

**BEFORE THE HEARING PANEL**

**UNDER** the Resource Management Act 1991

**IN THE MATTER** of submissions and further submissions on Upper Hutt City Council Plan Change 49 - Variation 1 to the Operative District Plan Silverstream Spur.

**Submitter** **GUILDFORD TIMBER COMPANY LTD**  
**(Submitter 82, Further Submitter 12).**

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**STATEMENT OF REBUTTAL EVIDENCE OF MICHAEL WILLIAM HALL**

**ON BEHALF OF GUILDFORD TIMBER COMPANY LTD**

**Dated: 15 March 2024**

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**Solicitor Acting:**

Luke Walker  
Mallett Partners  
Level 12, City Chambers  
142 Featherston Street, PO Box 10341  
Wellington  
Tel: (04) 472 0022  
Email: [luke.walker@mallett.co.nz](mailto:luke.walker@mallett.co.nz)

**Counsel Acting:**

PD Tancock  
Harbour Chambers  
Level 1, 5 Cable Street  
PO Box 10-242  
Wellington  
Tel: (04) 499 2684  
Email: [phernne.tancock@legalchambers.co.nz](mailto:phernne.tancock@legalchambers.co.nz)

## **1.0 Qualifications and Expertise**

1.1 My full name is Michael William Hall. I have the experience and qualifications outlined in my evidence in chief dated 17 November 2023.

## **2.0 Scope of Rebuttal Evidence**

2.1 I will cover the following topics in my rebuttal evidence:

- Dr Vaughan Keesing’s rebuttal evidence defining the extent of the Silverstream Spur Significant Natural Area (SNA);
- Comment on the extent of the Silverstream Spur being required for infrastructure (including roading) purposes discussed in the updated s42A Report by Ms Rushmere and the evidence of Mr Goldwater;
- Response to the updated s42A Report amendments and recommendations, and in particular:
  - The revised extent of the Silverstream Spur SNA provided by Mr Goldwater and the assessment against Policy 23 of the Regional Policy Statement (RPS) and Appendix 1 of the National Policy Statement – Indigenous Biodiversity (NPS-IB) - para.s 56; 156 – 159; and 170;
  - Rule NOSZ-R15 regarding further amendments proposed - para.s 196; 210; 262 – 265;
  - Permitted activity standards NOSZ – S4 regarding deletion of these standards – para. 267;
  - Rule NOSZ – R22 regarding amendments proposed – para. 160; 266; 267 (relating to NOSZ.S4);
  - S32AA evaluation update – Section 13.5.

## **3.0 The defining the extent of the Silverstream Spur Significant Natural Area**

3.1 Dr Keesing in his rebuttal evidence reviewed the ecological assessment undertaken by Mr Goldwater and his recommendation that the extent of the Silverstream Spur SNA

UH070 remains in its current form, with the exception of a narrow gully to the west of the SNA. I note in particular that Mr Goldwater considers the area of ponga-mamaku tree fern land satisfies the linkage/connectivity and buffering attributes of the Ecological context criterion in both Policy 23 of the RPS and the NPS-IB.

- 3.2 Dr Keesing disagrees with Mr Goldwater’s assessment and recommendation, and his assessment is based on more extensive investigations of the site over a period of time, including plot data collection across the site. Mr Goldwater has undertaken one site visit that resulted in photographs and a Site Note. In my opinion, Mr Goldwater has not demonstrated the level of investigation or knowledge of the site that Dr Keesing provides, and I do not consider Mr Goldwater’s recommendation to retain the Silverstream Spur SNA in its current form has merit.
- 3.3 For these reasons, I prefer Dr Keesing’s opinion that the linkage/connectivity and buffering attributes of the area of ponga-mamaku tree fern land are not ‘important’ or satisfy the Ecological Context criterion of Policy 23 of the RPS and the NPS-IB (I assess the proposed amendments to Variation 1 to PC49 against the Ecological context criterion in detail below). I would seek the Panel to accept Dr Keesing’s recommendation to reduce the extent of the SNA that he has identified in Figure 5 of his evidence in chief.
- 3.4 The reduction of the extent of the SNA as illustrated by Dr Keesing is preferred, because the excluded area does not meet the ecological context criterion is critical when considering amendments in the updated s42A Report. My planning assessment against this and the provisions against the purpose of PC49 – Variation 1 and the relevant policies and rules is below.

