IN THE ENVIRONMENT COURT
AT AUCKLAND

I TE KŌTI TAIAO O AOTEAROA
KI TĀMAKI MAKAURAU

Decision [2025] NZEnvC 295

IN THE MATTER OF	an appeal under Clause 14 of the First Schedule of the Resource Management Act 1991
BETWEEN	FONTERRA LIMITED (ENV-2024-AKL-119) Appellant
AND	HAMILTON CITY COUNCIL Respondent

Court:	Environment Judge S M Tepania sitting alone under s 279 of the Act
Last case event:	15 August 2025
Date of Decision:	9 September 2025
Date of Issue:	9 September 2025

CONSENT DETERMINATION

A: Under section 279(1)(b) of the Resource Management Act 1991, the Environment Court, by consent, orders that:

(1) The appeal is allowed subject to the amendment of the Operative Hamilton City District Plan to include provisions relating to Plan Change 9 as set out in **Appendix A** to this Order; and

(2) The appeal is otherwise dismissed.

B: Under section 285 of the Resource Management Act 1991, there is no order as to costs.

REASONS

Introduction

[1] This consent determination concerns an appeal by Fonterra Limited (**Fonterra**) against part of the third decision of Hamilton City Council (**the Council**) on Proposed Plan Change 9 – Historic Heritage and Natural Environment (**PC9**) to the Operative Hamilton City District Plan (**ODP**).

Background

[2] PC9 is a Council-led plan change pursuant to clause 2 of the First Schedule to the RMA. PC9 is an omnibus plan change which updates the ODP addressing the recognition and protection of Hamilton's historic heritage and natural environments. It comprises five discrete topics, including Significant Natural Areas (**SNAs**).

[3] The SNAs topic involved the mapping of new areas of significant indigenous vegetation and habitats of indigenous fauna as SNAs within Hamilton City in accordance with s 6(c) of the RMA. PC9 also proposed amendments to the objectives, policies and rules in the ODP associated with SNAs.

[4] Fonterra owns and operates 28 manufacturing sites across New Zealand, including the Te Rapa site (**Te Rapa site**) located at 1344 Te Rapa Road in Hamilton.

Original submission and Council Decision

[5] Fonterra made a submission and a further submission on PC9. Relevant to this appeal, Fonterra's submission opposed the proposal to map an SNA identified as SNA C59 (Te Rapa North) (**SNA C59**) on part of the Te Rapa site. The submission identified that part of SNA C59 on the Te Rapa site covers the area within which a wastewater treatment system is located on the property. Fonterra's submission sought that SNA C59 be deleted from the Te Rapa site on the planning map in Appendix 17.

[6] On 3 May 2024, the Council gave notice that it had made decisions on the provisions and matters raised in submissions on the PC9 SNA topic (**Decision**). The Decision retained the mapping of SNA C59 on the Te Rapa site on the planning map in Appendix 17. In addition, it introduced a new permitted activity rule for Fonterra's wastewater treatment plant, Rule 20.3aa. Rule 20.3aa as notified in the Decision provided:

> ***Activities in a Significant Natural Area, Schedule 9C (Volume 2, Appendix 9) which qualifies as an exception pursuant to Clause 3.11(4)(a) of the National Policy Statement for Indigenous Biodiversity 2023***
>
> aa. Activities in Table 20.3 not provided for as permitted activities, including Rules eb., ha. and jc., where any loss of indigenous biodiversity values is necessary to meet the purpose for which the scheduled SNA is excepted:
>
> i. That part of cSNA 59 within the Fonterra site being part of the wastewater system and qualifying as an exception as shown on the Planning Maps;
>
> ii. That part of cSNA 26 at 29 Petersburg Drive within the Hamilton City Council easement for the right to drain water and qualifying as an exception as shown on the Planning Maps.

Appeal

[7] Fonterra subsequently filed this appeal seeking that part of SNA C59 and part of C76 be removed from the Te Rapa site on the planning map in Appendix 17. In the alternative, it sought amendments to Rule 20.3aa to make the application and interpretation of the permitted activity rule clearer, and to provide more certainty to Fonterra that its activities relating to the existing wastewater system will not be impeded.

