

THE WAITOMO DISTRICT COUNCIL

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

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

4 November 2024

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 Honours (Geography with specialisation in Environmental Analysis and Management) I completed a Magister Artium (**'MA'**) (with distinction) with specialisation 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 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 opinions 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 made submissions¹ and further submissions² on the proposed Plan.
12. I was engaged by Graymont in October of 2024 to prepare and present expert planning evidence on the 2nd 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;
 - d. Section 42A Report. Report on submissions and further submissions Topic: Strategic Direction Dated: 2 October 2024 prepared by C. O'Callaghan ('**the SD S42A Report**');
 - e. Section 42A Report. Report on submissions and further submissions Miscellaneous Topic Dated: 21 October 2024 prepared by Alex Bell ('**the Misc S24A Report**');
 - f. Section 42A Report. Report on submissions and further submissions Topic: Natural Features and Landscapes Dated: 2 October 2024 prepared by C. O'Callaghan ('**the NFL S42A Report**'); and
 - g. Section 42A Report. Report on submissions and further submissions Topic: Natural Character Dated: 2 October 2024 prepared by C. O'Callaghan ('**the NATC S42A Report**').
14. In my evidence, I also refer to the:
 - a. Resource Management Act 1991 ('**RMA**');
 - b. Waikato Regional Policy Statement ('**WRPS**');
 - c. National Environmental Standards for Freshwater ('**NES-F**'); and
 - d. National Policy Statement for Indigenous Biodiversity ('**NPS-IB**').
15. My evidence on the Ecosystems and Indigenous Biodiversity Chapter of the proposed Plan was submitted to Council on 21 October 2024.
16. This evidence addresses the remainder of the topics to be heard in tranche 2 of the hearing and covers the following matters:
 - a. Statutory and policy context;
 - b. A summary of Graymont's submissions and further submissions;
 - c. An assessment of recommendations in the S42A Report relating to the topics in the 2nd tranche of the hearings presented by chapter, namely:
 - Definitions;
 - Strategic Direction;
 - Natural features and landscapes; and
 - Natural Character.
 - d. My summary and conclusions.

3. STATUTORY AND POLICY CONTEXT

17. I acknowledge the statutory and policy context of the proposed Plan presented in the S32 Reports for the Chapters relevant to my evidence. This includes the RMA, National Direction, the WRPS (that includes Te Ture Whaimana o Te Awa o Waikato - Vision and Strategy for the Waikato River) and Iwi Management Plans (Ko Ta Maniapoto Mahere Taiao - Maniapoto Environmental Management Plan, Tai Tumu, Tai Pari, Tai Ao - Waikato Tainui Environment Management Plan and Maniapoto Māori Trust Board - Waitomo District Council Joint Management Agreement).
18. Of particular significance to the topics being heard in this tranche are:

¹ Submission #43.

². [graymont-nz-limited-further-submission.pdf](#)

- a. RMA Section 6(a) the preservation of the natural character of wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development;
- b. RMA Section 6(b) the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development. The plan is required to recognise and provide for Section 6 as a matter of national importance.
- c. NES-F Regulation 45A - Discretionary activities -
 - (1) *Vegetation clearance within, or within a 10 m setback from, a natural inland wetland is a discretionary activity if it is for the purpose of quarrying activities.*
 - (2) *Earthworks or land disturbance within, or within a 10 m setback from, a natural inland wetland is a discretionary activity if it is for the purpose of quarrying activities.*
 - (3) *Earthworks or land disturbance outside a 10 m, but within a 100 m, setback from a natural inland wetland is a discretionary activity if it—*
 - (a) is for the purpose of quarrying activities; and*
 - (b) results, or is likely to result, in the complete or partial drainage of all or part of the wetland - -*
 - (6) *A resource consent for a discretionary activity under this regulation must not be granted unless the consent authority has first—*
 - (a) satisfied itself that the quarrying activity will provide significant national or regional benefits; and*
 - (b) satisfied itself that there is a functional need for the quarrying activity in that location; and (c) applied the effects management hierarchy.*
- d. NPS-IB - 3.10 Any adverse effects on an SNA of a new subdivision, use, or development must be managed by applying the effects management hierarchy.

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, 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.

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

- 20. In the following part of my evidence, I comment on the recommendations made in the various S42A Reports applicable to Graymont's submissions and further submissions.
- 21. References to the proposed Plan in the sections below are to the notified version of the document with additions sought by Graymont or recommended by the S42A Officers underlined, and the deletions marked with ~~strikethrough~~.
- 22. I discuss the remaining submissions by Chapter below.

5.1 DEFINITIONS

- 23. Graymont supported the inclusion of the following definitions and requested that they be retained as notified:
 - a. Industrial activity;
 - b. Mineral;
 - c. Mineral prospecting and exploration;

- d. Primary production;
 - e. Quarry;
 - f. Quarrying activities; and
 - g. Significant hazardous facility.
24. In the Misc S42A Report, Mr Bell recommends retaining the definitions of Industrial activity and Significant hazardous facilities, as notified.
25. Having considered the Misc S42A I recommend that the definitions for Mineral, Mineral prospecting and exploration, Primary production, Quarry, Quarrying activities, and Significant hazardous facility are also retained as notified, noting that these terms seem to be well understood and are not disputed and by any parties.
26. In their further submissions (F08.02) Graymont supported Horticulture New Zealand's ('Hort NZ') submission (27.25) to include a new definition for Reverse sensitivity as follows:
- Is the vulnerability of a lawfully established activity to a new activity or land use. It arises when a lawfully established activity causes potential, actual or perceived adverse environmental effects on the new activity, to a point where the new activity may seek to restrict the operation or require mitigation of the effects of the established activity.*
27. Mr Bell in her Misc S42A Report recommends accepting Hort NZ's submission to include a definition for reverse sensitivity. I support the Misc S42A Report recommendation to include the definition of reverse sensitivity as requested by Hort NZ and detailed above. In this regard I consider that it will provide clarity within the proposed Plan.
28. In their submission to "significant mineral resource" Graymont supported the definition of in part, however, sought the inclusion of the assessment criteria for defining significant mineral resources as prescribed within the WRPS be included within the proposed Plan, for ease of access for the plan user.
29. Graymont noted that Method 6.81 (now Method UFD-M29-Identification of mineral resources in accordance with the updated electronic version dated 28/09/2022 on the Waikato Regional Council's ('WRC') website) states that the WRC will map the location of significant mineral resources. Until such a time as significant mineral resources are identified, the following criteria shall be used to determine the significance of any mineral resource at a specific location:
- a) relative scarcity;
 - b) contribution or potential contribution to national and regional economy;
 - c) current and potential demand, and location with respect to demand;
 - d) constraints on extraction including existing or planned settlement;
 - e) quality and size of deposit;
 - f) importance of the mineral resource to tāngata whenua; and
 - g) importance to infrastructure development.
- I note that as of 31 October 2024, UFD-M29 remains unchanged from 28 September 2022.
30. In the Miscellaneous Topics S42A Report, Mr Bell considers that it is not necessary for the definition to repeat the method in the WRPS, however does recommend that the definition be updated to reflect the newly number WRPS. The change would read:
- significant mineral resources means sites identified in accordance with the criteria contained in UFD-M29 Method 6.8.1 of the Waikato Regional Policy Statement.*
31. Graymont understands that its Oparure Quarry is considered a significant mineral resource. (RPROZ-3), as recorded within the Rural Production Zone Chapter.
32. This matter has been discussed in my evidence on the Rural Production Zone in the first tranche of the hearing.

