

Section 42A Report  
Addendum

# Ecosystems and Indigenous Biodiversity

Prepared for the  
Proposed Kaipara District Plan

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**3 June 2026**

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## APPENDIX A: UPDATED RECOMMENDED AMENDMENTS TO THE ECOSYSTEMS AND INDIGENOUS BIODIVERSITY CHAPTER

## 1. Introduction

1. This report is an addendum to my section 42A report on the Ecosystems and Indigenous Biodiversity Chapter (**ECO Chapter**) in the Kaipara Proposed District Plan (**PDP**), to be heard at Hearing 17 scheduled for Monday 8 June 2026. I have prepared this addendum as the author of the section 42A report for the ECO Chapter (**the section 42A report**) dated 1 May 2026.
2. I do not repeat the background information contained in Section 1 – Introduction of the section 42A report and request that the Hearings Panel take this as read.

## 2. Purpose of Report

3. The purpose of this report is to respond to the evidence and hearing statements received on the ECO Chapter section 42A report. This report is intended to assist the Hearing Panel understand the evidence that has been received and whether it alters my recommendations in the section 42A report in advance of the hearing. A full written Right of Reply will be provided following the hearing that considers evidence and statements presented at the hearing.

## 3. Consideration of evidence and hearing statements

4. The following evidence and hearing statements have been lodged on the ECO Chapter and the section 42A report:
  - a. Horticulture New Zealand [140] (**HortNZ**):
    - i. Statement of evidence from Mr Vance Hodgson (planning).
    - ii. Industry statement from Ms Sarah Cameron (Senior Policy Adviser, HortNZ).
  - b. Atlas Quarries Limited [FS107] (**Atlas**): Statement of evidence from Mr Geoff England (planning).
  - c. Bream Tail Residents Association Incorporated [300], Daytona Trust [263] and Tappenden Holdings Ltd [289] (**Bream Tail et al**): Statement of evidence from Mr Peter Hall (planning).
  - d. Director General of Conservation [304] (**DOC**):
    - i. Statement of evidence from Dr Antony Beauchamp (ecology – terrestrial).
    - ii. Statement of evidence from Mr Andrew Townsend (ecology – ecological significance criteria).

- iii. Statement of evidence from Ms Ilse Corkery (ecology – effects management hierarchy).
    - iv. Statement of evidence from Mr Ronan Whitelock (planning).
    - v. Statement of rebuttal evidence from Mr Ronan Whitelock (planning).
  - e. KP Dreadon Limited [237] (**KP Dreadon**):
    - i. Statement of evidence from Mr Nick Williamson (planning).
    - ii. Statement of evidence from Mr Kyle Ross (transferrable development rights).
  - f. Northpower Limited [283] (**Northpower**):
    - i. Statement of evidence from Mr David Badham (planning).
    - ii. Statement of evidence from Mr Shaun Brown (electrical engineering).
  - g. Federated Farmers of New Zealand (Inc) - Northland Province [136] (**Federated Farmers**): Hearing statement from Ms Jo-Ann Cook Munro (Senior Resource Management Solicitor).
  - h. KiwiRail Holdings Limited [323] (**KiwiRail**): Hearing statement from Ms Michelle Grinlinton-Hancock (Manager RMA Team).
  - i. Chorus, Spark, One NZ, Connexa and Fortysouth [26] (**the Telco Companies**): Hearing statement from Mr Chris Horne (planning).
  - j. Transpower Limited [292] (**Transpower**): Hearing statement from Mr Daniel Hamilton (Strategic Planning Lead).
5. I have used the following mark-ups in the provisions to distinguish between the recommendations made in the section 42A report and my revised recommendations in this addendum (as set out in Appendix A of this report):
  - a. Section 42A report recommendations are shown in **red text** (with underline for new text and ~~strikethrough~~ for deleted text); and
  - b. Revised recommendations from this addendum are shown in **purple text** (with underline for new text and ~~strikethrough~~ for deleted text).
6. For all other submission points not addressed in this report, I maintain my recommendations as set out in the section 42A report. I will update my recommendations on submissions set out in Appendix A of the section 42A report in my Right of Reply report once the hearing is complete.

## **4. Topic 1: Evidence in support and hearing statements**

### **4.1 Summary of evidence in support and hearing statements**

7. The following evidence received on the ECO Chapter is supportive of my section 42A recommendations as follows:
  - a. Evidence of Mr Hodgson for HortNZ – supports my recommended amendments to ECO-P4 and ECO-R1 with no outstanding areas of concern.
8. The following hearing statements were received on the ECO Chapter:
  - a. Industry statement from Ms Cameron for HortNZ – provides useful information about biosecurity risks to the horticulture industry but defers to Mr Hodgson with respect to planning matters and the content of the ECO Chapter, meaning there are no outstanding areas of concern.
  - b. Hearing statement from Ms Cook-Munro for Federated Farmers – supports my recommended amendments to the ECO Chapter with no outstanding areas of concern.
  - c. Hearing statement from Ms Grinlinton-Hancock for KiwiRail – supports my recommended amendments to ECO-P3 and ECO-R1 with no outstanding areas of concern.
  - d. Hearing statement from Mr Horne for the Telco Companies – supports my recommended amendments to ECO-P3, ECO-R1 and ECO-R2 with no outstanding areas of concern.
  - e. Hearing statement from Mr Hamilton for Transpower – supports/accepts my recommendations on all the Transpower original submission points on the basis that these will be addressed comprehensively at the Infrastructure Hearing. Mr Hamilton agrees in principle that outright exceptions for the National Grid may not be required within the Natural Environment Chapters (including the ECO Chapter) provided the relevant policies in the Infrastructure Chapter sufficiently recognise and provide for the National Grid.
9. As all the above evidence and hearing statements described above support the recommendations in the section 42A report, no further analysis is required.

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## 5. Topic 2: Including infrastructure specific provisions in the ECO Chapter (and NATC and NFL)