[8] David and Barbara Yzendoorn (the **Yzendoorns**) have given notice of an intention to become a party to the appeal under s 274 of the RMA.

Agreement reached

[9] Since the appeal was filed, Fonterra and the Council have engaged in direct discussions.

[10] Fonterra and the Council have reached an agreement on changes that will resolve the appeal and address the relief sought by Fonterra in its entirety.

[11] Fonterra and the Council have agreed to amend the planning map in Appendix 17 of PC9 to reduce the extent of SNA C59 on the Te Rapa site as sought in the notice of appeal.

[12] During negotiations, it was identified that a small part of the SNA identified by Fonterra for removal in its submission and its notice of appeal is in fact part of SNA (Waikato River – Te Rapa) C76 (**SNA C76**), not SNA C59. Fonterra and the Council agree that deletion of this small part of SNA C76 does not give rise to any scope issues as the SNA C76 area to be removed was clearly identified as SNA sought to be removed by Fonterra in the maps included in both Fonterra's submission and its notice of appeal. Notably, no further submissions were made in respect of Fonterra's submission.

[13] In addition, as a consequence of the agreed mapping changes, Fonterra and the Council have agreed to amend:

(a) Schedule 9C in Appendix 9: Natural Environments to reduce the area figures for:

(i) cSNA C59 from 10.01ha to 7.57ha;

(ii) cSNA C76 from 8.77ha to 8.67ha; and

(b) Rule 20.3.aa.i in Chapter 20: Natural Environments to remove reference to the Te Rapa site.[1]

[14] Although Fonterra's notice of appeal seeks amendments to Rule 20.3aa in the alternative to the SNA mapping changes sought, Fonterra and the Council agree that deletion of the SNA mapping over the wastewater treatment area renders the reference to the Te Rapa site redundant. On that basis, Fonterra and the Council

[1] The balance of Rule 20.3.aa is the subject of a separate appeal of the Council's decision on PC9.

consider it appropriate that the reference be deleted from the Rule entirely.

[15] The agreed amendments to Chapter 20: Natural Environments; Appendix 9: Natural Environments, Schedule 9C and Appendix 17: Planning Maps are set out in **Appendix A**.

Section 32AA analysis

[16] Section 32AA of the Act requires a further evaluation of any changes to a proposal since the evaluation report was completed.

[17] A s 32AA analysis was undertaken and is attached to this order as **Appendix B**.

Yzendoorn position

[18] The Yzendoorns' s 274 notice stated they were interested in all of the proceedings, particularly "where part of the SNA is an infrastructure area, whether it should be left out of the SNA." The s 274 notice states the appeal is similar to their own appeal against PC9 decisions.[2]

[19] The draft consent documents reflecting the agreement reached between Fonterra and the Council were provided to the Yzendoorns on 18 July 2025.

[20] On 1 August 2025, the Yzendoorns advised the Council that they would not sign the consent memorandum. The Yzendoorns emailed the Court Registry stating:[3]

> … our reasoning for not signing up is that we are bystanders and not party to the appeal between Fonterra Ltd and Hamilton City Council. If those parties have agreed an outcome we are happy for them, they can get on with it. Apart from the very recent correspondence from Ms Thomas we have been excluded from any discussions between those parties so it a nonsense to request our agreement now. We wish to remain fully informed as to all outcomes of this appeal.

[21] Fonterra and the Council were directed to provide any response they wished to

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[2] The Yzendoorns are appellants in ENV-2024-AKL-118 which challenges the PC9 provisions that apply to their property in Hamilton.
[3] Email from D Yzendoorn to Court Registry dated 1 August 2025.

make by 11 August 2025. The Court also directed a Judicial Telephone Conference would be convened on 14 August 2025.

[22] On 11 August 2025, Fonterra and the Council filed a joint memorandum. They proposed that if the Yzendoorns do not oppose the settlement proposal then, as a s 274 party, they could sign the consent memorandum confirming their agreement to the settlement proposal, or give written notice of their wish to withdraw their interest in the appeal. The memorandum stated the changes to PC9 agreed between the Council and Fonterra are specific to the Fonterra Dairy Manufacturing site in Te Rapa, Hamilton. In the Council's view, its level of engagement with the Yzendoorns was appropriate given they are not directly affected by the settlement proposal.