33. Having considered the Misc S42A reasoning for amendments to the definition of significant mineral resources as notified, I support the Misc S42A Report recommendation. In this regard, while I consider that the inclusion of the criteria would more readily assist the plan user, the changes proposed do provide clarity in that they reference the updated numbering within the WRPS.

5.2 STRATEGIC DIRECTION

5.2.1 Provisions to be retained as notified

34. Graymont sought that **SD O29** and **SD-O30** be retained as notified, noting that these provisions were consistent with the direction provided in the WRPS.
35. The SD S42A Report Officer, Ms O'Callaghan, recommends that **SD-O29** is retained as notified and that SD-O30 is amended. SD-O30 is discussed below.

5.2.2 SD-O5

36. Graymont supported the inclusion of SD-O5 recording that this objective recognises lawfully established activities and that their ongoing operations must be protected from incompatible activities. Graymont noted, however, that it is important to recognise that a number of activities, including activities such as renewable electricity generation activities and mineral extraction and quarrying activities, have a functional need to be close to the resource that they utilise, and that they also must remain economically viable in order to operate efficiently and effectively, and in turn provide for current and future generations.

37. Graymont sought that SD-O5 be amended as follows:

Compatible activities with similar effects and functions are located together and new development is directed towards the appropriate zones to ensure that land use and subdivision:

- 1. Are consistent with the anticipated character and amenity values of the areas where they are located, while recognising the functional, locational and operational needs of particular activities; and*
- 2. Efficiently use natural and physical resources in order to meet the community's and the environment's needs both now and in the future; and*
- 3. Recognise existing lawful activities and protect their ongoing operation from incompatible activities.*

38. Within the SDS42A Report, Ms O'Callaghan records that Graymont has requested that SD-O5(1) be amended to recognise the functional, locational and operational needs of particular activities. She goes on to note that, at SD-O8, KiwiRail has requested a new objective which manages land use activities to avoid, remedy or mitigate adverse effects, including reverse sensitivity effects, of subdivision, land use and development, on regionally significant infrastructure including transport. Ms O'Callaghan considers that SD-O30 is the best place to include these amendments, and as such, she recommends that SD-O30³ is amended to address these matters, as follows:

Recognise and provide for nationally and regionally significant infrastructure and industry, and for those activities associated with significant mineral resources, by recognising their functional, locational and operational needs and managing reverse sensitivity effects which may impact their operation.

39. Having considered the SD S42A recommendation to include Graymont's requested amendments in SD-O30 rather than SD-O5, I support the SD S42A Report recommendation. In this regard, the changes proposed to SD-O30 sit well within this objective and recognise the functional, locational and operational needs of particular activities, as sought by Graymont.

³ In the SD S42A Report Appendix 2, this objective is shown as SD-OX and not SD-O30, but the wording is identical.

5.3 NATURAL FEATURES AND LANDSCAPES

5.3.1 Provisions to be retained as notified

40. Graymont supported the retention of **NFL-O1**, **NFL-O4** and **NFL-R18** as notified.

41. In her NFL S42A Report, Ms O’Callaghan recommends retaining NFL-O1 and NFL-O4 as notified. I support the continued retention of these provisions.

5.3.2 NFL-P1

42. NFL-P1 manages the protection of Outstanding Natural Landscapes (**‘ONL’**) and Outstanding Natural Features (**‘ONF’**). Graymont opposed **NFL-P1** noting that they considered this provision to be overly restrictive, as the policy applies an ‘avoidance principle’ in a number of instances.

43. In their submission, Graymont recorded that the WRPS, at NFL-M1 states that Regional and District Councils shall *“identify and provide for the protection of the values and characteristics of outstanding natural features and landscapes from inappropriate subdivision, use and development...by:*

- a. avoiding adverse effects of activities on the values and characteristics of outstanding natural features and landscapes in the coastal environment; and*
- b. outside of the coastal environment, avoiding adverse effects of activities on the values and characteristics of outstanding natural features and landscapes, and if avoidance is not possible remedy or mitigate the adverse effects”.*

44. Given the direction provided within the WRPS, Graymont sought that NFL-P1 be reworked to provide consideration for remediation, mitigation and offsetting of effects, in those instances where avoidance is not possible, particularly as it relates to mineral extraction activities.

45. In addition to the foregoing, Graymont recorded that NFL-P1⁴ does not adequately provide for nationally and regionally significant industry, infrastructure and, for significant mineral resources. Graymont highlighted that this is inconsistent with the direction provided by **SD-O30** of the proposed Plan which reads as follows: *“Recognise and provide for nationally and regionally significant infrastructure and industry, and for those activities associated with significant mineral resources.”*

46. Graymont noted that NFL-P1 specifically provides for *‘the continued operation of lawfully established farming activities’*, stating that while farming activities are important to the Waitomo District, so too are other activities such as the quarrying of limestone.

47. Further to the above, Graymont requested that NFL-P1 be amended as follows:

Ensure the values and character of the outstanding natural features and outstanding natural landscapes are protected by:

- 1. Avoiding adverse effects which compromise the values and character of outstanding natural features and landscapes; and*
- 2. Ensuring the location, scale, materials, design, colour and grouping of buildings, structures and infrastructure avoid adverse effects on the values and character of outstanding natural features and landscapes; and*
- 3. Ensuring earthworks integrate with the existing landform to preserve the values and character of outstanding natural features and landscapes; and*
- 4. Avoiding any activity, particularly earthworks, harvesting of plantation forestry and structures, where this will adversely affect caves and fragile outstanding natural features identified in SCHD8; and*
- 5. Ensuring developments 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 values of the site; and*

⁴ Graymont’s submission refers to NFL-P2, but it appears that it should have been NFL-P1

6. Avoiding in the first instance or minimising the removal of indigenous vegetation; and
7. Ensuring any earthworks or vegetation removal activities focus on protecting existing indigenous vegetation in the first instance, minimising clearance in the second instance and undertaking any measures necessary to rehabilitate the land including restoration and re-planting as a final resort; and
8. Avoiding in the first instance, and where avoidance is not practicable, remedying and mitigating the adverse effects of mineral extraction activities in outstanding natural landscapes; and
9. Providing for plantation forestry only where there is a clear and on-going land stability benefit and the ensuing operations avoid detracting from the values and character of outstanding natural features and landscapes; and
10. Providing for the continued operation of lawfully established ~~farming~~ activities; and
11. Providing for nationally and regionally significant infrastructure and industry, and for those activities associated with significant mineral resources.