### 5.1 Summary of evidence

10. Mr Badham's evidence addresses the ECO, Natural Character (**NATC**) and Natural Features and Landscape (**NFL**) chapters together, including a number of common issues for infrastructure across the three chapters. I have discussed with the reporting officer (Mr Ben Lee) for the NATC and NFL Chapters and we agree that it is most effective to respond to these common issues within this addendum, with Mr Lee addressing the more specific points relevant to the NATC and NFL Chapters in his s42A addendum reports. This also reflects the fact that the inclusion of infrastructure provisions in the Natural Environment Values chapters is something we have specifically considered and addressed in our section 42A reports, and I have addressed in earlier hearings (including Hearing 7 – Renewable Electricity Generation).
11. The amendments to the ECO chapter and new provisions requested by Mr Badham focus on strengthening the recognition and provision for infrastructure within areas that contain significant indigenous vegetation and significant habitats of indigenous fauna, with similar requests to the NATC and NFL chapters. Mr Badham proposes amendments to objectives, policies and rules across all three chapters to expressly provide for the operation, maintenance, repair, upgrading and development of infrastructure where there is an operational or functional need.
12. Mr Badham places particular emphasis on the new direction in the National Policy Statement for Infrastructure 2025 (**NPS-I**) and the amended National Policy Statement for Electricity Networks (**NPS-EN**) as key drivers requiring a more enabling approach to infrastructure across all environments. Overall, Mr Badham considers the current provisions in the ECO Chapter are overly restrictive and inconsistent, and seeks a more integrated, enabling and effects-based framework while still appropriately managing adverse effects on indigenous biodiversity (as well as natural character and natural features and landscapes).
13. A key issue raised by Mr Badham is how infrastructure is provided for and referenced across the PDP. In essence, the issue in contention is the extent to which infrastructure-specific direction should be contained solely within the Infrastructure Chapter, or whether it should also be reflected within other chapters, including overlay chapters such as ECO, NATC and NFL. Mr Badham accepts that infrastructure provisions can be best located within the Infrastructure Chapter and that all objectives and policies must be read together and applied collectively where relevant. However, Mr Badham considers the primary issue is the inconsistent treatment of infrastructure across these three chapters, rather than the location of these provisions per se.

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14. Mr Badham then provides examples of inconsistency in how infrastructure is referenced across the ECO, NATC and NFL chapters. Mr Badham is concerned that this inconsistency may create ambiguity, as plan users may interpret the differing approaches as reflecting different policy positions on infrastructure across the PDP and overlay areas.
15. Mr Badham also raises concerns regarding the sequencing of the PDP hearings, noting that the Infrastructure Chapter is to be considered later in the hearing process. In his view, this creates challenges in addressing infrastructure-related objectives and policies within the Natural Environment Values chapters in isolation, given that infrastructure is an inherently cross-cutting issue. Mr Badham considers this sequencing limits the ability to fully resolve how infrastructure should be recognised and provided for within PDP framework at this stage.
16. In response, Mr Badham's evidence includes an extensive suite of new provisions and recommended amendments to notified provisions in the ECO Chapter (as well as the NATC and NFL chapters) which he considers is necessary to address the perceived interpretation issues above and ensure infrastructure is appropriately provided for. This includes recommendations for two new objectives and two policies (labelled 'new objective' and 'new policy') as follows:

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

***ECO-OX*** - *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.*

***ECO-PX*** - *Provide for the establishment of new infrastructure within areas of significant indigenous vegetation and significant habitats of indigenous fauna, 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 of significant indigenous vegetation and significant habitats of fauna are avoided, remedied or mitigated.*

***ECO-PX*** - *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.*

17. Mr Badham also responds to specific section 42A recommendations on the ECO Chapter provisions as follows:

- a. **ECO-P3 (Protection and maintenance of indigenous biodiversity)** – Mr Badham supports my recommended expansion of the policy to include all infrastructure (not just regionally significant infrastructure) in clause (2), as well the inclusion of the word “repair” in clause (3). However, Mr Badham remains of the opinion that ECO-P3 should provide for “upgrading” in order to properly give effect to the NPS-I, particularly Policy 4, and notes that the word “upgrade” has been included in NATC-P2.
- b. **ECO-R1 (Indigenous vegetation clearance and associated land disturbance for specified activities)** – Mr Badham disagrees with there being no provision for indigenous vegetation clearance associated with the “upgrading” of infrastructure, which he considers to be inconsistent with the drafting of NATC-R4 (which permits indigenous vegetation clearance associated with infrastructure upgrades subject to area thresholds), inconsistent with INF-P1 (which provides for the upgrade of existing infrastructure) and inconsistent with Policy 4 of the NPS-I (also provides for the upgrading of infrastructure).

## 5.2 Analysis

18. In my view, the key issues arising from Mr Badham’s evidence are as follows:
  - a. Issue 1: Location and consistency of infrastructure provisions across the PDP
  - b. Issue 2: Giving effect to the NPS-I and NPS-EN
  - c. Issue 3: Specific amendments to the ECO Chapter.

### Issue 1: Location and consistency of infrastructure provisions across the PDP

19. From my experience, the location of infrastructure provisions within district plans and how it relates to other Part 2 – District-wide matters (in particular “overlay” chapters) is a common issue in district plan reviews, as I have already discussed in Hearing 9 – Renewable Electricity Generation<sup>1</sup>. While the National Planning Standards have made a significant improvement in how infrastructure provisions are located within district plans, there are still degrees of variation in how this is done in practice and how “self-contained” the Infrastructure Chapter is. From my experience, there is generally a strong preference for Infrastructure Chapter to act a “one-stop-shop” from infrastructure providers, but this can prove challenging and can create complexities in practice (e.g. a large number of rules within the Infrastructure Chapter for different types of overlays).
20. The approach of the PDP is to locate infrastructure provisions primarily within the Infrastructure Chapter, with the overlay chapters in Part 2 – District-wide matters in the PDP managing the

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<sup>1</sup> Refer paragraph 65 of the section 42A report, for example.

effects on those values. In my view, this approach appropriately gives effect to the National Planning Standards and is consistent with many recent district plans, including the Far North Proposed District Plan, and means the overlay chapters only need to be referred to when an activity is .

21. However, in my view, this approach does not preclude references to infrastructure in other Part 2 (District-wide Matters) PDP Chapters, including overlay chapters, where this is considered necessary/appropriate **provided that** it does not result in unnecessary duplication or inconsistencies. In my view, the circumstances when it may be appropriate to include references to infrastructure in other PDP chapters can include:
  - a. When necessary to give effect to higher order direction. For example, Method 4.4.3(3) in the RPS states that, in implementing Policy 4.4.1, district plans should allow for the “maintenance and use of existing structures, including infrastructure” which ECO-P3 is intended to give effect to.
  - b. To provide a more nuanced or enabling framework for infrastructure that aligns with the enabling direction in the Infrastructure Chapter. For example, enabling indigenous vegetation clearance associated with the maintenance, operation and repair of infrastructure without restriction (ECO-R1(1)(l)(ii)) and targeted rules for regionally significant infrastructure in the NATC and NFL Chapters.
  - c. To recognise the importance of infrastructure to other topics (e.g. infrastructure being an important part of the Subdivision Chapter).
22. Therefore, while I appreciate the importance of being consistent in how infrastructure is referenced across district plans where appropriate, there can be a need for some nuance in how this is done for particular plan topics. This includes for the “overlay” chapters which are managing different values and effects and may therefore require a different approach in terms of how infrastructure is provided for. In my view, this does not present any particular issues but is rather a simple reflection of infrastructure being a cross-cutting issue for district plans (and planning more generally).
23. Therefore, I consider that the concerns on this issue raised by Mr Badham are overstated and there is unlikely to be the significant interpretation and implementation issues he envisages. I note that other key infrastructure providers, including the Telco Companies and KiwiRail who operate across New Zealand, have not raised any specific concerns with this issue.
24. I also do not consider that the sequencing of the hearings on the Natural Environment Values chapters in the PDP before the Infrastructure Chapter gives rise to any particular challenges and the sequencing of related chapters is a common issue for district plan reviews. There are different

approaches to sequencing hearings and inevitable questions about what should come first. However, these interactions and alignment issues are an ongoing consideration through full district plan reviews and will be addressed through the hearings on this PDP as appropriate, including the final integration hearing.