[23] By email dated 12 August 2025, the Yzendoorns stated:[4]

> Our position remains as previously stated: Fonterra and HCC are free to reach whatever agreement they see fit, but we will not be signing the consent order. We do not wish our signature to be taken as agreement with their terms or limit the outcomes we are seeking in our own related dispute with HCC.
>
> When we applied to be a section 274 party, our understanding was that we would be informed of the outcome, not that our agreement would be a condition for the settlement between the main parties. As we are not directly affected by the Fonterra site outcome, I am unsure why our attendance at the JTC is required.

[24] A Judicial Telephone Conference was convened on 14 August 2025.

[25] The consent documents were filed with the Court on 14 August 2025.

[26] By email dated 15 August 2025, the Yzendoorns confirmed that they "have no opposition to whatever decision the Court makes regarding the settlement between Hamilton City Council and Fonterra."

[27] Based on the s 274 notice and the correspondence from the Yzendoorns it appears the Yzendoorns took a watching brief in respect of the appeal.

[28] I am satisfied that the Yzendoorns have been appropriately advised of the

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[4] Email from D Yzendoorn to Court Registry dated 12 August 2025.

agreement reached and given an opportunity to consider it and comment. They have been afforded adequate opportunity to participate in the process. The Yzendoorns understand the Court will be making a determination on the agreement reached.

[29] Further, I acknowledge that the changes to PC9 agreed between the Council and Fonterra are specific to the Fonterra Dairy Manufacturing site in Te Rapa, Hamilton. The Yzendoorns are not directly affected by the Council and Fonterra settlement.

[30] It is the responsibility of a party to duly prosecute their interest in an appeal. In this context the fair and appropriate course is to proceed on the basis that nothing in the Yzendoorns' interest in the appeal precludes the making of the order sought by the consent documents.

Consideration

[31] The Court has now read and considered the consent memorandum of Fonterra and the Council dated 14 August 2025.

[32] The Court is making this order under section 279(1) of the Act, such order being by consent, rather than representing a decision or determination on the merits. The Court understands for present purposes that:

(a) Fonterra and the Council have executed the memorandum requesting this order; and

(b) Fonterra and the Council are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction, and conform to the relevant requirements and objectives of the Act including, in particular, Part 2.

[33] The Court is satisfied that the changes sought are within the scope of Fonterra's submission and appeal.

Order

[34] Under s 279(1)(b) of the Resource Management Act 1991, the Environment Court, by consent, orders that:

(a) The appeal is allowed subject to the agreed amendment of the Operative Hamilton City District Plan to include provisions relating to Plan Change 9 as set out in **Appendix A** to this Order; and

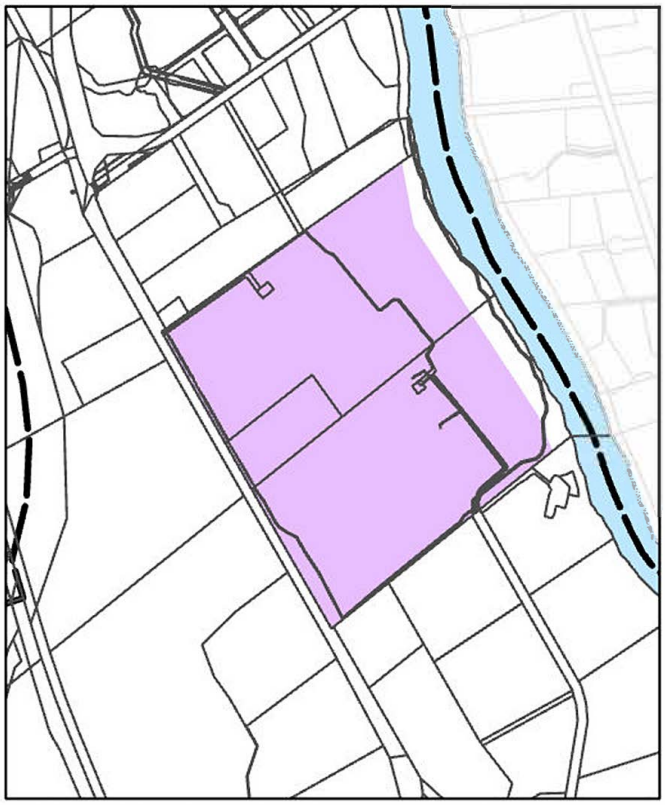
(b) The appeal in its entirety is otherwise dismissed.

