

BEFORE THE INDEPENDENT HEARING PANEL

IN THE MATTER

the Resource Management Act 1991

AND

Proposed Kaipara District Plan – Ecosystems and
Indigenous Biodiversity chapter

**ECOSYSTEMS AND INDIGENOUS BIODIVERSITY CHAPTER
LEGAL SUBMISSIONS
ON BEHALF OF THE DIRECTOR-GENERAL OF CONSERVATION**

Submitter No. 304

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EXECUTIVE SUMMARY OF KEY POINTS

1. These submissions are provided on behalf of the Director-General of Conservation Tumuaki Ahurei (DG) and the Department of Conservation (DOC) in regard to the Proposed Kaipara District Plan – Ecosystems and Indigenous Biodiversity Chapter (PKDP-EIB).
2. The DG is the administrative head of DOC. The statutory functions of DOC under section 6 of the Conservation Act 1987 include advocating for the conservation of natural and historic resources generally. The DG also has delegated authority in relation to the Minister of Conservation's statutory responsibilities under the Resource Management Act 1991 (RMA), including in relation to the New Zealand Coastal Policy Statement 2010 (NZCPS).
3. The DG lodged a submission on 30th June 2025 and a further submission on 15th December 2025. The DG acknowledges and appreciates many changes have been made to respond to issues, most recently in the Section 42A Addendum, Ecosystems and Indigenous Biodiversity prepared for the Proposed Kaipara District Plan, Jerome Wyeth, 3 June 2026, (the s42A Addendum).
4. However, some residual concerns remain. It is important these are addressed because this Chapter frames decision-making on activities affecting ecosystems and indigenous biodiversity in the district for at least 10 years. And this is a district where only 16% of indigenous biodiversity cover remains.
5. The DG seeks the following changes:
 - i. **ECO-P2** - amend this policy to require avoidance of adverse effects in significant areas and apply the more appropriate effects management hierarchy where avoidance is not possible;
 - ii. **ECO-PY** – use the clearer expression 'adverse effects' rather than risks for pest and pet management;
 - iii. **ECO-R1.k. and ECO-R1.2** – change status of harvesting under the Forests Act 1949 from permitted without any discretion to a restricted discretionary status, to enable appropriate consideration under the right legislation; and
 - iv. **ECO-R1 and R2 – Advice Note** - include an advice note to aid plan

users so they know about important rules for kauri dieback when clearing or disturbing land.

6. Expert evidence has been prepared to assist the panel that supports these changes:
 - i. Dr Ilse Corkery – Effects Management Hierarchy;
 - ii. Mr. Andrew Townsend – Ecological Significance Criteria;
 - iii. Dr Tony Beauchamp - Terrestrial Ecology; and
 - iv. Mr. Ronan Whitelock – Planning (both Evidence in Chief and Rebuttal Evidence).

7. All experts will be available at the hearing to assist the Panel in its deliberations.

8. Many changes proposed by the DG are in alignment with the National Policy Statement for Indigenous Biodiversity (NPS-IB). Of particular importance is the inclusion of the effects management hierarchy in ECO-P2. Mr. Wyeth has attempted some changes to recognize elements of the hierarchy in his S42A Addendum in ECO-P2 but it is piecemeal and without reference to the NPS-IB. Protection will not as clearly be achieved. Dr Corkery's evidence shows how crucial the effects management hierarchy is to maintaining indigenous biodiversity.

9. As there appears to be some inconsistency in the approach to implementation of the NPS-IB in the proposed plan, it is important to clarify that wherever the Panel lands on the recommended extent of NPS-IB implementation, the effects management hierarchy is a crucial tool to be utilised. It could be utilised while relying on section s6(c) and s31 (1) (b) (iii). However, it is submitted the approach developed by Mr. Whitelock and supported by expert evidence, should be preferred.

