

## **Before the Wellington City Council Proposed District Plan Hearings Panel**

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Under the Resource Management Act 1991 (the Act)

In the matter of the Wellington City Council Proposed District Plan–  
Hearing Stream 11:  
**Ecosystems and Indigenous Biodiversity**

- **Ecosystems and Indigenous Biodiversity (ECO)**
- **Indigenous Infrastructure - Ecosystems and Indigenous Biodiversity (INF-ECO)**
- **Schedule 8 – Significant Natural Areas**
- **Appendix 2 – Biodiversity Compensation**
- **Appendix 3 – Biodiversity Offsetting**
- **Appendix 15 – Ecological Assessment**
- **Definitions**

Between **Wellington City Council**  
Local authority

And **Horokiwi Quarries Limited**  
Submitter 271 and Further Submitter FS28

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**Speaking Notes of Pauline Whitney for Horokiwi Quarries Limited**

Dated 11 September 2024

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- 1.1. For the record, my name is Pauline Whitney, an independent planning expert with Boffa Miskell Ltd. You have my evidence and I will take it as read.
- 1.2. I have read the evidence of other submitters, the speaking notes of Greater Wellington Regional Council, and reviewed the late legal submissions of Forest and Bird.
- 1.3. There were three general and two key issues raised in my evidence, as follows:
- 1.4. **General issue 1: The appropriateness of including general IB provisions outside SNA through the hearing process.** This issue has been well canvassed at the hearing. Having listened to the discussion over the past two days, my concerns with the introduction of general indigenous provisions outside SNAs are not alleviated. I understand the gap created by the council decision to not notify SNA within urban areas. However creating a whole new regime for the entire city (and not just urban areas) that have not been subject to sufficient evaluation and ‘testing’ fail to convince me they are the most efficient and efficient method. I too was disappointed as to the lack of evidence presented on the recommendations – but I suggest this reflects that many parties do not have scope or are even aware of the recommendations given they were not signalled at all in the PDP as notified. The issue to be addressed in 3.16 of the NPS-IB is different from that of SNA’s. I would support a plan change to give effect clause 3.16 of the NPS-IB.
- 1.5. **General Issue 2: My concerns remain with the use of the word ‘minimise’ within ECO-P8.** While I accept clause 1 of ECO-P8, in relation to clause 2, given the NPS-IB requires that such effects be ‘managed’, I am not convinced why effects that are not significant should be minimised. This concern is elevated as to the clear lack of evidential basis and testing for the 100m<sup>2</sup> threshold. The lack of supporting policy direction or clarity as to what are the significant effects associated with this clearance further compounds the difficulty with the policy as recommended. I did hear a suggestion yesterday as to the potential use of terms ‘reduce or lessen’ or ‘appropriately mitigate’. My concerns remain. Without any wider policy support or knowledge about the values, what actual effects will council be seeking to reduce or lessen, or mitigate? Is it the amount of clearance, certain types of vegetation, the threatened or at risk status, or vegetation of a certain age? If the overall objective is to maintain indigenous generally (as required by the NPS-IB) how would this be evaluated on a site-specific basis or would it be at a city wide basis? I note ECO-O1<sup>1</sup>

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<sup>1</sup> ECO-O1 Indigenous biodiversity is maintained so there is at least no overall loss in Wellington City.

requires to maintain indigenous biodiversity so there is no overall loss at a city wide level. Arguably ECO-P8 as drafted does not reflect the objective.

- 1.6. I am in agreement that no material (either evidence or a statement) has been provided to the panel on the GWRC RPS PC1. Having been involved with the process (and a party to the Joint Witness Statement on Indigenous Biodiversity) I am aware the provisions have changed significantly through the hearings process. Proposed policy IE.2.A as recommended through the ROR<sup>2</sup> uses the word 'manage' and reference in clause (c) in relation to effects that are not significant, refers to "no overall loss within the region or district as applicable". Such a policy directive could be applied at a city wide level as opposed to a rule and untested area limit which is applied at a site level. Again, the matter is best addressed through a comprehensive plan change process that would allow some alignment.
- 1.7. **General Issue 3: I remain concerned as to when is a 'tree a tree'.** I must admit I found the explanation provided by Mr Goldwater as to how he would define/identify a tree very complicated, and the explanation increased my concerns as to the workability of the condition. I have considered the definition proffered by Mr McCutcheon to adopt the definition in the Lower Hutt City Plan. Without specific wording, I presume the intent is that trees under 3m or less than 300mm diameter at breast height (which I understand to be 1.35m from ground level) would be permitted. While this is pragmatic and workable for a lay person, what are the effects of allowing removal of smaller trees on the maintenance of indigenous biodiversity? What are the effects of such tree removal on the calculation of contiguous area (clause c.) Without wishing to be repetitive, again, given the implications of such a definition, I do question the appropriateness of introducing a term through the hearings process (and in fact the right of reply).
- 1.8. **Key issue 1: Change to boundary/extent of SNA WC109.** I understand this matter is no longer in contention and I support the rebuttal evidence of Mr Goldwater.
- 1.9. **Key issue 2: The officer recommended quarry provisions.** In my evidence I sought recognition of quarries within ECO-P7, and amendment to the rule thresholds within ECO-S2 for quarry activities. I note that no other planning evidence has been lodged on these provisions.

