

**BEFORE THE HEARINGS PANEL**

**UNDER THE**

Resource Management Act 1991

**IN THE MATTER OF**

the Proposed Kaipara District Plan

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**STATEMENT OF EVIDENCE OF DAVID ERIC BADHAM ON BEHALF  
OF NORTHPOWER LIMITED AND NORTHPOWER FIBRE LIMITED**

**HEARING STREAMS 17, 18 & 19 (ECOSYSTEMS AND  
INDIGENOUS BIODIVERSITY, NATURAL CHARACTER, &  
NATURAL FEATURES AND LANDSCAPES)**

Planning

22 May 2026

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## **1 EVIDENCE SUMMARY**

- 1.1 This evidence has been prepared on behalf of Northpower Limited and Northpower Fibre Limited (**Northpower**) on Kaipara District Council's (**KDC**) Proposed Kaipara District Plan (**PDP**), and in particular the Natural Environment Values chapters. My evidence focuses on responses to the recommendations in the Ecosystems and Indigenous Biodiversity (**ECO**), Natural Character (**NATC**), and Natural Features and Landscapes (**NFL**) Section 42A Hearing Reports (**s42A**).
- 1.2 Northpower is an electricity distribution network operator in Northland and seeks a planning framework within the PDP that appropriately enables the investigation, development, operation, maintenance, repair, and upgrading of its infrastructure, while appropriately managing adverse effects on Natural Environment Values.<sup>1</sup>
- 1.3 Since notification of the PDP, new and amended national direction — including the National Policy Statement for Infrastructure (**NPS-I**) and amendments to the National Policy Statement for Electricity Networks (**NPS-EN**) — has strengthened the requirement to appropriately provide for infrastructure and electricity network activities within district plans.
- 1.4 While I support a number of the amendments recommended in the s42A reports, I remain concerned that several provisions across the ECO, NATC and NFL chapters do not adequately recognise and provide for the operational and functional needs of infrastructure, particularly the ongoing operation, maintenance, repair and upgrading of existing electricity network infrastructure. In particular, I consider that some provisions remain unnecessarily restrictive, inconsistent across chapters, and do not appropriately reflect the direction and outcomes sought by the NPS-I and amended NPS-EN.
- 1.5 My evidence therefore recommends a series of amendments to the ECO, NATC and NFL provisions to:

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<sup>1</sup> Within this evidence statement, I utilise this term to refer collectively to the ECO, NATC and NFL provisions and mapping.

- (a) provide a more consistent and integrated framework for infrastructure across the PDP;
- (b) better recognise and provide for the operation, maintenance, repair and upgrading of existing infrastructure;
- (c) provide an appropriate consenting framework for new infrastructure where there is an operational or functional need for its location; and
- (d) ensure that adverse effects on Natural Environment Values are managed through a proportionate and effects-based approach.

1.6 Overall, I consider that the amendments proposed in **Attachment 1** better give effect to higher order national direction, while still appropriately recognising and protecting the characteristics, qualities and values of the District's Natural Environment Values. If it would be of assistance to the Hearings Panel, I am open to working with the Reporting Officers and other submitters on the wording of the relevant provisions prior to or following the Hearing.

## **2 INTRODUCTION**

2.1 My full name is David Eric Badham. I am a Partner and Northland Manager of Barker and Associates, a planning and urban design consultancy with offices across New Zealand. I am based in the Whangārei office, but undertake planning work throughout the country, primarily in Te Tai Tokerau / Northland.

2.2 My qualifications, experience and involvement with Northpower on the Proposed Kaipara District Plan (**PDP**) are set out in Attachment 1 to my evidence filed on 3 March 2026 which addressed planning matters in relation to Hearing Stream 9 – Renewable Electricity Generation.

2.3 I confirm that I have reviewed the relevant Section 42A Hearing Reports (**s42A**). I have also reviewed the statement of electrical engineering evidence prepared by Shaun Brown on behalf of Northpower, which broadly covers the following matters:

- (a) A number of Northpower's existing assets traverse areas subject to Natural Environment Values;
- (b) The importance of enabling the ongoing operation, maintenance, repair and upgrading of existing infrastructure located within areas subject to Natural Environment Values to ensure the continued delivery of essential services and network resilience;
- (c) The operational and functional need for new infrastructure to be enabled within areas subject to Natural Environment Values, including where there are limited or no practicable alternative locations;
- (d) The importance of enabling vegetation clearance and earthworks for the ongoing operation, maintenance, repair and upgrading of existing infrastructure without unreasonable thresholds; and
- (e) The importance of providing for the upgrading of existing infrastructure within areas subject to Natural Environment Values, including the need for flexibility to accommodate upgrades that may extend beyond the existing infrastructure footprint where this is necessary to adopt new technologies, thereby achieving operational, safety, capacity or resilience outcomes.

2.4 While these are separate hearing streams with separate s42A, I have prepared a single brief of evidence addressing these matters for the following reasons:

- (a) I consider that these topics are interrelated, as are Northpower's submissions and relief sought; and
- (b) To improve efficiency by reducing unnecessary duplication that would inevitably occur across three separate briefs of evidence.

### **Purpose and scope of evidence**

2.5 This evidence addresses submission (#283) and further submission (#FS82) by Northpower on the PDP.

2.6 My evidence will address the following topics:

- (a) Supported recommendations of the s42A (Section 3);
- (b) New and amended national direction (Section 4);
- (c) Objectives and Policies (Section 5);
- (d) Rules (Section 6);
- (e) Section 32AA evaluation (Section 7); and
- (f) Concluding comments (Section 8)

### **Code of conduct**

- 2.7 I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2023. I have complied with the Code of Conduct in preparing this statement of evidence. My qualifications as an expert are set out above. Unless I state otherwise, this evidence is within my area of expertise and I have not omitted to consider material facts known to me that might alter or detract from the opinions I express.
- 2.8 B&A staff have assisted KDC with the formulation of section 32 evaluations for a number of PDP topics prior to the notification of the PDP, and continue to assist in s42A reporting on several other topics in the PDP. In regard to this matter, I confirm the following:
- (a) B&A is an independent planning consultancy providing planning and resource management advice and services. B&A act on behalf of a number of private and public clients throughout the country.
  - (b) I was not involved in the final notified section 32 evaluation or provisions for these chapters, or any related advice or further work following notification of the PDP.
- 2.9 Noting the above, I have no conflict of interest to declare in regard to the preparation of this evidence, the hearings of these topics, or my future engagement in relation to these topics as part of the PDP review.

## **3 SUPPORTED RECOMMENDATIONS OF THE S42A**

- 3.1 The Reporting Officer for NATC has recommended accepting in part Northpower's submission point 283.151 seeking amendments to NATC-P2. I support the recommended amendments to NATC-P2, particularly the expanded recognition of infrastructure activities, including the operation, maintenance, repair and upgrading of existing infrastructure, and activities with an operational or functional need to locate within wetland, lake and river margins.

#### **4 NEW AND AMENDED NATIONAL DIRECTION**

- 4.1 New and amended national direction under the Resource Management Act 1991 came into force on 15 January 2026. Of relevance to Northpower's submissions and interests and the Natural Environment Values topics and hearings, are the new NPS-I, an amended NPS-EN, and NES-EN. I consider the following objectives and policies to be of relevance to Northpower:

- (a) Objective 2.1 and Policies 1, 2, 4, 7, 8 and 9 of the NPS-I; and
- (b) Objective 2.1 and Policies 1, 2, 4, 5, 6, 7, 8, 9 and 10 of the NPS-EN.

- 4.2 In my opinion, these instruments provide stronger and clearer direction regarding the recognition of the operational and functional needs of infrastructure than has traditionally existed under the RMA planning framework.
- 4.3 Policy 9 of the NPS-I directs that where infrastructure is proposed within, or may adversely affect, section 6 environments and values, the policy is to be read alongside other relevant national direction. In this regard, the National Policy Statement for Indigenous Biodiversity 2023 (**NPS-IB**) is particularly relevant. The NPS-IB contains a number of objectives and policies relevant to these hearing topics, with the overall direction being to maintain indigenous biodiversity across New Zealand so that there is at least no overall loss of indigenous biodiversity, while still providing for development, including infrastructure, that contributes to social, economic, cultural and environmental wellbeing, where adverse effects are managed through the effects management hierarchy.

- 4.4 However, the NPS-I also contains clear enabling direction for infrastructure. Read together, I consider that the NPS-I and NPS-IB require an integrated approach that both recognises and provides for the national, regional and local benefits of infrastructure, while appropriately managing adverse effects on indigenous biodiversity in accordance with the effects management framework in the NPS-IB.
- 4.5 Northpower's original submission specifically addressed new and amended national direction and requested that necessary changes are made throughout the process to give effect to the new and amended national direction.<sup>2</sup>
- 4.6 In addition, section 55(2D) of the RMA enables local authorities to amend district plans without using the Schedule 1 process where necessary to give effect to national direction. In my opinion, and having regard to the submissions lodged on the PDP and the extent of the new and amended national direction now in force, it is both efficient and practicable for the necessary amendments to be made through these hearing streams to ensure that the PDP gives effect to the NPS-I, amended NPS-EN, and associated national direction as soon as practicable.

## **5 OBJECTIVES AND POLICIES**

### **Appropriate location of infrastructure-related objectives and policies**

- 5.1 Northpower made a number of similar submissions seeking amendments to notified objectives and policies to provide for the development, operation, maintenance, repair and upgrading of infrastructure in the various Ecosystems and Indigenous Biodiversity (**ECO**), Natural Character (**NATC**), and Natural Features and Landscapes (**NFL**) chapters. These include:
- (a) Submission Point 283.146 – Northpower sought an amendment to ECO-O1 which enables the safe and efficient use, development, maintenance, operation and upgrading of infrastructure;

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<sup>2</sup> See Section 2.4.3 of Northpower's original submission dated 30 June 2025.

- (b) Submission Point 283.150 – Northpower sought an amendment to NATC-O1 which enables the safe and efficient use, development, repair, maintenance, operation and upgrading of infrastructure;
- (c) Submission Point 283.157 – Northpower sought an amendment to NFL-P5 which sought to enable the establishment of new regionally significant infrastructure, the repair of existing regionally significant infrastructure, as well as the recognition and provision of all infrastructure.

5.2 The primary rationale for these points within Northpower’s submission is that it is critical for the safe and efficient development, operation, maintenance, repair and upgrading of regionally significant infrastructure, and infrastructure more generally, to be enabled without unnecessary constraints to ensure the continued resilience of this lifeline service in the Kaipara District.

5.3 The Reporting Officer for the ECO s42A recommends rejecting Northpower’s submission point in response, stating:

I disagree with Northpower that ECO-O1 should be amended to specifically refer to infrastructure. The purpose of ECO-O1 is to set an outcome that “Areas of significant indigenous vegetation and significant habitats of indigenous fauna are protected”, which is one of the key purposes of the ECO Chapter consistent with section 6(c) of the RMA and relevant national direction. It is not intended to be an enabling objective, or one that balances ecological protection with enabling infrastructure. The Infrastructure Chapter is, in my view, the most appropriate chapter to include specific enabling direction on infrastructure with other chapters of the PDP only including provisions for infrastructure where necessary for that particular topic. In this respect, I note that the benefits of enabling infrastructure and indirectly addressed in ECO-O2, which requires that adverse effects on indigenous biodiversity are managed in a way that provides for the social and economic well-being of people and communities. In this way, the objectives in the ECO Chapter will need to be read together with the objectives in the Infrastructure Chapter where relevant.<sup>3</sup>

5.4 The Reporting Officer for the NATC s42A recommends rejecting Northpower’s submission point in response, stating:

I do not support Northpower’s proposed additions to NATC-O1. The purpose of NATC-O1 is to set the intended environmental outcome for the

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<sup>3</sup> Paragraph 61 of the S42A for ECO.

natural character of freshwater margins, not to specific the extent to which types of development – such as infrastructure – are enabled. Outcomes for infrastructure are addressed in the Energy, Infrastructure and Transport section of the PDP, and inserting infrastructure-specific qualifiers into NATC-O1 would imply that every environmental objective in the plan must similarly acknowledge individual development types. This would add unnecessary complexity and duplication. All relevant objectives in the PDP must be read together and applied collectively.<sup>4</sup>

5.5 The Reporting Officer for the NFL s42A recommends rejecting Northpower’s submission point in response, stating:

In my opinion, NFL-P5 should be deleted, with reliance instead placed on the Infrastructure chapter, which already provides the policy direction for addressing infrastructure and its effects on ONL, ONF and other overlays.<sup>5</sup>

5.6 Northpower also made a submission<sup>6</sup> seeking the inclusion of additional objectives to recognise and provide for the operational and functional need for regionally significant infrastructure, and all electricity infrastructure to be included in Outstanding Natural Landscapes (**ONL**) and Outstanding Natural Features (**ONF**) where adverse effects are appropriately managed.

5.7 The Reporting Officer for the NFL s42A has rejected Northpower’s submission point in response, stating:

I do not support Northpower’s request. Outcomes for infrastructure (including RSI and electricity infrastructure) are addressed in the Infrastructure and Renewable Electricity Generation chapters and inserting infrastructure-specific objectives into the NFL chapter (and similar ‘overlay’ chapters) is unnecessary and would introduce unnecessary complexity and duplication. All objectives in the PDP are to be read together and applied collectively where relevant.<sup>7</sup>

5.8 A common theme in the response from the Reporting Officers to these submissions, is that such direction should be located in the Infrastructure Chapter. I accept that objectives and policies for infrastructure could be best located in the Infrastructure Chapter. I also agree that all district wide objectives and policies need to be read together and applied collectively where relevant. In my opinion, the issue is not necessarily whether infrastructure provisions are located

<sup>4</sup> Paragraph 78 of the Section 42A Report for Natural Character.

<sup>5</sup> Paragraph 144 of the section 42A Report for Natural Features and Landscapes.

<sup>6</sup> Natural Features and Landscapes - Submission Point 283.158.

<sup>7</sup> Paragraph 73 of the section 42A Report for Natural Features and Landscapes

within overlay chapters or consolidated within the Infrastructure Chapter. Rather, the issue is that the PDP currently adopts different approaches across overlay chapters without a clear planning rationale for that distinction. Below I provide the following examples of inconsistencies:

*Ecosystems and Indigenous Biodiversity Chapter*

- (a) ECO-P3 – recognises the operational or functional need of infrastructure to traverse or locate within areas of significant indigenous vegetation and significant habitat of indigenous fauna where there are no practicable alternative locations; allows for operation, use, maintenance and repair of existing structures, including infrastructure. I am supportive of this policy, notwithstanding some further amendments that I consider are warranted as outlined below in paragraphs 5.15-5.21 below. However, this does seem to be somewhat contradictory that direction for infrastructure is included within ECO-P3, but the Reporting Officer is recommending that no changes should be made to ECO-O1 on the basis that this direction is better addressed in the Infrastructure Chapter.

*Natural Character Chapter*

- (b) NATC-P2 – Enables indigenous vegetation clearance and earthworks within wetland, lake and river margins where it is for safe clearance for existing overhead powerlines, or the upgrade, operation, maintenance, repair or removal of existing infrastructure. I support the amendment made by the Reporting Officer to this policy with regard to Northpower’s submission point, but again highlight the inconsistency for direction being provided compared to other chapters.

*Natural Features and Landscapes Chapter*

- (c) The Reporting Officer has recommended the deletion of NFL-P5 which I address further in paragraphs 5.34-5.38 below. With this deletion, there are no infrastructure related objectives and policies within the NFL Chapter which is in contrast to both the

ECO and NATC Chapters which do include direction on infrastructure as outlined above.

*Sites and Areas of Significance to Māori*

- (d) While not within the Natural Environment Values chapters, I note that the Reporting Planner for the district-wide Sites and Areas of Significance to Māori Chapter (**SASM**) has recommended accepting in part Northpower's proposed new objectives, policies and rules for infrastructure provision in the chapter:<sup>8</sup>
- (i) A new objective to manage the adverse effects of the development of new infrastructure within Sites and Areas of Significance to Māori;
  - (ii) A new objective to enable the safe and efficient use, operation, maintenance, upgrading and repair of existing infrastructure within Sites and Areas of Significance to Māori;
  - (iii) A new policy to provide for the establishment of new infrastructure within Sites and Areas of Significance to Māori;
  - (iv) A new policy to provide for the operation, maintenance, upgrading and repair of existing infrastructure within Sites and Areas of Significance to Māori in a manner that avoids, remedies or mitigates adverse effects on the cultural values of these sites and areas; and
  - (v) SASM-P3 – Enables the maintenance, operation, upgrading within the existing footprint, and repair of existing infrastructure on scheduled sites.

5.9 There are notable inconsistencies across the chapters outlined above in relation to infrastructure provision. This appears to conflict with the Reporting Officers' collective position that the Infrastructure Chapter is

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<sup>8</sup> Subject to receiving evidence from other parties. Refer to paragraph 282 and 3 of the section 42A report for SASM.

where specific provisions relating to infrastructure should be located, rather than across numerous chapters in the PDP. The selective inclusion of infrastructure-related provisions in some chapters – such as ECO, NATC, SASM– but not in others, such as NFL, risks creating ambiguity. Future users of the PDP may reasonably interpret this uneven approach as indicating differing policy approaches to infrastructure across various chapters and overlay areas.

5.10 A further issue in my opinion, is that the Reporting Officers have recommended the outright rejection of these submission points, with reference to these matters being addressed in the Infrastructure Chapter. The complication with this approach is that:

- (a) No specificity is provided by the Reporting Officers' as to where they consider that these matters are adequately addressed within the existing notified Infrastructure Chapter provisions; and
- (b) Hearing Streams 17, 18 and 19 do not include the Infrastructure Chapter as an applicable topic.

5.11 Northpower's submission<sup>9</sup> identifies a number of issues with the objectives and policies of the Infrastructure Chapter, however there is no scope to consider amendments to those provisions within these hearings. In my opinion, this is symptomatic of the approach that KDC has elected to take to the hearings timetable being split across a large number of topics and extended timeframes. In my opinion, the current hearing sequencing creates challenges in achieving integrated management across the PDP, in particular the chapters in the Part 2 District-Wide Matters which deal with a number of matters which often conflict with one another.

5.12 Given the importance of these provisions for recognising and providing for infrastructure within areas subject to Natural Environment Values, and noting the current uncertainty as to whether the relevant submission points will be addressed as part of these hearing streams or deferred, I have provided recommended wording for infrastructure-

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<sup>9</sup> Refer to submission points 59-98 of Northpower's original submission.

related objectives and policies in **Attachment 1**. I have drafted this recommended wording on the basis that it could appropriately sit either within the Natural Environment Values Chapters or within the Infrastructure Chapter, provided a consistent approach is adopted across the PDP, and consider that they should be included for the following reasons:

- (a) In some instances, there is an operational and functional need for infrastructure to be located within these areas, particularly given the extent that some of these areas cover in the Kaipara District;
- (b) Furthermore, Objective 1 and Policies 1, 2 and 5 of the new NPS-I provides clear and strong national direction to enable, and provide for the benefits of, infrastructure and to recognise the operational and functional need for infrastructure to locate in particular environments;
- (c) Objective 2.1 and Policies 1, 5, and 7 of the amended NPS-EN recognise the national significance of electricity distribution networks. They require decision-makers to provide for routine electricity network activities in all locations and environments, while managing adverse environmental effects through avoidance, remediation, or mitigation where practicable, and acknowledging the existing nature of assets. In particular, Policy 7 directs decision-makers to recognise and provide for the operational or functional need for electricity networks to operate in, be located in, or traverse all environments, including the need to convey electricity over long distances.