CONTEXT

10. The Kaipara District has already suffered extensive loss of its indigenous biodiversity mostly due to land clearance for agricultural activities, current rules: *“...are unique in that they are either very permissive or very restrictive and depend entirely on the height and size (in hectares) of the vegetation rather than a defined threshold for clearance (as a permitted activity).”*¹
11. This has contributed to loss for many years. Approximately 16% of indigenous cover remains.² Council says the proposed plan will be a ‘substantial shift’.³ This requires a well-crafted plan that effectively addresses further loss.
12. An important fracture in the Council’s approach, discussed in the Section 32A Report, is the attempt to achieve the necessary substantial shift while side-stepping the NPS-IB entirely⁴. The Council proposes that rules will be updated to ‘align with the NZCPS and Northland Regional Policy Statement [RPS]’.⁵ But not the NPS-IB. This approach is problematic.
13. In some circumstances such as the Regional Policy Statement (RPS) and NPS-IB methods for assessing significance described in the evidence of Mr. Townsend, results will be roughly equivalent and therefore likely satisfactory. But in many other respects such as the effects management hierarchy discussed by Dr. Corkery, the result may well be inferior employing out-of-date methods, potentially driving further losses.
14. Exacerbating this is the internal inconsistency in the way in which the NPS-IB is treated as guidance. For example, in his s42A Addendum, Mr. Wyeth appears to draw on consistency with the NPS-IB when assessing the evidence of Mr. Badham for Northpower.⁶ Mr. Wyeth also agrees a change proposed by Mr. Whitelock ‘can and should’ be made to better align with

¹ Kaipara District Plan Review – Ecosystems and Indigenous Biodiversity – Section 32 Evaluation Report (the Section 32 Report), Table 1: Assessment of Scale and Significance of Effects, page 4.

² Supra, paragraph 3.

³ Supra at note 1.

⁴ Kaipara District Plan Review – Ecosystems and Indigenous Biodiversity – Section 32 Evaluation Report (the Section 32 Report), para 6, page 4.

⁵ Supra at note 1.

⁶ S42A Addendum, para 30c and 30d.

Clause 3.16 of the NPS-IB.⁷ And Mr. Wyeth recommends a new policy ECO-PX (Restoration priorities) which gives effect to Clause 3.22 in the NPS-IB, as restoration of indigenous biodiversity was within the scope of the notified ECO Chapter. Mr. Wyeth also relies on Clause 3.10(6)(e) in the NPS-IB which provides a specific exemption from the Significant Natural Areas (SNA) protections for “the harvest of indigenous tree species from an SNA that is carried out in accordance with a forest management plan or permit under Part 3A of the Forests Act 1949. Equally he relies on an approach of not implementing the NPS-IB when rejecting incorporation of the effects management hierarchy in ECO-P2.

15. There appears to be a picking and choosing when to have recourse to the NPS-IB. It is unclear whether the Panel and submitters are to wholly ignore the NPS-IB in force when it comes to an EIB Chapter or just selected parts of it. This is confusing.
16. Furthermore, the Council and Mr. Wyeth appear say it is more efficient to see what happens with any reform that may occur. This is not appropriate. It second guesses whether the planning framework that is actually in force, will remain so by “*deferring giving effect to those provisions to*” an “... *alternative process under a new planning system.*”⁸
17. The role of the district plan is to integrate what is in force in the context of this district, giving effect to: any national policy statement; any New Zealand coastal policy statement; a national planning standard; and any regional policy statement. ‘Kicking the can down the road’ on one of these when parliament has made clear that only parts of it don’t apply and the rest is still in force, is to misapply the solution parliament provided.
18. If the NPS-IB provisions made it unenforceable in part, parliament would have deferred the NPS-IB in its entirety. It did not. And that is not how s78 of the RMA which disapplied SNA provisions, is framed.
19. Councils are still required to give effect to this national direction as soon as reasonably practicable. It is difficult to imagine a more reasonably practical and efficient time than when an EIB Chapter for the district is being

⁷ S42A Addendum, para 61b.