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<sup>2</sup> [HS6-Indigenous-Ecosystems-Right-of-Reply-Appendix-1-Recommended-Amendments-to-Proposed-Provisions-300524-WORD-VERSION.docx \(live.com\)](#), page 21. To assist the panel in understanding the nature of changes resulting from the hearing process, amendments proposed through the ROR are shown in **green**. Amendments recommended through the section 42A report are shown in **red** underlined marked out and further recommended amendments in the HS6: Indigenous Ecosystems rebuttal evidence of Ms Guest and Mr Wyeth are shown in **blue** underlined marked out.

- 1.10. In relation to the legal submissions from Forest and Bird seeking exclusion of 'expansion' within ECO-R1.3.a., I heard some discussion on Wednesday about clarifying this would apply to a new quarry. I would accept such an approach should the word expansion be included.
- 1.11. In relation to policy ECO-P7, my concern remains that the policy is confined to SNAs and there is no policy consideration (for the activities within clauses 1 – 7 of ECO-P7) outside SNAs. In my opinion the policy recognition is equally appropriate outside SNAs and would provide the policy framework for the permitted activities within ECO-R4. The officer recommended rebuttal change does not address my concerns. While I agree the NPS-IB does not have a more defined policy framework in the NPS-IB (Para 49 Rebuttal evidence) for areas outside a SNA, it does recognise the benefits of certain activities as provided in NPS-IB policy 10<sup>3</sup>. Such policy recognition has not been recommended or form part of the officer recommended provisions. Again, in my opinion a more comprehensive pan change is required.
- 1.12. In relation to ECO-S2, I have read the rebuttal evidence of Mr McCutcheon. My concerns remain. While Mr McCutcheon has recommended a change to ECO-S2 and ECO-S3 to move the standard for quarry activities to S3, this will not work in practice as S3 is confined to the General Rural Zone.

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<sup>3</sup> **Policy 10:** Activities that contribute to New Zealand's social, economic, cultural, and environmental wellbeing are recognised and provided for as set out in this National Policy Statement.