Issue 2: Giving effect to the NPS-I and NPS-EN

25. As noted in Hearing 7, I worked closely with Ministry for the Environment, the Ministry for Business, Innovation and Employment, and New Zealand Infrastructure Commission (Te Waihanga) on the NPS-I and amendments to the National Policy Statement for Renewable Electricity Generation (NPS-REG) and NPS-EN over a number of years. Therefore, I consider that I have a good understanding of this package of infrastructure-related national direction, the underlying policy intent, practical effects of the provisions and, importantly, the limitations of these instruments in relation to environments and values provided for under section 6 of the RMA.
26. This latter point was canvassed in some detail in the REG Hearing which a number of submitters providing evidence on the ECO Chapter were involved in, including Northpower. More specifically, I noted that the Government made a deliberate decision to **not** include targeted consenting pathway and effects management hierarchies in the NPS-I, NPS-REG and NPS-EN for infrastructure in environments and values provided for under section 6 of the RMA on the basis that these issues should be addressed through the Phase 3 reforms.
27. Instead, the direction in Policy 9(1) of the NPS-I is (emphasis added): “*Where infrastructure activities are proposed to locate in or are likely to have adverse effects on environments and values provided for in section 6 of the Act, the provisions of this policy **must be read alongside other relevant national direction, regional policy statements and regional and district plans***”. The intent of this policy is for existing plan provisions addressing section 6 values and environments to be read alongside the NPS-I rather than for these to be amended to be more enabling of infrastructure.
28. In this respect, I agree with Mr Badham that the NPS-I and NPS-EN are intended to provide a more enabling and directive policy framework for infrastructure in all environments. However, this enabling direction does not override environmental considerations and, importantly, is intended to be read alongside district plan provisions managing effects and values provided for under section 6 of the RMA, including the protection of areas of significant indigenous vegetation and significant habitat of indigenous fauna.
29. I agree with Mr Badham that the NPS-I and NPS-EN provide strong direction to recognise and provide for benefits of infrastructure and electricity networks and to recognise and provide for the operational need and functional need of these activities to locate, traverse and operate in particular locations and environments. In my view, this is a more generic direction that applies in

all environments and is not specific to ECO Chapter (or NATC or NFL). Therefore, in my view, this new national direction is best given effect to the enabling policies in the Infrastructure Chapter relating to the benefits, operational need and functional need of infrastructure that apply throughout the Kaipara District and will be considered further as part of that topic. This would be consistent with my recommended amendments to REG-P1 (benefits of renewable electricity generation activities) and REG-P3 (operational need and functional need of renewable electricity generation activities) to give effect to similar direction in the amended NPS-REG.

Issue 3: Specific amendments to the ECO Chapter

30. Firstly, in terms of the two new objectives and two new policies requested by Mr Badham, I consider that these are unnecessary and problematic for the following reasons:
- a. The objectives largely restate effects management outcomes expressed in other provisions and/or provide contrary direction (e.g. protect versus manage).
  - b. The policies also provide inconsistent effects management direction (e.g. avoid “significant” adverse effects areas of significant indigenous vegetation and significant habitats of indigenous fauna) and it is unclear how the requested policies would better give effect to relevant higher order documents (NPS-I, NPS-IB<sup>2</sup> or RPS for example) compared to the PDP provisions.
  - c. The first policy introduces a test “there is no practicable alternative” which can be problematic for infrastructure, is inconsistent with the corresponding tests in the NPS-IB, appears to have overlooked relevant provisions in NPS-EN and NPS-I<sup>3</sup> for identifying the proposed locations of infrastructure activities. It also creates inconsistencies with ECO-P3 which is broadly supported by other infrastructure providers.
  - d. The references to operational need or functional need “for its establishment” is inconsistent with how these terms are expressed in the National Planning Standards, the NPS-I and NPS-IB. It also creates inconsistencies with ECO-P3 which is broadly supported by other infrastructure providers.
31. Accordingly, I do not recommend that these new objectives and policies are included in the ECO Chapter. I also do not recommend any amendments in response to the other requests from Mr Badham as follows:

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<sup>2</sup> Noting the NPS-IB includes a specific consenting pathway for “specified infrastructure” which has different tests and requirements that the effects management hierarchy be applied.

<sup>3</sup> For example, Policy 4 in the NPS-EN and Policy 4(2)(a) in the NPS-I.

- a. I do not recommend that ECO-P3(3) refers to upgrading as that is inconsistent with Method 4.4.3(3) in the RPS which this policy is intended to give effect to. In my view, the upgrading of infrastructure is still provided for in the ECO Chapter provided it is consistent with the effects management direction in ECO-P1 and ECO-P2. Further, while Mr Badham relies on Policy 4 of the NPS-I for requesting upgrading is included in multiple provisions, it is important to note that this directs that upgrading is enabled in certain circumstances (to improve resilience, improve environmental outcomes etc.) and must still be read alongside plan provisions managing adverse effects on values and environments provided for under section 6 of the RMA.
- b. I do not recommend that ECO-P1(1)(l) is amended to permit indigenous vegetation clearance associated with the upgrading of infrastructure without restriction. Indigenous vegetation clearance associated with the upgrading of infrastructure is provided for ECO-R2 which is more permissive than the corresponding NATC limits that Mr Badham refers to which is appropriate in my view.

### 5.3 Recommendations

32. I do not recommend any amendments to the ECO Chapter in response to the evidence of Northpower.

## 6. Topic 3: Maintenance of pasture

### 6.1 Summary of evidence

33. Mr Hall on behalf of Bream Tail et al supports the section 42A report recommendations to the ECO Chapter, except for my recommendation on ECO-R1.1(i) to reduce the age of indigenous vegetation that can be cleared as a permitted activity from 10 years to 5 years. Mr Hall relies on feedback from the farm manager of Bream Tail that the 5-year timeframe to clear regenerating vegetation is too restrictive for a large and complex rural property that is not intensively grazed. Mr Hall states that the interfaces between areas of protected indigenous vegetation and pasture are at risk from colonisation by species such as manuka and these areas do require clearance of that vegetation to maintain the pasture. Mr Hall considers that 10 years is a more reasonable window of time to clear such vegetation to maintain pasture.
34. Mr Hall also notes that ECO-P3 seeks to maintain indigenous biodiversity in a way that:
  - a. *“1. does not unreasonably restrict existing primary production activities particularly on highly productive land”*; and

- b. *“4. enables land to be used and developed to support the social, economic and cultural well-being of people and communities”.*

35. Mr Hall is of the view that the direction in ECO-P3 supports his request to retain the notified ECO-R1.1(i) to enable clearance of indigenous vegetation less than 10 years old as a permitted activity without restriction than reduce this to 5 years. Further, Mr Hall acknowledges that ECO-R2 allows a 1000m<sup>2</sup> (or 500m<sup>2</sup> as recommended in the section 42A report) per calendar year clearance exemption for land within the General rural zone (GRUZ), but he considers that the maintenance of pasture should not be subject to such a limit.

