

APPENDIX F: SECTION 32AA EVALUATION ECOSYSTEMS AND INDIGENOUS BIODIVERSITY CHAPTER

Introduction

This section 32AA evaluation relates to the recommended amendments to the Ecosystems and indigenous biodiversity chapter (**ECO chapter**) and supports the discussion, analysis and recommendation in the section 42A report.

A section 32AA evaluation is only required for changes recommended since notification; if there is no change to the notified version, a section 32AA evaluation is not required. The level of detail in this report needs to be at a level of detail that corresponds to the scale and significance of the changes recommended.

The section 32AA evaluation has been structured to focus on the two key areas of recommended changes, being:

1. Amendments to ECO chapter objectives and policies to better give effect to the National Policy Statement for Indigenous Biodiversity (**NPS-IB**)
2. Amendments to ECO-R1 and ECO-R2

The evaluation does not consider amendments to correct drafting errors or insert the 'rules with immediate legal effect' gavel notation. In my view, these amendments do not alter the original intent of the provisions as notified, meaning no further evaluation under section 32AA is required.

1. Amendments to ECO Chapter objectives and policies

The ECO Chapter objectives and policies set the overall framework for protecting areas of significant indigenous vegetation and significant habitats of indigenous fauna, while maintaining indigenous biodiversity across the district. The recommended amendments to the ECO Chapter objectives refine and strengthen this framework and better give effect to the NPS-IB without fundamentally changing the intent of the chapter as notified.

To achieve this, I have recommended amending ECO-O1 and ECO-O4 as follows:

ECO-O1	Protection of significant indigenous vegetation and significant habitats of indigenous fauna
Areas of significant indigenous vegetation and significant habitats of indigenous fauna are protected <u>for current and future generations</u> .	
ECO-O4	Stewardship of indigenous biodiversity
Landowners act as stewards <u>and tangata whenua as kaitiaki</u> in the protection, maintenance and restoration of indigenous biodiversity.	

The amendments to ECO-O1 and ECO-O4 are the most appropriate way to achieve the purpose of the RMA, as demonstrated in the table below.

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Evaluation of objectives	
Part 2 RMA	Comment
Section 5 Purpose	ECO-O1 and ECO-O4, promote sustainable management by protecting significant indigenous biodiversity for current and future generations while recognising the stewardship role of landowners and the kaitiaki role of tangata whenua. This enables people and communities to provide for their social, economic and cultural wellbeing while safeguarding ecological values.
Section 6 Matters of national importance	The amendments strengthen recognition of section 6(c) by reinforcing protection outcomes for areas of significant indigenous vegetation and significant habitats of indigenous fauna.
Section 7 Other matters	The amendments have particular regard to kaitiakitanga and stewardship, efficient use of land, and the intrinsic values of ecosystems, consistent with sections 7(a), (b) and (d).
Section 8 Treaty of Waitangi	Explicit recognition of tangata whenua as kaitiaki better provides for Treaty principles, including partnership and active protection.

Identification of Options to Achieve the Objectives

The following reasonably practicable options have been identified to achieve ECO-O1 and ECO-O4:

Option 1 – Retain ECO chapter policies as notified

Option 2 – Amend ECO chapter policies ECO-P3 and ECO-P4 and insert two new policies to better give effect to higher order direction.

Preferred Option

Option 1 is not preferred as it does not sufficiently recognise long-term protection outcomes, the balance between protecting indigenous biodiversity and providing for infrastructure, restoration priorities or the role of tangata whenua as kaitiaki. Option 2 improves alignment with higher order documents (particularly the NPS-I with respect to ECO-P3 and the NPS-IB with respect to ECO-P4) and provides clearer guidance for decision-making without introducing substantial new regulatory burden. The introduction of two new policies also gives effect to the NPS-IB by outlining priorities for restoration (ECO-PX) and better recognises the role that pest management plays in maintaining indigenous biodiversity (ECO-PY).

Overall, it is considered that Option 2 will best achieve the objectives.

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Evaluation of Preferred Option Against Objectives

This section contains an evaluation of the preferred option identified above, with the evaluation focusing on the recommended amendments to HOSZ-P1

Evaluation of Preferred Option Against Objective(s)		
	Costs	Benefits
Environmental	Potential environmental costs associated with expanding the application of ECO-P3 to all infrastructure and explicitly including repair, however the implementing rules remain relatively narrow in their application of a permitted activity status for infrastructure (refer to Issue 2), which will reduce the likelihood of environmental costs in practice.	Additional support for restoration projects by introducing a policy that specifies restoration priorities. Clearer direction on the management of pest species, particularly the imposition of consent conditions to manage pests (as supported by ECO-PY) may lead to improved biodiversity outcomes over time. Stronger protection for Threatened and At-Risk indigenous species.
Economic	Potential compliance costs for landowners resulting from explicit policy direction that requires landowners to manage pets and pest plants and animal species within their property through consent conditions.	Economic benefits associated with reflecting the intent of the NPS-I to recognise the operational and functional need for all infrastructure (not just regionally significant infrastructure) to traverse or locate in areas with significant indigenous biodiversity values. Benefits associated with explicitly recognising that ECO-P3 allows for the repair of existing structures (including infrastructure), which supports repair rather than replacement, with both a lesser financial and environmental burden.
Social	No identified social costs	No identified social benefits.
Cultural	No identified cultural costs.	Cultural benefits associated with explicitly recognising tangata whenua as kaitiaki of indigenous biodiversity.