48. In the NFL S42A Report, Ms O'Callaghan recommends rejecting the amendments that Graymont sought to **NFL-P1.8** and proposed new **NFL-P1.11**. She notes that there is no policy provision for large-scale mineral extraction activities in ONFs where they are prohibited and that they would be non-complying in ONLs. Ms O'Callaghan records that as a non-complying activity, mineral extraction would be assessed against section 104D of the RMA which is a disjunctive two limbed test. As such, a proposal must either not be contrary to the objectives and policies of the plan, or the adverse effects of the activity on the environment must be minor. Ms O'Callaghan goes on to state that the RMA requires the protection of outstanding natural landscapes from inappropriate subdivision, use, and development and she records that *"it is hard to argue that a large-scale mineral extraction activity is appropriate in an ONL"*. However, section 104D does allow a small window if the activity can demonstrate the adverse effects on the environment are minor. Ms O'Callaghan notes that first limb of s104D would not be met within NFL-P1, as notified as the policy approach is to 'avoid'. This would require mineral extraction activities to have a minor effect or a less than minor effect on the ONL. On balance, Ms O'Callaghan opines that the policy point as notified is considered to be the correct approach for ONLs.
49. Graymont's Oparure quarry is located in RPROZ, partially in the Karst overlay and partially in the Landscape of High Amenity Value overlay, but is not within the proposed ONLs or ONFs overlays.



50. In the NFL S42A Report, Ms O'Callaghan recommends rejecting the amendments that Graymont sought to **NFL-P1.10**. Ms O'Callaghan argues that farming is an inherent part of the ONLs in Waitomo and considers it appropriate to signal policy intent to continue providing for that activity where it is permitted. Other lawfully established activities have the inherent right to continue to operate within the parameters prescribed by a resource consent, existing use right or permitted activity rule, but Ms O'Callaghan opines that it is not necessarily appropriate to signal in a policy that their ongoing operation is supported past the legislative baseline.
51. Having considered the NFLs S42A reasoning for not recommending the amendments requested by Graymont in their submission, I support the NFLs S42A Report recommendation on **NFL-P1**. In this regard I note that as a non-complying activity, while mineral extraction activities in a ONL would not be consistent with NFL-P1, these activities could still be consented if adverse effects on the ONL are minor or less.

5.3.3 NFL-P3

52. Graymont supported **NFL-P3** in part because they considered that the functional, locational and operational needs of particular activities must be recognised within this policy. In this regard, quarrying can only occur where mineral resources are located. Further Graymont considered that the policy should apply to the continued operation of all lawfully established activities, rather than farming alone.

53. Graymont requested that NFL-P3 be amended as follows:

Provide for the appropriate use of natural resources, including land and water, within outstanding natural features and outstanding natural landscapes by:

- 1. Providing thresholds to allow limited earthworks and vegetation removal, particularly where this is part of the continued operation of lawfully ~~farming~~ established activities; and*
- 2. Ensuring buildings and structures are setback from riparian and coastal margins and do not dominate ridgelines or coastal headlands, while recognising the functional, locational and operational needs of particular activities.*

54. In the NFL S42A Report, Ms O'Callaghan recommends rejecting the amendments that Graymont sought to **NFL-P3.1**. Ms O'Callaghan argues that farming is an inherent part of the ONLs in Waitomo and as such she considers it appropriate to signal policy intent to continue providing for that activity where it is permitted. Ms O'Callaghan records that other lawfully established activities have the inherent right to continue to operate within the parameters prescribed by a resource consent, existing use right or permitted activity rule, but it is not necessarily appropriate to signal in a policy that their ongoing operation is supported past the legislative baseline. Given the extent and location of the landscapes, Ms O'Callaghan considers that this policy approach would not have a wide effect on activities outside of farming.

55. Regarding NFL-P3.2, Ms O'Callaghan does not consider that functional, locational and operational needs are appropriate additions in the context of ONLs and ONFs. She notes that NPF-P3 is an enabling policy in so far as it is designed to support the permitted activities and those that may require a resource consent for a marginal breach.

56. Having considered the NFLs S42A reasoning for not recommending the amendments requested by Graymont in their submission, I support the NFLs S42A Report recommendation on **NFL-P3**.

5.3.4 NFL-P4

57. Graymont opposed **NFL-P4** on the basis that and does not adequately provide for nationally and regionally significant industry and infrastructure and, for significant mineral resources, which are recognised in the Rural Production Zone Chapter as being important activities that contribute to the economic and social well-being of the community, and sought that a new policy point be added as follows:

Maintain and where practicable, enhance the qualities and values of the landscapes of high amenity value during subdivision, land use and development by:

- 1. Ensuring that the effects of any activity which could compromise the qualities and values of the landscapes of high amenity value are minimised; and*
- 2. Ensuring that buildings, structures and infrastructure are integrated into landscapes of high amenity value to minimise, to the maximum extent practicable, any visual impacts; and*
- 3. Managing the adverse effects of earthworks for buildings, driveways, new tracks and farm quarries through appropriate subdivision and development design; and*
- 4. Ensuring developments 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 values of the site; and*
- 5. Minimising the removal of indigenous vegetation as far as practicable; and*
- 6. Providing for the continued operation of lawfully established ~~farming~~ activities; and*
- 7. Providing for the continued operation, maintenance and repair of lawfully established renewable electricity generation activities; and*

8. Providing for nationally and regionally significant infrastructure and industry, and for those activities associated with significant mineral resources.

58. In the NFL S42A Report, Ms O'Callaghan considers it appropriate to provide for nationally and regionally significant infrastructure and industry, and for those activities associated with significant mineral resources in LHAVs and that specific provision is made for nationally and regionally significant infrastructure and industry in the energy chapter in LHAVs. Ms O'Callaghan recommends that this policy direction is separated from the heading sentence in NFL-P4 to better represent these activities. Consequently, Ms O'Callaghan proposes a new policy so specific policy provision is made for activities in the rural production zone located in LHAVs. The recommended amendments are below:

NFL-P4. *Maintain and where practicable, enhance the qualities and values of the landscapes of high amenity value during subdivision, land use and development by:*

- 1. . Ensuring that the effects of any activity which could compromise the qualities and values of the landscapes of high amenity value are minimised; and*
- 2. Ensuring that buildings, structures and infrastructure are integrated into landscapes of high amenity value to minimise, to the maximum extent practicable, any visual impacts; and*
- 3. Managing the adverse effects of earthworks for buildings, driveways, new tracks and farm quarries through appropriate subdivision and development design; and*
- 4. Ensuring developments 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 values of the site; and*
- 5. Minimising the removal of indigenous vegetation as far as practicable; and*
- 6. Providing for the continued operation of lawfully established farming activities; and*
- 7 ~~Providing for the continued operation, maintenance and repair of lawfully established renewable electricity generation activities.~~*

NFL-PX. *Maintain and where practicable, enhance the qualities and values of the landscapes of high amenity value, while providing for:*

- 1. The continued operation, maintenance and repair and minor upgrading of lawfully established renewable electricity generation activities; and*
- 2. Nationally and regionally significant infrastructure and industry, and for those activities associated with significant mineral resources; and*
- 3. The recognition of the positive benefits of new renewable electricity generation activities.*

59. Having considered the NFLs S42A reasoning for the proposed amendments to NFL-P4 and proposed new Policy, I support the S42A recommended changes to NFL-P4 and to include the proposed new policy. In this regard I consider these amendments to make provision for activities other than farming and renewable energy and provide for nationally and regionally significant industry and infrastructure and for significant mineral resources to be consistent with the WRPS.