## 6.2 Analysis

36. I recommended reducing the age of indigenous vegetation that can be cleared as a permitted activity from 10 years to 5 years in response to submissions from NRC, Forest & Bird, Cato Bolam and DOC, as outlined in paragraph 164 and Table 1 (sub-clause i.) of the section 42A report. I acknowledged in Table 1 that being able to remove or clear regenerating indigenous vegetation on land that has previously been cleared is an important, regular requirement to main pasture and it is appropriate for ECO-R1.1(i) to provide for this. However, I also acknowledged the concerns raised by submitters that allowing for clearance of indigenous vegetation less than 10 years old is a relatively permissive approach and could potentially adversely affect indigenous vegetation which may be providing a habitat for indigenous fauna. My recommendation to reduce the age limit from 10 years to 5 years was an attempt to balance these competing views.

37. I am not convinced by the evidence of Mr Hall that a 5-year timeframe for clearance is inconsistent with ECO-P3, i.e. that it “unreasonably restricts” existing primary production activities, nor am I convinced that undertaking clearance on regenerating scrub every 5 years is problematic or overly onerous for a working pastoral farm. However, I will consider this issue further through the hearing process and address in my written Right of Reply.

## 6.3 Recommendations

38. I do not recommend any further amendments to ECO-R1.1(i) at this stage of the hearing process in response to the evidence of Mr Hall.

# 7. Topic 4: Amendments to better protect indigenous biodiversity

## 7.1 Summary of evidence

39. DOC has provided comprehensive planning and ecological evidence on the ECO Chapter with the general intent of achieving better protection of indigenous biodiversity. The planning evidence

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of Mr Whitelock on behalf of DOC supports some of the section 42A report recommendations to the ECO Chapter as follows:

- a. Mr Whitelock acknowledges that KDC is not required to map Significant Natural Areas (SNAs) under the NPS-IB due to those requirements being paused and there being insufficient time or resources to undertake this work at this stage of the PDP.
  - b. Mr Whitelock considers that use of the criteria for ecological significance in the RPS (Appendix 5) as proposed will result in outcomes sufficiently equivalent to the use of the SNA criteria in the NPS-IB, relying on the expert ecological evidence provided by Mr Townsend.
  - c. Mr Whitelock supports the inclusion of ECO-PY to manage pets and pest plants/animals in principle but requests further amendments to ensure adverse effects of pests are appropriately controlled through the resource consent process, as outlined further below.
40. However, Mr Whitelock raises a number of areas of concern with the ECO Chapter and the recommendations in the section 42A report, supported by the expert ecological evidence of Dr Beauchamp, Mr Townsend and Ms Corkery. The key areas of concern are:
- a. Concerns that the ECO Chapter does not give effect to elements of the NPS-IB that are still applicable, despite certain NPS-IB provisions relating to SNAs being disapplied under section 78 of the RMA. This includes a concern about relying primarily on Policy 4.4.1 of the RPS as opposed to the more operationally robust framework of the NPS-IB, including the “effects management hierarchy”. To address this concern Mr Whitelock requested solution is amendments to ECO-P2 with the intent of giving effect to clauses 3.10, 3.11, and 3.16 of the NPS-IB, including applying the effects management hierarchy.
  - b. The need to include Kauri dieback provisions in the ECO Chapter. More specifically, Mr Whitelock responds to my comments in paragraph 190 of the section 42A report that DOC needs to demonstrate with more specificity and certainty:
    - i. That additional provisions in the PDP for kauri die back are appropriate, effective and efficient in the Kaipara District
    - ii. How the National Pest Management Plan rules should be incorporated into ECO-R2 without creating unnecessary duplication.
  - c. Outstanding concerns regarding permitted activity status for indigenous timber harvesting and indigenous vegetation clearance associated with specified “lawfully established activities” in ECO-R1(I).

41. I address each of the matters below.

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**Giving effect to the NPS-IB**

42. The main area of disagreement in the planning evidence of Mr Whitelock is the extent to which the PDP should give effect to the NPS-IB. More specifically, Mr Whitelock disagrees with the general conclusion in the section 42A report that the complex nature and interrelatedness of NPS-IB provisions (particularly those relating to SNA) justifies deferring giving effect to those provisions to a future plan change process or alternative process under a new planning system. Mr Whitelock considers that the ECO Chapter can still give effect to the following NPS-IB provisions:
- a. Policy 3 and Clause 3.7 – Adopting a precautionary approach when considering adverse effects on indigenous biodiversity.
  - b. Policy 7 and Clauses 3.10 - 3.11<sup>4</sup> - SNAs are protected by avoiding and managing adverse effects from new subdivision, use, and development.
  - c. Policy 8 and Clause 3.16 – The importance of maintaining indigenous biodiversity outside SNAs is recognised and provided for.
  - d. Policy 13 and Clause 3.22 – Restoration of indigenous biodiversity is promoted and provided for.
43. Mr Whitelock considers that giving effect to these NPS-IB provisions does not conflict with the recommended approach outlined in the section 42A report to focus primarily on giving effect to Policy 4.4.1 of the RPS. Rather, he considers that both can be given effect to. Mr Whitelock also considers that relying primarily on the RPS means that the ECO Chapter will be less effective in meeting obligations under section 6(c) of the RMA compared to if the NPS-IB was more fully given effect to. The more specific amendments requested by DOC to the provisions in the ECO Chapter are set out below.

**No net loss and ECO-02**

44. Mr Whitelock and Ms Corkery disagree with my interpretation that there is no requirement to achieve “no net loss” in indigenous biodiversity at a district level. They state that maintaining indigenous biodiversity, as articulated in the NPS-IB, cannot be achieved through a national-level balancing approach, otherwise this would allow for losses in some districts to be offset by gains in other districts.

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<sup>4</sup> Clauses 3.10 and 3.11 are the detailed provisions in NPS-IB which both set out adverse effects that must be avoided on identified SNAs, a range of exemptions to the avoid adverse effects direction, and specific pathways for certain activities, including applying the effects management hierarchy.

45. Mr Whitelock and Ms Corkery also state that the NPS-IB provides direction on how to achieve no net loss through principle 3 (net gain) in Appendix 3 (principles for biodiversity offsetting), which states that a net gain is demonstrated when biodiversity values at the offset site are equivalent to or exceed those being lost at the impact site. To address this, Mr Whitelock requests amendments to ECO-O2 as follows: “Adverse effects on indigenous biodiversity are managed to maintain its extent and diversity by achieving a no net loss that to provides for the social, economic, and cultural well-being of people and communities”.