[35] Under s 285 of the Resource Management Act 1991, there is no order as to costs.

S M Tepania
Environment Judge | Kaiwhakawā o te Kōti Taiao

Fonterra

Planning Maps



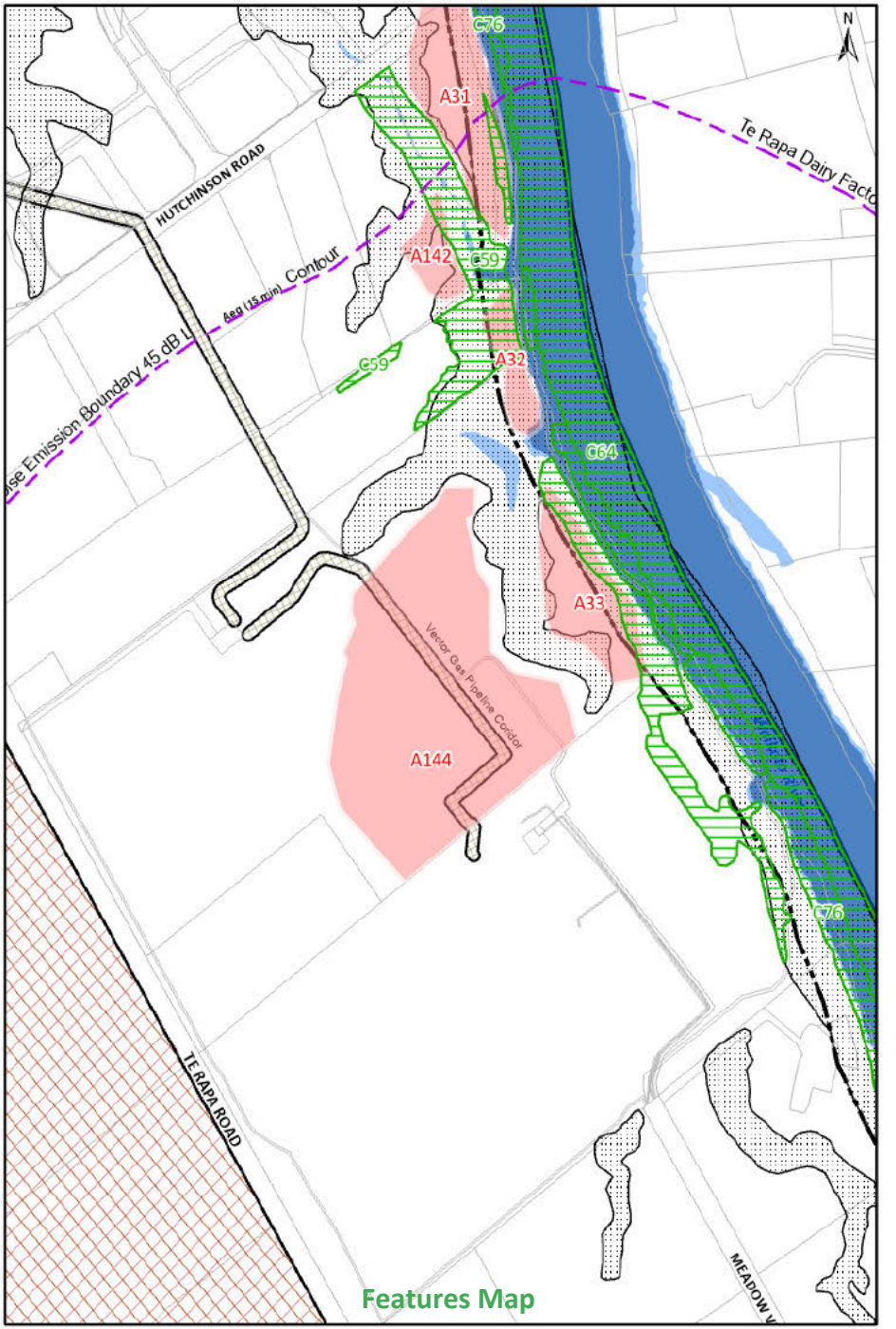
Key

- City Boundary
- Significant Natural Areas
- SNA Exclusions (Rule 20.3 aa.)
- Noise Emissions Boundary Horotiu
- Te Rapa North Industrial Staging
- Designations
- Significant Archaeological Sites
- Waikato Bank Stability
- Waikato Riverbank and Gully Hazard Area
- Vector Gas Transmission Pipeline Corridor
- RailwayLine