5.3.5 NFL-P5

60. Graymont opposed **NFL-P5** on the basis that, like NFL-P1 and NFL-P4, it is overly restrictive. NFL-P5 specifically provides for 'the continued operation of lawfully established farming activities.' Graymont argues that while farming activities are important to the Waitomo District, so too are other activities, in this regard significant mineral resources are highlighted in a number of instances throughout the proposed Plan as being important to the district (such as in the Rural production Zone chapter).

61. This policy also prevents development outright in locations that are of significance to mana whenua, regardless of the scale of effect. Graymont recorded that the RMA does not contain a veto for cultural considerations. As such, it follows that even when a proposal is located within an area of notable cultural values, the plan should not default to a position whereby areas of significance to mana whenua are avoided. In the Company's experience, it is often possible to

ensure that the cultural values associated with an area are respected and that they are not impacted to a degree that is unacceptable to mana whenua.

62. In addition, Graymont highlighted that as notified, part 3 of NFL-P5 requires that any activity, particularly vegetation clearance and large-scale earthworks including quarrying activities, where these will adversely affect the values of the karst systems or features, are avoided. Graymont contends that there may be instances where remediation, mitigation or offsetting is entirely appropriate. Further Graymont recorded that as currently drafted NFL-P5(3) does not allow for any consideration of the same, and seems to be at odds with RPROZ-P3 which states “Where the location of an existing quarrying activity of significant mineral resources coincides with the karst overlay in whole or part, adverse effects on the geomorphological or hydrological characteristics of the karst system should be remedied or mitigated in that order in the first instance, or if this is not possible, offset adverse effects.” Graymont recorded that it was particularly concerned with this provision and sought that NFL-P5 be substantially amended to provide a more balanced approach.

63. Graymont requested that **NFL-P5** be amended as follows:

Recognise, protect, and where practicable, enhance the values of the karst overlay by:

- 1. Ensuring that the effects of any activity which could compromise the values of the karst overlay are avoided in the first instance, and where this is not practicable, minimised; and*
- 2. Managing the adverse effects of earthworks through appropriate development design, mitigation measures and rehabilitation; and*
- 3. Ensuring that the effects of Avoiding any activity, particularly vegetation clearance and large-scale earthworks including quarrying activities, where these will adversely affect the values of the karst systems or features are avoided in the first instance, and where this is not practicable, remedied or mitigated; and*
- 4. Ensuring developments in locations that are of significance to mana whenua appropriately assess adverse effects and any resulting development is managed in a way that protects (to the extent warranted by the circumstances) the values of the site; and*
- 5. Minimising the removal of indigenous vegetation; and*
- 6. Providing for plantation forestry only where there is a clear and on-going land stability benefit and the ensuing operations do not significantly detract from the values of the karst overlay; and*
- 7. Providing for the continued operation of lawfully established farming activities; and*
- 8. Providing for nationally and regionally significant infrastructure and industry, and for those activities associated with significant mineral resources, where the effects of these activities do not compromise the values of the karst overlay.*

64. In the NFL S42A Report, Ms O’Callaghan recommends accepting the amendment to NFL-P5.7, as well as recommending partial acceptance of the changes requested to NFL-P5.4 and NFL-P5.8. Ms O’Callaghan recommends not accepting the amendment that Graymont proposed to NFL-P5.3. In this regard Ms O’Callaghan considers that the policy does not require amendment. She argues that although it employs the absolute “avoid” this must be interpreted in respect of the header sentence and reads as follows: Recognise, protect, and where practicable, enhance the values of the karst overlay by avoiding any activity, particularly vegetation clearance and large-scale earthworks including quarrying activities, where these will adversely affect the values of the karst systems or features. Ms O’ Callaghan argues that the avoid is very specific - these activities can occur providing they do not damage the karst features. Ms O’Callaghan recommends the following:

NFL-P5.

Recognise, protect, and where practicable, enhance the values of the karst overlay by:

- 1. Ensuring that the effects of any activity which could compromise the values of the karst overlay are avoided in the first instance, and where this is not practicable, minimised; and*
- 2. Managing the adverse effects of earthworks through appropriate development design, mitigation measures and rehabilitation; and*
- 3. Avoiding any activity, particularly vegetation clearance and large-scale*

earthworks including quarrying activities, where these will adversely affect the values of the karst systems or features; and

4. Avoiding developments in locations that are of significance to mana whenua to the maximum extent practicable; and

5. Minimising the removal of indigenous vegetation; and

6. Providing for plantation forestry only where there is a clear and on-going land stability benefit and the ensuing operations do not significantly detract from the values of the karst overlay; and

7. Providing for the continued operation of lawfully established ~~farming~~⁵ activities; and

8. Providing for the removal of non-significant indigenous vegetation in the rural production zone where the effects of clearance do not adversely affect the values of the karst systems or features.

65. Having considered the NFLs S42A reasoning for recommending acceptance of the change to NFL-P5.7 and partial acceptance of the changes requested by Graymont to NFL-P5.4 and NFL-P5.8 in their submission, I partially accept the NFLs S42A Report recommendation on **NFL-P5**.

66. In this regard farming activities are important to the Waitomo District, so too are other activities, in this regard significant mineral resources are highlighted in a number of instances throughout the proposed Plan as being important to the district. I therefore consider the change to **NFL-P5.7** to be appropriate.

67. Having considered the NFLs S42A reasoning for recommending partial acceptance of the changes requested by Graymont to **NFL-P5.4**, I recommend the alternative wording proposed by Ms O'Callaghan because this will provide for development in locations that are of significance to mana whenua it requires ensuring that the cultural values associated with an area are respected and that they are not impacted to a degree that is unacceptable to mana whenua, without requiring an absolute prevention.

68. Having considered the NFLs S42A reasoning for recommending partial acceptance of the addition **NFL-P5.8** requested by Graymont, I recommend the alternative wording proposed by Ms O'Callaghan because this will provide the clearing of vegetation in the RPROZ on condition that the values of the karst system are not adversely affected, which partly addresses Graymont's concern about non-farming activities.

69. I note that Graymont's Oparure Quarrying activities may result in some damage to Karst features. As such, including an effects management hierarchy in the policy as opposed to an absolute "avoid" in **NFL-P5.3** is, in my opinion, consistent with RPROZ-P3 and appropriate.

