consideration has been given to opportunities that contribute to no net loss of indigenous biodiversity at a regional scale; and
10. Whether any practicable alternative locations that would reduce the need for removal of indigenous vegetation or habitats of indigenous fauna or disturbance of wetland areas, are used in the first instance.

73. Having considered the EIB S42A reasoning for changes to ECO-P5 as notified, the redundancy of ECO-P4, and strengthening of the application of the effects management hierarchy in the Policies and Rules of the proposed Plan **as recommended by Ms O'Callaghan**, I support the EIB S42A Report recommendation for ECO-P5, because the deletion of the reference to ECO-P4 results in ECO-P5 no longer specifying any applicable activities. **Graymont's request** is to add activities. Specifying additional activities is better placed within the rules.

#### 5.2.3 REGIONALLY SIGNIFICANT SITES IN THE RURAL PRODUCTION ZONE (ECO-P13)

74. Graymont partially supported ECO-P13, that relates to indigenous vegetation outside of SNAs, and sought that an additional matter should be included within ECO-P13 to specifically provide for nationally or regionally significant industry, infrastructure and activities associated with significant mineral resources as follows:

*When removal of indigenous vegetation, or habitats of indigenous fauna, or disturbance of wetland areas occurs outside of significant natural areas, ensure the following matters are considered when avoiding, remedying or mitigating adverse effects on indigenous **biodiversity: ...***

*8. The need for the activity to provide for nationally or regionally significant industry, infrastructure or activities associated with significant mineral resources.*

75. DOC, Te Nehenehenui **and NZSS opposed Graymont's submission on ECO-P13.**

76. In paragraph 155 of the EIB **S42A Report**, **Ms O'Callaghan argues that** although regionally significant mineral resources in the Rural Production Zone must comply with the rules in the Ecosystems and Indigenous Biodiversity chapter of the proposed Plan, there is a different approach in the Plan for these sites under ENGY-P13 and RPROZ-P2 which states that:

*Where the removal of indigenous vegetation in a significant natural area is unavoidable to provide for activities on sites identified as regionally significant, the ensuing operations must remedy or mitigate adverse effects in that order in the first instance, or if this is not possible, offset adverse effects on the indigenous biodiversity values and ecological characteristics of the significant natural area by:*

1. Providing a biodiversity offset that is consistent with the framework detailed in Appendix 4 Biodiversity Offsetting Framework; and
2. Ensuring the biodiversity offset can achieve no net loss of indigenous biodiversity values at a regional scale, preferably in the affected significant natural area, or where that is not practicable, in the ecological district in which the affected significant natural area is located.

77. Ms O'Callaghan notes that the NPS-IB provides for 'specified infrastructure' and mineral extraction activities (within parameters) within SNAs but does not make any specific exemptions for these activities in relation to district wide (non-SNA) indigenous biodiversity which does leave a policy gap. Having said this, Ms O'Callaghan records that regionally significant activities are able to clear indigenous vegetation as a permitted activity unless they are located in an overlay and the area/rate of clearance triggers a rule. On balance Ms O'Callaghan considers that it is best to leave ECO-P13 as notified and to address the Graymont submission point in the natural features and landscapes chapter which controls indigenous biodiversity in the karst overlay.
78. I note that Graymont's reason for their submission on ECO-P13 is not limited to karst overlays. In this regard, Graymont's activities are not exclusively in the karst overlay and are also located in the Rural Production Zone that has indigenous vegetation that is not in a karst overlay.
79. Having considered the EIB S42A proposed changes recommended to ECO-P13 as notified, I partially support the EIB S42A Report recommendation. In this respect, I note that Graymont's activities are not limited to areas in the karst overlay and that providing for nationally or regionally significant industry, infrastructure or activities associated with significant mineral resources is consistent with RPROZ-P2. Given this, I recommend that Graymont's requested change to ECO-P13 is accepted in addition to the other changes proposed by Ms O'Callaghan, as follows:

*ECO-P13*

*When considering removal of indigenous vegetation, or adverse effects on habitats of indigenous fauna, or disturbance of wetland areas ~~occurs~~ outside of significant natural areas, ensure the following matters are considered when avoiding, remedying or mitigating adverse effects on indigenous biodiversity:*

- 1. Whether any existing cleared areas on a site that are suitable to accommodate subdivision or new development, are used in the first instance; and*
- 2. Any practicable alternative locations that would reduce the need for removal of indigenous vegetation, or habitats of indigenous fauna, or disturbance of wetland areas are used in the first instance; and*
- 3. Whether consideration has been given to opportunities that contribute to no net loss of indigenous biodiversity at a regional scale; and*
- 4. The maintenance of indigenous habitats adjoining wetlands, rivers, springs, karst ecosystems and **fragmented forests**; and*
- 5. The maintenance of buffers around underrepresented or naturally uncommon indigenous **ecosystems**; and*
- 6. The maintenance or creation of ecological stepping stones or corridors to link indigenous vegetation and/or fragmented **ecosystems on land and via waterways**; and*
- 7. The maintenance and protection of habitat of nationally threatened or at risk indigenous species.*
- 8. The need for the activity to provide for nationally or regionally significant industry, infrastructure or activities associated with significant mineral resources.*

5.3 RULES

5.3.1 PROPOSED NEW RULES

80. In its submissions to the Ecosystems and Indigenous Biodiversity chapter, F&B sought a new rule for new mineral extraction and quarrying to be a Prohibited Activity in SNAs (47.11). While Graymont agreed that it is appropriate to provide protection for SNAs, and notes that this is consistent with the direction provided within Part 2 of the RMA, Graymont recorded that a prohibited activity status does not allow for any site-specific considerations to be made. As such, in its further submissions, Graymont **sought that F&B's submission be disallowed** (refer to 47.113 of Graymont's further submission).

