

**BEFORE A PANEL OF INDEPENDENT HEARING COMMISSIONERS AT WELLINGTON UNDER THE RESOURCE MANAGEMENT ACT 1991 IN THE MATTER OF WELLINGTON CITY PROPOSED DISTRICT PLAN**

**SUBMISSION OF GRAEME DOHERTY AS AN INDIVIDUAL ON HEARING STREAM 11 – ECOSYSTEMS AND BIODIVERSITY – SEPTEMBER 2024**

**INTRODUCTION**

1. My name is Graeme Keith Doherty. I have lived in Wellington since 1998 and have resided in Huntleigh Park Way with my family since that time.
2. I am a Chartered Professional Civil Engineer, a Chartered Member of Engineering New Zealand (ENZ). Since 2012, as a Practice Area Assessor for ENZ, I have undertaken assessments of persons seeking the Chartered Professional Engineer qualification.
3. Since 2010, I have appeared in Resource Consent Hearings and Private Plan Changes as an expert witness on transport and constructability related matters on behalf of Applicants (Public and Private) and for Territorial Authorities who receive Applications.
4. This submission is made with regard to the National Policy Statement on Indigenous Biodiversity (NPS-IB) correlated to Wellington City’s Significant Natural Areas (SNAs) and the general land area around where I live.
5. Unless otherwise stated, my submission references the “Council Reports and Supporting Material” provided on Council’s website, specifically the “Section 42A Report – ECO and INF-ECO” and its Appendices. [Hearing stream 11 - Plans, policies and bylaws - Wellington City Council](#). I also make reference to IHC Report 5C - Appendix 1B.

**SUBMISSION**

6. SNAs were identified by qualified ecologists, which is consistent with Regional Policy Statement (RPS) 23, as far back as 2013.
7. These SNAs have been shown on previous District Plans and the Spatial Plan, which is consistent with RPS 23 together with policies, rules and methods to protect indigenous ecosystems and habitats from inappropriate subdivision, use and development, which is consistent with RPS 24.
8. Wellington City Council (Council) in June 2022 decided to not show significant indigenous vegetation on private property within the notified Proposed District Plan (PDP)<sup>1</sup>. I believe this decision by Council is inconsistent with Section 75(3)(c) of the RMA as not showing SNAs on private property is not giving effect to Wellington RPS 23.
9. The National Policy Statement on Indigenous Biodiversity (NPS-IB) was Gazetted in July 2023. Section 3.8.2.f of the NPS-IB explicitly states “the boundaries of areas of significant

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<sup>1</sup>[Minutes of Pūroro Āmua | Planning and Environment Committee - Thursday, 23 June 2022 \(wellington.govt.nz\)](#) page 12 Item 10B

vegetation or significant habitat of indigenous fauna are determined without regard to artificial margins (**such as property boundaries**) that would affect the extent or ecological integrity of the area identified.

10. I agree with paragraph 201 of the S42A Report which states that there is not “any out to identifying SNAs on residential zoned land and submit that the notified PDP is accordingly inconsistent with this requirement”.
11. I also note in the same paragraph that, even with the above acknowledgement, Mr McCutcheon still recommends that SNAs on private property not be shown for specific reasons.
12. The reason of “Natural Justice” (para 202 to 206 and para 213 of the S42A report) is centred around landowners not having the ability to enter the Hearings process now.
13. I submit that if there are natural justice issues then these are the result of the process of not showing SNAs on private property adopted by Council in June 2022.
14. Council could have chosen a process consistent with the RMA whereby they showed SNAs on private property, which would have negated these natural justice concerns.
15. In my view Mr McCutcheon is asking the IHP to condone an erroneous decision made by Council. I submit that the IHP reject paragraph 206 of the S42A report and recommend to Council that SNAs on private property be incorporated into the operative District Plan.
16. With reference to paragraph 215 of the S42A Report, I disagree with the recommendation in 215.a, b and c. I submit that RPS 23 and the NPS-IB requires that SNAs be included on private property.
17. In the context of the area that I live, this involves turning the orange colour in the snippet below to purple. This snippet is taken from the “Wellington City Significant Natural Areas Dashboard for S42A report”. [Wellington City Significant Natural Areas Dashboard for S42A report \(arcgis.com\)](https://arcgis.com)

