

**Before the Independent Hearings Panel appointed by the Waitomo
District Council**

Under the Resource Management Act 1991 (RMA)

In the matter of the Proposed Waitomo District Plan

Statement of Evidence of Grant Eccles for Taharoa Ironsands
Limited

Planning

Tranche 2 - Ecosystems and Indigenous Biodiversity

Dated 21 October 2024

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MAY IT PLEASE THE COMMISSIONERS

INTRODUCTION

1. My full name is Grant Robert Eccles. I am a Technical Director – Planning for Tonkin + Taylor based in Hamilton. I have the qualifications and experience set out in my Statement of Evidence on for the Rural Production Zone hearing dated 23 January 2024.
2. I have prepared this Statement of Evidence in support of the submission dated 23 December 2022 and further submission dated 28 July 2023 lodged by Taharoa Ironsands Ltd (**TIL**) to the Proposed Waitomo District Plan (**PWDP**) on the topics of Significant Natural Areas (**SNAs**) and Indigenous Biodiversity.
3. TIL operates the Taharoa Ironsand Mine (**Mine**) located near Taharoa Village on the west coast, near Kawhia. The Mine covers approximately 1600 hectares. TIL's submission relates to the provisions and maps of the PWDP that affect the Mine.
4. In preparing this Statement of Evidence I have considered:
 - (a) The Statement of Evidence of Mr Hamish Dean (Terrestrial Ecology) dated 21 October 2024 on this matter for TIL; and
 - (b) The Waitomo District Council s 42A report dated 20 September 2024 entitled "Ecosystems and Indigenous Biodiversity".

Code of Conduct for Expert Witnesses

5. I have read and am familiar with the Environment Court's Code of Conduct for Expert Witnesses, contained in the Environment Court Practice Note 2023, and agree to comply with it. My qualifications as an expert are set out above. Other than where I state that I am relying on the advice of another person, I confirm that the issues addressed in this statement of evidence are within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

Scope of my evidence

6. In this evidence I discuss the following:

- (a) The environmental setting of the ironsands mine at Taharoa with regard to SNAs;
- (b) TIL's concerns about the classification and mapping of the SNAs on TIL's land;
- (c) Resource consents held and sought by TIL that are relevant to SNAs;
- (d) The inappropriateness of the Bat Protection Framework sought by the Department of Conservation (**DOC**) in their submission; and
- (e) Relief sought on specific submission points.

BACKGROUND TO TIL'S SUBMISSION ON THE PROPOSED WAITOMO DISTRICT PLAN WITH

The Mine site and operations

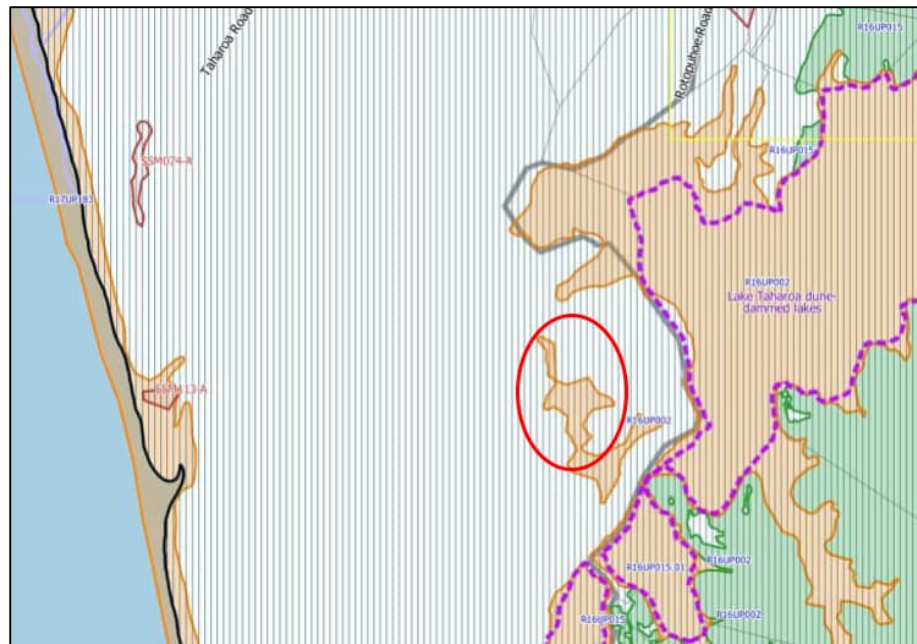
7. The Mine site and operations are described in detail in my Statement of Evidence dated 21 June 2024 for the Rural Production Zone hearing. This Statement of Evidence should therefore be read in conjunction with my Statement of Evidence dated 21 June 2024.
8. The Hearing Panel has also had the benefit of hearing from TIL at the Rural Production Zone hearing and a visit to Taharoa to gain an overview of the Mine site. As a result, I do not repeat the description of the mine site here.