81. Ms O'Callaghan states that F&Bs request is not appropriate. In this regard, Ms O'Callaghan considers that the rules notified in the proposed Plan are sufficiently stringent to manage any potential adverse effects on SNAs.

82. Having considered the EIB S42A reasoning for the new rule requested by F&B, I support the EIB S42A Report recommendation to not include a new rule providing for new mineral extraction and quarrying to be a Prohibited Activity within SNAs for the reasons set out in paragraphs 80 and 81 above.

### 5.3.2 PERMITTED ACTIVITIES ECO-R1-R13

83. While Graymont, in their submissions, was generally supportive of providing permitted activity limits for indigenous vegetation clearance so that it is clear where resource consent is required, the Company noted that Schedule 6 of the proposed Plan does not provide any detail of the area size of each SNA, as such it is difficult to easily determine what 1% of the particular SNA might be in square metres. Given this, Graymont suggested that the SNA areas are specifically provided within the proposed Plan, or that guidance on where to determine the areas of the SNAs is provided, so that compliance can readily be determined.

84. Graymont sought that the standard for ECO-R1- ECO-R10 is amended as follows:

*To provide a link to guidance on where to determine the areas of those SNA's located within the Waitomo District, or*

*That the proposed plan provides detail of the area size of each SNA within Schedule 6.*

85. In her EIB S42A Report, Ms O'Callaghan explained that the size of each SNA does appear on the electronic district plan maps. Ms O'Callaghan recommended that a note is added to ECO-R1-R10 to signpost users to the electronic maps as follows:

*NOTE: The area of each SNA is provided on the electronic version of the district plan maps.*

86. Having considered the EIB S42A explanation and recommendation, I support the EIB S42A report suggestion as it will provide the clarity that Graymont sought.

87. Further, and with regard to the Ecosystems and Indigenous Biodiversity Rules, DOC and F&B requested changes to the clearance area standards permitted by rules ECO-R1 to ECO-R10. Ms O'Callaghan notes that these submission points indicate that the wording of the rules is not very clear, particularly regarding the way in which the rules are intended to be applied over the lifetime of the plan. Ms O'Callaghan records that the plan has a lifespan of 10 years. As such, Ms O'Callaghan recommends that the rules be reformatted to make this clear as follows:

*1. From 20 October 2022 to 20 October 2032 any clearance must be no more than either:  
(i) a maximum of 500 m<sup>2</sup> or less of indigenous vegetation either at any one time or in total cumulatively per holding;*

*OR*

*(ii) less than 1% of the SNA size either at any one time or in total cumulatively per holding - whichever is the lesser.*

*2. For the avoidance of doubt, should this rule remain operative past 20 October 2032, the rule applies to subsequent 10-year periods.*

88. Having considered the S42A reasoning for the amended to the permitted activity rules as notified, I support the S42A Report recommendation to seek to make the clearance rules easier to interpret.

89. In their submission Graymont supported rules ECO-R3, ECO-R5, ECO-R8, ECO-R9 relating to the trimming or removal of indigenous vegetation where undertaken in specific circumstances, and requested that the rules be retained as notified.

90. It is noted that DOC requested that ECO-R3 be reworded to reduce repetition as follows:

*ECO-R3: To remove, dead, diseased or damaged indigenous vegetation ~~or indigenous vegetation~~ presenting an imminent ~~danger~~ threat to human life*

91. **Ms O'Callaghan** recommends that **DOC's** submission to ECO-R3 be accepted, noting that, on balance she agrees that the rule could be reworded to reduce repetition, given that the main point of the provisions is only to provide for the removal of indigenous vegetation that is threatening human safety. Having considered **DOC's submission and** the EIB S42A reasoning for the changes to ECO-R3 as notified, I support the EIB S42A Report recommendation to delete the repetition within the provision.
92. Further, I note that King Country Energy requested changes to ECO-R5 to provide for maintenance within 5 m of existing water intake/discharge structures associated with renewable electricity generation. In addition, F&B requested that a definition of '**maintenance**' noting that the rule lacks specificity by referring to maintenance but not defining it. In response to F&B's **submission, Ms O'Callaghan argues that** the term maintenance is well understood and in response to King Country Energy's **concerns**, that these are addressed under other provisions of the proposed Plan. She therefore recommends that ECO-R5 is retained as notified.
93. Having considered the EIB S42A reasoning for the retaining ECO-R5 as notified, I support the EIB S42A Report recommendation because allowing for maintenance works on or within 2 m of existing roads, driveways, tracks, fences or water intake/discharge structures is appropriate.
94. In turning to ECO-R9, **Ms O'Callaghan notes that this rule** permits trimming, pruning and removal of indigenous vegetation for pest management activities as defined in the Waikato Regional Pest Management Plan. **Ms O'Callaghan records that WRC recommends that this rule be amended to read 'For pest management activities as identified in the Waikato Regional Pest Management Plan relating to the management of nuisance plants that are impacting on the values of a site or area'**. Further, Hort NZ requested that this rule be amended to apply to '*the removal of material infected by unwanted organisms under the Biosecurity Act 1993*'. **Ms O'Callaghan goes on to note that F&B consider that it is not clear why or to what extent pest management activities would need to include the clearance of indigenous vegetation and ask that the rule is deleted.** In considering these submissions, **Ms O'Callaghan explains that the principle of the rule is not to hinder pest control in any form and agrees that an additional clause providing for the removal of material infected by unwanted organisms under the Biosecurity Act 1993 could be added to the rule as this has a positive impact on biodiversity values.** Given this, she recommends the following amendment:

*ECO-R9. For pest species management and any other activities as identified in the Waikato Regional Pest Management Plan and for the removal of material infected by unwanted organisms under the Biosecurity Act 1993.*

95. Having considered the EIB S42A reasoning for the recommended changes to ECO-R9 as notified, I support the EIB S42A Report recommendation because it is appropriate to not hinder pest control activities and the addition of the clause providing for the removal of material infected by unwanted organisms under the Biosecurity Act 1993 should be added to the rule as this has a positive impact on biodiversity values.

### 5.3.3 REGIONALLY SIGNIFICANT SITES IN THE RURAL PRODUCTION ZONE AND ECO-R16

96. Graymont supported ECO-R16 as notified in part and requested an amendment to specifically highlight that the removal of vegetation associated with nationally or regionally significant industry, infrastructure, or those activities associated with a significant mineral resource that exceeds 500 m<sup>2</sup> at any one time, or in total cumulatively per holding, as a discretionary activity. Graymont considered this to be appropriate, given these activities are scheduled and recorded within the Rural Production Zone chapter overview as being "important scheduled rural industrial activities which contribute to the economic and social well-being of the community".
97. Graymont requested changes to ECO-R16.3 would read as follows:

*ECO-R16 - Removal of indigenous vegetation for any other purpose (and where not compliant with ECO-R1 to ECO-R12)*

*Activity Status: DIS*

*Where:*

- 1. The activity is located in a significant natural area - local category; or*
- 2. The activity is located in a significant natural area - local or regional category and the land has been returned under Te Tiriti o Waitangi settlements; or*
- 3. The removal of vegetation is associated with nationally or regionally significant industry, infrastructure or those activities associated with significant mineral resources that exceeds 500 m<sup>2</sup> at any one time, or in total cumulatively per holding*

*AND*

- 4. A report from an experienced ecologist is submitted at the time of application which demonstrates that the site is not vegetation or habitat that is currently a naturally uncommon or significantly underrepresented ecosystem or habitat for indigenous species or associations of indigenous species that are classified as threatened or at risk, endemic to the Waikato region or at the limit of their natural range.*

*Activity status where compliance is not achieved: NC*

98. In her EIB S42A Report, Ms O'Callaghan notes that the ECO rules apply to the Rural production Zone to ensure that there is a full assessment of any proposed clearance. **Ms O'Callaghan explains that the intent is to ensure that where loss is unavoidable, remediation, mitigation and offsetting are applied in that order. Ms O'Callaghan opines that it is not appropriate to exempt regionally significant industry and mineral resources from ECO rules. Ms O'Callaghan notes that although the ECO rules apply, there is a different policy approach for these sites under RPROZ-P2. She therefore recommends that Graymont's requested amendment to rule ECO-R16.3 is not accepted.**
99. Further, WRC requested that ECO-R16 is amended to classify large scale clearances as non-complying. **In their further submissions, Graymont requested that WRC's changes** be disallowed on the basis that it is difficult to understand **what is intended by 'large scale clearances'** without a clear definition of the same being provided.
100. In response to **WRC's request**, Ms O'Callaghan considered that it not appropriate to change the activity status from discretionary to non-complying given that only 7% of the SNAs are in the local category. This means that for 93% of the SNAs, clearance is a non-complying activity. She considered the activity status as notified for this rule to be appropriate (discretionary activity) and did not recommend that it was changed.
101. **I note that the "avoid outright" issue has been addressed, which goes some way to enabling** Graymont to continue with their activities which is the overarching intention of their submissions, making the need for this amendment less necessary. The policy framework with the amendments recommended by Ms O'Callaghan, if accepted, does provide a pathway for assessment and management of effects that cannot be avoided.
102. Having considered the EIB S42A reasoning for recommending **Graymont's requested** changes to ECO-R16 as notified are not accepted, and in light of other amendments (ECO-P1, ECO-P2 and ECO-P4) that introduce an effects management hierarchy, I support the EIB S42A Report recommendation to retain ECO-R16 as notified as follows:

*ECO-R16. Removal of indigenous vegetation for any other purpose (and where not compliant with ECO-R1 to ECO-R12)*

*Activity Status: DIS*

*Where:*

- 1. The activity is located in a significant natural area - local category; or*
- 2. The activity is located in a significant natural area - local or regional category and the land has been returned under Te Tiriti o Waitangi settlements;*

*AND*

- 3. A report from an experienced ecologist is submitted at the time of application which demonstrates that the site is not vegetation or habitat that is currently a naturally uncommon or significantly underrepresented ecosystem or habitat for indigenous species or associations of indigenous species that are classified as threatened or at risk, endemic to*