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Economic growth provided or reduced	No potential impact on economic growth identified
Employment opportunities	No specific employment opportunities identified.
Uncertain or insufficient info	The amendments to ECO policies are consistent with direction in higher order documents as well as being consistent with ECO policies in other recently prepared district plans. The proposed policies are considered to be an appropriate response to the uncertainty around future changes to the NPS-IB.
Risk of acting or not acting	Low risk of acting as the recommended changes to the ECO Chapter policies are primarily to clarify the original policy intent and better align with higher order policy direction.
Effectiveness	
The proposed amendments will be more effective as they provide stronger links to higher order documents such as the NPS-IB, NPS-I and the RPS and will be more effective in guiding decision-making and achieving biodiversity protection and restoration outcomes, as well as being more effective in recognising tangata whenua as kaitiaki of indigenous biodiversity values. A specific pest management policy also supports processing planners apply appropriate consent conditions to manage pests, which will be effective in protecting Threatened and At-Risk indigenous species.	
Efficiency	
The proposed amendments will be more efficient as many of the amendments (particularly to ECO-P3 and ECO-P4) essentially achieve the same outcome as the notified wording of the ECO Chapter policies but with additional clarity as to intent. This makes reading and understanding the policies more efficient for plan users. The introduction of two new policies is more efficient as a specific restoration policy makes it clear to plan users what restoration activities should be prioritised and a specific pest management policy provides a clear policy link to support pest management exemptions for clearance in ECO-R1.	
Summary	
For the reasons set out above, Option 2 is the most efficient and effective option for achieving the ECO Chapter objectives. As such, Option 2 is the most appropriate option in accordance with section 32AA of the RMA.	

2. Amendments to ECO-R1 and ECO-R2

The ECO rules manage indigenous vegetation clearance across the district. The 'proposal objectives' of the recommended amendments are to:

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- Improve clarity for plan users as to the permitted pathways envisaged for indigenous vegetation clearance in the ECO Chapter; and
- Ensure that the indigenous vegetation clearance thresholds strike a pragmatic balance between minimising cumulative losses of significant indigenous vegetation and habitats while being useable, practical and easy to monitor.

These proposal objectives are the most appropriate way to achieve the purpose of the RMA, as demonstrated in the table below.

Evaluation of objectives	
Part 2 RMA	Comment
Section 5 Purpose	The proposal objective is to have clear and balanced indigenous vegetation clearance rules that aim to minimise cumulative losses of indigenous vegetation while still being pragmatic for landowners. This balanced approach clearly aligns with the sustainable management purpose of section 5, which is to manage the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being.
Section 6 Matters of national importance	Section 6(c) requires the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna. Making indigenous vegetation clearance thresholds more stringent appropriately recognises and provides for this matter, particularly in the absence of SNA mapping to pre-determine the significance of indigenous vegetation.
Section 7 Other matters	Achieving clear, balanced and pragmatic ECO chapter provisions for indigenous vegetation clearance has particular regard to the efficient use and development of natural and physical resources, their finite characteristics and the intrinsic values of ecosystems in accordance with sections 7(b), (d) and (g).
Section 8 Treaty of Waitangi	The objective of the proposal notified does not raise any issues with the principles of the Treaty of Waitangi.

Identification of Options to Achieve the Objectives

The following reasonably practicable options have been identified to achieve the purpose of the proposal, being clear, balanced and pragmatic ECO chapter provisions for indigenous vegetation clearance:

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Option 1 – Retain ECO-R1 and ECO-R2 as notified

Option 2 – Amend ECO-R1 and ECO-R2 as recommended in the section 42A report, with clearer permitted pathways and more stringent general clearance controls to minimise cumulative losses of indigenous vegetation.

Preferred Option

As discussed in the section 42A report, some of the notified clearance exemptions for certain activities and thresholds in ECO-R1 and ECO-R2 are too permissive, particularly when compared to other recently prepared district plans and in the absence of SNA mapping to pre-determine the significance of indigenous vegetation. Retaining ECO-R1 and ECO-R2 as notified increases the risk that cumulative losses of indigenous vegetation will occur across the Kaipara district when compared with Option 2. As such, Option 1 is not the preferred option.