### **Other Objectives and Policies**

5.13 Below I address some of the Reporting Officers' specific responses and recommendations to provisions within the relevant topics.

5.14 I have generally addressed the Reporting Officers' position that infrastructure-related objectives and policies should be located within the Infrastructure Chapter at paragraphs 5.1 to 5.12 above. Notwithstanding this, and in the absence of clarity as to whether the

relevant submission points will be addressed within these hearing streams or deferred to the Infrastructure topic, I note that the policies below include references to 'infrastructure'. Accordingly, I have addressed the Reporting Officers' recommendations on these provisions separately below.

***ECO-P3 – Protection and Maintenance of Indigenous Biodiversity***

5.15 Northpower made a submission<sup>10</sup> seeking amendments to ECO-P3 which recognises all infrastructure, not just regionally significant infrastructure, and provides for the repair and upgrading of infrastructure.

5.16 I acknowledge that the Reporting Officer has recommended acceptance in part of this submission point within the s42A and considers:

With respect to referring to all infrastructure vs regionally significant infrastructure, there has been a key change in national direction since notification. The NPS-I is focused on enabling "infrastructure" (as defined in the RMA) and also includes "additional infrastructure" (as defined in the NPS-I) as well as activities that are either ancillary to, or supporting, infrastructure. In the content of submissions on ECO-P3(2), the most relevant provision in the NPS-I is Policy 2, which provides broad direction to decision-makers to recognise and provide for the operational need and functional need of infrastructure to be in particular locations and environments. I consider that ECO-P3(2) is broadly aligned with this direction in the NPS-I but recommend it be amended to refer to infrastructure more generally (rather than regionally significant infrastructure) to improve alignment. As such, I agree with Northpower that a more general reference to "infrastructure" in ECO-P3.2 is appropriate.

With respect to Northpower's requested insertion of "repair" into ECO-P3(3), I addressed this issue in the Right of Reply report for the Renewable Electricity Generation (**REG**) topic. To summarise, I agree that ECO-P3(3) should cover repairs and acknowledge the word "repair" is used throughout the PDP, most notably in relation to infrastructure but also in relation to other matters such as historic heritage. Referring to "repair" alongside "maintenance" in ECO-P3(3) is more consistent with these other chapters and provide clarity for plan users that these activities are anticipated by ECO-P3.

However, I do not recommend amending ECO-P3(3) to refer to upgrading. As discussed below, upgrading of infrastructure (and other existing structures) can have significantly different effects compared to the

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<sup>10</sup> Submission Point 283.147.

operation, use, maintenance and repair of infrastructure. Further, ECO-P3(3) gives effect to Method 4.4.3 in the RPS, which directs that district plans shall, in implementing Policy 4.4.1, “allow the maintenance and use of existing structures including infrastructure”. In my view, allowing for upgrading of infrastructure is beyond the activities anticipated by this method.<sup>11</sup>

5.17 I consider that the Reporting Officer’s recommended amendments are an improvement on the notified wording, particularly through the inclusion of ‘infrastructure’ and ‘repair’ in clause 3 of the policy.

5.18 However, I oppose the Reporting Officer’s recommendation to not include ‘upgrading’. The Reporting Officer recommends rejecting the inclusion of ‘upgrading’ of infrastructure on the basis that ECO-P3(3) gives effect to Method 4.4.3 of the RPS, which directs that district plans shall, in implementing Policy 4.4.1, “allow the maintenance and use of existing structures including infrastructure”. Since the RPS was made operative, the NPS-I has been released which the PDP is required to “give effect to”. In particular, Policy 4 of the NPS-I seeks to enable the upgrading of infrastructure generally. This enabling approach is further reinforced by Policies 8 and 9 of the NPS-I, which seek to enable both the minor and major upgrading of existing infrastructure in all environments. As this more recent national direction has not filtered down into the RPS, I consider that it is important that it be given direct consideration and significant weight, and indicates that infrastructure upgrades need to also be provided for within ECO-P3. Importantly, infrastructure upgrading does not necessarily equate to expansion or intensification of effects, and as is outlined in the evidence of Mr Brown, in many cases is required to maintain existing levels of service, resilience, safety or network security.

5.19 In addition to this, there appears to be an inconsistency between the Reporting Officers’ position on the inclusion of ‘upgrading’ in ECO-P3 when compared to the recommended inclusion of ‘upgrade’ in NATC-P2. While I accept that these chapters deal with different Natural Environment Values, NATC-P2 refers to enabling indigenous vegetation clearance for the upgrade of existing infrastructure, and it seems

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<sup>11</sup> Paragraphs 64-66 of the section 42A report for Ecosystems and Indigenous Biodiversity.

incongruous that 'upgrades' are referred to in one, but not the other given that both policies deal with indigenous biodiversity / vegetation.

5.20 On this basis, I consider that a more appropriate and enabling policy approach would be to allow infrastructure upgrading to occur where necessary to achieve the intended operational and functional outcomes. This would then be further enabled by recommended new permitted activity rules for the operation, maintenance, upgrading and repair of existing infrastructure in areas subject to Natural Environment Values.

5.21 I consider that such an approach would better align with the direction of the NPS-I. I have outlined recommended wording to give effect to this approach in **Attachment 1**.

### ***NATC-P2 – Indigenous Vegetation Clearance and Earthworks***

5.22 Northpower made a submission<sup>12</sup> seeking amendments to NATC-P2 to specifically enable indigenous vegetation clearance and earthworks for the operation, maintenance, repair and upgrading of infrastructure.

5.23 I acknowledge that the Reporting Officer has recommended acceptance in part of this submission point within the s42A and considers:

I agree with Northpower's proposed addition as enabling existing infrastructure is supported by policy INF-P1. However, the wording should in my view be amended to align with the wording in INF-P1. As notified INF-P1 reads:

"Recognise the benefits of infrastructure by:

1. Allowing the development, upgrade, operation, maintenance, repair or removal of infrastructure; and
2. ..."

Therefore, the new clause in NATC-P2 should read:

"The upgrade, operation, maintenance, repair or removal of existing infrastructure."<sup>13</sup>

5.24 I support the Reporting Officer's recommended changes, as the inclusion of clause 7 clearly enables indigenous vegetation clearance

<sup>12</sup> Submission Point 283.151.

<sup>13</sup> Paragraphs 107-108 of the section 42A Report for Natural Character.

and earthworks for the operation, maintenance, repair and upgrading of existing infrastructure.

- 5.25 In response to the Reporting Officer's recommended changes to this policy, Northpower also seeks a consequential amendment to clause 8 of NATC-P2, as follows:

"The development of buildings, ~~or~~ structures, or infrastructure with an operational or functional need to be in that location."

- 5.26 In my view, this consequential amendment is necessary to give effect to the recent national direction in the NPS-I. In particular, Policy 2 requires decision-makers to recognise that infrastructure may have an operational or functional need to operate in, be located in, or traverse particular locations and environments.
- 5.27 On this basis, I have set out recommended wording in **Attachment 1** to give effect to the NPS-I.

### ***NATC-P3 – Buildings and Structures***

- 5.28 Northpower made a submission<sup>14</sup> seeking amendments to NATC-P3 to specifically enable new infrastructure, not just buildings and structures.
- 5.29 The Reporting Officer has rejected this submission point in response, stating:

I do not support these amendments as they add no practical value and do not change the policy's effect. It is well understood that buildings and structures includes infrastructure.<sup>15</sup>

- 5.30 I disagree with the Reporting Officer's justification for not referencing infrastructure. 'Building', 'structure' and 'infrastructure' are all defined terms in the PDP – see full definitions in **Attachment 2**. The Reporting Officer's stipulation that "it is well understood that buildings and structures include infrastructure" is incongruous with these definitions. 'Building' and 'structure' do not clearly or explicitly include 'infrastructure', nor do they fully capture the breadth of activities and systems encompassed by the definition. The notified definition for 'infrastructure' is more specific and provides a comprehensive and

<sup>14</sup> Submission Point 283.152.

<sup>15</sup> Paragraph 115 of the section 42A Report for Natural Character.

unambiguous identification of the various types of infrastructure in alignment with the definition Section 2 of the RMA.

5.31 Furthermore, there is a clear inconsistency to this logic, and the drafting of the PDP. For instance:

- (a) NATC-P5.1. includes "the presence or absence of buildings, structures or infrastructure."
- (b) NATC-S1 includes a 4.5m height limit for buildings or structures, but a new 10m height limit for new infrastructure within a road reserve.

5.32 I consider that reliance on the more general terms 'building' and 'structure' therefore creates uncertainty for plan users, and risks inconsistent interpretation and application of policy NATC-P3. In contrast, explicit reference to 'infrastructure' will provide greater clarity for plan users and decision-makers, and will ensure consistency with the infrastructure-enabling provisions elsewhere in the PDP.

5.33 On this basis, I have outlined recommended wording to give effect to this approach in **Attachment 1**.

### ***NFL-P5 – Regionally Significant Infrastructure***

5.34 As detailed in paragraph 5.1 above, Northpower made a submission<sup>16</sup> seeking amendments to NFL-P5 which sought to enable the establishment of new regionally significant infrastructure, the repair of existing regionally significant infrastructure, as well as the recognition and provision of all infrastructure.

5.35 The Reporting Officer has recommended the deletion of this policy in its entirety, noting that all policy direction relating to infrastructure (including regionally significant infrastructure and the National Grid) and its effects on 'overlays' should be consolidated in the Infrastructure Chapter.<sup>17</sup>

<sup>16</sup> Submission Point 283.157.

<sup>17</sup> Paragraphs 144-145 of the section 42A Report for Natural Features and Landscapes.

5.36 I understand there may be scope implications associated with this recommendation. As I understand it, all other submissions on this policy either supported its retention as notified<sup>18</sup>, or sought additional amendments<sup>19</sup> to the policy. As a result, I do not consider that there is a clear scope for the Reporting Officer to recommend the total deletion of this policy. I understand that this will be addressed further in Northpower's legal submissions.

5.37 Notwithstanding the potential scope issue, the Reporting officer has recommended that this is already suitably addressed within the Infrastructure Chapter, in particular INF-P5. I have already accepted that infrastructure related objectives could be best located in the Infrastructure Chapter, but consider that recommending the deletion of NFL-P5 on the basis of reliance that it is adequately covered by INF-P5 is insufficient justification because:

- (a) NFL-P5 as notified enabled the operation, maintenance and upgrading of regionally significant infrastructure, with Northpower's submission seeking to add "establishment", "repair" "and infrastructure" to the policy wording.
- (b) INF-P5 as notified refers only to "new regionally significant infrastructure" (e.g., it does not refer to operation, maintenance, repair and upgrading of regionally significant infrastructure or infrastructure more broadly).
- (c) As such, NFL-P5 and INF-P5 address different concepts, and it is unreasonable to conclude in my opinion, that NFL-P5 can be deleted on the basis that INF-P5 addresses it.

5.38 I have provided recommended wording for NFL-P5 in **Attachment 1**. This recommended wording is drafted on the basis that it could be incorporated either within the Natural Environment Values chapters, or, alternatively, within the Infrastructure Chapter alone.

## 6 RULES

### Indigenous Vegetation Clearance Rules

<sup>18</sup> Submission Points 26.67, 309.67, 515.117, and 323.57.

<sup>19</sup> Submission Points 292.67 and 149.59.

- 6.1 This section addresses various indigenous vegetation clearance rules across the ECO, NATC, and NFL chapters.
- 6.2 As an overall comment, I note that it is confusing and difficult to understand and interpret the different indigenous vegetation clearance allowances that apply to infrastructure, noting the following:
- (a) Rule ECO-R1 – permits indigenous vegetation clearance in all zones for the operation, repair or maintenance of lawfully established infrastructure and associated access tracks (no limits);
  - (b) Rule NATC-R4 – permits a maximum of 50m<sup>2</sup> indigenous vegetation clearance within a 12-month period per site, in wetland, lake and river margins<sup>20</sup> (all zones) for the upgrade, operation, maintenance, repair or removal of existing infrastructure, and for establishing infrastructure in roads; and
  - (c) Rule NFL-R3 – permits indigenous vegetation clearance in ONL for the operation, maintenance, repair or removal of infrastructure, and the minor upgrading of regionally significant infrastructure.
- 6.3 I address these rules specifically below, but note that there appears to be an inconsistent and arbitrary approach to indigenous vegetation clearance for infrastructure across these zones, with limited justification provided as to why that is the case.

***ECO-R1 – Indigenous Vegetation Clearance and any associated Land Disturbance for Specified Activities and NFL-R3 – Indigenous Vegetation Clearance***

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- <sup>20</sup> Proposed to be defined as “means the area of land within:
1. 30 metres of:
    - a. a natural inland wetland;
    - b. the bed of lake greater than 1ha, and is not:
      - i. an artificial lake where the primary purpose is for managing stormwater;
      - ii. a municipal or farm wastewater treatment pond; or
      - iii. a constructed farm water supply pond or dam; and
    - c. the bed of a river greater than 3m average width over any 10m length of river; and
  2. 6 metres of a continually flowing river less than 3m average width over any 10m length of river.”

6.4 Northpower made a submission<sup>21</sup> seeking amendments to ECO-R1 to enable indigenous vegetation clearance for the 'upgrading' of infrastructure as a permitted activity.

6.5 The Reporting Officer has rejected this submission point in response, stating:

Northpower and Transpower both request that ECO-R1.1(l) be amended to provide an exemption for "upgrading" and "minor upgrading" respectively. The purpose of ECO-R1 is to provide for a discrete number of activities and purposes where indigenous vegetation clearance can be justified without being subject to the thresholds set in ECO-R2. For an activity to be permitted under ECO-R1, there needs to be reasonable certainty that the associated indigenous vegetation clearance will be limited, either by the purpose of the activity or by the scale of the activity, to ensure the rule does not permit an activity with significant adverse effects.

In the case of infrastructure, the permitted vegetation clearance associated with the operation, repair or maintenance of lawfully established infrastructure is limited in its potential spatial extent by the physical footprint of the infrastructure. Including "upgrading" of infrastructure in ECO-R1(l) as requested by Northpower, could potentially involve extensive indigenous vegetation clearance depending on the nature of the upgrade and the new footprint of the upgraded infrastructure. I therefore do not recommend including upgrade of infrastructure as a permitted pathway for indigenous vegetation clearance within ECO-R1.<sup>22</sup>

6.6 Northpower also made a submission<sup>23</sup> seeking amendments to NFL-R3 to enable indigenous vegetation clearance for the 'upgrading' of infrastructure as a permitted activity.

6.7 The Reporting Officer has accepted in part this submission point in response, stating:

I support permitting clearance for the operation, maintenance, and repair of infrastructure, as this gives effect to INF-P1 (which promotes enabling infrastructure) and the likelihood of undue adverse effects is low given the works are minor and confined to the footprint of existing activities. However, I do not support including upgrades for the reasons outlined above. I am open to considering more targeted provisions for upgrading – particularly for specific infrastructure types of interest to the submitter – and invite Northpower to provide more precise wording that identifies the

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<sup>21</sup> Submission Point 283.148.

<sup>22</sup> Paragraphs 67-68 of the section 42A Report for Ecosystems and Indigenous Biodiversity.

<sup>23</sup> Submission Point 283.160.

circumstances or scale of upgrades they consider appropriate for permitted activity status.<sup>24</sup>

6.8 I disagree with the Reporting Officers' recommendation not to support the inclusion of 'upgrading' of existing infrastructure as a permitted activity in Rules ECO-R1 and NFL-R3, for the following reasons:

- (a) This is inconsistent with the approach taken by the Reporting Officer for the NATC chapter (NATC-R4), which permits indigenous vegetation clearance for the purposes of upgrading existing infrastructure. In my opinion, there is no clear planning basis provided within the s42A for treating infrastructure upgrading differently across the NATC, ECO and NFL chapters where the same or similar operational activities and effects are anticipated;
- (b) This is inconsistent with notified INF-P1 in the Infrastructure Chapter of the PDP, which specifically provides for the 'upgrade' of existing infrastructure;
- (c) These infrastructure assets are existing, and in many instances within the Kaipara District, serve isolated and vulnerable communities with little or no alternative should they fail. This is addressed further in the evidence of Mr Brown. Based on Mr Brown's evidence, it is clear in my opinion that these existing infrastructure assets have a clear operational and functional need to continue to be enabled to be upgraded without unnecessary resource consenting requirements; and
- (d) Policy 4 of the NPS-I seeks to enable the upgrading of infrastructure generally, and in doing so, explicitly recognises the need to provide flexibility for infrastructure providers. This enabling approach is further reinforced by Policies 8 and 9 of the NPS-I, which seek to enable both the minor and major upgrading of existing infrastructure in all environments. Importantly, infrastructure upgrading does not necessarily equate to expansion or intensification of adverse effects. In many

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<sup>24</sup> Paragraph 237 of the section 42A Report for Natural Features and Landscapes.

instances, upgrading activities occur within existing infrastructure corridors and are required to maintain or improve network resilience, safety, efficiency and security of supply.

- 6.9 For the above reasons, I consider that the recommended provisions outlined within **Attachment 1** will better align with the direction of the NPS-I and the practical realities of infrastructure upgrading.

***NATC-R4 – Indigenous Vegetation Clearance in Wetland, Lake and River Margins***

- 6.10 Northpower made a submission<sup>25</sup> seeking amendments to NATC-R4 to enable indigenous vegetation clearance for the operation, maintenance, repair and upgrading of existing infrastructure, and to delete the reference to ‘utility connections’.

- 6.11 I acknowledge that the Reporting Officer has recommended acceptance in part of this submission point within the s42A, stating:

I support enabling indigenous vegetation clearance for the operation, maintenance, repair, upgrading and removal of existing infrastructure, as this is consistent with the PDP and NPS-I policy direction for enabling infrastructure. It is in my opinion one of the limited circumstances where a greater level of clearance is appropriate.

I recommend adopting the same wording as I recommended to include in NATC-P2:

“The upgrade, operation, maintenance, repair or removal of existing infrastructure”

In my opinion, indigenous vegetation clearance for these purposes should be limited to a maximum of 50m<sup>2</sup> for the reasons discussed earlier in this section.

While I acknowledge Northpower’s concern regarding the lack of definition for “utility connections”, on balance I consider the reference should be retained. However, I recommended amending the wording to “network utility connection” to improve clarity and consistency with other PDP provisions (refer INF-P6 for example which refers to “network utility”).<sup>26</sup>

- 6.12 I consider that the Reporting Officer’s recommended amendments are an improvement on the notified wording, particularly through explicitly providing for indigenous vegetation clearance for ‘the upgrade,

<sup>25</sup> Submission Point 283.155.

<sup>26</sup> Paragraph 246 (Table 4) of the section 42A Report for Natural Character.

operation, maintenance, repair or removal of existing infrastructure' as a permitted activity.