*the Waikato region or at the limit of their natural range. Activity status where compliance is not achieved: NC*

## 6. SUMMARY AND CONCLUSIONS

### 6.1 Summary

103. Graymont is principally concerned to ensure that their activities associated with regionally significant industries and significant mineral resources within the Waitomo District can continue to exist, operate and are able to be maintained, repaired, and upgraded without undue restriction, during operation and rehabilitated as quarrying is completed. Further, given the long-term viability of its operations hinges on being able to access high quality limestone, Graymont seeks to provide for the carefully considered expansion of its operations, using world class environmental practices, and also, to ensure that the existing and possible future extraction of minerals is not compromised by activities established or establishing near to those resources, which do not rely on access to those mineral resources.

104. I consider that the amendments listed below are consistent with the policy framework set out in the WRPS.

### 6.2 Outcome sought

105. The following summarises the outcomes that I recommend:

- a. ECO-O1, ECO-O2, ECO-O3, ECO-O4, ECO-R5 and ECO-R16 are retained as notified.
- b. That the amendments set out in the NPS-IB are not adopted in full, and that a more measured approach that seeks to give effect to the NPS-IB within the scope of the submissions, as recommended **by Ms O'Callaghan in the EIB S42A Report**, is implemented.
- c. That, consistent with the recommendation in the EIB S42A Report, ECO-P1 be amended as follows:

*ECO-P1. Recognise and protect the values, characteristics or extent of significant natural areas identified in SCHED6 by applying the effects management hierarchy:*

- 1. Avoiding loss or degradation in preference to remediation or mitigation; and*
- 2. Remedying or mitigating any unavoidable adverse effects; and*
- 3. Where any adverse effects cannot be avoided, remedied or mitigated in accordance with ECO-P1.1 and P1.2, significant residual adverse effects are offset to achieve no net loss; and*
- 4. Where remediation, mitigation or offsetting are required, as a first priority it relates to the indigenous biodiversity that has been lost or degraded (whether by on-site or off-site methods); and*
- 5. Where biodiversity offsetting or compensation is required it is in accordance with APP4.*

- d. That ECO-P4 be deleted.
- e. The proposed Plan adopts the NPS-IB **definitions for 'biodiversity offset' and 'biodiversity compensation'**.
- f. The proposed Plan Appendix 4 Biodiversity Offsetting Framework (as notified) is replaced with the wording in the NPS-IB Appendices 3 and 4 as show in Annexure 2.
- g. That, in relation to ECO-P2, **the term "sustainable quantities" is defined.**
- h. That ECO-P2 be amended to read:

ECO-P2. Recognise, protect, and enhance the ecological sustainability, indigenous biodiversity values and characteristics of significant natural areas by:

1. Only allowing the removal of indigenous vegetation in sustainable quantities within locally significant natural areas; and
2. Only allowing the removal of indigenous vegetation in sustainable quantities and in limited circumstances within internationally, nationally or regionally significant natural areas; and
3. Avoiding indigenous vegetation clearance in locations that are of significance to mana whenua to the maximum extent practicable; and
4. Protecting the health and functioning of significant natural areas that are wetland or include part of a wetland, by avoiding inappropriate land use practices, subdivision and development.
5. Protect and enhance connectivity along and between significant natural areas and other areas of indigenous vegetation and habitat of indigenous fauna.
6. While providing for indigenous vegetation clearance required for regionally significant activities.

i. ECO-P3 is amended to read:

ECO-P3. Provide for the permitted activities and for the continued operation of lawfully established activities as identified in ECO-R1-R13, in and adjacent to significant natural areas by enabling the removal of indigenous vegetation in limited circumstances where: for:-

- ~~1. The relocation, maintenance or construction of fence lines for stock exclusion; and~~
- ~~2. Conservation activities; and~~
- ~~3. Construction of permitted building platforms including services and access; and~~
- ~~4. Maintenance of existing roads, driveways, tracks and water intake/discharge structures; and~~
- ~~5. Sustainable harvesting of indigenous vegetation and/or removal of manuka or kanuka where the indigenous biodiversity values and ecological characteristics of the significant natural area are maintained or enhanced; and~~
- ~~6. Limited indigenous vegetation removal to manage fire risk; and~~
- ~~7. Limited indigenous vegetation removal for small scale renewable energy generation.~~

~~For all of these activities, the removal of indigenous vegetation is only enabled where:~~

- ~~(i) The adverse effects on indigenous biodiversity values and connectivity are appropriately avoided, remedied or mitigated; and~~
- ~~(ii) Any existing cleared areas on a site that are suitable to accommodate subdivision or new development are used in the first instance; and~~
- ~~(iii) Any practicable alternative locations that would reduce the need for indigenous vegetation removal are used in the first instance; and~~
- ~~(iv) Consideration is given to the positive benefits of the activity in respect of **people's health and wellbeing.**~~

j. Consistent with the recommendation in the EIB S42A Report, ECO-P5 is amended to read:

ECO-P5. Where ~~the limited circumstances of unavoidable~~ removal of indigenous vegetation, or habitats of indigenous fauna, or disturbance of wetland areas are being considered ~~(including situations provided for in ECO-P4)~~, regard must be given to the following matters:

1. Whether the area contains nationally significant examples of indigenous community types and indigenous ecosystems and/or vegetation types that are threatened ~~in the coastal environment,~~ **or are naturally rare; and**
2. Effects on the required range of habitats, including roosting, nesting, foraging and migratory pathways of fauna; and
3. Effects on the habitats of threatened and at risk species including migratory pathways; and

4. Effects on the maintenance of ecological corridors, processes and sequences; and
5. Whether sensitive sites remain buffered from intensive land use, development and subdivision; and
6. The outcome of consultation where indigenous vegetation clearance is proposed in locations that are of significance to mana whenua; and
7. Effects on natural waterway and wetland habitats and hydrology; and
8. The legal and physical protection of existing habitat; and
9. Whether consideration has been given to opportunities that contribute to no net loss of indigenous biodiversity at a regional scale; and
10. Whether any practicable alternative locations that would reduce the need for removal of indigenous vegetation or habitats of indigenous fauna or disturbance of wetland areas, are used in the first instance.

k. ECO-P13 is amended to read:

*ECO-P13*

When considering removal of indigenous vegetation, or adverse effects on habitats of indigenous fauna, or disturbance of wetland areas ~~occurs~~ outside of significant natural areas, ensure the following matters are considered when avoiding, remedying or mitigating adverse effects on indigenous biodiversity:

1. Whether any existing cleared areas on a site that are suitable to accommodate subdivision or new development, are used in the first instance; and
2. Any practicable alternative locations that would reduce the need for removal of indigenous vegetation, or habitats of indigenous fauna, or disturbance of wetland areas are used in the first instance; and
3. Whether consideration has been given to opportunities that contribute to no net loss of indigenous biodiversity at a regional scale; and
4. The maintenance of indigenous habitats adjoining wetlands, rivers, springs, karst **ecosystems and fragmented forests; and**
5. The maintenance of buffers around underrepresented or naturally uncommon **indigenous ecosystems; and**
6. The maintenance or creation of ecological stepping stones or corridors to link indigenous vegetation and/or fragmented **ecosystems on land and via waterways; and**
7. The maintenance and protection of habitat of nationally threatened or at risk indigenous species.
8. The need for the activity to provide for nationally or regionally significant industry, infrastructure or activities associated with significant mineral resources.

l. A new rule making new mineral extraction and quarrying a prohibited activity within SNAs is not included within the proposed Plan.

m. A note is added to ECO-R1 - ECO-R10 to signpost users to the electronic maps as follows:

*NOTE: The area of each SNA is provided on the electronic version of the district plan maps.*

n. ECO-R1 - ECO-R10 be reformatted as follows:

1. From 20 October 2022 to 20 October 2032 any clearance must be no more than either:  
(i) a maximum of 500 m<sup>2</sup> or less of indigenous vegetation either at any one time or in total cumulatively per holding;

OR

(ii) less than 1% of the SNA size either at any one time or in total cumulatively per holding - whichever is the lesser.

2. For the avoidance of doubt, should this rule remain operative past 20 October 2032, the rule applies to subsequent 10-year periods.

o. ECO-R3 is amended to read:

ECO-R3: To remove, dead, diseased or damaged indigenous vegetation ~~or indigenous vegetation~~ presenting an imminent ~~danger~~ threat to human life, and

p. ECO-R9 is amended to read:

ECO-R9. For pest species management and any other activities as identified in the Waikato Regional Pest Management Plan and for the removal of material infected by unwanted organisms under the Biosecurity Act 1993.

Terry Calmeyer

A handwritten signature in blue ink that reads "T. Calmeyer". The signature is written in a cursive style with a large, stylized initial "T".

Associate Director and Environmental Planner  
21 October 2024



Terry Calmeyer  
Associate Director and Planner

#### Profile

Terry Calmeyer is a full member of the New Zealand Planning Institute (MNZPI) and a Certified Environmental Practitioner (CEnvP) with Scheme of Australia and New Zealand 2023/2024 (Registration number 1673). She has 30 years of experience in New Zealand and Africa. Her planning and environmental management skills are founded on a Masters degree in Geography (Environment and Society) from the University of Pretoria, South Africa, and many short courses. Recent short courses include the **New Zealand Ministry for the Environment’s Making Good Decisions and the Environmental Protection Authority’s Mātauranga framework training**. She has extensive experience managing and delivering the environmental components of a variety of large infrastructure projects in the energy, marine, water and transport sectors. Terry is a South African citizen and a permanent resident of New Zealand, with 4 ½ years of New Zealand consenting and policy experience.

#### Qualifications

- MA (Environment and Society) University of Pretoria (with distinction) 2003
- BA Hons (Geography with specialisation in Environmental Analysis and Management) University of Pretoria (with distinction) 1999
- Diploma in Bookkeeping, Damelin 1995
- BA, Majoring in Development Administration and Geography, UNISA 1993
- Making Good Decisions - New Zealand Ministry for the Environment (2020 recertified 2024)
- **New Zealand EPA’s Mātauranga Framework (2022)**

#### Professional Memberships & Activities

- Full Member of the New Zealand Planning Institute (MNZPI)
- Certification with the Certified Environmental Practitioner (CEnvP) Scheme of Australia and New Zealand (Registration number 1673).
- Member of New Zealand Association of Impact Assessment (NZAI) - Chair since December 2023 and serve on the Core organising group since January 2022 ongoing.
- Member of the Environmental Institute of Australia and New Zealand (EIANZ)
- Member of the Resource management Law Association (RMLA)

#### Expertise

##### *EXPERT EVIDENCE*

Terry has provided expert planning evidence on:

- Plan Change 1, Natural Hazards to the Whangarei District Plan on behalf of Channel Infrastructure in February 2024, and
- Tranche 1 of the proposed Waitomo District Plan (July 2024).