⁸ S42A Addendum, para 42.

formulated. The Panel is left with having to make recommendations on an important overlay chapter in a proposed plan on the proviso that it will be written properly at some later time if there is reform. The law on this is examined below.

THE LAW

20. There are statutory requirements in the RMA and its subordinate instruments, governing the protection of indigenous biodiversity.

Resource Management Act 1991

21. Under the RMA:
- i. Section 6(c) requires councils to recognise and provide for the protection of significant indigenous flora and significant habitats of indigenous fauna as a matter of national importance.
 - ii. District councils are required to prepare and amend their district plans in accordance with their functions under section 31. Under section 31(1)(b)(iii), the council's function is the maintenance of indigenous biological diversity.
22. Section 74 sets out the matters that a territorial authority must consider when preparing or changing its district plan. In particular, under section 74(1)(ea), the territorial authority is required to prepare or change its district plan in accordance with any applicable national policy statements. Accordingly, the proposed Plan must give effect to relevant national policy direction when making amendments to the district plan.
- iii. Section 75 addresses the contents of district plans. District plans must "give effect to" national policy statements pursuant to section 75(3) of the RMA. "Give effect to" means "implement". It is a strong directive creating a firm obligation on the territorial authority.⁹ Therefore, Council is required to ensure that the Proposed Plan gives effect to the NPS-IB.

Higher order documents

23. A National Policy Statement (NPS) is a statutory instrument issued under section 52 of the RMA (s2, definition of "national policy statement"). The

⁹ Environmental Defence Society Inc v The New Zealand King Salmon Co Ltd [2014] NZSC 38, at 77.

purpose of an NPS is to state the objectives and policies for matters of national significance relevant to achieving the sustainable management purpose of the RMA.¹⁰

24. NPS' sit at the top of the RMA's three-tiered planning hierarchy (national, regional, district) and provides direction for lower-order planning documents.

National Policy Statement for Indigenous Biodiversity

Resource Management (Freshwater and Other Matters) Amendment Act 2024

25. Prior to the reforms, the NPS-IB included obligations on district councils to identify and map SNAs in district plans and to do so, as soon as reasonably practicable.¹¹ However, on 25 October 2024 the Resource Management (Freshwater and Other Matters) Amendment Act 2024 (Amendment Act) came into force. The Amendment Act inserts a new s78 to the RMA. It defers requirements to identify and map new SNAs for three years from the commencement date of the Amendment Act.
26. That said, section 78(3) confirms that the obligation in Clause 4.1 (for the Council to give effect to the NPSIB as soon as reasonably practicable), "...continues to apply in relation to the other provisions of the NPSIB 2023".
27. The result is that the Amendment Act does not change the obligations that apply to the Council in relation to the NPS-IB, except for those sections outlined in section 78 of the RMA.

Giving effect to the NPS

28. The High Court in *Southern Cross Healthcare Ltd v Eden-Epsom Residential Protection Society Inc*¹² confirmed that decision-makers must properly give effect to the objectives and policies of NPS.
29. The Court rejected any approach that involves decision-makers "picking and choosing" which provisions to apply, emphasising that objectives and policies must be read together and given coherent effect as an integrated

¹⁰ Section 45, RMA; see also *Environmental Defence Society Inc v New Zealand King Salmon Co Ltd* [2014] NZSC 38 at [11(a)] and *Muaūpoko Tribunal Authority Inc v Minister for the Environment* [2023] NZCA 641 at [28(a)].

¹¹ NPS-IB, clauses 3.8 and 3.9.

¹² *Southern Cross Healthcare Ltd v Eden-Epsom Residential Protection Society Inc* [2023] NZHC 948.

whole. Accordingly, when preparing or changing district plans under s74 of the RMA, councils are required to give full effect to all relevant provisions of the NPS-IB, rather than relying on or prioritising only those elements that align with preferred outcomes.