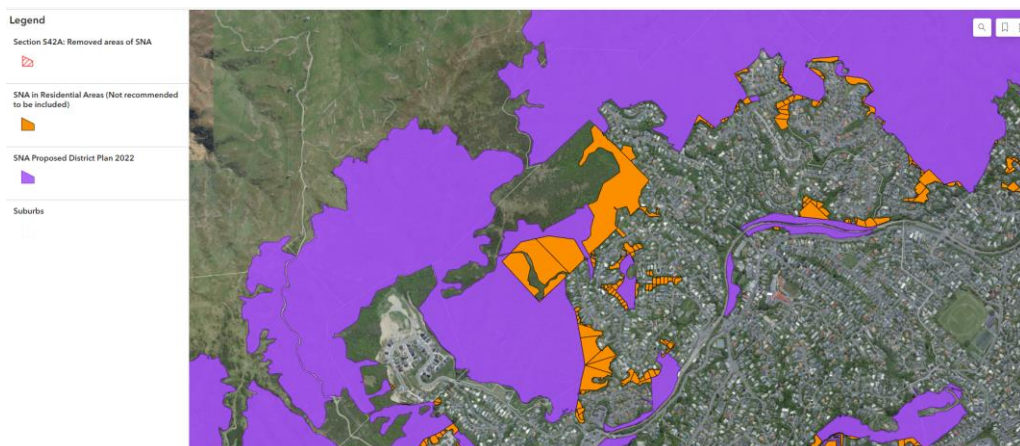


Figure 1 - Snippet from Wellington City Significant Natural Areas Dashboard

18. The orange coloured areas take in 16 Patna Street and 76 Silverstream Road named in my Further Submission (FS078). I also note that orange coloured areas in my general area are assigned to parts of:
- a. 19 Thatcher Crescent;
  - b. 21 Thatcher Street;
  - c. 79 Heke Street;
  - d. 83 Heke Street;
  - e. 11A/B Huntleigh Park Way

To be consistent with RPS 23 and NPS-IB, I submit that the IHP recommend to Council that significant indigenous vegetation currently shown in orange be changed to purple (refer to Fig 1 above) in the Operative District Plan on these properties.

19. The significant indigenous vegetation on these properties is already identified within sites WC060 and WC064 in Appendix D of the S42A Report.

#### **POLICIES, RULES AND STANDARDS ASSOCIATED WITH SNAs**

20. To ensure consistency between the PDP and the NPS-IB, and with reference to Appendix A of the S42A Report, I submit that the following is changed:
21. Remove the word “inappropriate” from ECO-03. The word “inappropriate” is a discretionary term, whereas Policy 7 of NPS-IB states that “SNAs are protected by avoiding or managing adverse effects from new subdivision, use and development”.
- a. NPS-IB Policy 7 allows no discretion beyond avoiding or managing adverse effects of new subdivision, use or development. Allowing a discretion ie a determination of what is “inappropriate” is inconsistent with Policy 7 of the NPS-IB.
  - b. To align the PDP with Policy 7 of NPS-IB, I submit that ECO-03 should be re-written to what is stated in Policy 7 of NPS-IB (refer to paragraph 21 above).
22. Remove ECO-P8.2 and remove the word “significant” from ECO-P8.1.
- a. If ECO-P8.2 (as written in Appendix A of the S42A Report, which is to “minimise”) was adopted, this would be inconsistent with the objective in the NPS-IB, which requires “no overall loss of indigenous biodiversity”.
  - b. Removing the word “significant” from ECO-P8.1 would be consistent with the objective of the NPS-IB in that **any adverse effect** is managed in accordance with the effects hierarchy in ECO-P5 on the basis that ECO-P5 remains as currently written.
23. Remove ECO-R4.1.b and ECO-R4.2.c.
- a. As written, ECO-R4.1.b and ECO-R4.2.c permit trimming, pruning or removal of indigenous vegetation activities up to a particular area (3000 sqM or 100 SqM respectively) outside of a SNA.

- b. It appears that the area size is a de-facto means of determining “adverse effects”, whereas the NPS-IB states that any activities that may adversely affect indigenous biodiversity outside of an SNA must be managed to give effect to the objective and policies of the NPS-IB.
  - c. If ECO-R4.1.b and ECO-R4.2.c (as written in Appendix A of the S42A Report) was adopted, this would be inconsistent with the objective in the NPS-IB, which requires management of effects to achieve “no overall loss in indigenous biodiversity”.
  - d. It is a subtle distinction but permitting vegetation loss on any area, other than those permitted in ECO-R4.1.d or ECO-R4.2.d, is not the same as managing adverse effects to achieve no overall loss of indigenous biodiversity as required by the objective of the NPS-IB.
  - e. The removal of these two sub-rules would then permit vegetation loss for some existing activities and would trigger the requirement for a higher permission threshold for the removal of indigenous vegetation outside of SNAs to be sought for new activities as a restricted discretionary activity, which would then provide the means for Council to achieve consistency with the objective of the NPS-IB of “no net loss in indigenous biodiversity”.
24. To ensure consistency between the PDP and the NPS-IB, I also submit that the Activity Status for “All Zones” for INF-ECO-R43 should be amended from “Discretionary” to “Restricted Discretionary”.
- a. The objective of the NPS-IB is to manage the removal of indigenous vegetation in a SNA to achieve “no overall loss of indigenous biodiversity” and I submit that permitting new infrastructure within a significant natural area should have a higher threshold than being solely at Council Officers discretion. Making this rule into a restricted discretionary activity would provide the means to achieve consistency with the objective of the NPS-IB.
25. To ensure consistency between the PDP and the NPS-IB, I also submit that SUB-P16.1 to P16.5 be removed and the words from ECO-P5.1 to ECO-P5.6 be inserted.
- a. Currently, as written in Appendix 5b of the Subdivision Chapter, significant natural areas are not fully protected from subdivision where adverse effects cannot be avoided, minimised, remedied, offset or compensated. This is inconsistent with the objective and effects management hierarchy of the NPS-IB, which requires that if adverse effects cannot be avoided, remedied, minimised, offset or compensated to achieve no net loss of indigenous biodiversity, then the activity is to be avoided.