

## **BEFORE THE HEARING PANEL**

Under **the Resource Management Act 1991**

And

In the matter of **the Proposed Kaipara District Plan, Ecosystems  
and Indigenous Biodiversity chapter**

By **Kaipara District Council**

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**Evidence of Ronan Matthew Whitelock (Planning)  
For the Director-General of Conservation / Tumuaki Ahurei  
Submitter Number: 304  
Dated: 22 May 2026**

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## **Introduction**

1. My full name is Ronan Matthew Whitelock.
2. I have been asked by the Director-General of Conservation (DG) to provide planning evidence on the proposed Kaipara District Plan Ecosystems and Indigenous Biodiversity chapter (the Proposed Plan or PDP).

## **Qualifications and experience**

3. I am employed by the Department of Conservation (DOC) as a Resource Management Planner. I have worked for DOC since March 2025. Before that I worked as a planning consultant at Terra Consultants for 2.5 years.
4. My experience as a planning consultant included preparing and lodging resource consent applications with district and regional councils. I also provided planning advice to clients, including guidance on proposed plan changes and interpretation of district, regional and national planning documents.
5. My experience at DOC includes interpreting plans and policy statements, assessing limited and publicly notified consent applications, and preparing submissions on notified resource consent applications and district plans. I have also assessed and provided comments on referral and substantive applications under the Fast-track Approvals Act 2024 and the COVID-19 Recovery (Fast-track Consenting) Act 2020. In addition, I presented expert planning evidence for the Ecosystems and Indigenous Biodiversity Chapter of the Napier City Proposed District Plan. I have provided expert planning evidence for the following chapters of this PDP: Renewable Electricity Generation, Natural Character, and Natural Features and Landscapes.
6. I hold a Bachelor of Environmental Planning, specified programme in Environmental Planning stream in Society and the Environment from the University of Waikato.
7. I am an intermediate member of the New Zealand Planning Institute.

## **Code of Conduct**

8. While this is a council hearing, I confirm that I have read the code of conduct for expert witnesses as contained in clause 9 of the Environment Court's Practice Note 2023 (the Code). I have complied with the Code when preparing my written statement of evidence.
9. For the avoidance of doubt, in providing this evidence as an expert witness in accordance with the Code, I acknowledge that I have an overriding duty to impartially assist the Panel on matters within my area of expertise. The views expressed are my own expert views, and I do not speak on the DG's behalf.
10. The data, information, facts and assumptions I have considered in forming my opinions are set out in my evidence to follow. The reasons for the opinions expressed are also set out in the evidence to follow. This includes, where relevant:
  - a. why other alternative interpretations of data are not supported;
  - b. any qualification if my evidence may be incomplete or inaccurate without such qualification;
  - c. any knowledge gaps and the potential implication of the knowledge gap;
  - d. My opinion is not firm or concluded because of insufficient research or data or for any other reason; and
  - e. an assessment of the level of confidence and the likelihood of any outcomes specified in my conclusion.
11. Unless I state otherwise, this evidence is within my sphere of expertise, and I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

## **Scope of evidence**

12. I have been asked to provide evidence in relation to the DG's submission (submitter reference no. 304) and further submission (further submitter

reference no: FS45) on the Ecosystems and Indigenous Biodiversity Chapter of the proposed Kaipara District Plan.

13. The DG's submission covered a range of matters. I have focussed my evidence on matters which I disagree with in the Section 42A Report – Ecosystems and Indigenous Biodiversity (s42A report). Unless addressed in this evidence, I agree with the recommendations made in the s42A report.
14. My evidence addresses the following issues:
  - a. The maintenance of indigenous biodiversity across the District;
  - b. Biodiversity compensation, offsetting and the effects management hierarchy;
  - c. Identification of significant indigenous vegetation and significant habitats of indigenous fauna;
  - d. Pest and pet management;
  - e. Harvesting of indigenous timber; and
  - f. Clearance, operation, repair of lawfully established activities.
15. To assist the Panel, I have provided two appendices:
  - a. Appendix A – Recommended amendments to definitions;
  - b. Appendix B – Recommended amendments to provisions; and
  - c. Appendix C – Section 32AA evaluation of recommended amendments to provisions.

### **Material Considered**

16. The key material that I have relied in forming my opinions is listed below. In preparing my evidence I have considered the evidence of Dr Ilse Corkery, Dr Tony Beauchamp, and Mr Andrew Townsend.
17. I have read the following:
  - a. Proposed Kaipara District Plan (PDP) Ecosystems and Indigenous Biodiversity Chapter (EIB);

- b. The Proposed Kaipara District Plan Overview Section 32 Report;
- c. The Proposed Kaipara District Plan Section 32 Report – Ecosystems and Indigenous Biodiversity;
- d. The National Policy Statement for Indigenous Biodiversity 2023, Amended 2025 (NPS-IB);
- e. The National Policy Statement for Freshwater Management 2020, Amended December 2025 (NPS-FM);
- f. The New Zealand Coastal Policy Statement 2010, Amended 2025 (NZCPS);
- g. The Regional Policy Statement for Northland 2016 (the RPS);
- h. The Biosecurity (National PA Pest Management Plan) Order 2022 (The NPMP);
- i. The DG’s submission dated 30 June 2025;
- j. The DG’s further submission dated 15 December 2025; and
- k. The Section 42A Report and corresponding appendices.

## **Executive Summary**

- 18. This evidence addresses significant gaps in the implementation of the NPS-IB within the EIB chapter as required by section 75 (3) (a) of the Resource Management Act 1991 (RMA). It is acknowledged that certain NPS-IB provisions have been disapplied to district plans under s78 of the RMA. However, in my opinion, I consider that numerous active and applicable NPS-IB provisions remain capable of implementation within the EIB chapter. In doing so, this would give effect to the NPS-IB.
- 19. A central concern is the proposed reliance on the RPS alone, particularly Policy 4.4.1, to manage effects on indigenous biodiversity. Expert evidence confirms the NPS-IB provides a more recent, directive, and operationally robust framework for this, particularly through the effects management hierarchy. The evidence of Dr Corkery illustrates that deferring the implementation of these provisions introduces unnecessary

risk that Council will not meet its obligation to 'give effect' to national direction.

20. Although the PDP does not map Significant Natural Areas (SNA), there are mechanisms within the plan, through Rules ECO-R1 and ECO-R2, which enable the identification of areas of significant indigenous vegetation and significant habitats of indigenous fauna. However, the policies do not provide clear direction for how effects are managed once significance is established. I recommend Policy ECO-P2 should be amended to give effect to clauses 3.10, 3.11, and 3.16 of the NPS-IB requiring avoidance of adverse effects in significant areas and applying the effects management hierarchy where avoidance is not possible.
21. In contrast, in the area of assessing ecological significance, the evidence of Mr Townsend is that use of the RPS criteria as proposed, will result in outcomes sufficiently equivalent to those resulting from use of the NPS-IB criteria. Therefore, I rely on his evidence and have proposed no change to the implementation of the RPS criteria.
22. I also address the inclusion of a pet and pest management policy introduced by the s42a officer. In my opinion, I consider amendments are required to ensure adverse effects associated with subdivision, use and development are appropriately controlled through the resource consent process.
23. In relation to Kauri dieback, I address this as a resource management issue and the need for district plan provisions to manage the spread of the fatal disease, particularly given Kaipara District's high level of contamination.
24. Finally, my evidence raises concerns regarding permitted activity provisions for indigenous timber harvesting and clearance associated with specified activities.
25. Overall, my recommendations are intended to ensure that the PDP gives effect to the NPS-IB and the RPS, as required by section 75 of the RMA,

more effectively and efficiently recognises and provides for the matters in section 6 of the RMA, and ensures the Council's functions under section 31(1)(b)(iii) of the RMA are implemented consistently.

### **Pre-hearing engagement**

26. I would like to acknowledge the informal and helpful discussion DOC and Council had to understand the key issues in the DG's submission and further submission and Council's intended approach.

### **Statutory Considerations**

27. The section 32 report identifies the overall statutory context for this topic, including:
28. The purpose and principles of the Resource Management Act 1991 (RMA), in particular sections 6 (matters of national importance), 7 (other matters) and 8 (Treaty of Waitangi).
29. The requirements of section 75 of the RMA for district plans to give effect to:
- Any National Policy Statement. Notably, the National Policy Statement for Indigenous Biodiversity 2023 (As amended December 2025, NPS-IB) and the New Zealand Coastal Policy Statement 2010 (as Amended December 2025, NZCPS), and the National Policy Statement for Freshwater Management 2020 (as Amended December 2025);
  - The National Planning Standards 2019;
  - National Environmental Standards, including the National Environmental Standards for Freshwater 2020 (NES-F), National Environmental Standards for Commercial Forestry 2017 (NES-CF); and
  - Any Regional Policy Statement, in this context, the Northland Regional Policy Statement 2016 (the RPS).
30. The s32 Overview report also sets out the relevant iwi management plans including:

- Te Uri o Hau Kaitiakitanga o Te Taiao 2011;
- Nga Ture mo Te Taiao o Te Roroa [Te Roroa Iwi Environmental Policy Document] 2019;
- Te Kawerau ā Maki Iwi Management Plan; and
- Patuharakeke Hapū Environmental Management Plan 2014.

31. The s42A report provides context to the recent changes of national direction including the NPS-IB, National Policy Statement for Renewable Electricity Generation (NPS-REG), National Policy Statement for Infrastructure (NPS-I), and the National Policy Statement for Electricity Networks (NPS-EN) which were gazetted on 15 January 2026 and how it should be implemented within this chapter:

- a. *The amendments to the NPS-IB were primarily relating to the pathways for mineral extraction and quarrying activities in relation to SNAs and therefore have limited relevance to the ECO Chapter (given the PDP does not include mapped SNAs for the reasons outlined above).*
- b. *The package includes three national policy statements relating to infrastructure – the new National Policy Statement for Infrastructure 2025 (NPS-I), the amended National Policy Statement for Renewable Electricity Generation (NPS-REG), and the amended National Policy Statement for Electricity Networks (NPS-EN). I addressed the amended NPS-REG in some detail in the Renewable Electricity Generation hearing and the NPS-I and NPS-EN will be considered in more detail through the Infrastructure hearing. However, these three NPS's are also of relevance to the ECO Chapter as they include direction that the enabling policy direction for infrastructure is to be read alongside provisions in national, regional and district planning documents relating to values and environments provided for in section 6 of the RMA.<sup>1</sup>*

32. I concur with the statutory documents considered within the Council's s32 and s42A reports.

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<sup>1</sup> Section 42A Report – Ecosystems and Indigenous Biodiversity, 1 May 2026, page 10-11, para [21].  
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## Council's Functions

33. I consider that the s31(1)(b)(iii) function is critical to evaluating ecosystem and biodiversity provisions. It requires that indigenous biological diversity is maintained at the district level. Simply put, this means that across each district, any biodiversity losses must be at least made up for in biodiversity gains. This is reflected in the NPS-IB, which requires that:
- Some biodiversity values must be protected or maintained (i.e. no net loss);
  - Some loss of biodiversity is accepted (primarily through the use of exceptions and allowance for compensation); and
  - Restoration is promoted and provided for (i.e. gains to make up for the losses).
34. I consider that this overall approach must equally apply to the PDP, if indigenous biodiversity is to be maintained. Plan provisions need to ensure that biodiversity losses across the Kaipara District are limited to a level that can be made up for by gains that are promoted and enabled by the plan.
35. I understand there is an equivalent function that applies to Northland Regional Council (s30(1)(ga)), which is directed by NRPS *Objective 3.4 – indigenous ecosystems and biodiversity*, and Policy 4.4 – *maintaining and enhancing indigenous ecosystems and species*. Nevertheless, this will also be contributed to by its implementation within the Kaipara District.