The surrounding environment

9. The south-eastern boundaries of the Māori-owned Taharoa C Block upon which the Mine is predominantly located adjoin a dune lake and wetland system comprising Lake Taharoa, Lake Numiti, and Lake Rotoroa. The western boundary of the Taharoa C Block adjoins the Coastal Marine Area at the line of Mean High Water Springs (**MHWS**) and is characterised by a foredune system that runs the full length of the Taharoa C Block (apart from at the mouths of the Wainui and Mitiwai Streams).
10. The lake, wetland and coastal foredune features are included as SNAs in the Proposed Waitomo District Plan as follows (see relevant PWDP map in Appendix A to this evidence):
 - R16UP014.01 – Lake Rotoroa;

- R16UP015 – no description;
 - R16UP015.01 – Lake Numiti;
 - R16UP015.01 – Lake Rototapu Wetland;
 - R16UP002 – Lake Taharoa; and
 - R17UP183 – Coastal Strip.
11. There is also a large feature (identified as R16UP002 – Lake Taharoa) within the Southern Block of the Mine site that is included as a SNA in the PWDP but does not meet the definition of a Natural Inland Wetland in the National Policy Statement for Freshwater (**NPS-F**) or the Waikato Regional Policy Statement (**WRPS**) SNA criteria. This is further discussed in the Statement of Evidence of Mr Dean and is shown circled in red in Figure 1 below.

Figure 1 – Area not qualifying as Natural Inland Wetland



RELIEF SOUGHT

Significant Natural Areas

12. TIL's submission raised concerns with the delineation and classification of the SNAs on and adjoining the Taharoa C Block as listed in paragraph 8 above, and as a result sought their deletion.
13. However, TIL acknowledges the significance of the areas listed and does not now oppose their inclusion as SNAs in the PWDP provided that they are better delineated. It is important that the mapped extent of those SNAs reflects and makes use of the most up to date information available.
14. In that regard, I rely on the Statement of Evidence of Mr Dean that sets out the mapping that has been carried out by SLR Ltd in 2021 of the wetland margins of the lakes and of the coastal foredune strip on TIL's land.
15. I support the amendment of the PWDP planning maps to ensure the extent of the SNA notations for the identified SNA features matches the extent mapped by Mr Dean, as set out in Appendix A of his Statement of Evidence.
16. As referred to above, Mr Dean also explains in his Statement of Evidence that a large portion of one of the SNAs mapped on the Taharoa C Block (R16UP002 – Lake Taharoa) do not in fact qualify as a Natural Inland Wetland under the NPS-F (see Figure 1 above).¹
17. From a planning perspective, if the feature does not qualify for protection under the NPS-F, I do not support it being classed as a SNA in the PWDP. I acknowledge that there are wider WRPS criteria than simply what is found in the NPS-F as to why a feature might be classed as a SNA. Mr Dean discusses other relevant criteria further in his Statement of Evidence, including WRPS SNA criteria.²
18. By way of background, the status of the feature in question (R16UP002 – Lake Taharoa) has been considered as part of TIL's application for the replacement of its existing resource consents to authorise the ongoing operation of the mine (across the Central and Southern blocks). No expert

¹ Statement of Evidence of Mr Hamish Dean on behalf of TIL, dated 19 October 2024 at [21].