Protection of significant indigenous biodiversity outside identified significant natural areas

30. The three-year deferral of the requirement in the NPS-IB to map SNAs does not diminish the duty that section 6(c) imposes on the council, as a matter of national importance, to protect significant indigenous biodiversity.
31. The objective of the NPS-IB is no overall loss of indigenous biodiversity.¹³ To achieve that objective, the NPS-IB provides direction to councils to protect, maintain, and restore indigenous biodiversity, including promoting net gain outcomes where practicable to enhance biodiversity values over time and ensure that restoration and enhancement offset ongoing pressures and past losses.

CAN THE PANEL DECIDE TO GIVE EFFECT TO THE NPS-IB?

32. The Panel has the power to recommend that the proposed plan gives effect to the NPS-IB non-SNA provisions, even if the Council itself has not proposed this in the plan.
33. If the Panel considers it necessary to give effect to the NPSIB's non-SNA provisions it may recommend changes.¹⁴ The Council, in turn, must assess the recommendations against its statutory obligations, which include giving effect to national policy statements.¹⁵
34. The rationale that the Council can delay until there is 'a new planning system' is inappropriate. District councils must engage with the law in force at the time. It is submitted that any 'reluctance' preventing implementation should not be given decisive weight by the Panel.¹⁶

¹³ NPS-IB, clause 2.1.

¹⁴ s74, RMA - matters to be considered by a territorial authority.

¹⁵ s75, RMA - contents of District Plans.

¹⁶ Section 42A Report Addendum, para 58.

35. The current approach leads to confusion, risks Council not performing its functions under the RMA, and may lead to poorer outcomes for indigenous biodiversity. This is particularly clear in regard to utilisation of the effects management hierarchy examined in more detail below.

RELIEF SOUGHT

ECO-P2 AND THE EFFECTS MANAGEMENT HEIRACHY

36. The evidence of Dr. Corkery is that the NPS-IB provides the most recent, directive and nationally consistent framework for managing adverse effects on indigenous biodiversity. She clearly shows how reliance on the RPS alone as suggested by Mr. Wyeth, introduces a material risk that the district plan will:
- i. apply an incomplete or simplified version of the effects management hierarchy;
 - ii. lack clear thresholds for when offsetting or compensation is appropriate; and
 - iii. fail to give full effect to current national direction, particularly in relation to managing residual effects.¹⁷
37. Mr. Wyeth does not accept Mr. Whitelock's framing of ECO-P2 to include this hierarchy but in his s42A Addendum suggests additional guidance on sequencing concluding with options for biodiversity offsetting, then biodiversity compensation 'where appropriate'.
38. This does not address the issues raised in the evidence of Dr. Corkery. The framing of ECO-P2 still does not resolve whether offsetting will be applied to impacts that should have been avoided, or that offsetting and compensation are used without clear limits, or that outcomes may fall short of maintaining indigenous biodiversity (or achieving a net gain).
39. Applied to wetland loss for the threatened nationally critical species Australasian Bittern in Kaipara for example, Dr. Corkey describes how incremental loss through misunderstanding and misapplication of effects management could affect a breeding population to the point where it may be

¹⁷ Dr Corkery EIC, para 18-20.