**Effects management hierarchy, ECO-P2 and associated NPS-IB definitions**

46. Mr Whitelock requests comprehensive amendments to ECO-P2 with the intent of better giving effect to the NPS-IB, particularly through introducing the “effects management hierarchy”, associated appendices, and a range of related definitions (“biodiversity compensation”, “biodiversity offsetting”, “effects management hierarchy”). Mr Whitelock disagrees with my recommendation not to include definitions and the effects management hierarchy in the PDP, given their reliance on SNA mapping and the likelihood of further changes to the NPS-IB.
47. Mr Whitelock also notes that Clause 3.16 in the NPS-IB applies outside of SNAs and clearly requires the implementation of the “effects management hierarchy” for significant adverse effects on indigenous biodiversity. Ms Corkery considers that, rather than adding unnecessary complexity, the introduction of the effects management hierarchy provides essential clarity and discipline in decision-making and reduces risks, such as using offsetting prematurely.
48. Both experts explain why they consider that the NPS-IB effects management hierarchy is superior to the RPS approach and failing to introduce the NPS-IB effects management hierarchy runs the risk of the concept being applied in an incomplete or simplified way without clear thresholds for when offsetting or compensation is appropriate and poor management of residual effects. In summary, Mr Whitelock states “I am of the view that the effects management hierarchy, and associated definitions within the NPS-IB, should be given more weight by the Panel and implemented in this chapter, rather than relying on the equivalent provisions set out in the RPS”<sup>5</sup>.
49. While Mr Whitelock acknowledges the difficulties with mapping SNA as part of the PDP, he maintains that the ECO Chapter needs to contain direction as to what occurs when significant indigenous vegetation or significant habitat for indigenous fauna is identified, or how adverse effects are to be managed in those circumstances. Mr Whitelock (supported by Mr Townsend) supports using the criteria in Appendix 5 of the RPS in the matters of discretion for ECO-R2 as, in practice, they achieve the same outcome as the SNA criteria set out in Appendix 1 of the NPS-IB.

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<sup>5</sup> Planning evidence of Mr Whitelock, paragraph 67.

50. To address these concerns, Mr Whitelock requests a significant redraft of ECO-P2 based around the effects management hierarchy as set out in paragraph 96 of his evidence. This redraft incorporates a number of provisions in clauses 3.10, 3.11 and 3.16 of the NPS-IB, both directly and through cross-referencing, with four difference clauses as follows:
- a. Clause (1) would include the adverse effects that must be avoided in clause 3.10(2) of the NPS-IB where the area meets the ecological significance criteria in the RPS.
  - b. Clause (2) refers to the exemptions in 3.10(2)<sup>6</sup> of the NPS-IB where the effects management hierarchy would be applied.
  - c. Clause (3) would apply the effects management hierarchy for significant adverse effects where the area does not meet the ecological significance criteria in the RPS.
  - d. Clause (4) lists the effects management hierarchy as set out in the NPS-IB.

**Pest and Pet Management in ECO-PY**

51. Mr Whitelock is not opposed to the introduction of ECO-PY in principle and relies on the evidence of Dr Beauchamp who provides an overview of the adverse effects associated with unmanaged pets and pests throughout the Kaipara District. Dr Beauchamp highlights the issues with subdivisions being approved next to significant areas of wildlife, with individual pets causing severe and disproportionate impacts on local populations of species such as Tara iti and Australasian bittern in Kaipara, particularly around the Mangawhai Estuary. Mr Whitelock suggests a small amendment to replace the word "~~risks~~" with "adverse effects" in ECO-PY on the basis that the RMA clearly defines an "effect" and the use of this term provides greater certainty that the direct effect of an activity will be avoided, rather than a "risk" which is not defined in the RMA.

**Kauri dieback**

52. The evidence of Dr Beauchamp provides a summary of the severity of kauri dieback as a disease and highlights that the Kaipara district is one of the most contaminated parts of Northland. As the key contributor to the spread of the disease is the movement of contaminated wood and soil, Dr Beauchamp considers that the ECO Chapter should address the key areas of risk, being the potential for soil disturbance during clearance activities, the possibility that cleared vegetation is contaminated, the risk that equipment and clothing may not be adequately cleaned of soil, and

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<sup>6</sup> The numbering is inaccurate and my understanding is that Mr Whitelock is intended to refer to Clause 3.10(1) of the NPS-IB.

the need to appropriately manage and dispose of any kauri pruning material or remove trees in a safe manner.

Mr Whitelock has considered how this issue is addressed in other district plans, noting that most utilise the Earthworks Chapter and/or the ECO Chapter, with cross referencing occurring between the two. Mr Whitelock cites the Waikato District Plan – Operative in Part as a good example<sup>7</sup>, which uses a combination of a non-regulatory ECO Chapter policy and two advice notes that cross reference to provisions in the Earthworks Chapter. Both advice notes refer to the Biosecurity (National PA Pest Management Plan) Order Plan Rule 5:(2), which places restrictions on earthworks occurring in a kauri hygiene zone unless an approved earthworks risk management plan is in place. Mr Whitelock suggests the inclusion of advice notes below rules ECO-R1 and ECO-R2 (as set out in paragraph 114 of his evidence) that generally follows the Waikato District Plan example, noting that the key focus for managing kauri dieback should be in the Earthworks Chapter.

**Specified activities provided for in ECO-R1**

53. Mr Whitelock has two outstanding concerns with ECO-R1 where indigenous vegetation clearance can occur as a permitted activity without being subject to clearance thresholds. The two outstanding concerns are:
- a. **Harvesting of indigenous timber** (clause k)– Mr Whitelock highlights that, in his view, a plan or a permit for the harvesting of indigenous timber issued by the Ministry for Primary Industries under a different statutory regime does not mean that an adequate assessment of indigenous biodiversity will have been undertaken. Mr Whitelock considers that the RMA must still be applied alongside the Forest Act 1949 and that the purpose and decision-making frameworks under both Acts are different. Mr Townsend outlines that remnant indigenous forests in Northland support disproportionately high biodiversity values and Mr Whitelock relies on this evidence for his conclusion that enabling harvesting as a permitted activity with no thresholds provides no assurance that section 6(c) of the RMA will be appropriately recognised and provided for. To address this concern, Mr Whitelock requests that the harvesting of indigenous timber carried out in accordance with a forest management plan or permit under Part IIIA of the Forests Act 1949 should be a restricted discretionary activity under ECO-R1.
  - b. **Clearance associated with lawfully established activities** (clause l)– Mr Whitelock remains concerned with ECO-R1.1(l) providing for indigenous vegetation clearance for the

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<sup>7</sup> Mr Whitelock acknowledges that the Waikato example is not entirely fit for purpose given that Kaipara does not have a conservation strategy in place to refer to.

operation, repair or maintenance of specified lawfully established activities as a permitted activity. The two areas of concern outlined by Mr Whitelock are the lack of threshold to constrain the amount of permitted vegetation clearance and the application of the clause to “lawfully established activities” rather than the more limited “existing activities” (noting that Mr Whitelock does not request a specific change to address this). Mr Whitelock suggests introducing clearance thresholds of 25m<sup>2</sup> within any 12-month period, with an increase to 50m<sup>2</sup> for the upgrade, operation, maintenance or repair of existing infrastructure, noting the same thresholds are being recommend in the NATC Chapter.