## Giving effect to the NPS-IB and RPS

36. Prior to discussing specific provisions of this chapter, I consider it necessary to first identify significant and apparent gaps in the implementation of the NPS-IB.
37. The section 32 report makes note of the provisions of the NPS-IB which currently do not apply to District Plans<sup>2</sup>, and the s42A officer concurs with

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<sup>2</sup> Section 32 Evaluation Report – Ecosystems and Indigenous Biodiversity, 28 April 2025, pages 23-24.

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this<sup>3</sup>. I agree that the plan does not require the Council to give effect to those specific provisions as outlined in s78 of the RMA.

38. Subsequently, the s42A report notes the obligation to give effect to the non-RMA related provisions through the PDP “*as soon as reasonably practicable*” in accordance with clause 4.1 of the NPS-IB. However, the s42A Report notes there is complexity given the interrelatedness of the provisions and the detailed direction to map SNAs and recommends deferring giving effect to most of the provisions of the NPS-IB, to a future plan change process or some alternative planning process under a new system.<sup>4</sup>
39. I do not agree with this assessment, as it raises a fundamental concern as to whether the Council will achieve its statutory obligation to ‘give effect’ to higher order documents, while also fulfilling its function under section 31(1)(b)(iii) of the RMA. Furthermore, clause 4.1 of the NPS-IB still requires local authorities to give effect to other parts of this NPS as soon as reasonably practicable.
40. I consider there are a number of related policies within the NPS-IB which have not been disapplied, which the s42A report concludes are not fit for purpose. However, in my opinion provide clear direction for implementing the objective of the NPS-IB while also recognising and providing for section 6(c) of the RMA, including:
- Policy 3 – Adopting a precautionary approach when considering adverse effects on indigenous biodiversity and Clause 3.7.
  - Policy 7 - SNAs are protected by avoiding and managing adverse effects from new subdivision, use, and development and Clauses 3.10 - 3.11.
  - Policy 8 – The importance of maintaining indigenous biodiversity outside SNAs is recognised and provided for and Clause 3.16.

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<sup>3</sup> Section 42A Report – Ecosystems and Indigenous Biodiversity, 1 May 2026, page 10, para [20].

<sup>4</sup> Section 42A Report – Ecosystems and Indigenous Biodiversity, 1 May 2026, page 15, para [39].

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- Policy 13 – Restoration of indigenous biodiversity is promoted and provided for and Clause 3.22 – Restoration.
41. As currently drafted, the EIB chapter fails to fully implement the relevant provisions of the NPS-IB in accordance with clause 4.1 of the NPS-IB and s75(3) of the RMA. Appendix D of the s42A report provides an assessment of which aspects of these provisions should be implemented within the EIB chapter. However, I consider that there are key aspects of some of these provisions that have not been included, and which should be implemented through this Schedule 1 process, rather than being deferred to a separate plan change process.
  42. The key aspects of these policies and clauses which I consider are missing from the EIB chapter are addressed throughout my evidence below.
  43. The s42A report confirms the proposed approach to the EIB chapter is to include policy direction to protect areas of significant indigenous vegetation and indigenous fauna and maintain indigenous biodiversity consistent with the RPS<sup>5</sup>. While I do not oppose the provisions set out in the RPS, I consider it prudent the active provisions of the NPS-IB are also implemented into provisions of this chapter in accordance with clause 4.1 of the NPS-IB. If Council do not follow this approach, I am concerned their obligations under s75(3) of the RMA will not be achieved, nor will the chapter recognise and provide for section 6(c) of the RMA as efficiently or effectively if relying on the provisions of the RPS.
  44. As such, my approach to the recommended changes set out below is to better align the EIB chapter to the RPS provisions while also implementing the NPS-IB in accordance with s75 of the RMA.

### **Maintenance of indigenous biodiversity**

45. The DG's submission sought a replacement to Objective ECO-O2, to ensure that indigenous biodiversity across the district is maintained so there is no net loss.

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<sup>5</sup> Section 42A Report - Ecosystems and Indigenous Biodiversity, 1 May 2026, page 8, para [14]. Whitelock Evidence, 22 May 2026, Proposed Kaipara District Plan, Ecosystems and Indigenous Biodiversity chapter

46. In response the s42A report rejects this submission for the following reasons:

*“KDC has a function of controlling the use of land for the purposes of maintaining indigenous biodiversity under section 31(1)(b)(iii) of the RMA but this does not equate to no net loss”<sup>6</sup>,*

*“My understanding is that this direction to achieve no net loss in indigenous biodiversity applies at a national level, not necessarily at the regional, district or consent level”<sup>7</sup>, and*

*“The RPS refers to “maintaining the extent and diversity of indigenous ecosystems and habitats in the region” in Objective 3.4 and “no net loss” in the definition of “biodiversity offsets” and “environmental biodiversity compensation”. However, there is no specific direction to achieve no net loss in indigenous biodiversity at a district-level.”<sup>8</sup>*

47. Dr Corkery’s evidence describes how the concept of maintaining indigenous biodiversity as articulated in the NPS-IB, cannot be achieved solely through a national-level balancing approach. Furthermore, Dr Corkery points out that if applied in that way, it would theoretically allow for localised biodiversity loss within a district such as Kaipara, provided gains occur elsewhere<sup>9</sup>.

48. The reasoning in the s42A report relies on the definition of biodiversity offsetting under the RPS, which requires a no-net-loss of indigenous biodiversity, but considers there is no clear direction on how this is carried out. I consider the NPS-IB provides clear direction on how to achieve a no-net-loss, particularly Appendix 3, principle 3 – net gain – which confirms a net gain is demonstrated when biodiversity values at the offset are equivalent to *[my emphasis added]* or exceed those being lost at the impact site.

49. This is reinforced through Dr Corkery’s evidence where she says:

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<sup>6</sup> S42A Report – Ecosystems and Indigenous Biodiversity, 1 May 2026, page 44, para [146(a)].

<sup>7</sup> S42A Report – Ecosystems and Indigenous Biodiversity, 1 May 2026, page 44, para [144(b)].

<sup>8</sup> S42A Report – Ecosystems and Indigenous Biodiversity, 1 May 2026, page 44, para [156(c)].

<sup>9</sup> Dr Ilse Corkery, EIC, page 8, paras [35-41].

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*“Central to these is the principle of net gain, which requires that an offset delivers a measurable improvement in indigenous biodiversity outcomes above the baseline state that would have existed without the offset. This goes beyond simply replacing what is lost; it requires that any residual adverse effects are more than counterbalanced, resulting in an overall positive biodiversity outcome that reflects ecological integrity, species composition, habitat condition, and long-term functionality.”<sup>10</sup>*

50. Therefore, I consider it most appropriate for Objective ECO-O2 to be amended to set out that there is a no-net-loss approach implemented across the district.
51. My recommended wording ([green text](#)) is as follows:

**ECO-O2                      Maintenance of indigenous biodiversity**

*Adverse effects on indigenous biodiversity are managed to maintain its extent and diversity [by achieving a no net loss that to](#) provides for the social, economic, and cultural well-being of people and communities.*

**Biodiversity Compensation, Offsetting and the Effects Management Hierarchy**

52. The DG’s submission sought the addition of new definitions for “biodiversity compensation”, “biodiversity offsetting”, and the “effects management hierarchy” (EMH), along with associated appendices and/or schedules, to be included in the Plan<sup>11</sup>.
53. Additionally, the DG’s submission on Policy ECO-P2 sought for the policy to give effect to the NPS-IB, particularly the effects management hierarchy.<sup>12</sup>
54. The s42A report rejects the inclusion of all three of these definitions for the following reasons as follows:

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<sup>10</sup> Dr Ilse Corkery, EIC, page 11, para [39].

<sup>11</sup> DGC submission 304, submission point no: 304.3, 304.5 and 304.16.

<sup>12</sup> DG submission 304, submission point no: 304.68.

*“I am recommending that the SNA related provisions in the NPS IB are not given effect to through the PDP as these rely on SNA mapping (which has been paused). I expect that these definitions may be superseded in future iterations of the NPS-IB or alternative national instruments for the new system. As such, definitions for these terms, as requested by DOC, are not required in my view.”<sup>13</sup>*

55. In response to the amendments to Policy ECO-P2, the s42A officer concludes:

*“In my view, it would add unnecessary complexity introducing the effects management hierarchy from the NPS-IB into the PDP at this point of time as that primarily relates to the SNA provisions in the NPS-IB and with limited benefit as ECO-P2 already addresses the key effects on indigenous biodiversity outside the coastal environment that need to be avoided, remedied and mitigated consistent with Policy 4.4.1(3) in the RPS.”<sup>14</sup>*

56. I disagree with the reasoning in the s42A report that the effects management hierarchy provisions of the NPS-IB relies on SNA mapping. I consider that Clause 3.16 of the NPS-IB is very explicit and clear that it applies outside of SNAs and requires the implementation of the effects management hierarchy.

### **3.16 Indigenous biodiversity outside SNAs**

- (1) If a new subdivision, use, or development is outside an SNA and not on specified Māori land, any significant adverse effects of the new subdivision, use, or development on indigenous biodiversity outside the SNA must be managed by applying the effects management hierarchy.
- (2) All other adverse effects of any activities that may adversely affect indigenous biodiversity that is outside an SNA (other than indigenous biodiversity on specified Māori land (see clause 3.18)), must be managed to give effect to the objective and policies of this National Policy Statement.
- (3) Every local authority must make or change its policy statements and plans to be consistent with the requirements of this clause.

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<sup>13</sup> Section 42A Report – Ecosystems and Indigenous Biodiversity, 1 May 2026, page 68, para [199(c)].

<sup>14</sup> Section 42A Report – Ecosystems and Indigenous Biodiversity, 1 May 2026, page 38, para [129].