lost or significantly reduced.¹⁸

40. By contrast, Mr. Whitelock's proposed wording for ECO P-2 allows for a clear and staged process and clear criteria at each step, folding in Appendix 5 significance criteria and relevant requirements in NPS-IB - 3.10, 3.11 and 3.16.
41. Mr. Wyeth agrees the effects management hierarchy "...is based on international and national best practice in relation to indigenous biodiversity. In this respect, I am in broad agreement with Mr Whitelock and supporting experts that NPS-IB provides a more recent, direct and more specific approach to managing effects on significant biodiversity values."¹⁹
42. But the latest s42A Addendum framing, without this '*more recent, direct and more specific approach*' may risk biodiversity is not actually maintained, as illustrated by a 'death by a thousand cuts' example with Australasian Bittern.
43. As noted above, there appears to be many inconsistencies in Mr. Wyeth's recommendations in relation to the implementation of the NPS-IB. In regard to ECO-P2, Mr. Wyeth confirms that it could be amended to align with clause 3.16 of the NPS-IB,²⁰ but raises concerns about complexities and practical challenges, particularly the need to incorporate a range of definitions and further amendments into the proposed Plan to support consistent application of the effects management hierarchy.²¹
44. Appendix A of Mr. Whitelock's primary evidence already provides definitions for the effects management hierarchy, biodiversity compensation, and biodiversity offsetting. Furthermore, any difficulties in regard to scope could perhaps be overcome through other submitters seeking the inclusion of these definitions, if that is appropriate in the circumstances.²² Accordingly, this need not be a complex or onerous task.

¹⁸ Dr Corkery EIC, para 27-30.

¹⁹ S42A Addendum, para 57.

²⁰ Section 42A Addendum, para 61(a).

²¹ Section 42A Report Addendum, para 59 (e).

²² Royal Forest and Bird Protection Society of New Zealand Incorporated submission point no: 149.39, 149.41, and 149.145.

45. It is submitted Mr. Whitelock's wording for ECO-P2 more appropriate, gives effect to national direction in force, addresses s6(c) RMA better, aligns with the Council's function of maintaining indigenous biodiversity in the district and therefore should be preferred.
46. Mr. Whitelock has identified an omission in clause (2) in the drafting of his recommendation on ECO-P2. In particular, clause (2) does not align with clause 3.10(2) of the NPS-IB, which requires specific adverse effects on SNAs from any new subdivision, use, or development to be strictly avoided. Mr. Whitelock's drafting would allow those adverse effects to instead be managed through the effects management hierarchy where the specific adverse effects cannot be avoided.
47. This is an error. To assist the Panel, Mr. Whitelock has prepared amendments addressing this issue. This amendment is included in a separate Memorandum of Counsel which also addresses some cross-referencing errors. As time is pressing, Mr. Whitelock's drafting is also attached to this legal submission as Appendix 1. Mr. Whitelock will be available to speak to this further at the hearing.

HARVESTING INDIGENOUS TIMBER UNDER THE FORESTS ACT 1949 AND THE RESOURCE MANAGEMENT ACT 1991

48. The Forests Act 1949 Part 3A deals with harvesting of indigenous timber from forests on private land. But the test applied regarding the associated sustainable harvesting management plan, is more narrow than the RMA, and involves different processes and people.
49. The evidence of Mr. Townsend describes how vegetation clearance under the Forests Act may involve important values for biodiversity conservation, for example clearing vegetation that supports kiwi.²³ In addition, he lists many Threatened or At Risk flora known to be present in forest remnants in Kaipara.
50. He concludes: "*In my opinion, given the high diversity encountered in forest remnants, and the possibility of encountering a Threatened or At Risk*

²³ Mr. Townsend EIC, para 63.

species, it is appropriate that an assessment is undertaken under the appropriate criteria (NPS-IB or RPS), before allowing clearance of indigenous forest under the Forests Act 1949.”²⁴