Waikato River Flood Hazard Area

- Low
- Medium
- High

Features Map



Features Map

20 Natural Environments

20.1 Purpose

20.3 Rules — Activity Status Table

Activities in a Significant Natural Area, Schedule 9C (Volume 2, Appendix 9) which qualifies as an exception pursuant to Clause 3.11 (4)(a) of the National Policy Statement for Indigenous Biodiversity 2023	**cSNA**	**fSNA**
aa. Activities in Table 20.3 not provided for as permitted activities, including Rules eb.,ha.and jc., where any loss of indigenous biodiversity values is necessary to meet the purpose for which the scheduled SNA is excepted: i. That part of cSNA 26 at 29 Petersburg Drive within the Hamilton City Council easement for the right to drain water and qualifying as an exception as shown on the Planning Maps.	P	P

Schedule 9C: Significant Natural Areas

This Schedule provides a list of Significant Natural Areas in Hamilton City which are also identified on the planning maps. For each SNA, this schedule provides:

- Site ID.
- Site name.
- Area (ha).
- SNA type — ‘Corridor/indigenous fauna habitat SNA’ (cSNA) and 'Floristic SNA’ (fSNA).
- Waikato RPS ecological significance criteria met — the ecological criteria in the Waikato RPS that make the area ecologically significant.
- Significance — national, regional, local.

Significant Natural Area Assessment Method

The sites were assessed using the criteria for determining significant indigenous biodiversity contained in APP5 of the Waikato Regional Policy Statement 2016. An area is to be assessed as a Significant Natural Area if it meets one or more of the 11 criteria in the Waikato Regional Policy Statement. Sites that are assessed as being significant are then assessed as being locally, regionally or nationally significant. The method to identify the Significant Natural Areas involved a review of existing information, datasets and aerial imagery, consultation and external review and ‘ground-truthing’ of selected sites.

Two classifications of Significant Natural Areas

Two classifications of SNAs have been identified in this Schedule:

a. **‘Floristic SNA’ (fSNA):** Distinct areas of wetland or terrestrial vegetation communities dominated by naturally occurring indigenous plant communities or where naturally occurring indigenous vegetation define the primary aspects of the natural area which makes it significant in terms of section 6(c) of the RMA. For example, the area meets criteria 4, 5, 6 or 10 in the Waikato Regional Policy Statement 2016.

b. **‘Corridor/indigenous fauna habitat SNA’ (cSNA):** Areas that are able to be delineated by topographical or vegetation features (such as gully systems) which:

    i. Provides significant fauna habitats (including steppingstone or corridor habitats), including regularly used habitats by nationally At Risk or Threatened indigenous fauna species. For example, the area meets criterion 3 in the Waikato Regional Policy Statement 2016; or

    ii. Provides ecological buffering to a regionally or nationally important SNA. For example, the area meets criteria 7, 8, 9,11 in the Waikato Regional Policy Statement 2016.

As restoration efforts continue in Hamilton City, additional Significant Natural Areas may be created, and these will be added to this Schedule through future plan changes.

cSNA

Site ID	C59
Site name	Te Rapa North
Area (ha)	7.57
SNA type	cSNA
RPS ecological significance criteria met	3,8,10,11
Significance	Regional
Site ID	C76
Site name	Waikato River - Te Rapa
Area (ha)	8.67
SNA type	cSNA
RPS ecological significance criteria met	1,6,11
Significance	Local

Appendix B

ENV-2024-AKL-000119 Fonterra Limited v Hamilton City Council

Appeal of Plan Change 9 to the Hamilton City District Plan

Section 32AA Evaluation

Introduction

This report addresses the relevant statutory tests under the Resource Management Act 1991 ("**RMA**") as they relate to Fonterra Limited's (**Fonterra)** appeal against the Hamilton City Council's ("**HCC**") Third Decision on Proposed Plan Change 9 – Historic Heritage and Natural Environment ("**PC 9**") to the Operative Hamilton City District Plan ("**ODP**"). Part of PC 9 involved the identification and protection of historic heritage and Significant Natural Areas ("**SNA**").