### *REGULATORY PROCESS*

- Consultant Consents Planner for the Bay of Plenty Regional Council processing resource consent applications for groundwater takes, earthworks and contaminated land, including drafting section 95 reports, section 42A reports and draft conditions from April 2023 ongoing.
- Consultant Consents Planner for the Taranga City Council processing resource consent applications for land use under the Tauranga City Plan.
- In her roles as Principal Advisor, Team Leader and Acting Manager at the Environmental Protection Authority from 2020 to 2023, Terry:
  - Was the decision-maker for compliance with requirements of the COVID-19 (Fast-track Consenting) Act, 2020 for several applications.
  - Supported decision-making under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (EEZ Act) and the Resource Management Act 1991 (RMA) by providing process and technical advice and support.
  - Actively managed the interface between the EPA, and independent statutory decision-making bodies, the relevant Minister, iwi, the applicant and local authorities and communities.
  - Liaised with the Ministry for Business, Innovation and Employment on a regulatory framework for the implementation of an offshore wind energy sector in New Zealand.
  - Undertook pre-application consultations with potential applicants for oil and gas, offshore wind, dumping and aquaculture developments in the Exclusive Economic Zone.
  - Provided support to applications teams processing national significant proposals under the RMA and marine consent applications under the EEZ Act.
  - Undertook the EPA initiated review of the conditions of the marine dumping consent for the scuttling of a fishing vessel.
  - Certification of dredging sampling plans.
  - Implementation planning for regulations requiring the EPA to process decommissioning plans from owners and operators of oil and gas operation in the EEZ zone.

### *POLICY*

#### **Terry's policy experience includes:**

- **Appointed by Wildland Consulting Ltd ('Wildlands') and Nelson City Council ('NCC') to explore** the policy and planning context that supports the protection, enhancement, and restoration of ecological corridors and connectivity in Nelson City. This analysis supported an ecological corridors assessment for NCC undertaken by Wildlands. The purpose of the analysis was to ensure that recommendations made by Wildlands align appropriately with policy and will assist in determining the scale and method of appropriate protection.
- Provided oversight to EPA project teams processing resource consent applications including implementation of relevant policies, process management, financial management and reporting.

- Presentation at the South African Parliamentary Portfolio Committee on Water and the **Environment's Public Hearing on the efficacy of South Africa's Environmental Impact Assessment Regime** (July 2013).
- Review of the Effectiveness of the Implementation of the Waste Classification and Management Regulations and Associated Norms and Standards. Responsible for stakeholder identification, stakeholder engagement plan, consultation webinars, drafting correspondence, keeping records of consultation and comments and responses report (June to December 2019).

#### *RESOURCE CONSENT APPLICATIONS AND ASSESSMENT OF ENVIRONMENTAL EFFECTS*

Terry has project lead or contributed to numerous resource consent application processes including the associated Assessment of Environmental Effects reports and stakeholder engagement processes for both small and large-scale complex projects.

##### Project Examples

- Resource consent application including assessment of environmental effects for discharge of contaminated stormwater for an automobile dismantling operation in the Western Bay of Plenty District (September 2024).
- Resource consent application including assessment of environmental effects for a waste management facility in the Whanganui District (September 2024).
- Fish Screens in Lake Mangamahoe - Resource Consent Application and Assessment of Environmental Effects for new fish screens and associated infrastructure for two raw water intakes in Lake Mangamahoe, Taranaki Region.
- Resource consent application including assessment of environmental effects for investigative drilling into caves in the Waitomo District (Jul 2024).
- Mzimvubu Water Project. This approximately \$ 1.25 billion conjunctive scheme consists of two new large dams, a potable water supply scheme, irrigated agriculture, hydroelectric power generation and associated infrastructure in the Eastern Cape, South Africa. The project included new access roads and the re-alignment of roads and bridges inundated by the reservoir, as well as the relocation of households and graves (February 2013 to December 2015).
- Kobong pumped storage scheme off the Katse Dam and 65 km powerline in Lesotho.
- 98km section of the National Route 3 in South Africa. Consisted of the construction of a new South African freeway standard road to increase the capacity of the National Route 3, which links the Port of Durban to Gauteng and is the busiest route in South Africa (February 2013 to May 2017).
- **Eskom's Northern KwaZulu-Natal Strengthening project.** One new substation, approximately 230 km of 400 kV powerlines and 165 km of 132 kV power lines. (May 2016 to December 2018).
- **Solar photovoltaic power plants at Eskom's Arnot and Duvah Power Stations (October 2014 to June 2016).**
- 200 000 tons a year galvanizing plant in the Coega Industrial Development Zone in Port Elizabeth, South Africa (August 2017 to August 2018).