#### **4.0 Extent of the Silverstream Spur being required for infrastructure (including roading) purposes**

- 4.1 In both Mr Goldwater’s evidence (para. 33) and Ms Rushmere’s updated s42A Report (para.s 262-265; page 51<sup>1</sup>) they refer to the s32 Evaluation Report and NOSZ – S4 stating that a road would require approximately 10%<sup>2</sup> of the Silverstream Spur, which

<sup>1</sup> Please note there are also paragraphs numbered 262 – 265 on page 50 which is a formatting error where the matter being discussed is not addressed.

<sup>2</sup> The 10% figure relates specifically to the “site specific infrastructure including a transport corridor” and is included in the Cost/Benefits analysis table on page 31 of the s32 evaluation report as part of the

Mr Goldwater then equates to 3.5 hectares of land (and therefore vegetation removal) being taken for this infrastructure. He concludes that this amount of vegetation removal would have a moderate to high magnitude of effect, depending on what proportion of the 3.5ha comprises indigenous-dominated vegetation. I note the assessment of effects determined by Mr Goldwater appears to be a key factor in Ms Rushmere's recommendation to change the activity status of Rule NOSZ-R15 from controlled to discretionary (which I discuss further below).

- 4.2 It is not clear why the 10% figure was used in the cost/benefit evaluation of option 1 in the s32 Evaluation Report, nor why Forest & Bird referenced the 10% figure in their submission. I also note that NOSZ – S4 in Variation 1 as notified does not refer to the infrastructure requiring 10% of the Silverstream Spur, so Mr Goldwater and Ms Rushmere appear to be wrong in making this statement.
- 4.3 The only engineering evidence provided at the hearing was from Mr Phil Reid on behalf of Guildford Timber Company Ltd. In paragraph 11.1 (ii) of his evidence in chief, Mr Reid outlined that a road of only a minimum of 880m in length would be required to facilitate access to the Southern Growth Area. While detail design of any access road through the Silverstream Spur is yet to be completed, the following can be assumed when considering the extent of the Silverstream Spur required for infrastructure:
- a) The width of the carriageway of the road would provide for two 3.5m wide traffic lanes (as required by NOSZ – S4 Clause 1);
  - b) A footpath or shared path provided on one side of the road only (as required by NOSZ – S4 Clause 2);
  - c) Parallel parking may be provided along one side of the road (as required by NOSZ – S4 Clause 4); and
  - d) Spacing for kerbs and ancillary infrastructure.
- 4.4 The above assumptions would equate to infrastructure (including a road corridor) requiring a width of approx. 13m. The area based on this infrastructure would be approx. 880m long x 13m wide = 11,440m<sup>2</sup>. If a 50% buffer of area is allowed for batter design, this would result in a total minimum area of approx. 17,160m<sup>2</sup> or 1.7ha

(rounded). This is considerably less than 3.5ha determined by Mr Goldwater by on the 10% figure used in the s32 Evaluation Report. And it should be noted this 1.7ha is over land Dr Keesing has assessed as not meeting the Ecological context criterion to be classified as a SNA.

- 4.5 As a result, in my opinion the potential ecological effects identified by Mr Goldwater on the Silverstream Spur of providing the infrastructure required for development of the wider Guildford site (SNA or not) are grossly overstated, and do not justify the amendments to Variation 1 proposed by Ms Rushmere (as I discuss further below).

## 5.0 Response to updated s.42 Report

*The revised extent of the Silverstream Spur SNA provided by Mr Goldwater and the assessment against Policy 23 of the Regional Policy Statement (RPS) and Appendix 1 of the national Policy Statement – Indigenous Biodiversity (NPS-IB) - para.s 56; 156 – 159; and 170*

- 5.1 I note para.s 156 – 159 of the updated s42A Report relies on the ecological assessment undertaken by Mr Goldwater that I have discussed at length above. Based on the assessment and advice of Dr Keesing, I disagree that the significance test of Policy 23 of the RPS and Appendix 1 is met for the area of ponga-mamaku tree fern land for the buffering and linkage/continuity values assessed by Mr Goldwater and adopted in the s42A Report.
- 5.2 I also note the s42A Report incorrectly gives one of the reasons for the significance as the indigenous vegetation provides a 'stepping stone habitat' for birds crossing the Hutt Valley (para. 157). Mr Goldwater has accepted Dr Keesing's position there is no evidence to support this proposition (para. 27 of his evidence), and therefore this matter should not be included as part of the assessment of significance.