² Statement of Evidence of Mr Hamish Dean on behalf of TIL, dated 19 October 2024 at [20] and [22].

evidence was presented as part of that process which challenged Mr Dean's assessment of this area as a "non-wetland".

19. TIL's proposed conditions of consent for the Central and Southern blocks create mining buffer areas within 30m of all the natural inland wetlands on the site. TIL has further committed to undertake hydro-geology assessments (to demonstrate no effect on the wetlands) before mining within 100m of any of the identified natural inland wetlands. The coastal foredune strip is also protected by a 100m mining setback from MHWS.
20. R16UP002 – Lake Taharoa is not the subject of any of the protections provided by the proposed consent conditions, and that has not been challenged by any party to date in the application process (including by way of expert evidence). A decision on the application is expected by 22 November 2024.
21. On the basis of all the above, I support the amendment of the extent of the feature of R16UP002 – Lake Taharoa on the PWDP planning maps to match that shown on the map in Appendix A to Mr Dean's Statement of Evidence.
22. If the extent of feature R16UP002 is not amended to preclude the "non-wetland" portion, TIL would require a land use consent from Waitomo District Council for any future vegetation clearance needed from the feature as part of mining related activity that may be required within it in the future. This would be inefficient given that the feature does not qualify as a SNA under any of the relevant criteria.

Bat Protection Area Provisions

23. TIL's further submission dated 28 July 2023 opposed the entirety of the Bat Protection framework sought by DOC, including the following provisions:³
 - (a) Definition of Bat Protection Area (submission point 53.06)
 - (b) New Policy – Protection for Bats (submission point 53.34)
 - (c) New Rule – Clearance of Trees in Bat Protection Area (submission point 53.44)

³ TIL's Further Submission dated 23 July 2023 at pages 10 – 11. Along with further submissions from several other parties including the NZ Transport Agency/Waka Kotahi and other infrastructure providers.

(d) New Information Requirement – Bat Management Plan (submission point 53.72)

24. The effect of the provisions sought by DOC would be that an otherwise permitted activity for the clearance of trees greater than 150mm in diameter (at 1.4m in height above ground level) would become restricted discretionary if long tailed bats were found to use the relevant area for breeding, roosting, commuting or foraging. A specialist ecologist assessment would be required and potentially a Bat Management Plan depending on the ecologists recommendations.
25. The s 42A author has recommended that the provisions sought by DOC be rejected on the grounds of natural justice, given that they would affect a large number of landowners who have not participated in the process to date and could not reasonably have been expected to be aware of the possibility of such provisions being sought.⁴ I agree with that analysis and recommendation.
26. Further, my concern with the provisions sought by DOC is that when viewed as a cumulative package they will be extremely wide ranging in effect and restrictive on both existing and proposed land use in the Waitomo District, especially in light of the definition of Bat Protection Area which includes foraging and commuting areas for long tailed bats. I am aware from working with expert ecologists on several large infrastructure projects (for example, Hamilton Southern Links) that the commuting and foraging range for long-tailed bats can be geographically extensive (i.e. many 10s of kilometres).
27. The provisions as sought by DOC are impractical for both landowners and Waitomo District Council as the regulator, given that long tailed bats are highly mobile and, based on my experience on other projects where long-tailed bat surveys were required, the only way to determine with certainty whether they are present or not (and thus trigger the rules proposed by DOC in terms Bat Protection Areas) would be to undertake either acoustic or thermal imaging monitoring, or manual tree inspections by a trained arborist or ecologist. This is neither efficient or practical from either a Council or landowner point of view.

⁴ Section 42A Report Topic: Ecosystems and Indigenous Biodiversity dated 20 September 2024 at [46] – [47].