Option 2 includes amendments to ECO-R1 and ECO-R2. Collectively, these amendments improve the balance between clear, stringent rules and thresholds to minimise indigenous biodiversity loss with the need to provide landowners with pragmatic pathways for indigenous vegetation clearance for specified activities by:

- Reducing the permitted clearance area associated with constructing fences for the purpose of managing stock or pests to ensure clearance is kept to a minimum;
- Specifically authorising indigenous vegetation clearance where it is to control unwanted organisms as a response to directions of a person authorised under the Biosecurity Act 1993, which achieves better pest control;
- Clarifying that only titles that exist as at the notification date of the PDP are eligible for permitted clearance to provide for a single residential unit and associated infrastructure, garaging and access, which reduces potential eligibility for this exemption over the life of the PDP;
- Reducing the age of vegetation eligible to be cleared from previously cleared land from 10 years to 5 years under ECO-R1, ensuring more established vegetation is subject to the general clearance thresholds in ECO-R2;
- Clarifying that clearance for tracks associated with infrastructure is a permitted activity, to enable the efficient operation, repair or maintenance of infrastructure as required;
- Reducing the permitted thresholds in ECO-R2 for all zones to reduce the risk of cumulative losses of indigenous biodiversity without the opportunity to assess its significance; and
- Removing the information requirement for an ecological assessment in ECO-R2 but replacing it with a matter of discretion relating to Appendix 5 of the Northland Regional Policy Statement (RPS) and a restricted discretionary (rather than discretionary) activity status.

In my view, these amendments will achieve the purpose of the proposal as they are a mix of more stringent (e.g. lower clearance thresholds) and more permissive (e.g. amending activity status of ECO-R2) changes that will achieve the necessary balance between protection and pragmatism. The other amendments to clarify interpretation of provisions in ECO-R1 (e.g. allowing for Biosecurity Act authorised clearance, including garages and infrastructure access tracks) will make it easier for plan users to understand the scope of activities that have exemptions from ECO-R2 thresholds.

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Overall, it is considered that Option 2 will best achieve the objective.

Evaluation of Preferred Option Against Objective

This section contains an evaluation of the package of amendments to ECO-R1 and ECO-R2 outlined above.

Evaluation of Preferred Option Against Objective(s)		
	Costs	Benefits
Environmental	Removal of the requirement to provide an ecological assessment may increase potential indigenous biodiversity loss if vegetation is not assessed through the resource consent process however risk offset by new matter of discretion requiring RPS Appendix 5 assessment.	Reduced indigenous vegetation clearance thresholds, amendments to the cleared vegetation age and adding a date for existing titles in ECO-R1 and ECO-R2 reduce the risk of indigenous biodiversity loss in the absence of SNA mapping. Specific reference to the Appendix 5 criteria from the RPS in ECO-R2 will require consideration of those criteria in resource consent applications, potential improving indigenous biodiversity outcomes.
Economic	Potential increase in the costs associated with resource consent applications due to lower permitted clearance thresholds and (in some cases) narrower criteria for exemptions under ECO-R1.	Potential reduction in the costs associated with resource consents for garages on existing titles, access tracks for infrastructure and clearance associated with pest management under the Biosecurity Act. Reduction in costs associated with removing the mandatory requirement to provide an ecological assessment to be a restricted discretionary activity.
Social	No identified social costs.	Clarifying that a garage is anticipated as part of an application for a single residential dwelling helps support people provide for their housing needs on existing sites where indigenous vegetation clearance is required.
Cultural	No identified cultural costs	No identified cultural benefits

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Economic growth provided or reduced	No potential impact on economic growth identified
Employment opportunities	No employment opportunities identified
Uncertain or insufficient info	The package of amendments is consistent with those used in the ECO chapters of similar district plans where SNA mapping has not been undertaken. The use of a list of exempt activities combined with clearance thresholds is a common and well understood approach to managing the clearance of indigenous vegetation. The proposed amendments are considered to be an appropriate response to the uncertainty around future changes to the NPS-IB.
Risk of acting or not acting	Low risk of acting as the package of amendments reduce the risk of cumulative losses of indigenous vegetation over the life of the PDP, compared to the ECO provisions as notified.
Effectiveness	
The proposed amendments are more effective than the ECO provisions as notified as reduced indigenous clearance thresholds in both ECO-R1 and ECO-R2, combined with more refined permitted pathways in ECO-R1, will be more effective in protecting indigenous biodiversity and reducing the risk of cumulative losses indigenous vegetation over time.	
Efficiency	
The proposed amendments are more efficient than the ECO provisions as notified as the changes remove ambiguity from the ECO-R1 listed exemptions, which reduces the chance that they will be misinterpreted by plan users. Removing the information requirement for an ecological report from ECO-R2 and replacing it with a requirement to assess a proposal against the Appendix 5 RPS criteria is more efficient as it will allow clearance of areas of indigenous vegetation (or mixed indigenous and exotic vegetation) with low indigenous biodiversity values to be considered through the resource consent process without the need for a mandatory expert report, while still giving Council the option to require such a report if required.	
Summary	
For the reasons set out above, Option 2 is the most efficient and effective option for giving effect to the proposal objective. As such, Option 2 is the most appropriate option in accordance with section 32AA of the RMA.	