51. Mr. Whitelock has proposed this harvesting be changed from permitted status to restricted discretionary – so the activity can be given further consideration with reference to appropriate RMA criteria. (An example of a recent similar approach in practice from the New Plymouth Part Operative District Plan, is provided at Appendix 2.)
52. The Forests Act Part 3A regulates the felling of indigenous forests, and section 67B sets out the purpose of that part, which is *“to promote the sustainable forest management of indigenous forest land”*. The Forests Act defines *“sustainable forest management”* as *“the management of an area of indigenous forest land in a way that maintains the ability of the forest growing on that land to continue to provide a full range of products and amenities in perpetuity while retaining the forest’s natural values.”*
53. Sustainability in the Forests Act relates to the forest’s ability to provide a full range of products and amenities in perpetuity. It is clear this purpose is significantly different to the purpose of the RMA.
54. The Council’s role is the protection of significant indigenous vegetation and habitats and the maintenance of biological diversity. Managing the felling of trees in an area that may be a significant habitat of fauna or by reference to a permit granted under the Forests Act amounts to an abdication of the Council’s own obligations under the RMA. Council cannot safely conclude that an assessment made by staff of Te Uru Rakau *New Zealand Forest Service*, under a different piece of legislation, provides assurance that the purpose of the RMA will be achieved and permit the activity on this basis.
55. Mr. Wyeth also relies on Clause 3.10(6)(e) in the NPS-IB which provides a specific exemption from the SNA protections for *“the harvest of indigenous tree species from an SNA that is carried out in accordance with a forest management plan or permit under Part 3A of the Forests Act 1949”*.

²⁴ Mr. Townsend EIC, para 70.

56. However, this activity is not exempt from clause 3.16 of the NPS-IB which requires any significant adverse effects on indigenous biodiversity outside of SNAs is managed by applying the effects management hierarchy.
57. Therefore, it is submitted that the drafting of ECO-R1.k and ECO R1.2 proposed by Mr. Whitelock is the most appropriate way to approach this activity in the district plan context.

ECO-R2 – ADVICE NOTE FOR INTEGRATED RESOURCE MANAGEMENT ON KAURI DIEBACK

58. Amendments to the chapter are proposed that ECO-R2 include a helpful Advice Note on Kauri dieback, which is a key issue for maintenance of indigenous biodiversity in Kaipara, discussed in the evidence of Dr. Beauchamp. The main contributor to spread of the disease is movement of contaminated vegetation and soil. As ECO-R2 deals with movement of vegetation and soil, this is an area of risk that should be addressed. This supports integrated resource management.
59. An Advice Note is proposed to make plan users aware of the presence and purpose of the Biosecurity (National PA Pest Management Plan) Order for managing Kauri dieback, administered by the Ministry for Primary Industries. Where there is disturbance of land within a Kauri hygiene zone, these biosecurity rules apply.
60. Mr. Wyeth considers this is best dealt with during the hearing on earthworks and proposes a decision on the Advice Note can be made as a consequential amendment when the two chapters are considered together.
61. Both Dr. Beauchamp and Mr. Whitelock remain of the view that given the potential for movement of contaminated material associated with this overlay chapter, and the seriousness of the disease, that an Advice Note should be included in both the EIB chapter and the Earthworks chapter.

Conclusion

62. The EIB chapter is a crucial overlay that will direct how indigenous biodiversity in the district will be maintained. There are many positive

elements of drafting to date, but some critical issues remain. Principally in regard to the approach to the NPS-IB and the effects management hierarchy.

63. It is submitted that the changes proposed by the DG and supported by experts, resolve much uncertainty and are more aligned with maintaining indigenous biodiversity, the protection of which is a matter of national importance.



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Counsel for the Director-General of Conservation

DATED 5 June 2026

APPENDIX 1

MINOR AMMENDMENT TO ECO-P2 DRAFTING BY MR WHITELOCK FOR CONSIDERATION AT THE HEARING

Orange underline or ~~strike-out~~ indicates a further change to the recommended amendments by Mr Whitelock (green text) to address an error