- 6.13 Notwithstanding this, I do not agree with the Reporting Officer's suggestion that amending 'Utility Connections' to 'Network Utility Connections' provides greater clarity. Neither 'Network Utility Connections' and 'Network Utility' are defined in the PDP, with only 'Network Utility Operator' being defined. In my view, this creates ambiguity and may lead to inconsistent interpretation, thereby reducing certainty for plan users.
- 6.14 I also oppose the Reporting Officer's recommendation to limit indigenous vegetation clearance for these purposes to a maximum of 50m<sup>2</sup>. As outlined in the evidence of Mr Brown, indigenous vegetation clearance is often required by Northpower across larger areas to enable the safe and efficient operation, maintenance, upgrading, or repair of existing infrastructure. These works are often functional and site-specific, and a fixed threshold does not reflect these operational realities.
- 6.15 While I acknowledge that the 50m<sup>2</sup> limit seeks to balance the protection of indigenous vegetation and natural character with enabling infrastructure activities, its application to network utility operators is not appropriate. These works are necessary and often reactive, and the imposition of a fixed limit may constrain routine maintenance, trigger unnecessary consenting requirements, and result in additional costs and delays, without delivering commensurate ecological benefits - particularly within already modified infrastructure corridors.
- 6.16 Policy 8 and 9 of the NPS-I require decision-makers to enable the efficient operation, maintenance, and upgrading of existing infrastructure, while ensuring that adverse effects are avoided, remedied or mitigated, where practicable.
- 6.17 Similarly, Policy 5 of the NPS-EN requires decision-makers to provide for routine electricity network activities in all locations and environments, subject to managing adverse effects, where practicable, while acknowledging the existing nature of the assets.

6.18 I consider that the operation, maintenance, upgrading, repair or removal of Northpower’s existing electricity distribution network meet the definition of ‘routine electricity network activities’ for the following reasons:

- (a) These activities are required for, or associated with, the operation of existing electricity network assets;
- (b) The maintenance, repair and upgrading of existing electricity network assets would be necessary to continue to deliver the same or similar level of service; and
- (c) These activities could constitute the removal, decommissioning or dismantling of electricity network assets.

6.19 Policy 8 of the NPS-EN further requires that when considering the environmental effects of electricity network activities, including measures to avoid, remedy or mitigate any adverse effects on the environment, that decision-makers must:

- (a) Recognise that there may be unavoidable adverse effects, regardless of the route, site and method chosen, with adverse effects reduced as far as practicable; and
- (b) Provide for electricity network activities that have an operational need or functional need to be in particular locations and environments, including in areas where section 6 matters apply, even where there may be unavoidable adverse effects on those environments.

6.20 In this context, and noting that ‘network utility operator’ is defined in the PDP, I consider that a more appropriate approach would be to include a new subclause X in NATC-R4 enabling indigenous vegetation clearance if it “is for the upgrade, operation, maintenance, repair or removal of existing infrastructure.” In my opinion, this would provide greater clarity, align with national policy direction, and better reflect operational requirements. I have proposed amended wording for NATC-R4 within **Attachment 1**.

### **Earthworks Rules**

6.21 This section addresses various Earthworks Rules across the ECO, NATC, NFL chapters.

***NATC-R3 – Earthworks in wetland, lake and river margins***

6.22 Northpower made a submission<sup>27</sup> seeking amendments to NATC-R3 to enable earthworks for the use, operation, maintenance, repair and upgrading of existing infrastructure, and to delete the reference to ‘utility connections’.

6.23 I acknowledge that the Reporting Officer has recommended acceptance in part of this submission point within the s42A and considers:

I recommend adopting the same wording as I recommended for including in NATC-P2:

“The upgrade, operation, maintenance, repair or removal of existing infrastructure”

While I acknowledge Northpower’s concern regarding the lack of definition for “utility connections”, on balance I consider the reference should be retained. However, I recommend amending the wording to “network utility connection” to improve clarity and consistency with other PDP provisions (refer INF-P6 for example which refers to “network utility”).<sup>28</sup>

6.24 I consider that the Reporting Officer’s recommended amendments are an improvement on the notified wording, particularly through explicitly providing for earthworks for ‘the upgrade, operation, maintenance, repair or removal of existing infrastructure’ as a permitted activity.

6.25 Notwithstanding this, I do not agree with the Reporting Officer’s suggestion that amending ‘Utility Connections’ to ‘Network Utility Connections’ provides greater clarity for the reasons already outlined in paragraph 6.13 above.

6.26 I also oppose the Reporting Officer’s recommendation to limit earthworks for these purposes to a cut height or fill depth of 2m, and maximum volume of 100m<sup>3</sup> within a 12-month period for the following reasons:

- (a) This is inconsistent with the approach taken by the Reporting Officer for the NFL chapter (NFL-R4), which permits earthworks

<sup>27</sup> Submission Point 283.154.

<sup>28</sup> Paragraph 223 (Table 3) of the section 42A Report for Natural Character.

for the purposes of operating, repairing, or maintaining existing infrastructure, without any limits;

- (b) In Northpower’s case, earthworks are often required across larger areas to enable the safe and efficient operation, maintenance, upgrading, or repair of existing infrastructure. Based on the evidence of Mr Brown, I understand that in practice, such earthworks may be influenced by topography, slope stability requirements, access constraints, geotechnical conditions, spoil management requirements, and health and safety considerations. Consequently, fixed volumetric thresholds and cut or fill limitations do not necessarily reflect the operational extent of works required to safely undertake these activities;
- (c) While I acknowledge that the permitted thresholds seek to balance the protection of natural character with enabling infrastructure activities, its application to network utility operators is not appropriate. These works are necessary, and often reactive, and the imposition of fixed limits may constrain routine maintenance, trigger unnecessary consenting requirements, and result in additional costs and delays, without delivering commensurate benefits - particularly within already modified infrastructure corridors.
- (d) For the reasons discussed in paragraphs 6.16–6.19 above regarding the NPS-I, NPS-EN and routine electricity network activities, I consider that fixed earthworks thresholds for the operation, maintenance, upgrading, repair or removal of existing infrastructure do not appropriately recognise the operational realities, functional needs and locational constraints associated with infrastructure.

6.27 In this context, I consider that a more appropriate approach would be to include a new subclause X in NATC-R3 enabling the earthworks if it “is for the upgrade, operation, maintenance, repair or removal of existing infrastructure.” In my opinion, this would provide greater clarity, align with national policy direction, and better reflect operational

requirements. I have proposed amended wording for NATC-R3 within **Attachment 1**.

### ***NFL-R4 – Earthworks***

6.28 Northpower made a submission<sup>29</sup> seeking amendments to NFL-R4 to specifically enable earthworks for the operation, maintenance, repair, and upgrading of infrastructure, including regionally significant infrastructure within ONL and ONF, both within and outside of the coastal environment.

6.29 I acknowledge that the Reporting Officer has recommended acceptance in part of this submission point within the s42A, stating:

This request seeks a general allowance for 'upgrading'. In my view, a broad permitted activity for upgrades is not appropriate without clearer limits, as upgrades can materially increase effects and would extend beyond the intent of NFL-P2, which is to recognise lawfully established activities and allow them to continue without undue restriction. I am, however, open to considering more targeted provisions – particularly for specific infrastructure types that the submitter has an interest in. I therefore invite Northpower to propose more precise wording that identifies the circumstances or scale of upgrades they consider appropriate for permitted activity status.

I support the addition of 'operation' and 'repair', as it is consistent with the policy direction and the wording used in NFL-R3.1.

As discussed above under "*General – regionally significant infrastructure*", I support permitting earthworks associated with RSI, provided it is limited to minor upgrades, operation, maintenance, repair, or removal of RSI.

While I do not support permitting earthworks for upgrades to buildings, structures, and infrastructure more generally, on balance I consider earthworks for minor upgrading for RSI appropriate given its significance, and because the PDP definition of "minor upgrading" provides a narrative limit on the scale and extent of clearance that occur under this provision.

Minor upgrading PDP definition:

"means an increase in the capacity, efficiency or security of existing infrastructure where this utilises existing structures and networks and/or structures and networks of a similar scale and character."

While the definition relies on interpretation, particularly what constitutes a "similar scale and character", I consider this uncertainty acceptable given the strong enabling policy framework for RSI and the fact that such works would typically occur within the footprint of existing infrastructure.

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<sup>29</sup> Submission Point 283.161.

I am mindful that the PDP definition of “minor upgrading” may be broadened in response to submissions and the recent national direction NPS-I or NPS-EN. If this occurs, it may be necessary to reassess how the rule provides for ‘minor upgrade’ earthworks.<sup>30</sup>

6.30 I consider that the Reporting Officer’s recommended amendments are an improvement on the notified wording, particularly through the inclusion of “operation” and “repair” in clause b) of the rule.

6.31 However, I disagree with the Reporting Officer’s recommendation not to support the inclusion of ‘upgrading’ of existing infrastructure as a permitted activity in Rule NFL-R4, for the following reasons:

- (a) This is inconsistent with the approach taken by the Reporting Officer for the NATC chapter (NATC-R3), which permits earthworks for the purposes of ‘upgrading’ existing infrastructure;
- (b) These infrastructure assets are existing, and in many instances within the Kaipara District, serve isolated and vulnerable communities with little or no alternative should they fail. In my opinion, these existing infrastructure assets have a clear operational and functional need to continue to be enabled to be upgraded without the requirement for costly and ultimately unnecessary resource consents. Importantly, infrastructure upgrading does not necessarily equate to expansion or intensification of development. In many cases, upgrading activities are undertaken to maintain existing levels of service, resilience, safety or network security within established infrastructure corridors; and
- (c) For the reasons discussed earlier in relation to the NPS-I and NPS-EN, I consider that the proposed restriction on infrastructure upgrading does not appropriately recognise the operational and functional needs associated with existing infrastructure networks.

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<sup>30</sup> Paragraph 260 of the section 42A Report for Natural Features and Landscapes.

6.32 In relation to the Reporting Officer’s recommendation that earthworks for the minor upgrading of regionally significant infrastructure be a permitted activity, I note that while this matter is not directly within the scope of these hearing topics, it is relevant that Northpower sought to replace the notified definition of ‘minor upgrading’ with a broader and more enabling definition of ‘upgrading’, as follows:<sup>31</sup>

**“means in relation to infrastructure, an increase in the capacity, efficiency, safety, security or resilience of existing infrastructure.”**

6.33 I consider that this definition better reflects the functional reality of infrastructure upgrading and aligns more closely with the intent of the NPS-I.

6.34 While I accept that the Panel is not considering this definition within the scope of these hearing streams, I consider that the reference to ‘minor upgrading’ should be replaced with ‘upgrading’ within NFL-R4.

6.35 I support a discretionary activity status applying to earthworks associated with new infrastructure, including new regionally significant infrastructure, where the permitted or restricted discretionary activity standards are not met. In my opinion, this activity status appropriately recognises the potential for adverse effects within ONLs and ONFs, while still enabling the Council to assess the location, scale, design and effects of the proposed earthworks on a case-by-case basis.

6.36 However, I do not consider that a non-complying activity status is appropriate where the earthworks relate to new infrastructure that is not regionally significant infrastructure. In my opinion, such an approach is not proportionate to the nature of the activity and does not appropriately reflect the enabling direction contained within the NPS-I and NPS-EN. Both national policy statements recognise that infrastructure can have an operational or functional need to locate within particular environments, including areas where section 6 matters apply, and seek to provide for new infrastructure while managing adverse effects. A discretionary activity status is, in my view, sufficient to enable a robust assessment of adverse effects on ONLs and ONFs,

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<sup>31</sup> Submission Point 283.15.

without creating an unnecessarily restrictive consenting pathway for new infrastructure activities.

- 6.37 I have therefore proposed amended wording for NFL-R4 within **Attachment 1**.

### **Buildings and Structures associated with Regionally Significant Infrastructure Rules**

#### ***NFL-R2 – Buildings and Structures***

- 6.38 Northpower made a submission<sup>32</sup> seeking amendments to NFL-R2 to clarify that buildings and structures associated with regionally significant infrastructure within ONL and ONF outside of the coastal environment are also a permitted activity.

- 6.39 The Reporting Officer has rejected this submission point in response, stating:

As discussed in the "*General – regionally significant infrastructure*" section above, I have concerns about applying a blanket permitted activity status to regionally significant infrastructure (RSI) of any scale. In summary, my recommendation is to permit additions, alterations, and minor upgrading of RSI in ONL and ONF (via NFL-R1 and NFL-R5). Beyond this, in my view, no further RSI buildings or structures should be permitted other than those already enabled through the general NFL-R2 provisions.

- 6.40 I note the Reporting Officer's concerns regarding the application of a blanket permitted activity status to regionally significant infrastructure. However, I consider it important to highlight that the recommendation to further restrict the scope of NFL-R2 may raise a scope issue.
- 6.41 Northpower's submission sought clarification and amendments that buildings and structures associated with regionally significant infrastructure are permitted within ONL and ONF outside the coastal environment, consistent with the existing intent of the rule. I am not aware of another submission seeking the deletion or narrowing of the existing NFL-R2 provisions with regard to "regionally significant infrastructure" beyond what was notified.

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<sup>32</sup> Submission Point 283.159.

6.42 Accordingly, there does not appear to be clear scope to delete notified clause 6 of NFL-R2. On the basis that permitted activity status associated with clause 6 of NFL-R2 as notified should be retained, I have recommended wording in **Attachment 1** in clause X to that effect. In my opinion, it is illogical that a permitted activity pathway exists for buildings associated with regionally significant infrastructure within ONL and ONF in the coastal environment, but not within those same overlays outside the coastal environment.

### **Rules for Existing and New Infrastructure**

#### ***Additional Rules for Existing and New Infrastructure***

6.43 Northpower made a submission<sup>33</sup> seeking the inclusion of two new rules in the NATC chapter, as follows:

- (a) A permitted activity rule to enable the ongoing operation, maintenance, repair, and upgrading of existing infrastructure within wetland, lake and river margins; and
- (b) A permitted activity rule to enable new infrastructure within wetland, lake and river margins where there is an operational and functional need, and adverse effects are adequately managed.

6.44 I acknowledge that the Reporting Officer has recommended acceptance in part of this submission point within the s42A and considers:

I am unable to assess the proposed rules as no specific wording has been provided, and it is not apparent what outcome Northpower is seeking (for example, what standards would ensure that “adverse effects are adequately managed”, or how the rules as notified do not already provide for the activities).

However, there are several additional types of infrastructure which, in my opinion, should be permitted by NATC-R1 and NATC-R2, similar to my s42A recommendations on the equivalent rule in the Proposed Far North District Plan:

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<sup>33</sup> Submission Point 283.153.

These additions fall within the scope of Northpower's submission [283.153], which seeks the general permitting of infrastructure within freshwater margins.

I also note that I recommend several other amendments to the NATC rules later in this report that better enable infrastructure and may address, at least in part, the relief sought by Northpower.

I invite Northpower to provide their view on whether these additions would satisfy their relief, and if not, to provide alternative wording that I can consider in an addendum to this report.<sup>34</sup>

6.45 Northpower also made a submission<sup>35</sup> seeking the inclusion of an additional rule providing for new infrastructure within a site containing an ONL or ONF as a restricted discretionary activity.

6.46 I acknowledge that the Reporting Officer has recommended acceptance in part of this submission point within the s42A report and considers:

I have recommended various changes to the rules (as detailed later in my report) that provide for aspects of the relief sought. In summary:

- a. Additions and alterations to infrastructure that do not comply with the permitted activity standards are provided for as restricted discretionary activities under NFL-R1 or NFL-R5.
- b. New infrastructure that does not comply with the permitted activity standards in NFL-R2 is provided for as a restricted discretionary activity within Outstanding Natural Landscapes (ONL) and Outstanding Natural Features (ONF) outside the coastal environment.
- c. Indigenous vegetation clearance and earthworks associated with a range of infrastructure activities (including operation, repair, and maintenance) are provided for as permitted activities under NFL-R3 and NFL-R4 respectively. Where these activities do not comply with the permitted activity standards, they are provided for as restricted discretionary activities in ONL and ONF outside the coastal environment.

The remaining aspect of Northpower's request relates to new infrastructure (including associated vegetation clearance and earthworks) within ONL and ONF within the coastal environment that does not comply with the permitted activity standards.

In my opinion, it is appropriate that new infrastructure that is not regionally significant in ONL and ONF within the coastal environment is classified as a non-complying activity. While I acknowledge that the NPS-I and NPS-EN) places increased emphasis on enabling infrastructure, I consider that reducing the activity status to restricted discretionary in this context would extend that direction too far when balanced against the policy direction to

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<sup>34</sup> Paragraphs 156-160 of the section 42A Report for Natural Character.  
<sup>35</sup> Submission Point 283.163.

avoid adverse effects on ONL and ONF. As discussed above in section 8.2.2 (General – Regionally significant infrastructure), I support regionally significant infrastructure being provided for as a discretionary activity, recognising its relative significance. However, I do not consider that this should extend to all infrastructure.<sup>36</sup>

6.47 While I acknowledge that the Reporting Officer has recommended a number of amendments to the NATC and NFL rules that better recognise infrastructure activities, I do not consider the recommended provisions appropriately provide for the operational and functional requirements of infrastructure. In particular, I consider a number of the recommended permitted activity standards to be overly restrictive and impractical for the operation, maintenance, repair and upgrading of existing infrastructure, and for the development of new infrastructure.

6.48 In relation to the NATC chapter, I consider the following standards to be problematic:

- (a) **NATC-R1** – requiring external additions or alterations to existing above-ground network utilities to be no greater than 10m high or the height of the existing building/structure, no greater than 20% of the gross floor area of the existing building/structure, and not involving replacement of a pole with a pi-pole;
- (b) **NATC-R2** – limiting buildings or structures for underground infrastructure or infrastructure within a road to 100m<sup>2</sup> gross floor area, 10m in height, and a single pole (monopole) structure rather than a pi-pole or steel-lattice tower.

6.49 Similarly, I do not consider the recommended amendments to NFL-R2 in the NFL chapter appropriately provide for infrastructure. In particular, I consider the following standards to be unduly restrictive for the development of new infrastructure:

- (a) NFL-S1 Building and Structure Height – 5.5m maximum;
- (b) NFL-S2 Gross Floor Area – 25m<sup>2</sup>-100m<sup>2</sup>; and

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<sup>36</sup> Paragraphs 204-206 of the section 42A Report for Natural Features and Landscapes.

- (c) NFL-S3 Exterior Colour and Reflectivity requirements.