70. The changes to **NFL-P5.4** proposed by Ms O'Callaghan would address the issue raised by Graymont. Furthermore, I concur with the recommendation to delete the word "farming" in NFL-P5.7. I consider the addition of NFL-P5.8 to be appropriate.

71. I therefore recommend that NFL-P5 be amended as follows:

Recognise, protect, and where practicable, enhance the values of the karst overlay by:

1. Ensuring that the effects of any activity which could compromise the values of the karst overlay are avoided in the first instance, and where this is not practicable, minimised; and

2. Managing the adverse effects of earthworks through appropriate development design, mitigation measures and rehabilitation; and

3. Ensuring that the effects of ~~Avoiding~~ any activity, particularly vegetation clearance and large-scale earthworks including quarrying activities, where these will adversely affect the values of the karst systems or features are avoided in the first instance, and where this is not practicable, remedied or mitigated; and

4. Avoiding developments in locations that are of significance to mana whenua to the maximum extent practicable; and

⁵ Deletion of 'farming' in NFL-P5 is shown in the NFL S42A Report but has been taken through to Appendix 2 to the same. I assume that this is an oversight.

- 5. Minimising the removal of indigenous vegetation; and
- 6. Providing for plantation forestry only where there is a clear and on-going land stability benefit and the ensuing operations do not significantly detract from the values of the karst overlay; and
- 7. Providing for the continued operation of lawfully established farming activities; and
- 8. Providing for the removal of non-significant indigenous vegetation in the rural production zone where the effects of clearance do not adversely affect the values of the karst systems or features.

5.3.5 NFL-R16 and NFL-R17

72. Graymont supported NFL-R16 and NFL-R17 in part, recording that there are sinkholes concentrated throughout its Oparure Quarry site, and that it was likely that they would need to undertake earthworks and clearance of vegetation within a 20 m radius of an entry or opening into a cave or sinkhole and may need to modify the same, from time to time. Graymont recorded that they have previously obtained resource consent from the Waikato Regional Council to undertake such activities.

73. Further, Graymont noted that sometimes works may be undertaken to fence off sinkholes within 20 m of the same, so as to protect the sinkhole/s. Given this, Graymont highlighted that they considered a discretionary activity status associated with earthworks or clearance of vegetation within a 20 m radius of an entry or opening into any cave or sinkhole, or modification works as a discretionary activity, rather than a non-complying activity, is more appropriate, for activities in the Rural Production Zone. In this regard, Graymont noted that a resource consent application is still able to be declined should an activity, once assessed on its merits, be considered inappropriate. In addition, Graymont sought new rules for the fencing of caves and sinkholes within a distance of 20 m of the same as a controlled activity, with fencing beyond 20m being permitted.

74. Graymont sought that NFL-R16 be amended as follows:

Creation of new entrances into caves, structures within caves or other modifications to cave features

The rules apply to all zones

Outstanding natural features - NC

Outstanding natural landscapes - NC

Landscapes of high amenity value - DIS

Karst Overlay - ~~NC~~ DIS: Rural production zone

PR: All other zones

75. Graymont sought that NFL-R17 be amended as follows:

Any earthworks or clearance of vegetation (other than plant pest species, wilding pines, or when required in emergency situations such as the recovery of stock) within a 20 m radius of an entry or opening into any cave or sinkhole

The rules apply to all zones

Outstanding natural features - NC

Outstanding natural landscapes - NC

Landscapes of high amenity value - DIS

Karst Overlay - ~~NC~~ DIS: Rural production zone.

PR: All other zones

76. Graymont sought that a new rule be included as follows:

Fencing to protect caves and sinkholes

The rules apply to all zones.

1. Any fencing and associated earthworks and weed removal or indigenous planting at a 20 m radius (or greater) of an entry or opening to a cave or sinkhole to protect an entry or opening into any cave or sinkhole - PER

2. Any fencing and associated earthworks and weed removal or indigenous planting within a 20 m radius of an entry or opening to a cave or sinkhole to protect an entry or opening into any cave or sinkhole - CONTROLLED

77. In the NFL S42A Report, Ms O'Callaghan recommends accepting amending the status of NFL-R16 and NFL-R17 in the Karst Overlay to 'Discretionary'..

78. Regarding a new rule which allows fencing Ms O'Callaghan notes that fencing is permitted under HW-R7 and weed removal is permitted by NFL-R17. Indigenous planting is welcomed anywhere, anytime. She is therefore of the opinion that there is not a need for this rule as the matters are already provided for in the plan.

79. Having considered the NFLs S42A reasoning for recommending the amending the activity status on ONFs and the Karst overlay for NFL-R16 and NFL-R17 and the changes to the same requested by Graymont, I concur that NFL-R16 and NFL-R17 be amended as follows:

NFL-R16: Any earthworks or clearance of vegetation (other than plant pest species, wilding pines, or when required in emergency situations such as the recovery of stock) within a 20 m radius of an entry or opening into any cave or sinkhole

The rules apply to all zones

Outstanding natural features - NC

Outstanding natural landscapes - ~~NC~~ DIS

Landscapes of high amenity value - DIS

Karst Overlay - ~~NC~~ DIS

NFL-R17: Any earthworks or clearance of vegetation (other than plant pest species, wilding pines, or when required in emergency situations such as the recovery of stock) within a 20 m radius of an entry or opening into any cave or sinkhole

The rules apply to all zones

Outstanding natural features - NC

Outstanding natural landscapes - ~~NC~~ DIS

Landscapes of high amenity value - DIS

Karst Overlay - ~~NC~~ DIS

Note: This rule prevails over the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017 in the outstanding natural features and outstanding natural landscapes and in the karst overlay.

Note: Where vegetation clearance is proposed in a significant natural area the provisions in the ecosystems and indigenous biodiversity chapter apply.

80. Having considered the NFLs S42A reasoning for not recommending a new rule which allows fencing, I am of the opinion that this Rule should be included because it's intention is specifically to enable protection of Karst features. I therefore recommend a new Rules as follows:

Fencing to protect caves and sinkholes

The rules apply to all zones.

1. Any fencing and associated earthworks and weed removal or indigenous planting at a 20 m radius (or greater) of an entry or opening to a cave or sinkhole to protect an entry or opening into any cave or sinkhole - PER

2. Any fencing and associated earthworks and weed removal or indigenous planting within a 20 m radius of an entry or opening to a cave or sinkhole to protect an entry or opening into any cave or sinkhole - CONTROLLED

5.4 NATURAL CHARACTER

5.4.1 NATC-P1

81. Graymont opposed **NATC-P1** on the basis that it was overly restrictive and should be recast to provide a more balanced approach. Graymont recorded that RPS Objective NAT-O1 - Natural Character states “*The natural character of the coastal environment, wetlands, and lakes and rivers and their margins are protected from the adverse effects of inappropriate subdivision, use and development.*” Graymont noted that activities, such as mineral extraction and associated quarrying activities are required to locate in accordance with the resource that they utilise. In addition, the Company noted that there is a consenting pathway for quarries associated with wetlands in accordance with the National Environmental Standard for Freshwater. Given this, the Company recorded that while every effort may be made to avoid adverse effects, in some instances and when an activity is considered appropriate, remediation, mitigation and offsetting may also be appropriate.