While I support the recommendation in para. 170 to rename the area identified as a Significant Natural Area calling it the Silverstream Spur Significant Natural Area, I do not agree with the retention of the spatial delineation of the SNA included in the amended Map on page 59 of the s42A Report. I instead agree with Dr Keesing's evidence and his delineation. I seek the Panel to adopt the extent of the Silverstream Spur SNA as included on the map provided in Appendix B of my evidence in chief. This includes the narrow gully to the north of the site that Dr Keesing has a better

indigenous cover that the area he is removing with greater representativeness and he would retain that area as SNA (para. 3.16 of Dr Keesing's rebuttal evidence).

*Rule NOSZ-R15 regarding further amendments proposed - para.s 196; 210; 262 – 265*

- 5.3 PC49 Variation 1 as notified proposed a new Rule NOSZ – R15 that provided for roads and associated network utility infrastructure, including storage tanks or reservoirs of the Silverstream Spur Natural Area, as a controlled activity, subject to compliance with NOSZ – S4 (being standards for permitted activities that included roading design criteria and ensuring the transport corridor and earthworks are not within the SNA). Matters Council restricted its control over included (amongst other things) the road alignment location and design; protection of any special amenity feature; and effects on biodiversity in the identified SNA. If compliance with NOSZ – S4 is not met, the activity requires a discretionary consent under Rule NOSZ – R15 Clause 2.
- 5.4 This new rule implemented the proposed new Policy NOSZ – P6 that intended to enable infrastructure including a transport corridor. I note that the s.42 Report provided for the hearing recommended amendments to Policy NOSZ – P6 that added provision for future development opportunities where the effects of such development are managed in accordance with NOSZ – P7, and deleted clause 2 that indicated the intention to support for the development of the Southern Growth Area with the need to restore and enhance the biodiversity of the Silverstream Spur. I have addressed my opposition to these amendments in my evidence in chief (para.s 6.42 – 6.49) and I do not intend to repeat these concerns here.
- 5.5 I disagree with the amendments to Rules NOSZ – R15 proposed in the updated s.42A Report for the following reasons:
- a) Based in the evidence and rebuttal evidence of Dr Keesing, the Silverstream Spur SNA can be reduced to that shown on the Map in Appendix B of my evidence in chief which excludes the area of ponga-mamaku tree fern land that does not meet the significance test of Policy 23 of the RPS and the NPS-IB. With this being the case, the controlled activity rule NOSZ – R15 can remain as notified. The proposed infrastructure that would include the road corridor can proceed through the Silverstream Spur, providing access to the remainder of the Guildford site without going into the Silverstream Spur SNA;

- b) Retaining the controlled activity Rule NOSZ – R15 is, in my opinion, the most efficient and effective way of implementing Policy NOSZ – P6 as notified in Variation 1, as required by s.32 of the RMA;
  - c) Retaining the controlled activity Rule NOSZ – R15 is consistent with the policy directives of the NPS-IB in regards to managing the effects on the Silverstream Spur SNA (as defined by Dr Keesing) and importantly implementing the requirements of the NPS - Urban Development (and in particular Policy 6);
  - d) Lastly, I note that regional consents under the Natural Resources Plan (as amended by proposed PC1) for vegetation clearance on highest erosion risk land (woody vegetation) (which includes areas on the Silverstream Spur) and earthworks are also likely to be required. These regional consents would also provide a level of control over ecological outcomes in addition to the requirements of the District Plan.
- 5.6 I therefore seek the controlled activity status of Rules NOSZ – R15 to be retained as notified.
- 5.7 Should the Panel reject the evidence of Dr Keesing and retain the extent of the Silverstream Spur SNA as recommended by Mr Goldwater, I would seek Rule NOSZ – R15 to be changed to a restricted discretionary activity (and not discretionary activity as recommended by Ms Rushmere), with the matters of discretion restricted the matters of control currently applying to the rule (apart for Clause h) which is covered by Rule NOSZ – R22 as discussed below). The reason for this is because, as I discuss below, the s.42A Report provided to the hearing recommended the removal of indigenous vegetation on the Silverstream Spur SNA to be a restricted discretionary activity (Rule NOSZ – R22). I support this, subject to the removal of matter of discretion 3. As the removal of indigenous vegetation as part of the provision of the infrastructure is the most critical ecological effect and this is addressed through Rule NOSZ – R2 as a restricted discretionary activity, it makes no sense to me to require a more restrictive discretionary resource consent application for the infrastructure. It would therefore represent good planning practice to have Rule NOSZ – R15 restricted discretionary.