6.50 I consider that the recommended limits in these rules will inappropriately constrain the operational and functional needs of Northpower, for the following reasons:

- (a) **Height restriction** – The 5.5m and 10m height restrictions appear arbitrary and are not supported by any clear technical or operational assessment demonstrating why structures above those limits would result in unacceptable adverse effects. There is no detail or technical basis provided to demonstrate why these restrictions are acceptable, e.g., why structures above that limit would result in an unacceptable effect that outweighs the functional needs of the electricity network. Mr Brown has advised in his evidence that a standard replacement pole height for telecommunications and electricity infrastructure could reach approximately 12.5m, based on current engineering specifications and operational requirements. In my view, establishing permitted height standards that do not accommodate standard infrastructure dimensions will unnecessarily trigger resource consent requirements despite limited practical alternatives. I therefore recommend that the pole height restriction is increased to 12.5m for electricity and telecommunications infrastructure, and have recommended that this is limit is applied in NATC-R1, NAT-R2, NAT-S1, NFL-RX and NFL-S1.<sup>37</sup>
- (b) **Gross Floor Area Limits** – It is unclear how the varying gross floor area limits are intended to apply to electricity infrastructure such as power poles, transformers and associated equipment. In many cases, these structures have only a limited physical footprint and do not readily align with conventional gross floor area assessments. In my opinion, power poles, transformers, equipment cabinets and similar infrastructure should be specifically excluded from gross floor area standards. I have

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<sup>37</sup> Notwithstanding that there is an existing allowance for telecommunications poles and attached antennas in formed roads of 20m in NFL-S1. As such for that standard, the 12.5m height limit I have recommended is only applicable for electricity infrastructure.

therefore recommended the deletion of this requirement from relevant provisions in both the NATC and NFL chapters.

- (c) **Poles and Pi-Poles** – While I understand from Mr Brown’s evidence that Northpower’s preference is to use single poles, there are circumstances where a pi-pole replacement is operationally necessary, including to accommodate greater span distances between poles. In some situations, this may reduce the overall number of poles required within a landscape and therefore reduce overall effects. Where electricity infrastructure is already present within an existing environment, and there is a clear operational and functional need to replace infrastructure with a pi-pole of a similar height and location, requiring resource consent does not appear to be supported by a clear effects-based justification. Therefore, I have recommended the deletion of the “pi-pole” requirement within the NATC Chapter provisions.
- (d) **Exterior Colour, Reflectivity and Lighting** – While I understand that Northpower will generally seek to comply with colour and reflectivity requirements where practicable, these standards may nevertheless trigger additional consenting requirements for relatively minor infrastructure activities where adverse effects can otherwise be appropriately managed. I have therefore recommended the deletion of this requirement as it relates to electricity and telecommunications infrastructure within the NFL provisions.

6.51 I also disagree with the Reporting Officer’s recommendation relating to NFL-R2 that:

- (a) Only new infrastructure located outside the coastal environment be provided for as a restricted discretionary activity; and
- (b) New infrastructure within ONL and ONF in the coastal environment (other than regionally significant infrastructure) require resource consent for a non-complying activity.

6.52 The Reporting Officer justifies this approach on the basis that reducing the activity status to restricted discretionary would extend national

direction to enable infrastructure too far, particularly when weighed against the policy direction in the New Zealand Coastal Policy Statement (**NZCPS**) to avoid adverse effects on ONL and ONF within the coastal environment.

- 6.53 However, Policy 15 of the NZCPS does not direct that infrastructure or electricity network activities be avoided within ONL and ONF in the coastal environment. Rather, it requires that adverse effects on those values be avoided.
- 6.54 Further, Policy 8 of the NPS-EN requires decision-makers to recognise that electricity network activities may have unavoidable adverse effects, and to provide for activities that have an operational or functional need to locate within particular environments, including areas where section 6 matters apply.
- 6.55 In my view, these directions make it clear that infrastructure and electricity network activities are not unanticipated within the coastal environment, and that an appropriate balance must therefore be struck between protecting ONL and ONF values and enabling infrastructure necessary to support communities and network resilience.
- 6.56 I do not consider that a non-complying activity status is proportionate in these circumstances. A restricted discretionary activity status would still enable the Council to assess the location, scale and effects of infrastructure activities on ONL and ONF values through targeted matters of discretion, while avoiding unnecessarily restrictive consenting pathways for infrastructure activities.
- 6.57 While I acknowledge that the purpose of the NATC and NFL chapters is to protect natural character and natural features and landscapes, national direction now provides strong direction to recognise and provide for the operational and functional needs of infrastructure and electricity networks across all environments, subject to the appropriate management of adverse effects.
- 6.58 For these reasons, I consider that the following tiered approach, achieved through amendments to notified NATC provisions, and the

inclusion of a new rule within the NFL chapter, is the most appropriate approach:

- (a) Operation, maintenance, repair and upgrading of existing infrastructure – Permitted activity status. These assets are existing and often serve isolated and vulnerable communities. In my opinion, they should continue to be enabled to operate, be maintained, repaired and upgraded without disproportionate consenting barriers.
- (b) Development of new electricity and telecommunications infrastructure – Permitted activity status, subject to a 12.5m height standard. If compliance is not achieved, then this will be a restricted discretionary.

6.59 I consider that the recommended provision wording outlined in **Attachment 1** should be included in the NATC and NFL chapters for the following reasons:

- (a) In many instances, infrastructure has an operational or functional need to locate within areas identified as having natural character or within ONLs and ONFs, particularly given the extent of those areas within the Kaipara District;
- (b) The recommended provisions establish a balanced and effects-based framework for both existing and new infrastructure, while appropriately managing adverse effects on natural character and ONL and ONF values;
- (c) The NPS-I provides strong national direction to recognise and provide for infrastructure and its benefits across all environments; and
- (d) The NPS-EN recognises the national significance of electricity distribution networks and requires decision-makers to provide for routine electricity network activities and recognise the operational and functional needs of electricity infrastructure across all environments.

***NFL-R5 – Additions and Alterations to Parks and Infrastructure***

6.60 Northpower made a submission<sup>38</sup> seeking amendments to NFL-R5 to enable the operation, maintenance, repair, and upgrading of existing infrastructure as a permitted activity; for the rule to apply to 'infrastructure' generally; and to include an exemption for the operation, maintenance, repair and upgrading of infrastructure from permitted standards.

6.61 I acknowledge that the Reporting Officer has recommended acceptance in part of this submission point within the s42A, stating:

I support broadening the rule to apply to all infrastructure (not just network utilities and community infrastructure), as this provides better alignment with INF-P1 and with Policy 8 of the NPS-I, which directs decision-makers to enable the efficient operation, maintenance and minor upgrading of existing infrastructure.

I support Northpower's request in principle that the operation, maintenance, repair, and upgrading of existing infrastructure should be a permitted activity.

However, in my opinion the rule should focus on the activities that may give rise to effects in ONL and ONF, which is the change to the external appearance and scale of infrastructure.

Accordingly, in my view it is more appropriate for the rule to apply to alterations and additions. "Addition" and "alteration" are defined terms in the PDP:

- a. Alteration – *"means any work to existing buildings or structures which involves the change, removal or replacement of walls, windows or features which results in an external appearance different to its existing appearance."*
- b. Addition – *"means any work undertaken to an existing building which has the effect of increasing the gross floor area of that building."*

The advantages of using these terms are:

- a. They reduce interpretation risk by relying on defined terms.
- b. The clearly focus on a change to the external appearance, which is the effect of concern.
- c. It uses the same wording as NFL-R1, NFL-S2 *Gross Floor Area* and other rules in the PDP (e.g. NATC-R1 and CE-R1).
- d. They make it clear that the rule is focused solely on structural work, and not on any associated earthworks or vegetation clearance) which is the intent as evidenced in NFL-R5.2 which excludes the application

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<sup>38</sup> Submission Point 283.162.

of the rule to activities covered by the other building and structure rules – NFL-R1 and NFL-R2).

I do not support Northpower’s request for NFL-R6.1 to not include any controls. In my view, some level of control is necessary – particularly for upgrading, which is undefined and could result in changes to existing buildings or structures that generate adverse effects on ONL and ONF beyond those of the existing development. I consider that controls should be retained.<sup>39</sup>

6.62 I acknowledge the Reporting Officer’s support in principle that the operation, maintenance, repair, and upgrading of existing infrastructure should be a permitted activity.

6.63 However, I disagree with the s42A recommended amendments to NFL-R5, as in my view, these do not clearly permit the operation, maintenance, repair and upgrading of existing infrastructure.

6.64 As discussed earlier in this evidence, the notified definitions of ‘building’ and ‘structure’ do not comprehensively capture the breadth and operational nature of infrastructure as defined in the RMA.<sup>40</sup> Consequently, the notified definitions of ‘addition’ and ‘alteration’ are not well suited to infrastructure activities, as they are primarily framed around conventional works to buildings or structures. In many instances, infrastructure activities involve the replacement, reinforcement or reconfiguration of network components that do not readily align with conventional building-focused concepts such as gross floor area, walls, windows or external appearance.

6.65 I also oppose the Reporting Officer’s recommendation to retain overly restrictive controls for the operation, maintenance, repair and upgrading of existing infrastructure for the following reasons:

- (a) While I acknowledge that the permitted standards seek to balance the protection of ONL and ONF values with enabling infrastructure activities, their application to network utility operators is not always appropriate. Based on the evidence of Mr Brown, I have recommended the deletion of the requirement to comply with the gross floor area requirements (NFL-S2) and

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<sup>39</sup> Paragraphs 265-270 of the section 42A Report for Natural Features and Landscapes.

<sup>40</sup> Refer to **Attachment 3** for list of the relevant notified PDP definitions.

the exterior colour and reflectivity (NFL-S3) requirements. With regard to the height limit (NFL-S1) I have adopted Mr Brown's recommendation of a 12.5m height limit for electricity infrastructure and added wording to that effect in NFL-S1. These works are often operationally necessary and reactive in nature, and the imposition of inappropriate fixed controls may constrain routine maintenance activities and trigger additional consenting requirements and associated delays;

- (b) Importantly, infrastructure upgrading does not necessarily equate to expansion or intensification of development, and in many instances is undertaken to maintain existing levels of service, resilience and network security within established infrastructure corridors; and
- (c) For the reasons discussed earlier in this evidence regarding the NPS-I, NPS-EN and routine electricity network activities, I consider that retaining controls on the operation, maintenance, repair and upgrading of existing infrastructure does not appropriately recognise the operational realities and functional needs associated with established infrastructure networks.

6.66 On this basis, I have proposed amended wording for NFL-R5 and NFL-S1 within **Attachment 1**, which I consider better aligns with the direction of the NPS-I, NPS-EN, and the practical realities of managing existing infrastructure.

## **7 SECTION 32AA EVALUATION**

7.1 Section 32AA of the RMA requires further evaluation where changes to provisions are proposed since the original section 32 evaluation was undertaken. In my opinion, the amendments recommended in **Attachment 1** are generally refinements to the notified provisions and the recommendations contained within the relevant s42A, rather than a fundamental change in policy direction. I have undertaken a s32AA assessment in **Attachment 3**.

7.2 Overall, I consider that the amendments proposed in **Attachment 1** are appropriate, efficient and effective, and represent the most appropriate approach to achieving the purpose of the RMA.

## **8 CONCLUDING COMMENTS**

8.1 While I acknowledge that some of the recommended amendments within the s42A represent an improvement on the notified provisions, I remain concerned that a number of the recommendations do not appropriately recognise and provide for the operational and functional needs of infrastructure, particularly electricity network infrastructure, within areas subject to Natural Environment Values.

8.2 My evidence primarily seeks to supplement and refine the recommended provisions to ensure that the PDP provides a more consistent, practical and enabling framework for infrastructure, while continuing to appropriately recognise and protect Natural Environment Values.

8.3 In my opinion, the amendments proposed in **Attachment 1** better give effect to higher order national direction, appropriately recognise the operational and functional needs of infrastructure and electricity networks, and provide a proportionate and effects-based planning framework for the management of infrastructure within areas subject to Natural Environment Values.

8.4 For the reasons outlined in my evidence and attachments, I recommend that the Panel adopt the amendments proposed in **Attachment 1**. If it would be of assistance to the Hearings Panel, I am open to working with the Reporting Officers and other submitters on the wording of the relevant provisions prior to or following the Hearing.

**David Eric Badham**

**22 May 2026**

**Attachment 1 – Track Change Version of Provisions**

## Appendix B: Officer's recommended amendments to the ECO - Ecosystems and Indigenous Biodiversity chapter

Note the below provisions represent the Section 42A Report Writing Officer's recommended amendments to the provisions of the Proposed District Plan, in response to submissions (with red underline used for new text and ~~red strikethrough~~ for deleted text).

David Badham recommended wording = additions underlined text deletions ~~strikethrough-text~~

### Overview

Kaipara District is home to indigenous vegetation and habitat considered to be unique and special, including significant areas of indigenous forest, shrubland, wetlands, dune lakes and dunelands of high ecological value. These habitats support a unique range of indigenous plants and animals, including many species classified as 'Threatened' and 'At Risk' in the New Zealand Threat Classification System. The protection, maintenance and restoration of indigenous biodiversity is important to retain and enhance the District's ecological landscape, species diversity and natural character, and to contribute to social, economic and cultural well-being.

Indigenous habitats in the Kaipara District have suffered extensive loss and modification, mainly due to land clearance for agricultural activities, with only about 16% of former indigenous cover in the District remaining. While large, protected areas of indigenous forest, dune lands and saline wetlands have retained their ecological integrity and viability, there continues to be cumulative loss of indigenous biodiversity on private land. However, there is also active work from landowners to protect and restore indigenous biodiversity on private land which can provide a range of benefits and be complementary to other land uses.

The Resource Management Act 1991 requires Kaipara District Council to manage the subdivision, use and development of land in a way that protects areas of significant indigenous vegetation and significant habitats of indigenous fauna (section 6(c)) and maintains indigenous biological diversity (section 31(1)(b)(iii)). There are also specific requirements in national policy statements and the Northland Regional Policy Statement 2016 to protect, maintain and restore indigenous biodiversity.

The District Plan does not include mapped areas of significant indigenous vegetation and significant habitats of indigenous fauna at this point in time. Identifying and mapping these areas will occur through a future plan change in accordance with national policy requirements.

### Objectives

|  |   |
|--|---|
| <b>ECO-O1</b>  | <b>Protection of significant indigenous vegetation and significant habitats of indigenous fauna</b> |
| Areas of significant indigenous vegetation and significant habitats of indigenous fauna are protected <u>for current and future generations</u> <sup>1</sup> .                                 |   |
| <b>ECO-O2</b>  | <b>Maintenance of indigenous biodiversity</b>   |
| Adverse effects on indigenous biodiversity are managed to maintain its extent and diversity in a way that provides for the social, economic and cultural well-being of people and communities. |   |
| <b>ECO-O3</b>  | <b>Restoring indigenous biodiversity</b>  |
| The restoration of indigenous biodiversity is promoted and enabled.  |   |
| <b>ECO-O4</b>  | <b>Stewardship <u>and kaitiaki</u> of indigenous biodiversity</b>                                   |
| Landowners act as stewards <u>and tangata whenua as kaitiaki</u> <sup>2</sup> in the protection, maintenance and restoration of indigenous biodiversity.                                       |   |
| <b>ECO-OX</b>  | <b><u>New Objective</u></b>   |

<sup>1</sup> NRC [332.12]

<sup>2</sup> NRC [332.15] Te Uri o Hau [367.75] and others

Manage the adverse effects of the development of new regionally significant infrastructure on significant indigenous vegetation and significant habitats of indigenous fauna.

ECO-OX

New Objective

Enable the safe and efficient use, operation, maintenance, upgrading and repair of existing infrastructure within areas of significant indigenous vegetation and significant habitats of indigenous fauna.

## Policies

|  |  |
|--|--|
| <b>ECO-P1</b>  | <b>Indigenous biodiversity in the coastal environment</b>      |
| <p>Within the coastal environment:</p> <ol style="list-style-type: none"> <li>1. Avoid adverse effects of subdivision, land use and development on: <ol style="list-style-type: none"> <li>a. Threatened and At-Risk indigenous species;</li> <li>b. Areas of significant indigenous vegetation and significant habitat of indigenous fauna;</li> <li>c. Areas of indigenous biodiversity protected under other legislation; and</li> </ol> </li> <li>2. Avoid significant adverse effects and avoid, remedy or mitigate other 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> </ol>  |  |
| <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. Avoid, remedy or mitigate adverse effects of subdivision, land use and development to ensure adverse effects are no more than minor on: <ol style="list-style-type: none"> <li>a. Threatened and At-Risk indigenous species;</li> <li>b. Areas of significant indigenous vegetation and significant habitat of indigenous fauna;</li> <li>c. Areas of indigenous biodiversity protected under other legislation; and</li> </ol> </li> <li>2. Avoid, remedy, or mitigate, offset or compensate 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> </ol>   |  |
| <b>ECO-P3</b>  | <b>Protection and maintenance of indigenous biodiversity</b>   |
| <p>Manage subdivision, land use and development to protect significant indigenous vegetation and significant habitat of indigenous fauna and maintain indigenous biodiversity in a way that:</p> <ol style="list-style-type: none"> <li>1. Does not unreasonably restrict existing primary production activities, particularly on highly productive land;</li> <li>2. Recognises the operational need or functional need of <b>regionally significant</b><sup>3</sup> infrastructure to traverse or locate within areas of significant indigenous vegetation and significant habitat of indigenous fauna where there are no practicable alternative locations;</li> <li>3. Allows for operation, use, <b>and</b> maintenance, <b>upgrading and repair</b><sup>4</sup> of existing structures, including infrastructure; <b>and</b></li> <li>4. Enables land to be used and developed to support the social, economic and cultural well-being of people and communities; <b>and</b></li> <li>5. <b>Enables mana whenua to develop on whenua Māori and Treaty settlement land, where adverse effects on biodiversity are managed and minimised</b><sup>5</sup>.</li> </ol> |  |
| <b>ECO-P4</b>  | <b>Restoring and enhancing indigenous biodiversity</b>         |
| <p>Promote and enable activities that restore and enhance indigenous biodiversity, including by:</p> <ol style="list-style-type: none"> <li>1. Recognising and providing for the role of landowners as stewards <b>and tangata whenua as kaitiaki</b><sup>6</sup> in the</li> </ol>  |  |

<sup>3</sup> Northpower [283.147]

<sup>4</sup> Ibid

<sup>5</sup> Te Uri o Hau [367.12]

|               |   |
|---------------|---|
|               | restoration of indigenous biodiversity;<br>2. Enabling the removal or management of pest plant and animal species; and<br>3. Enabling biosecurity works.  |
| <b>ECO-PX</b> | <b>Restoration priorities<sup>7</sup></b>   |
|               | <u>Promote the restoration of indigenous biodiversity, with priority given to:</u><br>1. <u>Areas of significant indigenous vegetation and significant habitat of indigenous fauna whose ecological integrity is degraded;</u><br>2. <u>Threatened and rare ecosystems representative of naturally occurring and formerly present ecosystems;</u><br>3. <u>Areas that provide important connectivity or buffering functions;</u><br>4. <u>Natural inland wetlands where ecological integrity is degraded or these no longer retain their indigenous vegetation or habitat for indigenous fauna;</u><br>5. <u>Areas of indigenous biodiversity on specified Māori land where restoration is advanced by the Māori landowners; and</u><br>6. <u>Any other priorities specified in regional biodiversity strategies or any national priorities for indigenous biodiversity restoration</u> |
| <b>ECO-P5</b> | <b>Non-regulatory mechanisms</b>  |
|               | Encourage the protection, maintenance and restoration of indigenous biodiversity through non-regulatory methods, including consideration of:<br>1. Reducing or waiving resource consent application fees;<br>2. Providing funding, or assisting in obtaining funding from other agencies and trusts;<br>3. Sharing and helping to improve information on indigenous biodiversity;<br>4. Working directly with landowners and community groups on ecological protection, maintenance and restoration projects;<br>5. Assistance with the establishment of protective covenants.  |
| <b>ECO-PY</b> | <b>Managing pets and pest plants and animal species</b>   |
|               | <u>Require landowners to manage pets and pest plants and animal species within their property through consent conditions where necessary to avoid risks to Threatened and At-Risk indigenous species.</u>   |
| <b>ECO-PX</b> | <b>New Policy</b>   |
|               | <u>Provide for the establishment of new infrastructure within areas of significant indigenous vegetation and significant habitats of indigenous fauna, where the following apply:</u><br>1. <u>There is a functional need or operational need for its establishment;</u><br>2. <u>There is no practicable alternative; and</u><br>3. <u>The significant adverse effects are avoided, and any other adverse effects of significant indigenous vegetation and significant habitats of fauna are avoided, remedied or mitigated.</u>   |
| <b>ECO-PX</b> | <b>New Policy</b>   |
|               | <u>Provide for the operation, maintenance, upgrading and repair of existing infrastructure within areas of significant indigenous vegetation and significant habitats of indigenous fauna in a manner that avoids, remedies or mitigates adverse effects on the values of these areas.</u>  |