As notified, PC 9 introduced SNA overlays over the gullies on the north-eastern part of Fonterra's Te Rapa Dairy Manufacturing Site ("**Te Rapa Site**"). These gullies form the wastewater and stormwater treatment area for the Te Rapa Site (including various structures regarding that).

The PC 9 Decision dated 3 May 2024 adopted the notified SNA mapping on the Te Rapa site.

On 14 June 2024, Fonterra lodged an appeal with the Environment Court in relation to the location and extent of part of the mapped SNA that applied to the Te Rapa Site.

Following direct negotiations between Fonterra and HCC, both parties agreed on a set of amendments to the SNA mapping which are set out in **Appendix A** to the draft consent orders. Also set out in **Appendix A** are changes that both parties agree are required as a consequence of the SNA mapping changes.

This report is prepared in accordance with the statutory requirements in ss 32 and 32AA of the RMA which are set out below. It undertakes an analysis of the proposed amendments to the decision version of PC 9 as set out in **Appendix A** to the draft consent orders.

Agreement reached ("Settlement Version")

To resolve the appeal, subject to the Court's endorsement, HCC and Fonterra have agreed to amend PC 9 Appendix 17: Planning Maps by removing the part of SNA C59 and the part of SNA C76 shown in red in Figure 1 in the notice of appeal.

The parties also agreed that, for the reasons set out in the joint memorandum of the parties seeking consent orders, as a consequence of the agreed amendments to the planning maps, the following amendments to permitted activity Rule 20.3aa and Schedule 9C are required:

20.3 Rules – Activity Status Table

Activity	**Class**	
Activities in a Significant Natural Area, Schedule 9C (Volume 2, Appendix 9) which qualifies as an exception pursuant to Clause 3.11(4)(a) of the National Policy Statement for Indigenous Biodiversity 2023	cSNA	fSNA
aa. Activities in Table 20.3 not provided for as permitted activities, including Rules eb., ha. and jc., where any loss of indigenous biodiversity values is necessary to meet the purpose for which the scheduled SNA is excepted: ~~i. That part of cSNA 59 within the Fonterra site being part of the wastewater system and qualifying as an exception as shown on the Planning Maps;~~ ~~ii.~~ i. That part of cSNA 26 at 29 Petersburg Drive within the Hamilton City Council easement for the right to drain water and qualifying as an exception as shown on the Planning Maps.	P	P

Amendments to Schedule 9C

Site ID	C59
Site name	Te Rapa North
Area (ha)	~~10.01~~ 7.57
SNA type	cSNA
RPS ecological significance criteria met	3,8,10,11
Significance	Regional

Site ID	C76
Site name	Waikato River - Te Rapa

Area (ha)	~~8.77~~ 8.67
SNA type	cSNA
RPS ecological significance criteria met	1,6,11
Significance	Local

Section 32AA Analysis

Section 32AA of the Resource Management Act 1991 (RMA) states:

32AA Requirements for undertaking and publishing further evaluations

(1) A further evaluation required under this Act—

(a) is required only for any changes that have been made to, or are proposed for, the proposal since the evaluation report for the proposal was completed (the **changes**); and

(b) must be undertaken in accordance with section 32(1) to (4); and

(c) must, despite paragraph (b) and section 32(1)(c), be undertaken at a level of detail that corresponds to the scale and significance of the changes; and

(d) must—

(i) be published in an evaluation report that is made available for public inspection at the same time as the decision on the proposal is notified; or

(ii) be referred to in the decision-making record in sufficient detail to demonstrate that the further evaluation was undertaken in accordance with this section.

(2) To avoid doubt, an evaluation report does not have to be prepared if a further evaluation is undertaken in accordance with subsection (1)(d)(ii).

(3) In this section, **proposal** means a proposed regional policy statement, plan, or change for which a further evaluation must be undertaken under this Act.