## 7.2 Analysis

### ECO-O2 – no net loss

54. I remain of the review that a reference to “no net loss” in ECO-O2 is unnecessary and potentially problematic. This is because it will be challenging to understand how this objective is being met at a district level without a more detailed understanding of indigenous biodiversity restoration, enhancement and loss across the Kaipara District and/or applying the effects management hierarchy to all resource consent application to ensure that a “no net loss” (or net gain) outcome is achieved.
55. In this respect, it is important to note that “net gain” (rather than no net loss) principle in Appendix 3 of the NPS-IB is intended to be applied at a project/consenting level, not at the district-wide level. This is reflected in the wording of that principle which states that net gain is achieved **(emphasis added)** “*when the indigenous biodiversity values at the **offset site** are equivalent to or exceed those being lost at **the impact site**...*” and the fact that the NPS-IB primarily directs that the effects management hierarchy is applied for specific activities<sup>8</sup>. Accordingly, in my view, the reference to the “net gain” principle in Appendix 3 (principles for indigenous biodiversity offsetting) of the NPS-IB is used in a much difference context than ECO-O2 which is a higher-level objective that applies at the district level and is therefore not appropriate to rely on in this context.
56. For these reasons, I consider that the more general reference to maintaining the extent of diversity of indigenous biodiversity in ECO-O2 is preferable and consistent with the functions of KDC to maintain indigenous biodiversity under section 31(1)(b)(iii) of the RMA. It is essentially aimed at achieving the same outcome (maintenance of indigenous biodiversity) without the risk of interpretation issues through an additional reference to “no net loss”.

### The effects management hierarchy, offsetting, compensation and ECO-P2

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<sup>8</sup> For example, the activities listed in clause 3.11 of the NPS-IB.

57. Firstly, I note that I was involved in the development of the NPS-IB, initially as an official on the “Collaborative Working Group”, prepared both the draft and then final section 32 evaluation reports for the NPS-IB, and worked with the Ministry for the Environment to help refine the provisions through the process. Therefore, I am familiar with the “effects management hierarchy” in the NPS-IB and understand that this is based on international and national best practice in relation to indigenous biodiversity. In this respect, I am in broad agreement with Mr Whitelock and supporting experts that NPS-IB provides a more recent, direct and more specific approach to managing effects on significant biodiversity values. I also appreciate the efforts of Mr Whitelock and supporting ecological experts to identify ways to incorporate the NPS-IB effects management hierarchy into the ECO Chapter.
58. However, as highlighted in both the section 42A report and the evidence of Mr Whitelock, incorporating the effects management hierarchy from NPS-IB into the PDP at this point of time is not a straightforward exercise and needs to consider a range of factors. More specifically:
- a. The effects management hierarchy is (with the exception of clause 3.16) primarily designed to **manage effects on SNAs**. SNAs (as defined in the NPS-IB) need to be firstly mapped before the relevant effects management provisions can apply. As detailed in the section 42A report, the SNA provisions in the NPS-IB have been paused and there is a high degree of uncertainty as to whether the NPS-IB will be implemented through a future plan change to the PDP given the proposed new planning system. Therefore, I remain reluctant to recommend comprehensive changes to the ECO Chapter to give effect to SNA related provisions in the NPS-IB that remain uncertain, subject to potential change, and reliant on SNA mapping.
  - b. The effect management hierarchy in the NPS-IB cannot be read in isolation. It is intended to be inherently connected to the principles for indigenous biodiversity and indigenous compensation and the range of exemptions and activities that have access to the effects management hierarchy (e.g. specified infrastructure, quarrying activities etc.). While Mr Whitelock has identified some of these related provisions and exceptions, a number have been omitted<sup>9</sup>, highlighting the risks in introducing some (but not all) of a comprehensive set of interrelated provisions into the PDP at this point of time.
59. Therefore, while I agree with the general intent of the requested amendments by Mr Whitelock to apply a more recent and directive effects management direction into ECO-P2, I remain

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<sup>9</sup> This includes those exemptions listed in clauses 3.10(1),(5) and (6) meaning these would potentially be subject to the avoid adverse effects direction in clause 3.10(2), although this may be a drafting oversight as noted above.

concerned that this is likely to add significant complexities and challenges in practice. This includes:

- a. Applying complex exemptions and consenting pathways that are intended to apply to mapped SNAs not ecologically significant areas identified throughout consenting processes.
- b. A heavily reliance on cross-referencing provisions in the NPS-IB which may be subject to change.<sup>10</sup>
- c. Unintended consequences by missing certain exemptions to Clause 3.10(2).
- d. Potential inaccuracies and gaps in how the relevant provisions in the NPS-IB are given effect to in the requested redraft of ECO-P2 by Mr Whitelock, for example:
  - i. An error in cross-referencing in the redrafted Clause (2) of ECO-P2.
  - ii. Clause (2) overlooking the other requirements that apply to activities listed in Clause 3.10(1) of the NPS-IB.
  - iii. The requested amendments to new Clause (3) partly giving effect to clause 3.16(1) but not Clause 3.16(2).
- e. Needing to include a range of definitions and new appendices in the PDP to support the consistency application of the effects management hierarchy.

60. Therefore, in my view, the extensive amendments requested to ECO-P2 by Mr Whitelock are unnecessary, particularly given the uncertainties associated with the NPS-IB, and I do not recommend the policy is amended in this way. However, I remain open to considering further amendments through the hearing and in my Right of Reply.

61. In responding to the relief requested by DOC, I consider that an amendment to ECO-P2 can and should be made to better align with:

- a. The direction in Policy 4.4.1(5) of the RPS, which states that it may be appropriate to consider offsetting and compensation outside the coastal environment when effects cannot be reasonably avoided, remedied or mitigated.
- b. Clause 3.16 of the NPS-IB which requires that the effects management hierarchy be applied outside SNAs to manage significant adverse effects on indigenous biodiversity.

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<sup>10</sup> For example, the exceptions in Clause 3.11 were amended in December 2025 in relation to mineral extraction and quarrying activities.

62. I consider that this can be achieved through a new clause at the end of ECO-P2 which states that “when more than minor adverse effects remain after applying clause (1) or significant adverse effects remain after applying clause (2), biodiversity offsetting is provided where appropriate then biodiversity compensation is provided for where appropriate to ensure there are no more than minor residual adverse effects on indigenous biodiversity”. This requested amendment could be supported by the definitions of “biodiversity compensation” and “biodiversity offset” requested by Mr Whitelock.
63. In terms of the other NPS-IB provisions that Mr Whitelock considers should be incorporated into the ECO Chapter, I reiterate the guiding principles and recommendations I adopted in my earlier “NPS-IB assessment”<sup>11</sup> as follows:
- a. **Policy 3 and Clause 3.7 – Precautionary principle:** the precautionary principle was not addressed in the ECO Chapter as notified. Therefore, I consider that this should be given effect to through a future planning process as this will provide a fairer opportunity for interested persons to comment and participate in the process.
  - b. **Policy 13 and Clause 3.22 – Restoration:** I have recommended new policy ECO-PX (Restoration priorities) which gives effect to Clause 3.22 in the NPS-IB as restoration of indigenous biodiversity was within the scope of the notified ECO Chapter.