## Rules

### Notes:

1. There are additional rules for indigenous vegetation clearance in the Coastal Environment, Natural Character, and Natural Features and Landscapes chapters. These other rules for indigenous vegetation clearance are more stringent and apply in addition to the indigenous vegetation clearance rules in this chapter.
2. This chapter manages land disturbance associated with indigenous vegetation clearance. Earthworks that permanently alter the profile of the land are managed through the Earthworks chapter.
3. Indigenous vegetation clearance associated with plantation forestry is regulated under Regulations 93 and 94 of the National Environmental Standards for Commercial Forestry 2017. The rules in this

<sup>6</sup> DOC [304.70] and Te Uri o Hau [367.32]

<sup>7</sup> Forest & Bird [149.43]

chapter apply to vegetation clearance that is carried out before afforestation of commercial forestry but do not apply to indigenous vegetation clearance associated with commercial forestry.

| ECO-R1    | Indigenous vegetation clearance and any associated land disturbance for specified activities <sup>8</sup>   |  |
|-----------|---|--|
| All zones | <p><b>1. Activity status:</b> Permitted</p> <p><b>Where:</b><br/>The indigenous vegetation clearance is for the following purposes:</p> <ol 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 <b>either side of the fence line</b>;<sup>9</sup></li> <li>d. To remove pest species in accordance with any approved pest management plan or biosecurity operational plan <b>or to control unwanted organisms as a response to directions of a person authorised under the Biosecurity Act 1993</b>;<sup>10</sup></li> <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 <b>dated prior to 28 April 2025</b><sup>11</sup>, including essential associated on-site infrastructure, <b>a garage</b><sup>12</sup> 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</li> </ol> | <p><b>2. Activity status when compliance not achieved:</b> Not Applicable - proposed indigenous vegetation clearance is to be assessed under ECO-R2.</p> |

<sup>8</sup> Clause 16 amendment to fix spelling error

<sup>9</sup> DOC [304.73]

<sup>10</sup> Horticulture NZ [140.50] and DOC [304.73]

<sup>11</sup> Forest & Bird [149.44] and DOC [304.73] – noting these submitters requested deletion of this clause but limiting its application to titles existing at the time the PDP was notified is considered to be lesser relief that is still in scope.

<sup>12</sup> Tappenden Holdings Ltd [289.13], Bream Tail [300.15] and Daytona Trust [263.13]

|                         |  |   |
|-------------------------|--|---|
|                         | <p>accordance with any applicable conservation management strategy, conservation management plan, or management plan established under that Act;</p> <ul style="list-style-type: none"> <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 <del>5</del> <sup>40</sup><sup>13</sup> years old;</li> <li>j. Creation and maintenance of firebreaks to manage fire risk;</li> <li>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</li> <li>l. Clearance for the operation, repair, <b>upgrading</b> or maintenance of the following activities where they have been lawfully established:             <ul style="list-style-type: none"> <li>i. Fences;</li> <li>ii. Infrastructure <b>and associated access tracks</b><sup>14</sup>;</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> </li> </ul> |   |
| <p><b>ECO-R2</b></p>    | <p><b>Indigenous vegetation clearance and any associated land disturbance not provided for under ECO-R1</b></p>  |   |
| <p><b>All zones</b></p> | <p><b>1. Activity status:</b> Permitted</p> <p><b>Where:</b><sup>15</sup></p> <ul style="list-style-type: none"> <li>a. It does not exceed <del>1,000</del><b>500</b>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><b>250</b>m<sup>2</sup> per site in any calendar year in all other zones.</li> </ul>   | <p><b>2. Activity status when compliance with ECO-R2.1 not achieved:</b><br/>Restricted Discretionary</p> <p><b>Where:</b><sup>16</sup></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</del></li> </ul> |

<sup>13</sup> NRC [332.20] and DOC [304.73] - noting these submitters requested deletion of this clause, but reducing the timeframe for vegetation removal is considered to be lesser relief that is still in scope.

<sup>14</sup> Transpower [292.62]

<sup>15</sup> Amendments to both clearance thresholds - Madara Vilde [125.6, 125.14], Fish & Game [267.8], NRC [332.21], Aoroa Farms [337.4], Cato Bolam [217.44] and DOC [304.74]

<sup>16</sup> Daytona Trust [263.14], Tappenden Holdings Ltd [289.14] and Bream Tail [300.16]

|  |  |  |
|--|--|--|
|  |  | <p style="text-align: right;"><del>habitats of indigenous fauna).</del></p> <p><b>3. Matters over which discretion is restricted:</b></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><sup>17</sup></li> </ol> <p><b>4. <del>Activity status when compliance with ECO-R2.2 not achieved:</del></b><br/><del>Discretionary.</del><sup>18</sup></p> |
|--|--|--|

<sup>17</sup> Ibid

<sup>18</sup> Daytona Trust [263.14], Tappenden Holdings Ltd [289.14] and Bream Tail [300.16]

## Natural Character

Note the below provisions represent the Section 42A Report Writing Officer’s recommended amendments to the provisions of the Proposed District Plan, in response to submissions (with red underline used for new text and ~~red strikethrough~~ for deleted text).

David Badham recommended wording = additions underlined text deletions ~~strikethrough-text~~

### Overview

This chapter addresses the natural character of wetland, lake and river margins. The focus is on managing buildings, structures, earthworks and indigenous vegetation clearance in wetland, lake and river margins. The natural character of the coastal environment is addressed in the Coastal Environment chapter.

The Kaipara District is dissected by numerous rivers and streams. The most extensive is the Northern Wairoa River, Northland’s largest river, with a catchment of 3,650 km<sup>2</sup> running from beyond the District to the Kaipara Harbour. The rivers are of considerable value to the District both for their natural values and as a physical resource.

Numerous freshwater lakes are found along the West Coast of the District. The lakes have been formed in consolidated sand dunes of relatively recent geological origin. They are in three main locational groups — Kai Iwi, Redhill and Pouto. The lakes provide habitat for numerous indigenous fauna and flora species.

Kaipara District contains approximately 2,000 hectares of wetlands, many of which are nationally and regionally important. In particular, these include wetland areas from Pouto through to the Ruawai Flats, and around the Kaipara Harbour. Wetland areas provide habitats for a range of estuarine and freshwater flora and fauna, including migrating waders and local resident bird species.

The margins of these wetlands, lakes and rivers are areas of important and valued natural character and support public and customary access, recreation and flood hazard management. In the district plan, the wetland, lake and margins are defined as the land within set distances from the edge of the water bodies.

A range of land use activities can have adverse effects on the natural character of wetland, lake and river margins, including the construction and alteration of buildings or structures, earthworks, and indigenous vegetation clearance. However, some activities have a functional need or operational need to be located within wetland, lake and river margins. This chapter seeks to manage these activities, to ensure that the characteristics, qualities and values that contribute to the natural character of wetland, lake and river margins are preserved and protected from inappropriate subdivision, use and development. Further, this chapter seeks to encourage land use activities that restore and enhance natural character values.

### Objectives

|   |   |
|---|---|
| <b>NATC-01</b>  | <b>Preservation and protection of natural character</b> |
| The natural character of wetland, lake and river margins is preserved, and protected from inappropriate subdivision, use and development. |   |
| <u>NATC-OX</u>  | <u>New Objective</u>                                    |
| <u>Manage the adverse effects of the development of new infrastructure on the natural character of wetland, lake and river margins.</u>   |   |
| <u>NATC-OX</u>  | <u>New Objective</u>                                    |

Enable the safe and efficient use, operation, maintenance, upgrading and repair of existing infrastructure within wetland, lake and river margins.

## Policies

|   |   |
|---|---|
| <b>NATC-P1</b>  | <b>Preservation and protection of natural character</b> |
| Avoid significant adverse effects and avoid, remedy or mitigate all other adverse effects of subdivision, use and development on the characteristics, qualities and values of the natural character of wetland, lake and river margins. |   |

|   |   |
|---|---|
| <b>NATC-P2</b>  | <b>Indigenous vegetation clearance and earthworks</b> |
| Enable indigenous vegetation clearance and earthworks within wetland, lake and river margins where it is for: <ol style="list-style-type: none"> <li>1. The <u>operation</u>,<sup>1</sup> repair or maintenance of lawfully established activities;</li> <li>2. Safe clearance for existing overhead powerlines;</li> <li>3. Health and safety of the public;</li> <li>4. <del>The removal or management of pest plant and animal species-Biosecurity reasons; and</del><sup>2</sup></li> <li>5. The sustainable non-commercial harvest for customary activities-;</li> <li>6. <u>Restoration planting</u>;<sup>3</sup></li> <li>7. <u>The upgrade, operation, maintenance, repair or removal of existing infrastructure</u>.<sup>4</sup></li> <li>8. <del>The development of buildings, or structures, or infrastructure with an operational or functional need to be in that location</del>;<sup>5</sup></li> <li>9. <u>Erosion and sediment control</u>; and<sup>6</sup></li> <li>10. <u>Access necessary for any of the above</u>.<sup>7</sup></li> </ol> |   |

|  |                                 |
|--|---------------------------------|
| <b>NATC-P3</b>   | <b>Buildings and structures</b> |
| Enable buildings or structures, <u>including infrastructure</u> and additions and alterations to existing buildings or structures, <u>including infrastructure</u> within wetland, lake and river margins where: <ol style="list-style-type: none"> <li>1. There is a functional need or operational need for a building or structures, <u>including infrastructure</u> to be in that location;</li> <li>2. Public access, customary access and recreational use is maintained or enhanced; and</li> <li>3. Any adverse effects on natural character are avoided, remedied or mitigated in accordance with NATC-P1.</li> </ol> |                                 |

|   |                                    |
|---|------------------------------------|
| <b>NATC-P4</b>  | <b>Restoration and enhancement</b> |
| Encourage the restoration and enhancement of wetland, lake and river margins where it will achieve improvement in natural character values. |                                    |

|                |  |
|----------------|--|
| <b>NATC-P5</b> | <b>Assessment of resource consents</b> |
|----------------|--|

<sup>1</sup> Federated Farmers [136.67]  
<sup>2</sup> Fish and Game [267.9]  
<sup>3</sup> Fish and Game [267.9]  
<sup>4</sup> Northpower [283.151]  
<sup>5</sup> Federated Farmers [136.67]  
<sup>6</sup> Federated Farmers [136.67]  
<sup>7</sup> Federated Farmers [136.67]

Have regard to the following matters when assessing the effects of resource consent applications for subdivision, land use and development on the natural character of wetland, lake and river margins:

1. The presence or absence of buildings, structures or infrastructure;
2. The temporary or permanent nature of any adverse effects;
3. The location, scale and design of any proposed development;
4. Any means of integrating the building, structure or activity;
5. The ability of the environment to absorb change;
6. The need for and location of earthworks or indigenous vegetation clearance;
7. The operational need or functional need of any building or structure regionally-significant infrastructure<sup>8</sup> to be in the particular location;
8. Any viable alternative locations for the activity or development;
9. Any historical, spiritual or cultural association held by tangata whenua;
10. The likelihood of the activity exacerbating natural hazards;
11. The opportunity to enhance public access and recreation;
12. The ability to improve the overall water quality; and
13. Any positive contribution the development has on the characteristics, qualities and values of natural character.

|                                |                                   |
|--------------------------------|-----------------------------------|
| <a href="#"><u>NATC-PX</u></a> | <a href="#"><u>New Policy</u></a> |
|--------------------------------|-----------------------------------|

[Provide for the establishment of new infrastructure within wetland, lake and river margins, where the following apply:](#)

1. [There is a functional need or operational need for its establishment;](#)
2. [There is no practicable alternative; and](#)
3. [The significant adverse effects are avoided, and any other adverse effects on the natural character of wetland, lake and river margins are avoided, remedied or mitigated.](#)

|                                |                                   |
|--------------------------------|-----------------------------------|
| <a href="#"><u>NATC-PX</u></a> | <a href="#"><u>New Policy</u></a> |
|--------------------------------|-----------------------------------|

[Provide for the operation, maintenance, upgrading and repair of existing infrastructure within wetland, lake and river margins in a manner that avoids, remedies or mitigates adverse effects on the values of these areas.](#)

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<sup>8</sup> Federated Farmers [136.70]

## Rules

### Notes:

1. In addition to the rules in this chapter, resource consent may be required by rules in other chapters in the District Plan. See Part 1 - General Approach chapter
2. The rules in this chapter do not apply to earthworks and vegetation clearance in wetland, lake and river margins regulated by the following national environmental standards:
  - a. The National Environmental Standards for Commercial Forestry 2017;
  - b. The National Environmental Standards for Freshwater Regulations 2020;
  - c. National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health Regulations 2011;
  - d. The National Environmental Standard for Telecommunication Facilities 2016; and
  - e. The National Environmental Standard for Electricity Transmission Activities 2009.

|                         |   |   |
|-------------------------|---|---|
| <p><b>NATC-R1</b></p>   | <p><b>Additions and alterations <del>and maintenance</del><sup>9</sup> of buildings and structures, <u>and operation, maintenance, upgrading and repair of existing electricity and telecommunications infrastructure</u> in wetland, lake and river margins</b></p>  |   |
| <p><b>All zones</b></p> | <p><b>1. Activity status:</b> Permitted</p> <p><b>Where:</b></p> <p>a. External additions and alterations:</p> <ol style="list-style-type: none"> <li>i. Are no greater than 30m<sup>2</sup>; and</li> <li>ii. <del>Comply</del> <u>The activity complies</u> with <del>NATC-S1CE-S1 Coastal environment</del> - maximum <del>building</del> height; <u>or</u><sup>10</sup></li> </ol> <p>b. <u>The operation, maintenance, upgrading and repair of existing electricity and telecommunications infrastructure undertaken by a network utility operator</u> <del>External additions or alterations are to an existing lawfully established above ground network utility, and:</del></p> <ol style="list-style-type: none"> <li>i. <del>Are is no greater than 40</del><u>12.5m high or the height of the existing building or structure;</u> <del>and</del></li> <li>ii. <del>Are no greater than 20% of the gross floor area of the existing building or structure;</del> <del>and</del></li> <li>iii. <del>Do not involve replacing a pole with a pipe.</del><sup>14</sup></li> </ol> | <p><b>2. Activity status when compliance not achieved:</b><br/><del>Restricted discretionary</del><br/><u>Discretionary</u></p> <p><b>3. Matters over which discretion is restricted:</b></p> <ol style="list-style-type: none"> <li>a. <u>The matters in NATC-P5; and</u></li> <li>b. <u>The positive effects of the activity.</u><sup>12</sup></li> </ol> |

|                         |   |   |
|-------------------------|---|---|
| <p><b>NATC-R2</b></p>   | <p><b>New building or structures, <u>and electricity and telecommunications infrastructure</u> in wetland, lake and river margins, <u>and within an additional 3 metres of that margin where it is within an Esplanade Priority Area</u><sup>13</sup></b></p>   |   |
| <p><b>All zones</b></p> | <p><b>1. Activity status:</b> Permitted</p> <p><b>Where:</b></p> <p>a. <u>The building or structure:</u></p> <ol style="list-style-type: none"> <li>i. <u>Is no greater than 50m<sup>2</sup>;</u><sup>14</sup> <u>and</u></li> <li>ii. <del>e-</del> <u>The activity complies with NATC-S1</u> Maximum <del>building</del><sup>15</sup> height; <u>or</u><sup>16</sup></li> </ol> | <p><b>2. Activity status when compliance not achieved:</b><br/>Restricted<br/>Discretionary</p> <p><b>3. Matters over which</b></p> |

<sup>9</sup> Clause 16 change

<sup>10</sup> EDS [265.3 and 265.4] and Forest and Bird [149.52]

<sup>11</sup> Northpower [283.153]

<sup>12</sup> Federated Farmers [136.71]

<sup>13</sup> Federated Farmers [136.29 and 136.65]

<sup>14</sup> Northpower [283.153] and Federated Farmers [136.1]

<sup>15</sup> Clause 16 correction

<sup>16</sup> Clause 16 correction

|  |   |   |
|--|---|---|
|  | <p><del>b. a.</del> The building or structure:</p> <p><del>i.</del> is no greater than 1300m<sup>2</sup>;<sup>17</sup></p> <p><del>ii.</del> <u>complies with NATC-S1 Maximum building height; and</u><sup>18</sup></p> <p><del>iii.</del> <del>b.</del> the building or structure is <u>required for</u>;<sup>19</sup>:</p> <p>a. <del>For</del> natural hazard mitigation undertaken by, or on behalf of, the local authority; <del>or</del></p> <p>b. <del>For</del><sup>20</sup> the management, operation and maintenance of parks and reserves in the Open space zone or Sport and active recreation zone; <del>or</del><sup>21</sup></p> <p>c. A post and wire fence for the purpose of protection from farm stock; <del>or</del><sup>22</sup></p> <p>d. <del>A</del><sup>23</sup> river crossing<del>s</del><sup>24</sup>, including but not limited to, fords, bridges, stock crossings and culvert crossings; <del>or</del><sup>25</sup></p> <p>e. <del>Infrastructure for the taking of water from, or discharges to, the adjacent wetland, lake or river. Pumphouses utilised for the drawing of water provided they cover less than 25m<sup>2</sup> in area; and</del><sup>26</sup></p> <p>f. <del>Underground infrastructure</del><sup>27</sup>;</p> <p>g. <del>For sediment and erosion control</del><sup>28</sup>;</p> <p>h. <del>For the construction of a river-crossing</del><sup>29</sup></p> <p>i. <del>A lighting pole by, or on behalf of the local authority;</del><sup>30</sup></p> <p>j. <del>A footpath and or paving no greater than 2m wide; or</del><sup>31</sup></p> <p><del>k. Infrastructure within a road, provided any pole:</del></p> <p style="padding-left: 40px;"><del>a. is a single pole (monopole), and</del></p> <p style="padding-left: 40px;"><del>b. is not a pi-pole or a steel lattice tower</del><sup>32</sup>;</p> <p><b>X. Electricity and telecommunications infrastructure not within a road is:</b></p> <p style="padding-left: 20px;"><b>i. No greater than 12.5m in height.</b></p> | <p><b><u>discretion is restricted Where</u></b>;<sup>33</sup></p> <p>a. The matters in NATC-P5; and</p> <p>b. The positive effects of the activity.</p> |
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| NATC-R3   | Earthworks in wetland, lake and river margins   |   |
|-----------|---|---|
| All zones | <p><b>1. Activity status:</b> Permitted</p> <p><b>Where:</b></p> <p>a. The earthworks:</p> <p style="padding-left: 20px;"><del>i. Does not exceed a cut height or fill depth of</del></p> | <p><b>2. Activity status when compliance not achieved:</b></p> <p>Restricted</p> <p>Discretionary</p> |