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57. Including the effects management hierarchy in the PDP now, would be consistent with the NPS-IB 2.1 Objective "*To maintain indigenous biodiversity across Aotearoa NZ so that there is at least no overall loss in indigenous biodiversity after the commencement date*" and give effect to Policy 8 "*The importance of maintaining indigenous biodiversity outside SNAs is recognised and provided for.*"
58. I also do not agree that the effects management hierarchy would add additional complexity to this chapter. Dr Corkery, confirms the NPS-IB hierarchy does not add unnecessary complexity, but rather provides essential clarity and discipline in decision making, and without it there would be greater risk that:
- steps in the hierarchy are applied inconsistently or out of sequence;
  - offsetting is used prematurely; and
  - significant adverse effects are not appropriately avoided.<sup>15</sup>
59. I also note the RPS provides definitions of "*Biodiversity Offsets*" and "*Environmental Biodiversity Compensation*" which were not considered within the DG's submission or by the s42A officer.
60. Under the RPS, the key policy which directs the implementation of these definitions is Policy 4.4.1, particularly clause (5):
- (5) For the purpose of clause (3) if adverse effects cannot be reasonably avoided, remedied or mitigated then it maybe appropriate to consider the next steps in the mitigation hierarchy i.e. biodiversity offsetting followed by environmental biodiversity compensation, as methods to achieve Objective 3.4.*
61. Clause (5) activates when the adverse effects in clause (3) cannot be reasonably avoided, remedied or mitigated – see clause (3) below.

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<sup>15</sup> Dr Ilse Corkery, EIC, page 5, para [21].  
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- (3) *Outside the coastal environment and where clause (1) does not apply, avoid, remedy or mitigate adverse effects of subdivision, use and development so they are not significant on any of the following:*
- (a) *Areas of predominantly indigenous vegetation;*
  - (b) *Habitats of indigenous species that are important for recreational, commercial, traditional or cultural purposes;*
  - (c) *Indigenous ecosystems and habitats that are particularly vulnerable to modification, including wetlands, dunelands, northern wet heathlands, headwater streams, floodplains and margins of freshwater bodies, spawning and nursery areas.*

62. In a comparison between the hierarchies of the RPS and NPS-IB with respect to the effects management hierarchy, Dr Corkery shows how the NPS-IB provides a more recent and directive framework for managing effects, and the reliance on the RPS alone introduces a material risk that the district plan will:
- a. Apply an incomplete or simplified version of the effects management hierarchy;
  - b. Lack clear thresholds for when offsetting or compensation is appropriate; and
  - c. Fail to give full effect to current national direction, particularly in relation to managing residual effects.<sup>16</sup>
63. In relation to the difference in definitions, it is Dr Corkery's view that the NPS-IB's version of offsetting and compensation provides clear and operational directives including their purpose and limitations.<sup>17</sup>
64. Under the NPS-IB, offsetting is intended to address residual adverse effects that remain after all practicable steps in the hierarchy have been taken, and only where those effects can be appropriately counterbalanced. Offsetting is not intended to enable development to proceed where significant adverse effects could reasonably be avoided<sup>18</sup>.
65. Compensation is explicitly recognised as a less certain and less preferred measure, to be used where offsetting is not possible. Treating these as

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<sup>16</sup> Dr Ilse Corkery, EIC, page 4, para [20].

<sup>17</sup> Dr Ilse Corkery, EIC, page 10, para [31].

<sup>18</sup> Dr Ilse Corkery, EIC, page 10, para [32].

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interchangeable, as can occur under more general RPS-style wording, undermines the integrity of the hierarchy<sup>19</sup>.

66. Dr Corkery explains that without adopting the NPS-IB and structure, there is a real risk that:
- a. Offsetting is applied to impacts that should have been avoided;
  - b. Offsetting and compensation are used without clear limits; and
  - c. Outcomes fall short of maintaining indigenous biodiversity.<sup>20</sup>
67. Based on this, I am of the view that the effects management hierarchy, and associated definitions within the NPS-IB, should be given more weight by the Panel and implemented in this chapter, rather than relying on the equivalent provisions set out in the RPS.
68. I consider this approach is reinforced through the direction of Policy 3 of the NPS-IB, which requires that a precautionary approach is adopted when considering adverse effects on indigenous biodiversity. Furthermore, I consider this to be the most effective and efficient method for recognising and providing for section 6(c) of the RMA.
69. My recommended drafting (green text) is as follows:

***Biodiversity compensation***

*Means a conservation outcome that meets the requirements in Appendix 4 of the National Policy Statement for Indigenous Biodiversity and results from actions that are intended to compensate for any more than minor residual adverse effects on indigenous biodiversity after all appropriate avoidance, minimisation, remediation, and biodiversity offsetting measures have been sequentially applied.*

***Biodiversity offset***

*Means a measurable conservation outcome that meets the requirements in Appendix 3 of the National Policy Statement for Indigenous Biodiversity and results from actions that are intended to:*

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<sup>19</sup> Dr Ilse Corkery, EIC, page 10, para [33].

<sup>20</sup> Dr Ilse Corkery, EIC, page 10, para [34].

- (a) Redress any more than minor residual adverse effects on indigenous biodiversity after all appropriate avoidance, minimisation, and remediation measures have been sequentially applied; and
- (b) Achieve a net gain in type, amount, and condition of indigenous biodiversity compared to that lost.

### **Effects Management Hierarchy**

The effects management hierarchy means an approach to managing the adverse effects of an activity on indigenous biodiversity that requires that:

- (a) Adverse effects are avoided where practicable; then
- (b) Where adverse effects cannot be avoided, they are minimised where practicable;
- (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 possible; then
- (e) Where biodiversity offsetting of no more than minor residual adverse effects is not possible; then
- (f) If biodiversity compensation is not appropriate, the activity itself is avoided.

## **Identification of significant indigenous vegetation and significant habitat of indigenous fauna and Effects Management**

76. The DG's submission sought amendments to the EIB chapter in relation to the identification of significant indigenous vegetation and significant habitat of indigenous fauna to recognise and provide for section 6(c) of the RMA<sup>21</sup>.
77. The s42A officer notes the chapter does not include any mapped areas of "significant indigenous vegetation and significant habitats of indigenous fauna" in the context of the NPS-IB and that this was a deliberate decision by Council given the ongoing uncertainty about national policy requirements for mapping and protections of SNAs<sup>22</sup>.
78. I acknowledge that provisions of the NPS-IB requiring councils to map SNAs have been disapplied, and that Council is therefore not required to

<sup>21</sup> DG submission 304, submission point no. 304.1.

<sup>22</sup> Section 42A Report – Ecosystems and Indigenous Biodiversity, 1 May 2026, page 8, para [13].

undertake this work. I also acknowledge his comment that, at this stage of the plan review process, there is insufficient time or resourcing to do so.

79. The s42A report outlines the requirements of the RPS in relation to the EIB chapter. It notes that Objective 3.4 of the RPS requires the protection of:
- Areas of significant indigenous vegetation; and
  - Significant habitats of indigenous fauna.
80. This objective is implemented through Policy 4.4.1, which focuses on maintaining and protecting significant ecological areas and habitats. Outside of the coastal environment, the policy requires that effects of subdivision, use and development of indigenous vegetation and habitats that are significant, using the Appendix 5 criteria, are avoided, remedied or mitigated<sup>23</sup>. I agree with this assessment.
81. Dr Beauchamp's evidence reveals the identification of significant indigenous vegetation and significant habitat of indigenous fauna is critical because the habitat values that support Threatened and At-Risk bird species are not adequately captured by controls focused solely on the clearance of indigenous vegetation. For example, nationally critical Australasian bittern relies not only on wetlands for breeding, but also on vegetated drains and small associated habitat features for foraging, which could fall outside indigenous vegetation rules and would be vulnerable to potential significant loss<sup>24</sup>[OBJ]. Similarly, Dr Beauchamp illustrates that highly mobile species such as fernbirds depend on the connection between habitats to maintain populations <sup>25</sup>[OBJ].
82. As such, I consider it appropriate that where compliance with Rules ECO-R1 and ECO-R2 are not achieved, the chapter requires identification of whether the indigenous vegetation or habitat meets the Appendix 5 criteria of the RPS. The existing matter of discretion appropriately enables this assessment to occur. However, there is a gap in the chapter as there is no

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<sup>23</sup> Section 42A Report – Ecosystems and Indigenous Biodiversity, 1 May 2026, page11, para [22].

<sup>24</sup> Dr Tony Beauchamp, EIC, page 9, para [36].

<sup>25</sup> Dr Tony Beauchamp, EIC, page 9, para [37].

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clear policy direction as to what occurs when significant indigenous vegetation or significant habitat for indigenous fauna is identified, or how adverse effects are to be managed in those circumstances.

83. In my opinion, Clause 3.10 of the NPS-IB provides clear direction in relation to managing adverse effects on values that meet section 6(c) of the RMA. In particular, clause 3.10(2) requires:

- (2) Each of the following adverse effects on an SNA of any new subdivision, use, or development must be avoided, except as provided in clause 3.11:
  - (a) loss of ecosystem representation and extent:
  - (b) disruption to sequences, mosaics, or ecosystem function:
  - (c) fragmentation of SNAs or the loss of buffers or connections within an SNA:
  - (d) a reduction in the function of the SNA as a buffer or connection to other important habitats or ecosystems:
  - (e) a reduction in the population size or occupancy of Threatened or At Risk (declining) species that use an SNA for any part of their life cycle.

84. In comparison with RPS Policy 4.4.1 (upon which Policy ECO-P2 is grounded), Clause 3.10(2) provides a greater level of protection for section 6(c) values, as adverse effects associated with subdivision, use and development are required to be avoided, rather than avoided, remedied or mitigated. Clause 3.10(3) then directs that where adverse effects cannot be avoided, they are managed through the effects management hierarchy.

85. It is important to note that the NPS-IB provisions including Clause 3.10 rely on the identification criteria set out in Appendix 1 of the NPS-IB. As such, I consider it important to understand the similarities and differences between the two criteria for identifying significance, and why I consider the Appendix 5 criteria of the RPS is fit for purpose, when used in conjunction with NPS-IB provisions.