#### **Pets and pest management**

64. I agree with Mr Whitelock and Dr Beauchamp that unmanaged pets and pests can result in adverse effects on indigenous flora and fauna as reflected in my recommended new policy ECO-PY in the section 42A report. I also agree with Mr Whitelock that referring to “adverse effects” as opposed to “risks” is a more accurate and appropriate term in ECO-PY given how effect is defined and used in the RMA. As such, I recommend ECO-PY is amended as requested by Mr Whitelock.

#### **Kauri dieback**

65. I acknowledge the evidence of Dr Beauchamp that kauri dieback is a significant issue in the Kaipara District and that activities managed by the ECO Chapter (i.e. the movement of contaminated vegetation and/or soil during the clearance of indigenous vegetation) has the potential to spread the disease. I also acknowledge the evidence of Mr Whitelock that other district plans have included provisions to manage kauri dieback.
66. My understanding of the evidence of Mr Whitelock is that, in other district plans, provisions to manage kauri dieback are predominately in the Earthworks Chapter although these can work in

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<sup>11</sup> Appendix D of the section 42A report.

tandem with provisions in the ECO Chapter to manage kauri dieback. The approach is then to rely heavily on cross references to “Biosecurity (National PA Pest Management Plan) Order Plan Rule 5:(2)” which places restrictions on earthworks occurring in a kauri hygiene zone unless an approved earthworks risk management plan is in place. This raises two questions in my view:

- a. Is the Biosecurity (National PA Pest Management Plan) Order Plan Rule 5:(2) sufficient to manage the risk of kauri dieback?
- b. What additional value would the kauri dieback provisions in the PDP add, particularly as those suggested for the ECO Chapter are advice notes?

67. I have discussed the issue with the reporting officer for the Earthworks Chapter (Mr Lee) and we agree that the substantive issue of whether the PDP includes any provisions or advice notes for kauri dieback should be considered in Hearing 21 (Earthworks) where the proposed amendments to the Earthworks and ECO Chapter can be considered together. Any advice notes within the ECO Chapter can be recommended as consequential amendments, depending on the recommendations on the more substantive issue for the Earthworks Chapter.

**Specified activities provided in ECO-R1**

68. My response to the concerns from Mr Whitlock with specified activities in ECO-R1 (indigenous vegetation clearance for specified activities) is as follows:

- a. **Harvesting of indigenous timber in accordance with forest management plan under the Forest Act:** In my view, Mr Whitlock has not provided sufficient reasoning to demonstrate that this specific type of harvesting, which has a specific approval process under the Forest Act, should require resource consent as a restricted discretionary activity. While I agree that the Forest Act and RMA have different purposes and effects management considerations, there is no specific evidence that approved harvesting of indigenous timber is resulting in adverse effects that is contrary to section 6(c) of the RMA. Further, I reiterate that Clause 3.10(6)(e) in the NPS-IB provides a specific exemption to the SNA protections for “the harvest of indigenous tree species from an SNA that is carried out in accordance with a forest management plan or permit under Part 3A of the Forests Act 1949”. It therefore seems entirely appropriate that this specific type of harvesting is a permitted activity pathway in ECO-R1. Therefore, I retain the view that this exemption should be retained, but will consider this further through the hearing and through my Right of Reply.
- b. **Clearance associated with lawfully established activities** – I do not recommend adding area thresholds into ECO-R1.1(l) as requested by Mr Whitlock. This is because the amount of indigenous vegetation clearance required for the operation, repair or

maintenance of the specified lawfully established activities can vary significantly and the thresholds suggested by Mr Whitelock could be overly restrictive for these essential and routine activities. I am aware that area thresholds are being recommended for indigenous vegetation undertaken for similar purposes in the NATC Chapter but those thresholds apply to freshwater margins (“wetland, lake and river margins”) whereas ECO-R1 applies to any indigenous vegetation clearance. The clearance permitted under ECO-R1.1(l) will also typically apply to regenerating indigenous vegetation within previously disturbed areas and existing footprints and is therefore typically likely to have less ecological values (compared to freshwater margins for example).

### 7.3 Recommendations

69. I recommend that:

- a. ECO-P2 is amended to include an additional clause “when more than minor adverse effects remain after applying clause (1) or significant adverse effects remain after applying clause (2), biodiversity offsetting is provided where appropriate then biodiversity compensation is provided for where appropriate to ensure there are no more than minor residual adverse effects on indigenous biodiversity”.
- b. The word “risks” in ECO-PY is replaced with the term “adverse effects”.

## 8. Topic 5: Transferable development rights

### 8.1 Summary of evidence

70. The evidence from Mr Williamson on behalf of KP Dreadon requests two amendments to the ECO Chapter:

- a. An additional clause is inserted into ECO-P4 to enable transferable development right (TDR) mechanisms that coordinate protection and enhancement across multiple properties to achieve landscape-scale ecological outcomes.
- b. A new sentence is inserted into ECO-P5 as follows: “Legal protection may also be achieved through frameworks such as transferable development rights, which incentivise and systematise protection and restoration outcomes”.

71. The key points in the evidence of Mr Williamson for requesting these amendments to the ECO Chapter are:

- a. While the ECO and NATC chapters clearly establish the need for protection, maintenance, restoration, and enhancement of natural environment values, they do not adequately

acknowledge the range of mechanisms to achieve these outcomes. Mr Williamson considers that recognised tools such as TDRs would strengthen the policy framework in these two chapters by enabling coordinated, cross-property approaches and supporting more effective implementation of natural environment outcomes.

- b. The section 42A report does not specifically address the request for TDR to be acknowledged as a method within the ECO Chapter and deferring consideration of these tools to future hearings is problematic. Mr Williamson considers that identifying these methods now, prior to future hearings on the Subdivision and Strategic Direction Chapters preserves these options for later hearings. However, Mr Williamson clarifies that the request to include recognition of a TDR method in the ECO Chapter is not an attempt to introduce such a regime and that the correct hearing to consider the detailed TDR framework is the Subdivision Chapter hearing.
  - c. There is strong support from the NPS-IB and RPS for a district plan to expressly identify methods to encourage landscape-scale restoration of indigenous biodiversity, including biodiversity offsetting and related incentive-based mechanisms.
72. The evidence from Mr Ross outlines the operation and practical experience of TDRs as a mechanism for protecting biodiversity and natural character on private land. Mr Ross explains how TDRs work by transferring development potential from “donor” sites containing protected natural features to “receiver” sites more suitable for development, thereby funding long-term conservation through market transactions. Drawing on experience under the Waikato District Plan: Franklin section and Auckland Unitary Plan frameworks, Mr Ross considers that TDRs are a well-established, effective, and administratively workable tool, with a strong track record of facilitating environmental protection outcomes while enabling development in appropriate locations.