<sup>17</sup> Forest and Bird [149.50]  
<sup>18</sup> Consequential change as a result of amending structure of rule  
<sup>19</sup> CI 16 amendment  
<sup>20</sup> Clause 16 correction  
<sup>21</sup> Clause 16 correction  
<sup>22</sup> Clause 16 correction  
<sup>23</sup> Clause 16 correction  
<sup>24</sup> Clause 16 correction  
<sup>25</sup> Clause 16 correction  
<sup>26</sup> Federated Farmers [136.1 and 136.72] and Northpower [283.153]  
<sup>27</sup> Clarus [309.64]  
<sup>28</sup> Federated Farmers [136.72]  
<sup>29</sup> Northpower [283.153]  
<sup>30</sup> Northpower [283.153]  
<sup>31</sup> Northpower [283.153]  
<sup>32</sup> Northpower [283.153]  
<sup>33</sup> CI 16 correction

|  |  |  |
|--|--|--|
|  | <p><del>2m Complies with NATC-S2—Earthworks;</del><br/><sup>34</sup> and</p> <p>ii. <u>Does not exceed 50m<sup>3</sup> within in any 12-month period per site<sup>35</sup>; or <del>and</del><sup>36</sup></u></p> <p>b. The earthworks is for the maintenance of lawfully established:</p> <ul style="list-style-type: none"> <li>i. roads,</li> <li>ii. fences,</li> <li><del>iii. network<sup>37</sup> utility connections,</del></li> <li>iv. driveways,</li> <li>v. parking areas,</li> <li>vi. effluent disposal systems,</li> <li>vii. swimming pools,</li> <li>viii. walking or cycling tracks, or</li> <li>ix. farm and forestry tracks<sup>38</sup>; <u>or</u></li> </ul> <p><u>X. The earthworks is for the upgrade, operation, maintenance, repair or removal of existing infrastructure.</u></p> <p>c. <u>The earthworks:</u></p> <ul style="list-style-type: none"> <li>i. <u>Does not exceed a cut height or fill depth of 2m;</u><sup>39</sup></li> <li>ii. <u>Does not exceed 100m<sup>3</sup> within any 12-month period per site; and</u><sup>40</sup></li> <li>iii. <u>Is for the following purpose (including any associated access):</u> <ul style="list-style-type: none"> <li>(a) <u>Erosion and sediment control;</u><sup>41</sup></li> <li>(b) <u>The removal or management of pest plant and animal species;</u><sup>42</sup></li> <li>(c) <u>Restoration planting;</u><sup>43</sup></li> <li><del>(d) The upgrade, operation, maintenance, repair or removal of existing infrastructure;</del><sup>44</sup></li> <li>(e) <u>Establishing infrastructure in a road;</u><sup>45</sup></li> <li>(f) <u>Natural hazard mitigation undertaken by, or on behalf of a local authority; or</u><sup>46</sup></li> <li>(g) <u>A track no greater than 1.5m wide</u><sup>47</sup>.</li> </ul> </li> </ul> | <p><b>3. Matters over which discretion is restricted:</b></p> <ul style="list-style-type: none"> <li>a. The matters in NATC-P5; and</li> <li>b. The positive effects of the activity.</li> </ul> |
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|                  |   |  |
|------------------|---|--|
| <b>NATC-R4</b>   | <b>Indigenous vegetation clearance in wetland, lake and river margins</b> |  |
| <b>All zones</b> | <p><b>1. Activity status:</b> Permitted</p> <p><b>Where:</b></p>          | <p><b>2. Activity status when compliance not</b></p> |

<sup>34</sup> Clause 16 change as a result of moving NATC-S2 into the rule  
<sup>35</sup> Northpower [283.153] and Federated Farmers [136.1]  
<sup>36</sup> Northpower [283.153] and Federated Farmers [136.1]  
<sup>37</sup> Northpower [283.154]  
<sup>38</sup> CI 16 change - numbering of the listed activities  
<sup>39</sup> Clause 16 change as a result of moving NATC-S2 into the rule  
<sup>40</sup> Forest and Bird [149.50]  
<sup>41</sup> Horticulture NZ [140.54]  
<sup>42</sup> Fish and Game [267.13]  
<sup>43</sup> Fish and Game [267.13]  
<sup>44</sup> Northpower [283.154]  
<sup>45</sup> Chorus et al [26.64], Northpower [283.154] and Federated Farmers [136.73]  
<sup>46</sup> Federated Farmers [136.73]  
<sup>47</sup> Forest and Bird [149.153]

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|--|---|---|
|  | <p>a. <del>The maximum area of indigenous vegetation clearance is 25m<sup>2</sup> within any 12-month period per site;<sup>48</sup></del><br/> <del>The activity complies with NATC-S3—Indigenous vegetation clearance;<sup>49</sup> or</del></p> <p>b. The indigenous vegetation clearance is for the maintenance of lawfully established:</p> <ul style="list-style-type: none"> <li>i. roads,</li> <li>ii. fences,</li> <li>iii. <del>network<sup>50</sup> utility connections,</del></li> <li>iv. driveways,</li> <li>v. parking areas,</li> <li>vi. effluent disposal systems,</li> <li>vii. swimming pools,</li> <li>viii. walking or cycling tracks, or</li> <li>ix. farm and forestry tracks<sup>51</sup>; or</li> </ul> <p><b>X. The indigenous vegetation clearance is for the upgrade, operation, maintenance, repair or removal of existing infrastructure.</b></p> <p>c. <del>The maximum area of indigenous vegetation clearance is 50m<sup>2</sup> within any 12-month period per site, and it is for:</del></p> <ul style="list-style-type: none"> <li>i. <del>The upgrade, operation, maintenance, repair or removal of existing infrastructure,<sup>52</sup></del></li> <li>ii. <del>Establishing infrastructure in a road, or<sup>53</sup></del></li> <li>iii. <del>A track no greater than 1.5m wide.<sup>54</sup></del></li> </ul> | <p><b>achieved:</b><br/>                 Restricted<br/>                 Discretionary</p> <p><b>3. Matters over which discretion is restricted:</b></p> <ul style="list-style-type: none"> <li>a. The matters in NATC-P5; and</li> <li>b. The positive effects of the activity.</li> </ul> |
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## Standards

| NATC-S1 | Maximum height   |   |
|---------|--|---|
|         | <p>1. The maximum height of a new building or structure must not exceed <del>4.5m</del> <del>5.5m<sup>55</sup></del> above ground level; or</p> <p>2. <del>The maximum height of new infrastructure within a road must not exceed 10m above ground level, excluding electricity and telecommunications infrastructure which must not exceed a height limit of 12.5m above ground level; or<sup>56</sup></del></p> <p>3. <del>2<sup>57</sup></del> The addition or alteration to an existing building or structure must not exceed the height of the existing building or structure or 5.5m above ground level, whichever is the greater.</p> | <p><b>43.<sup>58</sup> Activity status when compliance not achieved:</b> Refer to relevant rule</p> |
| NATC-S2 | Earthworks <sup>59</sup>   |   |

<sup>48</sup> CI 16 – moved from NATC-S3, DOC [304.87] change from 50m<sup>2</sup> to 25m<sup>2</sup>

<sup>49</sup> CI 16 – moved from NATC-S3

<sup>50</sup> Northpower [283.155]

<sup>51</sup> CI 16 change - numbering of the listed activities

<sup>52</sup> Northpower [283.155]

<sup>53</sup> Chorus et al [26.65], Northpower [283.155] and Federated Farmers [136.74]

<sup>54</sup> Forest and Bird [149.153]

<sup>55</sup> Forest and Bird [149.52]

<sup>56</sup> 135. Northpower [283.153]

<sup>57</sup> Consequential change

<sup>58</sup> Consequential change

<sup>59</sup> CI 16 – this has been moved into rule NATC-R3

|   |   |
|---|---|
| <p><del>1. The maximum area of earthworks must not exceed 50m<sup>3</sup> within in any 12 month period per site;</del></p> <p><del>2. The cut height or fill depth of earthworks must not exceed 2m; and</del></p> <p><del>3. As soon as practicable, but not later than six months after the completion of earthworks, or where earthworks are staged, the completion of each stage of earthworks, the earthworks area must be stabilised.<sup>60</sup></del></p> | <p><del>4. Activity status when compliance not achieved: Refer to NATC-R3</del></p> |
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|   |   |
|---|---|
| <b>NATC-S3</b>  | <b>Indigenous vegetation clearance<sup>64</sup></b>                                 |
| <p><del>1. The maximum area of indigenous vegetation clearance is 50m<sup>2</sup>; in any 12 month period per site.</del></p> | <p><del>3. Activity status when compliance not achieved: Refer to NATC-R4</del></p> |

<sup>60</sup> CI 16 – this is redundant as it is already required under the Earthworks chapter permitted activity rules which must also be complied with.

<sup>61</sup> CI 16 – this has been moved into rule NATC-R4

## NFL - Natural Features and Landscapes

Note the below provisions represent the Section 42A Report Writing Officer’s recommended amendments to the provisions of the Proposed District Plan, in response to submissions (with red underline used for new text and ~~red strikethrough~~ for deleted text).

David Badham recommended wording = additions underlined text deletions ~~strikethrough text~~

### Overview

This chapter aims to protect Outstanding Natural Features (ONF) and Outstanding Natural Landscapes (ONL) from inappropriate subdivision, use and development. It does this by managing the effects of land use and development on Outstanding Natural Features and Outstanding Natural Landscapes both within and outside the coastal environment. The District Plan Planning Maps show the Outstanding Natural Features and Outstanding Natural Landscapes in the Kaipara District, and Schedule 4 - Outstanding Natural Features and Schedule 5 - Outstanding Natural Landscapes identify the specific characteristics, qualities and values of these landscapes and features, and the methodologies used to map them. ~~The maps are adopted from the Northland Regional Policy Statement 2016 (NRPS) and the mapping criteria are outlined in Appendix 1 of the NRPS (Appendix 1 – Mapping methods).~~<sup>1</sup>

In keeping with their "natural" description, Outstanding Natural Features and Outstanding Natural Landscapes comprise mainly undeveloped rural and coastal land. These areas are generally sensitive to subdivision, use and development, but there may be individual sites where it is possible to demonstrate lesser sensitivity to subdivision, use and development proposals.

Landowners play a critical role in the preserving the values of Outstanding Natural Features and Outstanding Natural Landscapes by retaining elements that contribute to those values (such as leaving large tracts of indigenous vegetation intact) and actively enhancing these elements (for example through pest control and native plantings).

Protection of outstanding natural features and landscapes from inappropriate subdivision, use and development is a matter of national importance under the RMA. This chapter gives effect to the NRPS and New Zealand Coastal Policy Statement 2010 (NZCPS) requirements for protecting and managing these features and landscapes.

### Objectives

|  |  |
|--|--|
| <b>NFL-O1</b>  | <b>Protection of Outstanding Natural Features and Outstanding Natural Landscapes</b> |
| The characteristics, qualities and values of Outstanding Natural Features and Outstanding Natural Landscapes are <u>identified and</u> <sup>2</sup> protected from inappropriate subdivision, use and development. |  |
| <b>NFL-OX</b>  | <b><u>New Objective</u></b>  |
| <b><u>Manage the adverse effects of the development of new infrastructure on Outstanding Natural Features and Outstanding Natural Landscapes.</u></b>  |  |
| <b>NFL-OX</b>  | <b><u>New Objective</u></b>  |
| <b><u>Enable the safe and efficient use, operation, maintenance, upgrading and repair of existing infrastructure within Outstanding Natural Features and Outstanding Natural Landscapes.</u></b>                   |  |

<sup>1</sup> Cl 16 change – correcting a statement of fact.

<sup>2</sup> DOC [304.88]

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| <b>NFL-O2</b>  | <b>Maintenance and enhancement of Outstanding Natural Features and Outstanding Natural Landscapes</b> |
| The maintenance and enhancement of the characteristics, qualities and values of Outstanding Natural Features and Outstanding Natural Landscapes is promoted. |   |

## Policies

|   |   |
|---|---|
| <b>NFL-PX</b>   | <b>Characteristics, qualities and values of ONL and ONF<sup>3</sup></b> |
| Identify Outstanding Natural Features and Outstanding Natural Landscapes through an assessment of the characteristics, and qualities and values using the criteria in Schedule 4 (ONF) and Schedule 5 (ONL) |   |

|   |   |
|---|---|
| <b>NFL-P1</b>   | <b>Activities that maintain, restore or enhance characteristics, qualities and values</b> |
| Enable activities that <u>protect<sup>4</sup></u> , maintain, restore or enhance the characteristics, qualities and values of Outstanding Natural Features and Outstanding Natural Landscapes <del>as set out in Schedule 4 and Schedule 5<sup>5</sup></del> , including conservation activities and the removal of redundant buildings and structures. |   |

|  |   |
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| <b>NFL-P2</b>  | <b>Existing <u>subdivision<sup>6</sup></u>, use and development</b> |
| Recognise that lawfully established <u>subdivision<sup>7</sup></u> , land use and development are located within Outstanding Natural Features and Outstanding Natural Landscapes and allow them to continue without undue restriction. |   |

|   |   |
|---|---|
| <b>NFL-P3</b>   | <b>Adverse effects within the coastal environment</b> |
| Within the coastal environment, avoid adverse effects from <u>subdivision<sup>8</sup></u> , land use and development on the characteristics, qualities and values <u>that make of<sup>9</sup></u> Outstanding Natural Features and Outstanding Natural Landscapes <u>outstanding<sup>10</sup></u> <del>as set out in Schedule 4 and Schedule 5<sup>11</sup></del> . |   |

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| <b>NFL-P4</b> | <b>Adverse effects outside the coastal environment</b> |
|---------------|--|

<sup>3</sup> EDS [265.5]

<sup>4</sup> Piroa Conservation Trust [257.5],

<sup>5</sup> Consequential as a result on new policy NFL-PX - EDS [265.5]

<sup>6</sup> Daytona Trust [263.19]

<sup>7</sup> Daytona Trust [263.19]

<sup>8</sup> DOC [304.89]

<sup>9</sup> Daytona Trust [263.16]

<sup>10</sup> Daytona Trust [263.16]

<sup>11</sup> Consequential as a result on new policy NFL-PX - EDS [265.5]

Outside the coastal environment:

1. Avoid significant adverse effects of subdivision<sup>12</sup>, land use and development on the characteristics, qualities and values that make of<sup>13</sup> Outstanding Natural Features and Outstanding Natural Landscapes outstanding<sup>14</sup>, as set out in Schedule 4 and Schedule 5<sup>15</sup>; and
2. Avoid, remedy or mitigate other adverse effects (including cumulative adverse effects) of subdivision<sup>16</sup>, land use and development on the characteristics, qualities and values of Outstanding Natural Features and Outstanding Natural Landscapes including by:
  - a. In Outstanding Natural Features, requiring ensuring<sup>17</sup> that the scale and intensity of earthworks and built development is appropriate taking into account the scale, form and vulnerability to modification of the feature;
  - b. In Outstanding Natural Landscapes, requiring ensuring<sup>18</sup> that the location and intensity of subdivision, use and built development is appropriate having regard to, natural elements, landforms and processes, including vegetation patterns, ridgelines and freshwater bodies and their margins; and
  - ~~c. Having regard to:
 
    - i. Integration of development into the Outstanding Natural Feature or Outstanding Natural Landscape, maintenance of low development density, and retention of predominant vegetation cover;
    - ii. The location, design, scale, prominence and visibility of any buildings, structures, access, earthworks and indigenous vegetation clearance;
    - iii. Methods and timelines for restoring or reinstating earthworks and revegetating land; and
    - iv. The finish of any buildings or structures, including materials, reflectivity and colour; and landscaping and fencing.<sup>19</sup>~~

|  |  |
|--|--|
| <b>NFL-P5</b>  | <b><u>Regionally significant infrastructure and infrastructure</u></b> <sup>20</sup> |
| <b><u>Enable the development, operation, maintenance, repair and upgrading of regionally significant infrastructure and infrastructure in Outstanding Natural Features or Outstanding Natural Landscapes where:</u></b>  |  |
| <ol style="list-style-type: none"> <li>1. <b><u>There is an operational need or functional need to be in that particular location; and</u></b></li> <li>2. <b><u>Adverse effects on the characteristics, qualities and values of Outstanding Natural Features and Outstanding Natural Landscapes are avoided, remedied or mitigated in accordance with NFL-P3 and NFL-P4.</u></b></li> </ol> |  |

|               |  |
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| <b>NFL-P6</b> | <b>Assessment of resource consents</b> |
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<sup>12</sup> Piroa Conservation Trust [257.6]  
<sup>13</sup> Daytona Trust [263.16]  
<sup>14</sup> Daytona Trust [263.16]  
<sup>15</sup> Consequential as a result on new policy NFL-PX - EDS [265.5]  
<sup>16</sup> Piroa Conservation Trust [257.6]  
<sup>17</sup> Piroa Conservation Trust [257.6]  
<sup>18</sup> Piroa Conservation Trust [257.6]  
<sup>19</sup> Federated Farmers [136.82]  
<sup>20</sup> Cl 16 – addressed in the Infrastructure chapter

Have regard to the following matters when assessing ~~and managing the effects of resource consent applications for~~<sup>21</sup> ~~subdivision~~<sup>22</sup>, land use and development ~~on~~ <sup>in</sup><sup>23</sup> Outstanding Natural Features and Outstanding Natural Landscapes:

1. The physical and visual integrity and any fragmentation of the landscape or feature, and its sensitivity or vulnerability to change;
2. Adverse and positive effects on identified characteristics, qualities and values ~~of the landscape or feature~~<sup>24</sup>;
3. ~~The existing context, including the intensity, scale, and characteristics of the land use and development in the locality and the characteristics, qualities and values of the landscape or feature. The intensity of buildings, structures or infrastructure in the locality and the landscape values of surrounding land and established activities~~<sup>25</sup>;
4. The location, scale and design of ~~the~~ proposed development including in relation to ridgelines, skylines and prominent headlands, ~~existing land use and development, and its the values of surrounding land and established activities and~~ visibility from roads and public places<sup>26</sup>;
5. Integration of the building, structure, access or activity into the landscape or feature, including materials, reflectivity, colour, landscaping, ~~and~~ fencing, ~~lighting~~<sup>27</sup> ~~and development density~~<sup>28</sup>;
6. The ~~need for~~<sup>29</sup>, extent, design, location and visibility of earthworks and vegetation clearance; ~~and~~
7. Historical or cultural associations with the feature or landscape;
8. ~~The retention of predominant indigenous vegetation cover in the landscape~~<sup>30</sup>;
9. ~~Methods and timelines for restoring or reinstating earthworks and revegetating land~~<sup>31</sup>;
10. ~~The operational or functional need for the proposed development to be located in the landscape or feature; and~~<sup>32</sup>
11. ~~The degree to which the proposal has already been anticipated through a previous resource consent process, including development on and access to building platforms approved through subdivision~~<sup>33</sup>.