#### *COMPLIANCE AND MONITORING*

Terry has undertaken monitoring of compliance with conditions of resource consents.

- Commissioned by Graymont (NZ) Limited in May of 2023 to undertake an independent, external **audit of the Company's operation at its Makareao Quarry**. Terry drafted the audit report that describes the audit process, presents the findings, and recommended actions that were **considered necessary to ensure compliance with the Site's regional resource consents, as well as** with local and national regulations.
- **South Africa Department of Water and Sanitation's monitoring of construction for the raising of the Hazelmere Dam**. (January 2013 to November 2018).
- **Internal Audit of the Disaster Management Responsibilities of South Africa's Department of Water Affairs** (2011).
- Review and management of environmental issues related to the implementation of construction activities for the rehabilitation of approximately 25 dams to comply with dam safety requirements for South African Department of Water Affairs and Forestry on the Dam Safety Rehabilitation Project.

A handwritten signature in blue ink that reads "T. Calmeyer". The signature is written in a cursive style with a large, looped initial "T".

Prepared by: Terry Calmeyer, Associate Director and Planner  
October 2024

## Annexure 2: Appendix 4 - Biodiversity Offsetting Framework

### Introduction

The following sets out a framework for the use of biodiversity offsets. It should be read in conjunction with the New Zealand government Guidance on Good Practice Biodiversity Offsetting in New Zealand, New Zealand Government et al., August 2014 (or any successor document).

~~APP 4.1. All biodiversity offsets must be consistent with this framework:~~

- ~~(a) Restoration, enhancement and protection actions offered by an applicant will only be considered a biodiversity offset where they are used to offset the reasonably measureable residual effects of activities that are likely to remain after appropriate avoidance, remediation and mitigation measures have been applied in accordance with Policies ECO P3 and RPROZ P2. For the avoidance of doubt, biodiversity offset must not be used as a sole measure to mitigate the adverse effects of activities; and~~
- ~~(b) The proposed biodiversity offset must contain a qualitative assessment of losses and gains commensurate with the scale of effects of the activity and should demonstrate the manner in which no net loss of biodiversity at a regional scale can be achieved; and~~
- ~~(c) The biodiversity offset must recognise the limits to offsets due to irreplaceable and vulnerable biodiversity (including effects that must be avoided in accordance with Policy 11(a) of the New Zealand Coastal Policy Statement 2010. The design and implementation of the proposed biodiversity offset must include provisions for addressing sources of uncertainty and risk of failure of the delivery of no net loss of biodiversity at a regional scale; and~~
- ~~(d) Restoration, enhancement and protection actions undertaken as a biodiversity offset must be demonstrably additional to what otherwise would occur, including being additional to any remediation or mitigation undertaken in relation to the adverse effects of the activity; and~~
- ~~(e) In relation to a significant natural area (SNA), biodiversity offset actions will be undertaken within the SNA as a first priority, or where this is not practicable, as close as possible to the location of development within the same ecological district as a second priority; and~~
- ~~(f) Biodiversity offset actions must prioritise the protection and enhancement of existing areas of biodiversity and ensure those actions produce additional biodiversity gains commensurate with the biodiversity values lost; and~~
- ~~(g) The values to be lost through the activity to which the offset applies must be counterbalanced by the proposed offsetting activity which is at least commensurate with the residual adverse effects on indigenous biodiversity, so that the overall result is no net loss of biodiversity at a regional scale; and~~
- ~~(h) The biodiversity offset must be applied so that the ecological values achieved through the offset are the same or similar to those being lost, unless an alternative ecosystem or habitat will provide a net gain for indigenous~~

biodiversity and the ecological values lost are not irreplaceable or highly vulnerable; and

(i) There must be a strong likelihood that the positive ecological outcomes of the offset are permanent. Adaptive management responses must be incorporated into the design of the biodiversity offset to ensure that positive ecological outcomes are maintained over time; and

(j) The biodiversity offset must be designed and implemented in a landscape context, incorporating understanding of both the donor and recipient sites' roles, or potential roles, in the ecological context of the area; and

(k) Any application intending to utilise a biodiversity offset must include a biodiversity offset management plan commensurate with the scale of the effects of the activity that:

(i) Sets out the baseline information on indigenous biodiversity that is potentially impacted by the proposal at both the donor and recipient sites; and

(ii) Demonstrates how the requirements of the framework set out in this appendix will be addressed; and

(iii) Identifies the monitoring approach that will be used to demonstrate how the matters set out in this framework have been addressed, over an appropriate timeframe.

#### Principles for biodiversity offsetting

These principles apply to the use of biodiversity offsets for adverse effects on indigenous biodiversity.

(1) Adherence to effects management hierarchy: A biodiversity offset is a commitment to redress more than minor residual adverse effects and should be contemplated only after steps to avoid, minimise, and remedy adverse effects are demonstrated to have been sequentially exhausted.

(2) When biodiversity offsetting is not appropriate: Biodiversity offsets are not appropriate in situations where indigenous biodiversity values cannot be offset to achieve a net gain. Examples of an offset not being appropriate include where:

(a) residual adverse effects cannot be offset because of the irreplaceability or vulnerability of the indigenous biodiversity affected;

(b) effects on indigenous biodiversity are uncertain, unknown, or little understood, but potential effects are significantly adverse or irreversible;

(c) there are no technically feasible options by which to secure gains within an acceptable timeframe.