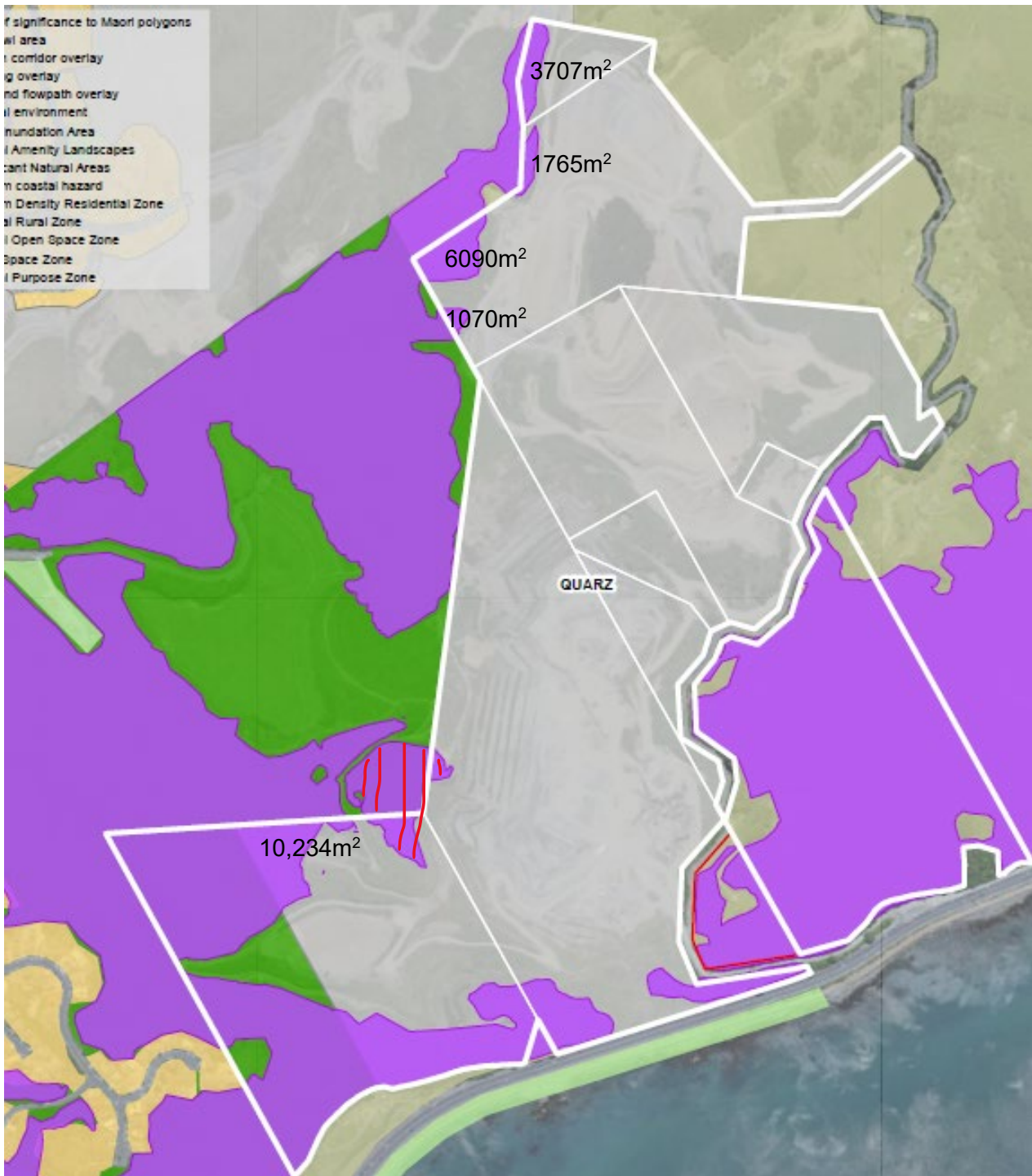
ECO-S2	Vegetation <u>trimming, pruning or</u> removal associated with: <ul style="list-style-type: none"> <li>• maintenance or repair of public walking and cycling tracks including parks maintenance and repair</li> <li>• <del>the continued operation and maintenance of quarries for aggregate extraction</del></li> <li>• <u>maintenance and repair of existing buildings and structures</u></li> </ul>	
All Zones	Vegetation <u>trimming, pruning or</u> removal must: <ol style="list-style-type: none"> <li>1. Not be greater than 2.5m in width to <del>accommodate the track</del>; and</li> <li>2. Not involve removal of any tree with a trunk diameter exceeding that in Schedule 9 as measured 1.4m above ground.</li> </ol>	Assessment criteria where the standard is infringed: <ol style="list-style-type: none"> <li>1. The extent to which the <u>trimming, pruning or</u> removal of <u>indigenous</u> vegetation limits the loss, damage or disruption to the ecological processes, functions and integrity of the significant natural area; and</li> <li>2. The effect of <del>the</del> <u>vegetation trimming, pruning or</u> removal on <del>the identified</del> biodiversity values.</li> </ol>
ECO-S3	Vegetation <u>trimming, pruning or</u> removal associated with: <ul style="list-style-type: none"> <li>• farm access tracks</li> <li>• <u>the continued operation and maintenance of quarries for aggregate extraction</u></li> </ul>	
General Rural Zone	Vegetation removal must: <ol style="list-style-type: none"> <li>1. Be no greater than 5.0m in width to accommodate the access track; and</li> <li>2. Not involve removal of any tree with a trunk diameter exceeding that in Schedule 9 as measured 1.4m above ground; and</li> <li>3. Be solely for the purpose of providing farm vehicle access directly related to farming and primary production activities.</li> </ol>	Assessment criteria where the standard is infringed: <ol style="list-style-type: none"> <li>1. The extent to which the <u>trimming, pruning or</u> removal of <u>indigenous</u> vegetation limits the loss, damage or disruption to the ecological processes, functions and integrity of the significant natural area; and</li> <li>2. The effect of <del>the</del> <u>vegetation trimming, pruning or</u> removal on <del>the identified</del> biodiversity values..</li> </ol>

1.13. I also noted another drafting anomaly in that ECO-R4.2. clause d. is not confined to a site. Whereas clause c. refers to a 'site', clause d. does not. The two clauses are not conjunctive, and could lead to interpretation issues. This is another drafting matter that leads me to the conclusion a full plan change is required to allow a robust planning process.

All other Zones	<p>2. <u>Activity Status: Permitted</u></p> <p><u>Where:</u></p> <p>a. <u>The indigenous vegetation existed as at [date of council decision]; and</u></p> <p>b. <u>An indigenous tree is being trimmed, pruned or removed; <del>or</del> and</u></p> <p>c. <u>The trimming, pruning or removal of a contiguous area of indigenous vegetation on a site (including indigenous trees otherwise permitted to be removed under ECO-R5.2.b) does not exceed 100m<sup>2</sup>; or</u></p> <p>d. <u>The trimming, pruning or removal of indigenous vegetation is to:</u></p> <p>i. <u>Ensure the operation of any lawfully established formed public road or rail</u></p>
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1.14. Notwithstanding the location of the standard, I do not think a 2.5m or 5m width for an access track sufficient to allow for the operation and maintenance of the quarry. To assist the panel below is a very simplistic map showing the existing zoned quarry site, and areas of SNA. I have not included the areas fronting SH2 given other issues with

quarrying these areas. I am aware the areas to the north of the zone form part of the working quarry. A 3000m<sup>2</sup> continuous threshold per site would allow for the continuation of the quarry activity but also set a reasonable threshold to trigger the need for resource consent. I understand Horokiwi is currently exploring options within the northern portion of the site in areas with SNAs. This could potentially involve the placement of overburden associated with the existing operation.



**Pauline Whitney**

11 September 2024