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| <b>NFL-PX</b> | <b>New Policy</b> |
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**Provide for the establishment of new infrastructure within Outstanding Natural Features and Outstanding Natural Landscapes, where the following apply:**

1. **There is a functional need or operational need for its establishment;**
2. **There is no practicable alternative; and**
3. **The significant adverse effects are avoided, and any other adverse effects on Outstanding Natural Features and Outstanding Natural Landscapes are avoided, remedied or mitigated.**

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| <b>NFL-PX</b> | <b>New Policy</b> |
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**Provide of the operation, maintenance, upgrading and repair of existing infrastructure on Outstanding Natural Features and Outstanding Natural Landscapes in a manner that avoids, remedies or mitigates adverse effects on the values of these areas.**

**Rules**

**Notes:**

1. The rules in this chapter apply to land in the Outstanding Natural Features and Outstanding Natural Landscapes overlays, described in Schedule 4 and Schedule 5 and shown on the Planning Maps.
2. For certain activities, consent may be required by rules in more than one chapter in the District Plan. See Part 1 - General Approach.

<sup>21</sup> Federated Farmers [136.82]  
<sup>22</sup> Piroa Conservation Trust [257.7]  
<sup>23</sup> Federated Farmers [136.83]  
<sup>24</sup> Clause 16 clarification  
<sup>25</sup> Piroa Conservation Trust [257.7]  
<sup>26</sup> Piroa Conservation Trust [257.7]  
<sup>27</sup> Horizon Surveying & Land Development [315.32] and Federated Farmers [136.82]  
<sup>28</sup> Federated Farmers [136.83]  
<sup>29</sup> Piroa Conservation Trust [257.7]  
<sup>30</sup> Piroa Conservation Trust [257.6] and Federated Farmers [136.82]  
<sup>31</sup> Federated Farmers [136.83]  
<sup>32</sup> Federated Farmers [136.83]  
<sup>33</sup> Daytona Trust [263.20]

- 3. Earthworks and indigenous vegetation clearance in the margins of wetlands are controlled by the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (NES-F). Rule NFL-R3 and NFL-R4 do not to apply earthworks and indigenous vegetation clearance regulated by the NES-F.
- 4. The National Environmental Standards for Commercial Forestry 2017 (NES-CF) regulates commercial forestry and Regulation 6 of the NES-CF allows plan rules to be more stringent to protect Outstanding Natural Features and Outstanding Natural Features and to manage afforestation. This chapter contains more stringent rules for commercial forestry related earthworks, vegetation clearance and afforestation in ONL and ONF in some circumstances. These rules are in addition to the NES-CF regulations (not instead of).

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| <b>NFL-R1</b>      | <b>External additions and alterations to existing buildings or structures</b>  |  |
| <b>ONL and ONF</b> | <p><b>1. Activity status:</b> Permitted</p> <p><b>Where:</b></p> <ul style="list-style-type: none"> <li>a. The alteration or addition of any existing building or structure shall not exceed the height of the existing building or structure; and</li> <li>b. The activity complies with the following standards:                             <ul style="list-style-type: none"> <li>i. NFL-S2 Gross Floor Area; and</li> <li>ii. NFL-S3 Exterior Colour and Reflectivity.</li> </ul> </li> </ul> | <p><b>23.</b><sup>34</sup> <b>Activity status when compliance not achieved:</b><br/><u>Restricted</u> Discretionary</p> <p><b>3 Matters over which discretion is restricted:</b></p> <ul style="list-style-type: none"> <li>a. <u>The matters in NFL-P6;</u></li> <li>and</li> <li>b. <u>The positive effects of the activity.</u><sup>35</sup></li> </ul> |

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| <b>NFL-R2</b>  | <b>New buildings and structures</b>  |   |
| <b>ONL and ONF outside the coastal environment</b> <sup>36</sup> | <p><b>1. Activity status:</b> Permitted</p> <p><b>Where:</b></p> <ul style="list-style-type: none"> <li>a. <u>The building or structure is:</u> <ul style="list-style-type: none"> <li>i. <u>Ancillary to an existing lawfully established activity;</u> or</li> <li>ii. <u>On a building platform identified in an existing approved subdivision consent and/or land use consent lodged with Council prior to 30 April 2025; and</u><sup>37</sup></li> </ul> </li> <li>b. The building or structure complies with the following standards:                             <ul style="list-style-type: none"> <li>i. NFL-S1 Building and Structure Height;</li> <li>ii. NFL-S2 Gross Floor Area; and</li> <li>iii. NFL-S3 Exterior Colour and Reflectivity; <u>or</u></li> </ul> </li> <li>c. <u>It is a temporary building or structure for military training purposes permitted under TEMP-R2.</u><sup>38</sup></li> <li>X. <u>The building or structure is associated with regionally significant infrastructure.</u></li> </ul> | <p><b>3. Activity status when compliance not achieved with NFL-R2.1: Controlled</b></p> <p><b>Where:</b></p> <ul style="list-style-type: none"> <li>a. <u>The building is a residential unit or a minor residential unit on a defined building platform, where the building platform has been identified through an expert landscape assessment and approved as part of an existing subdivision consent.</u></li> </ul> <p><b>4. The matters of control:</b></p> <ul style="list-style-type: none"> <li>a. <u>The location, scale and design of buildings, and associated accessways and infrastructure, having regard to their visual prominence;</u></li> </ul> |

<sup>34</sup> Clause 16 change to fix numbering error

<sup>35</sup> Federated Farmers 136.84

<sup>36</sup> Daytona Trust [263.22]

<sup>37</sup> Daytona Trust [263.22]

<sup>38</sup> NZ Defence Force [284.19]

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| <p><b>2. This rule does not apply to:</b></p> <p>a. <del>The defined Exclusive Use Areas shown on the Survey Plan for lots 1-29, 32,34,40,41 and 45 DP 348513 consented by RM050086 (Bream Tail) provided that the other conditions of the Consent Notices (dated 2 February 2004) on these titles are complied with, which shall rely on Rule 12.10.3c.2 in Chapter 12 of the Kaipara Operative District Plan.<sup>39</sup></del></p> | <p>b. <u>The means of integrating the building, structure or activity into the landscape, including through planting;</u></p> <p>c. <u>The height of retaining walls, their colour and whether planting is necessary to mitigate their visual effects; and</u></p> <p>d. <u>Measures to mitigate adverse effects on the characteristics, qualities and values that make ONL and ONE outstanding.<sup>40</sup></u></p> <p><b>5. <del>3. Activity status when compliance not achieved with NFL-R2.3:</del> :</b><br/>Restricted Discretionary</p> <p><b><u>Where</u></b></p> <p>a. <u>The building or structure is outside the coastal environment<sup>41</sup></u></p> <p><b>6. <del>4. Matters over which discretion is restricted:</del></b></p> <ul style="list-style-type: none"> <li>• The matters in NFL-P6; and</li> <li>• The positive effects of the activity.</li> </ul> <p><b>7. <del>Activity status when compliance not achieved with NFL-R2.5:</del></b><br/><u>Discretionary</u></p> <p><b><u>Where</u></b></p> <p>a. <u>The building or structure is associated with regionally significant infrastructure</u></p> <p><b><del>8. Activity status when compliance not achieved with NFL-R2.7: Non-complying<sup>42</sup></del></b></p> |
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<sup>39</sup> Evolve Planning and Landscape Architecture [50.26]

<sup>40</sup> Daytona Trust [263.22]

<sup>41</sup> Daytona Trust [263.22]

<sup>42</sup> Transpower [262.68]

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| <p><b>ONL and ONF outside the coastal environment</b></p> | <p><b>5. Activity status:</b> Restricted-Discretionary<sup>43</sup></p> <p><b>Where:</b></p> <p>a. For the erection of a dwelling exceeding 50m<sup>2</sup> but not exceeding 350m<sup>2</sup> gross floor area on Lots 1-4 and 6-14 as shown on the Survey Plan consented by RM090103 for Lot 2 DP 316176 (Mangawhai Heads Holdings Limited)</p> <p>b. A dwelling on a relevant lot exceeds the 50m<sup>2</sup> gross floor area limit specified in Rule 12.10.3c(1)(b)(i) in Chapter 12 of the Kaipara Operative District Plan (but does not exceed 350m<sup>2</sup> gross floor area), Council has restricted its discretion to the matter specified in Condition 1(p) of consent RM090103, dated 17 April 2015.</p> <p><b>Note 1:</b><br/>The restricted discretionary activity opportunity provided by this Rule applies subject to the following provisions:</p> <p>a. It expressly applies only to the 13 identified building locations within Lots 1-4 and 6-14 shown on a Survey Plan consent by RM090103 for Lot 2 DP 316176 (or as shown on any subsequent DP replacing 316176); or to one dwelling on the existing Lot 2 DP 316176 (or any subsequent DP replacing 316176) providing that the dwelling is in one of the 13 identified building locations and is designed in accordance with the controls specified in condition 1(p).<br/>A certificate of title must have been issued for the lot concerned, subject to a consent notice relating to the continuing requirements of condition 1(p) of consent RM090103.</p> <p>c. If consent RM090103 lapses without being implemented, then this rule shall cease to apply (Rule 12.10.3c would then apply as normal), except as provided in respect of one dwelling in (a.) above.</p> <p><b>Note 2:</b><br/>An application for restricted discretionary activity resource consent pursuant to this Rule will be considered on a non-notified basis.</p> <p><b>Note 3:</b></p> <p>a. The restricted discretionary activity opportunity provided by this Rule applies only to the performance standard in Rule 12.10.3c(1)(b)(i) of the Operative Kaipara District Plan. The remaining performance standards specified in Rule 12.10.3c(1) of the Operative Kaipara District Plan continue to apply to any dwelling on the relevant lots as normal. In addition, any dwelling exceeding 350m<sup>2</sup> gross floor area is a discretionary activity.</p> |  |
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<sup>43</sup> M Fyson [224.1]

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| <p><del>ONL and ONF within the coastal environment</del></p> | <p><del>6. Activity status: Permitted<sup>44</sup></del></p> <p><del>Where:</del></p> <p><del>a. The building or structure is associated with regionally significant infrastructure.</del></p> | <p><del>7. Activity status when compliance not achieved with NFL-R2_64: Non-Complying</del></p> |
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| <p><u>NFL-RX</u></p>      | <p><u>New Infrastructure</u></p>   |  |
| <p><u>ONL and ONF</u></p> | <p>1. <u>Activity status: Permitted</u></p> <p><u>Where:</u></p> <p>a. <u>Infrastructure complies with the following standards:</u></p> <p>i. <u>NFL-S1 Building and Structure Height;</u></p> <p>ii. <u>NFL-S2 Gross Floor Area; and</u></p> <p>iii. <u>NFL-S3 Exterior Colour and Reflectivity.</u></p> <p>b. <u>Electricity and telecommunications infrastructure comply with the following standard</u></p> <p>i. <u>NFL-S1 Building and Structure Height.</u></p> | <p>2. <u>Activity status when compliance not achieved: Restricted Discretionary</u></p> <p>3. <u>Matters over which discretion is restricted:</u></p> <p>a. <u>The operational or functional need of the infrastructure to be located within an Outstanding Natural Feature or Outstanding Natural Landscape;</u></p> <p>b. <u>The extent of effects on Outstanding Natural Features or Outstanding Natural Landscapes;</u></p> <p>c. <u>Proposed measures to mitigate adverse effects, including siting, design, colour, finish, or landscaping;</u></p> <p>d. <u>Location, scale, and design of the proposed infrastructure; and</u></p> <p>e. <u>The benefits associated with the infrastructure.</u></p> |

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| <p><u>NFL-R3</u></p>   | <p><u>Indigenous vegetation clearance</u></p>  |  |
| <p><u>ONL and ONF outside the coastal environment<sup>45</sup></u></p> | <p>1. <u>Activity status: Permitted</u></p> <p><u>Where:</u></p> <p>a. <u>The activity complies with NFL-S5 Indigenous vegetation clearance; or</u></p> <p>b. <u>Clearance for the operation, upgrading, repair or maintenance of the following activities where they have been lawfully established:</u></p> <p>i. <u>Fences;</u></p> <p>ii. <u>Infrastructure and regionally significant infrastructure.</u></p> | <p>2. <u>Activity status when compliance not achieved: Restricted Discretionary</u></p> <p><u>Where:</u></p> <p><u>The clearance is outside the coastal environment<sup>59</sup></u></p> <p>3. <u>Matters over which discretion is</u></p> |

<sup>44</sup> Evolve Planning and Landscape Architecture [50.24 and 50.25],

<sup>45</sup> Daytona Trust [263.23]

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|  | <p><del>including effluent disposal systems<sup>46</sup>;</del></p> <p>iii. Buildings and swimming pools; <u>and</u></p> <p>iv. <u>Tracks<sup>47</sup></u> driveways, parking areas and access;</p> <p><del>v. Walking Tracks;</del></p> <p><del>vi. Cycling tracks;</del></p> <p><del>vii. Farming and forestry tracks;<sup>48</sup></del><br/><del>and</del></p> <p><del>viii. Farm drains<sup>49</sup>; or</del></p> <p>c. <u>The indigenous vegetation clearance is for the following purposes:</u></p> <p>i. <u>To address an immediate risk to public safety or damage to property;<sup>50</sup></u></p> <p>ii. <u>The formation of walking tracks less than 1.5m wide;<sup>51</sup></u></p> <p>iii. <u>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;<sup>52</sup></u></p> <p>iv. <u>To remove pest species in accordance with any approved pest management plan or biosecurity operational plan;<sup>53</sup></u></p> <p>v. <u>To create or maintain a 20m setback from an area of indigenous vegetation to a residential unit (excluding accessory buildings);<sup>54</sup></u></p> <p>vi. <u>To maintain firebreaks to manage fire risk;<sup>55</sup></u></p> <p>vii. <u>To remove indigenous vegetation as directed by Fire and Emergency New Zealand due to fire risk;<sup>56</sup></u></p> <p><del>viii. For the operation, maintenance, repair or removal of infrastructure;<sup>57</sup> or</del></p> <p><del>ix. For the minor upgrading of regionally significant infrastructure.<sup>58</sup></del></p> | <p><b>restricted:</b></p> <p>a. The matters in NFL-P6; and</p> <p>b. The positive effects of the activity.</p> <p><b>4. Activity status when compliance not achieved with NFL-R3.2: Discretionary</b></p> <p>Where:</p> <p>The clearance is associated with <u>new infrastructure, including regionally significant infrastructure</u></p> <p><b>5. Activity status when compliance not achieved with NFL-R3.4: Non-complying<sup>60</sup></b></p> |
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<sup>59</sup> Daytona Trust [263.23]

<sup>46</sup> Federated Farmers [136.1]

<sup>47</sup> NRC [332.28]

<sup>48</sup> Consequential as a result of addition of "Tracks"

<sup>49</sup> Federated Farmers [136.1]

<sup>50</sup> Daytona Trust [263.69]

<sup>51</sup> Daytona Trust [263.69]

<sup>52</sup> Daytona Trust [263.69]

<sup>53</sup> Daytona Trust [263.69]

<sup>54</sup> Daytona Trust [263.69]

<sup>55</sup> Daytona Trust [263.69]

<sup>56</sup> Daytona Trust [263.69]

<sup>57</sup> Northpower [283.160]

<sup>58</sup> Chorus 26.72

<sup>60</sup> Transpower [292.83]

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| <p><b>ONL within the coastal environment</b></p> | <p><b>4. Activity status:</b> Permitted<sup>61</sup></p> <p><b>Where:</b></p> <p>a. <del>The indigenous vegetation clearance is associated with regionally significant infrastructure.</del></p> | <p><b>5. Activity status when compliance not achieved with NFL-R3.4:</b> Non-Complying</p> |
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| <p><b>NFL-R4</b></p> <p><b>ONL and ONF outside the coastal environment<sup>62</sup></b></p> | <p><b>Earthworks</b></p> <p><b>1. Activity status:</b> Permitted</p> <p><b>Where:</b></p> <p>a. The earthworks complies with NFL-S4 Earthworks; or</p> <p>b. The earthworks is for the <u>operation, repair or maintenance of the following activities where they have been</u> lawfully established<sup>63</sup>:</p> <ul style="list-style-type: none"> <li><u>i. roads,</u><sup>64</sup></li> <li><u>ii. fences,</u></li> <li><del><u>iii. utility connections,</u></del></li> <li><u>iv. parking areas,</u></li> <li><u>v. effluent disposal systems,</u></li> <li><u>vi. swimming pools,</u></li> <li><u>vii. Tracks, driveways, and accessways;</u><sup>65</sup></li> <li><u>viii. Infrastructure</u><sup>66</sup> <ul style="list-style-type: none"> <li><del>-walking or cycling tracks, or</del></li> <li><del>farm and forestry tracks;</del><sup>67</sup> or</li> </ul> </li> </ul> <p><u>X. The earthworks is for the upgrade, operation, maintenance, repair or removal of existing infrastructure.</u></p> <p>c. <u>The earthworks is for:</u></p> <ul style="list-style-type: none"> <li><u>• The construction of a new fence in an ONL 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;</u><sup>68</sup> or</li> <li><u>• The minor upgrade of regionally significant infrastructure.</u><sup>69</sup></li> </ul> |  |
|   | <p><b>2. Activity status when compliance not achieved:</b> Restricted Discretionary</p> <p><b>Where:</b></p> <p><u>The earthworks is outside the coastal environment</u><sup>70</sup></p> <p><b>3. Matters over which discretion is restricted:</b></p> <ul style="list-style-type: none"> <li>a. The matters in NFL-P6; and</li> <li>b. The positive effects of the activity.</li> </ul> <p><b>4. Activity status when compliance not achieved with NFL-R4.3:</b> Discretionary</p> <p><b>Where:</b></p> <ul style="list-style-type: none"> <li>a. <u>The earthworks is associated with new infrastructure, including regionally significant infrastructure</u><sup>71</sup></li> </ul> <p><b>5. Activity status when compliance not achieved with NFL-R4.4:</b> Non-complying<sup>72</sup></p>  |  |

<sup>61</sup> Evolve Planning and Landscape Architecture [50.24 and 50.25].

<sup>62</sup> Daytona Trust [263.24]

<sup>63</sup> Northpower [283.161]

<sup>64</sup> Consequential as a result of adding "infrastructure" which includes roads.

<sup>65</sup> NRC [332.28]

<sup>66</sup> Northpower [283.161]

<sup>67</sup> Consequential change as a result of adding "Tracks"

<sup>68</sup> Federated Farmers [136.87])

<sup>69</sup> Northpower [283.161]

<sup>70</sup> Daytona Trust [263.24]

<sup>71</sup> Transpower [292.84]

<sup>72</sup> Clause 16 change – moved from below.