86. The following paragraphs rely on the evidence of Mr Townsend, who conducted a detailed assessment of the similarities and differences between the two criteria. In summary, Mr Townsend concludes: "*there is*

*strong alignment between both systems overall, with both triggering ecological significance for almost the same attributes tested.”<sup>26</sup>*

87. Mr Townsend’s analysis demonstrates that both frameworks rely on the underlying concepts of representativeness, diversity and pattern, rarity and distinctiveness, and ecological context. Further, in most cases, will identify the same areas as ecologically significant<sup>27</sup>.
88. However, there are some differences as shown by Mr Townsend, including the difference in interpretation and application, which can result in some overlap between criteria, and in limited circumstances lead to different outcomes<sup>28</sup>.
89. Notwithstanding this, in the Kaipara District, Mr Townsend considers that these differences are generally minor and are unlikely to materially affect the identification of significant indigenous vegetation and habitats. Further, these differences are likely to be in the direction of more sites triggering ecological significance, rather than less<sup>29</sup>.
90. Mr Townsend notes the key areas of potential difference relates to the treatment of certain taxa, particularly:
- Species classified as At Risk – Naturally Uncommon, At Risk – Relict, or Data Deficient; and
  - Situations where those taxa occur in isolation<sup>30</sup>.
91. In these cases, there is the possibility the RPS criteria may trigger ecological significance where the NPS-IB would not. Mr Townsend notes, that such situations are likely to be relatively uncommon in practice, as these taxa often are interrelated with other significant ecological attributes that would trigger significance under both frameworks.<sup>31</sup>
92. Based on the evidence of Mr Townsend, I consider the implementation of Appendix 5 of the RPS in conjunction with Clause 3.10 of the NPS-IB, the

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<sup>26</sup> Mr Andrew Townsend, EIC, para [32].

<sup>27</sup> Mr Andrew Townsend, EIC, para [60].

<sup>28</sup> Mr Andrew Townsend, EIC, para [72].

<sup>29</sup> Mr Andrew Townsend, EIC, para [31].

<sup>30</sup> Mr Andrew Townsend, EIC, para [40-54].

<sup>31</sup> Mr Andrew Townsend, EIC, para [60].

most effective and efficient pathway for giving effect to national policy statements as required by s 75 of the RMA and recognising and providing for s 6(c) of the RMA.

93. To give effect to this direction, Policy ECO-P2 should be amended so that Clause (1) applies directly to areas of indigenous vegetation that meet the criteria in Appendix 5 of the RPS and require that adverse effects are avoided. Clause (2) should then clearly signal that where adverse effects cannot be avoided, the effects management hierarchy applies. In addition, Policy ECO-P2 would need to be implemented to consider the exemptions to Clause 3.10(2) provided under Clause 3.11 of the NPS-IB<sup>32</sup>.
94. I also consider Clause (3) needs to be reworded for clarity and to directly apply to areas that do not meet the Appendix 5 criteria of the RPS. In those circumstances, Clause 3.16 of the NPS-IB provides clear direction for managing significant adverse effects including the application of the effects management hierarchy.
95. I consider that this approach will most effectively and efficiently enable the Council to implement its functions under section 31(1)(b)(iii) of the RMA, while also recognising and providing for section 6(c) of the RMA.
96. My recommended drafting is as follows (green text):

**ECO-P2                      Indigenous Biodiversity Outside the coastal environment**

*Outside the coastal environment:*

1. 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)  
~~Avoid, remedy or mitigate~~ adverse effects of subdivision, land use and development to ensure adverse effects are no more than minor or;  
(except as outlined in clause 3.11 of the NPS-IB) that would result in:
  - a. loss of ecosystem representation and extent;
  - b. disruption to sequences, mosaics, or ecosystem function;
  - c. a reduction in the function of the vegetation or habitat as a buffer or connection to other important habitats or ecosystems; or
  - d. 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
  - e. ~~Threatened and At Risk Indigenous species;~~
  - f. ~~Areas of significant indigenous vegetation and significant habitat of indigenous fauna;~~

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<sup>32</sup> This approach was included in the Ecosystems and Indigenous Biodiversity chapter of the Napier City Proposed District Plan 2025 (Decisions Version).  
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- e. *Areas of indigenous biodiversity protected under other legislation; and*
- 2. *For activities exempt under Clause 3.10(2) of the NPS-IB or where adverse effects cannot be avoided, implement the effects management hierarchy.*
- 3. *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, minimise, remedy, ~~or mitigate~~, offset or compensate any significant adverse effects of subdivision, land use and development to ensure there are no significant adverse effects on:*
  - a. *Areas of predominantly indigenous vegetation; and*
  - b. *Indigenous species, habitats, and ecosystems that are important for recreational, commercial, traditional or cultural purposes or are particularly vulnerable to modification.*
- 4. *For the purposes of clauses (2) and (3) the implementation of the effects management hierarchy includes:*
  - a. *Adverse effects are avoided where practicable; then*
  - b. *Where adverse effects cannot be avoided, they are minimised where practicable; then*
  - 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.*

## **Pest and Pet Management**

97. The s42A report recommends the inclusion of a new policy to manage the effects associated with pets, pest plants, and animal species to avoid risks to Threatened or At-Risk indigenous species<sup>33</sup>.
98. I am not opposed to this recommendation as the management of pets, pest plants and animal species is beneficial for Threatened or At-Risk species, such as Tara iti (Threatened – Nationally Critical), and Australasian Bittern (Threatened – Nationally Critical).
99. In Dr Beauchamp’s evidence, he identifies the adverse effects associated with unmanaged pets and pests throughout the district. In particular, he highlights that subdivisions are often located next to significant areas for

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<sup>33</sup> S42A Report – Ecosystems and Indigenous Biodiversity Chapter, 1 May 2026, page 45, para [158(c)].  
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wildlife, including habitat for nationally critical species such as Tara iti (New Zealand's most endangered bird) and Australasian bittern. His evidence records that in 2008, a cat killed at least one, and likely two, incubating Tara iti in a single night. He also notes similar instances of the loss of kiwi caused by a single dog across Northland, including at Waitangi and on Kawau Island, are well documented<sup>34</sup>. These examples demonstrate that individual pets can cause severe and disproportionate impacts on local populations.

100. In relation to the Mangawhai estuary, Dr Beauchamp explains that high levels of disturbance on avifauna from pet dogs have occurred in locations where Tara iti maintain foraging areas. Dr Beauchamp notes that these areas are particularly important as this is where they breed, and supply females with food before laying and raising chicks just after they fledge<sup>35</sup>.
101. While Dr Beauchamp's evidence draws on the impact of private plan changes that would result in new subdivisions, I consider this equally applies to use and development more generally, as potential adverse effects as described by Dr Beauchamp could also occur from the following activities which are enabled by the PDP:
  - The erection of a new dwelling on an existing record of title,
  - The erection of a minor residential unit,
  - The erection of a second or third dwelling, and
  - The relocation of a building onto an existing record of title<sup>36</sup>.
102. Based on the above, I consider the wording of Policy ECO-PY requires amendments to ensure the adverse effects associated with subdivision, use and development are managed through resource consents to avoid adverse effects on Threatened or At-Risk indigenous species. In my view the use of "*adverse effects*" is more appropriate in comparison to "*risks*". The RMA clearly defines an effect<sup>37</sup> and provides greater certainty that the

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<sup>34</sup> Dr Tony Beauchamp, EIC, para [44-46].

<sup>35</sup> Dr Tony Beauchamp, EIC, para [47].

<sup>36</sup> Dr Tony Beauchamp, EIC, para [43].

<sup>37</sup> Section 3 of the RMA.

direct effect of an activity will be avoided, rather than a risk which is not clearly defined under the RMA.

103. My recommendations are set out below (green text):

**ECO-PY**

**Managing pets and pest plants and animal species**

Require landowners to manage pets and pest plants and animal species within their property though consent conditions where necessary to avoid adverse effects risks to Threatened and At-Risk indigenous species.

### **Kauri Dieback Provisions**

104. In this section of my evidence, I address the resource management issues relating to kauri dieback and explain why provisions are required in the PDP to ensure that indigenous vegetation clearance is undertaken in a way that does not cause the further spread of kauri dieback across the Kaipara District. My recommendations are informed by the evidence of Dr Beauchamp (paragraphs 31-37).
105. The DG's submission sought the inclusion of kauri dieback-related provisions across the plan, particularly within the Ecosystems and Indigenous Biodiversity chapter and the Earthworks chapter (where a hearing is proposed to take place later in the year)<sup>38</sup>.
106. Kauri dieback is a disease that is fatal to kauri. As stated by Dr Beauchamp, there is no known cure for the disease. The disease spreads to kauri through a microscopic spore (the oospore) that is bound by a hard covering that is released into the soil from infected trees and can be found from the surface to metres below a tree. These spores remain in the soil until they activate, which Dr Beauchamp confirms we do not know what causes their activation or have a means of activating them<sup>39</sup>. Further, they can remain in soil for over a decade and potentially multiple decades, including outlasting the length of time that ricker kauri rots. Kaipara District is one of the most contaminated parts of Northland<sup>40</sup>. Dr Beauchamp

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<sup>38</sup> DG Submission 304, submission no: 304.2.

<sup>39</sup> Dr Tony Beauchamp, EIC, para [22].

<sup>40</sup> Dr Tony Beauchamp, EIC, para [25]

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states the only way to stop the spread of kauri dieback is to control or stop the movement of contaminated wood and soil<sup>41</sup>.

107. The key concern regarding vegetation clearance and the risk of kauri dieback relates to the potential for soil disturbance during clearance activities, the possibility that cleared vegetation is contaminated, the risk that equipment and clothing may not be adequately cleaned of soil, and the need to appropriately manage and dispose of any kauri pruning material or remove trees in a safe manner<sup>42</sup>.
108. I consider this demonstrates that district plan measures to address the risk of kauri dieback spread are prudent. To address kauri dieback, other district plans have implemented provisions through their earthworks chapters, including requirements for assessment against the Biosecurity (National PA Pest Management Plan) Order 2022 (NPMP), and the implementation of a kauri dieback management plan<sup>43</sup>.
109. Of particular relevance, the Waikato District Plan – Operative in Part (WDP-OiP) includes kauri dieback provisions in both the Earthworks and the Ecosystems and Indigenous Biodiversity chapters. The core provisions are contained within the Earthworks chapter, with cross-references in the Ecosystems and Indigenous Biodiversity chapter.
110. The provisions within the Ecosystems and Indigenous Biodiversity chapter of the WDP-OiP include a clause within a policy, as well as two advice notes, as set out below:

**ECO-P13 - Non-regulatory policy.**

- (1) The Council will incorporate the following information in their Conservation Strategy:
  - (a) Kauri Dieback, including reference to the Kauri Dieback Programme; and
  - (b) Long-Tailed Bats.
- (2) Guidance on Kauri Die Back can be found in the Protecting Kauri: A Rural Landowner's Guide produced by Waikato Regional Council and endorsed by Ministry for Primary Industries.

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<sup>41</sup> Dr Tony Beauchamp, EIC, para [26].

<sup>42</sup> Dr Tony Beauchamp, EIC, para [29].

<sup>43</sup> Whangarei Operative District Plan 2025, Thames Coromandel Operative in Part District Plan 2024, Waikato District Plan – Operative in Part 2025.