28. I note my agreement with the s42A report (paragraphs 40-42) that explains the limitations to how far the current PWDP process can actually go in including bat protection provisions (ie under the NPS-IB the identification of relevant areas is the responsibility of the relevant Regional Council – and in the absence of such identification there is no information for the District Council to act on).
29. Finally, I note that the identification and protection of SNAs throughout the District by way of the current PWDP process will likely provide some level of protection to long tailed bats where a SNA contains suitable long tailed bat habitat.

SECTION 32AA EVALUATION

30. A section 32AA evaluation has been undertaken at a level of detail that corresponds to the scale and significance of the changes that I have recommended and is attached to this Statement of Evidence as Appendix B

OVERALL CONCLUSION

31. I support the inclusion of the SNAs relevant to the Taharoa C Block subject to their extent being adjusted to reflect the more fine grained survey work undertaken by TIL as set out in the Statement of Evidence of Mr Dean.
32. I do not support the inclusion of the area identified in R16UP002 – Lake Taharoa set out in Figure 1 of this evidence as a SNA on the basis that Mr Dean does not consider this feature to meet the definition of a Natural Inland Westland under the NPS-F, and for the supporting reasons set out above.
33. I also support the minor proposed alterations to SNAs R17UP183, R16UP014.01 and R16UP015.01 as proposed in Appendix A of Mr Dean's Statement of Evidence.

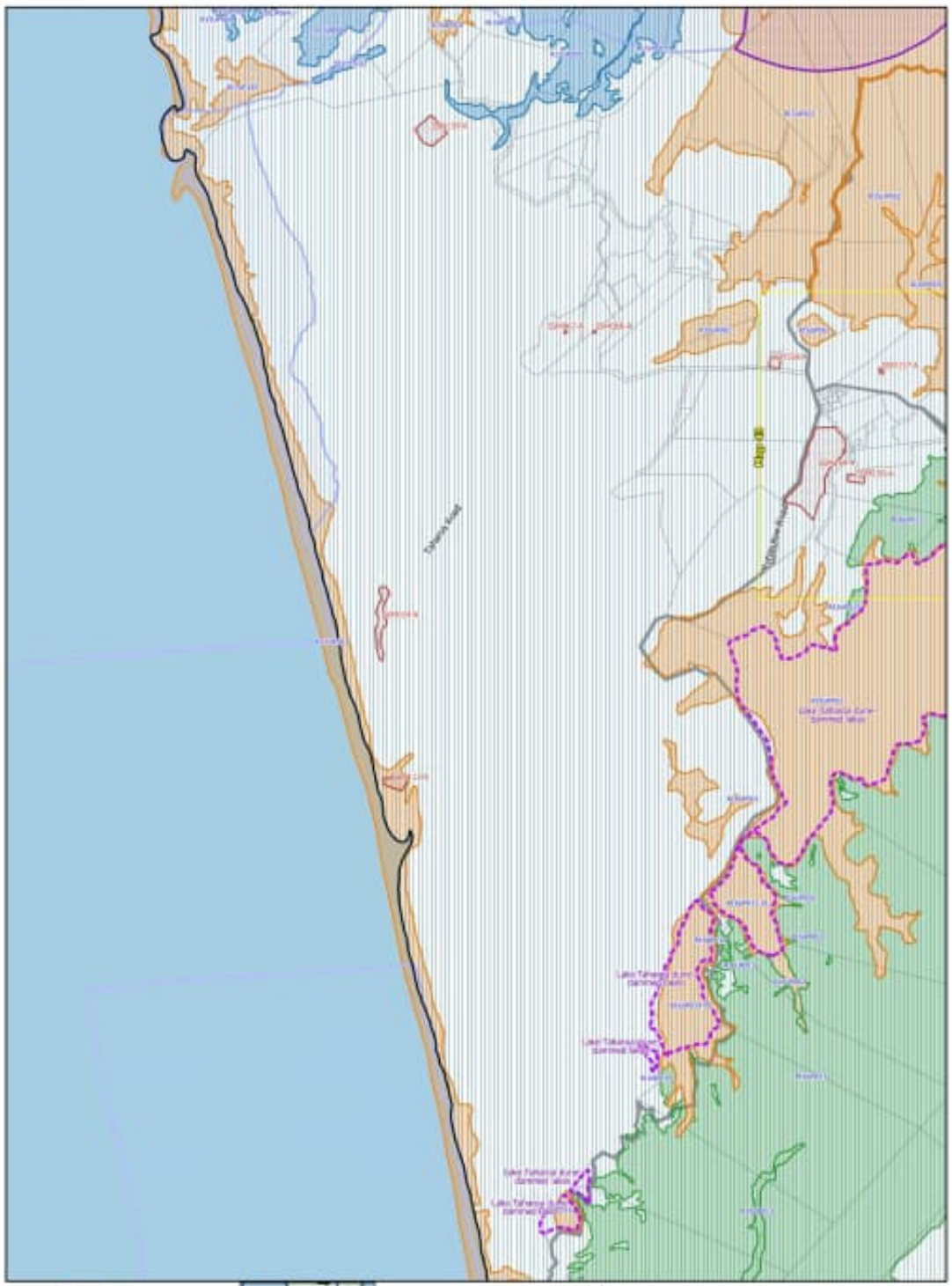
34. I agree with the s 42A recommendation to reject the Bat Protection provisions sought by DOC. Given the highly mobile nature of long tailed bats, insertion of those provisions into the Waitomo District Plan will be ineffective, unenforceable, and lead to significant difficulties in practice for the Council and landowners/occupiers.