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| <p><b>ONL and ONF within the coastal environment</b></p> | <p><b>4. Activity status:</b> Discretionary<sup>73</sup></p> <p><b>Where:</b></p> <p>a. The earthworks is associated with regionally significant infrastructure.</p>  | <p><b>5. Activity status when compliance not achieved with NFL-R4.4:</b> Non-Complying</p>  |
| <p><b>NFL-R5</b></p>                                     | <p><b>Additions and alterations to Operation, Maintenance, repair and upgrading of existing network utilities, parks and community infrastructure<sup>74</sup></b></p>  |   |
| <p><b>ONL and ONF</b></p>                                | <p><b>1. Activity status:</b> Permitted</p> <p><u>Where:</u></p> <p>a. <del>The activity complies with the following standards:</del></p> <ul style="list-style-type: none"> <li>i. <del>NFL-S1 Building and Structure Height;<sup>75</sup></del></li> <li>ii. <del>NFL-S2 Gross Floor Area;<sup>76</sup></del></li> <li>iii. <del>NFL-S3 Exterior Colour and Reflectivity; and</del></li> <li>iv. <del>NFL-S6 Minor Upgrading.<sup>77</sup></del></li> </ul> <p>b. <del>The addition or alteration:</del></p> <ul style="list-style-type: none"> <li>i. <del>Does not exceed 20% of the gross floor area of the existing building or structure; or</del></li> <li>ii. <del>Complies with NFL-S2 Gross Floor Area; and</del></li> </ul> <p>c. <del>The height of the infrastructure addition or alteration:</del></p> <ul style="list-style-type: none"> <li>i. <del>Does not exceed the height of the existing building or structure above ground level; or</del></li> <li>ii. <del>Complies with NFL-S1 Building and Structure Height<sup>78</sup></del></li> </ul> <p>2. NFL- R1 to NFL-R2 do not apply to the activities provided for in this rule.</p> | <p><b>3. Activity status when compliance not achieved:</b> <u>Restricted<sup>79</sup></u> discretionary</p> <p><b>4. Matters over which discretion is restricted:</b></p> <ul style="list-style-type: none"> <li>a. The matters in NFL-P6; and</li> <li>b. The positive effects of the activity.</li> </ul> |

<sup>73</sup> Transpower [292.84] and Environmental Defence Society [265.5]

<sup>74</sup> Northpower [283.162],

<sup>75</sup> Cl 16 change – to address relationship with NFL-R1

<sup>76</sup> Cl 16 change – to address relationship with NFL-R1

<sup>77</sup> Clause 16 – moved from NFL-S6

<sup>78</sup> Northpower [283.162]

<sup>79</sup> Northpower [283.163]

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| <b>NFL-R6</b>                                      | <b>Afforestation for commercial forestry</b> |  |
| <b>ONL and ONF outside the coastal environment</b> | <b>1. Activity status:</b> Discretionary     | <b>2. Activity status when compliance not achieved:</b> Not Applicable |
| <b>ONL and ONF within the coastal environment</b>  | <b>3. Activity status:</b> Non-Complying     | <b>4. Activity status when compliance not achieved:</b> Not Applicable |

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| <b>NFL-R7</b>      | <b>Indigenous vegetation clearance and earthworks associated with conservation activities</b>   |   |
| <b>ONL and ONF</b> | <p><b>1. Activity status:</b> Permitted</p> <p><b>Where:</b></p> <p>a. The activity complies with the following standards:</p> <ul style="list-style-type: none"> <li>i. NFL-S4 Earthworks; and</li> <li>ii. NFL-S5 Vegetation clearance.</li> </ul> <p>2. <del>NFL-R3 to NFL-R4</del> <del>NFL-R1 to NFL-R2</del><sup>80</sup> do not apply to the activities provided for in this rule.</p> | <p><b>3. Activity status when compliance not achieved:</b> Restricted Discretionary</p> <p><b>4. Matters over which discretion is restricted:</b></p> <ul style="list-style-type: none"> <li>a. The matters in NFL-P6; and</li> <li>b. The positive effects of the activity.</li> </ul> |

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| <b>NFL-R8</b>      | <b>Mining activities and quarrying activities</b> |  |
| <b>ONL and ONF</b> | <b>1. Activity status:</b> Non-Complying          | <b>2. Activity status when compliance not achieved:</b> Not Applicable |

**Outstanding Natural Features and Landscapes standards**

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| <b>NFL-S1</b>  | <b>Building, and structure, and infrastructure height</b> |  |
| <p>The height of any building, or structure, or alteration or addition to an existing building shall not exceed 5.5m above ground level, <u>excluding:</u></p> <ul style="list-style-type: none"> <li>a. <u>Chimney structures not exceeding 1.2m in width and 1m in height on any elevation</u><sup>81</sup>.</li> <li>b. <u>Solar and water heating components provided these do not exceed the height by more than 0.5m on any elevation.</u><sup>82</sup></li> <li>c. <u>Satellite dishes and aerials that do not exceed 1m in height and/or diameter on any elevation</u><sup>83</sup></li> <li>d. <u>Antennas attached to existing buildings not exceeding the highest point of the roof by more than 5m.</u><sup>84</sup></li> <li>e. <u>Telecommunications poles and attached antennas in formed roads not exceeding 20m in height and a diameter including all antennas of 1.2m.</u><sup>85</sup></li> <li>f. <u>Electricity Infrastructure not exceeding 12.5m in height.</u></li> </ul> |   | <p><b>2. Activity status when compliance not achieved:</b> Refer to relevant rule.</p> |

**Commented [B&A1]:** This may require consequential amendments to other rule references within this chapter.

<sup>80</sup> Clause 16 change to correct the relevant rules.

<sup>81</sup> Daytona Trust 263.26

<sup>82</sup> Daytona Trust 263.26

<sup>83</sup> Daytona Trust 263.26

<sup>84</sup> Chorus [26.69]

<sup>85</sup> Chorus [26.69]

| NFL-S2   | Gross floor area   |  |
|--|--|--|
| <p>1. The gross floor area of any new building or existing building plus addition must not exceed:</p> <ul style="list-style-type: none"> <li>a. <del>100m<sup>2</sup> for any accessory building; and</del></li> <li>b. <del>150m<sup>2</sup> for any residential unit.</del></li> <li>a. <u>50m<sup>2</sup> in ONL and ONF category 'A' and 'D', in the coastal environment.</u></li> <li>b. <u>100m<sup>2</sup> in ONL outside the coastal environment</u></li> <li>c. <u>25m<sup>2</sup> in ONF category B, C, and E.</u></li> <li>d. <u>100m<sup>2</sup> in category ONF 'A' and 'D', outside the coastal environment<sup>86</sup></u></li> </ul> | <p>2. <b>Activity status when compliance not achieved:</b> Refer to relevant rule.</p> |  |

| NFL-S3  | Exterior colour <del>and</del> reflectivity <u>and lighting</u> <sup>87</sup>                                     |  |
|---|---|--|
| <p>1. The building and structure exteriors must:</p> <ul style="list-style-type: none"> <li>a. Not utilise mirror glazing; <del>and</del></li> <li>b. Be coloured or painted with a colour with a reflectance value no greater than 35% (provided that 2% of each exterior elevation is exempt) and with a roof colour with a reflectance value no greater than 30%; <del>and</del></li> <li>c. <u>If the exterior surface is painted, have an exterior finish within Groups A, B or C as defined within the BS5252 standard colour palette in Appendix X or equivalent<sup>88</sup></u></li> </ul> <p>2. <u>All lighting must comply with the following:</u></p> <ul style="list-style-type: none"> <li>a. <u>All exterior lighting shall be directed downward and away from the adjacent sites and roads;</u></li> <li>b. <u>No activity on any site shall result in greater than a 3.0 lux spill (horizontal or vertical) of lights onto any other site measured at any point inside the boundary of the other site.<sup>89</sup></u></li> </ul> | <p><del>3.</del> <sup>2.90</sup> <b>Activity status when compliance not achieved:</b> Refer to relevant rule.</p> |  |

| NFL-S4   | Earthworks                                     |          |                                   |  |  |  |  |                       |  |   |   |   |   |  |  |
|--|--|----------|-----------------------------------|--|--|--|--|-----------------------|--|---|---|---|---|--|--|
| <p>1. The earthworks must not exceed <u>the following:</u></p> <table border="1" data-bbox="167 1310 786 1630"> <thead> <tr> <th data-bbox="167 1310 486 1350">Location</th> <th data-bbox="486 1310 786 1350">Per site</th> </tr> </thead> <tbody> <tr> <td data-bbox="167 1350 486 1382"><u>ONL in coastal environment</u></td> <td data-bbox="486 1350 786 1382"><u>50m<sup>3</sup> in any 12-month period.</u></td> </tr> <tr> <td data-bbox="167 1382 486 1413"><u>ONL outside coastal environment</u></td> <td data-bbox="486 1382 786 1413"><u>150m<sup>3</sup> in any 12-month period</u></td> </tr> <tr> <td data-bbox="167 1413 486 1467"><u>ONF category B, C, and E in the coastal environment</u></td> <td data-bbox="486 1413 786 1467"><u>0m<sup>3</sup></u></td> </tr> <tr> <td data-bbox="167 1467 486 1520"><u>ONF category A and D in the coastal environment</u></td> <td data-bbox="486 1467 786 1520"><u>50m<sup>3</sup> in any 12-month period</u></td> </tr> <tr> <td data-bbox="167 1520 486 1574"><u>ONF category B, C, and E outside the coastal environment</u></td> <td data-bbox="486 1520 786 1574"><u>50m<sup>3</sup> in any 10-year period.</u></td> </tr> <tr> <td data-bbox="167 1574 486 1630"><u>ONF category A and D outside the coastal environment</u></td> <td data-bbox="486 1574 786 1630"><u>150m<sup>3</sup> in any 12-month period</u></td> </tr> </tbody> </table> <p><u>150m<sup>3</sup> in any 12-month period per site<sup>91</sup>; and</u></p> | Location                                       | Per site | <u>ONL in coastal environment</u> | <u>50m<sup>3</sup> in any 12-month period.</u> | <u>ONL outside coastal environment</u> | <u>150m<sup>3</sup> in any 12-month period</u> | <u>ONF category B, C, and E in the coastal environment</u> | <u>0m<sup>3</sup></u> | <u>ONF category A and D in the coastal environment</u> | <u>50m<sup>3</sup> in any 12-month period</u> | <u>ONF category B, C, and E outside the coastal environment</u> | <u>50m<sup>3</sup> in any 10-year period.</u> | <u>ONF category A and D outside the coastal environment</u> | <u>150m<sup>3</sup> in any 12-month period</u> | <p>3. <b>Activity status when compliance not achieved:</b> Refer to relevant rule.</p> |
| Location   | Per site                                       |          |                                   |  |  |  |  |                       |  |   |   |   |   |  |  |
| <u>ONL in coastal environment</u>  | <u>50m<sup>3</sup> in any 12-month period.</u> |          |                                   |  |  |  |  |                       |  |   |   |   |   |  |  |
| <u>ONL outside coastal environment</u>   | <u>150m<sup>3</sup> in any 12-month period</u> |          |                                   |  |  |  |  |                       |  |   |   |   |   |  |  |
| <u>ONF category B, C, and E in the coastal environment</u>   | <u>0m<sup>3</sup></u>                          |          |                                   |  |  |  |  |                       |  |   |   |   |   |  |  |
| <u>ONF category A and D in the coastal environment</u>   | <u>50m<sup>3</sup> in any 12-month period</u>  |          |                                   |  |  |  |  |                       |  |   |   |   |   |  |  |
| <u>ONF category B, C, and E outside the coastal environment</u>  | <u>50m<sup>3</sup> in any 10-year period.</u>  |          |                                   |  |  |  |  |                       |  |   |   |   |   |  |  |
| <u>ONF category A and D outside the coastal environment</u>  | <u>150m<sup>3</sup> in any 12-month period</u> |          |                                   |  |  |  |  |                       |  |   |   |   |   |  |  |

<sup>86</sup> J & C Hawley [272.12] and Daytona Trust [263.27]

<sup>87</sup> Horizon Surveying & Land Development [315.36]

<sup>88</sup> Evolve Planning and Landscape Architecture [50.23]

<sup>89</sup> Horizon Surveying & Land Development [315.36]

<sup>90</sup> Consequential change (addition of new standard)

<sup>91</sup> Daytona Trust [263.24], Forest and Bird [149.62] and DOC [304.93]

|   |  |
|---|--|
| 2. The maximum cut height or fill depth must not exceed 2m. |  |
|---|--|

|  |  |   |
|--|--|---|
| <b>NFL-S5</b>  | <b>Indigenous vegetation clearance</b> |   |
| 1. The indigenous vegetation clearance must not exceed <ul style="list-style-type: none"> <li>a. <u>In the coastal environment - 50m<sup>2</sup> in any 12-month period per site<sup>92</sup></u></li> <li>b. <u>Outside the coastal environment - <sup>93</sup>150m<sup>2</sup> in any 12-month period per site.</u></li> </ul> |  | <b>2. Activity status when compliance not achieved:</b> Refer to relevant rule. |

|  |                                     |  |
|--|-------------------------------------|--|
| <b>NFL-S6</b>  | <b>Minor upgrading<sup>94</sup></b> |  |
| <del>1. Any addition to a lawfully established building or structure must not exceed 20% of the gross floor area of the existing building or structure; and</del><br><del>2. The height of any addition to a lawfully established building or structure does not exceed the height of the existing building or structure above ground level.</del> |                                     | <del><b>3. Activity status when compliance not achieved:</b> Refer to relevant rule.</del> |

<sup>92</sup> Forest and Bird [149.63]  
<sup>93</sup> Forest and Bird [149.63]  
<sup>94</sup> CI 16 – moved to NFL-R5

## **Attachment 2 – Definitions of “Building”, “Infrastructure” and “Structure”**

### **“Building**

Means a temporary or permanent moveable or immovable physical construction that is:

- a. Partially or fully roofed; and
- b. Is fixed or located on or in land, but
- c. Excludes any motorised vehicle or other mode of transport that could be moved under its own power.”

### **“Structure**

Has the same meaning as in section 2 of the RMA as set out below:

Means any building, equipment, device, or other facility, made by people and which is fixed to land; and includes any raft.”

### **“Infrastructure**

Has the same meaning as Section 2 of the RMA as set out below:

- a. Pipelines that distribute or transmit natural or manufactured gas, petroleum, biofuel, or geothermal energy;
- b. A network for the purpose of telecommunication as defined in section 5 of the Telecommunications Act 2001;
- c. A network for the purpose of radiocommunication as defined in section 2(1) of the Radiocommunications Act 1989;
- d. Facilities for the generation of electricity, lines used or intended to be used to convey electricity, and support structures for lines used or intended to be used to convey electricity, excluding facilities, lines, and support structures if a person –
  - i. Uses them in connection with the generation of electricity for the person’s use; and
  - ii. Does not use them to generate any electricity for supply to any other person;
- e. A water supply distribution system, including a system for irrigation;
- f. A drainage or sewerage system;
- g. Structures for transport on land by cycleways, rail, roads, walkways, or any other means;
- h. Facilities for the loading or unloading of cargo or passengers transported on land by any means;

- i. An airport as defined in section 2 of the Airport Authorities Act 1966;
- j. A navigation installation as defined in section 2 of the Civil Aviation Act 1990;
- k. Facilities for the loading or unloading of cargo or passengers carried by sea, including a port-related commercial undertaking as defined in section 2(1) of the Port Companies Act 1988;
- l. Anything described as a network utility operation in regulations made for the purposes of the definition of network utility operator in section 166.”

### **Attachment 3 – Section 32AA Assessment**

I consider that my recommended amendments seek to:

- (a) Better recognise and provide for the operational and functional needs of infrastructure, including the electricity network infrastructure;
- (b) Provide clearer and more consistent policy direction across the Natural Environment Values chapters;
- (c) Better align the PDP with new and amended national direction, including the NPS-I, the amended NPS-EN and NES-EN; and
- (d) Ensure that the management of effects on Natural Environment Values occurs through a proportionate and effects-based framework that balances both the protective directives alongside the enabling direction for infrastructure and the electricity network.

#### **Effectiveness and efficiency**

The recommended amendments will be more effective than the notified provisions and recommended s42A provisions in achieving integrated management under the PDP because they provide a clearer and more consistent framework for infrastructure activities within areas subject to Natural Environment Values.

In particular, the amendments recognise that infrastructure — including electricity distribution infrastructure — is often required to traverse or locate within areas containing identified natural character, landscape, or biodiversity values due to operational and functional constraints, the linear nature of network infrastructure, and the extent of mapped overlays across the Kaipara District.

The amendments also provide greater consistency across the PDP by ensuring that infrastructure-related provisions are addressed in a coherent manner across chapters. As outlined earlier in my evidence, there are currently inconsistencies in the way infrastructure is recognised and provided for across the ECO, NATC, NFL and other

district-wide chapters. In my opinion, reducing these inconsistencies will improve plan usability and reduce uncertainty for plan users and decision-makers.

The recommended amendments are also efficient because they:

- (a) Reduce unnecessary duplication and consenting requirements for routine operational, maintenance, repair and upgrading activities;
- (b) Provide clearer direction regarding activities anticipated by the PDP;
- (c) Better align with the established operational requirements of infrastructure providers; and
- (d) Enable adverse effects to be managed through a targeted and proportionate framework that is commensurate with the scale and nature of anticipated effects.

I also consider that the recommended amendments are more efficient than relying solely on restrictive activity status pathways, as they avoid imposing unnecessary consenting costs, delays and administrative burdens for activities that are often necessary to maintain network resilience, public safety and security of supply.

### **Consistency with higher order direction**

In my opinion, the recommended amendments better give effect to higher order national direction than both the notified provisions and some of the recommended s42A provisions.

In particular, the amendments better align with:

- (a) Objective 2.1 and Policies 1, 2, 4, 7, 8 and 9 of the NPS-I;
- (b) Objective 2.1 and Policies 1, 5, 7, 8 and 9 of the amended NPS-EN; and
- (c) The effects management framework within the NPS-IB.

Collectively, these instruments require decision-makers to recognise and provide for infrastructure and electricity network activities, including their operational and functional needs, while appropriately managing adverse effects on identified environmental values.

I consider that the recommended amendments appropriately balance these matters by:

- (a) continuing to recognise and protect identified Natural Environment Values;
- (b) retaining assessment and consent pathways for activities with the potential for greater adverse effects;
- (c) enabling routine operational, maintenance, repair and upgrading activities where effects are typically known, localised, temporary or manageable; and
- (d) recognising that complete avoidance of effects is not always practicable for infrastructure activities.

### **Risk of acting or not acting**

In my opinion, there is limited risk in adopting the recommended amendments.

The amendments largely refine existing provisions and provide additional clarity regarding the treatment of infrastructure activities within areas subject to Natural Environment Values. They do not remove the ability for adverse effects to be assessed and managed where appropriate.

Conversely, I consider there is greater risk in not adopting the amendments, including:

- (a) uncertainty and inconsistency in plan interpretation and administration;
- (b) unnecessary restrictions on infrastructure activities required to maintain safe and reliable network operation;

- (c) increased consenting costs and delays for routine infrastructure works;
- (d) reduced network resilience and reduced ability to respond to faults and emergency events; and
- (e) potential inconsistency with the direction and intent of the NPS-I and amended NPS-EN.