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**Advice note:**

The relevant earthworks provisions in EW-Earthworks for earthworks within a Kauri hygiene zone apply in addition to this chapter.

**Advice notes:**

Pursuant to clause 19 of the Biosecurity (National PA Pest Management Plan) Order Plan Rule 5: (2) the occupier must not undertake earthworks in a kauri hygiene zone unless they have, and operate in accordance with, an earthworks risk management plan that is approved for that land by the management agency, an inspector, or an authorised person.

For the purposes of rule 5: (2) The management agency is the Ministry for Primary Industries as defined by section 2(1) of the Biosecurity Act 1993 (Biosecurity Act).

An inspector or authorised person is defined in section 2 (1) of the Biosecurity Act to mean a person who is appointed under section 103 of the Biosecurity Act.

For the purposes of rule 5: (2) An occupier is defined in section 2 (1) of the Biosecurity Act.

The Ministry for Primary Industries has developed a template for an Earthworks Risk Management plan and a guidance document on how to complete. This can be found through the link below.

<https://www.kauriprotection.co.nz/resources/best-practice-guides/earthworks-riskmanagement-plan/>

111. The policy provision relates to the incorporation of kauri dieback considerations, including reference to the Kauri Dieback Programme. I acknowledge that Kaipara District Council does not have a conservation strategy similar to Waikato District Council and, as such, this approach would not be fit for purpose within the PDP. However, I consider the inclusion of the two advice notes to be a useful measure for plan users, particularly in noting that the earthworks provisions in the Earthworks chapter apply in addition to this chapter.
112. It is important to note that the Ministry for Primary Industries (MPI) is the administering authority for the NPMP. Accordingly, this chapter could include an advice note similar to the WDP-OiP example, advising that where kauri are present, or where a site is known to be contaminated with kauri dieback spores, vegetation clearance cannot occur without an approved kauri dieback management plan under the NPMP requirements.
113. Regardless of the approaches outlined above, I consider the inclusion of kauri dieback provisions consistent with the NPMP to be particularly important within the Earthworks chapter, given the direct relationship between earthworks activities and the risk of soil disturbance and disease spread.

114. To assist the Panel, my recommended draft provisions are set out below and are proposed to be located below Rules ECO-R1 and R2 ([green text](#)).

**Advice note:** [Pursuant to clause 19 of the Biosecurity \(National PA Pest Management Plan\) Order Plan Rule 5: \(2\) the occupier must not undertake earthworks in a kauri hygiene zone unless they have, and operate in accordance with, an earthworks risk management plan that is approved for that land by the management agency, an inspector, or an authorised person.](#)

[For the purposes of rule 5: \(2\) The management agency is the Ministry for Primary Industries as defined by section 2\(1\) of the Biosecurity Act 1993 \(Biosecurity Act\).](#)

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[For the purposes of rule 5: \(2\) An occupier is defined in section 2 \(1\) of the Biosecurity Act.](#)

[The Ministry for Primary Industries has developed a template for an Earthworks Risk Management plan and a guidance document on how to complete. This can be found through the link below. <https://www.kauriprotection.co.nz/resources/best-practice-guides/earthworks-riskmanagement-plan/>](#)

## Harvesting of Indigenous Timber

115. The DG's submission sought the removal of clause (k) of Rule ECO-R1<sup>44</sup>. The s42A report rejects the DG's relief for the following reasons:

*"I note that the intent of this this clause is consistent with the NPS-IB (Clause 3.11(5)) and it is appropriate in my view to allow for harvesting of indigenous timber where this is under an approved plan or permit under the Forest Act 1949 It is unclear why DOC are requesting deletion of this clause, other than the broad concern from DOC with all clauses not constrained by an area clearance threshold. In my view, it would be inappropriate to impose an arbitrary threshold on indigenous vegetation clearance authorised via these types of management plans or permits for the same reasons as set out for clause (g) above."<sup>45</sup>*

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<sup>44</sup> DG submission 304, submission no: 304.73.

<sup>45</sup> Section 42A Report - Ecosystems and Indigenous Biodiversity, 1 May 2026, page 58. Whitelock Evidence, 22 May 2026, Proposed Kaipara District Plan, Ecosystems and Indigenous Biodiversity chapter

116. The DG's primary concern with this clause is its reliance on an implicit assumption that an adequate assessment of effects on indigenous biodiversity will have been undertaken through a plan or permit issued by MPI under a different statutory regime. However, in my opinion, the RMA must still be applied alongside the Forests Act 1949 process, and neither the Council nor the S42A officer has demonstrated the necessity for this approach.
117. I note the statutory framework applied by MPI in assessing the impacts of harvesting indigenous timber is directed towards the purposes and provisions of the Forests Act 1949, which has the purpose of "*promoting the sustainable forest management of indigenous forest land*".
118. I consider it is clear that the purpose and decision-making framework for harvesting indigenous timber under the Forests Act 1949 are different with the purpose and principles set out in Part 2 of the RMA, which in the context of this chapter include:
- A clear definition of sustainable management: *means managing 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 and for their health and safety while –*
    - *Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
    - *Safeguarding the life-supporting capacity of air, water, soil and ecosystems; and*
    - *Avoiding, remedying or mitigating adverse effects of activities on the environment.*
  - Recognising and providing for matters of national importance – Section 6(c): *the protection of area of significant indigenous vegetation and significant habitats of indigenous fauna.*

- Having regard to other matters – Section 7(d): intrinsic values of ecosystems.
119. In this context, evidence from Mr Townsend highlights the indigenous forest remnants on private land across Northland can support disproportionately high biodiversity values, despite being secondary or regenerating forest. In his view, inclusion of private forest remnants substantially improves landscape connectivity, for example reducing the average nearest neighbourhood distances from 1.2 km to 280 m<sup>46</sup>. These areas can support high native plant diversity (including numerous woody species with very small remnants), provide habitat for indigenous fauna such as kiwi, and contain Threatened or At Risk flora<sup>47</sup>.
120. Based on the above, the result of enabling harvesting as a permitted activity means that any adverse effects associated with the activity would not be subject to an assessment of environmental effects under the RMA. In my opinion, this does not provide assurance that effects on significant indigenous vegetation and significant habitats of indigenous fauna would be appropriately managed in accordance with RMA requirements, particularly the obligation to recognise and provide for section 6(c).
121. However, I consider it would be appropriate for the harvesting of indigenous timber to be provided for in the Plan as a Restricted Discretionary Activity under Rule ECO-R1. This would enable the effects of the activity to be appropriately assessed through an assessment of environmental effects under the PDP and the wider RMA framework.
122. Wording to this effect is set out below (green text):
2. *Activity status when compliance with ECO-R2.1 not achieved: Restricted Discretionary Activity*

*Where:*

    - a. ~~*The application includes an assessment, carried out by a suitably qualified ecologist, of whether or not any of the indigenous vegetation proposed to be cleared meets the criteria in Appendix 5 of the Northland Regional Policy Statement 2016 (Areas of significant indigenous Vegetation and significant habitats of indigenous fauna).*~~ *The harvesting of indigenous timber carried*

<sup>46</sup> Mr Andrew Townsend, EIC, para [80].

<sup>47</sup> Mr Andrew Townsend, EIC, para [87-97].

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out in accordance with a forest management plan or permit under Part IIIA of the Forests Act 1949; or

### **Clearance for the operation, report or maintenance of specified activities**

123. The DG’s submission sought the deletion of clause (l) of Rule ECO-R1<sup>48</sup>. I note that the DG’s submission did not provide specific reasons for its removal and, as such, the s42A officer’s response does not directly address the submission. Nevertheless, the s42A officer recommends the retention of this clause, with minor amendments<sup>49</sup>.
124. I do not oppose the retention of this clause. However, I have concerns regarding the extent of indigenous vegetation clearance enabled by this rule, as there is no corresponding clearance threshold to control potential adverse effects associated with such clearance. Furthermore, I have concerns about the application of this rule and consider that it should apply to “*existing activities*”, rather than “*lawfully established activities*”. The latter sets the premise that any future activity could, once lawfully established, be repaired and maintained without any protective measures in place to manage potential adverse effects.
125. I note that the natural character chapter (s42A recommended version) limits the maintenance of lawfully established activities to 25 m<sup>2</sup> within any 12-month period per site, and 50 m<sup>2</sup> where the works relate to the upgrade, operation, maintenance, or repair of existing infrastructure, or to the establishment of infrastructure within a road, or a track no greater than 1.5 m in width.
126. I consider that this approach could be applied to ECO-R1(l), as it would enable the maintenance, operation, and repair of the specified activities while ensuring that potential effects are appropriately managed.
127. Amendments to that effect are provided below (green text):
- i. *Clearance for the operation, repair or maintenance of the following activities where they have been lawfully established shall not exceed 50m<sup>2</sup> in any 12 month period per site:*
    - i. *Fences;*

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<sup>48</sup> DG submission 304, submission no: 304.73.

<sup>49</sup> Section 42A Report – Ecosystems and Indigenous Biodiversity, 1 May 2026, page 59, table 1. Whitelock Evidence, 22 May 2026, Proposed Kaipara District Plan, Ecosystems and Indigenous Biodiversity chapter

- ii. *Infrastructure and associated access tracks*
- iii. *Buildings;*
- iv. *Driveways and access;*
- v. *Walking tracks;*
- vi. *Cycling tracks;*
- vii. *Farming tracks; and*
- viii. *Farm drains.*

## **Conclusion**

128. In conclusion, I consider that the recommended amendments I have provided to the EIB chapter will better ensure the plan gives effect to the NPS-IB and the RPS, as required by section 75 of the RMA. While some of the NPS-IB provisions have been disapplied to district plans, a number of active provisions remain directly relevant and capable of implementation within this chapter at this time.
129. My evidence concludes that reliance on the RPS alone, particularly Policy 4.4.1, to manage effects on indigenous biodiversity introduces unnecessary risk. This is reinforced through technical expert evidence which confirms the NPS-IB provides a more recent, directive and operational framework. I am of the view that deferring these provisions undermine Council's obligation to give effect to national direction and to maintain indigenous biodiversity at the district level.
130. Although the PDP does not map areas of significant indigenous vegetation or significant habitats of indigenous fauna, the Plan enables identification of these areas through Rules ECO-R1 and ECO-R2. However, the implementation of the NPS-IB is necessary to provide clear direction on appropriate assessment pathways and to ensure that effects are appropriately managed.
131. Finally, the targeted changes I recommend to other parts of the chapter are necessary to ensure adverse effects arising from the provisions of this chapter are appropriately assessed and managed through the PDP.

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Ronan Matthew Whitelock

DATED this 22 day of May 2026

**Biodiversity compensation**

Means a conservation outcome that meets the requirements in Appendix 4 of the National Policy Statement for Indigenous Biodiversity and results from actions that are intended to compensate for any more than minor residual adverse effects on indigenous biodiversity after all appropriate avoidance, minimisation, remediation, and biodiversity offsetting measures have been sequentially applied.