Section 32AA of the RMA refers to the requirement in section 32(1) to (4) which provides as follows:

32 Requirements for preparing and publishing evaluation reports

(1) An evaluation report required under this Act must—

(a) examine the extent to which the objectives of the proposal being evaluated are the most appropriate way to achieve the purpose of this Act; and

(b) examine whether the provisions in the proposal are the most appropriate way to achieve the objectives by—

(i) identifying other reasonably practicable options for achieving the objectives; and

(ii) assessing the efficiency and effectiveness of the provisions in achieving the objectives; and

(iii) summarising the reasons for deciding on the provisions; and

(c) contain a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal.

(2) An assessment under subsection (1)(b)(ii) must—

(a) identify and assess the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions, including the opportunities for—

(i) economic growth that are anticipated to be provided or reduced; and

(ii) employment that are anticipated to be provided or reduced; and

(b) if practicable, quantify the benefits and costs referred to in paragraph (a); and

(c) assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.

(3) If the proposal (an **amending proposal**) will amend a regional policy statement, plan, or change that is already proposed or that already exists (an **existing proposal**), the examination under subsection (1)(b) must relate to—

(a) the provisions and objectives of the amending proposal; and

(b) the objectives of the existing proposal to the extent that those objectives—

(i) are relevant to the objectives of the amending proposal; and

(ii) would remain if the amending proposal were to take effect.

(4) If the proposal will impose a greater or lesser prohibition or restriction on an activity to which a national environmental standard applies than the existing prohibitions or restrictions in that standard, the evaluation report must examine whether the prohibition or restriction is justified in the circumstances of each region or district in which the prohibition or restriction would have effect.

Section 32AA(1)(c) of the RMA states that the evaluation required under section 32 of the RMA *"must, despite paragraph (b) and section 32(1)(c), be undertaken at a level of detail that corresponds to the scale and significance of the changes"*.

Purpose of the Proposal and Objectives

The Section 32 Evaluation prepared by HCC as part of PC 9 states (at page 11):

> *"In summary, the proposed policies, methods and rules of the plan change are evaluated against the purpose of the proposal and the existing objectives of the District Plan which are relevant to the proposal."*

In relation to SNAs, the Section 32 Evaluation states:

> *"Significant Natural Areas – the proposal is to review and update the existing SNAs identified in the ODP (excluding those SNA identified in the Peacocke Structure Plan area which have been identified as part of PC5) based on the criteria of ecological significance WRSP; identify additional areas for protection as SNAs (significant indigenous habitat) in addition to indigenous fauna; amend the provisions to focus on the protection of values associated*

with SNAs rather that the existing approach of avoidance of all adverse effects activities in SNAs; and to amend provisions to enable greater flexibility for infrastructure, public access and restoration within SNAs. It is proposed to add an additional 529ha of SNA (including 137ha of the Waikato River) to Schedule 9C: Significant Natural Areas. This is increasing from the 166ha of SNA currently scheduled." (emphasis added)

Notably, it was intended that PC 9 (as outlined in the Section 32 Evaluation) would enable greater flexibility for infrastructure, public access and restoration within SNAs. This is consistent with the exemption for infrastructure in the criteria for determining significant indigenous biodiversity in the Waikato Regional Policy Statement (quoted above):

> APP5 – Criteria for determining significance of indigenous biodiversity
>
> ...
>
> *Areas of significant indigenous biodiversity shall not include areas that have been created and subsequently maintained for or in connection with:*
>
> - *artificial structures (unless they have been created specifically or primarily for the purpose of protecting or enhancing biodiversity);*

As stated above, the PC 9 Decision adopted the notified SNA mapping on the Te Rapa site, which are the provisions supported by the original Section 32 Evaluation.

The gullies subject to the PC 9 SNA overlay under appeal were developed by Fonterra in accordance with resource consents which included a series of weirs, primarily to support the land-based treatment and disposal of wastewater and stormwater associated with dairy manufacturing activities occurring on the site. This treatment system ensured the wastewater and stormwater had contact with Papatūānuku prior to being discharged to the Waikato River.

When the land-based treatment and disposal system was constructed (including a rock outfall to the Waikato River), the existing exotic vegetation around these gullies (consisting of weeds, blackberry bushes, etc.) was cleared and subsequently replanted by Fonterra with native vegetation. This vegetation is what is currently present within the Te Rapa Site and is what is classified as SNA under PC 9.