82. Graymont sought that NATC-P1 be amended as follows:

Protect and enhance the qualities and values of wetlands, and lakes and rivers and their margins from the adverse effects of inappropriate subdivision, use and development by:

- 1. Requiring that activities are setback from wetlands, lakes and rivers; and*
- 2. Avoiding in the first instance, and where avoidance is not practicable, remedying or mitigating activities which could generate effects that compromise the values of wetlands, and lakes and rivers and their margins; and*
- 3. Ensuring the location, scale, intensity and form of subdivision, use and development are appropriate; and*
- 4. Avoiding in the first instance, and where avoidance is not practicable, remedying or mitigating any activity, particularly earthworks and vegetation clearance, where this will adversely affect the qualities and values of wetlands, and lakes and rivers and their margins; and*
- 5. Ensuring ~~Avoiding~~ developments 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 values of the site; and*
- 6. Providing for plantation forestry and mineral extraction activities only where the ensuing operations do not adversely affect the qualities and values of wetlands, and lakes and rivers and their margins; and*
- 7. Providing for the continued operation of lawfully established farming activities and recreational hunting.*

83. In the NATC S42A Report, Ms O'Callaghan recommends not accepting these amendments. In this regard, Ms O'Callaghan notes that NATC-P1 and P2 respond to NATC-O1⁶ in different ways. Ms O'Callaghan notes that NATC-P1 sets out the policy goals necessary to achieve the 'protection and enhancement' direction and NATC-P2 sets out the policy considerations which must be examined when assessing whether an activity is appropriate or inappropriate. As such, these changes are not necessary as NATC-P2 covers this assessment.
84. Ms O'Callaghan also considers that NATC-P1.2, NATC- P1.4 and NATC-P1.5 do not require amendment, and she is of the opinion that it is correct to employ the absolute "avoid" in this instance as RMA section 6(a) directs preservation of natural character and protection from inappropriate activities. In respect of NATC-P1.5 Ms O'Callaghan notes that the activities in the chapter default to restricted discretionary or discretionary which allows for broad consideration of the effects of the activity on the relationship of mana whenua and their culture and traditions with the site. As such, she does not consider that any change requested by Graymont to NAT-P1 are necessary.
85. I note that Ms O'Callaghan proposes the addition of two sub-clauses to NATC-P1 in response to submissions from Forest and Bird ('F&B') and the WRC.
86. Having considered the NFLs S42A reasoning for not recommending the amendments requested by Graymont, together with Graymont's requested changes and the reasoning for the same, I am of the opinion that that Graymont's request for a more balanced provision is appropriate. In this regard I note that some of Graymont's activities, such as mineral extraction and associated quarrying activities are required to locate in accordance with the resource that they utilise. I also note that the National Environmental Standard for Freshwater provides a consenting pathway for quarries associated with wetlands. Given this, in some instances and when an activity is considered appropriate, remediation, mitigation and offsetting may also be appropriate. Introducing the effects management hierarchy to NATC-P1.2 and NATC-P4 is appropriate.
87. . I therefore recommend that that **NATC-P1** be amended as follows:

Protect and enhance the qualities and values of wetlands, and lakes and rivers and their margins from the adverse effects of inappropriate subdivision, use and development by:

- 1. Requiring that activities are setback from wetlands, lakes and rivers; and*
- 2. Avoiding in the first instance, and where avoidance is not practicable, remedying or mitigating activities which could generate effects that compromise the values of wetlands, and lakes and rivers and their margins; and*
- 3. Ensuring the location, scale, intensity and form of subdivision, use and development are appropriate; and*
- 4. Avoiding in the first instance, and where avoidance is not practicable, remedying or mitigating any activity, particularly earthworks and vegetation clearance, where this will adversely affect the qualities and values of wetlands, and lakes and rivers and their margins; and*
- 5. Ensuring ~~Avoiding~~ developments 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 values of the site; and*
- 6. Providing for plantation forestry and mineral extraction activities only where the ensuing operations do not adversely affect the qualities and values of wetlands, and lakes and rivers and their margins; and*
- 7. Providing for the continued operation of lawfully established ~~farming~~ activities and recreational hunting;*
- 8. Promoting restoration and rehabilitation, giving special regard to areas where natural values have been compromised; and*
- 9. Safeguarding the life-supporting capacity of freshwater ecosystems and maintaining or enhancing indigenous biodiversity.*

⁶ NFL-O1. The values and character of the outstanding natural features and outstanding natural landscapes identified in SCHED7 and SCHED8 are recognised and protected from inappropriate subdivision, use and development.

5.4.2 NATC-P2

88. Graymont opposed NATC-P2 on the basis that it should provide for the continued operation of all lawfully established activities, rather than just farming activities. In addition to those matters set out in NATC-P2, Graymont considered that the policy should provide for those activities that are important on a national or regional scale, or that are considered significant including the continued operation repair maintenance and minor upgrading of nationally or regionally significant industry, infrastructure or for those activities associated with significant mineral resources.

89. Graymont requested that NATC-P2 be amended as follows:

When considering the appropriateness of subdivision, land use or development activities, ensure the values of wetlands, and lakes and rivers and their margins are preserved by:

- 1. Assessing the functional necessity of the activity being located in or near wetlands, and lakes and rivers and their margins; and*
- 2. Recognising the potential for restoration, rehabilitation or enhancement of natural character to mitigate the adverse effects of an activity; and*
- 3. Ensuring sufficient development setbacks are in place; and*
- 4. Avoiding the significant adverse effects of subdivision, use and development where these would damage, diminish or compromise natural character; and*
- 5. Ensuring that activities are carried out in a way that maintains or enhances water quality; and*
- 6. Providing for the continued operation of lawfully established ~~farming~~ activities; and*
- 7. Providing for nationally and regionally significant infrastructure and industry, and for those activities associated with significant mineral resources; and*
- 8. Recognising and protecting the following natural elements, patterns, processes and experiential qualities which contribute to natural character:*
 - (i) Waterbodies in their natural states or close to their natural state; and*
 - (ii) Freshwater landforms and landscapes; and*
 - (iii) Freshwater physical processes, including the movement of water and sediment; and*
 - (iv) Biodiversity; and*
 - (v) Biological processes and patterns; and*
 - (vi) Water flows and levels, and water quality; and*
 - (vii) The experience of the above elements, patterns and processes.*

90. In the NATC S42A Report, Ms O'Callaghan states that Graymont's requested amendment to NATC-P2 is not necessary because NATC-R5 exempts the rural production zone hydroelectric power generation sites from the provisions of the chapter. Ms O'Callaghan states that the network utilities chapter (other regionally significant infrastructure) contains setback provisions. Further, she notes that RPROZ-R27 provides for minimum setbacks from water bodies for quarrying activities, mineral prospecting and exploration and RPROZ-P4.4 provides the policy support.