**Biodiversity offset**

Means a measurable conservation outcome that meets the requirements in Appendix 3 of the National Policy Statement for Indigenous Biodiversity and results from actions that are intended to:

- (a) Redress any more than minor residual adverse effects on indigenous biodiversity after all appropriate avoidance, minimisation, and remediation measures have been sequentially applied; and
- (b) Achieve a net gain in type, amount, and condition of indigenous biodiversity compared to that lost.

**Effects Management Hierarchy**

The effects management hierarchy means an approach to managing the adverse effects of an activity on indigenous biodiversity that requires that:

- (a) Adverse effects are avoided where practicable; then
- (b) Where adverse effects cannot be avoided, they are minimised where practicable;
- (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 possible; then
- (e) Where biodiversity offsetting of no more than minor residual adverse effects is not possible; then
- (f) If biodiversity compensation is not appropriate, the activity itself is avoided.

<b>ECO-02</b>	<b>Maintenance of indigenous biodiversity</b>
Adverse effects on indigenous biodiversity are managed to maintain its extent and diversity <u>by achieving a no net loss that to</u> provides for the social, economic, and cultural well-being of people and communities.	

<b>ECO-P2</b>	<b>Indigenous Biodiversity Outside the coastal environment</b>
<p>Outside the coastal environment:</p> <ol style="list-style-type: none"> <li>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)</u> <del>A</del>avoid, <del>remedy or mitigate</del> adverse effects of subdivision, land use and development to ensure adverse effects <del>are no more than minor on;</del> <u>(except as outlined in Clause 3.11 of the NPS-IB) that would result in:</u> <ol style="list-style-type: none"> <li><del>a.</del> <u>loss of ecosystem representation and extent;</u></li> <li><del>b.</del> <u>disruption to sequences, mosaics, or ecosystem function;</u></li> <li><del>c.</del> <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> <li><del>d.</del> <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> <li><del>e.</del> <u>Threatened and At-Risk Indigenous species;</u></li> <li><del>f.</del> <u>Areas of significant indigenous vegetation and significant habitat of indigenous fauna;</u></li> <li><del>e.</del> <u>Areas of indigenous biodiversity protected under other legislation; and</u></li> </ol> </li> <li>2. <u>For activities exempt under Clause 3.10(2) of the NPS-IB or where adverse effects cannot be avoided, implement the effects management hierarchy.</u></li> <li>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)</u> <del>A</del>apply the effects management hierarchy to avoid, <del>minimise,</del> <u>remedy, or mitigate</u>, 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>a. Areas of predominantly indigenous vegetation; and</li> <li>b. Indigenous species, habitats, and ecosystems that are important for recreational, commercial, traditional or cultural purposes or are particularly vulnerable to modification.</li> </ol> </li> <li>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><del>a.</del> <u>Adverse effects are avoided where practicable; then</u></li> <li><del>b.</del> <u>Where adverse effects cannot be avoided, they are minimised where practicable; then</u></li> <li><del>c.</del> <u>Where adverse effects cannot be minimised, they are remedied where practicable; then</u></li> </ol> </li> </ol>	

- 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.

**ECO-PY**

**Managing pets and pest plants and animal species**

Require landowners to manage pets and pest plants and animal species within their property through consent conditions where necessary to avoid adverse effects risks to Threatened and At-Risk indigenous species.

<b>ECO-R1</b>	<b>Indigenous vegetation clearance and any associated land disturbance for specified activities</b>	
All Zones	<p>1. Activity Status: Permitted</p> <p>Where: The Indigenous vegetation clearance is for the following purposes:</p> <ul style="list-style-type: none"> <li>a. To address an immediate risk to the public safety or damage to property;</li> <li>b. The formation of walking tracks less than 1.5m wide;</li> <li>c. The construction of a new fence where the purpose of the new fence is to exclude stock and/or pests from the area of indigenous vegetation, provided that the clearance does not exceed 3.5m in width <del>either side of the fence line;</del></li> <li>d. To remove pest species in accordance with any approved pest management plan or biosecurity operational plan <u>or to control unwanted organisms as a response to directions of a person authorised under the Biosecurity Act 1993;</u></li> </ul>	<p>2. Activity status when compliance with ECO-R2.1 not achieved: Restricted Discretionary Activity</p> <p><del>Where:</del></p> <ul style="list-style-type: none"> <li>a. <del>The application includes an assessment, carried out by a suitably qualified ecologist, of whether or not any of the indigenous vegetation proposed to be cleared meets the criteria in Appendix 5 of the Northland Regional Policy Statement 2016 (Areas of significant indigenous Vegetation and significant habitats of indigenous fauna). The harvesting of indigenous timber carried out in accordance with a forest management plan or permit under Part IIIA of the Forests Act 1949; or</del></li> <li>a.</li> </ul> <p>3. Matters over which discretion is restricted:</p> <ul style="list-style-type: none"> <li>a. The effect of the vegetation clearance and associated land disturbance on indigenous biodiversity values;</li> <li>b. The extent of clearance proposed and any practicable alternative locations or methods to avoid or reduce the extent of indigenous</li> </ul>

Appendix B – Recommended Amendments to Provisions – 22/05/2026

	<ul style="list-style-type: none"> <li>e. To create or maintain a 20m setback from an area of indigenous vegetation to a residential unit (excluding accessory buildings);</li> <li>f. To allow for the construction of a single residential unit on an existing Record of Title <u>dated prior to 28 April 2025</u>, including essential associated on-site infrastructure, <u>a garage</u> and access, where the total clearance does not exceed 1,000m<sup>2</sup>;</li> <li>g. Clearance provided for in a covenant or order under the Queen Elizabeth II National Trust Act 1977, a Ngā Whenua Rāhui Kawenata, or the Reserves Act 1977;</li> <li>h. Clearance on land held or managed under the Conservation Act 1987 and in accordance with any applicable conservation management strategy, conservation management plan, or management plan established under that Act;</li> <li>i. The removal or clearance of indigenous vegetation from land that was previously cleared and where the indigenous vegetation to be cleared is less than <u>5</u> <del>10</del>-years old;</li> <li>j. Creation and maintenance of firebreaks to manage fire risk;</li> <li><del>k. The harvesting of indigenous timber carried out in accordance with a</del></li> </ul>	<ul style="list-style-type: none"> <li>vegetation clearance and associated land disturbance;</li> <li>c. The proposed measures to avoid, remedy, mitigate, offset or compensate adverse effects on indigenous biodiversity values;</li> <li>d. The reasons for the indigenous vegetation clearance and associated land disturbance; <del>and</del></li> <li>e. Any positive effects associated with the indigenous vegetation clearance and associated land disturbance; <u>and</u></li> <li>f. <u>Whether any of the indigenous vegetation proposed to be cleared meets the criteria for ecological significance in Appendix 5 of the Northland Regional Policy Statement 2016 (Areas of significant indigenous vegetation and significant habitats of indigenous fauna).</u></li> <li>g.</li> </ul>
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Appendix B – Recommended Amendments to Provisions – 22/05/2026

	<p><del>forest management plan or permit under Part IIIA of the Forests Act 1949; or</del></p> <p>I. Clearance for the operation, repair or maintenance of the following activities where they have been lawfully established <u>shall not exceed 50m<sup>2</sup> in any 12-month period per site:</u></p> <ul style="list-style-type: none"> <li>i. Fences;</li> <li>ii. Infrastructure <u>and associated access tracks;</u></li> <li>iii. Buildings;</li> <li>iv. Driveways and access;</li> <li>v. Walking tracks;</li> <li>vi. Cycling tracks;</li> <li>vii. Farming tracks; and</li> <li>viii. Farm drains.</li> </ul>	
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<b>ECO-R2</b>	<b>Indigenous vegetation clearance and any associated land disturbance not provided for under ECO-R1</b>	
All Zones	<p>1. Activity Status: Permitted</p> <p>Where:</p> <ul style="list-style-type: none"> <li>a. It does not exceed <del>1,000</del> <u>500</u>m<sup>2</sup> per site in any calendar year in the Māori purpose zone, General rural zone, and Rural lifestyle zone; or</li> <li>b. It does not exceed <del>500</del> <u>250</u>m<sup>2</sup> per site in any calendar year in all other zones</li> </ul>	<p>2. Activity status when compliance with ECO-R2.1 not achieved: Restricted Discretionary Activity</p> <p><del>Where:</del></p> <ul style="list-style-type: none"> <li>a. <del>The application includes an assessment, carried out by a suitably qualified ecologist, of whether or not any of the indigenous vegetation proposed to be cleared meets the criteria in Appendix 5 of the Northland Regional Policy Statement 2016 (Areas of significant indigenous Vegetation and significant habitats of indigenous fauna).</del></li> </ul> <p>3. Matters over which discretion is restricted:</p>

		<ul style="list-style-type: none"> <li>a. The effect of the vegetation clearance and associated land disturbance on indigenous biodiversity values;</li> <li>b. The extent of clearance proposed and any practicable alternative locations or methods to avoid or reduce the extent of indigenous vegetation clearance and associated land disturbance;</li> <li>c. The proposed measures to avoid, remedy, mitigate, offset or compensate adverse effects on indigenous biodiversity values;</li> <li>d. The reasons for the indigenous vegetation clearance and associated land disturbance; <del>and</del></li> <li>e. Any positive effects associated with the indigenous vegetation clearance and associated land disturbance; <del>and</del></li> <li>f. <u>Whether any of the indigenous vegetation proposed to be cleared meets the criteria for ecological significance in Appendix 5 of the Northland Regional Policy Statement 2016 (Areas of significant indigenous vegetation and significant habitats of indigenous fauna).</u></li> </ul>
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**Advice note:**

Pursuant to clause 19 of the Biosecurity (National PA Pest Management Plan) Order Plan Rule 5: (2) the occupier must not undertake earthworks in a kauri hygiene zone unless they have, and operate in accordance with, an earthworks risk management plan that is approved for that land by the management agency, an inspector, or an authorised person.

For the purposes of rule 5: (2) The management agency is the Ministry for Primary Industries as defined by section 2(1) of the Biosecurity Act 1993 (Biosecurity Act).

An inspector or authorised person is defined in section 2 (1) of the Biosecurity Act to mean a person who is appointed under section 103 of the Biosecurity Act.

For the purposes of rule 5: (2) An occupier is defined in section 2 (1) of the Biosecurity Act.