DATED this 21st day of October 2024

Grant Eccles

APPENDIX A

Relevant PWDP Planning Map



Taharoa Ironsands
Proposed Wairarapa District Plan
Notified version - 20 October 2022
0 500 1,000 m

Overlays 42
Scale = 1:25,000 at A1

APPENDIX B

Section 32AA evaluation

A section 32AA evaluation is only required for any changes that are proposed to the provisions of this plan since the original section 32 evaluation report for the proposal was completed. The section 32AA evaluation must be undertaken at a level of detail that corresponds to the scale and significance of the changes.

In this case, no changes are sought to Objectives or Policies. This assessment is therefore confined to Rules in terms of the amendments proposed to the relevant SNA boundaries and the deletion of the feature that forms part of the wider SNA identified as R16UP002 (Lake Taharoa).

Effectiveness and Efficiency

Delineating the SNAs on and adjacent to the Taharoa C Block using professionally prepared and up to date survey information is an effective and efficient method to give effect to the SNA objectives and policies in the PWDP. Should queries arise in the future as to the extent of the SNAs in question, the extent of the SNAs at the present time (ie at the time of making decisions on the PWDP) will be clear and able to be compared against any changes that may have occurred over time.

Costs and Benefits

There will be benefits to the environment through accurately delineating the SNAs, given that some areas not currently mapped as SNA will be included. The areas that will be removed from SNA classification do not meet relevant SNA classification criteria.

If the SNAs are not accurately delineated, resource consents may be required in the future to remove or alter vegetation/habitat that is not of sufficient value to warrant SNA status. This is a financial and time cost to the applicant that can be avoided through accurate SNA delineation now.

Risk of acting or not acting

There is no risk of acting in using professionally prepared and up to date survey information to delineate the SNAs. In some instances, this results in a reduced SNA area but in others an enlarged SNA area.

There is no risk of acting in removing the SNA status entirely from the feature that forms part of the wider SNA identified as R16UP002 (Lake Taharoa), as discussed in this evidence and in the evidence of Mr Dean. The features does not qualify as a Natural Inland Wetland under the NES-F and neither does it meet the SNA criteria in the Waikato Regional Policy Statement.

Decision about most appropriate option

The most appropriate option is to amend/remove the boundaries of the SNAs as proposed in the evidence of Mr Dean.