ECO-P2	Indigenous Biodiversity Outside the coastal environment
<p>Outside the coastal environment:</p> <ol style="list-style-type: none"><li data-bbox="395 600 1487 1209">1. <u>Inside areas that meet the ecological significance criteria of Appendix 5 of the Northland Regional Policy Statement 2016 (Areas of significant indigenous vegetation and significant habitats of indigenous fauna) to avoid, remedy or mitigate adverse effects of subdivision, land use and development to ensure adverse effects are no more than minor on; <u>(except as outlined in Clause 3.11 of the NPS-IB) that would result in:</u><ol style="list-style-type: none"><li data-bbox="443 817 1082 851">a. <u>loss of ecosystem representation and extent;</u><li data-bbox="443 853 1246 887">b. <u>disruption to sequences, mosaics, or ecosystem function;</u><li data-bbox="443 889 1374 958">c. <u>a reduction in the function of the vegetation or habitat as a buffer or connection to other important habitats or ecosystems; or</u><li data-bbox="443 960 1487 1064">d. <u>a reduction in the population size or occupancy of threatened or at risk (declining) species that are identified within the area for any part of their life cycle</u><li data-bbox="443 1066 1070 1099">e. Threatened and At Risk Indigenous species;<li data-bbox="443 1102 1369 1171">f. Areas of significant indigenous vegetation and significant habitat of indigenous fauna;<li data-bbox="443 1173 1406 1207">e. Areas of indigenous biodiversity protected under other legislation; and</u><li data-bbox="395 1249 1487 1395">2. For adverse effects of activities not referred to in clause (1) exempt under Clause 3.10(2) of the NPS-IB or that could occur as a result of the exceptions in clause 3.11 of the NPS-IB where adverse effects cannot be avoided, <u>implement the effects management hierarchy.</u><li data-bbox="395 1438 1487 1792">3. <u>Outside of areas that do not meet the ecological significance criteria of Appendix 5 of the Northland Regional Policy Statement 2016 (Areas of significant indigenous vegetation and significant habitats of indigenous fauna) Apply the effects management hierarchy to avoid, <u>minimise,</u> remedy, or mitigate, offset or compensate any <u>significant</u> adverse effects of subdivision, land use and development to ensure there are no significant adverse effects on:<ol style="list-style-type: none"><li data-bbox="443 1653 1158 1686">a. Areas of predominantly indigenous vegetation; and<li data-bbox="443 1688 1465 1792">b. Indigenous species, habitats, and ecosystems that are important for recreational, commercial, traditional or cultural purposes or are particularly vulnerable to modification.</u><li data-bbox="395 1834 1487 2004">4. <u>For the purposes of clauses (2) and (3) the implementation of the effects management hierarchy includes:</u><ol style="list-style-type: none"><li data-bbox="443 1906 1171 1939">a. <u>Adverse effects are avoided where practicable; then</u><li data-bbox="443 1942 1398 2004">b. <u>Where adverse effects cannot be avoided, they are minimised where practicable; then</u>	

- c. Where adverse effects cannot be minimised, they are remedied where practicable; then
- d. Where more than minor residual adverse effects cannot be avoided, minimised or remedied, biodiversity offsetting is provided where appropriate; then
- e. Where biodiversity offsetting is not appropriate, biodiversity compensation is provided.

APPENDIX 2

RECENT EXAMPLE – FORESTS ACT HARVESTING AND NEW PLYMOUTH PART OPERATIVE 4 DECEMBER 2025 DISTRICT PLAN

ECO-Ecosystems and Indigenous Biodiversity, Natural Environment Values

ECO-R3	Indigenous vegetation disturbance within a significant natural area pursuant to an approved plan or permit issued under the Forests Act 1949	
All zones	<p>Activity status: RDIS</p> <p>Where:</p> <ol style="list-style-type: none">1. the indigenous vegetation disturbance is in accordance with an approved Sustainable Forest Management Plan or permit or personal use approval issued by the Ministry for Primary Industries under the Forests Act 1949. <p>Matters over which discretion is restricted:</p> <ol style="list-style-type: none">1. The protection of habitats of regionally distinctive, threatened or at risk species.2. Compliance with the terms of an approved Sustainable Forest Management Plan or permit or personal use approval issued by the Ministry for Primary Industries under the Forests Act 1949.3. The measures to avoid, remedy, or mitigate any adverse effects on the significant indigenous vegetation and significant habitats of indigenous fauna.	<p>Activity status where compliance not achieved: DIS</p>