The Ministry for Primary Industries has developed a template for

[an Earthworks Risk Management plan and a guidance document on how to complete. This can be found through the link below.](https://www.kauriprotection.co.nz/resources/best-practice-guides/earthworks-riskmanagement-plan/)  
<https://www.kauriprotection.co.nz/resources/best-practice-guides/earthworks-riskmanagement-plan/>

**SECTION 32AA EVALUATION**

Introduction:

This section 32AA evaluation relates to recommended amendments to the Ecosystems and Indigenous Biodiversity chapter which are outlined in my Evidence in Chief.

Importantly, a section 32AA evaluation is only required for changes recommended since notification of the PDP. Section 32AA requires the level of detail in this evaluation to correspond to the scale and significance of the changes I've recommended.

Since my recommended amendments provide changes to policies and various rules, I have addressed them individually below.

Proposal for Amendments to Policies:

I consider it appropriate to amend Objective ECO-O2, and policies ECO-P2 & ECO-PY to give effect to the NPS-IB and ensure effects are appropriately managed. I propose the following amendments (green text):

<b>ECO-O2</b>	<b>Maintenance of indigenous biodiversity</b>
Adverse effects on indigenous biodiversity are managed to maintain its extent and diversity <u>by achieving a no net loss that to</u> provides for the social, economic, and cultural well-being of people and communities.	

<b>ECO-P2</b>	<b>Indigenous Biodiversity Outside the coastal environment</b>
<p>Outside the coastal environment:</p> <ol style="list-style-type: none"> <li>1. <u>Inside areas that meet the significance criteria of Appendix 5 of the Northland Regional Policy Statement 2016 (Areas of significant indigenous vegetation and significant habitats of indigenous fauna) Avoid, remedy or mitigate</u> adverse effects of subdivision, land use and development to ensure adverse effects <u>are no more than minor on; (except as outlined in Clause 3.11 of the NPS-IB) that would result in:</u> <ol style="list-style-type: none"> <li>a. <u>loss of ecosystem representation and extent;</u></li> <li>b. <u>disruption to sequences, mosaics, or ecosystem function;</u></li> <li>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> <li>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> <li>e. <u>Threatened and At Risk Indigenous species;</u></li> </ol> </li> </ol>	

- ~~f. —Areas of significant indigenous vegetation and significant habitat of indigenous fauna;~~
- ~~e. Areas of indigenous biodiversity protected under other legislation; and~~
- 2. For activities exempt under Clause 3.10(2) of the NPS-IB or where adverse effects cannot be avoided, implement the effects management hierarchy.
- 3. Outside of areas that do not meet the 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, minimise, remedy, or mitigate, offset or compensate any significant adverse effects of subdivision, land use and development to ensure there are no significant adverse effects on:
  - a. Areas of predominantly indigenous vegetation; and
  - b. Indigenous species, habitats, and ecosystems that are important for recreational, commercial, traditional or cultural purposes or are particularly vulnerable to modification.
- 4. For the purposes of clauses (2) and (3) the implementation of the effects management hierarchy includes:
  - a. Adverse effects are avoided where practicable; then
  - b. Where adverse effects cannot be avoided, they are minimised where practicable; then
  - 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.

**ECO-PY**

**Managing pets and pest plants and animal species**

Require landowners to manage pets and pest plants and animal species within their property through consent conditions where necessary to avoid adverse effects risks to Threatened and At-Risk indigenous species.

Analysis of the recommended amendments against the purpose of the Resource Management Act

<b>Part 2 RMA</b>	<b>How does the objective align with each of these sections?</b>
Section 5 Purpose	<p>The amendment I provide to objective ECO-O3 and policy ECO-P2 supports section 5(b) of the RMA, particularly safeguarding the life supporting capacity of ecosystems, by setting a clear direction for how effects are to be managed in accordance with parts of the NPS-IB which still apply, while following the policy structure of Policy 4.4.1 of the RPS.</p> <p>The amendment to ECO-PY aligns with section 5 particularly the requirement to avoid, remedy or mitigate adverse effects.</p>
Section 6 Matters of national importance	<p>I consider the implementation of the NPS-IB including the effects management hierarchy within this policy is the most appropriate mechanism to recognising and providing for section 6(c) of the RMA and will ensure areas of significant indigenous generation and significant habitats of indigenous fauna are protected from inappropriate subdivision, use and development.</p> <p>The requirement to avoid adverse effects on threatened or at risk indigenous species will recognise and provide for section 6(c).</p>
Section 7 Other matters	<p>The amendments to ECO-P2 and ECO-PY ensures a clear direction is established for plan users to have particular regard to section 7(d).</p>
Section 8 Treaty of Waitangi	<p>I do not consider the amendments to these provisions will impact the ability of the plan to take into account section 8 of the RMA.</p>

Reasonably practicable options are:

**Option 1** – Amend Objective ECO-O3 to require a no net loss indigenous biodiversity across the district, amend ECO-P2 to give effect to the NPS-IB and set clear direction to manage effects, and amend ECO-PY to avoid adverse effects instead of risks.

**Option 2** – Retain the drafting provided in the s42a Report<sup>1</sup>

**Option 3** – Retaining the policy as notified.

Preferred Option

Amending Objective ECO-O3 to require indigenous biodiversity is maintained so there is no net loss.

Amend ECO-P2 to set a clear direction on managing the effects of indigenous vegetation clearance to ensure that significant areas are identified, and managed in accordance with the NPS-IB.

Amending ECO-PY to avoid adverse effects will provide clearer direction for decision-makers to assessment the potential adverse effects on threatened or at-risk species.

Option 2 would provide more clear direction in comparison to Option 3. However, I consider it more effective for this policy to give effect to the NPS-IB which provides more directive, protective and appropriate direction on managing effects on indigenous biodiversity.

Evaluation of Preferred Option

<b>Evaluation of Preferred Option</b>		
	<b>What are the costs</b>	<b>What are the benefits</b>
<b>Environmental</b>	I do not consider there are any environmental costs associated with my recommended amendments.	Effects associated with vegetation clearance will undergo appropriate statutory assessment including the implementation of the effects management hierarchy, which reacts to the different significance in effects.

<sup>1</sup> S42A Report – Ecosystems and indigenous Biodiversity, 1 May 2026

Appendix C – s32AA evaluation of recommended amendments 22/05/2026

		<p>Adverse effects will be avoided than risks which are not well defined in the RMA in comparison to effects.</p> <p>Regardless, the effects from the clearance will be appropriately managed ensuring benefits to the environment.</p>
<b>Economic</b>	Potential costs for applicants including ecological impact assessments, and effects management including potential costs for offsetting and compensation where applicable.	More directive effects management pathway which provides more certainty to decision makers which in return could reduce processing times and costs associated with applications.
<b>Social</b>	No social costs identified.	No social benefits identified.
<b>Cultural</b>	No social costs identified.	I consider the cultural benefits will remain the same as outlined the s42A officers s32AA assessment.
<b>Will there be any effect on economic growth?</b>	No potential impact on economic growth identified	
<b>Will there be any more or less employment opportunities?</b>	No potential employment opportunities identified.	
<b>Is there enough information?</b>	I consider this approach to be more consistent with the direction in higher-order planning documents when compared with the s42A officer's recommendations. This approach incorporates the majority of the operative provisions of the NPS-IB while also giving effect to the RPS.	

	<p>I consider that the proposed policy amendment is a more appropriate response than that taken by the s42A officer, as I consider there is no uncertainty regarding the implementation of the NPS-IB. In addition, the NPS-IB sets out very clear direction for how effects are to be managed.</p> <p>There is ample information set out in the RMA, particularly in section 3 of the RMA which sets out the definition of an effect.</p>
<p><b>Risk of acting or not acting</b></p>	<p>Effects will not be appropriately managed from vegetation clearance activities, including implementing the effects management provisions under the NPS-IB which as addressed in the evidence of Dr Corkery provides more appropriate decision making.</p>
<p><b>How effective is your preferred option?</b></p>	
<p>The proposed amendments will be more effective as they provide even stronger links to the higher order documents such as the NPS-IB and the RPS and will be more effective in guiding decision makers and recognising and providing for section 6(c) of the RMA. This is reinforced through Dr Corkery who confirms the NPS-IB effects management hierarchy is the more effective mechanism in comparison to the mitigation hierarchy set out in the RPS.</p> <p>I consider the changes to ECO-PY ensure the adverse effects on threatened or at-risk indigenous species are avoided. This approach is more consistent with the effects management regime of the RMA.</p>	
<p><b>How efficient is your preferred option?</b></p>	
<p>I consider these amendments are the most efficient ways of achieving the purpose of the act, giving effect to higher-order planning documents, and ensuring effects on ecosystems and indigenous biodiversity are appropriately managed. The s42a officers recommendations do not seek to implement all of the provisions of the NPS-IB which are available to the chapter, which I consider to be inefficient as outlined in my primary evidence.</p>	
<p><b>Summary</b></p>	
<p>Overall, I consider that Option 1 is the most efficient and effective option for ensuring the REG chapter gives effect to the NPS-REG. On this basis, Option 1 is the most appropriate option for the EIB chapter in accordance with section 32AA of the RMA.</p>	

**Proposal for Amendments to Rules:**

This section provides s32AA RMA analysis on the proposed changes to Rules that I have outlined in my evidence in chief. I consider these changes appropriate and will ensure the effects associated with indigenous vegetation activities are appropriately managed in accordance with the NPS-IB and RPS as required by s75(3) of the RMA.

I also consider it most effective and efficient for the harvesting of indigenous timber to be provided for in the plan, however should require resource consent to assess the actual and potential effects of the activity.

The introduction of the advice notes for Kauri Dieback, will provide clear direction to plan-users for when an approval may be required under the NPMP.