It is noted that, in addition to the infrastructure within the areas in question, Fonterra allows public access across its land within and adjacent to the SNAs. This includes the Te Awa Cycle Path running along the margin of the Waikato River through the Te Rapa Site and a walking track providing public access to the Mangaharakeke Pa site.

In accordance with *Colonial Vineyard Limited v Marlborough District Council* [2014] NZEnvC 55, and the requirement in s32(1)(b), this report evaluates the changes that are proposed and compares the two reasonably practicable options, being the Decision Version and the Settlement Version.

As no objectives are proposed to be changed in the Settlement Version, there is no need to undertake a further evaluation under s 32(1)(a). The relevant objectives are as follows:

> 20.2.1: Significant Natural Areas are protected, maintained, restored and enhanced.
>
> 20.2.2: Significant habitat for long-tailed bats is protected and enhanced.
>
> 20.2.3: Public awareness and appreciation of Significant Natural Areas and their values is increased.

In terms of the consideration under sections 32AA, it is considered that the removal of SNA C59 and SNA C76 from the wastewater treatment plant area at the Te Rapa Site is the most appropriate means of achieving the objectives of PC 9 and the broader District Plan for the following reasons:

- It better reflects the intent of PC 9. One of the objectives of PC 9 is to provide for greater flexibility for infrastructure within SNAs. The retention of SNA C59 and SNA C76 on the site as per the Decision Version would subject the Te Rapa Site to additional consenting requirements, which as a result, imposes constraints on Fonterra's ability to use its wastewater infrastructure. By contrast, removing those portions of SNA provides Fonterra with more flexibility to carry out its operations.

- It would best give effect to the objectives and policies of the Waikato Regional Policy Statement. The Waikato Regional Policy Statement expressly exempts vegetation associated artificial structures from being identified as an SNA. The vegetation planted around Fonterra's wastewater treatment system is directly connected to that system. Removing the identified portions of SNA is consistent with the Waikato Regional Policy Statement (which excludes vegetation associated with these structures from being identified as SNAs).

- In relation to the efficiency and effectiveness of the provisions (s 32(1)(b)(ii)):

- There is no loss in ecological values caused by the removal of the portion of SNA that sits across the wastewater treatment system. The only parts of SNA that are of ecological value, and can realistically be protected, are the gulleys (not the area being used as a wastewater treatment plant).

- To otherwise include the broader extent of SNA as indicated in the Council Decision's Version of PC9 would be inefficient as it would trigger additional consent requirements that are unnecessary, including for a range of maintenance activities.

- Accordingly, the removal of SNA from the wastewater treatment plant area at the Te Rapa Site (as opposed to the alternative of retaining PC 9 as notified) would be the more efficient and effective way of achieving the objectives of PC 9.

Under section 32(2), the benefits and costs of the effects anticipated from the implementation of the provisions must also be assessed. Given the effectiveness and efficiency considerations outlined above, there are no additional benefits of retaining the Council Decisions Version compared to removing the portion of SNA that sits across the Te Rapa Site. By contrast, as outlined above, there are a number of additional costs in relation to retaining the Council Decisions Version compared to removing the portion of SNA C59 that sits across the Te Rapa Site. These primarily relate to additional consenting costs for routine activities, that have no corresponding benefit. By contrast, removing that portion of SNA C59 provides additional certainty to the landowner (Fonterra).

In relation to section 32(4) of the RMA, there are no national environmental standards that are relevant to the subject matter of this evaluation.

Risk of acting or not acting

There is sufficient information available to support the Settlement Version in the form of expert assessment such that they have a high degree of confidence that the risk of acting/not acting is extremely low.

Reasons for deciding on the provisions

Although the Settlement Version results in a reduction of SNA overlay on the Te Rapa site, critical parts of the SNA overlay remain, including in respect of areas of riparian margins and habitat for fauna directly adjacent the Waikato River, such that the connectivity function of the SNA is not compromised, and important biodiversity

values are maintained in accordance with the relevant objectives.

On balance, the Settlement Version best balances the relevant ecological objectives with Fonterra's ability to operate and maintain its stormwater and wastewater devices on the site.