*Permitted activity standards NOSZ – S4 regarding deletion of these standards – para. 267*

- 5.8 Following on from the above discussion, I disagree with the updated s42A Report recommendation to delete NOSZ – S4 and would seek these standards to be retained as they are required to implement Rule NOSZ – R15 as a controlled activity.

*Rule NOSZ – R22 regarding amendments proposed – para. 160; 266; 267 (relating to NOSZ.S4)*

- 5.9 Rule NOSZ – R22 intends to control the removal of indigenous vegetation in the Silverstream Spur SNA. While the notified Variation 1 to PC49 provided for this activity as a discretionary activity, the s42A Report provided to the hearing recommended the activity status be changed to restricted discretionary activity and I support this recommendation, subject to the removal of matter of discretion 3. As outlined in my evidence in chief, I have not found any justification for having a matter of discretion around the protection of any special amenity feature.
- 5.10 In relation to para. 267 in the updated s.42A Report, I note the amended words indicate that Rule NOSZ – R22 is a discretionary activity – I presume this is a typo that would need to be corrected.

*S32AA analysis update – Section 13.5*

- 5.11 The s42A Report provides a s32AA evaluation in Section 13.5 of the amendments recommended, and the updated Report considers the overall scale of the changes being ‘relatively’ minor (para.278). I dispute this amendment as I consider the proposed amendments, including the recommended change the activity status in the Rules for infrastructure I have discussed above are more than ‘relatively’ minor, regardless of the extent of the Silverstream Spur SNA. In my opinion, the proposed amendments, including with the retaining of the extent of the Silverstream Spur SNA as included in the notified Variation 1 to PC49, are not the most efficient and effective way of achieving the requirements of the NPS – UD and in particular Objectives 1 – 3 and Policies 6; Objectives 22 and 22A and Policies 24, 54, 55 and 58 of the Wellington RPS; and Policy NOSZ – P6 of variation 1 (as notified); and is not the most appropriate way to achieve the purpose of the RMA.



*Conclusion*

- 5.12 In summary, based on the assessment and advice of Dr Keesing, I disagree that the significance test of Policy 23 of the RPS and Appendix 1 is met for the area of ponga-mamaku tree fern land for the buffering and linkage/continuity values assessed by Mr Goldwater and adopted in the s42A Report.
- 5.13 While I support the recommendation in para. 170 to rename the area identified as a Significant Natural Area calling it the Silverstream Spur Significant Natural Area, I do not agree with the retention of the spatial delineation of the SNA included in the amended Map on page 59 of the s42A Report. I instead agree with Dr Keesing's evidence and his delineation. I seek the Panel to adopt the extent of the Silverstream Spur SNA as included on the map provided in Appendix B of my evidence in chief (including the narrow gully Mr Goldwater proposes to remove from the SNA).
- 5.14 The potential effects of the road on the SNA are grossly overstated and as such there is not adequate justification to amend the activity status of the provision of infrastructure under NZOSZ-R15 and removing the controlled activity standards NOSZ – S4. I recommend the retention of the existing rule framework, apart from the retention of the matter of discretion 3 around the protection of the special amenity feature.
- 5.15 Overall I consider that the changes requested on behalf of the Guildford Timber Company Ltd outlined above should be implemented.



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**Michael William Hall**

Dated 15 March 2023