For completeness my proposed recommendations (green text) are as follows:

ECO-R1	Indigenous vegetation clearance and any associated land disturbance for specified activities	
All Zones	<p>1. Activity Status: Permitted</p> <p>Where: The Indigenous vegetation clearance is for the following purposes:</p> <ul style="list-style-type: none"> <li>a. To address an immediate risk to the public safety or damage to property;</li> <li>b. The formation of walking tracks less than 1.5m wide;</li> <li>c. The construction of a new fence where the purpose of the new fence is to exclude stock and/or pests from the area of indigenous vegetation, provided that the clearance does not exceed 3.5m in width <del>either side of the fence line;</del></li> <li>d. To remove pest species in accordance with any approved pest management plan or biosecurity operational</li> </ul>	<p>2. Activity status when compliance with ECO-R2.1 not achieved: Restricted Discretionary Activity</p> <p><del>Where:</del></p> <ul style="list-style-type: none"> <li>a. <del>The application includes an assessment, carried out by a suitably qualified ecologist, of whether or not any of the indigenous vegetation proposed to be cleared meets the criteria in Appendix 5 of the Northland Regional Policy Statement 2016 (Areas of significant indigenous Vegetation and significant habitats of indigenous fauna).</del> <u>The harvesting of indigenous timber carried out in accordance with a forest management plan or permit under Part IIIA of the Forests Act 1949; or</u> <ul style="list-style-type: none"> <li>a.</li> </ul> </li> </ul> <p>3. Matters over which discretion is restricted:</p> <ul style="list-style-type: none"> <li>a. The effect of the vegetation clearance and associated land</li> </ul>

	<p>plan <u>or to control unwanted organisms as a response to directions of a person authorised under the Biosecurity Act 1993</u>;</p> <p>e. To create or maintain a 20m setback from an area of indigenous vegetation to a residential unit (excluding accessory buildings);</p> <p>f. To allow for the construction of a single residential unit on an existing Record of Title <u>dated prior to 28 April 2025</u>, including essential associated on-site infrastructure, <u>a garage</u> and access, where the total clearance does not exceed 1,000m<sup>2</sup>;</p> <p>g. Clearance provided for in a covenant or order under the Queen Elizabeth II National Trust Act 1977, a Ngā Whenua Rāhui Kawenata, or the Reserves Act 1977;</p> <p>h. Clearance on land held or managed under the Conservation Act 1987 and in accordance with any applicable conservation management strategy, conservation management plan, or management plan established under that Act;</p> <p>i. The removal or clearance of indigenous vegetation from land that was previously cleared and where the indigenous vegetation to be cleared is less than <u>5</u> <del>10</del>-years old;</p>	<p>disturbance on indigenous biodiversity values;</p> <p>b. The extent of clearance proposed and any practicable alternative locations or methods to avoid or reduce the extent of indigenous vegetation clearance and associated land disturbance;</p> <p>c. The proposed measures to avoid, remedy, mitigate, offset or compensate adverse effects on indigenous biodiversity values;</p> <p>d. The reasons for the indigenous vegetation clearance and associated land disturbance; <del>and</del></p> <p>e. Any positive effects associated with the indigenous vegetation clearance and associated land disturbance; <u>and</u></p> <p>f. <u>Whether any of the indigenous vegetation proposed to be cleared meets the criteria in Appendix 5 of the Northland Regional Policy Statement 2016 (Areas of significant indigenous vegetation and significant habitats of indigenous fauna).</u></p> <p>g.</p>
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	<p>j. Creation and maintenance of firebreaks to manage fire risk;</p> <p><del>k. The harvesting of indigenous timber carried out in accordance with a forest management plan or permit under Part IIIA of the Forests Act 1949; or</del></p> <p>l. Clearance for the operation, repair or maintenance of the following activities where they have been lawfully established <u>shall not exceed 50m<sup>2</sup> in any 12-month period per site:</u></p> <ul style="list-style-type: none"> <li>i. Fences;</li> <li>ii. Infrastructure <u>and associated access tracks;</u></li> <li>iii. Buildings;</li> <li>iv. Driveways and access;</li> <li>v. Walking tracks;</li> <li>vi. Cycling tracks;</li> <li>vii. Farming tracks; and</li> <li>viii. Farm drains.</li> </ul>	
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<b>ECO-R2</b>	<b>Indigenous vegetation clearance and any associated land disturbance not provided for under ECO-R1</b>	
All Zones	<p>1. Activity Status: Permitted</p> <p>Where:</p> <ul style="list-style-type: none"> <li>a. It does not exceed <del>1,000</del> <u>500</u>m<sup>2</sup> per site in any calendar year in the Māori purpose zone, General rural zone, and Rural lifestyle zone; or</li> </ul>	<p>2. Activity status when compliance with ECO-R2.1 not achieved: Restricted Discretionary Activity</p> <p><del>Where:</del></p> <ul style="list-style-type: none"> <li>a. <del>The application includes an assessment, carried out by a suitably qualified ecologist, of whether or not any of the indigenous vegetation proposed to be cleared meets the criteria in Appendix 5 of the Northland</del></li> </ul>

	<p>b. It does not exceed <del>500</del> <u>250</u>m<sup>2</sup> per site in any calendar year in all other zones</p>	<p><del>Regional Policy Statement 2016 (Areas of significant indigenous Vegetation and significant habitats of indigenous fauna).</del></p> <p>3. Matters over which discretion is restricted:</p> <ol style="list-style-type: none"> <li>a. The effect of the vegetation clearance and associated land disturbance on indigenous biodiversity values;</li> <li>b. The extent of clearance proposed and any practicable alternative locations or methods to avoid or reduce the extent of indigenous vegetation clearance and associated land disturbance;</li> <li>c. The proposed measures to avoid, remedy, mitigate, offset or compensate adverse effects on indigenous biodiversity values;</li> <li>d. The reasons for the indigenous vegetation clearance and associated land disturbance; <del>and</del></li> <li>e. Any positive effects associated with the indigenous vegetation clearance and associated land disturbance; <del>and</del></li> <li>f. <u>Whether any of the indigenous vegetation proposed to be cleared meets the criteria in Appendix 5 of the Northland Regional Policy Statement 2016 (Areas of significant indigenous vegetation and significant habitats of indigenous fauna).</u></li> </ol>
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**Advice note:**

Pursuant to clause 19 of the Biosecurity (National PA Pest Management Plan) Order Plan Rule 5: (2) the occupier must not undertake earthworks in a kauri hygiene zone unless they have, and operate in accordance with, an earthworks risk management plan that is approved for that land by the management agency, an inspector, or an authorised person.

For the purposes of rule 5: (2) The management agency is the Ministry for Primary Industries as defined by section 2(1) of the Biosecurity Act 1993 (Biosecurity Act).

An inspector or authorised person is defined in section 2 (1) of the Biosecurity Act to mean a person who is appointed under section 103 of the Biosecurity Act.

[For the purposes of rule 5: \(2\) An occupier is defined in section 2 \(1\) of the Biosecurity Act.](#)

[The Ministry for Primary Industries has developed a template for an Earthworks Risk Management plan and a guidance document on how to complete. This can be found through the link below.](#)  
<https://www.kauriprotection.co.nz/resources/best-practice-guides/earthworks-riskmanagement-plan/>

**Analysis of the recommended amendments against the Part 2 of the Resource Management Act:**

<b>Part 2 RMA</b>	<b>How does the objective align with each of these sections?</b>
Section 5 Purpose	The amendments I propose seek to ensure that the life-supporting capacity of ecosystems are safeguarded as required under s5(2)(b).
Section 6 Matters of national importance	<p>As outlined in my evidence, these amendments seek to ensure to ensure section 6(c) of the RMA is recognised and provided for.</p> <p>I consider the changes to ECO-R1 will ensure that the harvesting of indigenous timber will be carried out in a manner which gets considered against the tests of the RMA. Further that a clearance threshold on clause (l) will ensure that areas of significant indigenous fauna or significant habitats of indigenous fauna are not cleared with any mechanism managing the cumulative effects generated.</p> <p>The inclusion of an advice note will direct plan-users to obtain an approval under the NPMP to manage the potential adverse effect associated with the spread of contaminated soil.</p>
Section 7 Other matters	The amendments to these rules will ensure that appropriate protections are in place to protect intrinsic values of ecosystems from adverse effects.
Section 8 Treaty of Waitangi	I do not consider the amendments to these provisions will impact the ability of the plan to take into account section 8 of the RMA.

Reasonably practicable options are:

**Option 1** – Amend Rules ECO-R1 & ECO-R2, and include new advice note

**Option 2** – Retain the drafting provided in the s42a Report<sup>2</sup>

**Option 3** – Retaining the rules as notified.

Preferred Option

Option 1 is my preferred option because amending Rules ECO-R1 and R2 will ensure the effects associated with indigenous vegetation activities are appropriately managed in accordance with the NPS-IB and RPS as required by s75(3) of the RMA. Further, I consider Option 1 to be the most effective and efficient way of recognising for section 6(c) of the RMA.

<b>Evaluation of Preferred Option</b>		
	<b>What are the costs</b>	<b>What are the benefits</b>
<b>Environmental</b>	No environmental costs associated.	Additional environmental protections in place within clauses to ensure the permitted activities are appropriately enabled to ensure their effects are not significant.
<b>Economic</b>	Potential costs for applicants including consent processing costs for harvesting of indigenous timber, and other activities which may infringe permitted thresholds. However, I note ECO-P5 includes non-regulatory methods including the reduction in resource consent application fees.	No economic benefits identified.
<b>Social</b>	No social costs identified.	No social benefits identified.
<b>Cultural</b>	No cultural costs identified.	No cultural benefits identified.

<sup>2</sup> S42A Report – Renewable Electricity Generation Activities

<b>Will there be any effect on economic growth?</b>	No effects on economic growth identified.	
<b>Will there be any more or less employment opportunities?</b>	No potential employment opportunities identified.	
<b>Is there enough information?</b>	I consider there is ample information provided to justify these recommendations outlined in my primary evidence. The reason for each amendment is to ensure the chapter (1) gives effect to higher-order planning documents, including the parts of the NPS-IB which are still in force; (2) to ensure councils function under s31 of the RMA is enabled effectively and efficiently; and (3) the chapter recognises and provides for section 6(C) of the RMA.	
<b>Risk of acting or not acting</b>	The adverse effects associated with vegetation clearance activities will not be managed appropriately.	
<b>How effective is your preferred option?</b>		
<p>I consider Option 1 will be most effective in providing an appropriate framework that enables activities provided for by these rules to occur in a manner which ensures their effects are appropriately managed and considered under the PDP and RMA. Importantly, my recommendations ensure most of these activities remain as permitted, except for the harvesting of indigenous timber. However, as outlined in my primary evidence, this activity is provided for under different legislation with a different purpose, and as such, needs to go under the tests of the RMA to ensure its effects are appropriately managed.</p> <p>I consider the use of an advice note to be effective as it will guide the plan-user to seek additional approval under the NPMP when required.</p>		
<b>How efficient is your preferred option?</b>		

In my view, Option 1 is the most efficient pathway to ensure activities provided for in these rules are enabled while ensuring their effects are managed. I consider the amendments I make do not alter the ability for plan-users to carry out their activity, as most of my changes do not alter their activity status. I note the activity status for the harvesting of indigenous timber will be provided for as a restricted discretionary activity, however, I consider this provides more certainty to decision makers that the effects will be appropriately considered. Additionally, a restricted discretionary activity is limited to matters of discretion, as compared to a discretionary activity or a non-complying activity which relies upon more robust and comprehensive decision making.

I consider the use of the advice note to be efficient as it clearly directs the plan-users on when, how and why an approval is required under the NPMP.

As such, I consider option 1 to be most efficient pathway.

#### **Summary**

Overall, I consider that Option 1 is the most efficient and effective option for ensuring the EIB chapter gives effect to higher order documents and being consistent with part 2 of the RMA. On this basis, Option 1 is the most appropriate option for the EIB chapter in accordance with section 32AA of the RMA.