(3) Net gain: This principle reflects a standard of acceptability for demonstrating, and then achieving, a net gain in indigenous biodiversity values. Net gain is demonstrated by a like-for-like quantitative loss/gain calculation of the following, and is achieved when the indigenous biodiversity values at the offset site are equivalent to or exceed those being lost at the impact site:

(a) types of indigenous biodiversity, including when indigenous species depend

on introduced species for their persistence; and

(b) amount; and

(c) condition (structure and quality).

(4) Additionality: A biodiversity offset achieves gains in indigenous biodiversity above and beyond gains that would have occurred in the absence of the offset, such as gains that are additional to any minimisation and remediation undertaken in relation to the adverse effects of the activity.

(5) Leakage: Biodiversity offset design and implementation avoids displacing harm to other indigenous biodiversity in the same or any other location.

(6) Long-term outcomes: A biodiversity offset is managed to secure outcomes of the activity that last at least as long as the impacts, and preferably in perpetuity.

Consideration must be given to long-term issues around funding, location, management and monitoring.

(7) Landscape context: Biodiversity offsetting is undertaken where this will result in the best ecological outcome, preferably close to the impact site or within the same ecological district. The action considers the landscape context of both the impact site and the offset site, taking into account interactions between species, habitats and ecosystems, spatial connections, and ecosystem function.

(8) Time lags: The delay between loss of, or effects on, indigenous biodiversity values at the impact site and the gain or maturity of indigenous biodiversity at the offset site is minimised so that the calculated gains are achieved within the consent period or, as appropriate, a longer period (but not more than 35 years).

(9) **Science and mātauranga Māori:** The design and implementation of a biodiversity offset is a documented process informed by science and mātauranga Māori.

(10) Tangata whenua and stakeholder participation: Opportunity for the effective and early participation of tangata whenua and stakeholders is demonstrated when planning biodiversity offsets, including their evaluation, selection, design, implementation, and monitoring.

(11) Transparency: The design and implementation of a biodiversity offset, and communication of its results to the public, is undertaken in a transparent and timely manner.

#### Principles for biodiversity compensation

These principles apply to the use of biodiversity compensation for adverse effects on indigenous biodiversity:

(1) Adherence to effects management hierarchy: Biodiversity compensation is a commitment to redress more than minor residual adverse effects, and should be contemplated only after steps to avoid, minimise, remedy, and offset adverse effects are demonstrated to have been sequentially exhausted.

(2) When biodiversity compensation is not appropriate: Biodiversity compensation is not appropriate where indigenous biodiversity values are not able to be compensated for. Examples of biodiversity compensation not being

appropriate include where:

(a) the indigenous biodiversity affected is irreplaceable or vulnerable;

(b) effects on indigenous biodiversity are uncertain, unknown, or little understood, but potential effects are significantly adverse or irreversible;

(c) there are no technically feasible options by which to secure a proposed net gain within acceptable timeframes.

(3) Scale of biodiversity compensation: The indigenous biodiversity values lost through the activity to which the biodiversity compensation applies are addressed by positive effects to indigenous biodiversity (including when indigenous species depend on introduced species for their persistence), that outweigh the adverse effects.

(4) Additionality: Biodiversity compensation achieves gains in indigenous biodiversity above and beyond gains that would have occurred in the absence of the compensation, such as gains that are additional to any minimisation and remediation or offsetting undertaken in relation to the adverse effects of the activity.

(5) Leakage: Biodiversity compensation design and implementation avoids displacing harm to other indigenous biodiversity in the same or any other location.

(6) Long-term outcomes: Biodiversity compensation is managed to secure outcomes of the activity that last as long as the impacts, and preferably in perpetuity. Consideration must be given to long-term issues around funding, location, management, and monitoring.

(7) Landscape context: Biodiversity compensation is undertaken where this will result in the best ecological outcome, preferably close to the impact site or within the same ecological district. The action considers the landscape context of both the impact site and the compensation site, taking into account interactions between species, habitats and ecosystems, spatial connections, and ecosystem function.

(8) Time lags: The delay between loss of, or effects on, indigenous biodiversity values at the impact site and the gain or maturity of indigenous biodiversity at the compensation site is minimised so that the calculated gains are achieved within the consent period or, as appropriate, a longer period (but not more than 35 years).

(9) Trading up: When trading up forms part of biodiversity compensation, the proposal demonstrates that the indigenous biodiversity gains are demonstrably greater or higher than those lost. The proposal also shows the values lost are not to Threatened or At Risk (declining) species or to species considered vulnerable or irreplaceable.

(10) Financial contributions: A financial contribution is only considered if:

(a) there is no effective option available for delivering biodiversity gains on the ground; and

(b) it directly funds an intended biodiversity gain or benefit that complies with the rest of these principles.

(11) **Science and mātauranga Māori:** The design and implementation of biodiversity compensation is a documented process informed by science, and mātauranga

**Māori.**

(12) Tangata whenua and stakeholder participation: Opportunity for the effective and early participation of tangata whenua and stakeholders is demonstrated when planning for biodiversity compensation, including its evaluation, selection, design, implementation, and monitoring.

(13) Transparency: The design and implementation of biodiversity compensation, and communication of its results to the public, is undertaken in a transparent and timely manner.