91. In considering Ms O'Callaghan's argument I note that NATC-R5 only provides exemption for sites in the rural production zone with a primary purpose of hydroelectric power generation and would not apply to Graymont's quarrying activities. I therefore recommend that providing for nationally and regionally significant infrastructure and industry, and for those activities associated with significant mineral resources in NATC-P2, which would be consistent with PROZ-P4.4 is included. I note and have no issue with the changing "necessity" to "need" in NATC-P2.1, adding "and freshwater ecosystems" to NATC-p2.5 recommended by Ms O'Callaghan because they provide clarity to the provision, resulting in the following wording for NATC-P2:

When considering the appropriateness of subdivision, land use or development activities, ensure the values of wetlands, and lakes and rivers and their margins are preserved by:

- 1. Assessing the functional need ~~necessity~~ of the activity being located in or near wetlands, and lakes and rivers and their margins; and*
- 2. Recognising the potential for restoration, rehabilitation or enhancement of natural character to mitigate the adverse effects of an activity; and*

3. Ensuring sufficient development setbacks are in place; and
4. Avoiding the significant adverse effects of subdivision, use and development where these would damage, diminish or compromise natural character; and
5. Ensuring that activities are carried out in a way that maintains or enhances water quality and freshwater ecosystems; and
6. Providing for the continued operation of lawfully established farming activities; and
7. Providing for nationally and regionally significant infrastructure and industry, and for those activities associated with significant mineral resources; and
8. Recognising and protecting the following natural elements, patterns, processes and experiential qualities which contribute to natural character:
 - (i) Waterbodies in their natural states or close to their natural state; and
 - (ii) Freshwater landforms and landscapes; and
 - (iii) Freshwater physical processes, including the movement of water and sediment; and
 - (iv) Biodiversity; and
 - (v) Biological processes and patterns; and
 - (vi) Water flows and levels, and water quality; and
 - (vii) The experience of the above elements, patterns and processes.

5.4.3 NATC-R4

92. Graymont supported NATC-R4 in part and sought the following amendments to provide for minor upgrading:

Earthworks within 5 m from the edge of a water body

Activity Status: PER

Where:

1. Earthworks up to 15 m³ can occur within 5 m from the bankfull channel width (see NATC - Figure 1) only if the activity is undertaken:
 - (i) Under the direction or control of the Department of Conservation, Waikato or Manawātū-Whanganui Regional Councils or Waitomo District Council; or
 - (ii) To maintain or construct or for the minor upgrading of perimeter fences and fences for stock exclusion; or
 - (iii) For maintenance of culverts and bridges; or
 - (iv) For maintenance associated with bank stabilisation and erosion protection; or
 - (v) For maintenance associated with stormwater detention and treatment ~~facilities~~ facilities; or
 - (vi) For maintenance purposes or minor upgrading on or within 2 m of existing roads, tracks or water intake/discharge structures; or
 - (vii) As part of maintenance or minor upgrading of existing drains.

Activity status where compliance is not achieved: Discretionary

93. In the NATC S42A Report, Ms O'Callaghan opines that, strictly speaking, maintenance should not include minor upgrading, but in reality, it does. She goes on to state that including upgrading (even minor upgrading) in a rule is problematic because what some view as a minor upgrade others view as a significant change. Ms O'Callaghan notes that this plan tends to define "minor upgrade" where it is employed. On balance, she does not advise this change as it makes the application of the rule less clear cut.
94. Having considered the NFLs S42A reasoning for not recommending the amendments requested by Graymont', I am of the opinion that providing for minor upgrading is appropriate. I understand Ms O'Callaghan's concern that minor upgrading is not defined, and propose that a definition be included as follows:

Minor Upgrading

means modification of structures and associated earthworks where the effects remain the same or similar in character, intensity and scale. Minor upgrading includes the replacement of structures in the same location, and replacement of parts.

6. SUMMARY AND CONCLUSIONS

6.1 Summary

95. 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, 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.

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

6.2 Outcome sought

97. The following summarises the outcome sought:

a. That the **definitions** for *Mineral, Mineral prospecting and exploration, Primary production, Quarry, Quarrying activities, and Significant hazardous facility* are retained as notified.

b. That **SD O29, NFL-O1 and NFL-O4** be retained as notified.

c. The definition for significant mineral resources be amended to read:

significant mineral resources means sites identified in accordance with the criteria contained in UFD-M29 Method 6.8.4 of the Waikato Regional Policy Statement.

d. To include a new definition for Reserve sensitivity as follows:

Is the vulnerability of a lawfully established activity to a new activity or land use. It arises when a lawfully established activity causes potential, actual or perceived adverse environmental effects on the new activity, to a point where the new activity may seek to restrict the operation or require mitigation of the effects of the established activity.

e. That **SD-O5** is relocated to **SD-O30** is amended to address this issue, along with the relocation of the objective, as follows:

Recognise and provide for nationally and regionally significant infrastructure and industry, and for those activities associated with significant mineral resources, by recognising their functional, locational and operational needs and managing reverse sensitivity effects which may impact their operation.

f. That **NFL-P4** be amended as follows:

NFL-P4. *Maintain and where practicable, enhance the qualities and values of the landscapes of high amenity value during subdivision, land use and development by:*

1. Ensuring that the effects of any activity which could compromise the qualities and values of the landscapes of high amenity value are minimised; and

2. Ensuring that buildings, structures and infrastructure are integrated into landscapes of high amenity value to minimise, to the maximum extent practicable, any visual impacts; and

3. Managing the adverse effects of earthworks for buildings, driveways, new tracks and farm quarries through appropriate subdivision and development design; and

4. Ensuring developments 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 values of the site; and
5. Minimising the removal of indigenous vegetation as far as practicable; and
6. Providing for the continued operation of lawfully established farming activities; and
- 7 ~~Providing for the continued operation, maintenance and repair of lawfully established renewable electricity generation activities.~~

g. That a new Policy NFL-P5 be included as follows:

NFL-PX. Maintain and where practicable, enhance the qualities and values of the landscapes of high amenity value, while providing for:

1. The continued operation, maintenance and repair and minor upgrading of lawfully established renewable electricity generation activities; and
2. Nationally and regionally significant infrastructure and industry, and for those activities associated with significant mineral resources; and
3. The recognition of the positive benefits of new renewable electricity generation activities.

h. That NFL-P5 be amended as follows:

Recognise, protect, and where practicable, enhance the values of the karst overlay by:

1. Ensuring that the effects of any activity which could compromise the values of the karst overlay are avoided in the first instance, and where this is not practicable, minimised; and
2. Managing the adverse effects of earthworks through appropriate development design, mitigation measures and rehabilitation; and
3. ~~Ensuring that the effects of~~ Avoiding any activity, particularly vegetation clearance and large-scale earthworks including quarrying activities, where these will adversely affect the values of the karst systems or features are avoided in the first instance, and where this is not practicable, remedied or mitigated; and
4. Avoiding developments in locations that are of significance to mana whenua to the maximum extent practicable; and
5. Minimising the removal of indigenous vegetation; and
6. Providing for plantation forestry only where there is a clear and on-going land stability benefit and the ensuing operations do not significantly detract from the values of the karst overlay; and
7. Providing for the continued operation of lawfully established ~~farming~~ activities; and
8. Providing for the removal of non-significant indigenous vegetation in the rural production zone where the effects of clearance do not adversely affect the values of the karst systems or features.

i. that NFL-R16 and NFL-R17 be amended as follows:

NFL-R16: Any earthworks or clearance of vegetation (other than plant pest species, wilding pines, or when required in emergency situations such as the recovery of stock) within a 20 m radius of an entry or opening into any cave or sinkhole

The rules apply to all zones

Outstanding natural features - NC

Outstanding natural landscapes - ~~NC~~ DIS

Landscapes of high amenity value - DIS

Karst Overlay - ~~NC~~ DIS

NFL-R17: Any earthworks or clearance of vegetation (other than plant pest species, wilding pines, or when required in emergency situations such as the recovery of stock) within a 20 m radius of an entry or opening into any cave or sinkhole

The rules apply to all zones

Outstanding natural features - NC

Outstanding natural landscapes - ~~NC~~ DIS

Landscapes of high amenity value - DIS

Karst Overlay - ~~NC~~ DIS

Note: This rule prevails over the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017 in the outstanding natural features and outstanding natural landscapes and in the karst overlay.

Note: Where vegetation clearance is proposed in a significant natural area the provisions in the ecosystems and indigenous biodiversity chapter apply.

j. That a new Rules be included in the NFL Chapter as follows:

Fencing to protect caves and sinkholes

The rules apply to all zones.

1. Any fencing and associated earthworks and weed removal or indigenous planting at a 20 m radius (or greater) of an entry or opening to a cave or sinkhole to protect an entry or opening into any cave or sinkhole - PER
2. Any fencing and associated earthworks and weed removal or indigenous planting within a 20 m radius of an entry or opening to a cave or sinkhole to protect an entry or opening into any cave or sinkhole - CONTROLLED

k. that NATC-P1 be amended as follows:

Protect and enhance the qualities and values of wetlands, and lakes and rivers and their margins from the adverse effects of inappropriate subdivision, use and development by:

1. Requiring that activities are setback from wetlands, lakes and rivers; and
2. Avoiding in the first instance, and where avoidance is not practicable, remedying or mitigating activities which could generate effects that compromise the values of wetlands, and lakes and rivers and their margins; and
3. Ensuring the location, scale, intensity and form of subdivision, use and development are appropriate; and
4. Avoiding in the first instance, and where avoidance is not practicable, remedying or mitigating any activity, particularly earthworks and vegetation clearance, where this will adversely affect the qualities and values of wetlands, and lakes and rivers and their margins; and
5. Ensuring ~~Avoiding~~ developments 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 values of the site; and
6. Providing for plantation forestry and mineral extraction activities only where the ensuing operations do not adversely affect the qualities and values of wetlands, and lakes and rivers and their margins; and
7. Providing for the continued operation of lawfully established ~~farming~~ activities and recreational hunting;
8. Promoting restoration and rehabilitation, giving special regard to areas where natural values have been compromised; and
9. Safeguarding the life-supporting capacity of freshwater ecosystems and maintaining or enhancing indigenous biodiversity.

l. That NATC-P2 be amended as follows:

When considering the appropriateness of subdivision, land use or development activities, ensure the values of wetlands, and lakes and rivers and their margins are preserved by:

- 1. Assessing the functional need necessity of the activity being located in or near wetlands, and lakes and rivers and their margins; and*
- 2. Recognising the potential for restoration, rehabilitation or enhancement of natural character to mitigate the adverse effects of an activity; and*
- 3. Ensuring sufficient development setbacks are in place; and*
- 4. Avoiding the significant adverse effects of subdivision, use and development where these would damage, diminish or compromise natural character; and*
- 5. Ensuring that activities are carried out in a way that maintains or enhances water quality and freshwater ecosystems; and*
- 6. Providing for the continued operation of lawfully established ~~farming~~ activities; and*
- 7. Providing for nationally and regionally significant infrastructure and industry, and for those activities associated with significant mineral resources; and*
- 8. Recognising and protecting the following natural elements, patterns, processes and experiential qualities which contribute to natural character:*
 - (i) Waterbodies in their natural states or close to their natural state; and*
 - (ii) Freshwater landforms and landscapes; and*
 - (iii) Freshwater physical processes, including the movement of water and sediment; and*
 - (iv) Biodiversity; and*
 - (v) Biological processes and patterns; and*
 - (vi) Water flows and levels, and water quality; and*
 - (vii) The experience of the above elements, patterns and processes.*

m. That NATC-R4 be amended as follows:

Earthworks within 5 m from the edge of a water body

Activity Status: PER

Where:

- 1. Earthworks up to 15 m³ can occur within 5 m from the bankfull channel width (see NATC - Figure 1) only if the activity is undertaken:*
 - (i) Under the direction or control of the Department of Conservation, Waikato or Manawātū-Whanganui Regional Councils or Waitomo District Council; or*
 - (ii) To maintain or construct or for the minor upgrading of perimeter fences and fences for stock exclusion; or*
 - (iii) For maintenance of culverts and bridges; or*
 - (iv) For maintenance associated with bank stabilisation and erosion protection; or*
 - (v) For maintenance associated with stormwater detention and treatment facilities facilities; or*
 - (vi) For maintenance purposes or minor upgrading on or within 2 m of existing roads, tracks or water intake/discharge structures; or*
 - (vii) As part of maintenance or minor upgrading of existing drains.*

Activity status where compliance is not achieved: Discretionary

n. That a definition of minor upgrading be included as follows:

Minor Upgrading

means modification of structures and associated earthworks where the effects remain the same or similar in character, intensity and scale. Minor upgrading includes the replacement of structures in the same location, and replacement of parts.



Terry Calmeyer
Associate Director and Environmental Planner
4 November 2024



Terry Calmeyer
Associate Director and Planner

Profile

Terry Calmeyer is a full member of the New Zealand Planning Institute (MNZPI) and an Environmental Practitioner with Certification with the Certified Environmental Practitioner (CEnvP) 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 with a permanent resident visa and full right to work in 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)
- 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 (NZAIA) - 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)

Expertise

EXPERT EVIDENCE

Terry provided evidence to the panel hearing Plan Change 1, Natural Hazards to the Whangarei District Plan on behalf of Channel Infrastructure in February 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.
- 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 (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, appearing to read "T. Calmeyer". The signature is stylized with a large, looped initial "T" and a cursive-style name.

Prepared by: Terry Calmeyer, Associate Director and Planner