## 8.2 Analysis

73. I acknowledge that the section 42A report did not provide a specific evaluation of the merits of recognising TDR as a method within the ECO Chapter on the basis that the substance of this request should be appropriately addressed as part of the Subdivision topic. There also seems to be broad agreement that the proper home for the substantive provisions of any TDR regime (should that be supported) is the Subdivision Chapter, where the detailed framework, parameters, and implementation mechanisms would need to be established.
74. The question for this hearing is therefore whether the ECO Chapter should explicitly refer to TDRs as a method for achieving natural character restoration and enhancement in advance of this issue being considered in more detail as part of the Subdivision topic.

75. I have two key concerns with including a specific reference to TDRs in the ECO Chapter through this hearing. Firstly, as acknowledged by Mr Williamson, the proposed amendment is intended as a policy “hook”, contingent on any such mechanism being provided for elsewhere in the PDP. However, at this stage there is no certainty that a TDR regime will be adopted through the Subdivision Chapter. In my view, including a reference to a specific method that may not ultimately be provided for risks creating inconsistency within the PDP framework and undermining internal coherence. In my view, it is more appropriate to consider consequential amendments to ECO Chapter should a TDR regime be recommended at the Subdivision hearing (i.e. where the substantive issues should be considered).
76. Secondly, I have concerns with explicitly identifying TDRs as a method within the ECO Chapter as this risks elevating that method above others, when in practice there is a wide range of regulatory, voluntary, and incentive-based approaches available to achieve restoration and enhancement outcomes, as outlined in paragraph 43 of Mr Williamson’s evidence.
77. For these reasons, I do not recommend any amendments to ECO-P4 and ECO-P5 to refer to TDRs and any consequential amendments to the ECO Chapter can be considered if a TDR regime is recommended for inclusion in the PDP at the Subdivision hearing.

### 8.3 Recommendations

78. I recommend that ECO-P4 and ECO-P5 be retained as notified.

## 9. Topic 6: Regionally significant mineral resources

### 9.1 Summary of evidence

79. The planning evidence of Mr England on behalf of Atlas requests two amendments to the ECO Chapter:
- a. An amendment to ECO-P3 to recognise that the extraction of regionally significant mineral resources has an operational or functional need to traverse or locate within areas of indigenous biodiversity, in the same way that regionally significant infrastructure is provided for in clause (2). Mr England also considers that this could be provided for without amending ECO-P3 if the definition of “Regionally Significant Infrastructure” in the PDP is amended to include a new sub-clause as follows: “(j) infrastructure supporting activities that are not ancillary infrastructure activities but that are needed to directly support infrastructure activities, and may include quarrying activities”.

- b. A new rule to provide for indigenous vegetation clearance and land disturbance associated with the extraction of regionally significant mineral resources as a restricted discretionary activity.
80. If these amendments are not recommended to the ECO Chapter, Mr England notes that the primary relief sought by Atlas is a specific Quarry Zone or overlay and a Minerals Chapter to recognise the importance of the regionally significant mineral resources and quarry operations in the Kaipara District.

## 9.2 Analysis

81. In relation to the request to amend ECO-P3 to provide for regionally significant mineral resources, firstly I note that I recommend amending clause (2) to refer to “infrastructure” rather than “regionally significant infrastructure”. This is intended to respond to requests in submissions and improve alignment with the NPS-I, as set out in paragraph 64 of the section 42A report. Therefore, amending the definition of regionally significant infrastructure in the PDP would not address the relief sought by Atlas to ECO-P3. Regardless, it is not an appropriate amendment in my view as the definition of regionally significant infrastructure in the PDP gives effect to definition in the RPS, which is not intended to be modified at lower levels (it is, by its nature, a “regional” definition).
82. In terms of whether the ECO Chapter should be amended to specifically recognise regionally significant mineral resources, I note that the approach of the PDP is that the provisions relating to quarrying and mining are located primarily in the Earthworks Chapter. I also understand from discussions with the reporting officer for the Earthworks Chapter that improved recognition of regionally significant mineral resources is being considered as part of the hearings on that chapter. This may address some of the concerns raised by Mr England on behalf of Atlas, noting their primary relief for a targeted Quarry Zone or similar through the rezoning hearing. As such, I consider that the relief sought by Atlas to better recognise regionally significant mineral resources is best addressed through the hearings for the Earthworks Chapter and the relevant rezoning hearings and no amendments to ECO-P3 are necessary.
83. I also consider that the request for a new restricted discretionary rule for indigenous vegetation clearance associated with the extraction of regionally significant mineral resources is unnecessary. ECO-R2 is the relevant rule for this activity and this rule requires a restricted discretionary activity resource consent when indigenous vegetation clearance exceeded the permitted thresholds, (the same activity status as the new rule proposed by Mr England). ECO-R2 applies to all activities in the same way with some nuance in the thresholds that apply in different zones. Therefore, it is unclear why a separate new restricted discretionary rule clearance for the extraction of regionally significant mineral resources is required. I acknowledge that the

matters of discretion requested by Mr England are somewhat narrower, with the most notable omission being the reference to the ecological significance criteria in Appendix 5 criteria of the RPS. However, given there is no mapped SNAs in the PDP, I consider it important that the matters of discretion make it clear to both applicants and processing planners that an evaluation of those criteria is necessary for any clearance proposed over the permitted thresholds in ECO-R2.1 (as set out in paragraphs 180-183 of the section 42A report).

### 9.3 Recommendations

84. I do not recommend any amendments to ECO-P3 or a new restricted discretionary rule in the ECO Chapter to provide for indigenous vegetation clearance associated with regionally significant mineral resources.

## 10. Section 32AA evaluation

### Scope of the evaluation

85. This recommended amendments in this report are limited to:
- a. An amendment to ECO-P2 to include an additional clause “when more than minor adverse effects remain after applying clause (1) or significant adverse effects remain after applying clause (2), biodiversity offsetting is provided where appropriate then biodiversity compensation is provided where appropriate to ensure there are no more than minor residual adverse effects on indigenous biodiversity”.
  - b. An amendment to ECO-PY to replace “risks” with “adverse effects”.
86. In my view, a section 32AA evaluation is not required for the recommended amendment to ECO-PY as this is a minor amendment to better align wording with the RMA with no change in the policy intent. Further, my recommended amendment to ECO-P2 is primarily to better give effect to higher order documents (the NPS-IB and RPS) which was addressed in in the original section 32AA evaluation in the section 42A report (Appendix F). Accordingly, in my view, the intent of my recommended amendments to ECO-P2 have already been evaluated and I consider that this amendment is an appropriate, effective and efficient way to achieve the relevant ECO Chapter objectives. No additional costs are anticipated from the recommended amendments to ECO-P2 whereas some certainty and environmental benefits are anticipated from greater certainty and direction as to when indigenous biodiversity offsetting and indigenous biodiversity compensation should be provided when appropriate.